City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
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CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number:	2104767
Applicant Name:	Ronald Parypa
Address of Proposal:	6408 60th Place South

SUMMARY OF PROPOSED ACTION

Shoreline Permit for construction of a 22 ft. extension with a 38 ft. finger to an existing pier of a single family residence.

The following approvals are required:

Shoreline Variance: to allow a pier to exceed 100 ft. in length. (Sections 23.60.036 and 23.60.204 B6 Seattle Municipal Code)

SEPA - Environmental Determination - Chapter 25.05 SMC

SEPA DETERMINATION:

[ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

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

BACKGROUND DATA

Site Location and Description

The proposal site is located at 6408 – 60th Place S on the south west shore of Lake Washington. The submerged portion of this site is located in the Conservancy Recreation shoreline environment. The property is used for mooring the property owner's boat.

Zoning

Single Family; 9600, with the Urban Residential and Conservancy Recreation (UR/CR) Shoreline Master Program designations. The UR designation is for the dry-land portion of the site and the CR designation is for the submerged land portion of the site.

Area Development

North: Single Family 9600; Urban Residential and Conservancy Recreation shoreline designation
East: Lake Washington
South: Single Family 9600; Urban Residential and Conservancy Recreation shoreline designation
West: Single Family 9600; Urban Residential and Conservancy Recreation shoreline designation;

Proposal Description

The applicant proposes to extend their pier by 22 lineal feet to the end of the existing pier and add an angled ell to the end of the extension that angles to the southeast and is 2.6-ft. by 38-ft. An existing ell that is 127 sq. ft. shall be removed. Additionally, the existing portion of the pier will be repaired as needed. Included in the repair work will be piling caps, stingers, decking, and fascia that does not extend below the bottom of the caps or stringers.

Although, the site is in a shoreline district, the new pier does not require a shoreline substantial development permit because the development is a pier accessory to single family use and the fair market value does not exceed $10,000.00 (SMC60.020. C.1). Additionally, the repair work is exempt as normal maintenance and repair. Therefore, the development is exempt from obtaining a shoreline substantial development permit. However, the project requires Shoreline Variance Permit because the design of the dock does not meet development standards per SMC 23.60.204 B6.

Public Comment

One comment was received from a neighbor, which stated that there was no objection to the extension of the pier. The comment period ended on May 13, 2005.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT VARIANCE

Section 23.60.036 of the Seattle Municipal Code provides criteria for review of a shoreline variance and reads: *In specific cases the Director with approval of DOE may authorize variances from certain requirements of this chapter if the request complies with WAC 173-27-170, as now constituted or hereafter amended.*

WAC 173-27-170 explains the purpose and review criteria for granting a variance permit. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance

standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

(1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

(2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

(b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

(c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

(d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

(e) That the variance requested is the minimum necessary to afford relief; and

(f) That the public interest will suffer no substantial detrimental effect.

(3) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

(b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.

(4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

(5) Variances from the use regulations of the master program are prohibited.

Below is the analysis on how the project meets the variance criteria listed above:
2(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

Strict application of the code provisions will prevent the normal use of the dock: safe moorage of a pleasure vessel. This use is reasonable and normal for waterfront properties throughout the local area and throughout Seattle and Puget Sound.

2 (b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions:

Two conditions affect this project:

A shallow lake bottom extends a substantial distance from shore from Seward Park to Martha Washington Park. This is an unusual condition in Lake Washington where most near shore areas drop off quickly to depths in excess of 30 feet. The result is a lack of depth inshore for safe moorage of vessels. The code limit of 100 feet is reasonable for most areas of Seattle waterfront, but is an unusable criterion for safe moorage in this area. The code also recognizes, by inference, 8 feet as a reasonable and safe depth for moorage (23.60.204.B.5.c.). A depth of 8-ft is reached at approximately 150 feet from shore at the location of this project at OHW.

The prevailing wind direction and the fetch to this shore creates heavy storm waves in winter that can reach 4 feet in height. This area of Lake Washington has one of the longest fetches available to strong winter storms that always come from the SSE. The shoaling bottom piles these waves higher as they roll into shore. The resulting pitching motion for a vessel facing the wind and waves can cause the forward and aft portion of the vessel to rise and sink through an arc of more than 5 feet. Depth becomes critical at that time. Sufficient depth and alignment to the wind allows a vessel to ride out these storms without danger to the vessel, crew, or downwind docks.

