



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

Application Numbers: 3014194

Applicant Name: David Van Skike, Van Ness Feldman, LLP, for Peter Erickson

Addresses of Proposal: 3212 Potage Bay Place E.

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow construction of a new 2-story, 1,832 sq. ft. floating home, concrete float, and moorage walkway in an environmentally critical area. Application also includes construction of a new 3,192 sq. ft. single family dwelling and parking for two vehicles on the over-land portion of the lot. All existing structures on the site are to be demolished.

The following approvals are required:

Shoreline Substantial Development – To allow a single family residence and a floating home in the UR Shoreline Environment (Seattle Municipal Code 23.60.540.A)

Variance - To allow a portion of a principal structure to extend into the required front yard (Seattle Municipal Code Section 23.44.014.A.1). *Requirement: The front yard depth shall be 20 feet - Proposed: principal structure with enclosed garage to encroach 14.25 feet into required front yard*

Variance – To allow parking accessory to a floating home in a required front yard (Seattle Municipal Code 23.44.016.D.1)

SEPA Environmental Review - Seattle Municipal Code Section 25.05

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

BACKGROUND DATA

Subject Site and Vicinity

The subject property is zoned Single Family-5000 (SF-5000). It is a rectangular-shaped lot, approximately 140 feet long and 50 feet in width, a portion of the Lake Union Shore Lands, bounded on the south by Portage Bay Place E. on the north by Portage Bay, and to the west and east by existing residential structures.



The legal description of the property is Lake Union Shore Lands Addition and unplatted strip adjacent Lot 9, Block 29A Lake Union Shore Lands supplemental addition together with lot 9, block 29-C, Lake Union Shore Lands second supplement. The total site area is approximately 6,998 square feet, with the upland portion totaling 3,277 square feet and the water portion totaling 3,721 square feet.

Slightly more than half of the lot is submerged beneath the waters of Portage Bay, a portion of Lake Union connected via a canal, the “Montlake Cut,” to Lake Washington. The lot is currently occupied by a single-family residence, approximately one-third of which is built landwards of a seawall on the upland portion of the lot, with the bulk of the structure supported on pilings above the water. A small garage structure, close to and facing Portage Bay Place E., is also located on the upland portion of the lot. Both of these structures, as well as the pilings that support the over-water portion of the single-family home, will be removed. Pilings for a floating home moorage, once occupied with a floating home that occupied the northern, submerged portion of the lot will be removed and new pilings installed.

Proposal Description

The applicant proposes to construct a new single-family residence at the southern portion of the site and a new floating home in the northern third of the property. The north end of the proposed floating home at the north end of the parcel will be located approximately 25 feet from the edge of the lake shore. The applicant is requesting variances to allow a portion of the single-family residence to extend approximately 14.25 feet into the required front yard and to allow the parking accessory to the floating home to be located within the required front yard. The Code requirement for the front yard abutting Portage Bay Place E. is twenty feet.

Public Comment

No comment letters were received during the official comment period that ended on February 7, 2013.

ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT

Single Family Residence

Single-family residences are permitted outright on waterfront lots in the Urban Residential (UR) shoreline district. The applicant’s proposal is to demolish and replace an existing single-family residence on a waterfront lot located at 3212 Portage Bay Place E. The existing single-family structure and the attendant garage and walkways will be removed. The dry-land portion of house and garage to be demolished totals approximately 530 square feet. The over-water portion of the house and decks to be demolished totals approximately 1,500 square feet. A new single-family residence with a 1,180 sq. ft. footprint is proposed to be constructed entirely within the dry-land portion of the lot.

SMC 23.60.198. D. specifies that single-family residences in both waterfront and upland lots in the Shoreline District shall meet the yard requirements of the underlying zone. The underlying zone is Single-Family 5000. The construction of a new single-family residence on this site to replace the existing single-family residence that is to be demolished is possible only if a variance from front yard standards is granted. See the discussion and analysis below, “**Analysis - Variances.**”

Floating Home

The applicant also proposes to construct a new two-story, 1,832 square-foot floating home, concrete float and moorage walkway, also to be located at 3212 Portage Bay Place E. The north end of the proposed floating home will be approximately 25 feet from the lake shore of Portage Bay, Lake Union. According to the plans prepared by Rene Architecture and received by the Department on April 5, 2013, mooring piles, consisting of open-end steel pipe will be embedded into competent underwater soils to secure the float.

