



City of Seattle

Department of Planning and Development  
D. Sugimura, Director

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

**Application Number:** 3014243  
**Applicant Name:** Alan Foltz  
**Address of Proposal:** 2608 Boyer Ave E

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow a 1,212 sq. ft. addition to existing dock. Eleven wood piles to be removed and replaced with 27 new steel piles. Four hundred forty-seven sq. ft. portion of dock to be removed. Project includes restoration of 280 linear feet of shoreline.

The following approvals are required:

**Shoreline Substantial Development Permit** –to allow improvements to an existing yacht club in the Conservancy Management (CM) shoreline environment.  
(SMC Chapter 23.60)

**SEPA - Environmental Determination** - (SMC 25.05)

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

**BACKGROUND DATA**

Subject Site and Vicinity

The subject property is zoned Single Family-5000 (SF-5000). The shoreline environment designation for the parcel is Conservancy Management (CM). The parcel is located on the western side of Portage Bay. The upland portion of the site contains the Queen City Yacht Club building facility and associated parking. The submerged portion of the parcel contains three piers that provide covered and uncovered moorage for members of the yacht club. The State Route 520 Portage Bay Bridge is to the immediate south. To the north are additional SF 5000 zoned parcels containing floating homes and boat moorage in the submerged areas and single

family residences on the upland areas. Boyer Ave E bounds the west side of the parcel and open water with a Conservancy Navigation shoreline designation is to the east.

### Proposal Description

The project proposal is to reconfigure the waterward end of the northern most of three piers (Pier 1) to allow for moorage of six additional boats. The end “T” section will be removed and replaced with a formation creating four 58-foot boat slips and two 42-foot slips. The addition will be 1,212 square feet of new dock, but will require removal of 447 square feet of the existing dock for a net increase 765 square feet. All new decking will be grated to maximize light transmission and minimize impacts to the benthic environment. Approximately 45 deteriorated wood piles and 280 linear feet of skirting along the south side of the southernmost pier will be removed to improve aquatic habitat.

A Shoreline Substantial Development Permit (SSDP) is required for all non-exempt development in the Shoreline Environment. Since the work is over water, the work is not categorically exempt and a State Environmental Policy Act (SEPA) review is also required.

### Public Comment

No written comments were received during the comment period, which ran from November 1<sup>st</sup> to 30<sup>th</sup>.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

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

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

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

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

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

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and for the protection of the resources and ecology of the shoreline over the long term. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. The Shoreline Management Act of 1971 provides definitions and concepts,

and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the State is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

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

## **B. THE REGULATIONS OF CHAPTER 23.60**

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

This proposal site is located in an area designated as Conservancy Management (CM), the purpose of which is to conserve and manage areas for public purposes, recreational activities and fish migration routes. Existing yacht, boat and beach clubs are an allowed use in the CM Environment.

### **Development Standards**

The proposal to reconfigure one of the yacht club's three piers to provide four additional large vessel slips is permitted outright by SMC 23.60.420. The proposed action is therefore subject to following development standards:

- 1. The general development standards for all shoreline environments (SSMP 23.60.152);*
- 2. The development standards for uses in the Conservancy Management (CM) Environment (SMC 23.60.450-60).*

General Development Standards for all Shoreline Environments (SMP 23.60.152)

The general standards listed in SMC 23.60.152 apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development and uses shall:

- protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water
- be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- be located, designed, constructed and managed to minimize interference with, or adverse impacts to, beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposal involves reconfiguring and adding onto an existing pier to add four new mooring slips. The net increase of the dock area will be 765 square feet. The work will be primarily conducted from a barge. Four hundred forty-seven square feet of the existing pier and 11 associated wood piles will be removed. Twenty-seven new steel piles will be installed with a vibratory driver, followed by placement of caps and new pier sections. All offsite movement of materials and equipment will occur in designated travel lanes within the Lake Washington Ship Canal and Lake Union. This work is not expected to adversely affect water quality, water quantity, or habitat on or adjacent to the site on a long-term basis. Construction Best Management Practices (BMPs) will be employed during all overwater work, including adherence to work timing restrictions set by the Washington Department of Fish and Wildlife and the United States Army Corps of Engineers to minimize impacts to fish.

