City of Seattle
Edward B. Murray, Mayor

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: 3013612

Applicant Name: Jessica Clawson

Address of Proposal: 1949 Fairview Avenue East

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 30-foot (wide) by 140-foot (long) boat ramp to be utilized by amphibious tour vessels (Ride the Duck) and construction of a 3- foot by 32-foot dock as moorage for an emergency response vessel. Project also includes 2,298 cubic yards of grading. Existing structures to be demolished under a separate permit.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit: to allow development in an Urban Maritime (UM) Shoreline Environment. (SMC 23.60.720)

SEPA - Environmental Determination - Chapter 25.05 SMC

SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

[ ] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

Background, Summary of Proposal

Project Location

The proposed project location is at 1949 Fairview Avenue East. The property includes about 8,923 square feet of dry land and 3,075 square feet of submerged land (waterward of Ordinary High Water). The project site has been used by Sea and Shore for storage of barges in the water and equipment and material storage on the dryland portion of the property. Structures on the property included a pole barn shed and open shed structure, which were formerly part of the

National Oceanic and Atmospheric Administration (NOAA) Operations Center. Demolition permits (#6327975 and #6327764) were issued by Seattle DPD for these structures on the subject property on July 23, 2012.

Adjacent properties on the south side of the subject property were part of the NOAA Operations Center, which has moved outside Seattle, and are now owned by U.S. Seafoods. The adjacent property to the north is owned by City of Seattle and includes the East Newton Street End and Terry Pettus Park, which is managed by Seattle Department of Parks and Recreation. A floating home community is further north and abutting the City of Seattle property. Department of Natural Resources is the property owner for submerged land adjacent to the subject property to the west.

The subject property is currently zoned Industrial General 1, Unlimited 45 (IGI, U45) and is located within the Urban Maritime Shoreline Environment.

Summary of Proposal

Lake Union Investments, LLC, which owns the subject parcel at 1949 Fairview Avenue East, proposes to construct a private boat ramp to provide an entry and egress point to Lake Union for amphibious tour boats/vehicles operated by "Ride the Ducks" (RTD).

The boat ramp will extend in a southwesterly direction from Fairview Avenue to the lake (as show on Sheets 4.1, 5, 6, 7 and 8 in submitted plans). The ramp will be approximately 30 feet wide by 140 feet long. The ramp is designed as a concrete slab on grade for most of its length. There is an approximately 8.5 foot elevation drop from the existing property line adjacent to the Fairview Avenue Right of Way to Ordinary High Water (OHW). The last (westerly) 13 feet of the ramp (480 square feet) will be a pile-supported underwater structure. The existing ground surface will be excavated so that the ramp will slope down from Fairview Avenue into the water. The new underwater slope below and on either side of the ramp will be stabilized with riprap. Gravel "fish mix" will be mixed into the riprap from the ramp up to OHW. The gravel will fill voids in the riprap and support aquatic habitat mitigation objectives. Slopes on the ramp will be planted with native vegetation species above OHW. Construction of the ramp will require installation of two new steel piles located approximately 36 feet waterward of the existing shoreline. The entire structure beyond the current shoreline will be submerged a minimum of 6 to 8 feet below OHW and will not shade shallow nearshore habitat (design details of ramp shown in submitted plans).

As part of construction of the ramp, a total of approximately 1,603 cubic yards of material will be removed from the upland portion of the site and 210 cubic yards of material will be removed through in-water dredging. The material will be hauled off-site for disposal. Further details of grading activities are contained in the application, including geotechnical reports (PanGeo 2012, Floyd Snider 2012, GeoEngineers 2001).

In addition to the boat ramp, a fixed mooring dock will be constructed adjacent to the northern property line to moor an emergency response rescue/towing vessel, which is a 22-foot "Boston Whaler." The dock will require installation of two new steel piles. The mooring dock, which will be grated for natural light penetration to the water below, will only be used for this purpose and not for recreational use. Details of the mooring dock are shown on Sheets 9 and 10 in submitted plans.

The project also includes removal of two 16-inch treated wood piles associated with the existing wood dock and removal of twenty-one (21) treated wood piles associated with three dolphins located off-shore.

A new sidewalk (4-feet-wide by 45-feet-long) will be constructed to lead to the emergency dock. New security fencing will be installed along the north side of the sidewalk and pier area with a locked gate to prevent unauthorized access to the dock.

All areas of the subject parcel not used for the ramp and sidewalk will be landscaped with native vegetation. The landscape plan is shown on Sheet L1 in the submitted plans. A minimum of 12 inches of new topsoil will be placed on exposed soils. The project will result in a decrease in impervious surface area and approximately 3,000 square feet of area will be landscaped with native vegetation that is currently impervious surface (details are shown on Sheet L1 in submitted plans). Approximately 1,290 square feet of existing invasive vegetation will be removed at the project location. Evergreen trees and low shrubs will be planted between the ramp and the northern property line in order to provide visual screening as well as an extension of the types of plants existing in the public access area adjacent to the subject property on the north side.

The applicants will repave a portion of the City's Right of Way with asphalt between an existing driveway and the property line where the ramp starts and five on-street public parking spaces will be removed (see Sheet SI 1 and SI 2 in submitted plans for details).

Operations

The proposed ramp will be used to relocate Ride the Ducks activities that currently occur at the Sunnyside Public Boat Launch on Lake Union. The project is not an expansion of current Ride the Ducks operations, which currently utilizes 17 amphibious vehicles and operates year-round.

