City of Seattle

Department of Planning and Development
D.M. Sugimura, Director

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

Application Number: 3014968

Applicant Name: Craig Knebel

Address of Proposal: 2219 Fairview Avenue East

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow a new 2,120 sq. ft., two-story floating home. Existing floating home will be demolished.

The following approvals are required:

Shoreline Substantial Development Permit - to allow a new floating home in an Urban Residential (UR) shoreline environment (Section 23.60.196, Seattle Municipal Code).

SEPA - Environmental Determination (Chapter 25.05, Seattle Municipal Code).

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

[X] DNS with conditions

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

BACKGROUND DATA

The property is located in a Single Family 5000 (SF 5000) zone in an Urban Residential (UR) shoreline environment. The moorage site includes submerged lands along the east shoreline of Lake Union. The subject floating home (#12) is located within a 31-home floating home moorage. The existing floating home is a 1,325-square-foot structure with a 1,060-square-foot float. The new 2-story 2,120-square-foot home with a float size of 1,060 square feet, will be constructed off-site at Canal Boatyard at 4300 11th Ave. NW and will be tugged into the existing moorage at the same time that the existing home and float will be removed and later demolished.

Area Development

Overwater development along the shoreline consists of one and two-story residential structures. This area represents a dense concentration of boat moorage spaces located along this stretch of Fairview Avenue East. With the exception of a large multifamily structure (Union Harbor Condominiums) constructed overwater in a Multifamily Lowrise Three (L-3) zone, the remaining overwater development are zoned for single family use on the west side of Fairview Avenue in the immediate area. To the east across Fairview Avenue on upland lots, the immediate area features single family, townhomes, and multifamily structures, with a few commercial uses nearby. Within this area are found more intensive residential zone designations, Multifamily Lowrise, Two and One Residential-Commercial zones (L-2 & L-1 RC). The neighborhood consists of residences, primarily multiple story structures, with a number of commercial uses to the north and south of the subject site.

Public Comment

No public comments were received during the public comment period, which ended May 10, 2013.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

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

A. The policies and procedures of Chapter 90.58 RCW;

B. The regulations of this Chapter; and

C. The provisions of Chapter 173-27 WAC.

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

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy 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. Construction of the new home and float would occur at an off-site location and towed into an existing moorage and would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline. The subject application is consistent with the procedures outlined in RCW 90.58.

B. The Regulations of this Chapter

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on 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 and subsequent development 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 location criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of SMC 23.60.152, the specific standards of the shoreline environment (SMC 23.60.540) and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses. Standards for floating homes are found at Seattle Shoreline Management Program (SSMP) 23.60.196.

Seattle Comprehensive Plan - Shoreline Policies

The proposal is subject to the Shoreline Policies of (SSMP) 23.60.004, because the site is located within the shoreline district and requires a Shoreline Substantial Development Permit because the cost of the project exceeds $6,416.00. Floating home moorages, because of their historic role in Seattle, are designated as a water dependent use, but the increase of floating home moorages or the increase in use of the shoreline or water area by floating homes is not necessarily encouraged - Seattle Comprehensive Plan, Land Use goal 231 (LU231). An area objective for this portion of Lake Union is to preserve the existing floating home community while at the same time to restore and enhance the Lake's natural environment. (Please refer to Area Objectives for Other Shorelines Areas, Policy LU269.2.b). The purpose of the Urban Residential (UR) environment as set forth in Section 23.60.220.C.6 is to protect residential areas, such as existing floating home moorages.

The proposed project must meet the standards of the underlying Residential Single Family 5000 zone, the general development standards for all shoreline environments (SSMP 23.60.152) and the development standards for the UR shoreline environment (SSMP 23.60.540). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. The standards 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. The floating home will be consistent with these development standards for the following reasons: A condition is imposed on this permit to ensure that construction comply with Best Management Practices, protecting the water quality of Lake Union during construction, and that all construction should occur on the float to minimize adverse impacts and protect the fish and wildlife habitat conservation areas.

