



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
 ENVIRONMENTAL COORDINATOR
 11511 MAIN ST., P.O. BOX 90012
 BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Alan Bohling, Seattle Boat

LOCATION OF PROPOSAL: 3911 Lake Washington Boulevard SE

NAME & DESCRIPTION OF PROPOSAL: Seattle Boat Newport

Application for Shoreline Conditional Use Permit, Shoreline Substantial Development Permit, Critical Areas Land Use Permit, and Land Use Code Variance to redevelop an existing marina support facility on Lake Washington. The proposal includes development on two parcels with a project limit established to limit the extent of the work on one of the parcels. Generally, the development includes the reconstruction of existing boat repair facilities; the consolidation of existing boat storage through the installation of stacked boat storage racks to accommodate up to 112 boats; the continued storage of up to 61 additional boats at grade on trailers and on portable racks; the addition of an indoor boat retail center / showroom; the dedication, striping, and the establishment of parking for the proposed development; the installation of enhanced landscaping; the installation of new stormwater facilities; the adoption of enhanced environmental risk management practices; the repair/replacement of the facility's existing finger piers in the boat launching area; and approximately 30,000 sf of wetland buffer restoration and 3,000 sf of shoreline restoration. The maximum number of boats to be stored under this proposal is 173. The proposed project is within the Shoreline Overlay District (Lake Washington) and the Critical Areas Overlay District (Shoreline Critical Area Buffer).

FILE NUMBERS: 07-111073-WA, 07-111070-WG, 07-111074-LO, 07-138974-LS

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 Department of Planning & Community Development. 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 05/08/2008.
- 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 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, 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.

Carol V. Hillen
 Environmental Coordinator

04/24/2008
 Date

OTHERS TO RECEIVE THIS DOCUMENT:

- State Department of Fish and Wildlife
- State Department of Ecology,
- Army Corps of Engineers
- Attorney General
- Muckleshoot Indian Tribe



Proposal Name: Seattle Boat Newport

Proposal Address: 3911 Lake Washington Boulevard SE (SE 40th Street)

Proposal Description: Application for Shoreline Conditional Use Permit, Shoreline Substantial Development Permit, Critical Areas Land Use Permit, and Land Use Code Variance to redevelop an existing marina support facility on Lake Washington. The proposal includes development on two parcels with a project limit established to limit the extent of the work on one of the parcels. Generally, the development includes the reconstruction of existing boat repair facilities; the consolidation of existing boat storage through the installation of stacked boat storage racks to accommodate up to 112 boats; the continued storage of up to 61 additional boats at grade on trailers and on portable racks; the addition of an indoor boat retail center / showroom; the dedication, striping, and the establishment of parking for the proposed development; the installation of enhanced landscaping; the installation of new stormwater facilities; the adoption of enhanced environmental risk management practices; the repair/replacement of the facility's existing finger piers in the boat launching area; and approximately 30,000 sf of wetland buffer restoration and 3,000 sf of shoreline restoration. The maximum number of boats to be stored under this proposal is 173. The proposed project is within the Shoreline Overlay District (Lake Washington) and the Critical Areas Overlay District (Shoreline Critical Area Buffer).

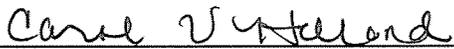
File Numbers: 07-111073-WA, 07-111070-WG, 07-111074-LO, 07-138974-LS

Applicant: Bob Betts, Applicant's Agent
Alan Bohling, Seattle Boat

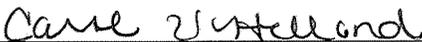
Decisions Included: Shoreline Conditional Use Permit (Process III), Shoreline Substantial Development Permit (Process II), Critical Areas Land Use Permit (Process II), and Land Use Code Variance (Process II)

Planner: David Pyle, Senior Land Use Planner

State Environmental Policy Act Threshold Determination: Determination of Non-Significance (DNS)


Carol V. Helland, Environmental Coordinator

Director's Recommendation/ Decision: Recommendation of Approval of Shoreline Conditional Use Permit, Approval of Shoreline Substantial Development Permit, Approval of Critical Areas Land Use Permit, Approval of Land Use Code Variance


Matthew A. Terry, Director, PCD

Date of Application:	March 16, 2007
Notice of Application:	April 12, 2007
Public Meeting Date:	April 24, 2007
Notice of Revised Application Date:	February 7, 2008
Recommendation / Decision Publication Date:	April 24, 2008
Public Hearing Date:	June 19, 2008

Deadline For Appeal of Process II Administrative Decisions

SEPA, Critical Areas Land Use Permit, Land Use Code Variance: May 8, 2008 (14 days following publication of a notice of decision)

Shoreline Substantial Development Permit: May 15, 2008 (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, Critical Areas Land Use Permit, and Land Use Code Variance must be made to the City of Bellevue City Clerks 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).

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I. REQUEST AND REVIEW PROCESS

A. Background

The Seattle Boat Newport proposal is a proposal to redevelop an existing water dependent boat storage, maintenance, fueling, and retail sales establishment that serves as a regional marina support facility located along the eastern central shoreline of Lake Washington. The application process for this proposal began when Seattle Boat purchased the former Mercer Marine property and business with the intent of operating the existing marina support services business and redeveloping the site to modernize the business through the construction of an enhanced stacked boat storage facility. It is important to note that this project has changed from the original proposal in that Seattle Boat has entered into contract with the former owner of Mercer Marine to purchase additional property located to the east of the original project site. The sale of this additional property will be finalized at the conclusion of the Mercer Marine Short Plat, which is in the final stages of review with the City. Changes to the project are described later in this report.

B. Request

The applicant is requesting approval of a proposal to redevelop the old Mercer Marine facilities with a modern marina use. The proposal includes development on two separate pieces of property that are connected by access and utility easements across a four foot separately owned strip of land (See Land Ownership Map – **Attachment I**, and as depicted at the match line on the Project Site Plans included as **Attachment II**). The project site has been divided into two parts for the purpose of review – the west parcel and the east parcel. The use proposed by Seattle Boat is consistent with the historic use of the area. Past use of this site has included boat storage, boat launching, boat repair, boat sales, retail sales of boat parts, and the retail sale of fuel at the site’s fuel dock – all water dependent uses that are classified as marina uses¹ and allowed under Bellevue’s current and historic Land Use Code through the Shoreline Conditional Use Process. Approval of this proposal would allow for the modernization of this site, the continuation of the marina use as allowed, and would provide for additional opportunity for the public use and enjoyment of Lake Washington’s Shoreline through enhanced boat storage and launching capacity.

Proposed Use: Seattle Boat Company is a nationally recognized boat dealer and dry-rack boat storage provider. With numerous facilities in the Puget Sound area, Seattle Boat is interested in expanding its waterfront operations to Bellevue. To achieve this objective, Seattle Boat has purchased the Mercer Marine property and intends to re-develop the site. Proposed facility site plans are included as **Attachment II**. The following uses are included in Seattle Boat’s proposed operation:

West Parcel:

- Operation of a storage and launching system within the west parcel that utilizes a mobile boat lift to transport stored boats from a three or four level steel rack storage system to a central launching/staging dock where the boats are loaded with equipment and boarded by customers for recreational use. The lift is also used to retrieve boats from the water for storage, maintenance, and repair. The proposed racks would accommodate up to 112 boats.
- Operation of a boat repair and maintenance facility within the site’s designated maintenance area.
- Retail sales of boats and the incorporation into the site of a retail boat showroom including the outdoor retail display of boats within designated display areas.
- Retail sales of boat parts and boating related items.
- Office and storage space for Seattle Boat operations.

1. The general “Marina” use includes: Boat storage, boat maintenance, boat repair, retail boat sales, the sale of boat parts, boat launching, facility offices, retail sale of boating related items, and facility parking.

- Restroom facilities for Seattle Boat employees and customers.
- The delivery and unloading of new boats and boat parts.

East Parcel:

- Operation of an “at grade” boat storage lot where boats may be stored on trailers or on portable collapsible racks. The boat storage lot would accommodate up to 61 boats and/or up to 61 cars. Boats stored in the storage lot would either be launched by trailer at the City’s SE 40th Street Boat launch or by boatlift at the designated Seattle Boat boat launching point. Parking on this lot would be provided at a 1:1 ratio – when one boat is removed from storage for launching, the customer’s vehicle is parked where the boat was stored.
- Boats stored at grade and on portable collapsible racks on the east parcel will be serviced (transported) either by the mobile boatlift or if stored on trailers the boats may be transported on the trailer. Travel between the east parcel and the west parcel is through the use of an access easement that connects the east and west parcels. A connection to SE 40th Street exists from each site.

Components of West Parcel Proposed Development: The West Parcel is approximately 1.77 acres in size (77,417 square feet) and is embraced by the Newport Yacht Basin property (See Land Ownership Map – **Attachment I**). The only portion of the west parcel that is not abutting property owned by the Newport Yacht Basin is a 36 foot wide section of street frontage that abuts SE 40th Street and provides access to both the Yacht Basin Condominium Property and the subject site. Access to both of these properties and circulation throughout the site is achieved through a network of easements that benefit both the Seattle Boat development site and the Newport Yacht Basin Condominium Association properties. The easements include multiple areas that are located around the perimeter of the west parcel property interlocking both portions (east and west) of the project site with the Newport Yacht Basin Condominium Association property. A title verified survey indicating the location of the easements is included as **Attachment III**.

West Parcel Development Includes:

- Demolishing the existing structures,
- Regrading the site to facilitate the collection and treatment of surface water (stormwater),
- Constructing 4 new structures,
- Installing enhanced landscaping,
- Striping parking within the easement areas and within the unencumbered portion of the property,
- Improving site circulation along the north end of the property by establishing an access driveway,
- Repairing the site’s bulkhead by installing sheet pilings behind the existing bulkhead wall,
- Reconfiguring the existing finger piers in the boat launching area to better serve the staging (loading and unloading) of boats being launched,
- Replacing existing creosote dock piles with steel piles,
- Replacing the dock surface with grated decking,
- Restoring approximately 3,000 square feet of the shoreline edge of the northern most ten feet of the property through grading and planting.

Site development plans for the West Parcel are included in **Attachment II**. No part of this development will inhibit or otherwise limit the use of the easements that surround this site and that bind this property together with the Newport Yacht Basin property.

East Parcel Proposed Development: The project’s East Parcel is approximately 2.3 acres in size (100,074 square feet) and currently consists of a gravel parking area a portion of which has

historically been used through lease by the Newport Yacht Basin Condominium Association for parking (See Land Ownership Map – **Attachment I**). The remainder of this parcel was historically dedicated and used by Mercer Marine (previous owner who sold the property to Seattle Boat) as trailered boat storage and overflow parking for marina operations on peak days.

The applicant is proposing to retain the gravel parking area that is currently under lease by the Newport Yacht Basin Association in its current condition and has requested the establishment of a project limit that excludes this portion of the property (the portion within the leasehold area) from review under this application. No modifications to this leased area are proposed outside of minor resurfacing and the under grounding (installation) of utilities in the southern portion of the leasehold. The leased area that is to be excluded from this project review is described in the lease agreement between Seattle Boat and the Newport Yacht Basin Condominium Association which is recorded with the King County Records Department under recording number 20070329000559 and is included in this report as **Attachment IV**.

The applicant is proposing to redevelop the southern portion of the east parcel where it is located outside of the leasehold area where boats stored on trailers have historically been located. The proposal includes resurfacing this existing parking area, installing enhanced landscaping, constructing a security fence around the area where boats will be stored, and re-grading portions of the site to facilitate stormwater collection and treatment. Site development plans for the East Parcel are included in **Attachment II**. No part of this development proposal will inhibit or otherwise limit the use of the leasehold area or the easements that cross the property.

Launch and Retrieval of Stored Boats and Marina Fairway: This is a proposal to construct and operate a boat storage facility in addition to other identified uses associated with a marina support facility. The storage facility component of this project stores boats on racks and on trailers launching them and retrieving them at a central launch point within the site. Boats are transported from the storage location to the launch and retrieval location using a “Marina Bull Forklift” (see Marina Bull Forklift Spec Sheet included as **Attachment V** and Figure 1 below). Based on information submitted by the applicant and on site visits made by City staff to Seattle Boat’s Lake Union facilities, a round trip launch takes approximately 3 to 5 minutes. The lift removes the boat from the rack and transports it to the launch point. The boat is then loaded and boarded and departs the launch point. If another boat is waiting to be retrieved, the lift removes the waiting boat from the water and transports it to its storage location. The central launch point includes enough moorage for seven boats to be moored while awaiting retrieval or boarding. The applicant estimates that on average it will take a launched boat three minutes to get from the launch point to open water after boarding and loading.

On normal operating days, this rate of launching and retrieval will rarely lead to a back up in the fairway. To limit the potential for backup, the applicant is proposing the use of peak day operating procedures that will require a boat heading in for retrieval to check in at the fuel dock before moving into the marina’s fairway and the retrieval queue. All travel within the marina’s fairways will be done at no wake speeds. Any operator of a boat stored at Seattle Boat’s facility found to be in violation of the no wake zone requirements and other safety practices may be subject to cancellation of storage lease by Seattle Boat. All customers are required to obtain and maintain insurance for their boat. Seattle Boat’s Peak Day Procedures is included as **Attachment VI**. A copy of Seattle Boat’s lease agreement is included as **Attachment VII**.

