

June 3, 2019

MEMORANDUM

To: Planning, Land Use and Zoning Committee
From: Ketil Freeman, Council Central Staff
Subject: Council Bill 119471

On Wednesday, June 6, the Planning, Land Use and Zoning Committee (Committee) will discuss and may make a recommendation to the Full Council on Council Bill (CB) 119471. CB 119471 would amend the City's Shoreline Master Program (SMP) to clarify the definition of "vessel" and make other clarifications.¹

The bill is proposed in response to a Hearing Examiner decision that an inoperable trawler was not a vessel for the purposes of the SMP and could be eligible for verification as a Floating On-water Residence (FOWR).² That decision has, over time, increased the number of floating residences in the City's shoreline by making some inoperable vessels eligible for FOWR status.

At the Committee meeting on May 15, Councilmembers asked questions about how the SMP regulates floating residences. This memorandum: (1) provides some background on the City regulations and (2) sets out summary information on permitting activity related to floating residences.

Regulation of Floating Residences

The Shoreline Management Act (SMA) discourages new over-water residences. However, the SMA recognizes the value of existing over-water residential communities and requires that local SMPs accommodate them.³

In 2015 the City completed a state-required update to the SMP. As part of that update, the City established new regulations for floating residences. The SMP recognizes and the City regulates four types of floating residences: (1) floating homes, (2) house barges, (3) FOWRs, and (4) Vessels Containing Dwelling Units (VDUs). Key definitions and regulations for house barges, FOWRs, and VDUs are summarized in the table at the end of this memo. House Barges and FOWRS are conforming uses for the purposes of the SMP.

Verification of Floating Residences

The SMP requires that SDCI verify most authorized over-water residences. Verification is the permitting process for establishing that a floating residence was in use on the date authorized by statute. Those dates vary depending on the type of floating residence.

At the time of the SMP update, the City did not have a complete inventory of potential over-water residences, particularly FOWRs. In 2013, the Council convened a facilitated stakeholder group to advise on "an orderly process to establish the status of residences on the water that are not identified as legal floating homes or legal house barges and are not clearly defined as vessels." Members of the

¹ Local governments implement the State Shoreline Management Act, [RCW Ch. 90.58](#), through local SMPs.

² [In the Matter of the Appeal of Michael Schmutz](#). Hearing Examiner File S-16-005. December 20, 2016.

³ [WAC 173-26-241\(3\)\(i\)\(iv\)](#).

stakeholder group estimated that there was between 800 – over 1000 liveaboard vessels of all types in Seattle waters. The Lake Union Liveaboard Association, which was a member of the stakeholder group, estimated that there were approximately 113 houseboats.⁴ Through a 2014 change in the SMA existing houseboats were recategorized as a type of FOWR.

Table 1, below summarizes the number of verifications the City has issued for floating residences since 2015. Verifications are required for over-water residences except conventional recreational vessels.

Table 1

Type of On-water Residence for Which Verification is Required	Estimated Number in 2015	2015	2016	2017	2018	2019 YTD	Total
House Barges ⁵	34	10	13	1	0	0	24
FOWRs	113	71	81	24	21	11	208
Other VDUs ⁶	NA	3	4	0	0	0	7

SDCI indicates that of the 56 FOWR verifications since 2017, 12 have been for inoperable vessels. Seven of the 11 verifications thus far in 2019 have been for inoperable vessels. An example of an FOWR verification for what appears to be a conventional recreational vessel from 2019 is attached. Verifications, such as this, rely on the 2016 Hearing Examiner decision.

Next Steps

The City is using an optional joint review process with the Washington Department of Ecology (DOE) for this amendment to the SMP. That process contemplates that DOE make an initial determination of the consistency of the SMP amendment with the SMA. If the Committee recommends that the Full Council pass CB 119471, staff will transmit an initial submittal to DOE. Once DOE issues an initial determination, the Full Council can take action on the bill.

Attachments:

- Attachment A – Application No. 3034035, Verification of the Flying Crow as an FOWR.

c: Kirstan Arestad, Central Staff Director
 Aly Pennucci, Supervising Analyst

⁴ *Seattle on Water Resident Stakeholder Group: Final Report and Recommendations to the Seattle City Council*, p.3. May 31, 2013.

⁵ At the time the City initiated the SMP update in 2012, SDCI estimated that there were 34 registered house barges.

⁶ VDUs listed here do not include conventional recreational vessels used as dwelling units.

