



DEVELOPMENT SERVICES DEPARTMENT
 ENVIRONMENTAL COORDINATOR
 450 110th Ave NE
 BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Evan Wehr

LOCATION OF PROPOSAL: 2043 Killarney Way

DESCRIPTION OF PROPOSAL: Shoreline Substantial Development Permit to remove two (2) existing wood moorage piles and replace with three (3) steel moorage piles. The proposal also includes installation of one (1) additional moorage pile to the north of the existing pier.

FILE NUMBERS: 16-131117-WG **PLANNER:** David Wong

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.
- This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **8/25/2016**
- This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.


 Environmental Coordinator
 Carol V. Helland

8/11/2016
 Date

OTHERS TO RECEIVE THIS DOCUMENT:

- State Department of Fish and Wildlife / Stewart.Reinbold@dfw.gov; Christa.Heller@dfw.wa.gov;
- State Department of Ecology, Shoreline Planner N.W. Region / Jobu461@ecy.wa.gov; sepaunit@ecy.wa.gov
- Army Corps of Engineers Susan.M.Powell@nws02.usace.army.mil
- Attorney General ecyolyef@atg.wa.gov
- Muckleshoot Indian Tribe Karen.Walter@muckleshoot.nsn.us; Fisheries.fileroom@muckleshoot.nsn.us



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: **Fowler Piles**

Proposal Address: **2043 Killarney Way**

Proposal Description: Shoreline Substantial Development Permit to remove two (2) existing wood moorage piles and replace with three (3) steel moorage piles. The proposal also includes installation of one (1) additional moorage pile to the north of the existing pier.

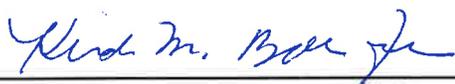
File Number: 116-131117-WG

Applicant: Killarney Way LLC

Decisions Included: Shoreline Substantial Development Permit (Process II, LUC 20.30R)

Planner: David Wong, Planner

State Environmental Policy Act Threshold Determination: **Determination of Non-Significance**



Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Decision: **Approval with Conditions**
Michael Brennan, Director
Development Services Department

By: 

Carol V. Helland, Land Use Director

Date of Application: April 27, 2016
Notice of Application: June 2, 2016
Decision Publication Date: August 11, 2016

Deadline For Appeal of Process II Administrative Decisions:

Shoreline Substantial Development Permit: September 1, 2016 (21 days following publication of a notice of decision)

For information on how to appeal a project proposal, visit the Permit Center at City Hall or call 425-452-6800. Appeal of any Process II Administrative decision must be made by 5 p.m. on the date noted for appeal of the decision. Appeal of the SEPA Threshold Determination must be made to the City of Bellevue City Clerk's Office. Appeal of the Shoreline Substantial Development Permit must be made to the Washington State Shoreline Hearings Board (contact the project planner for more information on how to file an appeal with the Shoreline Hearings Board).

CONTENTS

I. Proposal Description	1
II. Site Description, Zoning, Land Use and Critical Areas	2
III. Consistency with Land Use Code Requirements:.....	4
IV. Public Notice and Comment.....	6
V. Summary of Technical Reviews	6
VI. State Environmental Policy Act (SEPA).....	7
VII. Decision Criteria.....	7
VIII. Conclusion and Decision.....	8
IX. Conditions of Approval	8

