



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:** 3013438  
**Applicant Name:** Eric Hogeboom for Wards Cove Real Estate, LLC  
**Address of Proposal:** 2821 Fairview Avenue East

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to allow five new floating homes (slips 4, 5, 6, 10 and 12) to be moored at floating home moorage (Wards Cove on Lake Union).

The following approvals are required:

**Shoreline Substantial Development Permit** – To allow future construction of five floating homes in an Urban Stable (US) Shoreline Environment (SMC 23.60)

**SEPA - Environmental Determination** (Seattle Municipal Code (SMC) 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 INFORMATION**

Existing Conditions

The main property is located in the Eastlake neighborhood, at the northwest corner of Fairview Avenue East and East Hamlin Street. This property, known as Wards Cove on Lake Union, is on the east shore of Lake Union in an Urban Stable (US) shoreline environment zoned Commercial 2 (C2-40) within the Eastlake Residential Urban Village. The site is bounded by the submerged East Hamlin street-end to the south, submerged Waterway #11 to the north, and a publicly owned parcel to the west and Fairview Avenue North to the east. The submerged Hamlin street-

end is City owned; Waterway #11 and the western submerged parcel are State-owned and administered by the state Department of Natural Resources (DNR). Existing development on this site is as follows:

- A two-story building with office, marine-related storage, and caretaker's unit uses situated partially on dry-land and over-water;
- A recreational marina comprised of ten berths flanking five piers and a marina gatehouse;
- A paved surface parking area comprised of forty-seven parking stalls accessory to the recreational marina and floating home moorage uses; and
- A conforming floating home moorage comprised of twelve floating home sites and an associated gatehouse structure. The floating home moorage sites (slips #1-#12) are accessed via a pedestrian bridge/walkway float. Eight of the twelve floating moorage sites are arranged in groups of four beside two float extensions to the west; the remaining four floating moorage sites are positioned in a row east of the main walkway float.

Vehicular access to the entire property is via two curb cuts along Fairview Avenue North.

### Area Development

Twelve floating home moorage sites are distributed on either side of the floating dock. Development on the waterward (west) side of Fairview Avenue North includes marinas, yacht clubs, office buildings, street end shoreline access points, floating homes and dry land residences. On the landward (east) side are several single family homes, a p-patch community garden (Eastlake), a public park (Fairview Park), multifamily residential buildings, and commercial buildings.

The landward side (east) of Fairview Avenue East is zoned Lowrise 2 Residential-Commercial (LR2 RC) in the US shoreline environment.

### Proposal

The applicant proposes to construct a floating home at five separate floating home moorage sites previously established at the Wards Cove on Lake Union floating home moorage. The plans illustrate a two-story 1,200 square foot (sq. ft.) floating home structure with interior access to a combined 1,200 sq. ft. roof garden and roof deck above the entire 2<sup>nd</sup> story. The proposed structures are planned to meet the maximum height requirement of 21' measured from the water's surface to the highest point of the structure's roof. Open railings for the rooftop deck/garden and mechanical venting (chimney) are proposed to be built approximately 36" above the roof.

### Public Comments

The public comment period for this project ended July 20, 2012. DPD received no written comments regarding this proposal.

### Additional Information

In 2005, an applicant (on behalf of Wards Cove Packing Company) submitted combined Master Use shoreline substantial development, shoreline conditional use and SEPA applications (3003444 & 3003445) for the following description of work: *Shoreline Substantial Development Permit to establish use for 12 floating home moorages and a new Marina for 14 vessels. Project*

*includes demolition of Marine office, boat shed and docks and renovation of two remaining structures to be used as Marina office and parking garage & office. Additional surface parking proposed for a total of 59 spaces. Review includes site improvements to the Shoreline, adjacent streets, and at 2901 Fairview Ave. E. (Project #3003445). A decision report, which included analysis and conditional approval of the establishment of a twelve slip floating home moorage, was published by DPD on September 25, 2006. This decision included a subset of conditions that directly correlated with DPD's approval of the floating home moorage. The conditions, as well as, DPD's verification that the conditions have been completely satisfied are noted in the following table:*