Figure 1 - Wiggins Marina Bull Photos



C. Project Vicinity

The location of the proposed Seattle Boat Newport Development and the surrounding community has historically been characterized by boating activity and associated water dependent uses (marina activities). The marina use on the Seattle Boat property has operated as part of the larger marina since the original marina development. To the west and south of the site, and at the terminus of SE 40th Street, is the City of Bellevue public boat launch. While the boat launch is within proximity to the proposed development, the project site itself has limited street frontage on the west parcel (limited to 36 feet) and the public boat launch is physically separated from the subject site by an extension of the Newport Yacht Basin Condominium Association property (See Land Ownership Map – **Attachment I**). This boat launch facility has for decades served the public and provides for trailered boat launching, short term loading and unloading of small watercraft, the parking of vehicles and trailers, and limited public restroom services. During summer months, this boat launch is very busy with marina related activity, generating traffic and noise throughout the day. The boat launch is a self service facility, does not have operational hours, and may be used by the public 24 hours a day, 7 days a week, 365 days a year. The facility has no posted limit on noise, although all activities at the facility must meet the noise standards founding the Bellevue City Code (BCC) chapter 9.18, and the state’s recreational vessel noise emissions requirements found in RCW 79A.60.

To the south of the site and across the SE 40th Street right-of-way (public boat launch) is the Newport Shores residential neighborhood. The north end of this neighborhood is located more than 100 feet to the south of the Seattle Boat property and the closest residential structures are located approximately 140 feet from the south property line of the project site. The Newport Shores neighborhood consists of single-family residences that front Tulalip Key to the south and sit adjacent to SE 40th Street to the north. The residences in this community are two story homes and are restricted to 30 feet in height by the City of Bellevue Land Use Code (LUC 20.20.010). Also included in the Newport Shores neighborhood is the Newport Yacht Club clubhouse, Newport Yacht Club marina moorage, and a commonly owned parcel of land that is used informally by the Newport Yacht Club members as an upland boat and trailer storage facility. This trailered boat storage area is to the south side of SE 40th Street and directly adjacent to several single-family residences (See Land Ownership Map – **Attachment I**).

Integrated throughout the project site and to the north, west, and east is the Newport Yacht Basin Association Condominium project – Phase I and Phase II. This is a covered and uncovered private moorage facility that was developed at the same time as the rest of the site. The Newport Yacht Basin Condominium Association consists of approximately 416 moorage slips which vary in size to accommodate different sized vessels. Seattle Boat owns several slips within the development and is a member of the Association.

The Newport Yacht Basin Association property is bordered to the north by Mercer Slough Natural Area, a regionally recognized wetland system at the confluence of Kelsey Creek and Lake Washington. The Mercer Slough Natural Area is owned and operated by the City of Bellevue Parks Department. A portion of the wetland system that is located within this park extends south onto the Mercer Marine Short Plat property and is directly adjacent to the project's east parcel. This wetland will be protected under the Mercer Marine Short Plat as a Native Growth Protection Area (NGPA). Outside of the single-family residential use identified to the south and the natural areas located to the North and West, the subject site is surrounded by and has historically contained established boating and water related uses for over 25 years. A project vicinity map is included below.

Figure 2 - Project Vicinity Aerial Photograph



D. Approvals Required

The applicant has requested that the decision for this proposed project include the following approvals as required by the appropriate Bellevue City Code (BCC) and Land Use Code (LUC) sections:

- Shoreline Conditional Use Permit (LUC 20.30C)- The proposed marina redevelopment is a Process I quasi-judicial decision made by the City's Hearing Examiner on recommendation by the Director. The Director of Planning and Community Development reviews the file under the review standards of the Washington Administrative Code (WAC), the Revised Code of Washington (RCW), and the City's Land Use Code (LUC) and issues a recommendation to the Hearing Examiner, who holds a public hearing and reviews the file for consistency with the established conditional use criteria. The Hearing Examiner issues a finding of approval,

approval with modifications, or denial. The final decision of the City (Hearing Examiner decision or Council decision if Hearing Examiner decisions is appealed) is transmitted to the Washington State Department of Ecology where the final decision on the action is taken. The Shoreline Conditional Use action for this project is discussed in greater detail in Section XIV of this report.

- SEPA Threshold Determination (BCC 22.02 / WAC 197-11-704)- The redevelopment of this property as proposed by the applicant (the “Action”) triggers review under the requirements of the State Environmental Policy Act (SEPA). SEPA review is a Process II administrative decision and requires administrative review and issuance of a SEPA Threshold Determination by the City’s Environmental Coordinator. SEPA review for this proposal is discussed in greater detail in Section X of this report.
- Shoreline Substantial Development Permit (LUC 20.30R)- Applications for Shoreline Conditional Use Permits require the concurrent processing of a Shoreline Substantial Development Permit. The subject site is located within the Shoreline Overlay District and development on this site is subject to compliance with the Commercial Development Performance Standards and Commercial Moorage Performance Standards found in the City’s Land Use Code. Shoreline Substantial Development Permits are a Process II administrative decision made by the Director of Planning and Community Development. The decision is subject to compliance with the Shoreline Substantial Development criteria. The project’s compliance with the Shoreline Substantial Development criteria is discussed in greater detail in Section XIII below.
- Critical Areas Land Use Permit (LUC 20.30P)- The project site is located adjacent to Lake Washington and is subject to the City’s Land Use Code Critical Areas requirements for Shoreline Critical Areas and their buffers. Any proposal to modify the Critical Areas standards requires processing under a Critical Areas Land Use Permit (CALUP) and requires the submittal of a Critical Areas Report (CAR). The applicant is requesting a reduction of the required critical areas structure setback, an action that requires approval through the Critical Areas Land Use Permit Process. Critical Areas Land Use Permits are a Process II administrative decision made by the Director of Planning and Community Development. This proposed action is discussed in greater detail in Section XII below.
- Land Use Code Variance (LUC 20.30G)- The project site is encumbered by numerous access easements that are located around the perimeter of the property. The City’s Land Use Code requires that applicable building setbacks be measured from the interior edge of an access easement and that any structure proposed adjacent to an access easement maintain a minimum of ten feet of setback. Due to the extent of the access easements, the applicant is requesting a variance from the requirement that setbacks be measured from the interior edge of the easement and is proposing to utilize the 10-foot minimum setback. To obtain a permitted deviation from this standard a Land Use Code Variance must be processed. Land Use Code Variances are a Process II administrative decision made by the Director of Planning and Community Development. This proposed action is discussed in greater detail in Section XI below.

E. Review Process

The recommendations associated with this Shoreline Conditional Use Permit is supported by a review process that includes a pre-application meeting, public noticing through a radius mailing and the installation of two notice signs, a public meeting, the collection of public comment, revision requests, the publishing of a finding and recommendation by the City, a public hearing held by the City’s Hearing Examiner with an opportunity to appeal to the City Council, and the transmittal of the final decision of the City to the Washington State Department of Ecology - the agency serving as the final authority on Shoreline Conditional Use Permits as required under the State Shoreline

Management Act. During the review process several issues were raised by the applicant, the public, outside agencies, and City staff. Multiple revisions on this project were submitted by the applicant and appropriate documentation has been provided by the applicant to address all components of the project even if not regulated directly by the City's codes. Issues identified during review, the changes made to the proposal as a result of project review, and the final proposal's consistency with the applicable review criteria are addressed later in this report.

II. CURRENT SITE DESCRIPTION, ZONING, AND LAND USE CONTEXT

A. Site

The project site is located in the Newport subarea of southeast Bellevue and is south of Interstate 90 at the Mercer Slough/Kelsey Creek confluence with Lake Washington. The subject site consists of two separate parcels (east and west) that are separated by a four foot wide section of land owned by the Newport Yacht Basin Condominium Association that was retained during past land divisions to provide for access to the south end of the Newport Yacht Basin Condominium Association Dock E. The two parcels that are controlled by Seattle Boat are connected by an access, parking, and utility easement (Recording Number 7801171009) that serves multiple properties and is intended to provide for circulation and parking.

West Parcel: Currently, the site's west parcel is characterized by the old Mercer Marine facilities that are now under operation by Seattle Boat. Two primary structures occupy the site - a converted single-family home built in 1950 that is used as an office, and an industrial structure used for general operations that was built in 1965 and has subsequently been expanded at different times. The two primary structures are surrounded by a myriad of small sheds and tents used for storage and repair space. The southwestern end of the subject property contains above ground fuel storage tanks that are part of the fuel dock and were established as part of the Newport Yacht Basin Condominium Association development and have been historically operated by the Mercer Marine facility that is now under ownership and operation by Seattle Boat. Throughout the site, disabled or dismantled boats have chronically been kept on trailers or on blocks until repairs are complete or until sold. Currently, the site offers no screening of these marina support activities that have been regularly performed within the boundaries of the property. The status of the west parcel in its current condition can generally be described as dilapidated or deteriorated and is in need of redevelopment to realize its potential as part of the larger marina use and the community that surrounds it. A current aerial photograph of the west parcel is included as **Attachment VIII**. Site photos are included as **Attachment IX**.

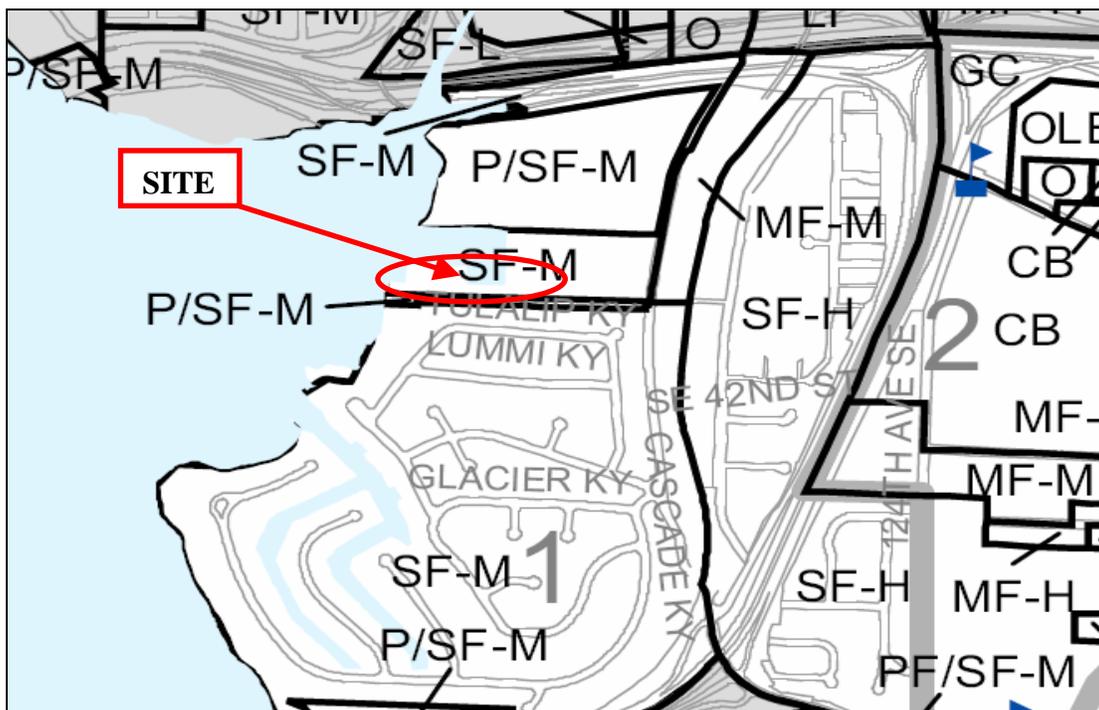
East Parcel: Different from the site's west parcel, the east parcel consists of a gravel surface that is associated with an existing established accessory parking use. The east parcel is not built on (has no structure) and contains a vegetated wetland edge along the eastern property line, a vegetated shoreline edge along the backside of Dock F, and approximately 439 feet of street frontage along SE 40th Street. The east parcel is currently vacant and its prevailing use is accessory parking for the Newport Yacht Basin Condominium Association covered moorage users which is limited to the area identified in the east parcels parking leasehold included as **Attachment IV**. Historically, portions of the east parcel have been used for boat storage and up to approximately 100 trailered boats and empty trailers have been stored at grade on this parcel. However, this use was discontinued when Seattle Boat purchased the west parcel and the Mercer Marine Short Subdivision of the east parcel was submitted to the City for review. A historic aerial photograph and usage summary that documents historic use of the east parcel is included as **Attachment X**. The east parcel property remains part of a larger piece of land that is currently being processed as part of a 6 lot final short plat (Mercer Marine Short Plat). Upon completion (recording) of the Mercer Marine Short Plat, the portion of property under review as part of this application will be sold to Seattle Boat for redevelopment as identified in the development description for the east lot described in Section I

this staff report. No structures are proposed to be built on this site (east parcel) as part of this application.

