



City of Seattle

Gregory J. Nickels, 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: 2408207
Applicant Name: Christopher Osolin for Lisa Mennet
Address of Proposal: 6250 Lake Shore Drive South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish the use for the future construction of a two story single family residence with a detached two car garage. The project includes the future grading of 1,990 cubic yards and the future demolition of existing structures.

The following approval is required:

Shoreline Substantial Development Permit to allow construction of a single family residence in an Urban Residential (UR) shoreline environment - Seattle Municipal Code (SMC) 23.60.020.

SEPA Environmental Determination - Chapter 25.05 Seattle Municipal Code

SEPA DETERMINATION: Exempt DNS EIS

DNS with conditions

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

BACKGROUND DATA

Site Description

The site is located in a Single Family 9600 (SF 9600) zone and an Urban Residential (UR) shoreline environment on Lake Washington one block south of Seward Park. The site is developed with a single family residence and swimming pool.

Area Development

Development in the vicinity consists primarily of single family residences on lots of varying sizes and shapes. Seward Park is located one block to the north.

Proposal Description

The applicant proposes to demolish the existing single family residence, garage and pool, and construct a new single family residence, two car garage and in-ground pool. The proposed footprint for the house is 2,768 square feet, for the garage is 964 square feet, and the pool is 1,030 square feet.

Public Comment

One comment letter was received from the Clean Air Agency regarding asbestos abatement during the public comment period which ended February 25, 2005.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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.

The single family residence will further the public interests of protecting the shorelines, and will not interfere with the public's use of the water. The subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

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 which are found in the Seattle Comprehensive Plan, and meets 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.

Shoreline Environment: Development Standards

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Residential (UR) environment, as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment. The proposed single family residence requires a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposed single family residence is permitted in the UR shoreline environment SMC 23.60.840, and must meet the standards for the UR environment SMC 23.60.870.

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 location 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 goals of the State Shoreline Management Act and Seattle's Master Program include protecting the ecosystems of the shoreline areas, long-term over short-term benefits, and the integration and location of compatible uses within segments of the shoreline. The goals also include encouraging water dependent uses, providing for maximum public use and enjoyment and the preservation, enhancement and increase in views of and access to, the shoreline.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. 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. All shoreline development and uses must, in part: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) 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; 3) be located, constructed, and operated so as not to be a hazard to public health and safety; 4) utilize permeable surfacing where practicable to minimize surface water accumulation and runoff; 5) 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; 6) 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; 7) any land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort a Director's Rule, 6-93, was developed to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the location of the proposed work, the potential exists for negative impacts to Lake Washington during construction. To avoid this, the applicant should take measures to prevent contamination of land or water and use materials and construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction, and prevent any construction debris from entering the water. 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).

The proposal, as conditioned below, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Chemical herbicides, pesticides and fertilizers used in yard maintenance can be toxic to the aquatic environment; therefore, the project will be conditioned to provide the appropriate treatment for water runoff from the yard to prevent any chemical herbicides, pesticides and/or fertilizers from entering the water. No increase in effective permeable surfaces would occur. Erosion would not result from the construction or development. To minimize the impacts to fish and wildlife a riparian corridor will be established and planted with native vegetation. The riparian buffer runs parallel to the shoreline. The area planted shall be approximately 15 feet wide. Vegetation planted in the riparian buffer shall include native trees, shrubs and ground cover. This vegetation serves as a buffer for the aquatic environment which helps to protect fish habitat. The riparian area is also part of the natural shoreline process. Overhanging vegetation such as willows will be included in the plantings. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses would occur. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. The proposal would not affect existing shoreline stabilization and no submerged public right-of-way or view corridors would be significantly affected.

These conditions, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Residential (UR) environment as set forth in SMC 23.60.220C6 is to protect residential areas. This residential area would be protected in terms of allowing one housing unit and increasing the housing capacity within this UR environment.

SMC 23.60.540 – Uses Permitted Outright in the UR Environment

The Urban Residential environment permits single family residences as a principal use. The proposed single family residence is a principal use and meets requirements as described in the UR environment.

SMC 23.60.570 – Development Standards for the Urban Residential Environment

The proposed single family residence would meet the development standards for single family structures in the UR environment in terms of height, lot coverage, view corridors, and regulated public access.

