



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Dian M. Sugimura, Director

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

Application Number: 3004152
Applicant Name: Kent Johnson
Address of Proposal: 2420 Westlake Av N (Float #7)
(KCA #269 of 8727008888)

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for a 374 square foot second story addition to an existing floating home.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit – for the future construction of a floating home in an Urban Stable (US) Shoreline Environment pursuant to Seattle Municipal Code (SMC) 23.60.630

SEPA - Environmental Determination pursuant to SMC 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS

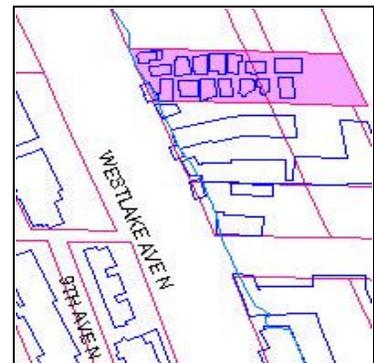
DNS with conditions

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

BACKGROUND DATA

Site and Vicinity Conditions

The subject site is located east of Westlake Avenue North on the west shore of Lake Union in an Urban Stable (US) shoreline environment. Over-water development consists of 15 floating home



moorages, accessed by a central pedestrian pier. The dryland area west of the site is developed with a gravel vehicle parking area.

The floating home moorage sites are arranged in a northern row of 8 floating homes and a southern row of 7 floating homes. The subject floating home is the 4th site from the shoreline in the northern row. The proposed work would occur on the existing floating home float, which measures approximately 40'-6" north to south by 25'4" east to west, equaling approx. 1,025 square feet. The zoning designation of the site is Commercial 2 (C2-40'). The subject floating home moorage is nonconforming with the General Standards set forth for floating home moorages.

Proposal

The applicant proposes to construct a 374 square foot second story addition to an existing floating home. The proposed maximum height of the structure is 18 feet.

Public Comment

No comment letters were received during the public comment period, which ended on March 2, 2006. However for floating homes, METRO generally recommends protection of the water quality of Lake Union by using materials and construction methods which prevent toxic materials, petrochemicals, and other pollutants from entering surface water during and after construction. The least toxic wood preservatives that are appropriate for fresh water should be used. Any construction debris floating in the water shall be promptly removed.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

The proposal is located within an Urban Stable Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). This program, Section 23.60.020 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 to protect 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 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 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.

The proposal to continue the use of the site for floating homes within a floating home moorage is consistent with the objectives for Lake Union. Thus, 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 Section 23.60.064 SSMP require that the proposed use(s): 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 and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SSMP 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 policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use. The increase of floating home moorages or the increase in use of the shoreline or water area by floating homes, however, is not necessarily encouraged. The intent is to recognize the existing floating home community

in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. The site is located in an area designated as Urban Stable, the purpose of which is to 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; preserve and enhance views of the water from adjacent streets and upland residential uses; and to support water-dependent uses by providing services such as marine related retail and moorage. Floating home moorages are among those that are identified as “water-dependent uses.”

Development Standards

The proposal to reconstruct an existing over-water single family residence is permitted outright in SMC 23.60.600 governing the US shoreline environment. The proposed action is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152);*
2. *the development standards for uses in the US environment (SMC 23.60.600);*
3. *the development standards for nonconforming floating homes (SMC 23.60.196); as well as*
4. *the development standards for Commercial 2 zones (SMC 23.47).*

1. General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They 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.

General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs).

The proposed project’s design is consistent with the requirements of this section. To ensure that these standards are conformed to, the proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for US Shoreline Environments (SMC 23.60.600)

The development standards set forth in the Urban Stable Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors and public access. The subject site, however, is nonconforming and therefore subject to the development standards set forth in the specific floating home standards for nonconforming structures. Please refer to the following section.

3. Development Standards for Nonconforming Floating Home Moorages (SMC 23.60.196)

The development standards set forth in the Urban Stable Shoreline Environment relate to float area, height, setbacks, open water, site area and view corridors. There are two sets of development standards for floating homes; conforming and nonconforming moorages. The subject moorage is nonconforming and the subject floats are therefore nonconforming.

The remodeling, replacement, or rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196 C. The floating home moorage is located on privately controlled premises (SMC 23.60.196 A2). The existing views of the water from other moorage tenants will not be blocked (SMC 23.60.196.A3). This floating home moorage site is considered pre-existing for the purposes of the Seattle Shoreline Master Program because it has an assigned King County Assessor's (KCA) number (*KCA #269 or 8727008888*). The KCA established it as a pre-existing use at the established moorage in Lake Union as of the effective date of Chapter (SMC 23.60.196.A4). A moorage plan was submitted with this application and is on file with the Department of Planning and Development (SMC 23.60.196 A6).