The following summary of the proposed operation is taken from the Traffic Analysis submitted by the applicant in a Technical Memorandum dated Feb. 16, 2013:

"The number of trips that could use the ramp was determined from existing schedule and operating characteristics for Ride the Ducks. The following summarizes existing operations:

- Ride the Ducks Seattle owns 17 duck vehicles
- Tours originate from two locations in Seattle: the main facility at 5th Avenue N and Broad Street (5th and Broad), which operates year round, and the satellite facility at Westlake Center, which operates during the peak season.
- The number of tours offered per day and the span of service hours varies greatly by season. During the peak summer season (Memorial Day through Labor Day), the first tour of the day leaves base at 9:20 a.m. and the last tour leaves at 7:00 p.m. During the off-season, the first tour leaves at 11:00 a.m. and the last tour leaves at 3:00 p.m.
- During the peak summer season, tours from the main facility sometimes leave in platoons (groups) of vehicles. As an example of the peak hour departures, three ducks are scheduled to depart at 12:00 p.m., two at 12:20 p.m. and two at 12:40 p.m. for a total of seven departures during a one-hour window. During this same hour, there would be two vehicle departures from the Westlake facility: one at 12:00 p.m. and another at 12:30 p.m., for a total of nine departures per hour.

- The maximum number of tours per hour during each month of the years is presented in Figure 2 (Feb. 16, 2013 Traffic Analysis). The figure shows both weekday and weekend trips. As shown, the maximum number of vehicle departures during the summer peak season is nine vehicles per hour.
- Vehicles are schedule to enter Lake Union about 45 minutes after they leave the facility for a tour. Each vehicle spends about 30 minutes on the lake.
- Each vehicle generates two trips through the site's access ramp: one trip entering the lake and another trip exiting the lake. Therefore, the site would generate a maximum of 18 trips during any hour of the day."

The facility will be gated and locked and only accessible for Ride the Ducks operations. People taking the Ride the Ducks tour will board the vessels at other locations in the City of Seattle. There will be no boarding or unboarding of passengers or parking for passengers at the Fairview Avenue location. The operator of the vessel will operate the facility gate with an electronic device similar to a garage-door opener. The ramp is designed to provide enough width to support two-way ramp movement of the vessels in order to reduce waiting times both in the water and on land. The designated route for Ride the Ducks boats to enter and exit the proposed ramp is described in the revised SEPA Checklist (Sept. 9, 2014) and shown in Map A as referenced in that SEPA Checklist (titled "SEPA Checklist Figure (Map A)", both of which are contained in the electronic file for this project. The figure is dated January 13, 2014 in the electronic file for this project available at the DPD website.

Public Comment

Numerous public comments were received during the public comment period that initially began on September 20, 2012 and ended on October, 19, 2012. The project was re-noticed on November 15, 2012 and that comment period ended on December 14, 2012. A public meeting was also held on this project on January 8, 2013, which was attended by roughly 75 participants. The project has received more than one hundred written comments, expressing a wide range of concerns about the project's potential impacts. Dozens of comments were received during the formal comment period and at the public meeting, but dozens more comments were also received after the end of the comment period. The comments are included in the project file. The comments generally focused on strong concerns about the potential noise, air quality, water quality, soil quality, safety, recreational, and other environmental impacts of the construction of the ramp and operation of the Ride the Duck amphibious vehicles from the proposed location.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the Urban Maritime 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.

The Policies and Procedures of Chapter 90.58 RCW

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and for the protection of the resources and ecology of the shoreline over the long term. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. The Shoreline Management Act of 1971 provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the State is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program.

The policies of the Act regarding preferences for uses in the Shoreline District are articulated in RCW 90.58.020. These use preferences include two preferences that are particularly relevant to this proposal:

- Increase public access to publicly owned areas of the shorelines; and
- Increase recreational opportunities for the public in the shoreline.

The proposed boat ramp will increase public access to the City's shorelines and increase recreational opportunities for the public by allowing recreational touring of Lake Union by boat. As discussed below, the City's Shoreline policies encourage public access and increased opportunities for the public to enjoy water-dependent recreation, which is consistent with this proposal and the continued operation of the Ride the Ducks tours of Lake Union and its shorelines. This proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

The Regulations of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030. Development standards of the shoreline environment and underlying zone must be considered as well as any conditioning that may be necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline

substantial development permit, the applicant must show that the proposal is consistent with the shoreline goals and policies pursuant to SMC 23.60.004, and meet applicable use and development standards for the Shoreline Environment in which the site is located.

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

SMC 23.60.004 - Shoreline Goals and Policies

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies contained in the City of Seattle's Comprehensive Plan and the purpose and location criteria for each shoreline environment shall be considered in making all discretionary decisions in the Shoreline District.

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

In the Shoreline Goals and Policies section of the City of Seattle's Comprehensive Plan, Goal LUG 44 promotes development that provides for "the optimum amount of public access – both physical and visual – to the shorelines of Seattle." LU258 promotes development that results in an "increase opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views." LU260 promotes development that provides for "recreational boating facilities including terminals, moorage and service facilities on publicly owned land and encourage(s) the provision of such facilities on private property, if the environmental impact is acceptable." LU269 describes area objectives for different shoreline locations throughout Seattle, including Lake Union (the location of this proposal and use), and promotes development that retains "the working character of Lake Union by reserving those areas of the lake's shorelines that are suitable for water-dependent uses for the use of marine businesses" and "prohibit new residential uses on industrial shorelines."

The proposed boat ramp and amphibious vehicle tour operation of Lake Union will allow opportunities for the public to access and enjoy the shoreline environment of Lake Union, which is consistent with the goals and policies mentioned above. The proposed design of the project will increase visual access and views to the lake by removing structures and enhancing native vegetation on the property.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permit

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A of SMC 23.60.064. This section also provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020.