Table 2

Residential Use	Definition	Date Use Established	City Verification	Key Regulations
House Barge, SMC 23.60A.204	"House barge" means a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability. ¹	July 1990	Yes	House barges are regulated as conforming uses. Owners may maintain, repair, remodel, and expand existing houses, subject to physical development standards. City verifications are transferable to other owners but not other house barges. Previously established house barges can choose to verify as FOWRs.
Floating On-water Residence (FOWR), SMC 23.60A.203	"Floating on-water residence" means any floating structure, other than a floating home, that is designed or used primarily as a residence, has detachable utilities, and is the subject of a lease or sublease at a marina, or whose owner or predecessor in interest had an ownership interest in a marina, as of July 1, 2014. See RCW 90.58.270. For the purpose of this definition, a structure will be considered "designed primarily as a residence" if it contains a dwelling unit.	July, 2014	Yes	Section 90.58.270 of the SMA was amended in 2014 through ESSB 6450. That bill established that FOWRs, existing on July 1, 2014, are conforming uses for the purposes of the SMA. FOWRs are regulated as conforming uses. Owners may maintain, repair, remodel, and expand existing houses, subject to physical development standards. City verifications are transferable to other owners but not other FOWRs.
Vessels Containing Dwelling Units (VDUs) SMC 23.60A.214	Conventional Recreational Vessels Used as Dwelling Units	NA	No	Conventional recreational vessels may be used as dwelling units. Vessels must be moored at marinas meeting SMP requirements and the owners and tenants must use best management practices for living over-water. A determination by SDCI that a vessel is not a conventional recreational vessel can be appealed to the Hearing Examiner.
	Other VDUs	June, 2015	Yes	To accommodate vessels that are not FOWRs and were used as residences prior to the effective date of the 2015 SMP update, the SMP establishes a category of "other VDUs." Other VDUs may be maintained and repaired within their current overwater coverage and can be replaced if destroyed, provided that replacement begins within 12 months. To qualify as an "other VDU," an owner must have applied for verification by the City in 2015.

¹ CB 119471 would amend the definition to "a ~~(vessel)~~ structure that floats on water and is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability."



April 23, 2019

Jeremy Fuller
Fuller Style, Inc.
5109 2nd Ave NW
Seattle, WA 98107

Fullerstyle@gmail.com

Dear Mr. Fuller:

Thank you for completing the verification process with the City of Seattle for your floating on-water residence (FOWR) *Flying Crow* HIN AAY01060177-381 located at Ewing Street Moorings, 624 W Ewing Street. We reviewed your application under file no. **3034035-AN** and have issued you the permanent verification number **960**. For your convenience, we are enclosing a display plate with this number.

Display the plate, or the same three-digit verification number in numbers at least 3 inches high, on the floating on-water residence. To be compliant with the City's Shoreline code, the number must be visible at all times. Install the number on a side visible from the water unless public access to the pier is available. If public access to the pier is available, the number must be displayed on the pier and landward side of the craft, in a location legible from the pier. Please contact us with any questions about how your verification number should be displayed.

Please note that:

- If the residence is moved to a new location, including new tax parcel or marina, the location must meet current code standards for marinas and you must notify the City of Seattle of the new location no later than 60 days after the move date so that we can update our records.
- Alterations to your FOWR, including expansions of over-water coverage and replacement of structural components, require a shoreline substantial development permit or a shoreline exemption. Before beginning any development, repair, or remodeling of this residence you must obtain all necessary permits or official permit exemptions. Refer to SDCI Tip 229A, *Shoreline Permitting Requirements for Floating on Water Residences (FOWR) and House Barges*.
- While the dimensions provided are acceptable for purposes of verifying the FOWR, additional plans and measurements may be required by review staff evaluating a request for shoreline substantial development permit or shoreline exemption.

Thank you for your attention to this matter. If you have questions, please contact Shoreline Compliance.

Megan Mueller
Shoreline Compliance Analyst

Megan.Mueller@Seattle.gov

City of Seattle Department of Construction and Inspections

206-684-0616 / 206-233-7156 (TTY)

www.seattle.gov/sdci

Megan M.

3034035-AN



FLOATING ON-WATER RESIDENCE VERIFICATION FORM

CITY OF SEATTLE
Department of Construction and Inspections
700 Fifth Ave., Suite 2000 P.O. Box 34019
Seattle, WA 98124-4019
Phone: (206) 615-0808
www.seattle.gov/sdci

Application Received in SDCI
(SDCI Date Stamp)
Seattle Dept. of Construction and Inspections
Public Resource Center
FEB 25 2019
For SDCI Use Only
RECEIVED

The intake fee for a Floating On-water Residence form is \$111.00. This amount must be included when submitting your application.