B. Comprehensive Plan (See Comprehensive Plan Land Use Map below)

The Comprehensive Plan Land Use Designation of this site is SF-M (Single-family Medium Density) and the site is located within District 1 of the Factoria Subarea. The SF-M designation allows for a range of residential developments from 2.5 to 3.5 dwelling units per acre, a designation that is consistent with the site zoning. District 1 of the Factoria Subarea does not restrict the development of marina uses. In addition to these designations, this property is also subject to the restrictions and allowances of the Shoreline Management Program of the Comprehensive Plan as the site is located within the Shoreline Overlay District, an area adjacent to the shoreline of Lake Washington that extends 200 feet landward of the Ordinary High Water Mark. Under the Shoreline Management Program, water related and water dependent uses proposed within the Shoreline Overlay District are given priority when facilitating the public use and enjoyment of the City's shoreline areas. For this reason marina uses are allowed in the single-family land use district when within 200 feet of the OHWM as water dependent uses in the same manner they are allowed in all residential (single-family and multi-family) land use districts - through a Shoreline Conditional Use process. The east parcel and the west parcel share the same Land Use designation and associated Shoreline Management Program requirements and the proposed development must be processed through a Shoreline Conditional Use Permit.

Figure 3 - Comprehensive Plan Land Use Map of Site & Vicinity

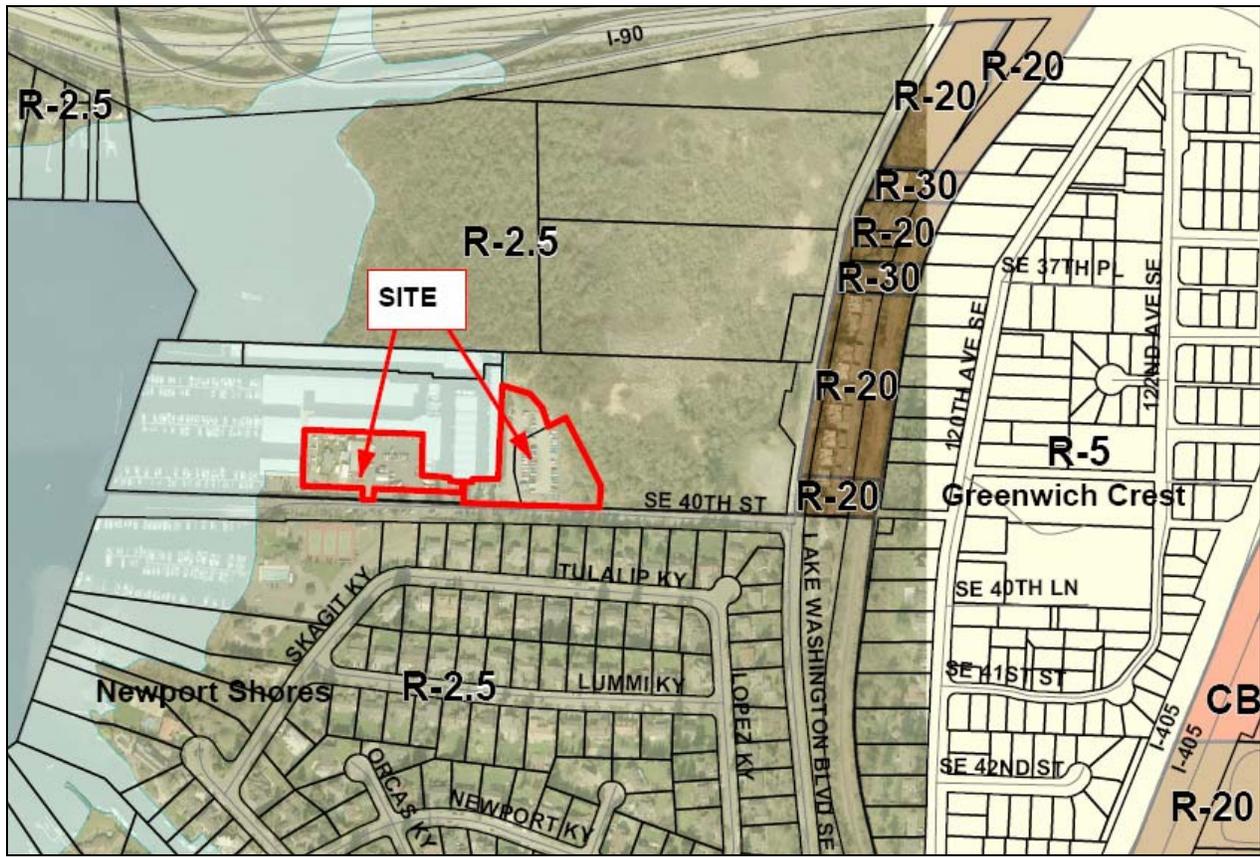


C. Zoning (See Site Zoning Map below)

The subject site was rezoned from OU (Open Use) to R-2.5 (Residential 2.5 Dwelling Units Per Acre) in 1995 as part of Ordinance 4734 to be consistent with changes made when the OU zone was eliminated from the Land Use Code. Both the (old) OU and (current) R-2.5 zones allow for the development and redevelopment of lands located within the Shoreline Overlay District with marina and water dependent uses. The east parcel and the west parcel share the same zoning and use requirements. To redevelop this site with the marina use as proposed, a Shoreline Conditional Use

Permit is required. Shoreline Conditional Use requirements are discussed in Section XIV below.

Figure 4 - Zoning Map of Site & Vicinity



D. Land Use Context (See Vicinity Map and Oblique Photo below)

The Seattle Boat Newport project site has historically served as part of the larger marina use that surrounds the site and characterizes this part of Bellevue. Although the property is zoned for single-family use, the site is isolated from the nearby Newport Shores residential neighborhood and other single-family developments in the area through physical separation or topography. The project site is bordered to the south by the SE 40th Street Boat Launch (a 60 foot wide section of City ROW that is managed as a City Park) and a substantial vegetated buffer (along the south edge of the SE 40th ROW), bordered to the northeast by a portion of the Mercer Slough Natural Area, and bordered to the north and west by the Newport Yacht Basin Condominium Association covered moorage facility.

The site is accessed from SE 40th Street and all traffic to and from the project site must travel down SE 40th Street which connects to Lake Washington Boulevard. Additional multi-family development is located along the east side of Lake Washington Boulevard (Newport Marina Condominiums); however, the landscape position of these developments is such that their base elevation is set at approximately 50 feet whereas the project site base elevation is set at approximately 19 feet. The elevation separation provides for a 30 foot difference between the grade of the proposed development and the grade of the existing condominiums to the east. The views of property owners to the east will not be blocked by this proposed development.

To the east of the subject site there is a short subdivision (Mercer Marine Short Plat) in the final stage of review by the City that includes the lands previously described as the project's east parcel. Final approval will create six new single-family lots and one protected area tract (NGPA) will be

created. Lots 1 through 5 of this short plat will be located along the west side of Lake Washington Boulevard and Lot 6 will become the east parcel of the Seattle Boat Newport project. The grade level of these five new single-family lots will be set at approximately 40 feet, whereas the grade level of the Seattle Boat site is at approximately 19 feet. With a maximum proposed structure height of 30 feet, the proposed Seattle Boat development will not significantly impact the views of the five new single-family lots created by the Mercer Marine Short Plat.

In the larger context, the project site is relatively close to both I-90 and I-405, is close to the Factoria Mall area, and is close to many of Bellevue's residential communities that do not have private waterfront access and may desire to utilize the moorage facilities offered by this proposed development.

Figure 5 - Vicinity Map

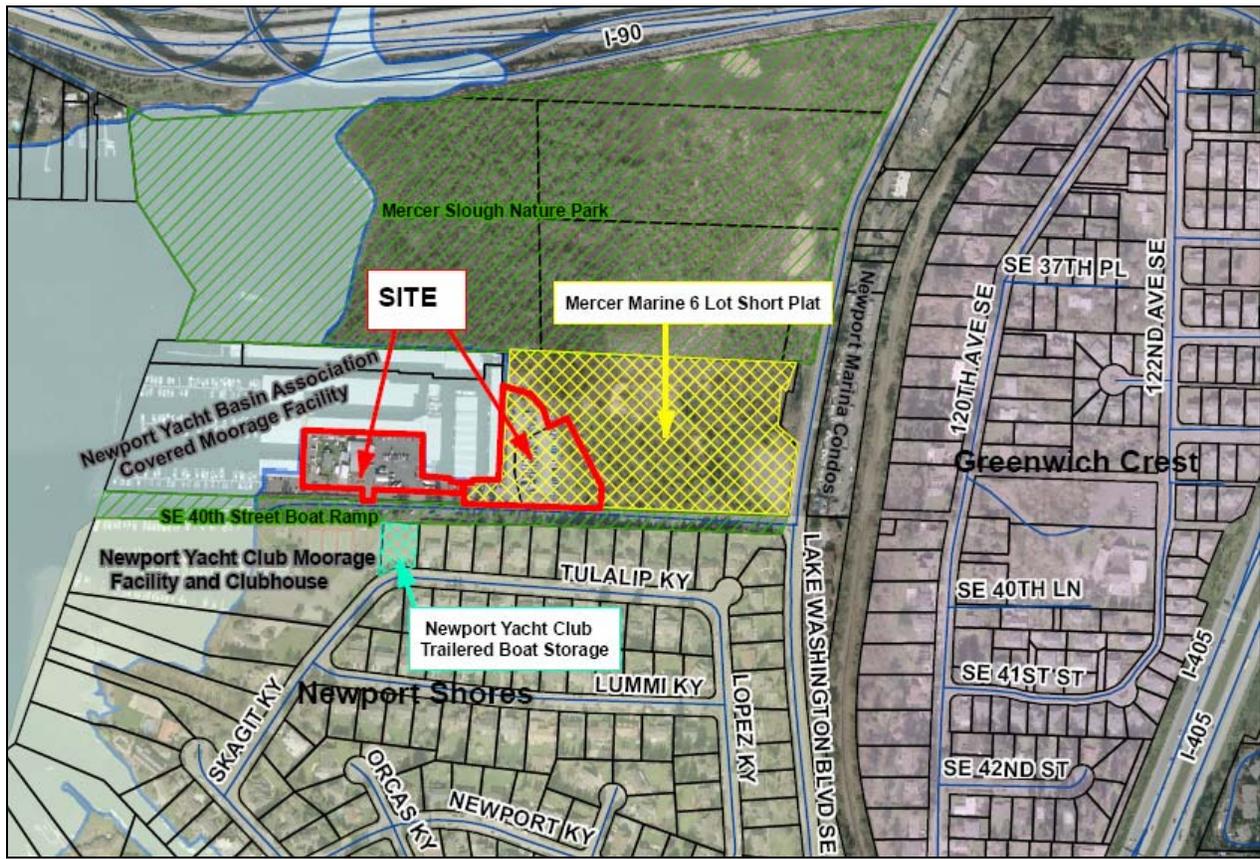


Figure 6 - Oblique Aerial Photograph of the Vicinity



III. PROPOSED SITE AND BUILDING DESIGN (See Attachment II for proposed site plans)

A. Proposed Site Design

The Seattle Boat Newport Development Proposal consists of two lots that have been previously described as the east parcel and the west parcel (see Section I above).

West Parcel Site Design: Development on the west parcel will include the construction of four structures, including open and enclosed rack storage for up to 112 boats, maintenance facilities, restrooms, offices, and retail space. The proposal also includes the creation of 26 parking stalls outside of the documented easement area in unencumbered land that is exclusively held by Seattle Boat, and up to 21 overflow parking stalls for use on summer weekends and holidays that will be located within the maintenance bays that will closed on weekends and holidays. Development on the west parcel also includes the reconfiguration and repair of the site's finger piers in the boat launching and staging area and repair of the existing bulkhead by installing sheet piling landward (or behind) the existing bulkhead wall.

Due to the extent of easements that restrict development within the perimeter of the west parcel, the proposed structures are clustered within the center of the lot with Seattle Boat's offices and retail showroom at the center. Parking is located around the proposed buildings within the required 10-foot building setback. The structures will be spaced at a distance to provide for circulation of the boat lift serving the marina use, and travel lanes will be maintained throughout the site to enable the boat lift to travel from the rack to the location where the boats will be placed into and removed from

the water. To provide for pedestrian safety, the applicant has proposed striping a pedestrian walkway through the site providing a clear path of travel for customers and visitors within the property. No public access through the proposed development is included as a part of this proposal and all pedestrians onsite will be either employees, customers, guests, or visitors of Seattle Boat. Use of Newport Yacht Basin Condominium Association property by Seattle Boat customers and guests will be limited to the boundaries of the existing easements that intertwine the properties that grant Seattle Boat and its customers right to access.