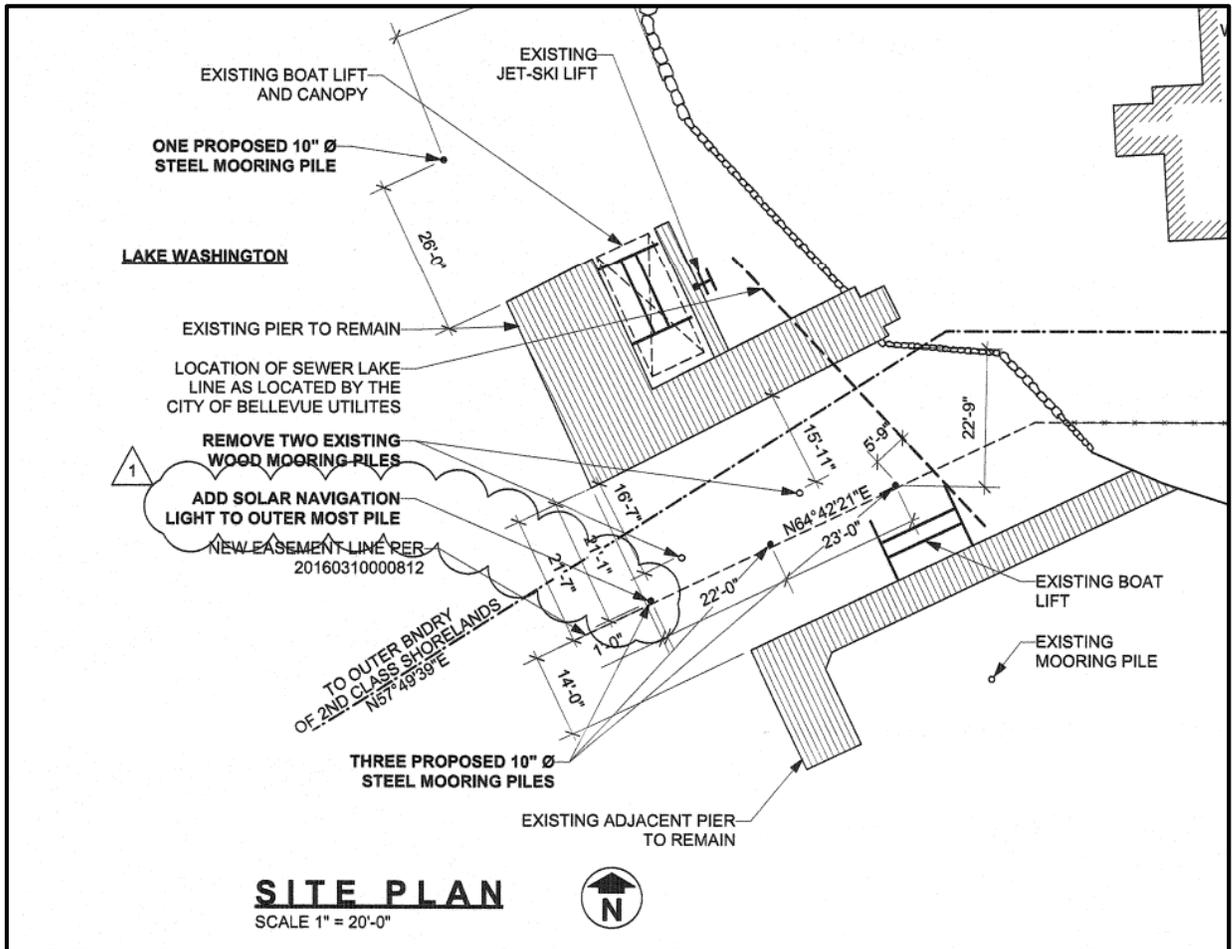
Attachments:

- A. Environmental Checklist (in file)
- B. Site Plan

I. Proposal Description

Applicant requests approval to remove and replace two (2) existing wood moorage piles of approximately 14-16 inches in diameter with three (3) steel piles of approximately 10 inches in diameter. The existing piles are located to the south of the existing pier and will be placed in-line along the southern limits of the amended private easement (King Co. #20160310000812). The proposal also includes the installation of one (1) 10-inch steel moorage pile approximately 26 feet north of the existing pier. See Figure 1 below for site layout.

Figure 1



The proposed project is subject to the Shoreline Substantial Development Permit and SEPA requirements because the proposed work is within a shoreline of statewide significance. The total cost of the proposed work exceeds the threshold allowance of \$2,500 granted in LUC 20.25E.050.A. The provisions of the Shoreline and Critical Areas Overlay Districts apply.

II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description and Land Use Context

The subject site is located in Southwest Bellevue subarea. Properties in the vicinity are generally developed with single family residences. The exceptions to single family residential development are the Bellevue City Parks of Chism Beach and Killarney Glen as well as the privately held Sisters of Saint Joseph of Peace property. The neighborhood is characterized by mature trees and well maintained higher end properties. The adjacent properties to the north and the south are developed with residential piers.

B. Zoning

The property is zoned R-1.8 and is located within the Shoreline Overlay District per LUC 20.25E. Properties in the vicinity are also within the R-1.8 zoning district which is a single family low density residential zone that permits up to 1.8 dwelling units per acre.

