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 Diane Sugimura, Director

## LAND USE INFORMATION BULLETIN

### Notice of Interpretation

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**Attachments:** [View Interpretation](#)

**Conditions:** Interpretation No. 08-003

**Address:** 860 Terry Ave N.

**Project No.** 3008968

**Zoning:** C2-40', US

**DPD Planner:** Molly Hurley

**Phone:** (206) 684-8278

A formal Land Use Code interpretation was requested on behalf the Museum of History and Industry (MOHAI) in anticipation of the development of a regional history center with a focus on maritime heritage (the "Maritime Heritage Partnership"). The proposed Maritime Heritage Partnership would be located within the City's South Lake Union Park, on property owned by the City of Seattle which would be leased to MOHAI under the current proposal.

The question raised is whether the proposed Maritime Heritage Partnership would be a permitted use under the City's Land Use Code (SMC Title 23) and Shoreline Master Program (SMC Chapter 23.60) on a waterfront lot in the US Environment.

The Department concluded that Maritime Heritage Partnership, as proposed (including MOHAI), is appropriately categorized as a museum for purposes of the Land Use Code. Institutional uses, including museums, are permitted outright in the underlying commercial zone. Institutions must be water-related or water-dependent to be permitted on a waterfront lot in the Urban Stable shoreline environment. In addition, all uses that are located overwater must be water-dependent (not just water-related). The Maritime Heritage Partnership will share operations, programming and facilities with other maritime heritage organizations which currently operate at South Lake Union Park. The shared facilities will include the Historic Ship Wharf and associated hosted vessels as an integral part of the Maritime Heritage Partnership. The Historic Wharf and related activities meet the definition of water-dependent. Therefore the Maritime Heritage Partnership, including MOHAI, is a water-dependent use and may be permitted in the proposed location, including areas of the site that are over-water.

### HOW TO APPEAL THE INTERPRETATION

Appeal of the Interpretation may be submitted through 5:00 p.m. **July 31, 2008** and must be accompanied by a \$50.00 filing fee in a check payable to the City of Seattle. The appeal must state specifically why the appellant believes the Interpretation is incorrect. The appeal must be sent to:

**City of Seattle**  
**Hearing Examiner**  
 700 5<sup>th</sup> Avenue, Suite 4000  
 P.O. Box 94729  
 Seattle, WA 98124-4729

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Framework Version: 2.11.0.11 Application Version: 2.0.0.11



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**INTERPRETATION OF THE DIRECTOR  
PURSUANT TO TITLE 23 OF SEATTLE MUNICIPAL CODE**

In the Matter of	)	
	)	
the Use of the	)	Interpretation
	)	
Property at	)	No. 08-003
	)	
860 Terry Avenue North	)	

**Background**

This interpretation was requested by Brian Knox on behalf of the Museum of History and Industry (MOHAI) in anticipation of the development of a regional history center with a focus on maritime heritage (the "Maritime Heritage Partnership"). The proposed Maritime Heritage Partnership would be located within the City's South Lake Union Park, on property owned by the City of Seattle which would be leased to MOHAI under the current proposal.

The proposed Maritime Heritage Partnership would occupy the former Naval Reserve Armory Building (the "Armory") which is located within South Lake Union Park.

The request asks whether or not the proposed Maritime Heritage Partnership would be a permitted use under the City's Land Use Code (SMC Title 23) and Shoreline Master Program (SMC Chapter 23.60) on a waterfront lot in the US Environment.

**Findings of Fact**

1. The subject property is located on a waterfront parcel within South Lake Union Park and is addressed 860 Terry Avenue North. It is identified by King County Parcel Identification Number 4088803210. It is located within a C2-40' zone (Commercial Two with a structure height limit of 40 feet) and is also within the US (Urban Stable) Shoreline Environment.
2. The property is surrounded by Lake Union to the north and east, Terry Avenue is adjacent to the property to the west, and South Lake Union Park is to the south. An over-water public walkway which provides public access abuts the property to the north and east. The existing "Historic Ship Wharf" abuts the public walkway to the north, and extends west across the northern end of Terry Avenue.