SMC 23.44.008.C specifies the development standards applicable to Floating homes within single-family zone designations:

Floating homes are subject to the provisions of Chapter 23.60, Shoreline Master Program, and are also subject to the parking provisions of this Chapter 23.44.008.

SMC 23.44.008.E notes, inter alia, that “*Standards for parking access and design are provided in Chapter 23.54.*” Providing parking for the floating home on site on the dry-land portion of the lot will also necessitate the grant of a variance from the standard that does not allow parking in the front yard of a single-family lot SMC 23.44.016.D.1). See the discussion below, “**Analysis – Variances.**”

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030A 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:*

1. *The policies and procedures of Chapter 90.58 RCW;*

2. *The regulations of this Chapter; and*
3. *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.

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 seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed improvements to the site at 3212 Potage Bay Pl. would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for residential development within an urban environment zoned for such development and otherwise compatible with it. The subject application is consistent with the procedures outlined in RCW 90.58.

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 act primarily in a supportive and review capacity, with primary emphasis on ensuring 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. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. 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 which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development action occurs on land classified as a waterfront lot (SMC 23.60.924 "L") and is located within an Urban Residential (UR) shoreline environment. Single-family residences are permitted outright on waterfront lots in the Urban Residential (UR) shoreline environment. The applicant's proposal is to demolish and replace an existing single-family residence on a waterfront lot located at 3212 Portage Bay Place E. The proposed floating home moorage is also permitted outright in the UR shoreline environment in Lake Union or Portage Bay (SMC 23.60.540).

SMC 23.60.004 - Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The goals and policies generally support the development of a single-family residence and floating home moorage at this site, a waterfront lot within the UR environment.

The purpose of the Urban Residential (UR) environment as set forth in Section 23.60.220. C.6 is "to protect residential areas." The proposed development of a single-family structure and moorage for a floating home are uses allowed outright on a waterfront lot in the UR environment. The UR designation for this site meets the locational criteria for the UR environment and is thus supportive of both the purpose of the UR shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

SMC 23.60.152 - Development Standards for all Shoreline Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- 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...fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.

- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed, and as having gone through land use, zoning and environmental reviews, and as conditioned (see below), the project complies with the above shoreline development standards. There will be ground disturbance of the existing soils on the subject site in order to demolish existing structures, construct the intended single family structure and insert pilings for the floating home moorage. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort DPD developed a Director's Rule 15-2009, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the proximity to the waters of Portage Bay and Lake Union and the

proposed work associated with excavation and construction, the potential exists for impacts to adjacent waters during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures. As conditioned, the short-term construction related activities should have minimal effects on the water quality of the nearby lake or on migratory fish routes.

SMC 23.60.730 – Permitted Uses on waterfront lots in the UR Environment

Single-family residences and moorages for floating homes area permitted uses allowed outright on waterfront upland lots in the UR Environment (per (SMC 23.60.540).

SMC 23.60.750 – Development standards for the UR Environment

The proposal is subject to the development standards for the UR environment. SMC 23.60.198. D. specifies that single-family residences in both waterfront and upland lots in the Shoreline District shall meet the yard requirements of the underlying zone. The underlying zone is Single-Family 5000. No view corridors nor public access are required on waterfront lots in the UR Environment. DPD has determined that the proposal, with the variances from front yard requirements in the Single-family zone granted, comports with all development standards for the UR Environment.

Chapter 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, the criteria and procedures of SMC Chapter 23.60 are consistent with WAC 173-27 and RCW 90.58.

SMC 23.60.572 – Height in the UR Environment

The maximum height in the UR Environment is 30 feet. There are no protected views at issue and there is no view impact from residences neighboring the project. The proposed single-family structure comports with view corridor standards required for development on waterfront lots in the UR Shoreline Environment.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **Granted**, subject to the SEPA conditioning noted at the end of this document.

ANALYSIS – VARIANCE to allow a portion of a single-family residence to project into the required front yard