Development Standards for CM Shoreline Environments (Subchapter VIII, Part 2)

The development standards for the Conservancy Navigation Shoreline Environment provided under SMC 23.60.450-60 require developments in this designation to be located and designed to minimize disturbance of any critical habitat area, including salt or fresh water marshes, swamps, bogs, eel grass areas, kelp beds, streams, fish spawning areas, and other habitats. This proposal is not expected to adversely impact these critical habitats and provides a mitigation package to compensate for the minor increase in overwater coverage of the shoreline habitat in Portage Bay. The new pier decking will be grated to maximize light transmission and the construction will be timed to avoid impacting fish, per state and federal requirements. In addition, approximately 45 abandoned timber pilings and approximately 280 linear feet of skirting along the south pier will be removed to restore the habitat in these areas to a more natural condition.

The new pier section will not exceed the maximum height restriction in SMC 23.60.454.A. The maximum lot coverage of 35 % for a single-family zone allowed by SMC 23.60.456.A will not be exceeded. The project will comply with the view corridor provision in SMC 23.60.458.A. Per SMC 23.60.460.B.2, water dependent uses on private property are not required to provide public access.

**C. THE PROVISIONS OF CHAPTER 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program. The project as proposed meets the specific standards for development in the CM environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

The Director's authority under Seattle's Shoreline Master Program is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones. Having established that the proposal is consistent with the Seattle Shoreline Program, it is hereby conditionally approved

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

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

## ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 24<sup>th</sup>, 2012. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 25.05.665 D) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: *“where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,”* subject to some limitations. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### Short-term Impacts

The proposal involves reconfiguring and adding onto an existing pier to add four new mooring slips. The net increase of the dock area will be 765 square feet. Twenty-seven new steel piles will be installed with a vibratory driver, followed by placement of caps and new pier sections. The new pier decking will be grated to maximize light transmission and the construction will be timed to avoid impacting fish, per state and federal requirements. In addition, approximately 45 abandoned timber pilings and approximately 280 linear feet of skirting along the south pier will be removed to restore the habitat in these areas to a more natural condition.

The following potential temporary impacts to the environment from the proposed work over water may occur: limited localized erosion of the bottom sediments, degraded water quality from increased turbidity or contamination from fuel or lubricant spillage, physical disturbance of the aquatic environment, which may displace some fish and wildlife, and construction noise, which also may disturb or displace aquatic or terrestrial animals. While these impacts are adverse, they are not expected to be significant. Best management practices incorporated into this plan include adhering to a work window required by permit conditions set by Washington Department of Fish and Wildlife and Army Corps of Engineers to minimize adverse impacts to fish. The proposal is also subject to the City of Seattle noise, stormwater, and ECA regulations, as well as air quality regulations administered by the Puget Sound Clean Air Agency. Compliance with applicable provisions of these regulations is expected to minimize or eliminate short-term impacts to the environment. Therefore, no further conditioning pursuant to SEPA policies is warranted.

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

### Long-Term Impacts

Adverse long-term or use related impacts are not anticipated from the proposal. As mentioned above, after the new dock addition is installed, there will be slight decrease in over-water

coverage from the existing condition. Installation of grated decking and the proposed mitigation of removing deteriorated piles and dock skirting in the vicinity may provide aquatic habitat benefits over existing conditions. No further physical alteration to the surrounding structures or the shoreline environment itself is anticipated from this use. Since no long-term adverse impacts are expected, no additional mitigation under SEPA is required.

Once completed, this project will not increase production of carbon dioxide and other greenhouse gas emissions. Therefore, the project is not expected to result in long-term adverse impacts to air quality or contribute to climate change and global warming.

### **DECISION – SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

### **CONDITIONS -- SHORELINE**

#### *During Construction:*

1. Work waterward of ordinary high water shall be restricted to work windows established by Washington Department of Fish and Wildlife and US Army Corps of Engineers.
2. The owner(s), builder(s), and all responsible party(s) shall follow best management practices to prevent any toxic materials, petrochemicals and other pollutants from entering enter the surface water during the proposed repair work. Spill prevention and response procedures shall be developed and followed during all construction activities at the project site. Appropriate spill response materials shall be kept at the site for quick response to any toxic spills at the site.
3. Mitigation work (removal of old piles and dock skirting) must be completed prior to final building permit inspection.

**Conditions – SEPA**

None.

**Signature:** \_\_\_\_\_ (signature on file) Date: December 20, 2012  
Seth Amrhein, Senior Environmental Analyst  
Department of Planning and Development

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