3. The property is currently developed with the former Naval Reserve Armory Building (the "Armory") as well as the Historic Ship Wharf, both of which are located within South Lake Union Park. The Armory was built in 1942 and has been deemed eligible for listing on the National Register of Historic Places. The Armory is currently established as a community center, and the Historic Ship Wharf currently hosts maritime vessels of historic interest.
4. According to information provided by the applicant, the Armory building is located at least partially over-water. A survey would be needed to determine the location of Ordinary High Water (OHW) relative to the structure.
5. The proposed area to be leased and operated by the Maritime Heritage Partnership includes the Armory, as well as the Historic Ship Wharf and adjacent public walkway.
6. According to information provided by representatives for the Maritime heritage Partnership, substantial alterations are planned for the interior of the Armory, but very little change is proposed to the exterior. No alterations are proposed to the existing Historic Ships Wharf. According to a the request for interpretation (letter to Diane Sugimura dated March 10, 2008): "Existing public access features would be preserved, including pedestrian access on Terry Avenue and the walkway on the lakefront side of the Armory Building (north and east sides). There would be no diminution of public access and no displacement of Park space."
7. The Museum of History and Industry (MOHAI) and the City of Seattle are exploring the development of a regional history center with a focus on maritime heritage (the "Maritime Heritage Partnership") to be located within South Lake Union Park.
8. The "Maritime Heritage Partnership" is described by the applicant as: "... a long-term integrated effort among MOHAI, the Parks Department and other maritime heritage organizations. The Partnership will bring a wide array of cultural, educational and recreational maritime-related activities together."
9. On September 10, 2007, Seattle City Council adopted Resolution No. 31011 which relates to: "... the mutual due diligence processes of the Museum of History and Industry and the City of Seattle regarding the potential development of a regional history museum in the former Naval Reserve Building at Lake Union Park."
10. Resolution No. 31011 states (in part): "MOHAI and the City are committed to successful and meaningful collaboration with other maritime heritage organizations, specifically including those with a presence at and a particular interest in Lake Union Park, such as the Center for Wooden Boats, Northwest Seaport and the Virginia V Foundation."

11. Copies of draft agreements which further elaborate on the proposed relationships between MOHAI and the Center for Wooden Boats, Northwest Seaport and the Virginia V Foundation were provided with the request for this interpretation. These agreements have the stated intent of creating: "... an integrated museum and historic ship visitor experience that enhances Lake Union Park, the Maritime Heritage Wharf and encourages knowledge and support for the preservation of the region's diverse history and, in particular, its maritime history." The draft agreements describe collaboration in such areas as design, programming, ticketing, facility rentals, merchandising, food service, events and festivals and marketing.
12. The Historic Ship Wharf is included in the area to be leased by MOHAI and is among the facilities that will be shared by MOHAI and the maritime heritage organizations in the Maritime Heritage Partnership. The Historic Ship Wharf currently provides moorage for up to seven historic vessels.
13. According to information provided by the applicant, the Maritime Heritage Partnership will also have linked displays such as museum exhibits that will lead to visits to the historic ships.
14. Institutions, including museums, are permitted outright in the C2 zone, per Chart A for Section 23.47A.004 of the Seattle Municipal Code (SMC).
15. Water-dependent or water-related institutions or facilities of institutions are permitted outright on waterfront lots in the US Environment, per SMC 23.60.600.G.
16. Regarding uses in the shoreline, the code states:

SMC 23.60.090 Identification of principal permitted uses.

A. To be permitted in the Shoreline District, a use must be permitted in both the shoreline environment and the underlying land use zone in which it is located.

B. Unless otherwise stated in this chapter all principal uses on waterfront lots shall be water-dependent, water-related or non-water-dependent with public access.

\*            \*            \*

E. Principal uses which are water-dependent may be permitted over water. Principal uses which are non-water-dependent shall not be permitted over water unless specifically stated otherwise in the regulations for the applicable shoreline environment. For purposes of this chapter, this regulation shall be considered a use standard not subject to variance.
17. Water-dependent and water-related uses are defined as follows (per SMC 23.60.944 "W"):

'Water-dependent use' means a use which cannot exist in other than a waterfront location and is dependent on the water by reason of the intrinsic nature of its operations. The following uses, and similar uses, are included:

Ferry and passenger terminals, marine construction and repair, aquaculture, cargo terminal for marine commerce or industry, boat launch facilities, marinas, floating home moorages, tour boats, cruise ships, tug and barge operations, shoreline recreation, moorage, yacht clubs, limnological or oceanographic research facilities.

