



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 PLANNING AND DEVELOPMENT**

Application Number: 2404826
Applicant Name: James Jessup for Connie Magnuson
Address of Proposal: 2031 Fairview Avenue East #E

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction of a three foot high railing located on the rooftop of an existing floating home.

The following approvals are required:

SEPA - Environmental Determination
(Chapter 25.05, Seattle Municipal Code).

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 Description

The property is located in a Single Family 5000 (SF 5000) zone in an Urban Residential (UR) shoreline environment. The site is submerged and located along the east shoreline of Lake Union. The development site contains a total of 16 moorage slips positioned around one floating finger pier. The location of the proposed development is located at a 16-slip non-conforming floating home moorage and is located at slip "E." A floating wooden walkway extends west from the shoreline along the north edge



of moorage slip. The houseboat moorage slips are arranged on either side of the floating finger pier with one positioned at the end. Seven of the moorage slips extend into the Washington State Department of Natural Resources (DNR) leased area, approximately 162.5 feet from the shoreline. The development area, floating home at slip "E" is affixed to a float occupying an area approximately 793 square feet (38.7' X 20.5'). The two-story floating home (residential structure) sits approximately 18 feet above the water's surface, to top of roof deck with an additional three feet to the top of the existing railing. Approximately six feet separate the adjacent float (slip "D") from the subject float to the east. To the west, the separation from the adjacent float that serves as storage shed is approximately six feet away. Pedestrian and vehicle access is provided from Fairview Avenue East. Vehicle access and parking is within the Fairview Avenue East right-of-way. The parking area is located to the west surrounding the entry into the floating walkway.

The surrounding development along the shoreline, north and south, consists of a mix of floating homes, with vessel moorage adjacent to an apartment structure. To the east across Fairview Avenue East a variety of residential uses are found in Multifamily Lowrise One, Two and Three zones (L1, L2, and L3). A narrow band of L1 with Residential-Commercial designation (L1-R/C) runs along the east side of Fairview Avenue East. The designation allows commercial use within a building that contains residential uses. Several small neighborhood stores are located in this area. The area is densely populated with a mix of modest and affluent residential uses that include single family and apartment uses. The area slopes significant upward from Fairview Avenue East to Eastlake Avenue East, which is a primary arterial connecting the University District to South Lake Union.

On November 19, 2004, the applicant received an exemption from shoreline management act substantial development permit requirement from the Department of Planning and Development. The exemption covered the installation of an open railing system, 36 inches in height, enclosing the existing roof top deck on a floating home. The total value of the installation is within \$5,000.00 and therefore met the threshold found within WAC 173-27-040-1.

Proposal

The proposal is to install a 36 inch tall, non-view obscuring railing system, on the rooftop deck of an existing floating home. No changes to the float are proposed. The total height of the structure is proposed to be 21 feet to the top of the railing with the roof deck unchanged at 18 feet from the water's surface.

Public Comment

Date of Notice of Application:	October 07, 2004
Date End of Comment Period:	October 20, 2004
# Letters	0

No public comments were received during the public comment period, which ended on October 20, 2004.

Other Agency Comments

Although King County Metro staff has not provided comment on the subject proposal, in the past Metro has reviewed similar proposals and offered several comments. They state that protection of the water quality of Lake Union during construction is essential and they recommend the use of construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface waters; and promptly removing any floating construction debris in the water.

The State Department of Natural Resources has offered no comments.

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 27, 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 Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file. As indicated in the annotated checklist, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665D) 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 25.05.665D1.1) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Construction Noise Impacts

The SEPA Noise Policy (SMC 25.05.675B) lists mitigation measures for construction noise impacts. It is our conclusion that limiting hours of construction beyond the requirement of the Noise Ordinance is necessary to mitigate impacts to surrounding properties that will result from the proposal. This is due to the intense density of residential units in the area and the close proximity of these structures to the proposal site. The proposal is, therefore, conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. After the structure is enclosed, interior construction may be done at other times.

Underwater Habitat

No disturbance of the lake bed sediments is expected since all work will be done above water. There is the potential for construction debris to enter the water during construction, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by SSMP 23.60.152, the general recommendations from Metro shall also be followed as conditioned below.

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).

CONDITIONS SEPA

The following conditions 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.

Prior to Issuance of a MUP Permit

The owner/applicant shall update plans to show:

1. A clearly illustrated metal and wire railing system on the roof deck.

Prior to Issuance of a Construction Permit

2. Develop a Best Management Practices (BMP) Plan that indicates how construction will take place to ensure that no debris or deleterious material enters the water through the duration of the proposed work.

Prior to Commencement of Construction

3. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), and shall be subject to the following:
 - a) The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards, and regulations of water quality management programs and regulatory agencies.

- b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.
- c) An emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.
- d) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

During Construction

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 shells of the structure are enclosed. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

- 4. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices and the Emergency Containment plans developed to prevent debris and other deleterious material from entering the water during construction.
 - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
 - b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
- 5. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

Signature: (signature on file) Date: May 2, 2005
Bradley Wilburn, Land Use Planner
Department of Planning and Development