2 (c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

The project fits the Land Use Code, including the Shoreline Master Program, Policies, and Comprehensive Plan for residential piers and docks. The variance does not materially change the waterfront use in the area. The project allows reasonable use of the residential waterfront as set by historical and regulatory prescriptions and does not violate norms set in the local community for similar use. The use is allowed under the Shoreline Master Program.

2 (d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

An analysis of the existing conditions in the vicinity of the project was performed using City of Seattle GIS data including aerial photos and bathymetry data. This area of the lake has 19 single family parcels, two of these parcels don’t have piers. Thirteen of the existing piers are greater than 100-ft in length, two piers are 100-ft in length and two piers are less than 100-ft in length. The average length of the piers at these 17 parcels is 133-ft, with a minimum dock length of 75-ft and the maximum dock length of 192. The average distance from the shoreline to get to a depth of 8-ft is 156-ft. By allowing this proposal to lengthen the dock to reach a depth of approximately 8-ft would not afford special privilege not enjoyed

by other properties because six piers in this vicinity have piers that reach a depth of at least 8-ft and 13 piers are greater than 100-ft in length.

2 (e) That the variance requested is the minimum necessary to afford relief; and

This project is specifically designed to afford relief with the minimum variance to the code in two ways:

The depth at the end of the proposed pier (a distance of 128-ft from the shoreline) is approximately 6 feet at Ordinary Low Water (OLW). A 2.56 wide el will angle out to a depth of 8 feet at OLW, allowing a 5 feet draft vessel to have approximately 1/2 foot of margin when pitching in a heavy storm. Storm conditions occur during OLW. The finger pier is aligned with the prevailing winter storm winds, making it possible to use the dock safely for moorage throughout the year, the normal and accepted use of a residential dock.

An analysis of the existing conditions in the vicinity of the project using City of Seattle GIS data nineteen parcels between Seward Park and Martha Washington Park indicates that the average distance from the shoreline to reach a depth of approximately 8-ft at OLW is 156-ft. This project is designed to reach that distance with the minimum impacts. The main pier will be extended to a distance of 128-ft, this new section will be 22-ft in length by 6-ft in width. The el that will extend at an angle to a distance of 150-ft from the shore will be 38-ft in length and 2.6-ft in width. Additionally there will be a 127 s.f. section of pier removed therefore the increase in overwater coverage caused by the proposed work at the site will be approximately 105 s.f. If the main pier were extended to a depth of 8-ft, assuming a width of 6-ft and an el that is 100 s.f. in size was added the total amount of new overwater coverage would be 382 s.f. Therefore the designed project minimized the increase in overwater coverage by removing a portion of the existing pier and minimizing the size of the structure that extends to a depth of 8-ft OLW.

2 (f) That the public interest will suffer no substantial detrimental effect.

This project will not change the character of the local area as the dock will fit within design and dimensions common in the area. The greater length will not impact small boat navigation since boaters tend to navigate to the nearby most outward point, in this case the dock to the north, which extends to 160 feet. Larger vessels do not normally come into the shallow areas off the end of docks in the area. “No Wake” buoys, (installed by City of Seattle and under permits issued by the city) along this shore tend to encourage most traffic to operate approximately 450-ft off this shore. Viewscapes are not impacted because the project is normal height and is inshore of nearby docks.

3 (c) That the public rights of navigation and use of the shorelines will not be adversely affected.

The completed project will be approximately 66 feet inshore of the Lake Washington Inner Harbor Line and 210 feet inshore of the Federal Pierhead Line. Additionally see answer under 2(f).

