



City of Seattle

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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:** 2405556  
**Applicant Name:** Herschel Parnes  
**Address of Proposal:** 420 Lakeside Avenue South

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to establish the use and construct a 2 story 2-unit structure (duplex) with accessory parking.

The following approval is required:

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

**SEPA Environmental Determination** - Chapter 25.05, (SMC)

**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 Lowrise 3 (L3) zone and Urban Residential (UR) a shoreline environment. The site is located on Lakeside Avenue South between south Jackson Street and South King Street. The site was occupied by a duplex. An oil leak was discovered on the property and subsequent remediation indicated that full remediation would require demolition of the duplex.

### Area Development

Development in the vicinity consists primarily of a mixture of single and multifamily residential uses. Single Family homes zoning is across Lakeside Avenue. Neighboring uses are duplexes, triplexes and condominium and apartments. Lakeside Avenue South is an arterial which carries a moderate volume of traffic.

### Proposal Description

The applicant proposes to construct a duplex with parking. The Department will recognize the duplex use for the record and replacement of the nonconforming structure pursuant to Seattle Municipal Code Section 23.60.124, which allows nonconforming structures destroyed by fire or act of nature to be replaced to the same configuration. The Department has agreed to read the Code section liberally to include this situation, where the structure was deliberately removed for purposes of environmental cleanup.

### Public Comment

No letters were received during the official public comment period which ended August 19, 2005.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

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 duplex 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 duplex requires a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposal 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 for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate.

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; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on protecting 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). Therefore a condition of the project will be to implement Best Management Practices to prevent construction material and/or sediment laden stormwater runoff from entering Lake Washington during construction and that once construction is complete no pollutants from stormwater runoff from the site will enter Lake Washington.

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. Erosion would not result from the development. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses should 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 the proposal and maintaining the housing capacity within this UR environment.

SMC 23.60.540 – Uses Permitted Outright in the UR Environment

The Urban Residential environment permits multifamily residences as a principal use. The proposal 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 proposal would meet the development standards for multifamily structures in the UR environment in terms of height, lot coverage, view corridors, and regulated public access. Except as modified through SMC 23.60.124.

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 Lowrise 3 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**

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 annotated environmental checklist dated July 7, 2005, and supplemental information in the project file submitted by the applicant's agent. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision. The Director of the Department of Planning and Development (DPD) has determined that the proposal is not likely to have probable significant adverse environmental impacts.

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, 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) mitigation can be considered.

### Short - Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; 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; and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Storm water, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. 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. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

### Transportation

*Truck & Equipment:* Construction of the project will involve approximately 120 cubic yards of grading for the building foundation. These activities will take place over several weeks and will generate truck trips. The Municipal Code (SMC 11.74.160) states that material hauled in trucks shall be loaded so no debris falls onto the street or alley during transport. This Code (SMC 11.62.060) also requires truck-trailer or truck semi-trailer used for hauling to use major truck streets and take the most direct route to or from one of the major truck streets to their destination.

### Long - Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased bulk and scale on the site; increased demand for public services and utilities; and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Storm water, Grading and Drainage Control, the City Energy Code will require insulation for outside walls and energy efficient windows. The Land Use Code controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts that are not considered significant.

**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.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. A Supplemental 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 - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

*Prior to Issuance of the Construction Permit*

1. Provide a planting plan in the plan set, indicating the native species and plant spacing for the 15-ft of riparian buffer (area adjacent to the shoreline) indicated on the plans.
2. Indicate on the plans how no pollutants from stormwater runoff will enter the lake via stormwater drainage.

*Prior to Construction*

3. The owner(s) and/or responsible party(s) shall:
4. Notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152) and the requirements of this permit.

*For the Life of the Project*

5. Maintain the riparian native vegetation planted along the shoreline.
6. No pesticides, herbicides or chemical fertilizers shall be used in the 15-ft riparian buffer shoreline area.
7. No pollutants, including pesticides, herbicides or chemical fertilizers, from stormwater runoff shall enter the water via stormwater drainage.

**CONDITIONS – SEPA**

None.

Signature: (signature on file)  
Holly J. Godard, Land Use Planner  
Department of Planning and Development

Date: October 24, 2004