C. Critical Area Functions

i. Shorelines

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; Spence et al.1996). Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats (Schindler and Scheuerell 2002). Hence, it is important to have an ecosystem approach which incorporates an understanding of shoreline functions and values.

ii. Habitat Associated with Species of Local Importance

The increase in human settlement density and associated intensification of land use known as urbanization has a profound and lasting effect on the natural environment and wildlife habitat (McKinney 2002, Blair 2004, Marzluff 2005, Munns 2006), is a major cause of native species local extinctions (Czech et al 2000), and is likely to become the primary cause of extinctions in the coming century (Marzluff et al. 2001a). Cities are typically located along rivers, on coastlines, or near large bodies of water. The associated floodplains and riparian systems make up a relatively small percentage of land cover in the western United States, yet they provide habitat for rich wildlife communities (Knopf et al. 1988), which in turn provide a source for urban habitat patches or reserves. Consequently, urban areas can support rich wildlife communities. In fact, species richness peaks for some groups, including songbirds, at an intermediate level of development (Blair 1999, Marzluff 2005). Protected wild areas alone cannot be depended on to conserve wildlife species. Impacts from catastrophic events, environmental changes, and evolutionary processes (genetic drift, inbreeding, colonization) can be magnified when a taxonomic group or unit is confined to a specific area, and no one area or group of areas is likely to support the biological processes necessary to maintain biodiversity over a range of geographic scales (Shaughnessy and O'Neil 2001). As well, typological approaches to taxonomy or the use of indicators present the risk that evolutionary potential will be lost when depending on reserves for preservation (Rojas 2007). Urban habitat is a vital link in the process of wildlife conservation in the U.S.

Properties within the Shoreline and Critical Area Overlays are part of the city's shoreline master program and are classified as environmentally sensitive. The master program recognizes the site as a shoreline residential environment subject to the provisions of the City's Shoreline Master Program as discussed below.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-1.8 zoning district. No structures above the ordinary high water mark are proposed – therefore the dimensional standards for the district do not apply.

B. Shoreline Master Program Requirements LUC 20.25E:

i. General Regulations Applicable to All Land Use Districts and Activities LUC 20.25E.080.B

- a. Where applicable, all federal and state water quality and effluent standards shall be met.**

The project will be constructed and operated consistent with applicable federal state and local regulations regarding water quality and effluent standards.

- b. If a property extends into the Shoreline Overlay District, the Shoreline Master Program Policies and these use regulations shall apply only to that portion of the property lying within the Shoreline Overlay District.**

The entire project is within Lake Washington and therefore, is entirely within the Shoreline Overlay District.

- c. All development within the Shoreline Overlay District shall be accompanied by a plan indicating methods of preserving shoreline vegetation and for control of erosion during and following construction in accordance with Part 20.25H LUC, City of Bellevue Clearing and Grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan.**

As part of the building permit approval, the applicant will be required to prepare a Construction Stormwater Pollution Prevention Plan and a Temporary Erosion Sediment Control Plan to mitigate potential erosion during construction.

- d. Special care shall be exercised to preserve vegetation in wetland, shoreline and stream corridor bank areas in order to prevent soil erosion. Removal of vegetation from or disturbance of shoreline critical areas and shoreline critical area buffers, and from other critical area and critical area buffers shall be prohibited, except in conformance with Part 20.25H LUC and the specific performance standards of this section.**

No vegetation is proposed for removal.

- e. Maximum height limitation for any proposed structure within the Shoreline Overlay District shall be 35 feet, except in land use districts with more restrictive height limitations. The method of measuring the maximum height is described in WAC 173-14-030(6). Variances to this height limitation may be granted pursuant to Part 20.30H LUC.**

The proposed moorage pile heights are listed at 6 feet above OHWM. No changes are proposed for the existing pier.

- f. The Bellevue Shoreline Master Program, in conjunction with existing Bellevue land use ordinances and Comprehensive Plan policies, shall guide all land use decisions in the Shoreline Overlay District.**

The proposal is consistent with the Comprehensive Plan Policies that make up the City's Shoreline Master Program.

- g. Any development within the Shoreline Overlay District shall comply with all applicable Bellevue ordinances, including but not limited to the Bellevue Land Use Code, Sign Code, and clearing and grading regulations.**

The proposal will be required to obtain a Clearing & Grading Permit. Approval and permit issuance will be verification of compliance with applicable regulations.

- h. The dead storage of watercraft seaward of the ordinary high water mark of the shoreline is prohibited.**

No dead storage of watercraft is proposed.

- i. Where applicable, state and federal standards for the use of herbicides, pesticides and/or fertilizers shall be met, unless superseded by City of Bellevue ordinances. Use of such substances in the shoreline critical area and shoreline critical area buffer shall comply with the City's "Environmental Best Management Practices."**

No herbicides, pesticides and/or fertilizers are proposed for use.

- j. Adequate storm drainage and sewer facilities must be operational prior to construction of new development within the Shoreline Overlay District. Storm drainage facilities shall be separated from sewage disposal systems.**

No new development requiring storm or sewer drainage facilities is proposed.