<b>DECISION CONDITIONS ASSOCIATED WITH PROJECT NUMBERS 3003444 AND 3003445</b>		<b>Future verification of condition by DPD required? (Y/N)</b>
<b><u>SHORELINE SUBSTANTIAL DEVELOPMENT CONDITIONS</u></b>		
<u>Prior to Issuance of Any Permit to Demolish or Construct</u>		
6.	<i>The applicant shall submit drawings to include a lighting plan, to be reviewed and approved by DPD. The design intent should be to minimize to the greatest reasonable extent any spillover light onto surrounding water. Subsequent construction permits for individual floating homes shall also be subject to this condition.</i>	Yes
7.	<i>The applicant shall submit to DPD for recording the identified public shoreline access easement in accordance with the shoreline access requirement.</i>	No
8.	<i>The requirements of the US Army Corps of Engineers and the Washington State Department of Fisheries permits will be conditions of this permit. These requirements shall be included on the building plan set submitted for this project.</i>	Yes
9.	<i>The applicant shall update plans to incorporate Best Management Practices acceptable to the assigned land use planner, including but not limited to the following:</i> <ul style="list-style-type: none"> <li><i>a. install and maintain a silt curtain/sediment control fence at the edge of the parking area and filter fabric over existing drainage intakes to minimize the amount of sediment introduced to Lake Union,</i></li> <li><i>b. surround any stockpiled construction debris with appropriate containment material, such that construction debris does not enter the water,</i></li> <li><i>c. dispose of all construction debris in an appropriate upland facility, and</i></li> <li><i>d. implement the spill prevention control and containment plan and ensure that an emergency spill-containment kit is kept at the site and is easily accessible in the event of a toxic spill of any hydraulic fluid or other petroleum products.</i></li> </ul>	Yes
10.	<i>On plans, the applicant shall submit to DPD a Cleanup Documentation Plan that describes how foreign debris is to be removed from the site, including moorage areas just offsite, beyond the bulkhead pierhead and state harbor line. The plan shall incorporate underwater video documentation of the area before and after cleanup. The plan shall be subject to review and approval by DPD (Margaret Glowacki, (206) 386-4036).</i>	No
<u>Prior to and During Construction</u>		

12.	<i>The owner(s) and/or responsible party(s) shall implement the program of Best Management Practices identified in condition #Error! Reference source not found. and shall take all reasonable measures to prevent deleterious material from entering Lake Union during construction.</i>	Yes
13.	<i>The owner(s) and/or responsible party(s) shall implement the cleanup plan identified in condition #Error! Reference source not found. and submit the resulting documentation to DPD Land Use Planner Margaret Glowacki.</i>	No
<u>For the Life of the Project</u>		
14.	<i>The owner(s) and/or responsible party (s) shall maintain the identified 7'-2" segment at the south end of the site free of any physical or visual obstructions, as shown on updated Master Use Permit plans.</i>	Yes
<b><u>SHORELINE CONDITIONAL USE CONDITIONS</u></b>		
<u>Prior to Issuance of a Construction Permit</u>		
17.	<i>On plans, the owner(s) and/or responsible party (s) shall submit to DPD for review and approval a Best Management Practices document to be given to future floating home residents. The document shall stipulate that no deleterious material shall enter the water during normal use of this area. This plan shall include signage at the floating home moorage that identifies potential effects on the aquatic environment through the use of household chemicals. The plan shall also specify how each floating home resident is to receive the BMP document and confirm that they have read and understood the BMP plan.</i>	Yes
18.	<i>On plans, the applicant shall submit a vegetation monitoring plan that ensures 80 percent survival of the native shoreline vegetation planted.</i>	No
<u>For the Life of the Project</u>		
19.	<i>In accordance with submitted plans for the floating home moorage, future applications to establish and construct floating homes shall not include basements.</i>	Yes
20.	<i>Floating home residents shall follow Best Management Practices (BMPs) to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides, pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials enter or leach into the lake.</i>	Yes
<b><u>SEPA CONDITIONS</u></b>		
<u>Prior to Issuance of Any Permit to Demolish or Construct</u>		
23.	<i>On plans, the applicant shall submit for review and approval a spill prevention and control plan to the assigned Land Use Planner (Scott Ringgold, (206) 233-3856, or Margaret Glowacki, (206) 386-4036). The plan shall include measures to ensure that no hazardous or toxic materials are introduced into the environment during construction. The plan shall provide for a spill protection and control kit to be located onsite. The plan shall also provide for proper training in the use of the kit for at least three (3) residents or employees.</i>	Yes
<u>During Construction</u>		
24.	<i>Responsible party(s) shall collect any debris that enters the water during construction and dispose of it at an appropriate upland facility. If heavy (sinking) debris enters the water during the proposed work, the owner(s) and/or responsible party(s) shall document the location of this debris in a log to be kept at site for the duration of the project. Upon completion of the</i>	Yes

