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: 2402632

Applicant Name: City of Seattle Parks Department

Address of Proposal: 3800 Lake Washington Blvd. S

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for future 7,132 sq. ft. and 2,036 sq. ft. addition to two existing boat storage structures for a public park (accessory to Stan Sayre's Memorial Park).

The following approvals are required:

Shoreline Substantial Development Permit – (SMC Chapter 23.60)

SEPA – Conditioning Only Chapter 25.05, Seattle Municipal Code.
(DNS prepared by Seattle Department of Parks and Recreation)

SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

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

******Mitigated determination of non-significance issued by the Seattle Department of Parks and Recreation on April 5, 2005.

BACKGROUND DATA

Site

The subject parcel, located on the south side of Lake Washington, is approximately 163,525 square feet and has two existing buildings and surface parking for 53 vehicles and 35 trailer spaces. The existing buildings are currently used for boat storage. Zoning on this site is Single Family 7200 (SF-7200). Also, the entire site lies within a designated shoreline Conservancy Management (CM) environment.

Vicinity

Development surrounding this site consists mainly of park-related uses. The site is bounded to the north by the waters of Lake Washington. To the south of the site is Lake Washington Boulevard which winds around the lake perimeter. Beyond the boulevard to the south, lies Genesee Park. To the east and west of Genesee Park, the area is developed as a single family zone. The site is accessed by Lake Washington Boulevard, which is not designated as an arterial street by the City of Seattle.

Proposal

The applicant proposes a 7,132 square foot addition to an existing sailboat storage building (the "Sail House") and 2,036 square foot addition to an existing crew storage building (the "Crew House"). The structures will provide boat and equipment storage, as well as showers, locker rooms and meeting rooms. The project also consists of reconfiguring the parking lot along the perimeter of the Sail House building expansion. The number of parking stalls for cars will increase by one stall, from 53 stalls to 54 stalls. The number of trailer stalls will decrease by five stalls, from 35 stalls to 30 stalls. In addition to the proposed work, 2,770 square feet of native vegetation will be planted along with 22 trees that will be transplanted to different locations on site. Along with the vegetation planting, the existing concrete bulkhead will be removed.

Public Comment

No public comments were received during the public comment period, which ended on October 15, 2004.

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.

A. RCW Chapter 90.58

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 generally 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 that was codified in the Seattle Municipal Code Chapter 23.60. 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 proposed piers have been designed and mitigated to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The location and the design of the pier will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the policies and procedures outlined in RCW 90.58.

B. <u>SSMP Chapter 23.60</u>

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 SSMP 23.60.030. 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 (SSMP 23.60.064).

The proposal is subject to the Shoreline Policies of the Seattle Shoreline Management Program (SSMP 23.60.004), because the site is located within the shoreline district and cannot be exempted under SMC 23.60.020-C. Additionally, the applicant must show that the proposal meets the criteria and development standards for the shoreline environment in which the site is located (SSMP Section 23.60.090-A); any applicable special approval criteria; general development standards; and the development standards for specific uses.

The purpose of the Conservancy Management (CM) shoreline environment is to conserve and manage areas for public purposes, recreational activities and fish migration routes. While the natural environment need not be maintained in a pure state, developments shall be designed to minimize adverse impacts to natural beaches, migratory fish routes and the surrounding community.

SMC 23.60.152 - General Development Standards

These general development standards apply to all uses in the shoreline environment. 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) Control erosion during project construction and operation;

3) 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. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

4) 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.

5) Be designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area;

6) Be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization landfills, levees, dikes, groins, jetties, or substantial site regrades.

The proposed reconfiguration of the pier at this site with additional overwater coverage, as conditioned, including the proposed mitigation, is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline environment, to water quality, to the natural shoreline processes, and the surrounding land and water uses.

SMC 23.60.450 - 23.60.460 - Development Standards for Conservancy Management (CM) Environment

All development must conform to the development standards in the CM Shoreline Environment. The proposal meets the maximum height permitted in CM zoned lots as determined by the Official Land Use Map. The base maximum height of the CM Environment is 30’ but allows height to reach between 35 feet with a pitched roof (SMC 23.60.454). The proposed structures will be well below the 30’ height limit for the site. The proposed lot coverage will also be well

below the 35% lot coverage allowed in the zone (SMC 23.60.456). The view corridor is not affected by the proposed development as boat storage repair is exempt from the calculation (SMC 23.60.458). Public access to the shoreline will be unaffected by the proposed development.