- ii. The project site is in the Shoreline Overlay District and is subject to the regulations regarding moorage (Land Use Code (LUC) Section 20.25E.080.N.1.b).**

Development Standards	Proposal	Complies Y/N
The only structures permitted in the first 30 feet waterward of the ordinary high watermark are piers and ramps. All floats and ells must be at least 30 feet waterward of the OHWM.	The proposal is for moorage pile installation only and does not include any structures, floats, or ells.	Y
No skirting is allowed on any structure.	No skirting is proposed.	N/A
Surface coverage shall not exceed 480 square feet.	No new surface coverage is proposed. Pile diameter reduction represents a net decrease in footprint	N/A
Piers shall not exceed four feet wide and shall be fully grated.	No new pier proposed	N/A
Ell are allowed only over water with depths of nine feet or grater at the landward end of the ell.	No Ell proposed.	N/A
Ells may be up to six feet wide by 26 feet long with grating over the entire ell.	No Ell proposed.	N/A
Total Facility Length. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark.	No increase to the existing pier is proposed. Outermost moorage pile proposed at 75 feet from OHWM	Y
Structural Piling Specifications. The first (nearest shore) piling shall be steel, four-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA pilings are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Steel piles will be installed using approved sound attenuation measures.	Replacement piles and new pile will be 10-inch steel piles spaced approximately 22 feet apart. Sound attenuation measures in accordance with Ch. 9.18 BCC will be required during installation.	Y
Shoreline Critical Area and Critical Area Buffer Functions. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of ordinary high	Removal of habitat features is not included in this proposal. All buffer vegetation will remain undisturbed.	N/A

Development Standards	Proposal	Complies Y/N
water mark.		
Setback. No private moorage or other structure waterward of the ordinary high watermark, including structures attached thereto, shall be closer than 12 feet to any adjacent property line except when a mutual agreement of adjoining property owners is recorded with the King County Records and Elections Division and the Bellevue City Clerk. Excepted from the requirements of this section are boat lifts or portions of boatlifts which do not exceed 30 inches in height measured from ordinary high watermark.	The recorded amended easement (Appendix A) granted to the applicant, Fowler, serves as the mutual agreement required by this code section. This easement amendment was recorded by King County on March 10, 2016.	Y

The proposed development conforms to the applicable Land Use Code regulations.

IV. Public Notice and Comment

Date of Application: April 27, 2016
Notice of Application: June 2, 2016
Minimum Comment Period: July 5, 2016

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin June 2, 2016. It was mailed to property owners within 500 feet of the project site. Staff received one comment prior to the writing of this report.

Summary of Comment:

Site plan and section do not contain information regarding the depths at which the piles will be placed.

Response:

Applicant has updated the plans to show the depths at which the piles will be located by providing a section diagram.

V. Summary of Technical Reviews

Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development.

Utilities Department:

The public sewer main shall be shown on all construction plans. The plans shall note that the sewer main is "as located by COB waste water crew" and the date that the location was done.

Construction is not permitted within 5' of the sewer main on the site. All equipment, barges, and

anchors must be kept away from the sewer main during construction. **See Conditions of Approval in Section IX of this report**

VI. State Environmental Policy Act (SEPA)

The applicant has provided a complete SEPA checklist supported by detailed analysis for review in demonstrating the no significant adverse environmental impact. Staff has reviewed the plan, the checklist, and supporting documentation and has determined that, for the proposed action, environmental review indicates no probability of significant adverse environmental impacts provided that applicable city codes and standards are implemented. Therefore, issuance of a Determination of Non-Significance pursuant to WAC 197-11-340 and Bellevue City Code 22.02.034 is appropriate.

A. Navigation Study

The City recognizes that protecting the public's rights of navigation is a fundamental policy in the Shoreline Management Act (see RCW 90.58.020). Interference with these rights of navigation or creation of a hazard for boaters is contrary to the policies of the Act. Furthermore, the City's own policies speak to discouraging uses and developments that create "unsafe" or "adverse impacts" (Comprehensive Plan SH-8) to shoreline areas.

Navigation studies were submitted by Fowler and the adjacent neighbor to the south of the subject site in regards to COB Permit 13-135414-WE to document potential public safety hazards associated with the installation of the moorage piles. During the analysis of the navigation studies and supporting documentation, it was identified that the outermost pile could reasonably represent a public navigational hazard during low-light conditions (dusk, dawn, fog, etc.). To mitigate the impacts to navigation and public safety, the applicant has included the installation of a white navigational light to be placed on the outermost moorage pile. **See Conditions of Approval in Section IX of this report.**

B. Noise

The site is adjacent to single-family residences whose residents are most sensitive to disturbance from noise during evening, late night and weekend hours when they are likely to be at home. Construction noise will be limited by the City's Noise Ordinance (Chapter 9.18 BCC) which regulates construction hours and noise levels. **See Conditions of Approval in Section IX of this report**

VII. Decision Criteria

A. Shoreline Substantial Development Permit Decision Criteria 20.30R

The Director of Planning and Community Development may approve or approve with modifications if:

- 1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and**

Finding: The applicant has carried the burden of proof and provided evidence sufficient to approve the project.

2. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code; and

Finding: As identified in Section III of this report the applicant has submitted project plans that demonstrate the proposal's compliance with the applicable City of Bellevue Codes and Standards.

3. The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.

Finding: The applicant's proposal is consistent with the following policies and has demonstrated compliance with the applicable procedures through this application. The subject proposal is compatible with existing and project land uses.

Specifically the proposal is consistent with the following:

RCW 90.58.020 Legislative findings-State policy enunciated-Use preference.

WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state.

City of Bellevue Comprehensive Plan POLICY SH-16. Discourage structures using materials which have significant adverse physical or chemical effects on water quality, vegetation, fish, and wildlife in or near the water.

The proposed moorage piles will replace existing, degraded and untreated wooden piles with steel piles that do not requiring chemical treatment, which will provide adequate strength and durability to moor a large vessel.

VIII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the removal of two (2) existing wooden piles and the installation of four (4) new steel piles. Revision to this approval shall be in accordance with LUC 20.30R.190.

Note- Expiration of Approval: In accordance with LUC 20.30R.175, a Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a building permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit pursuant to LUC 20.30R.180.

IX. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Utilities Code	Mark Frazier 425-452-2022
Land Use Code- BCC 20.25H	David Wong, 425-452-4282
Noise Control- BCC 9.18	David Wong, 425-452-4282

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. **Moorage Pile Safety Features:** In addition to the standard safety features included with moorage pile installation, the following are additional requirements set forth by this approval:

1. Solar safety lighting and reflective tape shall be installed on the outermost piling to reduce any public navigational hazards associated with the new pile installation. Safety light shall be flashing and white in color, and adhere to the standards set by the US Coast Guard for inland water obstructions.

Authority: SEPA (Substantive Policies – BCC 22.02.020, BCC 22.02.140)
 Reviewer: David Wong, Land Use

2. **State Permits Required:** Prior to the issuance of the required building permit, the applicant shall produce evidence of receipt of required state permits for the proposed moorage piles.

Authority: Land Use Code 20.30R.155
 Reviewer: David Wong, Land Use

3. **Construction Stormwater Pollution Prevention Plan:** To ensure federal and state water quality and effluent standards are met, and Shoreline Overlay District comply with the provision of Chapter 23.76 BCC, a Construction Stormwater Pollution Prevention Plan is required to be submitted for review and approval as part of the building permit.

Authority: Bellevue City Code 23.76
 Reviewer: Savina Uzunow, Clearing & Grading

4. **Lake Washington Allowed In-Water Work Windows:** To protect habitat associated with migrating anadromous fish within Lake Washington, the pier replacement approved by this permit shall only be allowed to occur between the following dates:

July 16 – April 30

Any deviation from this approved schedule must be approved in writing from the Washington Department of Fish and Wildlife.

Authority: Land Use Code 20.25H.160
 Reviewer: David Wong, Land Use

5. **Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are

specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18
Reviewer: David Wong, Land Use

- 6. Sewer Main Location:** The public sewer main shall be shown on all demolition and construction plans. The plans shall note that the sewer main is "as located by COB waste water crew" and the date that the location was done.

Authority: Sanitary Sewer Engineering Standards
Reviewer: Mark Frazier, Utilities Department

- 7. Construction Setback from Sewer:** Construction is not permitted within 5' of the sewer main on the site. All equipment, barges, and anchors must be kept away from the sewer main during construction.

Authority: Sanitary Sewer Engineering Standards
Reviewer: Mark Frazier, Utilities

- 8. Pesticides, Insecticides, and Fertilizers:** The applicant must submit as part of the required Clearing & Grading Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

Authority: Land Use Code 20.25E.080.N
Reviewer: David Wong, Land Use

- 9. Land Use Inspection:** To ensure planting plan has been installed in accordance with approved plans (see Attachment B) the applicant must call for and obtain an inspection from a Land Use Planner from the City of Bellevue, following installation of vegetation. This inspection is listed as a #600 land use inspection on the approved building permit.

Authority: Land Use Code 20.25E.080.B
Reviewer: David Wong, Land Use