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

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

The proposed project is not a prohibited use in the Urban Maritime Shoreline Environment. The proposed use is consistent with a shoreline recreation use, which is permitted outright pursuant to SMC 23.60.720.I. The City's Shoreline Master Program clearly recognizes the water-dependent nature of this proposed use as the following uses, and similar uses, are specifically mentioned as examples in the definition of "water-dependent use" pursuant to SMC 23.60.944: ferry and passenger terminals, boat launch facilities and tour boats.

The proposed project is also not a prohibited use in the underlying zone, which is Industrial General (IG).

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

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

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

The proposal does not require a shoreline conditional use or variance approval. The proposal does require special use approval, which is discussed below.

Shoreline Development Standards

The proposed shoreline development is located in the Urban Maritime (UM) Shoreline Environment. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to the:

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

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

General standards for all uses and development in all shoreline environments are established in SMC Section 23.60.152. Generally, these standards require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity, in order to have minimal impact on the shoreline environment. The following general development standards are relevant to the proposed project:

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.

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 leakproof 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.

The project will be required to meet all applicable standards for the protection of surface and groundwater quality through the implementation of Best Management Practices (BMPs) for the protection of water quality pursuant to City of Seattle Construction Stormwater Control Technical Requirements, Seattle Municipal Stormwater Code, 401 Water Quality Certification and related Water Quality Monitoring and Protection Plan reviewed and approved by Washington Department of Ecology and Section 10/404 approval from U.S. Army Corps of Engineers. In addition to compliance with relevant City regulations, which will be confirmed prior to issuance of required building permits from DPD, the project cannot commence construction without the review and approval of these other state and federal agencies, ensuring compliance with applicable state and federal standards for water quality protection.

Design considerations for the project with respect to water quality and Best Management Practices to be followed for the protection of water quality are described in the application material, including the plan sets (see Sheets 2 and 3, in particular), SEPA Checklist (Sept. 2014), Biological Evaluation (Aug. 2012), responses from the applicant to DPD corrections during project review, Geotechnical Reports (revised version dated Oct. 2012), Water Quality Protection Plan (April 7, 2014) and Soil Confirmational Monitoring Plan (March 27, 2014). BMPs relevant to these standards for construction and post-construction activities are described in detail in these application materials cited above, including the Conservation Measures section of the Biological Evaluation (pp. 15-19 and pp. 22-24). A Spill Prevention, Control and Countermeasure (SPCC) plan will be required.

The applicant is working with the Washington Department of Ecology regarding the clean up of soil at the site and BMPs to be implemented during excavation activities for the project in accordance with applicable Dept. of Ecology regulations and toxic soil cleanup levels established in the Model Toxics Control Act, as documented in the application materials, including the Soil Confirmational Monitoring Plan (March 27, 2014) and the Water Quality Protection Plan (April 7, 2014). The construction of the project will be conducted under the terms of a U.S. Army Corps of Engineers 404 Permit and Department of Ecology 401 Water Quality Certification. This authorization was issued for this project by the Army Corps on October 14, 2014 (NWS-2012-923).

No petroleum products, fresh cement, lime or concrete, chemicals or other toxic or deleterious materials that may be used during construction will be allowed to enter surface waters. Equipment in use at the staging and construction areas will be maintained in a safe and leak-proof condition and will be inspected regularly. Appropriate repairs will be made to prevent the release of such materials.

Contractors for the project will be required to follow an approved SPCC plan, including maintaining spill response materials on site. The contractor would implement construction BMPs to avoid or minimize the potential for the release of oil, chemicals, or other hazardous materials onto or into the water including (but are not limited to) properly maintaining construction equipment and vehicles to prevent them from leaking fuel or lubricants. For equipment used in and over water, only nonpetroleum lubricants would be specified to the extent feasible. If there is evidence of leakage, the further use of such equipment would be suspended until the deficiency has been satisfactorily corrected.

F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.

As discussed above and shown in the submitted plans (Sheet LI), the project will result in a substantial increase in pervious ground compared to existing conditions. The majority of the project site will be mulched and planted with native vegetation, which will improve infiltration and surface water runoff conditions.

G. All shoreline developments and uses shall control erosion during project construction and operation.

Erosion and sediment control BMPs would be in place before any clearing, grading, or construction. BMPs include installing temporary containment walls or curtains as needed, and employing Temporary Erosion and Sediment Control (TESC) measures to prevent negative impacts to adjacent surface waters.

The TESC Plan shall be submitted to a DPD Geotechnical Engineer for review and approval prior to scheduling the required First Ground Disturbance Site Inspection (per Seattle Building Code SBC Section 108.9.1 for construction activity). The TESC Plan shall include Best Management Practices (BMPs) consistent with required regulations.

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.

The Biological Evaluation (Aug. 2012) submitted by the applicant addresses potential impacts of the ramp construction project on aquatic and nearshore habitat at this location and includes details on design considerations and conservation measures to protect these habitats, including Best Management Practices that will be employed during and after construction (Sheets 2, 3 and CSC 1 in submitted plans). As discussed in more detail in the BE and the application material, the project will result in improved nearshore habitat on the upland portion of the site with approximately 3,000 square feet of native vegetation planting (Sheet L1 in submitted plans) where there is almost no vegetation now and 2516 square feet of new shallow water habitat. For protection of migrating salmonids, all work below OHW will occur between approved in-water work windows as specified in required by Washington Department of Fish and Wildlife and Army Corps of Engineers. The Army Corps permit for this project was issued on October 14, 2014 (NWS-2012-923).

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.

The proposal includes an increase of approximately 3,397 square feet of pervious ground in the upland portion of this site, compared to existing conditions. Approximately 3,000 square feet of this area will be revegetated with a variety of native groundcover, shrubs and trees, as detailed on Sheet LI in plan sets. Approximately 30 cubic yards of mulch will be added to the upland site to help improve plant survival as well as replace currently impervious compacted gravel, thus providing improved infiltration over current conditions. A maintenance and monitoring plan has been provided by the applicant (summarized on Sheet L1 in plan sets) to ensure successful establishment of this landscape area.

