



City of Seattle
Edward B. Murray, Mayor

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

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

Application Number: 3017015
Applicant Name: Doug Sharp
Addresses of Proposal: 1001 Alaskan Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to demolish a portion of existing structure (2,036 sq. ft.) for outdoor dining area. Review includes alteration to 1st and 2nd floors and reconfiguration of existing general sales and service, eating and drinking establishment, and office uses in an environmentally critical area.

The following approvals are required:

Shoreline Substantial Development Application to allow development in the UH Shoreline Environment.

SEPA - Environmental Determination - (SMC Chapter 25.05)

SEPA DETERMINATION: Exempt DNS EIS

DNS with conditions

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

Proposal Description

A portion of the first floor office space and exterior walls will be removed to accommodate a new outdoor dining area on the southwest corner of the pier. Existing first and second floor spaces and uses will be reconfigured, including reconfiguration of existing general sales and service, eating and drinking establishment and office uses above wharf level. New windows and doorways will be added to the exterior. Existing historic signage will be preserved.

Public Comment

The official comment period for this project ended on October 14, 2014. No public comments were received.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the UH (Urban Harborfront) 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 SMC 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 policies of the Act regarding preferences for uses in the Shoreline District are articulated in RCW 90.58.020. These use preferences include two preferences that are particularly relevant to this proposal:

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

The proposed project will maintain existing recreational opportunities and public access to the City's shoreline and the waters of Elliott Bay. This proposal is consistent with the policies of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030. Development standards of the shoreline environment and underlying zone must be considered as well as any conditioning that may be necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located.

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

SMC 23.60.004 - Shoreline Policies

Policies governing approval of development in shoreline districts are set out in the Land Use Element of the Seattle Comprehensive Plan. Seattle's Comprehensive Plan Shoreline Goals and Policies encourage improved public access along shorelines. The proposed project will allow for continued opportunities for the public to access and enjoy the shoreline environment along the waterfront, enhancing the functional and aesthetic qualities of the shoreline environment (consistent with Land Use Goal 47).

The purpose and locational criteria of the UH environment is stated in SMC 23.60.220.C.8. This section states that the purpose of the UH Environment is:

"to encourage economically viable water dependent uses to meet the needs of waterborne commerce, facilitate the revitalization of Downtown's waterfront, provide opportunities for public access and recreational enjoyment of the shoreline, preserve and enhance elements of historic and cultural significance and preserve views of Elliott Bay and the land forms beyond."

The proposal is consistent with these criteria as the project will continue to facilitate the revitalization of the waterfront and increase viewing and recreational opportunities of the shoreline.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permit

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

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

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

The proposed project is not a prohibited use in the Urban Harborfront Shoreline Environment. The proposed use for this project is the same as the current, established uses: eating and drinking establishment, general sales and service, dry boat storage and office uses above wharf level, which are permitted outright in the UH Shoreline Environment pursuant to SMC 23.60.660.A.

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

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

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

The proposal does not require a shoreline conditional use, variance or special use approval.

Shoreline Development Standards

A portion of the proposed development is located in the Urban Harborfront Shoreline Environment. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to the:

1. general development standards (SMC 23.60.152);
2. development standards for uses in the UH Shoreline Environment (SMC 23.60.660 SMC).

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

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

- *The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust*

controls and other good housekeeping measures to prevent contamination of land or water shall be required.

- *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.*
- *The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- *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.*
- *All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- *All shoreline developments and uses shall control erosion during project construction and operation.*
- *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.*
- *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.*
- *All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- *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.*
- *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.*

The Stormwater Code (SMC 22.800) places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. These measures, including practices required for construction over water as described in the SEPA checklist and application materials will be adequate to ensure protection of the shoreline area from the construction that is proposed, and will be required to be implemented during construction as a condition of approval.

The project will not result in an increase in overwater coverage nor any new structures overwater, thus avoiding potential impacts to migrating salmonids and the nearshore environment. Potential negative impacts to migrating salmonids from artificial light spillage into the water has been minimized through design and placement of the exterior lighting, as analyzed in application material. The project as proposed meets the applicable general development standards for the shoreline environment.

SMC 23.60.660 - Development Standards in the UH Environment

The development standards set forth in the Urban Harborfront Environment relate to height, maximum size limits, lot coverage, view corridors, regulated public access, and location of uses (SMC 23.60.690). The proposed development has been reviewed and is consistent with these development standards, where applicable.

The proposed use for this project in the UH Environment is described in more detail above and is consistent with general sales and service, eating and drinking establishment and office uses above wharf level allowed outright in the UH Shoreline Environment pursuant to SMC 23.60.660.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

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

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

SEPA ANALYSIS

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated September 2, 2014). The Department of Planning and Development has analyzed and annotated the environmental checklist, submitted by the project applicant, which was revised by applicant in March 2015; reviewed the project plans, any

additional information in the file and comments that have been received regarding this proposed action. This action may result in adverse impacts to the environment. However, due to their temporary nature or limited effects, the impacts are not expected to be significant.

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

The Overview Policy states, in part: *“Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,”* subject to some limitations.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts. Applicable codes may include the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15, the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality.

Short Term Impacts

Best Management Practices will be followed during construction to protect the aquatic environment and no increase in overwater coverage will occur. No adverse short-term impacts are anticipated from this proposal. No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

Long-term Impacts

The project does not result in a change of use from existing permitted conditions. No adverse long-term or use related impacts are anticipated from the proposal. Potential negative impacts to migrating salmonids from artificial light spillage into the water has been minimized through design and placement of the exterior lighting, as analyzed in application material. No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

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. 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 2c.
- [] 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 2c.

CONDITIONS – SEPA and SHORELINE

Prior to Issuance of Shoreline Substantial Development Permit

1. Applicant must receive a Certificate of Approval from City of Seattle’s Landmarks Preservation Board and provide copy to DPD.

Prior to Issuance of Building Permit

2. Best Management Practices for protection of the aquatic environment during construction over water shall be placed on building permit plans.

During Construction

3. Best Management Practices for protection of aquatic environment during construction shall be implemented, including immediate recovery of any debris or deleterious material that may fall into water as part of construction of project.

For Life of Project

4. No vehicle parking shall occur inside pier unless approved by DPD permit.
5. Exterior lighting shall be maintained consistent with approved plans. Additional exterior lighting shall require DPD review and approval before installation.

Signature: _____ Denise R. Minnerly for _____ Date: April 30, 2015
Ben Perkowski, Senior Land Use Planner
Department of Planning and Development

BP:dmm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

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

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

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

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