SMC 23.44.007 – 23.44.016 – Single Family Development Standards

The project proposal must meet the development standards of the underlying Single Family (SF-7200) zone. The development proposal has been reviewed by the Land Use Planner who has determined the project complies with the required development standards. The proposal meets the lot, height, related yards, parking and access standards.

C. WAC Chapter 173-27

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.

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms with the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the Conservancy Management Environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms with specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is hereby approved. Thus, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **GRANTED.**

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 5, 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 25.05.665 D) 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 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

Construction Impacts

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities.

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 the aquatic environment and displacement of some fish 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 Clean Air 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 SEPA Checklist discloses that the proposed construction work will take place near the waters of Lake Washington. With the proposed work taking place near the 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 twice per day. This material should be contained on site and then disposed of at the appropriate upland facility. Construction impacts to the lake environment will be mitigated by construction company procedures and wildlife agency restrictions on construction times.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination and erosion 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 an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site. It is also warranted to require the use of BMPs to minimize the potential for deleterious material from entering the lake during construction and to minimize the construction activities negative impacts.

Construction activities are not expected to affect the surrounding area. Impacts to traffic and roads are not expected from truck trips during construction activities. In addition, delivery of the construction materials to the site will generate some truck trips. As a result of these truck trips, a minimal impact to existing traffic will be introduced to the surrounding street system during the construction of the new pier structure. This impact is minimal, and therefore no further mitigation is warranted.

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 potential for increased human activity in the near-shore shoreline environment, which can lead to increased adverse impacts on fish habitat and migration routes. These long-term impacts are minor in scope and are not considered significant. Notwithstanding the determination of non-significance, the following impacts merit more detailed discussion.

Plants and Animals

Assessing environmental impacts of the project for purposes of possible SEPA conditioning requires comparison to the existing on-site conditions. No over water coverage is expected to occur as part of the proposed work; therefore no measures to protect the fish habitat are necessary.

Environmental Health

SEPA Policy 25.05.675-F provides the authority to mitigate impacts resulting from toxic or hazardous materials and transmissions. The location of the subject project is on the water's edge fronting on Lake Washington. The nature of the use is the moorage of personal pleasure boats, which are moored in the water. All boats are stored on Lake Union; leakage from gas tanks and

other engine fluids may cause an adverse impact to the salmon, bass and trout that inhabit Lake Union. As noted in the SEPA checklist (February 2, 2004) there will be a spill prevention and control plan submitted with the building permit. Also, proper conditioning is warranted to ensure the spill prevention and control plan is implemented and used.

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 requirement 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 with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(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).

SEPA CONDITIONS

Prior toIssuance of Master Use Permit

1. A spill prevention and control plan shall be prepared and submitted to Land Use Planner (Lisa Rutzick 206.386.9049 or Maggie Glowacki 206.386.4036). This plan shall include measures that will ensure that no hazardous or toxic materials are introduced into the environment during construction and during normal operation of the marina. This plan shall be added to the plan set prior to final approval. Having a spill protection and control kit on site shall be part of the plan and at least three (3) employees shall be properly trained in using the spill protection kit.

Prior to Issuance of Building Permit

2. Attach the applicable conditions to the building permit set.

3. The approved spill prevention and control plan as well as the Best Management Practice Plan shall be included with the building permit plan set.

During Construction

4. Appropriate BMPs shall be employed to prevent deleterious material from entering Lake Washington during the proposed construction.

5. Any debris that enters the water during construction shall be collected and disposed of at the appropriate upland facility.

6. If heavy (sinking) debris enters the water during the proposed work the location of this debris shall documented in a log that is kept at site for the duration of the project. When the proposed work is completed a diver shall retrieve the sunken debris and this material shall be disposed of at an appropriate upland facility.

Signature: (signature on file) Date: February 2, 2006
Lisa C. Rutzick, Land Use Planner
Department of Planning and Development

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