A Temporary Erosion and Sedimentation Control (TESC) Plan shall be submitted to the DPD for review and approval prior to scheduling the required First Ground Disturbance Site Inspection (per Seattle Building Code SBC Section 108.9.1 for construction activity). The TESC Plan shall include Best Management Practices (BMPs) consistent with required regulations. A Water Quality Protection Plan and Soil Confirmation Monitoring Plan has been submitted by the applicant and provides details of BMPs that will be implemented during construction for protection of water quality.

The Biological Evaluation (Aug. 2012) submitted by the applicant addresses potential impacts of the ramp construction project on aquatic and nearshore habitat at this location and includes details on design considerations and conservation measures to protect these habitats, including Best Management Practices that will be employed during and after construction. Construction BMPs are detailed on Sheets 2, 3 and CSC 1 of submitted plans.

Potential impacts of the proposal on the affected area with respect to the management of this use include air quality impacts from emissions from the vehicles and noise impacts from the amplified sounds generated during the tours (i.e., tour narration and music). Based on consultation with Puget Sound Clean Air Agency and review of submitted air quality assessment information, the air quality impacts from this project area expected to be minimal and no further conditioning is required. See further discussion on air quality in SEPA analysis below.

Potential noise impacts to the area adjacent to the proposed ramp have been analyzed during project review. The construction and management of this project and the RTD operation at this location will be required to meet all applicable standards in the City of Seattle's Noise Ordinance. Based on the noise impact mitigation provided by these standards, as well as mitigation measures proposed by the applicant and further conditioned below (see SEPA Analysis and Conditions No. 1 and 2 below), DPD has determined that this project will minimize adverse impacts to surrounding land and water uses and will be compatible with the affected area with respect to potential noise impacts. .

Safety and transportation-related impacts associated with this project are discussed below. The proposed project does not include any passenger parking or passenger loading or unloading at the project location, thus avoiding land use and transportation impacts associated with such uses and management of the proposed ramp and tour operation at this location.

L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.

The construction area will be developed and managed in accordance with applicable safety standards and regulations. After construction, the site shall be appropriately secured, as described in project description and shown in submitted plans, to prevent public access to property during operation.

With respect to pedestrian, bicycle and traffic safety considerations for the Duck vehicles at this project location, a traffic analysis was supplied by the applicant (dated Feb. 2012) as well as supporting material submitted by applicants in response to corrections during project review. This material has been reviewed by DPD's transportation planner.

The traffic analysis indicates that the maximum number of trips that would be generated by the project would be 18 in the busiest hour. This would occur during the peak summer season. This amount of additional traffic is not expected to adversely affect traffic operations in the vicinity of the site.

In addition to DPD's review, DPD consulted with Seattle Department of Transportation for their analysis of the potential pedestrian safety and other traffic impacts of this project. SDOT

concluded that they had no traffic operation concerns with the proposed use of Fairview Avenue south of the project site stating that Fairview Ave. is designed in a manner that can accommodate the proposed use by the RTD vehicles (email from SDOT to DPD dated Feb. 5, 2013). SDOT does recommend that the applicant work with SDOT to address vegetation issues where the site access crosses the pathway (Cheshiahud Trail) that runs along the west side of Fairview Avenue. SDOT stated that they will require the applicant to remove some of the existing vegetation and replace it with a lower-growing species that ensures there is sufficient visibility between vehicles and pathway users. The applicant is required to obtain a Street Use permit from SDOT as applicable for changes in the public right of way associated with this project.

Ride the Ducks boats and all captain/operators of these boats are subject to Coast Guard regulations and must meet all applicable regulations for the safe operation of these boats on Lake Union pursuant to the City's Harbor Code, including maintaining required certifications and licenses and any safety training required by these regulations. The applicant has submitted that all captains of their boats receive Coast Guard safety training and are licensed operators of these boats/vehicles.

The designated route for Ride the Ducks boats to enter and exit the proposed ramp is designed to minimize potential interference with users of Terry Pettus Park. The route is described in the revised SEPA Checklist (Sept. 29, 2014) and shown in Map A as referenced in that SEPA Checklist (SEPA Checklist Figure (Map A), both of which are contained in the electronic file for this project. The figure is dated January 13, 2014 in the electronic file available at the DPD website.

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.

The Biological Evaluation submitted by applicants addresses design considerations of the ramp construction to minimize impacts on the nearshore environment at this location, including the ultimate placement of the ramp beyond the current shoreline such that it will be submerged a minimum of 6 to 8 feet below Ordinary High Water to eliminate overwater development and shading of shallow water. As discussed elsewhere, the ramp design will result in an increase in neashore shallow habitat of 2516 square feet.

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.

All material excavated/dredged for the project shall be transported for disposal at a licensed Subtitle D (nonhazardous) landfill or appropriate location consistent with applicable local, state and federal regulations. Major pieces of inert concrete rubble, rock or debris may be segregated for recycling or disposal at a licensed demolition debris landfill.

SMC 23.60.720 - Development Standards in the UM Environment

In addition to development standards applicable to all environments contained in the General Provisions subchapter, developments in the Urban Maritime (UM) Shoreline Environment shall be consistent with development standards set forth in specifically for the UM Environment the relate to height, maximum size limits, lot coverage, view corridors, regulated public access, and location of uses (SMC 23.60.720). The proposed development has been reviewed and is consistent with these development standards, where applicable. Sheet 1 of submitted plan set summarizes zoning code information.

As discussed previously, the proposed project is a shoreline recreation use and permitted outright in the UM Shoreline Environment pursuant to SMC 23.60.720.I.