In addition to meeting the requirements of section 2b – 2f above, an analyses of the cumulative impacts of the granting variances to other developments in the area where similar circumstances exist. The total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

An analysis of the existing conditions in the area of the proposed project was conducted. A total of 19 parcels were analyzed. Of these 19 parcels, 8 of the parcels either have no dock or have docks that do not reach a depth of 8-ft at OLW. If the owners of these 8 parcels built or extended docks to a depth of 8-ft at OLW there would be an increase in overwater coverage by 2,502 s.f. This could be considered a substantial amount of new overwater coverage, if done without mitigation. Instead of allowing all dock owners to extend their piers to a depth of 8-ft if the limit to the extension was the average distance to a depth of 8-ft at these 19 parcels (this average is 156-ft) the increase in overwater coverage would be reduced to 1,902 s.f. This measure would reduce the increase in overwater coverage by 24 percent. This additional overwater coverage was calculated using the standard width of pier of 6-ft by the increase in length, greater than 100-ft, needed to reach a depth of 8-ft for existing piers and for sites without piers.

Additional design mitigation was proposed for this project that has further reduced the impacts. The proposed project has a reduced width of the pier that extends from 128-ft to 150 ft, the width is 2.6-ft. Without this reduction the new overwater coverage would have been 300 s.f., assuming a pier width of 6-ft. With this reduction the new overwater coverage is 232 s.f. Additionally, the project proponent has removed a 127 s.f. section of pier reducing the new overwater coverage to 105 s.f. This is a reduction of 65 percent.

Additional mitigation in the form of installing prisms to allow light to transmit through the pier reducing the total number of piling at the site by 2 and planting a 400 s.f. section of riparian native shoreline vegetation is also provided. Therefore, if the allowed length of piers for other property owners is the average distance to reach 8-ft, which is 156-ft, and if the proposed new extended piers are mitigated through design elements that reduce the potential increase in overwater coverage, reduce the amount of in-water structures and enhance the shoreline with native vegetation or bulkhead removal, the cumulative impacts will be mitigated.

DECISION - SHORELINE VARIANCE

The Shoreline Variance is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

ANALYSIS - SEPA

Disclosure of the potential impacts from this project was made in the following documents: the Environmental Checklist dated April 4, 2002, the Biological Evaluation (BE) dated April, 2002, two e-mail supplements to the BE dated April 3, 2003 and June 11, 2003 and the Joint Aquatic Resource Permit application (JARPA) dated January 23, 2001. The information in the SEPA checklist, the supplemental information described above, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

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 an 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: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish and wildlife species due to increased water turbidity levels and increased noise from the construction activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and, in some cases, mitigation may be warranted.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Air Pollution Control Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

The applicant's BE discloses that the proposed construction work will take place in and adjacent to the waters of Lake Washington. Additionally, construction material will be delivered by barge over-water. With the proposed work taking place in and adjacent to water and the delivery of construction material taking place over-water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. A boom should be deployed around the construction area to contain any debris that enters the water during construction. At a minimum the floating debris that enters the water during construction should be collected once per day. This material should be contained on site and then disposed of at the appropriate upland facility. General in water construction activity, will be restricted to the times allowed by the Army Corps Letter of Permission dated November 5, 2004.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination from spills could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, it is necessary to condition the project to require that prior to commencing construction emergency containment procedures be developed and all necessary equipment be stocked on the site. It is also warranted to require the use of BMPs to minimize erosion along the shoreline caused by storage and staging construction material in this area.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

Long Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: an increase in overwater coverage by 105 square feet and the continued existence of the pier with piles at the site. These long-term impacts are potentially significant without mitigation; therefore, merit a detailed discussion of the impacts and the required mitigation.

Plants and Animals

Chinook salmon, a 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.

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include the continued existence of overwater coverage and the presence of piles in the habitat of a threatened species. Overwater coverage and piles impact the quality of natural habitat of juvenile Chinook salmon by creating shading and providing structure for small mouth bass. Terrestrial vegetation that is found on more natural shorelines, add allochthonous material to the aquatic environment, which benefit the salmon through the food web. Terrestrial vegetation also directly benefits salmon in the fresh water environment by providing a food source in the form of terrestrial insects that drop into the water. Additionally, bulkheads tend to create deeper water habitat caused by erosion and water action at the bulkhead. When juvenile Chinook have no shallow water habitat, which provides refuge from predators, during their out-migration they are more susceptible to predation by larger fish; therefore, this decreases their survival.

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 and DPD has imposed conditions on this project. These mitigation measures and conditions are listed below.