SSMP 23.60.540, 23.60.196 and 23.60.196.C - Development Standards for UR Environments, Floating Homes and Nonconforming Floating Home Moorage

The proposal is located at an existing non-conforming floating home moorage. Pursuant to SSMP 23.60.540.A.1, floating home moorages are permitted outright on waterfront lots in the UR Environment in Lake Union or Portage Bay. The subject property is classified as a waterfront lot (SSMP 23.60.924) and is located within an Urban Residential (UR) environment, as designated by the Seattle Shoreline Master Program. All development must conform to the development standards in the UR shoreline environment, as well as the underlying Single Family 5000 zone. Standards such as height, lot coverage, and public access have been met or are not affected by this proposal. Regulated public access is not required for a floating home (SSMP 23.60.638.B). Views corridors are not required for floating homes which are a type of single family dwelling unit (SSMP 23.60.576). The float will be replaced with new flotation devices to accommodate additional weight and protect the underwater environment; no other changes are proposed.

The development must also conform to the general standards for non-conforming moorage in SSMP 23.60.196.C. Section 23.60.196.C.1 allows the remodeling, replacement, or rebuilding of a floating home at a moorage existing as of March 1, 1977, when the moorage does not satisfy the lot coverage, open water, site area, setback, view corridor or location provisions for conforming floating home moorage. The proposal meets the requirements of Section 23.60.196.C.1 in that the total float area will not expand; the height of the floating home will not exceed 18 feet from the water line; the minimum distance between adjacent floating home walls will not be decreased to less than six feet, the minimum distance between any wall and any floating home site line will not be decreased to less than three feet, no part of the floating home will be extended over water beyond the edge of the float; and the completed structure will not increase the nonconformity of the floating home moorage.

The proposed floating home has been designed and conditioned to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life.

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

Conclusion

SMC Section 23.60.064.E 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 (State policy and legislative findings). To be consistent with shoreline general development standards for protection of the aquatic environment (SMC 23.60.152), the project will be required to employ

Best Management Practices during construction and installation and control artificial light spillage into the water by the design and placement of exterior lights.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

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

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the 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 March 21, 2013. A revision to the checklist was submitted that updated information about construction of the new home, which will occur at a different off-site location than described in the original checklist. 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 Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file. As indicated in the annotated checklist, this action will result in adverse impacts to the environment. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

The SEPA Overview Policy (SMC 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 (SMC 25.05.665D.1) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. While these impacts are adverse, they are not expected to be significant.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The ECA ordinance regulates development and construction techniques in designated ECA areas with identified shoreline habitat. The Street Use Ordinance requires debris to be removed from the street right of way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. 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 would mitigate several construction-related impacts.

Construction Impacts

Construction activities include truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials. These activities 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 and do not warrant mitigation under SEPA.

Water Quality Impacts

Disturbance of the lakebed sediments is not expected. There is the potential for construction debris to enter the water during construction, so care will be taken to prevent this from occurring. Therefore, the project will be conditioned to include Best Management Practices (BMPs) to be employed during construction of the proposed addition at Canal Boatyard. While these impacts are adverse, they are not expected to be significant and do not warrant mitigation under SEPA.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas emissions; increased demand for public services and utilities; increased height, bulk, and scale on the site, and increased project energy consumption. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development. In order to address the potential negative impacts of artificial light in the water on salmonids that may utilize aquatic habitat at this location, all exterior light fixtures shall be fully shielded to prevent light spillage beyond the perimeter of the float, and shall use low-wattage light bulbs for life of project, as conditioned below.

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 with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

SEPA AND SHORELINE CONDITIONS

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

Prior to Issuance of a Construction Permit

1. Develop a Best Management Practices (BMP) Plan that indicates how construction will take place to ensure that no debris or deleterious material enters the water through the duration of the proposed work.

   Standard best management practices (BMPs) (such as using secondary receptacle containers when handling toxic material so that any spilled material is contained in the second receptacle rather than entering the water and using toxic material so that none of this material enters the water) shall be used to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leach into the water.

Prior to Commencement of Construction

2. Notify in writing all contractors and sub-contractors of the following general requirements of the Shoreline Master Program (SSMP 23.60.152):

   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 water quality management programs and regulatory agencies.

   b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The

contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.

c) An emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.

d) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

During Construction

3. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices and the Emergency Containment plans developed to prevent debris and other deleterious material from entering the water during construction.

   a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.

   b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.

4. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

For Life of project

5. All exterior light fixtures shall be fully shielded to prevent light spillage beyond the perimeter of the float, and shall use low-wattage light bulbs.

6. If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (http://www.wwpinstitute.org/) before this wood is used for this project.

Signature: (signature on file) Date: August 19, 2013
Ben Perkowski, Senior Land Use Planner
Department of Planning and Development

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