Variances from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

- 1. Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The subject property is not unusual in shape or size, but there are situational features of the lot worth further consideration. The lot measures approximately fifty feet in width and 139 feet in depth. Approximately 8 feet of land at the front of the lot lies at the higher grade of the pavement of Portage Bay Place E., in reality, at 15 feet in width, a “named alley.” This 8-foot lip of private property at the edge of the roadway is supported by a retaining wall, some 10-feet in height, earning for the south edge of the lot a designation as a “steep slope: environmentally critical area. The above water portion of the lot, relatively level, then extends another 58 feet to another short retaining wall that runs along the ordinary high water line of the lake. The current Land Use Code would not allow a structure to occupy any portion of the shoreline within 25 feet of the ordinary high water mark. While the existing single-family structure predates any environmentally critical areas ordinance, the desire to move the structure away from the front retaining wall undoubtedly weighted a decision to remove the bulk of the structure towards an over-water location. The orientation of the replacement structure totally within the dry land portion of the lot and outside the 25 foot setback from the shoreline is preferable to the existing situation and preferable to a re-build in place of the deteriorating single family structure. The strict application of the Code in this instance would deprive the property of rights and privileges enjoyed by other properties in the same zone and vicinity. Construction of the proposed new single family structure, however, would require a structure of viable size and configuration to be located within the front yard required for the single family 5000 zone. The proposed location of the new structure does not go beyond a reasonable minimum necessary to afford relief and does not appear to constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

- 2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The applicant is requesting the encroachment of a portion of a single-family residence into the required front yard in order to construct the structure totally out of the underwater portion of the lot and in order to conform to SMC 23.60.198, the sub-section of the Shoreline Code that requires the structure to be set back 25 feet from the ordinary high water line. The shoreline setback would allow construction of a building only 12 feet in depth if the full front yard were to be required on the lot. Construction of the proposed new single family structure, however, would require a structure of viable size and configuration to be located within the front yard required for the single family 5000 zone. The proposed location of the new structure does not go beyond a reasonable minimum necessary to afford relief and does not appear to constitute a grant

of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The portion of the single family structure encroaching into the front yard is substantially removed from the public realm perceptually and does not infringe on any significant or protected public views. In addition, it re-enforces an established residential pattern on the lots in the vicinity that are without significant above-water land area. No detriment to the public welfare or injury to the property or improvements in the zone or vicinity is likely to occur by granting the requested variance.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

A site review of the subject property and both the immediate and extended vicinity, plans showing the proposed new front porch and its location, as well as site plans indicating the alignment of adjacent and surrounding residences, indicate that the proposed structure would provide a reasonable fit into the neighborhood and vicinity. The literal interpretation and the strict application of the applicable front yard requirement would cause practical difficulties to for the full realization development of this residential lot. While it might be theoretically possible to design a shelter on the lot where placement would not require a variance from the Land Use Code, such an alternative would require significant revisions to normal floor plans, the functional layout of the domestic realm, as well as to the expectations of established custom.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land which conforms to the City's land use policies. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The construction as proposed is in keeping with the character and patterns of surrounding development and preserves the existing neighborhood character. Regarding environmental impacts to the waterfront, the removal of the existing single family residence overwater and the location of a new single family residence on the dry land portion of the lot, separated from the shoreline by a vegetated buffer, will provide a positive benefit to the shoreline environment. Any impacts resulting from this small construction project are relatively minimal and consistent with construction impacts of single-family structures within established single-family neighborhoods. No adverse effects on adjacent properties in the area are anticipated and the public interest will not suffer as a result of this variance.

DECISION - VARIANCE to allow a portion of a single-family residence to project into the required front yard

The request for a variance to allow a portion of a principal structure to extend 14.25 feet into the required front yard (Seattle Municipal Code Section 23.44.014.C) is **APPROVED**.

CONDITIONS-VARIANCE

None.

ANALYSIS – VARIANCE to allow parking accessory to a floating home within a required front yard (SMC 23.44.016.D.1).

Variations from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

- 1. Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The subject property is not unusual in shape or size, but there are situational features of the lot worth further consideration. The lot measures approximately fifty feet in width and 139 feet in depth. Approximately 8 feet of land at the front of the lot lies at the higher grade of the pavement of Portage Bay Place E., in reality, at 15 feet in width, a “named alley.” This 8-foot lip of private property at the edge of the roadway is supported by a retaining wall, some 10-feet in height, earning for the south edge of the lot a designation as a “steep slope: environmentally critical area. The above water portion of the lot, relatively level, then extends another 58 feet to another short retaining wall that runs along the ordinary high water line of the lake. The current Land Use Code would not allow a structure to occupy any portion of the shoreline within 25 feet of the ordinary high water mark. While the existing single-family structure predates any environmentally critical areas ordinance, the desire to move the structure away from the front retaining wall undoubtedly weighted a decision to remove the bulk of the structure towards an over-water location. The orientation of the replacement structure totally within the dry land portion of the lot and outside the 25 foot setback from the shoreline is preferable to the existing situation and preferable to a re-build in place of the deteriorating single family structure. The orientation of a viable structure to a location occupying the over land portion of the lot, however, limits the ability to locate the parking for the floating home, a use on the site permitted outright, anywhere but within the required front yard. The proposed location of the parking does not go beyond a reasonable minimum necessary to afford relief and does not appear to constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