OWNER #1 INFORMATION			
Last Name: Fuller Style, Inc.	First:	Middle:	Email Address: fullerstyle@gmail.com
Mailing Address: 5109 Second Ave NW	Home Phone No. (REQUIRED): (970) 570-9095	Alternate Phone No: ()	
City: Seattle	State: WA	ZIP Code: 98107	

OWNER #2 INFORMATION (OPTIONAL)			
<input checked="" type="checkbox"/> NOT THE OWNER? RELATIONSHIP TO PROPERTY: purchaser per contingent purchase and sale agmt			
Last Name: Whitman	First: Jeff	Middle:	Email Address:
Mailing Address: 624 W. Ewing St	Home Phone No. (REQUIRED): ()	Alternate Phone No.: ()	
City: Seattle	State: WA	ZIP Code: 98119	

RELOCATION: Floating on-water residences may be moved between marinas or to a new slip within the same marina. Please notify SDCI within 60 days of relocating (SMC 23.60A.203.C) so that we can update your verification records. Failure to update relocation is a violation of Chapter 23.60A.

FLOATING ON-WATER RESIDENCE LOCATION INFORMATION	
Name of marina where moored: Ewing Street Moorings	
Address of marina where moored: 624 West Ewing Street, Seattle, WA 98119	Slip number if applicable:

ADDITIONAL REQUIRED INFORMATION

1. Attach information that documents the proposed floating on-water residence was moored pursuant to a lease or ownership interest at a marina within the City of Seattle and used as a dwelling unit prior to July 1, 2014. Accepted verification includes but is not limited to a copy of a dated and signed lease (this is the preferred verification method) and confirmation of use as set forth in box 5 below. Other information such as a written statement from the marina owner, dated historical photographs, licenses, or other material clearly demonstrating that the proposed floating on-water residence was lawfully in place and in use will be considered.

2. Attach at least three photographs showing the front (bow), rear (stern), and full side views of both sides of the floating on-water residence.

3. Physical description/dimensions:

- Height of the structure (measured from the top of the roof down to either the main deck or 3 feet above the surface of the water, whichever is lower): 14' 2" ft.
- Length (excluding any propulsion systems): 42' ft. Width (beam): 14' ft.
- Interior space dimensions: Lowest deck or floor 345 sq. ft. / Second deck or floor n/a sq. ft. / Third deck or floor n/a sq. ft. / Other interior area (specify): n/a sq. ft.

4. This proposed floating on-water residence has detachable utilities: Yes No

5. This proposed floating on-water residence was used as a dwelling unit within the City of Seattle, prior to July 1, 2014. Yes No

6. Attach a sketch or plan showing a side view (elevation or profile) and a view from above (exterior dimensions plan view).

I DECLARE AND AFFIRM THAT THE INFORMATION I HAVE PROVIDED HERE IS TRUE AND CORRECT		
Applicant Printed Name Jeremy Fuller	Applicant Signature 	Date 01/10/2019

Mail check for \$111.00 (made out to City of Seattle) with this form to: City of Seattle SDCI, Attn. Cashiers, P.O. Box 34234, Seattle, WA 98124. You can also submit your application in person at the Public Resource Center counter on the 20th floor of the Seattle Municipal Tower at 700 5th Avenue and pay with check, cash, or credit card at that time.

FLOATING ON-WATER RESIDENCE VERIFICATION CERTIFICATE

(This part to be completed by Seattle Department of Construction and Inspections staff)

The floating on-water residence at (location /address)

624 W. Ewing St - Ewing St Moorings

meets the requirements of 23.60A.203.B and 23.60A.203.D.1 and SDCI has issued the following Floating On-Water Verification Number. This does not certify compliance with any other section of the Seattle Municipal Code.

Number:

960

960

Not valid unless stamped by SDCI with a verification number.

SDCI AUTHORIZATION

Verification Issued
(Date Stamp)

In Person Applicant

Mailed Application

Fee Paid

APR 23 2019

SDCI Reviewer

[Handwritten Signature]

SDCI AP Number:

3034035-AN

Michael Wollaston, declare as follows:

I am over the age of 18, am competent to be witness, and make the following declaration based on my personal knowledge.

I am the owner and manager of Ewing Street Moorings, LLC, a Washington limited liability company which owns and operates the Ewing Street Moorings marina located at 624 West Ewing Street, Seattle, Washington 98119

The sailboat named "Flying Crow", Hull Identification No. AAY01060177-381, has been moored at my Marina pursuant to a verbal lease agreement between my limited liability company and its owner since 2010. During this time, I have allowed it to be used as a live aboard vessel.

Based on my observation – between 2010 and 2018, it has been used as a live aboard vessel by Jeff Whitman.

