



## 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:** 3015128  
**Applicant Name:** Troy Hussing  
**Address of Proposal:** 1001 Fairview Ave N

#### **SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to expand existing restaurant and allow a detached accessory structure (already built) for a walk-up eating establishment (Chip Shop). Existing fence to be removed.

The following approval is required:

**Shoreline Substantial Development Permit** – (SMC Chapter 23.60) to allow an eating establishment in a US (Urban Stable) shoreline environment.

#### **BACKGROUND DATA**

**Site Location:** The proposal is on a developed Lake Union waterfront property fronting Fairview Ave N. Improvements include a two-story commercial building, a parking lot with 91 spaces, moorage slips, and public pedestrian amenities along the shore.

**Zoning:** Commercial 2 (C2-40)

**Shoreline Environment:** Urban Stable

**Parcel Size:** 78,593 square feet

**Existing Use:** restaurant, retail, marina sales, moorage.

**The Proposal:** The proposal is to obtain permits to operate a previously constructed 461-square-foot walk-up eating establishment and expand public access by removing an existing fence.

**Public Comment:** The public comment period began May 2<sup>nd</sup>, 2013, and ended May 30<sup>th</sup>, 2013. No comments were received.

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

The proposal is located within the Urban Stable 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.

As discussed below. 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 Urban Stable (US), the purpose of which is to:

- (1) Provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting non-water dependent commercial uses if they provide substantial public access and other public benefits,
- (2) Preserve and enhance views of the water from adjacent streets and upland residential areas,
- (3) Support water-dependent uses by providing services such as marine-related retail and moorage.

Pursuant to SMC 23.60.600.E.1.c, eating and drinking establishments are allowed outright in the US Environment when the conditions of SMC 23.60.600.E.2 are met. In this case, the conditions of SMC 23.60.600.E.2 are met by maintaining one-third of the site as a major public open space.

### Development Standards

The proposal to operate a previously constructed 461 square-foot walk-up eating establishment and expand public access by removing an existing fence is allowed outright by SMC

23.60.600.E.1.c. 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 Urban Stable (US) Environment (SMC 23.60.630-642).*

### 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 project structure is already constructed and sited abutting a previously constructed two-story commercial building on a developed site. The only further proposed construction is the removal of a fence to expand public access on the site. This activity is not expected to adversely impact the shoreline environment. Any surficial land disturbing activity will need to comply with the City of Seattle's Grading Code (SMC 22.170), which has development standards to minimize adverse impacts from land disturbing activities.

*Development Standards for The Urban Stable (US) Environment (Subchapter XI, Part 2)*

The development standards for the Urban Stable Shoreline Environment provided under SMC 23.60.630-42 regulate building height and size, lot coverage, maintenance of view corridors, public access and the locations of uses. The applicant has provided calculations and graphical illustrations to demonstrate how these standards are met on Sheet A1.0 of the plans submitted with the permit application. These materials were reviewed and found to conform to the development standards for the Urban Stable Shoreline Environment. The proposal was also found to be consistent with the authorized uses and development standards for the underlying zone.

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

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

**Summary**

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

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 **approved**.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The Shoreline Substantial Development Permit is **GRANTED**.

Signature: \_\_\_\_\_ (signature on file) Date: July 22, 2013  
Seth Amrhein, Senior Environmental Analyst  
Department of Planning and Development

SA:drm