The project proposes to dredge 210 cubic yards as part of the ramp construction and place landfill, in part to create dry land. Dredging when necessary for water-dependent and water-related uses and landfill require special use approvals pursuant to SMC 23.60.722, which is analyzed below.

Analysis – Shoreline Special Use

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

- Dredging when necessary for water-dependent and water-related uses are allowed as a special use in the UM Environment (SMC 23.60.722).

- Landfill which creates dry land when the dry land is necessary for a water-dependent or water-related use. (SMC 23.60.722)

SMC 23.60.032 provides the following:

> *Uses which are identified as requiring special use approval in a particular environment may be approved, approved with conditions or denied by the Director. The Director may approve or conditionally approve a special use only if the applicant can demonstrate all of the following:*
>
> *A. That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;*

The Shoreline Policies are part of the Land Use Element of Seattle's Comprehensive Plan. LU 249 from the Comprehensive Plan states that "dredging and disposal of dredge materials shall be conducted in a manner that minimizes short and long-term environmental damage." The proposed project will remove approximately 210 cubic yards of material through in-water dredging. According to documents provided by applicant, all of the material proposed to be dredged is fill material and construction waste and therefore does not constitute removal of natural substrate from Lake Union. All dredged material will be transported for disposal at a licensed Subtitle D landfill. Best Management Practices will be implemented by the applicant during all dredging activities in order to ensure protection of the aquatic environment, including

conducting in-water work consistent with in-water construction windows for protection of fish life specified by U.S. Army Corps and Washington Department of Fish and Wildlife. Best Management Practices for dredging are detailed in the application material, including the Soil Confirmational Monitoring Plan and Water Quality Protection Plan.

LU 250 from the Comprehensive Plan states "permit landfill that creates dry land only where necessary for the operation of a water-dependent or water-related use." The proposed fill will replace approximately 118 cubic yards of in-water material and will consist of clean rip-rap from local quarries and gravel "fish mix" to fill voids in the rip-rap and support aquatic habitat enhancement and mitigation objectives. Any dry land created by the proposed landfill is less than two square yards per lineal yard of shoreline (see SMC 23.60.722) and is designed for erosion protection, habitat enhancement (details for shoreline revegetation are contained in on Sheet LI of submitted plans) and the overall proposed water-dependent use associated with the boat ramp. The proposed gravel "fish mix", which will be placed along the shoreline and on top and within the rip-rap, will be consistent with standards for this material specified by Washington Department of Fish and Wildlife for fish habitat enhancement. Best Management Practices for all fill activities for the protection of the shoreline aquatic environment are detailed in the application material, including the Soil Confirmational Monitoring Plan and the Water Quality Protection Plan.

RCW 90.58.020 states that permitted uses in the shorelines of the state "shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interferences with the public's use of the water." The applicant is proposing implementation of Best Management Practices (summarized above and detailed in the application material) to protect the environment during the dredging and fill activities that require a special use approval pursuant to SMC 23.60.722. The dredging actions are expected to take approximately two days and the fill actions are expected to take approximately one week. The dredging and fill actions are temporary and will not prevent the public's use of the shoreline at the adjacent Terry Pettus Park.

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

The dredging actions are expected to take approximately two days and the fill actions are expected to take approximately one week. The dredging and fill actions are temporary and will not prevent the public's use of the shoreline at the adjacent Terry Pettus Park. The location of the proposed ramp as well as the dredging and fill actions are located on private property.

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

The property to the south of the subject property is the site of the U.S. Seafoods headquarters and vessel moorage. To the north of the subject property is Terry Pettus Park and a residential floating home community. Fairview Ave East and several commercial and residential properties are located to the east. The subject property includes and is adjacent to Lake Union, which supports a wide variety of recreational, commercial, residential and industrial uses. With respect to the dredging and fill actions that triggered this special use analysis, these actions are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment and surrounding uses (see discussion above) as well under the authority of

applicable permits from Washington Department of Ecology, Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner compatible with the surrounding uses.

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

With respect to the dredging and fill actions that triggered this special use analysis, these actions are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment (see discussion above, including submitted application materials and Water Quality Protection Plan and Soil Confirmational Monitoring Plan) as well under the authority of applicable permits from Washington Department of Ecology, Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner that will cause no unreasonably adverse effects to the shoreline environment. The Army Corps of Engineers permit for this project was issued on Oct. 14, 2014.

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

With respect to the dredging and fill actions that triggered this special use analysis, these actions are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment (see discussion above, including submitted application materials and Water Quality Protection Plan and Soil Confirmational Monitoring Plan) as well under the authority of applicable permits from Washington Department of Ecology, Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner that will cause no substantial detrimental effect to the public interest.

Decision – Shoreline Special Use

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

The Provisions of Chapter 173-27 WAC

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments, and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Conclusion – Shoreline Substantial Development Permit

The proposed shoreline substantial development permit is **CONDITIONALLY GRANTED.** Shoreline Substantial Development conditions are listed below.

ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated September 6, 2012 and revised September 29, 2014). The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans, any additional information in the file and comments that have been received regarding this proposed action. This action may result in adverse impacts to the environment. However, due to their temporary nature or limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. 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 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion (below) of some of the impacts is appropriate.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts, except as specifically noted below. Applicable codes may include the City's Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15, the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08), as well as applicable state, regional and federal regulations.

Construction Impacts

The proposed project will include in-water and upland construction activities on the subject parcel to build a boat ramp and a fixed pier. These activities are shown and described in detail in the submitted application material and plans, but generally include grading and dredging to remove fill material and to create a slope from the adjacent roadway down to Ordinary High Water and below to an elevation of approximately 14 feet; pile removal of treated wood piles; construction of the boat ramp with installation of three new steel piles; construction of the a new dock with two steel piles; site finishing including paved ramp, rip-rap slope protection, fish enhancement gravel and installation of new native vegetation over the remainder of the site.

