



**City of Seattle**  
Edward B. Murray, Mayor

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**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:** 3018583 and 3018584

**Applicant Name:** Jeff Wegener

**Address of Proposal:** 7740 Seward Park Ave. S. (3018583) and 7734 Seward Park Ave. S. (3018584)

**SUMMARY OF PROPOSED ACTION**

DPD Project No. 3018583: Shoreline Substantial Development Application to allow a new two story single family dwelling unit and detached garage in an environmentally critical area. To be considered with Project #3018584 for shared access.

DPD Project No. 3018584: Shoreline Substantial Development Application to allow a three story single family residence in an environmentally critical area. To be considered with Project #3018583 for shared access.

The following approvals are required:

**Shoreline Substantial Development Permit** – (SMC Chapter 23.60) to allow development in the Urban Residential (UR) shoreline environment.

**SEPA Determination:**  Exempt  DNS  MDNS  EIS

DNS with conditions

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

**Proposal Description**

The applicant proposes to construct a new two story single family residence and detached garage at 7740 Seward Park Avenue (project 3018583) and a three story single family residence at an adjacent lot with shared access (project 3018584). Project includes extensive removal of non-native vegetation and revegetation. No change to the existing piers is proposed as part of this project.

A lot boundary adjustment was approved by DPD at this location under project number 3017750.

Public Comment

The DPD comment period for this proposal began on November 3, 2014, and ended on December 2, 2014. One comment from Muckleshoot Indian Tribe was received.

**ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

*SMC Section 23.60.030 provides criteria for review of shoreline substantial development permits. Specifically, this section states that a substantial development permit shall be issued only when the proposed development 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.*

*Chapter 90.58 of the Revised Code of Washington (RCW) codifies the State's policies with respect to managing shorelines and fostering reasonable and appropriate shoreline uses. Specifically, the Act contemplates protection against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. The Act further provides definitions and concepts and delegates responsibility for implementation to specific state and local governmental entities. Local governments are given primary responsibility for initiating and administering the regulatory program of the Act. The State Department of Ecology (DOE), on the other hand, is given responsibility for insuring compliance among local governments with the policy of the State and provisions of the Act. Pursuant to the requirements of the Act, the City of Seattle has adopted a local shoreline master program that has been approved by the DOE. The City of Seattle Shoreline Master Program (SSMP) is codified in SMC Chapter 23.60.*

*In evaluating applications for shoreline substantial development permits the Director must determine that a proposed use meets the criteria set forth in SSMP 23.60.030. Specifically, development standards of the shoreline environment and underlying zone must be considered and a determination must be made as to any special requirements or conditioning that is necessary to preserve or enhance the shoreline area. In order to obtain a shoreline substantial development permit, an applicant must demonstrate that the proposal is consistent with the shoreline policies established in SSMP section 23.60.004. Additionally, the applicant must further demonstrate that the proposal meets the criteria and development standards for the specific shoreline environment in which the site is located, any applicable special approval criteria, general shoreline master program development standards, and the development standards for specific uses.*

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

The project site is located within an Urban Residential shoreline environment. 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, meets the criteria for substantial development permits established in SMC 23.60.030, and meets the procedural criteria established in SMC 23.60.064. Thus, the Director must determine that the proposed use is consistent with the applicable policies of the Shoreline Master Program and the general policies established in Chapter 90.58 RCW and that it is an allowed shoreline use that meets the development standards for the underlying zone as well as the general development standards for all shoreline environments established in SMC 23.60.150. The proposal is also subject to the specific development standards established in the Urban Residential shoreline environment (SMC 23.60.570 through 23.60.578).

### SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The objectives for different shoreline areas around the City are contained in LU 269 in the Comprehensive Plan. For Lake Washington, LU 269.f promotes protection of "developed residential and commercial areas in a manner consistent with adopted land use policies." The proposed project is within an established residential community adjacent to Lake Washington zoned for single family residential development.

The purpose of the UR environment as set forth in SMC 23.60.220.C.6, also, is intended to protect residential areas in a manner consistent with the Single family and Multi-family Residential Area Policies.

### Shoreline Development Permit Required

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 contemplates 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.

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 insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, 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. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

Construction of these residential structures would be consistent with the procedures of Chapter 90.58 RCW and the provisions of Chapter 173-14 WAC in terms of encouraging a use allowed and anticipated for the Urban Residential shoreline environment and minimizing the entry of pollutants into the water. The construction itself would not adversely affect the shoreline environment through use of appropriate Best Management Practices as well as consistency with applicable grading, building and stormwater codes. Due to the location of the proposed residences largely outside the 100-foot Environmental Critical Area (ECA) shoreline habitat buffer, the projects minimize impacts to this sensitive area. The project also includes extensive removal of non-native and invasive (e.g., blackberry) vegetation within the shoreline buffer and revegetation with native shrubs and grasses that will provide adequate mitigation for the impacts of the new residences and accessory structures adjacent to Lake Washington.

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program" and is also a part of the City's Land Use Code. 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 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must also show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, which are found in the Seattle Comprehensive Plan and the purpose and locational criteria for each shoreline environment. The proposal must also meet: the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject properties are located within an Urban Residential (UR) shoreline environment. The proposed single family structures are permitted use in the UR shoreline environment. The proposed structures would comply with the development standards as described below.

