



**DATE:** September 19, 2013

**TO:** Wick Dufford, City of Bellevue Hearing Examiner

**FROM:** David Pyle, Land Use Planner, Development Services Department

**SUBJECT:** Seattle Boat Newport Shoreline Conditional Use Permit Continued Public Hearing

**File #s:** Development Services Department file #s 07-111073-WA, 07-111070-WG, 07-111074-LO, 07-138974-LS

### **Background**

This memo supports the continuation of the public hearing before the City's Hearing Examiner to evaluate the application for Shoreline Conditional Use Permit approval for a proposed marina, boat storage, boat sales, and boat maintenance facility redevelopment. The hearing was originally commenced in June 2008 and subsequently suspended due to a private property boundary dispute. Following legal review, the property boundary has now been accurately established by the court and the project design has been adjusted to address the new boundary and adjacent property ownership interests. Previously filed appeals have been withdrawn as a result or are no longer relevant due to an improved site design. The current proposal being forwarded to the Hearing Examiner for consideration is consistent with the original use and operation previously presented at the opening of the hearing in June of 2008, although the maximum number of boats to be stored has been reduced, the parking supply has been increased, and the location and size of the structures has been adjusted to improve site circulation, fire access, and facility operations. Similar to the original proposal, the current proposal is compliant with City codes and standards. The current proposal is superior to the original proposal and is now endorsed by the adjacent property owner (previous appellant) through private agreement. The hearing is scheduled to continue on October 3, 2013 at 7 PM at the Bellevue City Hall City Council Chambers.

### **Recommendation**

The Development Services Department recommends City Hearing Examiner approval of the proposed shoreline conditional use permit, file #07-111073-WA, to redevelop the upland portion of the property at 3911 Lake Washington Boulevard SE in accordance with the site plan included as **Attachment 1**. The proposed development represents a significant improvement over the existing site condition and the applicant has demonstrated compliance with shoreline conditional use permit criteria. Dry storage of small powerboats is an economical and environmentally friendly alternative to dockside wet storage anticipated to result in a net improvement to Bellevue's Shorelines. Additionally, the proposed development is a water dependent use that will benefit the public by providing additional fee based public shoreline access for recreational boaters. Further, the proposed redevelopment is designed to implement current development

standards and technology, will result in improved environmental conditions through collection and treatment of stormwater and will more efficiently use valuable and limited upland marina operations, storage, and parking space. Finally, the current proposal being forwarded for consideration by the Hearing Examiner represents a superior design that unravels and aligns historically conflicting property interests through a private agreement that improves site access, circulation, and safety. The Seattle Boat Newport project is mutually beneficial to the public, property ownership, and adjacent interests.

### **Original Project Design**

The Seattle Boat Newport project was originally designed in 2007 to accommodate the storage of up to 173 boats through the redevelopment of the property at 3911 Lake Washington Boulevard SE. The original design is outlined and consistency with City Codes and Standards established in the project staff report published on April 24, 2008 and included as **Attachment 2**. The original project was determined to adequately address City standards, including approval criteria. Under the current proposal, only modest adjustments to the projects site plan (building locations and building size) have been made, the original proposed use and operations remain unchanged. A revised current site plan is included as **Attachment 1**.

### **Public Comment and Operational Issues**

Through project review and public comment several operational issues associated with the original proposal were identified and addressed by the applicant. A complete list of operational issues and public comment is included in the project staff report (**Attachment 2**). No additional public comment has been received on this proposal to date following suspension of the public hearing. No additional impacts are anticipated due to the revised site plan as the current project is consistent with the original proposal. Similarly, due to the reduction in the proposed maximum number of boats to be stored and an increase in the parking supplied, many of the impacts identified through public comment are diminished if not eliminated.

