

**Interpretation of the Director  
Under Seattle Municipal Code Title 23**

**Regarding the Use of the  
Property at  
4001 East Denny Blaine Place**

**DPD Interpretation No. 14-008  
(DPD Project No. 3018869)**

**Background**

This interpretation was requested by attorney Jack McCullough on behalf of the owners of the subject property. The owner proposes to demolish or remove the existing single-family residence on the property, and build a new house in approximately the same location (Project No. 3018413). The issue raised is whether shoreline residential setback standards would allow the proposed new house in that location. In particular, the question is whether the proposed structure will qualify for a provision allowing the shoreline setback to be reduced to not less than 75 feet if it does not adversely impact the shoreline environment and if views from adjacent residences are not blocked.

A view analysis memo provided in conjunction with the interpretation request also suggests the applicant intends to request a reduced setback for a proposed deck. There is not sufficient information about the location and dimensions of the deck to form a basis for analysis, but we agree with the premise that the code would allow such a reduction, again to not less than 75 feet from the water, provided that views from adjacent residences are not blocked.

**Findings of Fact**

1. The property that is the subject of this interpretation is a waterfront lot in an SF 9600 zone: Single Family residential subject to a minimum lot area requirement of 9,600 square feet. The property has a little over 20,000 square feet of dry-land lot area. Most of the dry-land area of the lot is in a UR (Urban Residential) shoreline environment. The submerged portion is in a CR (Conservancy Recreation) environment, as is the Denny-Blaine street end, immediately to the north, which is improved as a park.
2. There is an existing three-story house on the property, built in 1923, slightly over 100 feet from the water's edge.

3. A site plan provided by Mr. McCullough's office indicates the proposed new house would be in the same approximate location as the existing house. A view analysis memo dated September 21, 2014 by NDesign, Inc. includes site plans reflecting that the new structure is proposed in approximately the same location as the existing house. (An updated site plan was later provided by Mr. McCullough's office, but it reflects no change to the proposed location of the house.) The narrative in the NDesign memo indicates the existing house has three stories plus a pitched roof, and that the proposed new house would have only two stories and a flat roof, and a lower profile than the existing house. Specific details about the height of the proposed house are not provided, however.
4. A house immediately to the west (180 Lake Washington Boulevard East) does not have water frontage. No part of that house, or the lot it sits on, is within 200 feet of the water. A property to the south, improved with a house addressed as 168 Lake Washington Boulevard East, does have water frontage, and is approximately 185 feet from the water. The house at 168 Lake Washington Boulevard East is approximately 35 feet from the existing house at 4001 East Denny Blaine Place. There are no residences within 100 feet to the north of the subject property.
5. Based on the aerial photos in the GeoCortex mapping system, the southeastern corner of the existing house at 4001 East Denny Blaine Way is about 90 feet from the northeastern corner of the adjacent house to the south. The distance from that corner of the adjacent house to the water, measured in the same direction, is approximately 220 feet.
6. There are trees to the north of the existing house, some of which are on the subject property and some within the street end. In addition there are tall evergreen trees on the subject property between the existing house and the house to the south. In the aerial photos, shadows from those trees can be seen on the roof of the existing house at 4001 East Denny Blaine Place.
7. The NDesign view analysis memo includes photographs from the vantage point of the neighboring properties to the south and to the west, with the outline of the proposed house superimposed. The report does not specify at what level of the neighboring house the photographs were taken. The photograph from the house to the south appears to have been taken from ground level at the northeast corner of that house.
8. Plans for the neighboring house to the south, at 168 Lake Washington Boulevard East, are not available, but the King County Assessor's records describe it as a two-story structure. The Assessor's photo shows two full stories as seen from the front (west) side of the structure, where the grade is approximately six feet higher than the east side, according to the topographic information in the City's maps.
9. Shoreline residential setback standards are set forth in SMC 23.60.198.B.1:

Residences on waterfront lots shall not be located further waterward than adjacent residences. If a required setback exceeds 75 feet from the line of ordinary high water, the Director may reduce the setback to no less than 75 feet if it does not adversely impact the shoreline environment and if views of the shoreline from adjacent existing residences are not blocked. If there are no other residences within 100 feet, residences shall be located at least 25 feet back from the line of ordinary high water.

10. Director's Rule 7-2007 elaborates on how the shoreline setback standards are to be applied. Under that rule, the shoreline setback line for a new house is based on the location of "adjacent residences," which are defined in the rule as existing or approved principal structures located both within the Shoreline District (within 200 feet of the shoreline) and also within 100 feet of the subject residence.
11. The standards for nonconforming structures in the Shoreline District are set forth in SMC 23.60.124. Under those provisions, a nonconforming structure may be maintained, renovated, repaired or structurally altered. However, the section provides for full replacement of a nonconforming structure only in cases where it has been destroyed by fire or other act of nature.

### Conclusions

1. Because the proposal is to build a new house rather than maintain and repair the existing one, any nonconformity of the existing house with respect to the shoreline setback requirement cannot be taken advantage of in determining where the new house can be allowed. The central question for this interpretation is not whether the location of the proposed structure will cause worse view blockage from an adjacent home, but whether the proposed structure will cause view blockage at all.
2. Under Director's Rule 7-2007, the shoreline setback line is determined based on adjacent houses that are within the shoreline and also within 100 feet of the proposed house. The house to the west (180 Lake Washington Boulevard South) is not within the shoreline district, so it is not an "adjacent residence" for purposes of the rule, and is not taken into consideration either when determining the general setback line or when determining whether a house providing less of a setback would block views from adjacent residences. Since there is no house to the north within 100 feet of the subject property, it is only the setback with respect to the house to the south that requires further analysis.
3. The code specifies that what is protected is "views of the shoreline" as opposed to views of the water, or views in general. The analysis focuses on whether proposed construction impacts views from a neighboring home of the point where the water meets the land. The code also specifies that views may not be "blocked." Although the code doesn't specify what that means, there is a distinction between a feature that presents a minor encroachment into a view and one which fully blocks that view.
4. The Code also doesn't specify how vegetation is to be treated when evaluating potential view blockage. It may be argued that vegetation should be disregarded as it might be removed. However, nothing in the code or rule requires the assumption that trees and plants are to be removed. The photographs provided in the NDesign view analysis support a conclusion that any view of the shoreline from the neighboring house in the direction of the proposed development is already blocked either by the topography or by substantial trees.
5. The photographs from the neighboring property, at 168 Lake Washington Boulevard East, appear to have been taken at ground level. The code does not specify from what vantage point

on the neighboring property the view is protected. Based on the shadows in the aerial photos, it is apparent that the trees adjacent to the existing house at 4001 East Denny Blaine Place, located between that house and the house to the south, are approximately as tall as the existing house at 4001 East Denny Blaine Place, and thus any views that might be blocked by a new house in the location of the existing one are already substantially blocked by the trees. It does not appear that the proposed house would encroach into any views of the shoreline, at all, from the neighboring house. However, if it did it would be a very minor encroachment into a much wider view of the shoreline available from the neighboring house. It is fair to conclude that the view of the shoreline from that house would not be "blocked" in any significant way.

**Decision**

The proposed house at 4001 East Denny Blaine Place will have minimal if any effect on views of the shoreline from the adjacent home at 168 Lake Washington Boulevard East. On that basis, the development qualifies for a reduced shoreline setback as allowed under SMC 23.60.198.B.1.

Entered December 30, 2014.



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