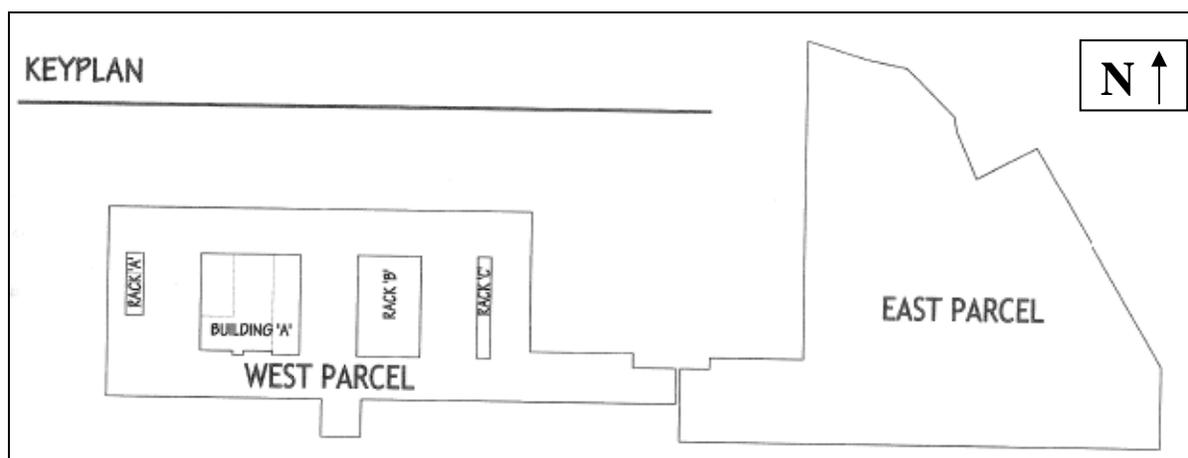
East Parcel Site Design: No structures are proposed on the east parcel as part of this application. The applicant is proposing to redevelop the southern portion of the property that is located outside of the leasehold area (as identified in Section I of this report and **Attachment IV**) where trailered boats have historically been stored. To redevelop this area, the applicant is proposing to resurface the existing parking area, install enhanced landscaping and a security fence, and grade the site to facilitate stormwater collection and treatment on the site where it does not currently exist. The applicant is proposing to use a portion of this property to store up to 61 boats on trailers and on collapsible racks. Each location where a boat will be stored will also accommodate up to one additional vehicle, adding up to 61 parking spaces to the site's overall parking supply. The east parcel will also include an additional 13 parking spaces in the southwest corner of the site along the south property line. These 13 parking spaces are located outside of the easements that encumber the site and will be used for exclusive Seattle Boat customer parking. See project Site Plans that are included as **Attachment II**.

The east parcel is functionally connected to the west parcel through an access easement recorded with King County Records (See easement documents included as **Attachment XI**). As an operational requirement, the applicant is proposing to operate the mobile boatlift across the easement to provide for boat launching at the dedicated launch point. The proposed pedestrian walkway will extend across the gap between the west parcel and the east parcel to provide for safe pedestrian connectivity between Seattle Boats east and west parcel facilities. This walkway will also provide safe pedestrian access for Newport Yacht Basin Condominium Association owners and guests across easement areas. The pedestrian walkway has been added to the project site plans included in this report as **Attachment II**).

B. Proposed Building Design- West Parcel Only

This proposal consists of four buildings all located within the west parcel and outside of the site's numerous easements and setbacks. No structures are proposed on the east parcel. The buildings are proposed as follows:

Figure 7 – Building Layout Key



Primary Structure – Building “A”: This 30-foot two story 8,551 square feet structure consists of 2,400 square feet of covered open sided boat storage, 1,754 square feet of indoor boat repair and maintenance space (work bays), 1,807 square feet of covered outdoor boat repair and maintenance space (work bays) with an additional two levels of rack storage above the outdoor work bay area roof on a self supporting rack system that penetrates the roof system, and 4,893 square feet of indoor retail showroom, office space, and restrooms.

The structure is sided on the south side that faces the single-family neighborhood with a mixture of materials including stained wood, glass, concrete blocks, and steel/aluminum. A portion of the roofline follows a rounded exposed glu-lam beam that curves down from east to west grounding the building and lowering the perceived height of the structure on the south end by breaking up the roofline and drawing it down towards the center of the building. This portion of the roof will be finished with a curved corrugated steel roof (Galvalume or other). The remainder of the buildings will be flat roofed with torch down type roofing.

Along the west side of the building the mixture of stained wood, concrete block, and glazing continues until it is interrupted by the maintenance and repair areas where the siding turns to an industrial corrugated steel type siding that includes several large roll up steel shop doors. The remainder of the building on the north and east sides is also sided with corrugated steel type siding.

The east side of this structure contains a covered three level boat storage rack structure (as described above) that is open to the east and is screened to the south by a wood screen with a climbing evergreen vine designed to help shield the adjacent property owners and users to the south from the visual impacts of boat storage. See **Attachment II – Site Design, Landscape, and Building Plans**.

Figure 8 - Architects Rendering of Building A



Covered and Uncovered Boat Storage – Rack “A”: This is a three level 30-foot single wide boat storage rack structure located in the far north west corner of the site to the north of the existing fuel tanks. The structure consists of 1,000 square feet of covered rack storage and 320 square feet of

open rack storage. The design utilizes a curved glu-lam roof line similar to that of Building A and to the observer looking in from the south the rooflines match. This rack is located behind a patch of landscaping designed to screen the boat storage and other marina related activity from the adjacent property owners and users to the south.

Covered Boat Storage – Rack “B”: Rack B is a 30-foot high 5,529 square feet three level double wide covered boat storage rack structure located in the center of the site. Similar to Building A, this rack structure is screened on the south side to protect the adjacent uses. Rack B also utilizes an exposed curved glu-lam beam as the leading roofline edge and the roofline dips in the center rather than peaking in the center, a design feature and that lowers the observed level of the roof.

Uncovered Boat Storage – Rack “C”: Rack C is a 30-foot high single wide open four level rack consisting of 1,018 square feet of open uncovered rack space. This structure is also screened/sided on the south end with an alternating stained wood screen and climbing evergreen vine. This rack has no roof.

IV. CONSISTENCY WITH GENERAL LAND USE CODE REQUIREMENTS

A. General Provisions of the Land Use Code

The Seattle Boat Newport site is located within the R-2.5 zoning district. Marina uses are permitted in the R-2.5 district through a shoreline conditional use permit process, however all R-2.5 district zoning dimensional requirements must be met. With the submittal of this application, the applicant has fulfilled the requirement to secure conditional use approval.

The proposal has fulfilled the general Land Use Code (LUC) requirements listed in the table below:

Figure 9 – Land Use Code (LUC) Requirements

Category	LUC Requirements	Proposal by Applicant
Zoning	R-2.5	No changes to zoning
Minimum Site Area	13,500 sf	West Parcel: 77,419 sf East Parcel: 100,074 sf
Lot Coverage	35 %	West Parcel: 21 % East Parcel: 0 % (No Structures)
Building Height	30 feet	West Parcel: 30 feet East Parcel: 0 feet (No Structures)
Building Setbacks (Measured from interior edge of easement)		West Parcel Setbacks Proposed Through LUC Variance (See Section XI of this report for Variance summary):
Front (north)	20 feet	10 feet
Front (west)	20 feet	10 feet
Rear (east)	50 feet	10 feet
Side (south)	50 feet	10 feet

		East Parcel Setabcks – No Structures
Parking	Unspecified use - see LUC 20.20.590.F.2	West Parcel: 26 Standard + 21 Valet = 47 East Parcel: 74 Standard Total:100 (without valet) Max Total: 121
Landscaping	Single-family District – None Required by LUC 20.20.520 Parking Lot Landscaping – Required under LUC 20.20.520 West Parcel: 17.5 sf of Type V or better landscaping required per parking stall. 26 x 17.5 = 455 sf of Type V or better required. East Parcel: 26.25 sf of Type V or better landscaping required per parking stall. 74 x 26.25 = 1,943 sf of Type V or better required.	Additional landscaping required under Shoreline Substantial Development Permit and Shoreline Conditional Use Permit. West Parcel: 8,674 sf of Type V or better proposed. East Parcel: 6,413 sf of Type V or better proposed.
Impervious Surface	50 percent or if in excess may not exceed what is currently on site – see LUC 20.20.460	Not to exceed current amount of impervious

B. Height Requirement

LUC Chapter 20.20.010 limits building height to 30 feet as measured from average existing grade within the R-2.5 zoning district. LUC 20.25E restricts building height to 35 feet as measured from average existing grade to the peak of the highest point for all property that falls within the boundaries of the Shoreline Overlay District. The more restrictive of these applies and the applicant is proposing building elevations of 30 feet measured from existing grade to the highest point (peak) of any structure within the development. See Section XV for related condition.

C. Parking Standards

LUC 20.20.590.F does not define the number of parking stalls required for a Marina facility. LUC 20.20.590.F.2 allows for the Director of Planning and Community Development to establish parking requirements for unspecified uses based on a specific set of criteria. Currently, portions of the west parcel are occupied by easements that integrate the site with the surrounding property and provide both property owners (Seattle Boat and the Newport Yacht Basin Condominium Association) a non-exclusive right to park within easement areas dedicated for access and parking. The applicant is not proposing to use parking located within the boundaries of these easements as required parking for the proposed development. Alternatively, the applicant has provided the City with a parking plan that indicates a standard weekday availability of up to 100 parking spaces distributed across the two lots in areas that are outside of the access and parking easements and are dedicated for the exclusive use of Seattle Boat customers on unencumbered Seattle Boat property. On balance, this plan will provide for additional parking beyond what is currently available on this site and within the larger marina uses, and will not impact the right that the various easement holders have to park in

the parking easement areas. However, the parking plan does not preclude or restrict Seattle Boat's use of parking on a first-come first-serve basis within the parking easement areas in addition to parking held exclusively by Seattle Boat.

In addition to the parking plan, the applicant has also provided the City with a parking study for the site and for the proposed use. The study identifies parking demand related to similar marina uses, discusses past uses located on the site, estimates actual usage of the facility based on a series of industry studies regarding the use of such facilities compared with conventional moorage, and contends that ancillary demand is often associated with larger marine based facilities; for example, restaurants, charter boats, and other marine-related retail shops that all draw visitors will not be located here. In addition to this parking study, the applicant has also provided data (use logs) documenting the use of Seattle Boat's Lake Union facility over 32 days including weekends, major events, and holidays across three months of the summer. The average use identified in this study is 9 percent, and maximum peak use over Seafair weekend is 33 percent. As a result of the review of this study and the data provided, staff have identified that weekend/holiday/special event overflow parking demand may be an issue for this facility. In response, the applicant has proposed a valet parking operation to be used on peak days and weekends when parking demand will be highest. During these periods, Seattle Boat will operate a valet service and "gang park" cars within the service bay circulation areas. This plan will provide for up to 21 additional parking spaces to ensure peak day parking demand is met, bringing the total available number of exclusive parking spaces for this proposed development to 121. This provides for an approximate ratio of 2 parking spaces for every 1 boat at a 33 percent usage rate when not deducting parking for employees and subordinate uses. With this revision, staff has determined that sufficient parking will be provided by Seattle Boat for the proposed use. The parking study is included in this report as **Attachment XII**. Facility use logs are included as **Attachment XIII**. A copy of the site's peak day operating plan is included in this report as **Attachment XIV**. A site plan that identifies the location of parking supply is included as **Attachment II**.

D. Landscaping

Under the general residential zone development requirements of LUC 20.20.010 footnote (40) 50 percent of the front yard setback is required to be landscaped with greenscape. For sites that are non-conforming or that have limited right of way frontage, this requirement may be modified. The west parcel of this proposed development only contains 36 linear feet of frontage, of which 100 percent is occupied by an existing access, parking, and utility easement. 100 percent of the front yard is paved with hard surfaces that are used as the sites access point. The remainder of the site is embraced by the Newport Yacht Basin Condominium Association property. Due to these constraints the site is effectively landlocked. This requirement does not apply to the west parcel. The east parcel meets the requirements of LUC 20.20.010(40) with more than 50 percent of the required front yard setback of 20 feet landscaped with greenscape.

Additional landscaping requirements have been imposed on this proposal as part of the shoreline conditional use review process and are intended to provide screening to the single-family neighborhood and public boat launch to the south. To enhance the site's integration with the neighboring single-family development to the south, the applicant has obtained the services of a landscape architect who designed perimeter and interior landscape treatments for the site. On the project's east parcel, these treatments include up to 20 feet of frontage landscaping, interior parking lot landscaping, and approximately 30,000 square feet of wetland buffer restoration. On the project's west parcel the design includes interior parking lot landscaping, climbing evergreen vines that help screen the boat storage racks, over 3,000 square feet of shoreline restoration, and areas of grasscrete to help reduce the total amount of impervious surface on the site. Landscaping requirements for this project generally exceed the requirements of LUC 20.20.520 and the applicant has provided a landscape plan that includes the use of landscaping in conjunction with architectural

design treatments on the south side of the proposed buildings to help integrate the buildings with the single-family neighborhood to the south. These features will help screen the development and related activity from the adjacent boat launch and help reduce the total amount of perceived hardscape that currently characterizes the site while providing for a higher level of quality in construction.