	<i>project, a diver shall retrieve the sunken debris, and this material shall be disposed of at an appropriate upland facility.</i>	
25.	<i>Responsible party(s) shall regularly check on-site mechanized equipment for evidence of oil, fuel, or other petrochemical leakage. If any evidence of leakage is found, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.</i>	Yes
26.	<i>The use of wood treated with creosote or pentachlorophenol is prohibited. No treated wood shall be used in any decking material. If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the Best Management Practices developed by the Western Wood Preservers Institute (<a href="http://www.wwpinstitute.org/">http://www.wwpinstitute.org/</a>) before this wood is used for this project.</i>	Yes
27.	<i>Flotation used in any of the overwater structure shall be enclosed and contained to prevent the breakup or loss of the flotation material into the water.</i>	Yes
<u>Prior to Certificate of Occupancy</u>		
28.	<i>The owner(s) and/or responsible party(s) shall install the shoreline access signage so that it is plainly visible from the western sidewalk of Fairview Ave E.</i>	No
<u>For the Life of the Project</u>		
29.	<i>Owner(s) and/or responsible party(s) shall maintain the shoreline vegetation.</i>	Yes
30.	<i>The submerged land described as "Parcel F, Lots 8 and 9, Block 46, Lake Union Shorelands..." is designated by this action as required view corridor. Any future development on this parcel must be in accordance with view corridor requirements and limitations.</i>	Yes
31.	<i>The owner(s) and/or responsible party(s) shall maintain in good condition the shoreline access signage. Should the sign be damaged or removed, a new sign should be obtained from DPD.</i>	Yes
32.	<i>The owner(s) and/or responsible party(s) shall locate the spill protection kit on site and shall properly train at least three (3) residents or employees in using the spill protection kit.</i>	Yes
33.	<i>The owner(s) and/or responsible party(s) shall maintain the stormwater collection system and water quality treatment system for the site's stormwater runoff.</i>	Yes
34.	<i>No herbicides, pesticides or chemical fertilizers shall be used in the shoreline area, except in limited circumstances for the control of Japanese Knotweed or similar invasive exotic weeds.</i>	Yes
35.	<i>The owner(s) and/or responsible party(s) shall follow Best Management Practices (BMPs) to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides, pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials enter or leach into the lake.</i>	Yes

Since issuance of the MUP in 2011, DPD staff has reviewed and issued several construction permits associated with the redevelopment of the property as a marina with accessory offices/storage and floating home moorage. DPD has also issued and, in some instances, finalized construction permits for seven floating homes (slips 1, 2, 3, 7, 8, 9, 11). Conversely,

construction permitting for the remaining five floating homes (slips 4, 5, 6, 10 and 12) has yet to be filed with DPD.

SMC 23.60.074 outlines the time limit requirements applicable to development authorized under shoreline substantial development permits. Per this code section, an owner or responsible party is required to complete “*Construction activities or substantial progress toward construction of a project or, where no construction activities are involved, the use or activity for which a permit has been granted*” before the MUP expires. The abovementioned MUP’s expiration date is January 19, 2013. The property owner (Wards Cove Real Estate, LLC) explains construction permitting for the remaining five floating homes couldn’t occur by this deadline date. As a result, the applicant has submitted this Shoreline Substantial Development Application to address this issue.