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

during grading, excavation, dredging and general site work; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; increases in sedimentation and turbidity, and displacement of some aquatic and wildlife species due to in-water construction and noise; and consumption of renewable and non-renewable resources. The applicant's application material, including the Biological Evaluation (Aug. 2012), specifically discusses potential water quality and shoreline habitat impacts due to construction activities.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: Stormwater Code (SMC 22.800-808), Grading Code (SMC 22.170); Street Use Ordinance (SMC Title 15); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). In addition Federal and State regulations and permitting authority are effective to control short-term impacts on water quality. Compliance with these applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment.

The applicant is proposing numerous Best Management Practices to address potential impacts during construction, particularly to water and soil quality. These BMPs are discussed in detail in the submitted application material, plan sets (Sheet 3 in particular), and three specific plans submitted by the applicant: The Biological Evaluation; the Water Quality Protection Plan (dated April 2014) and the Soil Confirmational Monitoring Plan (dated March 2014), which specifically addresses measures that will be taken to confirm that soil with contamination exceeding Ecology's Model Toxics Control Act (MTCA) cleanup levels do not remain on the property following construction. Additionally, to minimize construction impacts, the requirements of the US Army Corps of Engineers permit issued on October 14, 2014 will be a condition of this permit. This permit includes restrictions on the timing of construction activities in order to meet requirements of the Endangered Species Act. These requirements shall be included on the building plan set submitted for this project.

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

Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery; and the movement of vehicles — themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the increased contribution of greenhouse gas emissions from this project.

Long Term Impacts

Several long-term or use-related impacts are anticipated as a result of approval of this proposal in including impacts on air quality, noise, and plants and animals.

Several adopted City codes and/or ordinances, including the Stormwater Code, Land Use Code, Shoreline Master Program, Environmental Critical Area Ordinance, Street Use Ordinance, Building Code, Noise Code, Grading Code, Street Use Ordinance, and Harbor Code, as well as

regulations under the authority of Puget Sound Clean Air Agency, Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and U.S. Coast Guard are effective to address long-term or operational impacts of this proposal. Generally, compliance with these applicable regulations and ordinances is adequate to achieve sufficient mitigation of most long-term impacts, pursuant to SMC 25.05.665 D and E, except as noted below. However, due to the nature of the proposal, some of the potential impacts warrant further analysis.

Air Quality

Impacts to air quality are anticipated from this proposal based on the use and operation of the Ride the Ducks amphibious vehicles on Lake Union and at the project location. These impacts were addressed in an Air Quality Impact Assessment produced by Environ International Corporation dated June 26, 2013, and submitted to DPD by the applicant, who hired Environ to conduct the assessment. DPD requested Puget Sound Clean Air Agency to review the Environ assessment as well as project-specific information, including the location of the proposed ramp, and specific public comments on air quality concerns such as those made by Dr. Robert Burk, which are part of the project file.

Puget Sound Clean Air Agency responded to DPD in a letter dated June 17, 2013, that stated that the Agency had reviewed the Environ memo and other information about the proposed new Ride the Ducks ramp on the east side of Lake Union and found the memo "to be reasonable from a regional emissions perspective and agree the impact to the ambient air from the increase diesel particulate emissions from the proposed boat ramp would be minimal. Based on the small number of vehicles and the relatively newer engines operating in the seventeen DUKW vehicles, the total emissions from the new ramp would be comparable to that from a short segment of many other small roads, and would be dwarfed by the emissions from I-5 a few hundred meters to the east and other nearby arterials." The Agency then provided a few recommendations for the City of Seattle to request from the Ride the Ducks to ensure that vehicles using the ramp are the cleanest, lowest-emitting possible. In response to the letter, DPD asked the Agency if these recommendations should be required of the applicant as conditions of DPD's permit approval and the Agency subsequently responded in an email (dated July 18, 2013) that "given the potentially small emission impacts from this project, we're not proposing that you require our suggestions as conditions of approval to the permit. That said, whatever the project proponent can do to reduce diesel emissions during the construction and use of the ramp we absolutely encourage and support."

Pursuant to DPD's authority in SMC 25.05.665 and SMC 25.05.675 A. and in deference to Puget Sound Clean Air Agency's expertise and authority regarding air quality issues in the Seattle area, DPD finds that no additional conditions pursuant to SEPA are warranted with respect to operational air quality impacts of this project.

Noise

In order to better understand potential operational noise impacts for this project, DPD requested during project review that the applicant provide an assessment of the potential noise impacts of the Ride the Ducks operation at the proposed project location. Environ International Corporation produced an assessment dated June 26, 2013, and another analysis dated September 12, 2013, which responded to a noise assessment conducted by Sparling (dated July 12, 2013) that was

submitted through public comment. Sparling also provided an analysis of the Environ assessment (dated Oct. 7, 2013). These assessments were reviewed by DPD's noise specialist Jeff Stalter.

The expected operational noise impacts of this project are based on noise generated by the amphibious vehicle operation (e.g., engine and brake noise as the vehicle enters the project area and descends the ramp into the water and exits the water, ascending the ramp and exiting the project area); noise generated by the operator of the vehicles/vessels through the amplified audio system on the amphibious vehicles, which includes amplified music and narration by the operator during the tours. The Environ assessment included the following statement summarizing the frequency and scope of the tour operations:

"The RTDS tours operate during daytime hours from 10 a.m. to as late as 7:30 p.m. RTDS operations are seasonal, with peak use during July and August and limited use during winter months. Typical average daily operations vary from a low of about 9 tours/day (total 18 entries/ exits) in November – March, to an average high of about 67 tours/day (total 134 entries/exits) in July and August. During a *maximum* use 1-hour period of operation, as many as nine vessels would enter the lake and as many as nine would exit. On a *maximum use day* during peak season as many as 82 vessels would enter the lake and as many as 82 would exit over the course of 9.5 hours of operations."