E. Impervious Surfaces

Impervious surfaces are regulated under LUC 20.20.010 and under LUC 20.20.460. The site's west parcel is approximately 77,419 square feet in size and is currently built out with buildings and parking lots. The west parcel contains approximately 69,088 square feet (89 percent) of impervious surface. The site's east parcel is approximately 59,312 square feet in size and is currently occupied by a large parking lot. The east parcel contains approximately 33,230 square feet (56 percent) of impervious surface. Generally, under LUC 20.20.010 the project site is restricted to 50 percent impervious surface unless the existing site condition exceeds this amount. Under LUC 20.20.460 those properties that are in excess of the impervious surface limits found in LUC 20.20.010 may retain the existing quantity of impervious surface. The applicant has submitted plans that identify a net reduction in the proposed amount of impervious surface from what is currently located on the site. See related condition of approval in Section XV of this report.

V. CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN

Citizen Participation:

Policy CP-6 "Encourage and emphasize open communication between developers and neighbors about compatibility issues."

The City and Seattle Boat Company have worked to communicate effectively with the surrounding community. Several meetings have been attended and revisions have been made based on the feedback received from the community.

Land Use: Applicable policies the project responds to are:

Policy LU-8 "Ensure that commercial land uses are contained within carefully delineated areas."

This application is consistent with existing land use patterns and is a redevelopment of an existing use. Approval of this use will not lead to the expansion of a commercial use where it is not desired or already established.

Policy LU-9 "Maintain compatible use and design with the surrounding built environment when considering ... redevelopment within an already developed area."

Proposed uses are the same although the new design will provide storage in a vertical and orderly arrangement. It will also provide more landscaping, a new building, revised parking layout and more.

Policy LU-22 "Protect residential areas from the impacts of non-residential uses of a scale not appropriate to the neighborhood."

While state shoreline regulations allowed a higher limit, City zoning reduces the allowable height limit to 30 feet for this proposed development. The applicant is not requesting any exception to the rule and no structures on the site will exceed 30 feet when measured from existing grade to the highest point of the roof.

Policy LU-32 "Maintain commercial areas outside the Downtown which can ... serve other parts of the community."

Boat repair and storage are vital services to the adjacent marina. In addition Seattle Boat will continue to provide a marine fuel service, an important service, as it is the only such facility south of SR 520 on Lake Washington.

Environment: The project contributes to the City's goal of integrating natural and development environments. Specific Environmental policies are:

Policy EN-37 "Reduce runoff from streets, parking lots and other impervious surfaces and improve surface water quality ... in redevelopment."

A complete redesign, embodying state of the art technology is part of the proposed redevelopment.

Policy EN-39 "Restrict the runoff rate, volume, and quality to predevelopment levels for ... redevelopment."

As in the response to EN -37, the proposal will provide a new storm drainage system. In addition the new maintenance and repair facility is designed to recycle all water needed for washing and maintaining boats.

Policy EN-49 "Preserve existing vegetation or provide or enhance vegetation that is compatible with the natural character of Bellevue."

The Company proposes to replace, increase and enhance existing vegetation on site. All landscaping will be done with native plants.

Shoreline Management: SH-3, "Give priority to uses and activities which ... depend on a shoreline location." Boat launching, repair and storage are self-explanatory shoreline related activities.

Policy SH-32 "Lake Washington: Provide regional launch facilities which recognize the boating demand in Bellevue ... "

The Boat Company's storage and launching system will provide additional capacity to the adjoining public boat launch facility.

Policy SH-41 "Minimize roadways and parking areas in the shoreline areas."

With redevelopment of the site, parking will remain, but improved landscaping will be installed along the land adjacent to the shoreline.

Policy SH-48 "Encourage the use of vegetation, cobbles and gravels for stabilizing the water's edge from erosion over the use of bulkheads"

The project will leave existing bulkheads, but in the above-mentioned landscaping zone along the north property line, the shoreline will be upgraded with removal of broken concrete and replacement with native plantings.

VI. PUBLIC COMMENT

A. Noticing

Application for Shoreline Conditional Use Permit, Shoreline Substantial Development Permit, and Critical Areas Land Use Permit were submitted on March 16, 2007. Under LUC 20.35.080 Process II applications submitted in conjunction with a Process I application are considered under one consolidated staff report. In accordance with this section, the applications have been consolidated for the purpose of review.

Following the initial review of the application, the identification of additional site restrictions due to the presence of multiple easements, and issuance of a revisions letter, the applicant submitted an application for a Land Use Code Variance on October 23, 2007. This application was initially noticed as a stand alone application on November 29, 2007. Subsequently, the application for variance (Process II) was bundled with the other applications related to this proposal in compliance with LUC 20.35.080.

Noticing for this project has been completed as follows:

Shoreline Conditional Use Permit, Shoreline Substantial Development Permit, Critical Areas Land Use Permit Applications Consolidated Notice

Application Date:	March 16, 2007
Determination of Complete Application	April 3, 2007
Initial Public Notice (500 feet):	April 12, 2007(Included sign installation)
First Notice Comment Period:	May 14, 2007(30 Days)
Public Meeting:	April 24, 2007(Held at City Hall)
Work Scope Changed (Addition of in-water work):	April 25, 2007
Notice of Revised Application:	May 3, 2007
Revised Application Notice Comment Period:	June 4, 2007(30 Days)

Land Use Code Variance Application Stand Alone Notice

Application Date:	October 23, 2007
Determination of Complete Application	November 15, 2007
Initial Public Notice (500 feet):	November 29, 2007
First Notice Comment Period:	December 13, 2007(14 Days)

Shoreline Conditional Use Permit, Shoreline Substantial Development Permit, Critical Areas Land Use Permit, and Land Use Code Variance Applications Consolidated Notice

Major Revisions Submitted:	January 30, 2008
Notice of Revised Application:	February 7, 2008
Revised Application Notice Comment Period:	March 10, 2008 (30 Days)
Recommendation / Decision Publication:	April 24, 2008
Process II Appeal Deadline(SEPA/Variance/LO):	May 8, 2008 (14 Days)
SSDP Appeal Deadline (Made to SHB):	May 15, 2008 (21 Days)
Public Hearing Date:	June 19, 2008

B. Public Meeting

The Land Use Code (LUC) Section 20.35.127 requires that the City hold a public meeting for Process I applications. The public meeting for this Shoreline Conditional Use Permit was held on April 24, 2007. There were twenty-seven attendees at this meeting. Issues identified by meeting

attendees during the meeting are as follows:

- Insufficient parking supply – not enough space to provide parking for both the existing covered moorage use and the Seattle Boat proposed use.
- No rights by Seattle Boat to use existing easements for parking.
- Traffic on SE 40th Street – City’s SE 40th Street Boat launch causes unacceptable levels of traffic.
- Gridlock on SE 40th Street during busy summer days – This facility will only aggravate the problems that exist.
- Noise from additional activity - The boatlift and boat repair will make too much noise.
- Environmental Degradation – More boats in the fairways of the marina will create impacts.
- Noticing was not distributed properly – Claims of not receiving notice.
- Marina Breakwater – Was removed by the State and Seattle Boat should pay to have it replaced.

C. Additional Meetings Attended

At the request of the Newport Yacht Basin Condominium Association, City staff attended a night meeting with the Newport Yacht Basin Association membership on February 13, 2008 to explain the status of the project. The review process was again explained and revisions made to the project were described. Attendees were encouraged to comment on the project before the closure of the comment period and were advised that comment would continue to be taken through the closure of the Public Hearing. No comments were taken at this meeting, although questions regarding the process and the project details were answered by City Staff and the applicant.

D. Public Comment Received

To date, a total of four comment periods have been held open on this project. Two comment periods on the Shoreline Conditional Use Permit, Shoreline Substantial Development, and Critical Areas Land Use Permit consolidated application, one comment period on the stand alone variance application, and one comment period on the combined notice of all four applications. During the multiple comment periods, numerous comment letters were received by email and by US Mail. In total, written comments were received from 28 different commenters and include one petition, one anonymous letter, one agency comment from the Muckleshoot Indian Tribe, and comments from private investors and organized groups like the Bellevue Yacht Club and the Newport Yacht Club. Comment letters that had multiple signatures or were submitted by an organized groups representative were only counted once. A binder of public comment organized alphabetically by commenter’s last name is included in the project file. Generally, a majority of comments were received from members of the Newport Yacht Basin Condominium Association and limited comment has been received from residents of Newport Shores.

Issues Identified In Comments Received: (Comments are summarized in the table below)

Figure 10 – Public Comment

Issue Identified	Number of Letters Identifying Issue	City Response / Change Made in Plans
Observance of “No Wake Zone” and other safety oriented regulations.	8	In response to this comment, Seattle boat has provided a copy of its lease agreement that is to be completed by its customers and includes rules and procedures related to safe boat operation. If operators violate the rules of the

		contract, the customer's contract for services will be cancelled. Also see Washington State Recreation Watercraft Negligence laws - RCW 79A.60.030
Seattle Boat should be required to install cameras to monitor their user's behavior in the fairways of the marina.	4	As a result of this comment and in the interest of safety, Seattle Boat has revised the project plans to include the installation and maintenance of a video surveillance system.
Seattle Boat should install a floating breakwater outside the marina to stop boat related wave action.	3	The breakwater was removed at the election of the Newport Yacht Basin Condominium Association. The breakwater could be replaced if the Association elected to pay the aquatic lease fees associated with the breakwater. No change to plans.
There are 400 slips in the marina, adding 173 storage spaces constitutes a 43 percent increase. The increase will cause a negative impact.	2	Approval of this project could potentially result in an increase in the number of boats stored on the site. Boating regulations and upland operational practices will limit the potential for negative impact. Seattle Boat has provided a copy of its lease agreement that is to be completed by its customers and includes rules and procedures related to safe boat operation. No change to plans.
The increased usage will double the erosion of the wetlands and cause additional sedimentation of the navigation channels. Who will pay for the dredging?	5	Under 79A.60 RCW a no wake operational speed is required within the marina's fairways which will limit erosion. No change to plans.
Environmental degradation and erosion of the adjacent wetland to the north.	5	Erosion to the edge of this wetland is due to many factors. It is difficult to identify one specific cause of erosion. Some factors include storm patterns, fetch, wave action, boaters on Lake Washington, natural processes etc.. No evidence has been provided that demonstrates the proposed project will cause a significant increase in the erosion of the wetland edge. No change to plans.
Insurance requirements for Seattle Boat users and indemnity for the Newport Yacht Basin Association.	3	The Seattle Boat lease agreement includes a requirement that each boat owner obtains and maintains insurance. No change to plans.
Need to establish a working operating agreement to determine who is financially responsible for boat operations within the common fairway.	5	Chapter 79A.60 RCW (Regulation of recreational vessels) and the property Condominium Declaration control. The City has no regulatory authority in this area.
Request for EIS due to magnitude of boat usage	1	No significant impact is expected. SEPA review has been completed consistent with WAC 197-

increase.		11. No changes made to plans.
Safety issues in the common marina fairway.	11	See 79A.60 RCW Regulation of recreational vessels & the Condominium Declaration. No changes made to plans.
The site does not contain sufficient parking for the proposed use.	20	The applicant has submitted a parking study and a parking plan. Parking has been modified to meet parking demand and meet City requirements.
Change project design to use the shortest approach possible instead of locating the launch point the farthest distance away from open water.	5	This would involve property transfer with the Newport Yacht Basin Association which would require 100 percent of the membership vote. This option is not viable at this time. No change made.
Seattle Boat should be required to build a pump out station as part of the development.	2	The type of boats Seattle Boat will store and launch do not include an onboard head.
Seattle Boat should post a bond to cover the cost of dredging and/or damage to the Newport Yacht Basin Association docks and facilities.	5	The City has no regulatory authority to impose such a bonding requirement. No changes to proposed plans.
Noticing was improperly distributed.	3	Labels and distribution lists were checked and were found to be consistent with the King County Assessor's database of owners within 500 feet of the subject site. Noticing was provided consistent with governing code.
Why no second public meeting.	1	The City's Land Use Code only requires one public meeting. A second meeting with the Newport Yacht Basin Association members was attended by City staff later in the review process.
This development will trigger need for a Bellevue Police Boat.	2	The City of Bellevue does not have any boating laws. Boating laws are the responsibility of the State of Washington Parks and Recreation Commission and are identified in 79A.60 RCW - Regulation of recreational vessels.
Pedestrian traffic crossing the site will be at risk of conflict with the site's vehicle traffic.	3	In response to this comment, the applicant has added a striped pedestrian pathway across the site.
More moorage for boats waiting to be taken out of the water.	3	In response to this comment, the applicant has submitted a set of peak day operating guidelines that identifies how Seattle Boat traffic will be regulated on peak days.
A significant increase in air and noise pollution.	3	Boat noise is regulated by 79A.60 RCW, site operation noise is regulated by BCC 9.18. Boat emissions are not regulated by the City of Bellevue.
Aesthetic impacts to the surrounding communities.	3	In response to this comment, the applicant has submitted revised plans that include design