- Enhancement of a section of shoreline that is approximately 400 s.f. (40-ft x 10-ft) which includes terrestrial native vegetation along the shoreline and a monitoring plan for this vegetation that will ensure 80% survival of the vegetation planted in this area;
- Removal of one section of the existing dock that is 127 s.f. in area.

- Reduction in total number of piling from 32 to 30.
- No treated decking will be allowed in the new section of the pier and for any replaced decking.
- Prisms will be installed to achieve sixty percent light reaching the area below the pier.

Each of 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. Collectively these measures will eliminate the dark areas that exist under the floating docks and eliminate large substrate in the shallow water habitat, which should in turn allow the juvenile salmon to remain in the shallow water during their migration and reduce the juvenile Chinooks' vulnerability to predation in the ship canal environment. Additionally, the riparian vegetation planted along the shoreline will increase the allocthonous input of insects and detritus to the ship canal providing food for juvenile salmonids and nutrients for other aquatic organisms.

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.

[X] Determination of Non-Significance. This proposal has been determined to not have significant adverse impacts upon the environment. An EIS is not required under RCW 43.21C.030.(2)(c).

[ ] 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)(c).

CONDITIONS – SEPA and SHORELINE

Prior to Issuance of the Master Use Permit

1. The plan set shall be updated to include the native vegetation planting plan shown in the Biological Evaluation dated April 2002.

2. The monitoring plan shall be included as a plan sheet in the plan set. This plan shall ensure eighty (80) percent or greater survival of the vegetation planted and will ensure that nonnative vegetation is eliminated in the riparian area.

During Construction

The following conditions(s) 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.

1. Removal of seven (7) existing pile and the installation of five (5) new untreated pile will occur. All new pile will be place in water deeper than 7-ft OHW. Existing pile will be completely removed and any depressions in the substrate shall be filled with native substrate that is similar to what exists at the site.

2. Remove any existing debris located on the substrate at the site including any piles stubs.

3. Appropriate best management practices (BMPs) shall be employed to prevent debris and deleterious material from entering Lake Washington during the proposed in-water work. BMPs shall include the deployment of a boom surrounding the construction area. The boom shall remain in place for the duration of the proposed work..
   a. The boom shall serve to collect any floating debris, which may enter the water during the construction activities. This floating debris shall be removed from the water daily, stored on-site, and then disposed of in the appropriate upland facility.
   b. If heavy (sinking) debris enters the water during the repair work, the location of the debris shall be documented in a log to be kept through the duration of the project. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during construction.

4. No toxic materials, petrochemicals and other pollutants shall enter the surface water during the proposed repair work. Spill prevention and response procedures shall be developed prior to commencement of construction and the appropriate material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.

5. Personnel shall be trained in the plans and procedures for the prevention, containment and clean-up of toxic material.

6. A four hundred (400) square foot area adjacent to the shoreline shall be enhanced. This enhancement shall include removal for non-native vegetation and the planting terrestrial native vegetation along the shoreline and a monitoring plan for this vegetation that will ensure 80% survival of the vegetation planted in this area.

7. No fascia shall be installed because it blocks natural light from reaching under the pier.

8. Sixty percent light shall reach the water under the pier at the completion of the repair work.

9. No treated decking shall be allowed, treated wood is allowed for pile caps and stringers.

10. All treated wood shall be professionally treated and completely cured prior to installation to minimize leaching into the water.

11. All lumber to be used for the project shall meet or exceed the standards established in "Best Management Practices for the Use of Treated Wood in Aquatic Environments" developed by the Western Wood Preservers Institute http://www.wwpinstitute.org/.

For the Life of the Project

1. The four hundred (400) square foot area adjacent to the shoreline that is enhanced with native vegetation shall be maintained. Any non-native vegetation shall be removed manually, no chemicals can be used to remove this vegetation.

2. No pesticides, herbicides, or chemical fertilizers shall be used in the riparian area along the shoreline including the four hundred (400) square feet area that is enhanced with native vegetation.

3. Maintain the shallow water and nearshore area clear of debris during the life of the project (i.e. during normal business operations).

Signature: (signature on file) Date: August 25, 2005
Margaret M. Glowacki, Fisheries Biologist/Salmon Planner
Department of Planning and Development

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