### **Administrative Approvals**

Development Services Department staff recommend the Hearing Examiner establish that all approvals<sup>1</sup> previously challenged under the Radovich appeal (see **Attachment 3**) are valid and in good standing due to the withdrawal of the appeal (see **Attachment 4**). The project proponent and past appellant are now working cooperatively on redevelopment of the site in a manner that promotes the interest of both property owners. A letter of intent to cooperate has been submitted by the Newport Yacht Basin and is included as **Attachment 5**. With the prior appeal withdrawn and cooperation between property owners evident, the appeal is no longer an issue; the SEPA DNS, Shoreline Substantial Development Permit and Critical Areas Land Use Permit remain valid. Since the Hearing Examiner retained jurisdiction, the effective date of decision for

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<sup>1</sup> Process II Administrative Decisions included under the Radovich appeal include the project SEPA Threshold Determination of Non-Significance (DNS), Shoreline Substantial Development Permit (07-111070-WG), and Critical Areas Land Use Permit (07-111074-LO) issued on April 24, 2008 (see **Attachment 2**)

these applications will be the date of final Hearing Examiner decision and the final site plan approved with these decisions will be the current plan under consideration by the Examiner as attached to the Shoreline Conditional Use Permit (**Attachment 1**).

Development Services Department staff recommend the Hearing Examiner establish that the prior Process II Administrative Decision for Land Use Code Variance (07-138974-LS) issued on April 24, 2008 (see **Attachment 2**), and previously challenged under the Hoyt appeal (see **Attachment 6**), is no longer relevant as the variance application has been withdrawn. The variance is no longer necessary as changed circumstances make it unnecessary; it was previously required due to property boundary constraints and a hardship imposed due to a requirement that buildings be located no closer than 10 feet from an established easement. The property owners will be entering in to a legally binding single site agreement that eliminates consideration of this property boundary. With cooperation and agreement between property owners (see **Attachment 5**), the variance is no longer required as the hardship has been eliminated. The variance is not needed and has been cancelled; therefore appeal of the variance is rendered moot.

### **Property Status and Changes to Project**

With the suspension of the hearing in June of 2008, the Examiner requested the private boundary dispute be resolved prior to returning to active hearing. Since that time the property owners have resolved the dispute and the property boundary has been redrawn and legitimacy of the site's many access and utilities easements has been resolved. A summary of legal proceedings provided by the applicant's counsel is included as **Attachment 7**. Most important to these proceedings, is that Washington Courts have ruled on a long disputed property boundary and right to parking. With a clear understanding of ownership and rights, the property owners have been willing to collaborate and have collectively developed an improved site plan to redevelop the site that addresses the primary interests of both parties. An updated site plan is included as **Attachment 1**. A list of project adjustments from the original proposal is included as **Attachment 8**.

### **Analysis of Consistency with Shoreline Conditional Use Permit Criteria**

The analysis of project consistency with Shoreline Conditional Use Permit criteria included in the original staff report published on April 24, 2008 (**Attachment 2**) remains valid. Only minor adjustments to the project proposal have been made to accommodate a modified property boundary and adjacent property ownership interests. Building height has been increased modestly as allowed to better facilitate dry rack design. The site design continues to use landscaping to screen the facility and the previous approach to superior architectural design has been retained with only minor adjustment. Overall, changes to the project are strategic and have been made as needed to improve site design and address concerns identified by the adjacent property owner.

### **Proposed Revised Conditions**

Development Services Department staff recommend the Hearing Examiner revise the previously published recommended conditions of approval (Page 39 of 47 in original staff report – **Attachment 2**) as follows:

Seattle Boat Newport  
Shoreline Conditional Use Permit  
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- Eliminate condition XV.C.9 – Requirement to record Land Use Code Variance

*Discussion: A variance is no longer included and this condition is no longer needed.*

- Add a new condition XV.C.9 – Require filing and recording of an official Land Use Single Site Agreement with both the Newport Yacht Basin and Seattle Boat Newport as signature to the agreement.

*Discussion: This agreement is necessary to develop the site as depicted in the current site plan included as **Attachment 1**.*

**NOTICE: Due to file size, attachments referenced in this project memo are available in hard copy with the project file or in electronic format upon request.**

**For electronic copy of file documents please contact:**

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