		treatments to the south facing façade of the building that help integrate the proposed structures into the surrounding community and mitigate visual impact.
Hours of operation are not consistent with a single-family neighborhood.	3	In response to this comment, Seattle Boat has submitted proposed hours of operation. The hours of operation will be imposed as a condition of approval. Operating hours are as follows: <u>Peak Season</u> (June 1 to August 31): 7 AM to 9 PM <u>Non-Peak Season</u> (April 15 to May 31 and September 1 to November 15): 8 AM to 6:30 PM <u>Off Season</u> (November 16 to April 14): 8 AM to 4:30 PM
The noise associated with the back up alarm from the forklift will impact the single-family neighborhood to the south.	3	This is regulated by BCC 9.18, which exempts vehicle warning devices.
Safety hazards associated with moving the fuel storage tanks closer to the single-family neighborhood.	2	In response to this comment, the applicant has revised the plans. Under the revised plans. The fuel tanks will remain in the current location and will not be modified.
General safety concerns associated with the increase in activity.	6	Seattle Boat has provided a copy of its lease agreement that is to be completed by its customers and includes rules and procedures related to safe boat operation. No change to plans. Several changes to the site plans have also been made that increase the level of safety within the upland operations of the proposed use.
Use of the fairways as public property.	12	In response to this comment, the applicant has submitted a legal summary which outlines the general framework under which the public retains the right to navigate across waters of the state.
Light pollution.	2	In response to this the applicant has submitted a lighting plan. All lighting must be screened to protect the adjacent single-family neighborhood.
Law Enforcement presence on busy weekends.	4	This proposed development is part of a larger marina use. Law enforcement requirements must be gauged by the demand presented by the entire area. Law Enforcement decisions are made by the City's Police Department. The City's Police Department has been briefed on this proposed development.
Loss of revenue by the boat launch.	2	This proposal will allow for more users to launch boats by providing for additional alternatives to the City's SE 40 th Street Boat launch. No reduction in the number of boats being launched at the City's boat launch is expected. The boat launch is currently operating at capacity and serves a different clientele than the proposed

		Seattle Boat Facility.
Street trees serve as Eagle habitat.	1	The WDFW Priority Habitat Database (PHS) was queried and no habitat or nesting activity in this area was identified.
Concerns over alcohol use.	3	Boating under the influence is illegal. This is a law enforcement issue.
The marina is private and Seattle Boat has no right to use it.	14	Seattle Boat is a part owner in and member of the Newport Yacht Basin Condominium Association. Use of Waters of the State by the public is protected under the public trust doctrine.
The proposed development will lead to additional congestion on SE 40 th Street and make it more difficult to access.	4	In response to this comment, the applicant has modified the plans to move the driveway further east to avoid the queuing lane associated with the SE 40 th Street Boat launch. This action will assist in providing circulation to the site on busy days.
Additional moorage should be required at the terminus of the fairway where boats will be launched and extracted from the water.	3	In response to this comment, Seattle Boat has submitted a peak day operating procedure that manages the rate at which boats enter the fairway to be stored. This operating procedure requires that customers check in at the fuel dock before entering the fairway.

VII. CHANGES MADE TO THE PROJECT DUE TO PUBLIC COMMENT

Based upon the comments above and on staff review of the proposal, staff determined that additional information was necessary to address various issues raised. A revisions letter was sent to the applicant on August 23, 2007 requesting changes to the proposal. A copy of the revisions letter is included as **Attachment XV**. In response to this request, Seattle Boat submitted a complete set of revisions on October 24, 2007 addressing all items identified in the revisions letter and submitted a letter identifying the changes made to the proposal and addressing each revision request independently. This revisions submittal response letter is included as **Attachment XVI**.

VIII. CHANGES MADE TO THE PROJECT BY THE APPLICANT

Following the submittal of revisions by the applicant on October 24, 2007, the applicant began negotiations to obtain a portion of the property to the east of the primary site that is part of the Mercer Marine Short Plat. In January, the applicant finalized a contract to purchase the property (referenced as the east parcel in this report) upon the finalization of the short plat (recording). A revision was filed with the City on January 30, 2008, that added a portion of the east parcel to the project review. Included in this application was a letter from the applicant that identifies the changes made to the proposal associated with the addition of this area. This letter is included as **Attachment XVII**.

IX. TECHNICAL REVIEW

Preliminary review of this proposal for consistency with City Codes has been completed for this proposal by the City's Fire Department, Utilities Department, Transportation Department, and PCD's Clearing and Grading Division. A summary of technical review for each department is included below:

Clearing and Grading Division: The Clearing and Grading Division has approved this proposal with

the condition that the applicant apply for and obtain a Clearing and Grading Permit and that all applicable sections of the Clearing and Grading Code (BCC 23.76) be met prior to permit issuance. See Section XV for related conditions.

Utilities Department: The Utilities Department has reviewed and approved the conceptual design which consists of storm drainage direct conveyance to Lake Washington with water quality treatment prior to discharge, a water main extension and side sewer connection. Approval is granted with the condition that the applicant apply for and obtain all required infrastructure development permits and utility extension agreements. All applicable sections of the City's Utilities Codes (BCC 24) must be met prior to permit issuance. Changes to the site layout may be required to accommodate the utilities after utility engineering is approved. All design review, plan approval, and field inspection shall be performed under the Developer Extension Agreements. See Section XV for related conditions.

Fire Department: The Fire Department has reviewed and approved the conceptual design only. Formal review will take place with subsequent building permit submittal. All fire code standards must be met, and the applicant will be required to submit standard operating procedures for boat storage for review and approval by the Fire Department prior to the issuance of a Certificate of Occupancy. See Section XV for related conditions.

Transportation Department:

- Site Access

Access to the proposed project will be provided to the west parcel via an existing driveway to site (located approximately midway along the southern border of the west parcel) and to the east parcel via a new 35 foot wide driveway located along the east parcel's south property line. See project site plans (**Attachment II**).

- Street Frontage Improvements

The applicant will be responsible for new driveway construction and any portion of the pedestrian trail required as part of the Mercer Marine Short Plat (File No. 06-116842-LN) within the boundaries of the project and along the southern property line of the east parcel adjacent to the SE 40th Street. See project site plans (**Attachment II**).

- Easements

The applicant shall provide trail easements to the City on the south side of the east parcel along the edge of SE 40th Street as needed to encompass the full required width of the pedestrian walkway required as part of the Mercer Marine Short Plat (File No. 06-116842-LN). See project site plans (**Attachment II**).

- Use of the Right of Way

Applicants often request use of the right of way and of pedestrian easements for materials storage, construction trailers, hauling routes, fencing, barricades, loading and unloading and other temporary uses as well as for construction of utilities and street improvements. A Right of Way Use Permit for such activities must be acquired prior to issuance of any construction permit including demolition permit. Sidewalks may not be closed except as specifically allowed by a Right of Way Use Permit.

- Pavement Restoration

The City of Bellevue has established the Trench Restoration Program to provide developers with guidance as to the extent of resurfacing required when a street has been damaged by trenching or other activities. Under the Trench Restoration Program, every street in the City of Bellevue has been examined and placed in one of three categories based on the street's condition and the period of time since it has last been resurfaced. These three categories are "No Street Cuts Permitted"

“Overlay Required” and “Standard Trench Restoration”. Each category has different trench restoration requirements associated with it. Damage to the street can be mitigated by placing an asphalt overlay well beyond the limits of the trench walls to produce a more durable surface without the unsightly piecemeal look that often comes with small strip patching. Lake Washington Boulevard is classified as an “Overlay Required” street. SE 40th Street shall be considered to be in the same category. Minimum pavement restoration for this type of classification is a full grind and overlay extending 50 feet from each side of the trench cut for the full width of the paved right-of-way.

See Section XV for related conditions.

X. STATE ENVIRONMENTAL POLICY ACT (See SEPA Checklist - Attachment XVIII)

Review of the environmental information provided as part of this project proposal indicates that this proposal to redevelop this site could potentially cause adverse environmental impacts. As part of the application, a Critical Areas Report was submitted and analyzes the site’s existing conditions and the proposed development action identifying potential impacts associated with the proposed activity and includes proposed conservation measures intended to reduce the potential for impact to the natural environment surrounding the site. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

Adverse impacts which are less than significant are usually subject to City Codes or Standards which are intended to mitigate those impacts. Where such impacts and regulatory items correspond, further documentation is not necessary. For other adverse impacts which are less than significant, Bellevue City Code Sec. 22.02.140 provides substantive authority to mitigate impacts disclosed through the environmental review process.

This project includes two components – upland construction and in-water construction. Upland construction is defined as all work that is done above the ordinary high water mark of Lake Washington. The in-water work is that work that is done waterward of the ordinary high water mark. For the purpose of SEPA review, evaluation of this proposal has been divided into two parts as follows:

In-Water Work: The project’s in-water work includes the repair and reconfiguration of two finger piers that will serve as the launch point for the boat storage operation. In order to provide for additional moorage space (up to 7 boats), the applicant is requesting approval of the plans to modify the piers. No other in-water work is proposed. To comply with the City’s commercial dock standards, the applicant is proposing fully grated docks, use of steel piles, and the completion of shoreline planting 10 feet in width along the north edge of the property where there is no bulkhead.

Chinook, coho, and sockeye salmon utilize the shoreline of Lake Washington. Chinook and coho salmon have been listed as threatened and candidate species, respectively, by the National Marine Fisheries Service (NMFS) under the Endangered Species Act (ESA). Bull trout are also listed as threatened under ESA by the U.S. Fish and Wildlife Service (USFWS). However, although Lake Washington is within the historical range of bull trout, no bull trout have been found recently. Wild Puget Sound steelhead are also known to enter the Lake Washington waters in mid December to spawn, although few adult steelhead have returned in recent years. Puget Sound steelhead are documented as a species of listing consideration under ESA. Resident and migratory bald eagles are known to inhabit the shores of Lake Washington. The Washington State Department of Fish and Wildlife PHS Database identifies one active eagle nest within one mile of the project site.

Impacts to endangered and threatened species associated with commercial dock repairs can be

considered significant. Management measures proposed by the applicant during construction and required as part of the permit process will reduce the impacts associated with the repair and modification of the Seattle Boat docks. These measures are discussed below and conditions of approval are listed in Section XV of this report.

Upland Work: Upland work includes the redevelopment of the site as defined in Section III of this report. This development activity will not increase the amount of impervious surface, will improve stormwater collection, includes restoration of the wetland edge along the east parcel's east property boundary and restoration of the shoreline edge along the west parcels north boundary, the incorporation of design features to help integrate the site into the single-family neighborhood to the south, and additional landscaping throughout the site where there currently is none. Seattle Boat has documented its operational procedures and identified controls such as operational hours, parking demand, and peak day procedures. The upland development of this site is not expected to have an adverse environmental impact to the natural or built environment and the surrounding community.

A Critical Areas Report was prepared for this proposal by Suzzane Tomassi, Wildlife Biologist with the Watershed Company, Inc. Report findings concluded that the request (considering the conservation and management measures) for the redevelopment of this site are not expected to cause adverse significant impacts. This report is included as **Attachment XIX**. Identified impacts and associated mitigation are as follows:

A. Earth and Water

The applicant is proposing the removal of creosote treated piling and the installation of steel piling. Pile installation and removal will be done with a vibratory insertion/extraction method. The pile removal and replacement activity will increase the amount of suspended sediment in the water column. Water currents will carry the suspended sediment some distance from the project site, depending upon the wind patterns. Water quality in this area of Lake Washington will be impacted during construction and until sediments settle. To mitigate the impacts of increased turbidity in the water, use of a silt curtain is required as a Conservation Measure for this project. Refer to Section XV for a condition of approval related to the installation of a silt curtain.

To mitigate the adverse impacts to the fisheries resources, in-water construction shall occur during the work window determined by the Hydraulics Project Approval issued by the Washington State Department of Fish and Wildlife. Refer to Section XV for a condition of approval related to construction work windows.

TESC Plan: The plans submitted for the clearing and grading permit must include a Temporary Erosion and Sedimentation Control (TESC) Plan with construction BMP's. The TESC plans shall include a site plan, notes and associated details that address the minimum erosion and sedimentation control requirements of the clearing and grading code. See section XV of this report for a related condition of approval.

Stormwater Turbidity: During earthwork construction, performance monitoring for stormwater turbidity will be required to determine compliance with City of Bellevue (BCC 23.76.160.C) and State Surface Water Quality Standards (WAC 173.201 A). The standard for turbidity (indirect measurement of the amount of suspended sediments in-water) is:

- 5 NTU over background turbidity when background turbidity is 50 NTU or less;
- 10 percent above background turbidity when background turbidity is greater than 50 NTU.

See section XV of this report for a related condition of approval.

Geotechnical Considerations: Before the clearing and grading permit will be issued, the geotechnical report must be updated by the geotechnical engineer to match the current site design. In addition, the final plans, including all retaining walls, shoring and vault designs, must be reviewed by the project geotechnical engineer. See section XV of this report for a related condition of approval.