The DPD Planner and DPD shoreline expert have reviewed the applicant’s materials and it appears that the conforming floating home proposal comports with the floating home moorage plans previously reviewed and approved under MUP #3003444/3003445. Therefore, it has been determined that most of the conditions noted in the table above should also be applied to this project. The applicable conditions will be listed at the end of this decision report.

## **ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

### **Substantial Development Permit Required**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

### A. **THE POLICIES AND PROCEDURES OF CHAPTER 90.58 RCW**

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

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

Development on the shorelines of the State is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

**B. THE REGULATIONS OF CHAPTER 23.60**

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 policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use. The increase of floating home moorages or the increase in use of the shoreline or water area by floating homes, however, is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. The site is located in an area designated as Urban Stable (US), the purpose of which is to provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting non-water dependent commercial uses if they provide substantial public access and other public benefits; preserve and enhance views of the water from adjacent streets and upland residential uses; and to support water-dependent uses by providing services such as marine related retail and moorage. Floating home moorages are among those that are identified as "water-dependent uses". Therefore, the proposed project would conform to the policies of the comprehensive plan and would be consistent with the purpose of the US designation.

Development Standards

The proposal to construct five floating homes at an existing floating home moorage is permitted outright in SMC 23.60.600 governing the US shoreline environment. The proposed action is therefore subject to:

1. *The general development standards for all shoreline environments (SSMP 23.60.152);*
2. *The development standards for uses in the US environment (SSMP 23.60.600);*
3. *The development standards for floating homes (SSMP 23.60.196); as well as*
4. *The development standards for Commercial 2 zones (SMC 23.47A).*

1. General Development Standards for all Shoreline Environments (SSMP 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 Master Program (SMP) 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 (BMPs) 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 proposed project's design to construct five floating homes is consistent with the requirements of this section. The applicant has provided a suite of customized BMPs on the submitted drawings. The DPD Shoreline Expert has reviewed these BMPs and considers them

complete. To ensure that these standards are conformed to, the proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for US Shoreline Environments (SSMP 23.60.600)

The development standards set forth in the Urban Stable Shoreline Environment relate to height, maximum size limits, lot coverage, view corridors, public access and use locations. The subject proposal is the construction of five floating homes at an established floating home moorage: and, therefore subject to the development standards set forth in the specific floating home standards for conforming structures in SSMP 23.60.196.

3. Development Standards for Conforming Floating Homes (SSMP 23.60.196)

The development standards set forth in the Urban Stable Shoreline Environment relate to float area, height, setbacks, open water, site area and view corridors. There are two sets of development standards for floating homes: conforming and nonconforming moorages. The subject moorage (Wards Cove of Lake Union) and five float sites are conforming.

Each proposed house (five in total) will be constructed on new floats that, inclusive of decks, roof overhang/canopies, don't cover more than 1,200 sq. ft. of water area. The proposal does not include floats with basements. All of the proposed setbacks from the adjacent floating homes walls, floats and moorage walkways satisfy the standards for conforming floating home structures. The submitted plans illustrate existing established view corridors being preserved. The total height of the proposed floating homes will be no greater than the maximum 21' allowed from the water's surface.

DPD staff verified that the proposed project is consistent with the development standards for conforming floating home moorages (SMC 23.196.B) in the US shoreline environment. Therefore, the proposal is consistent with the standards for the US shoreline environment.

4. General Development Standards for Commercial Zone Uses (SMC 23.47A)

SMC 23.47.006.A.3.a states that residential uses may be permitted in C2 zones as a conditional use subject to applicable criteria. Subsection b of this same section, further states that residential uses required to obtain a shoreline conditional use permit are not required to obtain an administrative conditional use permit.

The subject site is zoned C2-40. As previously mentioned, DPD has reviewed and issued a MUP SSDP that included a shoreline conditional use component conditionally approving the establishment of a twelve slip floating home moorage. DPD has determined that an additional shoreline conditional use is not required, as long as, the current proposal does not include revisions to the floating home moorage configuration. The project proposal has been reviewed and meets this requirement.