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 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is 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 meets the development standards for all shoreline environments established in SMC 23.60.150, as well as the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; and the development standards for specific uses.

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 constructing two single family residences. Site grading and preparation for construction may expose soil leading to increased potential for soil erosion and sedimentation. However, required compliance with the Grading Code (SMC Chapter 22.170) will ensure that soil erosion control techniques are in place for the duration of the land disturbing activities until the site is permanently re-stabilized. In addition, the Stormwater Code (SMC Chapter 22.800) requires developments to implement stormwater management measures to protect receiving waters from pollution, mechanical damage, excessive flows and other conditions that could be detrimental to water resources and aquatic life. These measures, including required temporary erosion and sediment control measures for construction as described in application material, 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 result in a net increase of impervious surface area within the 100-foot ECA shoreline buffer of about six (6) square feet. Within this buffer, the project includes extensive removal of non-native vegetation and revegetation with native shrubs and grasses, which will provide adequate mitigation for the overall impacts of the development within the Shoreline District adjacent to Lake Washington and therefore is consistent with the general development standards cited above.

#### Development Standards for the UR environment - Section 23.60.540 - 23.60.578 SSMP

Development Standards for the UR environment are discussed below and all shoreline development standards are met.

#### SSMP 23.60.540 Uses Permitted Outright on Waterfront Lots in the UR Environment

Single family residential uses are permitted outright in the UR Shoreline Environment.

#### SSMP 23.60.572 Height

The proposed structures would not exceed the height limit.

#### SSMP 23.60.574A4 Lot Coverage

The proposed structure meets lot coverage requirements.

#### SSMP 23.60.576 View Corridors in the UR Environment

View corridors are not required for single family dwelling units.

#### SSMP 23.60.578 Regulated Public Access in the UR Environment

Public access is not required for this single family development.

#### 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). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

**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**

The proposed shoreline substantial development permit is **CONDITIONALLY GRANTED.**

**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 is located in a lowrise zone and exceeds the unit threshold.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 20, 2014. A geotechnical report dated January 19, 2015, from Geotech Consultants, Inc. was submitted and reviewed.

The information in the checklist, public comment, 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, including site survey, and any additional information in the file.

The SEPA Overview Policy (SMC 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 environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

### Short-term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulates from demolition, grading and clearing and hydrocarbon emissions from construction vehicles and equipment; temporary soil erosion; 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; increases in carbon dioxide and other greenhouse gas emissions and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater and Grading Codes regulate 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.

Most short-term impacts are expected to be minor. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment.

No additional conditioning is warranted pursuant to SEPA policies.

### Greenhouse Gas Emissions

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.

No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

### Long Term Impacts

#### Plants and Animals

Chinook salmon and Bull Trout, are species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Washington including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

This project is proposed to take place in Lake Washington, which is rearing habitat and is part of the migration corridor of Chinook salmon from the Cedar River and the other water bodies in Water Resource Inventory Area 8. The project will result in an increase in impervious surface area adjacent to Lake Washington and this important nearshore habitat for salmonids and other aquatic life, which can result in an increase in turbidity and pollutant loading into Lake Washington.

As provided by SMC 25.05.350 A, when making a threshold determination the lead agency may consider mitigation measures that the agency or applicant will implement. Proposed mitigation measures may allow the lead agency to issue a Determination of Non-Significance (DNS). These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The applicant has included mitigation measures in the project to offset the impacts of the proposed work in the form of removal of non-native vegetation and invasive species and revegetation with native shrubs and grasses and DPD has imposed conditions on this project.

These mitigation measures and conditions are believed to minimize impacts on juvenile salmon habitat at the site and improve the aquatic habitat for juvenile Chinook salmon and other species. Terrestrial vegetation adds detritus material to the aquatic environment, which benefits salmon and other aquatic organisms utilizing the nearshore environment. Terrestrial vegetation also directly benefits salmon by providing a food source in the form of terrestrial insects that drop into the water.

### **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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

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.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment and complies with ECA regulations. An environmental impact statement (EIS) is not required under RCW [43.21C.030](#) (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

### **CONDITIONS – SEPA AND SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

#### **Prior to Issuance of the Building Permit**

- 1) Building permit plans should include detailed landscape plan showing location of removal of non-native and invasive vegetation species and revegetation with native vegetation. Plans should include maintenance and monitoring plan ensuring survival of newly planted vegetation, including provision that dead plants shall be replaced with the same or similar native species for life of project.

During Construction:

- 2) The appropriate Best Management Practices (BMPs) shall be employed to prevent erosion and sediment from entering Lake Washington. Any debris that enters the water during construction shall be collected and disposed of in an appropriate upland facility.

For the Life of the Project

- 3) The vegetation to be planted for this project shall be maintained. Dead plants shall be replaced with the same or similar native vegetation. No chemical pesticides, herbicides or fertilizers shall be used in this mitigation area and within 50 feet of Ordinary High Water.

Signature: Denise R. Minnerly for Date: June 8, 2015  
Ben Perkowski, Land Use Planner  
Department of Planning and Development

BP:drm

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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](mailto:prc@seattle.gov) or to our message line at 206-684-8467.