Seasonal Restrictions: The project is located adjacent to Lake Washington where the potential for discharge into the lake is high. The project will be subject to rainy season restrictions. The clearing & grading code defines the rainy season as November 1st through April 30th. The Department of Planning and Community Development must grant approval to initiate or continue clearing or grading activity during the rainy season. Any approval will be based on site and project conditions, extent and quality of the erosion and sedimentation control, and the project's track record at controlling erosion and sedimentation. See section XV of this report for a related condition of approval.

Water Quality: Existing stormwater runoff on this site sheet flows into catch basins and across the site into Lake Washington. Currently, there is no on-site treatment of water. The proposed development is expected to generate adverse impacts to water quality, however the long term improvements to the waters being discharged into the lake are expected to benefit the site and the surrounding aquatic environment. Following construction, and for the life of the development, pollutants such as sediment, oil, grease, herbicides, pesticides and fertilizers could potentially enter the stormwater system from vehicular storage areas, vehicular circulation areas, and onsite landscape areas. The site's impervious surfaces are considered pollution generating and the site's stormwater must be treated. To mitigate potential adverse water quality impacts, operations on the site must comply with Bellevue's Environmental Best Management Practices and all stormwater must receive treatment consistent with City of Bellevue Utility Engineering Standards. See section XV of this report for a related condition of approval.

B. Animals

The site abuts Lake Washington, which is used as a fisheries breeding and rearing resource for sockeye, chinook and coho salmon, as well as other fish. The proposed development must ensure that there will be no take of chinook and coho salmon or bull trout as listed under the Endangered Species Act in order to receive development approval.

The City of Bellevue commissioned an analysis of the effects of bulkheads, piers and other artificial structures, and shoreline development on salmonids and other species listed as threatened, endangered, or as candidate species under the Endangered Species Act (ESA). The Watershed Company and the University of Washington's Washington Cooperative Fish and Wildlife Research Unit prepared the report entitled "A Summary of the Effects of Bulkheads, Piers and other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes." The report, dated July 13, 2000, is the product of a literature review initiated to determine the state of knowledge about the utilization of the regional lakes and streams as salmonid and bull trout habitat and the impacts of lakeshore development on salmonids. The report conclusions include: itemization of current research results on various shoreline development impacts to the fish utilizing these waterbodies; lists of issues requiring additional research to evaluate impacts to the resource; and a list of recommendations for ensuring protection of the fish and their habitats.

The proposed dock modifications and upland development including the proposed mitigation measures have been reviewed and found not likely to adversely effect endangered, threatened, or listed species. No bald eagle nests have been identified within .5 miles of the project, however one active nest has been located within one mile of the project site. The proposed construction area is

potentially within the foraging range of eagles that reside in the vicinity. To reduce the potential for impact to eagle populations, the applicant will be required to identify and follow any required work windows imposed by the Washington State Department of Fish and Wildlife. Refer to Section XV for a condition of approval related to construction work windows.

Adverse impacts to the fish and other aquatic organisms in the lake can be partially mitigated by complying with conditions imposed by the state and federal agencies that also regulate development in the lake. A Hydraulics Project Approval is required from the State Department of Fish and Wildlife, which will limit the times of construction to periods which will be less impacting to the fisheries resources. Refer to Section XV for a condition of approval related to construction work windows.

According to the bulkheads and pier report, shading from piers in the nearshore may reduce the amount of aquatic vegetation and produce artificial cover for predators of juvenile salmon. The existing pier decking results in non-translucent over water nearshore coverage (not-grated). Removal of the non-translucent dock decking and the grating of the dock will result in a net loss of over water nearshore coverage and an increase in light penetration. The applicant is also proposing the removal of old creosote piles and the use of steel piles to reconstruct the docks. The mitigation applied in this pier design, including the use of steel piles and the application of full grating, results in a better condition than that found for the currently existing piers. Any alteration to the proposal that may be required as a result of state or federal agency review must be submitted as a revision to this permit. Refer to Section XV for a related condition of approval requiring compliance with the dock design standards.

C. Plants

Vegetation within the site is currently limited. The west parcel consist of mostly asphalt with some small isolated patches of grass. The east parcel is characterized by a large gravel parking lot that contains some landscaping along SE 40th Street and disturbed vegetation along the eastern edge of the site. The applicant has prepared a landscaping and site restoration plan that significantly improves the site. The plan includes the restoration of the buffer along the eastern edge of the east parcel, landscaping along the south property line or east parcel, and landscaping internal to the east parcel along the leasehold boundary. On the west parcel, the applicant is proposing to restore the north 10 feet of the property along the shoreline in addition to a complete site landscaping. As a condition of approval the applicant will be required to prepare and submit a landscape and restoration maintenance and monitoring plan that meets the requirements of LUC 20.25H.220, including the installation of a financial security device to ensure proper landscape maintenance is carried out during the required maintenance and monitoring period. The benefits to site landscaping are addressed in the Critical Areas Report included as **Attachment XIX**. See section XV of this report for a related condition of approval.

D. 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. Noise emissions from routine activities are regulated by BCC 9.18. Both the construction of this project and long term operation must meet the City's noise requirements. Recreational vessel noise is regulated by RCW 79A.60 and all boaters in the vicinity are required to meet these standards. To comply with the noise standards, and as a condition of approval, the applicant is required to identify and submit a set of standard operating procedures that identify noise management practices for the operation. See Section XV of this report for a related condition of approval.

To complete the proposed project, in-water pile driving will be required to modify the site's docks, as well upland pile driving to install support piles for the storage rack structures. In addition to the noise

impacts to upland residents during construction, noise from pile driving associated with dock repair translates to shock waves in the water. According to the bulkhead and dock report, these shock waves could potentially disrupt the foraging behavior of juvenile salmonids, cause them to move away from the shoreline or exhibit a startle response, or delay migratory progress. The bulkhead and dock report further states that the pile driving sound may “mask” the sound of an approaching predator, or that salmon would become habituated to the sound and fail to hear the approach of a predator.

To mitigate the potential for noise impacts the natural and built environment, a condition of approval will require the use of a vibratory pile driver to construct the proposed project. Using this type of driver results in less sediment transfer and disturbance to the immediate environment than an impact driver. Because of the short duration of pile driving activities, this impact will be limited. Impacts due to construction noise are adequately mitigated by the City’s Noise Ordinance (Chapter 9.18 BCC) which limits construction hours and noise emissions. See related conditions of approval in Section XV of this report.

E. Transportation

Long Term Impacts and Mitigation: The long-term impacts of development projected to occur in the City by 2017 have been addressed in the City’s Transportation Facilities Plan EIS. The impacts of growth which are projected to occur within the City by 2017 are evaluated on the roadway network assuming that all the transportation improvement projects proposed in the City’s current Transportation Facilities Plan are in place. The Transportation Facilities Plan EIS divides the City into several Mobility Management Areas (MMAs) for analysis purposes. The Seattle Boat Newport project lies within MMA #7, which has a 2017 total growth projection of 16,430 square feet of office and no growth projections for retail. This development proposes a slight increase in total building space of approximately 1000 square feet (to be used mostly for covered boat storage). Reduction of square footage for both office and retail use is anticipated with this proposal. Therefore, the volume of proposed development is within the assumptions of the Transportation Facilities Plan EIS.

Traffic impact fees are used by the City to partially fund street improvement projects to alleviate traffic congestion caused by the cumulative impacts of development throughout the City. Payment of the transportation impact fee, as required by BCC 22.16, contributes to the financing of transportation improvement projects in the current adopted Transportation Facilities Plan, and is considered to be adequate mitigation of long-term traffic impacts. Fee payment is required at the time of building permit issuance.

Mid-Range Impacts and Mitigation: Project impacts anticipated to occur in the next six years are assessed through a concurrency analysis. The Traffic Standards Code (BCC 14.10) requires that development proposals generating 30 or more p.m. peak hour trips undergo a traffic impact analysis to determine if the concurrency requirements of the State Growth Management Act are maintained.

This development will generate no new p.m. peak hour trips (based on the site’s existing capacity to store 152 boats and the proposed new use which will create 173 new boat storage spaces; 112 vertical storage spaces, and 61 horizontal storage spaces located east on the site). All new trips will be generated during non-pm peak hours, and therefore, concurrency testing is not required for this project.

Short Term Operational Impacts and Mitigation: City staff analyzed the short term operational impacts of this proposal in order to recommend mitigation if necessary. These impacts included traffic operations conditions during the a.m. and p.m. peak hours. Issues that were analyzed included heavy traffic demand during “boating event days,” trip generation, parking demand and

access. The results of the short-term traffic analysis are published in the Seattle Boat Newport Traffic Impact Study, published March 16, 2007, addendums to the report published June 15, 2007, and traffic counts at similar boating facilities in the Seattle area (by Transportation Solutions, Inc.; David Markley). The study is included in the Transportation Department file for this development.

XI. LAND USE CODE VARIANCE

The applicant is requesting a variance from the requirements of LUC 20.20.022 which requires that structure setbacks identified in LUC 20.20.010 be measured from the interior edge of an access easement. Seattle Boat Company owns land adjacent to Lake Washington on the north side of SE 40th Street. It is surrounded by land owned by the Newport Yacht Basin, a 416-slip condominium marina. Further, the site is flanked on all four sides by access and parking easements. All easements benefit the Yacht Basin. The easements vary in width, from 50 feet on the south side, to 24 feet on the west side, 22 feet on the east side, and 40 feet on the north side. Collectively the easements limit development of the 1.77 acre site to a rectangle measuring approximately 117 feet by 356 feet, or .95 acres. Further application of the City's Land Use Code setback measurement requirements would limit the parcel to 72 feet by 336 feet or .55 acres. A variance has been requested to allow for the reduction of the required front and rear setbacks to the 10-foot minimum allowed under LUC 20.20.010 footnote 17, creating an approximately 97 foot by 336 foot area for development. The variance to setback requirements would provide for .75 acres of developable area on this 1.77 acre site.

In this case, the variance being requested would reduce the required setbacks in the R 2.5 land use district. If approved, the Front Yard setback variance would be a reduction from 20 feet to 10 feet, the aggregate Side Yard setback variance would remain the same at 10 feet on each side yard, and the Rear Yard setback variance would be a reduction from 25 feet to 10 feet. The variance would effectively create a 10-foot setback from all easements. Without this variance, redevelopment of this site would be difficult due to the square footage footprint limitations. When considering the width of the easements, 10 feet of structure setback provides for sufficient separation between the access driveways within the easements and the proposed 30 foot tall structures. It is also important to note that the adjacent Newport Yacht Basin Condominium Association covered moorage structures are located up to the property line and provide for no setback from either the property line or the easement. The variance must be recorded with the King County Department of Records and Elections within 60 days of the final approval of the variance action. See related condition of approval in Section XV of this report.

20.30G.140 Decision criteria

The Director may approve or approve with modifications an application for a variance from the provisions of the Land Use Code if:

A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district of the subject property; and

Finding: As mentioned above, the Seattle Boat Newport site is surrounded to the west, north, and east by the Newport Yacht Basin Condominium Association property. The Newport Yacht Basin Condominium Association is a covered moorage facility that includes multiple structures. None of these structures provide for any setback from either the property line or the easement. Seattle Boat is asking for a reduction of setback to 10 feet – the minimum required by the code. This request does not constitute a grant of special privilege and is actually more restrictive than what is provided for in the existing built environment adjacent to the site.

B. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district of the subject property; and

Finding: The Seattle Boat Newport project site is restricted in development opportunity due to the extent of easements that cross the perimeter of the property on all sides. The extent of the easements located on this site is unique and constitutes a special circumstance not anticipated under LUC 20.20.022.

C. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and

Finding: The access easements that surround the site will not be impaired by granting a 10-foot set back to the applicant. The use of the easements by the grantee would not be limited in any way by the granting of this variance. The applicant's engineer has worked with the City's Fire Department to ensure that the Fire Department's turning radius requirements have been met. The applicant has provide site plans that indicate the requested variance does not impact the required turning radius.

D. The variance is not inconsistent with the Comprehensive Plan; and

Finding: The variance is not inconsistent with the Comprehensive Plan in that it provides for a balancing of objectives through providing the minimum required setback, protecting the interests of the adjacent property owners and surrounding community, and allowing for the development of the site within a reasonable area.

XII. CRITICAL AREAS LAND USE PERMIT and CRITICAL AREAS REPORT

The critical areas report process is intended to provide flexibility for sites where the expected critical area functions and values are not present due to degraded conditions or other unique site characteristics, or for proposals providing unique design or protection of critical area functions and values not anticipated by the code. Generally, the critical areas report must demonstrate that the proposal with the requested modifications leads to equivalent or better protection of critical area functions and values than would result from the application of the standard requirements. Where the proposal involves restoration of degraded conditions in exchange for a reduction in regulated critical area buffer on a site, the critical areas report must demonstrate a net increase in certain critical area functions.