- 2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The applicant is requesting to locate a parking space accessory to the floating home within the diminished front yard. Plans submitted with the variance request show a parking space served

by a conforming curb cut that also serves the driveway and enclosed parking space of the single family residence to be located at the south end, dry land portion of the lot. The proposed parking space does not go beyond a reasonable minimum necessary to afford relief and does not appear to constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

No detriment to the public welfare or injury to the property or improvements in the zone or vicinity is likely to occur by granting the requested variance. The proposed parking space in the front yard is substantially screened by existing vegetation and removed from the public realm in elevation and perceptually and does not infringe on any significant or protected public views. In addition, it re-enforces an established pattern of irregular accommodation of vehicles for floating homes and residences on the lots in the vicinity that are without significant above-water land area. No detriment to the public welfare or injury to the property or improvements in the zone or vicinity is likely to occur by granting the requested variance.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

A site review of the subject property and both the immediate and extended vicinity, plans showing the proposed new single-family residence pushed forward on it site and accommodating a parking space for the on-site floating home within the front yard, as well as site plans indicating the alignment of adjacent and surrounding residences, indicate that the proposed parking space would provide a reasonable fit into the neighborhood and vicinity, especially given the steep upward slope of lots south and southwest of the site, located between Portage Bay Pl E. and Fuhrman Avenue E. The literal interpretation and the strict application of the applicable front yard requirement would cause undue hardship and practical difficulties for the full realization of single family development of this SF 5000 zoned residential lot.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land which conforms to the City's land use policies. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The construction as proposed is in keeping with the character and patterns of surrounding development and preserves the existing neighborhood character. Any impacts resulting from this small construction project are relatively minimal and consistent with construction impacts of single-family structures within established single-family neighborhoods. No adverse effects on adjacent properties in the area are anticipated and the public interest will not suffer as a result of this variance.

DECISION - VARIANCE to allow a parking space accessory to a floating home within the required front yard

The request for a variance to allow a parking space accessory to a floating home within the required front yard (Seattle Municipal Code Section 23.44.014.C) is **APPROVED**.

CONDITIONS-VARIANCE

None.

ANALYSIS - 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) because the proposed project exceeds the 12,000 square feet size threshold.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant's agent. 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 (SM C 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, and 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 and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,*" subject to some limitations.

Short-Term Impacts

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities. Most short-term impacts are expected to be minor, and compliance with existing applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. For example, the Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes, and requires that soil erosion control techniques be initiated for the duration of construction. Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City.

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from demolition and building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; increased noise; and consumption of renewable and nonrenewable resources. Several adopted codes and/or ordinances provide mitigation for some of the identified

impacts:

- Debris, consisting of removed pilings and materials from the existing floating home “float,” as well as demolition materials of the existing single-family structure must be removed from the site. The applicant estimates approximately 166 cubic yards of excavation for construction. Materials must be removed from this site and must be deposited in an approved site.
- The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction.
- The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, and removal of debris and regulates obstruction of the pedestrian right-of-way.
- PSCAA regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general.
- Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city.

Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, given the location of demolition, grading and building activity to be undertaken in association with the proposed project, additional analysis of drainage, grading, traffic, circulation and parking, noise, and greenhouse gases is warranted.

Earth and Grading

Soil disturbing activities during site excavation for foundation purposes could result in erosion and transport of sediment. The Stormwater, Grading and Drainage Control Code provides for extensive review and conditioning of the project prior to issuance of building permits.

Additionally, the following conditions will be imposed on the project:

- Appropriate Best Management Practices (BMPs) shall be employed to prevent deleterious material from entering the aquatic environment during construction. Appropriate BMPs shall be employed to minimize the amount of erosion at the shoreline caused by construction material storage and staging, and the proposed construction work.
- If any debris enters the water, the debris shall be removed from the water immediately and disposed of at an appropriate upland facility.
- Appropriate BMPs shall be employed to minimize the amount of erosion at the shoreline caused by construction material storage and staging, and the proposed construction work.
- If toxic material such as any petroleum product enters the water, this material shall be reported to the Department of Ecology, and shall be immediately contained using the appropriate equipment and material.
- Appropriate equipment and material for hazardous material clean up shall be kept at the site during construction.

