



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: 3003302
Applicant Name: Mark Parker, AIA.
Address of Proposal: 6411 Seaview Avenue NW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to construct a 470 sq. ft. deck addition including stairs to an existing restaurant (Ballard Elks). No change in parking.

The following approval is required:

- **Shoreline Substantial Development Permit** – (SMC Chapter 23.60)

SEPA DETERMINATION: Exempt DNS EIS

DNS with conditions

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

BACKGROUND DATA

The subject site is located on the west side of Seaview Avenue NW, a waterfront parcel on the Shilshole Bay. The site is zoned Commercial 1 with a 40 foot height limit (C1-40) and is within an Urban Stable (US) shoreline environment. The site is developed with a 28,675 square foot building containing 17,875 square feet of restaurant and 10,800 square feet of private club; the Ballard Elks. The existing building is separated from Seaview Avenue by a large parking lot consisting of 185 parking spaces. Access to the site is from Seaview Avenue located to the east of the parking lot. Several trees on the site are located along the north property line. A 6-foot solid wood fence separates the site from the abutting lots to the north and to the south. Public access to the beach is available along the southern edge of the site to the beach front along the shoreline. Development in the vicinity consists of a mixture of commercial and residential uses.

Proposal

The proposal is to construct a 470 square foot deck addition to an existing restaurant. The proposed deck will be located above a portion of an existing patio with exterior stairs connecting the proposed deck and the existing patio below. Sweeping views of Puget Sound are currently being blocked by portion of the existing building. The proposed deck will enable restaurant guests to have access and enjoy better views of the Sound than the current view from the patio level.

Public Comment

The public comment period started on September 9, 2005 and ended on October 7, 2005. No comment letter were received.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

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 effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, 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 adopted a local Shoreline Master Program, codified in the Seattle Municipal Code at 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. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

This proposal does not require a shoreline variance, conditional use or special use permit. Eating and Drinking Establishments are permitted outright in Commercial 1 zones: The proposal has been reviewed by DPD and meets the applicable development standards of the C1 zone (SMC 23.47). There are no specific shoreline development standards applicable to this use (SMC 23.60.179 through SMC 23.60.210)

Shoreline Goals and Policies

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies (part of the Seattle Comprehensive Plan's Land Use Element), the purpose and locational criteria for each shoreline environment contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The proposal does not conflict with the goals or policies relating to non-water dependent uses. The goals and policies generally state that such uses provide a public benefit in that more people can enjoy the shorelines of the city. Additionally, the site provides a public benefit that allows more people to enjoy the shoreline on the same site.

The purpose of the US environment described in SMC 23.60.220C7, is to (1) provide opportunities for substantial number of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting nonwater dependent commercial uses if they provide substantial public access and other public benefits; (2) preserve and enhance views of the water from adjacent streets and upland residential areas; (3) support water dependent uses by providing services such a marine areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets.

DPD has reviewed the proposal and applicable codes and policies to determine that there is no change of use proposed; therefore, the application is not considered an expansion of the use. The proposal will not affect views. Restaurants on dry land are allowed if public amenities or facilities are provided; as noted above, these are already present on site.

Development Standards

The subject structure and use is permitted subject to the development standards in SMC 23.60.122 which relates to nonconforming uses, the General Development standards in SMC 23.60.152 and the specific US Shoreline development standards in SMC 23.60.630.

