



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: 3013159
Applicant Name: Robin Murphy
Address of Proposal: 1301 Alaskan Way, Pier 57

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 1,330 square-foot addition to an existing commercial building (Fisherman's Restaurant) on Pier 57 in an Urban Harborfront (UH) shoreline environment. A Certificate of Approval from the Department of Neighborhoods is also required.

The following approvals are required:

Shoreline Substantial Development Permit – to allow a 1,330 square-foot addition to an existing commercial building (Fisherman's Restaurant) in an Urban Harborfront (UH) shoreline environment.

SEPA – Environmental Determination – (SMC Chapter 25.05)

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

The subject site is a waterfront lot located at 1301 Alaskan Way on the Seattle waterfront. The property is zoned DH1/45: Downtown Harborfront 1, with a 45-foot structure height limit. The property is also within a UH (Urban Harborfront) Shoreline Overlay Environment under the Seattle Shoreline Master Program, SMC Chapter 23.60. The Comprehensive Plan designation is Urban Center Village, Commercial Core. The existing development is a pier that was built in 1902 as rail loading facility for a sawmill, and has since been renovated to become a historical

site and recreational destination, including shops, restaurants, a game arcade and a functioning antique carousel. Historical exhibits are placed throughout the pier building. Pier 57 was designated as a landmark under Seattle City Ordinance No. 123861, effective May 11, 2012.

Proposal Description

The Applicant proposes to construct a 1,300 square foot exterior balcony dining area onto the existing Pier 57 Building as part of the existing Fisherman's Restaurant at the west end of the building. A 940 square foot interior dining area will be added beneath the balcony. The proposed addition will not increase the footprint of the pier.

Public Comment

The public comment period ended on May 11, 2012. During this period, no comments were received.

ANALYSIS — SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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.

THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5,780. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

A. 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 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan’s Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the Urban Harborfront (UH) environment as set forth in Section 23.60.220.C.8 is to “encourage economically viable water-dependent uses to meet the needs of waterborne commerce, facilitate the revitalization of Downtown's waterfront, provide opportunities for public access and recreational enjoyment of the shoreline, preserve and enhance elements of historic and cultural significance and preserve views of Elliott Bay and the land forms beyond.”

The proposed expansion of the eating and drinking establishment use at this location is consistent with the existing retail and entertainment-type uses on Pier 57. The expansion will facilitate the revitalization of Downtown's waterfront and provide additional opportunities for public access and recreational enjoyment of the shoreline, and therefore is supported by the policies of the UH shoreline environment.

Development Standards

The proposal is an expansion of a permitted commercial use under SMC 23.60.660 governing the UH shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152);and*
2. *the development standards for uses in the UH environment (SMC 23.60.660).*

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

All uses and developments shall be subject to the following general development standards:

- 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 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.*
- B. *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels.*
- D. *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 leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- E. *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.*
- F. *All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. *All shoreline developments and uses shall control erosion during project construction and operation.*

- H. *All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.*
- I. *All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.*
- J. *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.*
- K. *Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. *All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- M. *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.*
- N. *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.*
- O. *Navigation channels shall be kept free of hazardous or obstructing development or uses.*
- P. *No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. This measure will be adequate to ensure protection of the shoreline from the construction that is proposed. The potential impacts to water quality resulting from this project are construction-related; there are no significant long-term operational impacts.

All work will take place over water, above the pier surface. There will be no in-water work, or work directly above the water. No filling or dredging is proposed.

2. Development Standards for UH Shoreline Environment (SMC 23.60.690)

The development standards set forth in the Urban Harborfront (UH) Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all applicable development standards for the UH environment.

SMC 23.60.660 – Uses Permitted Outright in the UH Environment

The proposed expansion of the eating and drinking establishment use does not change the current use of the property as a commercial destination and is consistent with allowed uses in the Urban Harborfront environment. The eating and drinking establishment is a permitted use in the UH environment in which it is located.