**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 US environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and complies with specific development standards of the underlying zones, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal, as conditioned below, is hereby approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

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

### **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 12, 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 following temporary or construction-related activities on this site could result in the following adverse impacts: construction dust and storm water runoff, emissions from construction machinery and vehicles, increased particulate levels, increased consumption of

renewable and non-renewable resources, temporary disturbance of fish wildlife species and increased vibration from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Environmentally Critical Areas (ECA) ordinance and DR 33-2006 and 3-2007 regulate development and construction techniques in designated ECA's. The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. Puget Sound Air Pollution Control Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. In addition Federal and State regulations and permitting authority (Army Corps and 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. Further discussion of additional short-term construction related impacts follows.

### Construction Noise Impacts

Short-term noise and vibration from construction equipment and construction activity; and construction vehicles entering and exiting the site would occur as a result of construction and construction-related traffic. Compliance with the Noise Ordinance (SMC 25.08) is required.

Although compliance with the Noise Ordinance is required, due to the proximity of the project sites to nearby residential uses, additional measures to mitigate the anticipated noise impacts may be necessary. The SEPA Policies at SMC 25.05.675.B and 25.05.665 allow the Director to require additional mitigating measures to further address adverse noise impacts during construction. Pursuant to these policies, it is the Department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance may be necessary on this site. Therefore, as a condition of approval, construction activities (including but not limited to deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7:00 a.m. to 6:00 p.m. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9:00 a.m. and 6:00 p.m. once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three days in advance of the requested dates in order to allow DPD to evaluate the request.

### Underwater Habitat

No disturbance of the lake bed sediments is expected since all work will be done above water. There is potential for debris to enter the water during construction, so care will have to be taken to prevent this from occurring in order to protect the water quality of Lake Union, materials and construction methods to prevent toxic materials, petrochemicals, and other pollutants from entering the lake should be used during and after construction. The least toxic wood

preservatives that are appropriate for fresh water should be used. Any construction debris shall be promptly removed from the lake. In conjunction with the requirements set forth by SSMP 23.60.152, the proposal is thus conditioned to mitigate potential impacts to water quality and habitat.

### Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacturing 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 due to the relatively minor contribution of greenhouse gas emissions from the project.

No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including water quality in Lake Union, and habitat for plants and animals.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts, including the Land Use Code and the Shoreline Master Program. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies. However, due to the size and location of this proposal, the identified impacts noted below warrant further analysis.

### Bulk and Scale

The total height of each proposed floating homes at 21' will be the maximum allowed from the water surface. Open railings for the proposed rooftop garden and deck will extend an additional 36" above the 21' height limit, as provided for in SMC 23.60.196.B. There is adequate separation between the proposed floating homes and the surrounding existing floating homes to the north, south, west and east respectively. As a result, solar access to those existing sites will not be obstructed. The appearance of bulk of the floating home will be reduced by design elements incorporated into the structure. There are a number of existing floating homes in the vicinity of a similar size and scale as the proposal. For these reasons, the proposed floating homes at slips 4, 5, 6, 10 and 12 will not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

### Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

### **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).
- [ ] 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(2)(C).

### **SHORELINE SUBSTANTIAL DEVELOPMENT CONDITIONS**

#### Prior to Issuance of Any Building Permit

1. The applicant shall submit drawings to include a lighting plan, to be reviewed and approved by DPD. The design intent should be to minimize to the greatest reasonable extent any spillover light onto surrounding water. Subsequent construction permits for individual floating homes shall also be subject to this condition.
2. The requirements of the US Army Corps of Engineers and the Washington State Department of Fisheries permits will be conditions of this permit. These requirements shall be included on the building plan set submitted for future floating home projects.
3. The applicant shall incorporate on the plans Best Management Practices (BMP) acceptable to the assigned land use planner, including but not limited to the following:
  - a. install and maintain a silt curtain/sediment control fence at the edge of the parking area and filter fabric over existing drainage intakes to minimize the amount of sediment introduced to Lake Union,
  - b. surround any stockpiled construction debris with appropriate containment material, such that construction debris does not enter the water,
  - c. dispose of all construction debris in an appropriate upland facility, and

- d. implement the spill prevention control and containment plan and ensure that an emergency spill-containment kit is kept at the site and is easily accessible in the event of a toxic spill of any hydraulic fluid or other petroleum products.
4. On plans, the owner(s) and/or responsible party(s) shall submit to DPD for review and approval a Best Management Practices (BMP) document to be given to future floating home residents. The document shall stipulate that no deleterious material shall enter the water during normal use of this area. This plan shall include signage at the floating home moorage that identifies potential effects on the aquatic environment through the use of household chemicals. The plan shall also specify how each floating home resident is to receive the BMP document and confirm that they have read and understood the BMP plan.