Nonconforming Floating Home Requirements:				
	Code Provision	Required	Existing	Proposed
Float Area	23.60.196.C1.a	Float area shall not be increased.	Approx. 1,025 SF	No Change
Height	23.60.196.C1.b	18 feet max height from water level	12'	18'
Setback	23.60.196.C1.c	6 feet min distance between remodeled home and adjacent walls	6' to West 6' to East	No Change No Change
Setback	23.60.196.C1.d	3 feet min distance between home wall and site line	>3'to South	>3' to South
Open Water	23.60.196.C1.e	No part of home may be further extended over water, beyond float edge	N/A	No portion of the proposed structure extends beyond float edge.
Site Area	23.60.196.C1.f	Accessory floats	N/A	N/A
View Corridor	23.60.196.C1.g	Cannot increase view corridor nonconformity	N/A	N/A

The proposed remodel will be constructed on the existing float and will not increase the area of the float within the moorage, thereby not increasing the overall coverage for the moorage dock. No additional overwater coverage is proposed for this floating home and no part of the floating home will be extended further overwater beyond the size of the existing float. The total height of the floating home will continue to be no greater than the maximum 18 feet allowed from the water's surface. All of the proposed setbacks from the adjacent walls and floats satisfy the standards for the nonconforming floating home structures. The predominant view of the water across the existing view corridor will not decrease by the proposed 2nd story addition to the existing floating home (SMC 23.60.636B).

The existing floating homes at this moorage do not have designated required off-street parking spaces because they pre-date code-required parking. Therefore, no off-street parking will be required for this project, although a parking lot intended for the houseboat residents is located nearby.

The proposed project is consistent with the development standards for nonconforming floating home structures in the US shoreline environment and does not increase the extent of nonconformity. Therefore, the proposed project is consistent with the standards for the US shoreline environment.

4. General Development Standards for Commercial Uses (23.47 SMC)

SMC 23.47.004A. states that all uses shall either be permitted outright, prohibited or permitted as a conditional use according to Chart A, and section SMC 23.47. Chart A for Section 23.47.044 footnotes Floating Homes as permitted only in the Shoreline District, when permitted by the Seattle Shoreline Master Program. SMC 23.60.090C. states that principal uses are permitted in the respective shoreline environments in accordance with the lists of permitted and prohibited uses and subject to all applicable development standards. SMC 23.60.600A.4.a. permits floating home moorages or the expansion of floating home moorages, when located in Lake Union.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 WAC sets forth 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) and the RCW 90.58 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.

Summary

In conclusion, no adverse impacts to the lakebed or water quality are expected. The proposed construction of the two-story floating home with the second story deck will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **CONDITIONALLY GRANTED** as noted at the end of the decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated February 13, 2006 and annotated by the Land Use Planner. The information in the checklist and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA overview Policy clarifies the relationship between codes, policies, and environmental review (SMC 25.05.665 D). 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

mitigation can be considered (SMC 225.05.665 D1-7). Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or demolition/construction-related impacts are expected:

- Minor decreased air quality due to suspended particulate from demolition and building activities;
- Hydrocarbon emissions from construction vehicles and equipment;
- Increased traffic and demand for parking from construction equipment and personnel;
- Conflict with normal pedestrian movement adjacent to the site;
- Increased noise; and
- Consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Additionally, these impacts are minor in scope and are not expected to have significant adverse impacts. However, due to the density and close proximity of residential uses, further analysis of construction impacts is warranted.

Noise

Noise associated with construction could adversely affect the surrounding residential uses, thus the limitations of the Noise Ordinance are found to be inadequate. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), additional mitigation is warranted. Thus, the hours of construction shall be limited to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. pursuant to SEPA authority to mitigate construction impacts (SMC 25.05.675.B).

Water Quality

Some short-term impacts to the marine ecosystem are anticipated. Likely short-term impacts associated with construction and demolition could include decreased water quality due to disturbance of sediments and noise associated with construction activities.

No disturbance of the lakebed sediments is expected since all work will be done above water. There is the potential for debris to enter the water during construction and demolition, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by SMC 23.60.152, METRO's recommendations to protect the water quality of Lake Union shall also be followed as conditioned below.

DECISION - SEPA

The responsible official on behalf of the lead agency made this decision after reviewing 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.

- [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(2)(C).

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

(Based on the plans in the project file)

Prior to Issuance of a Construction Permit

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

1. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SMC 23.60.152), including the requirements set forth by Condition #2 below.

Conditions of Approval during Construction

The following condition 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.

2. Care shall be taken by the owner(s), builder(s), or responsible party(-ies) to prevent debris from entering the water during demolition and construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. The least toxic wood preservatives that are appropriate for fresh water shall be used.

CONDITIONS - SEPA

(Based on the plans in the project file)

During Construction

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

3. 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.

Signature: _____ (Signature on file) Date: June 8, 2006
Colin R. Vasquez, Senior Land Use Planner

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