In summary, as designed, the proposal is supported by both the purpose of the UR shoreline environment and the policies set forth in the Comprehensive Plan. The principal use would remain consistent with the underlying zoning and in character with surrounding development, and conforms to the general development standards and the requirements of the underlying SF 9600 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 SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

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

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).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 21, 2004. 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 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. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Construction Noise Impacts

The SEPA Construction Impacts Policy (Section 25.05.675B SMC) lists mitigation measures for construction noise impacts. It is our conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is necessary to mitigate impacts that would result from the proposal on surrounding properties, because existing City ordinances do not adequately mitigate such impacts. This is due to the density of residential units in the area and the close proximity of these structures to the proposal site. The proposal is, therefore, conditioned to limit demolition and construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. After the structure is enclosed, interior construction may be done at other times with the written approval of the Land Use Planner.

Drainage

Rain water on roofs and on the driveways is the major source of water runoff on the site. The rain water on the roofs will be collected in gutters and connected to the storm drainage system. Oil/water separators will be installed at the parking garage level. Drainage will be directed away from adjoining residential properties. No additional mitigation measures will be required pursuant to SEPA.

Earth

The site is not located in an environmentally critical area. However, more than 500 cubic yards of grading will occur on the site. A geotechnical engineering report was submitted with the application. The geotechnical engineer provided design recommendations including foundation and design parameters for a concrete slab on grade, basement wall, retaining walls, the pool foundation, driveway, pin piles, temporary cuts and excavation shoring, surface drainage, and erosion. The DPD geotechnical engineer reviewed the geotechnical engineering report and recommended a number of corrections. Compliance with these corrections will be required prior

to issuance of the building permit. Therefore, no mitigation of earth or drainage impacts will be required pursuant to Section 25.05.675 of the Seattle SEPA Ordinance.

Conclusion

In conclusion, several adverse effects on the environment are anticipated resulting from the proposal which is nonsignificant. However, no mitigation is warranted.

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 43.21.C), including the requirement to inform the public of 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(2)©.
- 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(2)©.

CONDITIONS – SEPA AND SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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.

Prior to Issuance of the Master Use Permit

1. Per SMC 23.60.152 H, I, and K, revise the plans to include a riparian buffer of native vegetation along the shoreline. The riparian buffer runs parallel to the shoreline. The area planted should be approximately 15 feet wide. Vegetation planted in the riparian buffer shall include native trees, shrubs and ground cover. This vegetation serves as a buffer for the aquatic environment which helps to protect fish habitat. The riparian area is also part of the natural shoreline process. Overhanging vegetation such as willows should be included in the plantings.
2. The vegetation planted in the riparian area shall be maintained for the life of the project. Indicate how these plants will be maintained to ensure their survival.

3. Per SMC 23.60.152 E revise the plans to indicate how the surface water will be treated so that no pesticides, herbicides, chemical fertilizers or other pollutants from the site will enter Lake Washington.
4. Per SMC 23.60.152 F revise the plans to include the square footage of the proposed increase in impervious surface and indicate how this increased area will be made permeable, resulting in no net increase in impervious surface for the site.

Prior to Issuance of a Building Permit

5. Provide cross-sections depicting the large boulders that are in the water indicating the distance to the bulkhead and the depth of the water at Ordinary High Water (OHW). These large boulders have the potential to negatively impact Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA).

Prior to Construction

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

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

During Construction

7. In order to further mitigate the noise impacts during demolition and construction, the owner(s) and/or responsible party(s) shall limit the hours of demolition and construction to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. This condition may be modified by the Department to permit work of an emergency nature or to allow low noise interior work after the shell of the structure is enclosed. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.
8. All non-native vegetation in the riparian shoreline area shall be removed.
9. Existing native vegetation in the riparian shoreline area can remain.
10. Any large boulders that have fallen into the water from the bulkhead shall be removed.

Permanent for the Life of the Project

11. The vegetation planted in the riparian area shall be maintained for the life of the project.
12. No herbicides, pesticides or chemical fertilizers shall be used in the riparian shoreline area.

Signature: _____ Date: August 1, 2004

Malli Anderson, Land Use Planner
Land Use Services
Department of Planning and Development