#### During Construction

5. The owner(s) and/or responsible party(s) shall implement the program of Best Management Practices (BMP) identified in condition #3 and shall take all reasonable measures to prevent deleterious material from entering Lake Union during construction. Contractors and sub-contractors must also be notified in writing of these requirements.

#### For the Life of the Project

6. The owner(s) and/or responsible party(s) shall maintain the identified 7'-2" segment at the south end of the site free of any physical or visual obstructions, as shown on the Master Use Permit plans.
7. In accordance with submitted plans for the floating home moorage, future applications to establish and construct floating homes shall not include basements.
8. Floating home residents shall follow Best Management Practices (BMPs) to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides, pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials enter or leach into the lake.

### **SEPA CONDITIONS**

#### Prior to Issuance of Any Building Permit

9. On plans, the applicant shall submit for review and approval a spill prevention and control plan to the assigned Land Use Planner (Tami Garrett, (206)233-7182, or Ben Perkowski, (206) 684-0347). The plan shall include measures to ensure that no hazardous or toxic materials are introduced into the environment during construction. The plan shall provide for a spill protection and control kit to be located onsite. The plan shall also provide for proper training in the use of the kit for at least three residents or employees.

During Construction

10. In order to further mitigate the noise impacts during construction, the hours of construction activity (including but not limited to deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays between the hours of 7:00 a.m. to 6:00 p.m. and non-holiday weekends from 9:00 a.m. to 6:00 p.m. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9:00 a.m. and 6:00 p.m. once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition. This condition may be modified by DPD when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner (Tami Garrett, (206)233-7182) at least three days in advance of the requested dates in order to allow DPD to evaluate the request.
11. Responsible party(s) shall collect any debris that enters the water during construction and dispose of it at an appropriate upland facility. If heavy (sinking) debris enters the water during the proposed work, the owner(s) and/or responsible party(s) shall document the location of this debris in a log to be kept at site for the duration of the project. Upon completion of the project, a diver shall retrieve the sunken debris, and this material shall be disposed of at an appropriate upland facility.
12. Responsible party(s) shall regularly check on-site mechanized equipment for evidence of oil, fuel, or other petrochemical leakage. If any evidence of leakage is found, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
13. The use of wood treated with creosote or pentachlorophenol is prohibited. No treated wood shall be used in any decking material. If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the Best Management Practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.
14. Flotation used in any of the overwater structure shall be enclosed and contained to prevent the breakup or loss of the flotation material into the water.

For the Life of the Project

15. Owner(s) and/or responsible party(s) shall maintain the shoreline vegetation.
16. The submerged land described as "Parcel F, Lots 8 and 9, Block 46, Lake Union Shorelands..." is designated by this action as required view corridor. Any future development on this parcel must be in accordance with view corridor requirements and limitations.
17. The owner(s) and/or responsible party(s) shall maintain in good condition the shoreline access signage. Should the sign be damaged or removed, a new sign should be obtained from DPD.

18. The owner(s) and/or responsible party(s) shall locate the spill protection kit on site and shall properly train at least three residents or employees in using the spill protection kit.
19. The owner(s) and/or responsible party(s) shall maintain the stormwater collection system and water quality treatment system for the site's stormwater runoff.
20. No herbicides, pesticides or chemical fertilizers shall be used in the shoreline area, except in limited circumstances for the control of Japanese Knotweed or similar invasive exotic weeds.
21. The owner(s) and/or responsible party(s) shall follow Best Management Practices (BMPs) to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides, pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials enter or leach into the lake.

Signature: \_\_\_\_\_ (signature on file) Date: November 26, 2012  
Tami Garrett, Senior Land Use Planner  
Department of Planning and Development

TG:drm

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