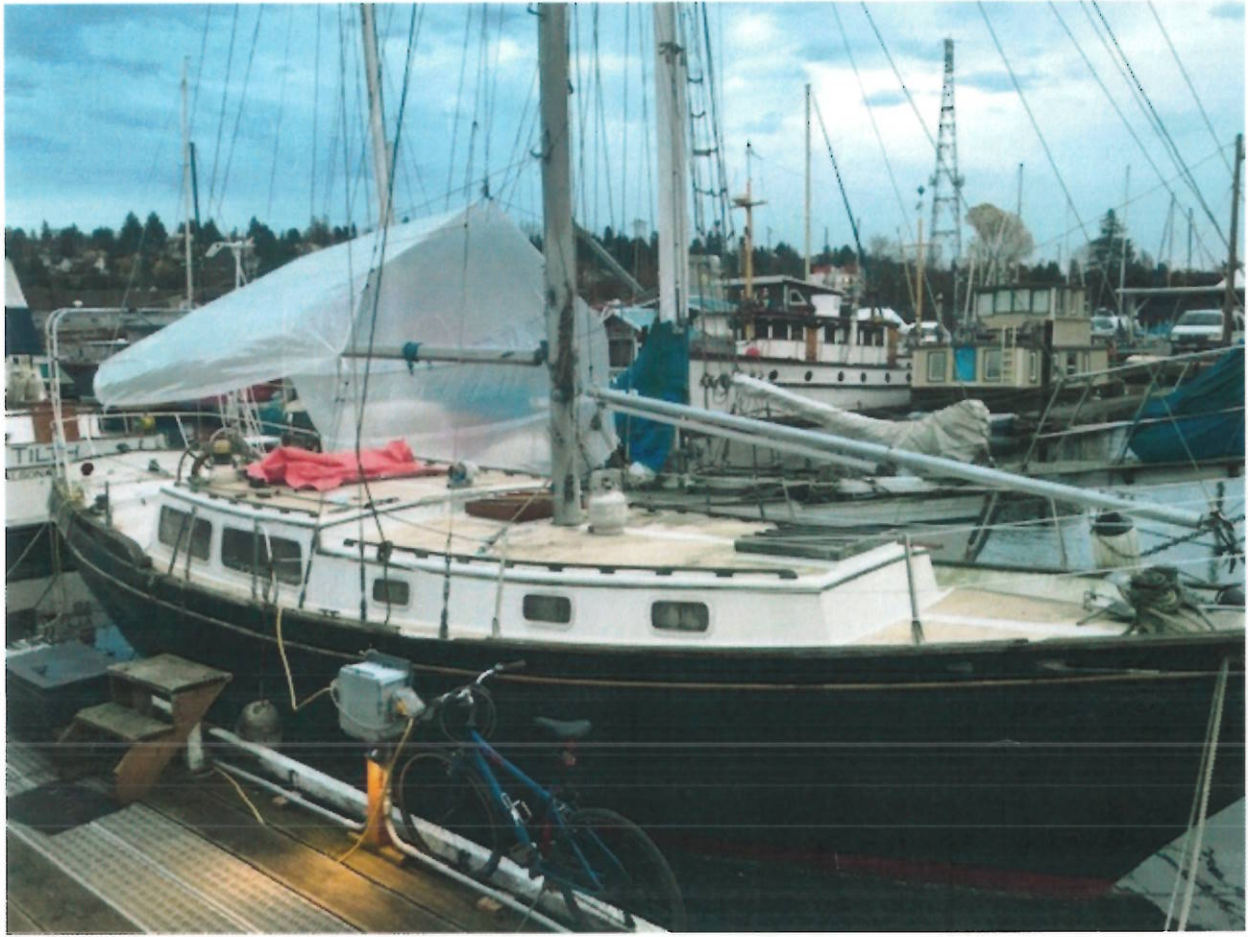
During the time that it has been at my Marina, it does not appear to have been used for navigation. In fact, I don't believe that it has left the dock under its own power since it arrived.

I declare under the laws of the State of Washington that the foregoing is true and correct.