In addition, during project review, the following development standards were considered:

SMC 23.60.692 – Height in the UH Environment

The site is located in the Historic Character District of the UH Environment; as a result, the typical height limit is 50 feet. The proposed expansion of the eating and drinking establishment use does not change the current use of the property as a commercial destination and is consistent with allowed uses in the Urban Harborfront environment. The proposed addition does not exceed the height limit of 50 feet. As shown on the plans, the addition will extend west from the existing west façade of the Fisherman’s Restaurant structure, at a height of about 20 feet from the level of the existing pier, and well below the existing roof line. The proposed height is therefore consistent with this development standard.

SMC 23.60.694 – Lot Coverage in the UH Environment

The proposed expansion does not affect the existing lot coverage on the project site, which is measured by the coverage of the pier structure that supports the existing building. The addition does not add any coverage to the pier.

SMC 23.60.698 – View Corridors in the UH Environment

This section states additional standards for view corridors, including what types of structures are permitted and what types are not. The proposal, as shown on plan sheet A0.3, is not changing the view corridor from existing conditions. SMC 23.60.698 requires all waterfront lots in the Urban Harborfront Environment to provide a view corridor of not less than 30 percent of the width of the lot, measured at Alaskan Way, or two view corridors with a minimum width of 20 feet.

Existing conditions on the site do not meet the standards in SMC 23.60.698. The pier building on Pier 57 occupies most of the Alaskan Way frontage, with the exception of a 7-foot area to the

south, and a 33.25-foot area to the north containing a driveway that leads to the end of the pier. A ramp and stair tower extend over the driveway. The 33.25-foot area does not technically qualify as a “view corridor” because the view of Puget Sound from Alaskan Way is almost substantially obstructed by the ramp and stair tower. If the 33.25-foot area were considered a view corridor, the total view corridor on the site would equal 27.15 percent of the lot width, which is less than the 30 percent required by City Code.

The southern view corridor allows for inclusion of one half the submerged adjacent right-of-way. This results in a 51-foot wide corridor (24.75 percent of lot width). The total view corridor area of 83.25 feet is 40.41 percent of the lot width.

The proposed expansion of the eating and drinking establishment structure will not alter the existing condition. The addition will be located entirely westward of the existing west façade of the building on Pier 57, so it will have no impact on existing views from Alaskan Way to Puget Sound (views are currently blocked). The proposed addition will not impact the existing condition with respect to view corridors.

SMC 23.60.700 - Moorage Requirements in the UH Environment

Pier 57 already meets moorage requirements by leasing a float on the south side of the pier to Argosy Tours, located on the adjacent pier. No modification to this existing moorage is proposed in connection with this project.

23.60.702 - Public Access requirements

The project does not alter or reduce public access at Pier 57.

23.60.704 - Historic Character Area Review Criteria

The proposal has completed review by the Department of Neighborhoods under this section. According to a letter to the applicant’s representative Robin Murphy from Acting Landmarks Preservation Board Coordinator Tom Quackenbush, dated August 1, 2012, the Landmarks Preservation Board was briefed on the project. Each member of the Board had a copy of the Central Waterfront Piers Design Guidelines (LPB 176/08) with which to provide feedback. After the presentation, the following comments were offered by the six members of the Board who were present:

1. Two members said the addition seemed fine to them.
2. One member said that what is being proposed appears to be in keeping with the existing design and the guidelines cited above, and added that it is a sympathetic continuation of the existing pier, however, a few more details (e.g. colors, materials, etc.) should be shown.
3. One member said the addition was a reasonable extension of the forms and shapes of what is an obvious addition (to the original pier), and that the new windows would continue to align with the existing.
4. One member said the proposal was consistent with the design that already exists (on the west elevation).

5. One member said there were no major issues or concerns during the Architectural Review Committee meeting and said the new proposal is consistent with the existing design on the west elevation.

The above comments satisfy the requirements of SMC 23.60.704 for the Historic Character Area Review Process.

Additionally, Ordinance #123861, Section 2.B.3.c allows for the City Historic Preservation Officer to approve changes or alterations to the projecting bay addition on the west elevation of Pier 57. This approval was also granted in the August 10, 2012 letter.