Seattle's Noise Control Ordinance (Seattle Municipal Code 25.08) includes a number of standards that are applicable to this project and the operation of the Ride the Ducks vehicles/vessels both on land at the project location and during operation in Lake Union. These provisions include, but are not limited to, SMC 25.08.410 regulating exterior sound limits, SMC 25.08.430 regulating sounds from motor vehicles, SMC 25.08.485 regulating sounds from watercraft, and SMC 25.08.515 regulating public disturbance noise from portable or motor vehicle audio equipment.

SMC 25.08.485.A. states that:

"It is unlawful for any person to negligently cause, make or allow to be made from audio equipment under such person's control or ownership sound from a watercraft that can be clearly heard by a person of normal hearing at a distance of three hundred (300) feet or more from the watercraft itself." This section of the Noise Ordinance includes exemptions to this standard (SMC 25.08.485) that include "sounds created by the operation of commercial, nonrecreational watercraft are exempt at all times from provisions of this chapter" and "sounds created by vocal narration during a sightseeing tour." These exemptions are not applicable to amplified music during tours on Lake Union such as is used and proposed by Ride the Ducks.
SMC 25.08.515 states that:

"While in park areas, residential or commercial zones, or any area where residences, schools, human service facilities or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to negligently cause, make or allow to be made from audio equipment under such person's control or ownership the following:

1. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the vehicle itself; or

2. Sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the sound."

As part of the project review, the applicants were encouraged by DPD to examine measures necessary to ensure compliance with the Noise Ordinance for this project, including design and management of the audio system on each amphibious vehicle. In response, the applicants have proposed a voluntary mitigation plan that is summarized in the SEPA checklist dated September 29, 2014, which includes an in-water route for the vessels that will maximize distance from the adjacent Terry Pettus park and the floating home community nearest the proposed ramp, as well as replacing the ceiling-mounted speakers in the RTD amphibious vehicles with additional and new speakers in the vehicles/vessels "below the sill line or under the seats" in order to reduce the potential of noise spillage outside the vehicles/vessels.

The noise assessments cited above and in the project file were reviewed by DPD within the context of the applicable Noise Ordinance provisions for this project as well as the voluntary noise mitigation measures provided by the applicant and DPD's authority pursuant to SMC 25.05.665 and SMC 25.05.675.L. DPD has concluded that the provisions of the Noise Ordinance applicable to this project, including SMC 25.08.515 and SMC 25.08.485, are adequate to mitigate the noise impacts anticipated by the operation of the RTD amphibious vehicles at the proposed project location, except as noted below and conditioned by DPD (see Conditions No. 1 and 2 below)

However, based on the proximity of residences and Terry Pettus Park to the proposed ramp, which are located in a Single Family Residential Zone immediately adjacent to the project's location, which is located in an Industrial Zone, DPD has concluded that further mitigation of the potential noise impacts this project, in addition to those measures proposed by the applicant, is authorized pursuant to SMC 25.05.665.D.5, which states mitigation shall be permitted in the case where a project is located near the edge of a zone, and results in in substantial problems of transition in scale or use which were not specifically addressed by the applicable City code or zoning.. This conclusion is supported by:

1) the continual and repetitive nature of the proposed sounds anticipated at this project location generated by the amplification of sounds during operation of the RTD amphibious vehicles (see SMC 25.05.675.L.1.b); and
2) the frequency and volume of tour trips anticipated at this location (see summary above from Environ 2013).

Therefore, in order to further ensure compliance with the applicable standards in the Noise Ordinance once the project is constructed and operational, DPD is conditioning this project to require that the speakers in each RTD vehicle/vessel be mounted below the seats to further mitigate potential for amplified noise spilling from the RTD vehicles/vessels and that a DPD Noise Control Program Specialist will conduct random monitoring of the RTD operation at the project location.

If in the judgment of DPD, noise levels caused by RTD in the vicinity of the project location are found and documented to exceed standards set in the Noise Ordinance, including but not limited to SMC 25.08.515, RTD will be required to make modifications to the amplification system or the management of that system to meet all applicable Noise Ordinance standards, subject to the

approval of DPD. These modifications may include completely turning off amplified music within a certain distance from the project location if that is determined to be necessary to reasonably meet SMC 25.08.515, or other applicable standards, in the judgment of DPD (See Conditions No. 1 and 2 below.)

Traffic and Transportation

In order to better understand the potential traffic and transportation-related impacts posed by this project and the use of the proposed project location by RTD vehicles, a Traffic Analysis was submitted by the applicant (Heffron Transportation, Feb. 2013) and reviewed by DPD's transportation planner John Shaw.

The analysis indicates that the maximum number of trips that would be generated by the project would be 18 in the busiest hour. This would occur during the peak summer season. This amount of additional traffic is not expected to adversely affect traffic operations in the vicinity of the site.

In addition to Mr. Shaw's review, DPD consulted with Seattle Department of Transportation for their analysis of the potential pedestrian safety and other traffic impacts of this project. SDOT concluded that they had no traffic operation concerns with the proposed use of Fairview Avenue south of the project site stating that Fairview Ave. is designed in a manner that can accommodate the proposed use by the RTD vehicles (email from SDOT to DPD dated Feb. 5, 2013). SDOT does recommend that the applicant work with SDOT to address vegetation issues where the site access crosses the pathway (Cheshiahud Trail) that runs along the west side of Fairview Avenue. SDOT stated that they will require the applicant to remove some of the existing vegetation and replace it with a lower-growing species that ensures there is sufficient visibility between vehicles and pathway users. The applicant will be required to obtain a Street Use permit from SDOT, as applicable, for changes in the public right of way associated with this project.