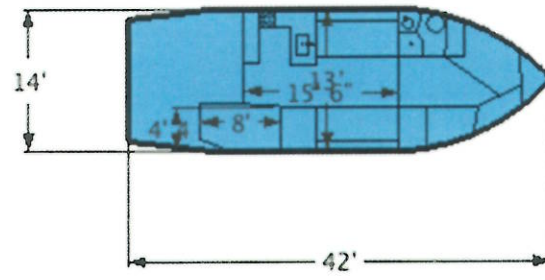
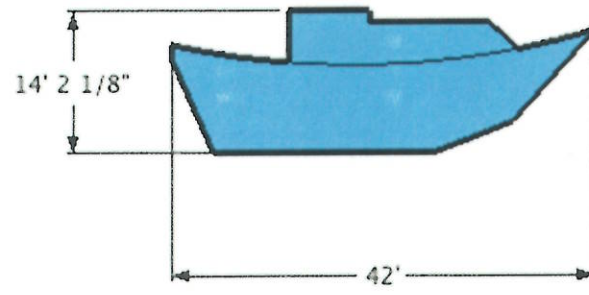
Date: 17 DEC 2018

Michael Wollaston

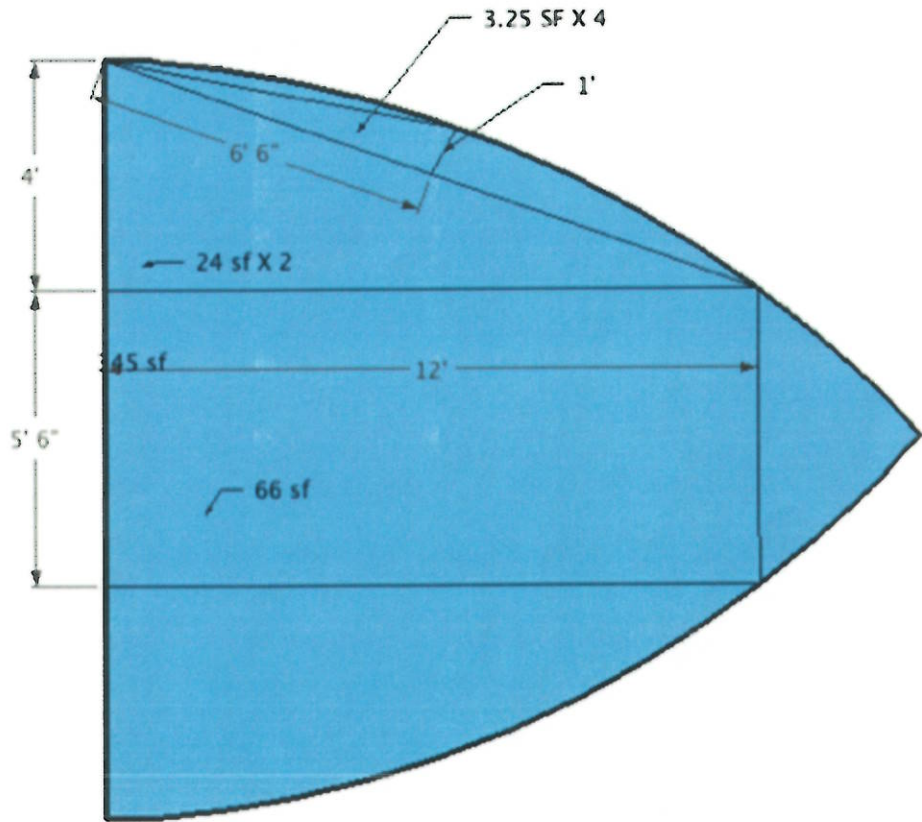
Michael Wollaston







345 sf



Mueller, Megan

From: Mueller, Megan
Sent: Friday, April 05, 2019 5:06 PM
To: 'jeremy fuller'
Subject: FOWR Application 3034035-AN Additional Information Requested

Dear Jeremy,

You recently applied to verify a Floating On-Water Residence #3034035-AN at 624 W Ewing Street for the sailboat "Flying Crow" HID #AAY01060177-381. City of Seattle shoreline regulations differentiate between vessels, which are designed *and* used for navigation, and structures. Your application includes language that the sailboat "does not appear to have been used for navigation. In fact, I don't believe that it has left the dock under its own power since it arrived." This declaration is not sufficient to establish that the craft has not been used for navigation. Please provide additional information demonstrating that the craft was either not capable of navigation during this time or was, not in fact, used for navigation.

When we receive that information we can continue processing your application.

Thank you,
Megan

Megan Mueller

Shoreline Compliance Analyst

Seattle [Department of Construction and Inspections](#)

P: 206.684.0616 | F: 206.615.1812 | Megan.Mueller@Seattle.gov



"As stewards and regulators of land and buildings, we preserve and enhance the equity, livability, safety, and health in our communities."



I am Jeff Whitman, owner of the sailboat known as the "Flying Crow" with Hull ID # of AAY01060177-381. Since this boat has been moored at Ewing St Moorage, it has not been used for navigation It has no motor and can't set sail, making it incapable of navigation. It has been used as a live aboard boat.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Jeff Whitman
Jeff Whitman

date 4-10-19