For the removal and disposal of the spoil materials, the Code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of “freeboard” (area from level of material to the top of the truck container) be provided in loaded uncovered trucks to minimize the amount of spilled material and dust from the truck bed en route to or from a site.

On-street parking in the neighborhood is limited, and the demand for parking by construction workers during construction could exacerbate the demand for on-street parking and result in an adverse impact on surrounding properties. The owner and/or responsible party shall assure that construction vehicles and equipment are parked on the subject site or on a dedicated site within 800 feet for the term of the construction, whenever possible.

The Street Use Ordinance requires sweeping or watering streets to suppress dust, on-site washing of truck tires and removal of debris, and regulates obstruction of the pedestrian right-of-way. This ordinance provides adequate mitigation for these construction transportation impacts; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Noise

All construction activities are subject to the limitations of the Noise Ordinance. However, given the proximity of the site to existing residential uses, additional restrictions are warranted. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7:00 a.m. to 6:00 p.m., and on Saturdays between 9:00 a.m. and 6:00 p.m. No work shall be allowed on Sundays. Non-noisy activities, such as site security, monitoring, and weather protection shall not be limited by this condition.

Historic and Cultural Preservation

Although the site has been developed previously, it lies within an archaeological buffer zone, determined by the US Government Meander Line. Although no archaeologically significant cultural resources are known to be present at the project site, there is some potential for cultural resources to be located there. Construction activities could increase visibility and potential for exposure of previously unknown cultural resources during clearing and grading. Prior to Issuance of the Master Use Permit, the owner and/or responsible parties shall provide DPD with a statement that the contract documents of their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with these regulations.

A Construction Monitoring and Discovery Plan will be required prior to the issuance of permits for sub-grade excavation or construction. Appropriate measures in Director’s Rule 2-98 will need to be incorporated into the plan:

If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible party shall stop work immediately and notify DPD (land use planner Michael Dorcy at 206-615-1393) and the Washington State

Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP). Responsible parties shall abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors

Once DPD and the State Office have been notified:

- *The owner and/or responsible party shall hold a meeting on site with DPD and a professional archaeologist. Representatives of Federally recognized Tribes and the Native American community that may consider the site to be of historical or cultural significance shall be invited to attend. After this consultation, the archaeologist shall determine the scope of, and prepare, a mitigation plan. The plan shall be submitted for approval to the State Office of Archaeology and Historic Preservation (OAHP), and to DPD to ensure that it provide reasonable mitigation for the anticipated impacts to the resources discovered on the construction site.*
- *The plan shall, at a minimum, address methods of site investigation, provide for recovery, documentation and disposition of possible resources, and provide excavation monitoring by a professional archaeologist. The plan should also provide for conformance with State and Federal regulations for excavation of archaeologically significant resources.*
- *Work only shall resume on the affected areas of the site once an approved permit for Archeological Excavation and Removal is obtained from the OAHP. Work may then proceed in compliance with the approved plan.*

DECISION — STATE ENVIRONMENTAL POLICY ACT (SEPA)

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination. The intent of this declaration is to satisfy the 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 43.21 C.030(2)(c).

CONDITIONS – SEPA

Prior to issuance of any Construction, Shoring or Grading Permits

1. The applicant shall provide a Construction Monitoring and Discovery Plan prior to issuance of any sub-grade excavation or construction on the project site. Appropriate measures in Director's Rule 2-98 will need to be incorporated into the plan.

2. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7:00 a.m. to 6:00p.m., and on Saturdays between 9:00 a.m. and 6:00 p.m. No work shall be allowed on Sundays. Non-noisy activities, such as site security, monitoring, and weather protection shall not be limited by this condition.
3. Provide Temporary Erosion and Sediment Control (TESC) measures on plans that include the following:
 - If any debris enters the water, the debris shall be removed from the water immediately and disposed of at an appropriate upland facility.
 - Appropriate BMPs shall be employed to minimize the amount of erosion at the shoreline caused by construction material storage and staging, and the proposed construction work.
 - If toxic material such as any petroleum product enters the water, this material shall be reported to the Department of Ecology, and shall be immediately contained using the appropriate equipment and material.
 - Appropriate equipment and material for hazardous material clean up shall be kept at the site during construction.

Signature: _____ (Signature on file) Date: October 7, 2013
Michael Dorcy, Senior Land Use Planner
Department of Planning and Development

MD:bg

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