Pursuant to DPD's authority in SMC 25.05.665 and SMC 25.05.675 R and in consultation with Seattle Department of Transportation, DPD finds that no additional conditions pursuant to SEPA are warranted with respect to operational traffic and transportation impacts.

Plants and Animals

Operational effects of the project on natural resources are analyzed and discussed in more detail in the Biological Evaluation and the application material and plans.

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Union including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.* This project is proposed to take place in Lake Union which is part of the migration corridor of Chinook salmon from the Cedar River and the other water bodies in Water Resource Inventory Area 8.

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include the increase in over-water coverage for this project for the new dock. Overwater coverage creates shading that provides hiding places for predators and forces juvenile salmon away from the near shore, where they are more susceptible to predation by larger fish; therefore, this decreases their survivability.

As provided by SMC 25.05.350 A, when making a threshold determination the lead agency may consider mitigation measures that the agency or applicant will implement. These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The applicant has included mitigation measures in the project to offset the impacts of the proposed work, including:

1) The surface of the new dock will be constructed of grating with minimum of 60 percent open space in order to minimize impacts of overwater coverage.
2) All areas of the subject parcel not used for the ramp and sidewalk will be landscaped with native vegetation.
3) The project will result in a decrease in impervious surface area and approximately 3,066 square feet of area will be landscaped with native vegetation that is currently impervious surface (details are shown on Sheet LI in submitted plans). Approximately 1,290 square feet of existing invasive vegetation will be removed at the project location.
4) Fish mix gravel (based on WDFW standards appropriate for nearshore fish habitat conditions) will be placed along shoreline (approximately 2027 square feet of area)
5) Project will result in an increase of approximately 2516 square feet of shallow water habitat along the shoreline for the project area.
6) Lighting on the new dock will be low wattage, directional lighting mounted to illuminate the dock surface for safety and security but designed to minimize light spillage into the water.

Collectively these measures are believed to minimize impacts on juvenile salmon habitat at the site and adequately mitigate for these impacts to salmon and other species, primarily by reducing the juvenile Chinooks' vulnerability to predation in the Lake Union environment and providing native shoreline vegetation at the water's edge, which will increase the allocthonous input of insects and detritus to the lake providing food for juvenile salmonids and nutrients for other aquatic organisms.

The amphibious vehicles are required to comply with state and federal maintenance standards for vehicles and vessels, including all applicable Coast Guard standards and Department of Ecology standards for protection of water quality.

No additional conditioning pursuant to SEPA is warranted.

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 requirements 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).

SEPA AND SHORELINE CONDITIONS

Prior to Issuance of Shoreline Substantial Development Permit

1) Applicant shall submit to DPD a Noise Control Operation Plan that includes all voluntary noise control measures proposed by the applicant in the SEPA Checklist (dated Sept. 29, 2014), except that all speakers for the RTD fleet shall be mounted below the seats. Any alternative speaker location will need to be authorized by DPD prior to use. The Noise Control Operation Plan shall state that the sound system on each RTD amphibious vehicle shall be managed in such a manner (i.e., reducing volume as necessary) as to meet all applicable provisions of the Noise Control Ordinance, including consistency with SMC 25.08.515 and SMC 25.08.485.

   The Noise Control Operation Plan shall also include a commitment that RTD briefings to passengers, as described in No. 6 in the Voluntary Noise Mitigation Plan provided in the SEPA Checklist, shall always include instructions to passengers that this area is a Quiet Zone due to proximity to residences and therefore all noises generated by passengers (e.g., loud voices, noisemakers) should be kept to a minimum in respect for local residents.

2) Once the proposed ramp is in use by RTD, DPD will begin random monitoring of the operation in order to ensure consistency with the Noise Control Operation Plan and all applicable Noise Ordinance standards. If in the judgment of DPD, noise levels in the vicinity of the project location are found and documented to exceed standards set in the Noise Ordinance, including but not limited to SMC 25.08.515, RTD will be required to make modifications to the amplification system or the management of that system to meet all applicable Noise Ordinance standards, subject to the approval of DPD. These modifications may include but not limited to completely turning off amplified music within a certain distance from the project location if that is determined to be necessary to reasonably meet SMC 25.08.515, or other applicable standards. The Noise Control Plan shall be amended and submitted to DPD for approval as necessary to reflect any modifications required by DPD.

During Construction

3) The Water Quality Protection Plan and Soil Confirmational Monitoring Plan and all other Best Management Practices applicable to construction of the project, including those specifically listed on Sheets 2 and 3, shall be implemented. Any additional construction BMPs required by Washington Department of Ecology and the Army of Corps of Engineers shall also be implemented appropriately.

4) The applicant and any contractor(s) for the project shall be responsible for implementing any fish and wildlife protection measures required by Washington Department of Fish and Wildlife, including limiting in-water work to the work windows established by WDFW and the Army Corps for this project.

For Life of the Project

5) All operational noise control measures identified in the Noise Control Operation Plan, as approved by DPD, shall be implemented as stated in the Noise Control Operation Plan, including any modifications that are required by DPD based on monitoring of the operation.

6) The proposed vegetation at the subject property as shown on the landscape plan (shown on Sheet L1 of the submitted plans) shall be properly installed, monitored and maintained to ensure survival and good health of all plants consistent with the approved maintenance and monitoring plan (shown on Sheet L1 of the submitted plans).

7) No passenger parking or loading or unloading of passengers is allowed at this project location.

Signature: (signature on file) Date: January 29, 2015
Ben Perkowski, Senior Land Use Planner
Department of Planning and Development

BP:drm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

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

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

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

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