‘Water-related use’ means a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without use of the water adjacent to the site. The construction, maintenance and use of facilities such as docks, piers, wharves or dolphins shall be required. The following uses, and similar uses, are included: Seafood and fish processing, lumber and plywood mills, sand and gravel companies, concrete mix and cement plants, water pollution control services, marine electronics, marine refrigeration, marine sales, freeze/chill warehouses, and boat rigging operations.

18. In the commercial zone, the following definition applies, per SMC 23.84A.018 “I.”:

“Institution” means structure(s) and related grounds used by organizations for the provision of educational, medical, cultural, social and/or recreational services to the community, including but not limited to the following uses:

\* \* \*

9. “Museum” means an institution operated by a nonprofit organization as a repository of natural, scientific, historical, cultural or literary objects of interest or works of art, and where the collection of such items is systematically managed for the purpose of exhibiting them to the public.

19. In the shoreline district, the following definition applies, per SMC 23.84.018 “I.”:

“Institution” means structure(s) and related grounds used by organizations providing educational, medical, social and recreational services to the community, such as hospitals; vocational or fine arts schools; adult care centers and child care centers, whether operated for nonprofit or profit-making purposes; and nonprofit organizations such as colleges and universities, elementary and secondary schools, community centers and clubs, private clubs, religious facilities, museums, and institutes for advanced study.

\* \* \*

10. “Museum” means an institution operated by a nonprofit organization as a repository of natural, scientific, historical, cultural or literary objects of interest or works of art, and where the collection of such items is systematically managed for the purpose of exhibiting them to the public.

20. SMC 23.60.918 Definitions – “I” reads:

“Institutions” means the following uses as defined in Chapter 23.84, Definitions:

- Institute for advanced study;
- Private club;
- Day care center;
- Museum;
- School, elementary or secondary;
- College;
- Community center;
- Community club;

- Vocational or fine arts school;
- Hospital;
- Religious facility;
- University.

### **Conclusions**

1. The Museum of History and Industry (MOHAI) is, by definition, a museum and therefore is allowed in the underlying C2 zone.
2. To be allowed on a waterfront lot in the shoreline environment, the use must also be water-related or water-dependent. To be allowed overwater, the use must be water-dependent (not just water-related).
3. The proposed Maritime Heritage Partnership will join MOHAI together with other maritime heritage organizations which currently have a presence in South Lake Union Park. These organizations include the Center for Wooden Boats, Northwest and the Virginia V Foundation.
4. As documented in the draft joint operating agreements, the organizations comprising the Maritime Heritage Partnership will share design, programming, ticketing, facility rentals, merchandising, food service, events and festivals and marketing. Facility linkages will include such features as museum exhibits which will lead visitors to the historic vessels on display at the Historic Ship Wharf.
5. The Maritime Heritage Partnership will provide educational, cultural, social and recreational services to the community thus qualifying as an institution, as defined in the code. The ongoing work of MOHAI is an integral part of the Maritime Heritage Partnership and, based on the proposed collaboration's focus on the use of historical, educational and cultural objects and information for the purpose of public exhibition, the use is most appropriately characterized as a museum for purposes of the code.
6. The Historic Ship Wharf could not exist in other than a waterfront location. Because the use and responsibility for the operations of the Historic Ship Wharf will be shared by the members of the Maritime Heritage Partnership, and it will be an integral part of MOHAI's use of the leased area, the Maritime Heritage Partnership is a water-dependent use, as well.
7. As a water-dependent institution, the proposed Maritime Heritage Partnership is permitted outright over-water in the US environment.

### **DECISION**

The Department has determined the following with regard to the proposed Maritime Heritage Partnership:

The Maritime Heritage Partnership, as proposed, including the Museum of History and Industry, is appropriately categorized as a museum for purposes of the Land Use Code. Institutional uses, including museums, are permitted outright in the underlying commercial zone. Institutions must be water-related or water-dependent to be permitted on a waterfront lot in the Urban Stable shoreline environment. In addition, all uses that are located overwater must be water-dependent (not just water-related). The Maritime Heritage Partnership will share operations, programming and facilities with other maritime heritage organizations which currently operate at South Lake Union Park. The shared facilities will include the Historic Ship Wharf and associated hosted vessels as an integral part of the Maritime Heritage Partnership. The Historic Wharf and related activities meet the definition of water-dependent. Therefore the Maritime Heritage Partnership, including MOHAI, is a water-dependent use and may be permitted in the proposed location, including areas of the site that are over-water.

Entered July 17, 2008

(signature on file)

Molly Hurley, Senior Land Use Planner  
Department of Planning and Development