Shoreline Mitigation

The proposal does not require shoreline mitigation, as the construction occurs entirely on the existing pier and will not involve any work in the water.

B. THE PROVISIONS OF CHAPTER 90.58 RCW

RCW 90.58.320 provides:

No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

Seattle's Shoreline Master Program establishes a height limitation of 50 feet in this portion of the Urban Harborfront environment. The proposed addition would be built to a height of about 20 feet above the level of the pier and well within the applicable height limit. Thus, the addition will not obstruct views of a substantial number of residences in areas adjoining the subject shoreline.

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 the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the UH environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

The Director's authority under Seattle's Shoreline Master Program is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED.**

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

(Noted at the end of this document)

SEPA ANALYSIS

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

The SEPA Overview Policy (SMC 25.05.554D) 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. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise associated with construction; and consumption of renewable and non-renewable resources. Due to the short term and minor nature of construction impact associated with the construction of the proposed addition, no mitigation is warranted by SEPA policies.

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

Long-term Impacts

Long-term or use-related impacts include increase in the use of electricity by the expanded restaurant, increased structure bulk, and possibly some increase in pedestrian and vehicular traffic. The outdoor seating area is not expected to cause a significant increase in energy use. The addition will be hooked into existing pier utilities for lighting, and propane heat lamps may be used outdoors as needed. The restaurant addition, although increasing the size of the building, will meet all development standards, will not occlude any views, and will enhance access to existing views. View corridors and public access will remain unchanged. The balcony is designed to be aesthetically compatible with the existing building architecture.

Some waterfront users may drive downtown and to the waterfront with the restaurant as their destination, and they will use existing parking lots and metered spaces along Alaskan Way. The majority of waterfront users arrive on foot from other parts of downtown Seattle, or will also be there to use other features of the waterfront. Parking ramps set back from the waterfront already serve those users. Significant additional traffic over existing levels is not expected to occur in the vicinity and in the waterfront area as a result of this proposed addition.

Compatibility with Existing Land Use

The existing uses at Pier 57 are classified as a “commercial uses” according to the Seattle Municipal Code. The addition is also classified as a commercial use.

No land use impacts are expected to be created by the proposed addition. The central waterfront is characterized by commercial uses of various kinds. No impacts to land use have been identified and no mitigation measures are required.

Greenhouse Gas

The Seattle waterfront is well served by public transit and the majority of visitors park in ramps a few blocks away and walk to the site. People visit a variety of sites when they come to the waterfront and it would be difficult to attribute any vehicle trips directly to the proposed addition. While some additional electricity demand will occur, the rate structure from Seattle City Light includes funding for mitigation projects to offset the effects of electrical generation.

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. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2)(C).

CONDITIONS – Shoreline Substantial Development Permit

During Construction:

1. Appropriate Best Management Practices (BMPs) shall be employed to prevent deleterious material from entering the aquatic environment during construction.
2. If floating debris enters the water, the debris shall be removed from the water immediately, stored on-site, and be disposed of at an appropriate upland facility.
3. If heaving (sinking) debris enters the water during the proposed work, the location of this debris shall be documented in a log that is kept on site for the duration of the project. When the proposed work is completed, all sunken debris that has entered the water during construction shall be retrieved and be disposed of in an appropriate upland facility.
4. If toxic material such as any petroleum product enters the water, this material shall be reported to the Department of Ecology, and shall be immediately contained using the appropriate equipment and material.
5. Appropriate equipment and material for hazardous material clean up shall be kept at the site during construction.

CONDITIONS - SEPA

During Construction:

6. To reduce the noise impact of construction on nearby properties, construction activities other than that taking place totally within enclosed floors will be limited to non-holiday weekdays between 7:00 AM and 6:00 PM, and Saturdays from 9:00 AM to 5:00 PM. Any changes to these limitations must be approved at least three working days in advance by the Land Use Planner, William Mills, (206-684-8738, or email: william.mills@seattle.gov).

Signature: _____ (signature on file) Date: November 19, 2012
William K. Mills, Senior Land Use Planner
Department of Planning and Development

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