The west parcel of the subject site is bordered to the north, east, and west by Lake Washington. The east parcel is bordered to the west by Lake Washington and to the north and east by Mercer Slough Natural Area, which includes wetlands regulated under LUC 20.25H.095. Lake Washington is identified as a Shoreline Critical Area by LUC 20.25H.035. Under the current code, the east parcel is considered an undeveloped site, and the west parcel is considered a developed site (based on the presence of primary structures – LUC 20.25H).

Under LUC 20.25H.115 developed sites are subject to a 25-foot shoreline critical are buffer and an additional 25 foot structure setback. The structure setback may be reduced through the Critical Areas Land Use Permit and submittal of a Critical Areas Report that analyzes the existing and proposed condition of the site. The project site is currently surrounded by covered moorage structures that are part of the Newport Yacht Basin Condominium Association property. All of the covered moorage structures are located within the shoreline critical area. The presence of these structures and the general intensity of the existing marina facility use have limited the potential and

opportunity for this section of shoreline to provide for the natural functions that would normally be anticipated along the shoreline of Lake Washington. When considering the scope of the proposed development and the condition of the surrounding environment, no new negative impact is anticipated. The applicant has submitted application for Critical Area Land Use Permit including a complete Critical Areas Report and has requested the elimination of the structure setback on the west parcel, although the required 25 foot buffer will remain. The applicant is proposing to repair and resurface portions of the existing parking and circulation area on the west parcel that is within the 25 foot shoreline critical area buffer. This is an allowed use under LUC 20.25H.055 and is annotated with a footnote (1) and (2) and does not require a critical areas land use permit. No modification to the west parcel's 25 foot shoreline critical area buffer beyond what is allowed under LUC 20.25H.055 is proposed.

On the east parcel, the applicant has identified the appropriate 50-foot shoreline critical area buffer located along the west edge of the site. Under LUC 20.25H.115 the east parcel is not restricted by a shoreline buffer structure setback. Under LUC 20.25H.115, only sites developed with structures include a structure setback. There has been no request to modify the area within the required 50-foot shoreline critical area buffer beyond parking area repairs, drainage improvements, and resurfacing. The boundary of this buffer is clearly labeled on the site plans. In addition to shoreline critical area buffer restrictions, the east parcel is also within the wetland critical area buffer of the Mercer Slough wetland complex. Under the Critical Areas standards adopted by Ordinance 5680 this system is protected by a 225 foot buffer measured from the delineated edge of the wetland as required by LUC 20.25H.095.

The east parcel is also currently part of a short plat that is in the final stages of review by the City (Mercer Marine Short Plat). This short plat application was made prior to the adoption of the City's new revised Critical Areas Ordinance and the action is vested through Washington State Subdivision Law. Upon completion of this short plat (recording of the final short plat mylar with King County), the wetland system adjacent (to the east) of the site will be protected as part of an NGPA tract and NGPE easement. Under LUC 20.25H.095 (Ordinance 5690) wetland buffers and structure setbacks on sites with established NGPA/NGPE boundaries are limited to the boundary of the NGPA/NGPE. Given this circumstance, following recording of the Mercer Marine Short Plat and establishment of an NGPE/NGPA, the 225 foot wetland buffer will not apply. After recording of the final short plat, the east parcel will not be restricted by a wetland buffer or shoreline critical area buffer, but will include a structure setback from the edge of the wetland NGPA/NGPE, and will be regulated by a 25 foot shoreline structure setback as required under the Land Use Code prior to the adoption of Ordinance 5690. No structures are proposed as part of the redevelopment of the east parcel and all applicable structure setbacks are labeled on the site plans. It is important to note that if the final short plat is not approved the resurfacing of the parking area on the east lot as proposed is allowed within the 225 foot wetland buffer and/or 50 foot shoreline buffer that is required under Ordinance 5690. This allowed use is identified under LUC 20.25H.055 and is annotated with a footnote (1) and footnote (2) which indicates no critical areas permitting is required. Under both the old code as vested through the Mercer Marine Short Plat, and under the new code adopted by Ordinance 5690, no critical areas permits are required for the scope of development proposed on the east parcel.

The criteria for approval of a Critical Areas Land Use Permit are as follows:

20.30P.140 Decision criteria

The Director may approve or approve with modifications an application for a Critical Areas Land Use Permit if:

- A. The proposal obtains all other permits required by the Land Use Code; and**

Finding: As a condition of approval the applicant will be required to obtain all required permits prior to the commencement of construction activity. See related conditions of approval in Section XV of this report.

B. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer; and

Finding: The proposal includes mitigation measures intended to improve the condition of the site and provide for additional value to the natural systems that surround the site. In response to City and community comments, the applicant has modified the proposal to include over 3,000 square feet of shoreline restoration, approximately 30,000 square feet of wetland buffer restoration to better protect the adjacent resources, and improvements in landscaping to enhance the site and provide for more vegetation where there currently is none. The applicant will also be required to implement construction management BMP's that are designed to limit impact to the adjacent resources during construction. See related conditions of approval in Section XV of this report.

C. The proposal incorporates the performance standards of Part 20.25H LUC to the maximum extent applicable; and

Finding: LUC 20.25H does not include performance standards for Shorelines. Shoreline performance standards are included in LUC 20.25E.080. This proposed development meets all applicable performance standards listed in LUC 20.25E.080. See related conditions of approval in Section XV of this report.

D. The proposal will be served by adequate public facilities including streets, fire protection, and utilities; and

Finding: This application has been reviewed by the City's Fire, Utilities, and Transportation Departments. The project as designed has been found to be served by adequate public facilities. To proceed to construction, the proposal will be required to obtain all applicable development permits and must comply with all applicable City standards. See related conditions of approval in Section XV of this report.

E. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC 20.25H.210; except that a proposal to modify or remove vegetation pursuant to an approved Vegetation Management Plan under LUC 20.25H.055.C.3.i shall not require a mitigation or restoration plan; and

Finding: The proposal includes a mitigation and restoration plan designed to restore more than 3,000 square feet of shoreline buffer on the site's west parcel and approximately 30,000 square feet of wetland buffer on the east parcel. See related conditions of approval in Section XV of this report.

F. The proposal complies with other applicable requirements of this code.

Finding: As described above, the proposal complies with all other sections of LUC 20.25H. See related conditions of approval in Section XV of this report.

XIII. SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The project site is entirely within the 200-foot Shoreline Overlay District. The applicant is requesting

approval of a Shoreline Substantial Development Permit to redevelop this site and to repair and reconfigure the site's existing finger piers. In addition to compliance with the general performance standards listed in LUC 20.25E.080.B, redevelopment of this site requires compliance with the performance standards listed for Shoreline Stabilization (LUC 20.25E.080.E), Clearing and Grading (LUC 20.25E.080.G), Commercial Development (LUC 20.25E.080.H), and Commercial Moorage (LUC 20.25E.080.N). In each case the applicant has provided documentation that indicates compliance with the required applicable performance standards.

The criteria for approval of a Shoreline Substantial Development Permit are as follows:

20.30R.155 Decision Criteria

The Director of Planning and Community Development shall either approve, approve with modifications, or deny application for Shoreline Substantial Development if:

A. 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 provided documentation that indicates the proposed development is consistent with all requirements set forth by the City of Bellevue and has designed and modified the proposal to include mitigation measures that will enhance the condition of the shoreline in this location. The project file includes a record in support of the proposed project. All applicable performance standards have been met by the project design.

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

Finding: This development proposal includes clearing and grading, commercial development, bulkhead repair, and moorage repair/reconfiguration. The applicant has provided site plans and environmental documentation as well as shoreline restoration and landscaping plans in support of the proposal. The application has been found to be in compliance with the applicable performance standards of LUC 20.25E.080. See related conditions of approval in Section XV of this report.

C. 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: This is a proposal to redevelop a marina use along the shoreline of Lake Washington. The use is fundamentally consistent with the Shoreline Management Act. The proposal has been reviewed in accordance with the requirements of Bellevue's Shoreline Master Program, applicable sections of the WAC, the RCW, and other pertinent codes and policies. The proposed development will not limit the use of the shoreline by the public and will not cause undesired or unreasonable impacts on the surrounding environment and community. The proposal will promote the public use and enjoyment of the State's shoreline resources through an increase in opportunity to launch and store boats within a shoreline facility.

XIV. SHORELINE CONDITIONAL USE PERMIT

The project site is located within the residential R-2.5 land use district. Marina developments are allowed in this zone through the Shoreline Conditional Use Permit process when also located in the Shoreline Overlay District. As part of this application for Shoreline Conditional Use Permit, City Staff have worked with the applicant to compile a project design that is integrated into the surrounding

community, enhances the natural environment, and supplements an existing marina use to allow for additional opportunity for the public to enjoy the shoreline resources of this part of Bellevue.

To enhance the site's integration with the neighboring single-family development to the south, the applicant has obtained the services of an architect and landscape architect who have designed building architectural treatments as well as perimeter and interior landscape design treatments for the site that are responsive to the neighborhood context. These treatments include softened façade design, integrated rooflines, and rack screening through the use of wood siding. The site landscape treatments include up to 20 feet of frontage landscaping, interior parking lot landscaping, and approximately 30,000 square feet of wetland buffer restoration on the project's east parcel. On the project's west parcel the design includes interior parking lot landscaping, climbing evergreen vines that help screen the boat storage racks, over 3,000 square feet of shoreline restoration, and areas of grasscrete to help reduce the total amount of impervious surface on the site. These features will help screen the development and related activity from the adjacent boat launch and single-family development to the south, help reduce the total amount of perceived hardscape that currently characterizes the site, and provide for a higher level of quality in construction. These design features have been integrated into the project as conditions of approval and may not be modified by the applicant following final Shoreline Conditional Use project approval. See related conditions of approval in Section XV of this report.

For approval of a Shoreline Conditional Use Permit, the following criteria must be met:

20.30C.155 Decision criteria

The City may approve or approve with modifications an application for a Shoreline Conditional Use Permit if:

A. The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Bellevue Shoreline Master Program; and

Finding: This is a proposal to redevelop an existing marina support facility located on the shoreline of Lake Washington. The proposal is a water dependent use and will provide for additional recreation opportunity for the public through the essential function of storing and launching boats for recreational boaters. This facility also helps provide for support services necessary to the boating community including the sale of fuel, maintenance, and retail sales of boats and boat related items.

B. The proposed use will not interfere with the normal public use of public shorelines; and

Finding: The proposed use is located entirely on private property and will not interfere with the public use of the shoreline. The use, when constructed, will actually increase the opportunity for public use of the shoreline through the services provided at the facility. The site is bordered to the south by the City's SE 40th Street Boat launch, a public recreation facility. This project proposal will not impede or limit the public use of this facility. No impact to the public's ability to use the shoreline of Lake Washington is expected as a result of this project.

C. The proposed use of the site and design of the project will be compatible with other permitted uses within the area; and

Finding: As described in this report, the project site is surrounded by marina uses. The proposed use is a marina use and is consistent with the surrounding development. Where potential conflicts may exist with the single-family neighborhood to the south, the applicant has revised the project plans to include mitigation measures to ensure compatibility. Mitigation measures include architectural design treatments to the south façade of the four structures, enhanced landscaping

along the south property lines and on the south side of the structures, re-location of the site's eastern access point to facilitate access and mitigate traffic impacts, the use of silencing mufflers on boatlift equipment, the screening of lighting and the submittal of a lighting plan showing the limits of illumination, the observance of a 30 foot height limit that is consistent with the neighboring single-family developments, and the establishment of operational hours that reduce the potential for "after hours" impacts to the residents of the single-family district. To ensure continued compatibility, the applicant will be required to adhere to an approved set of standard operating procedures. See related conditions of approval in Section XV of this report.

D. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located; and

Finding: The proposed development includes over 3,000 square feet of shoreline restoration, approximately 30,000 of wetland buffer restoration, and improved site landscaping. Furthermore, all boat traffic within the marina areas will be limited to compliance with a "no wake zone" as established by Washington State recreational boating law limiting the potential to cause damage to adjoining moored vessels, limiting the potential to cause an increase in erosion to the surrounding lands, and promoting safe operation of vessels in navigation channels.

E. The public interest suffers no substantial detrimental effect; and

Finding: The proposed project will not limit the public's ability to access the waters of Lake Washington and will not impact the public's enjoyment of the Shoreline. As a water dependent facility, this development is located landward of the Ordinary High Water Mark and will not impede navigation within Lake Washington. The SE 40th Street Boat launch will remain unchanged in operation and will not be impacted by this proposal. The public interest is preserved through application of state and local regulations that are oriented at protecting and preserving Washington's shorelines. Boat traffic within the lake and associated navigable fairways is regulated by 79A.60 RCW.

F. The proposed use complies with all requirements of WAC 173-14-140; and

Finding: The proposal has been reviewed in accordance with the requirements of Bellevue's Shoreline Master Program, applicable sections of the WAC, the RCW, and other pertinent codes and policies.

G. The proposed use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and

Finding: This project has been designed to meet the existing and intended character of the vicinity in which it is located. The applicant has modified the proposal to include architectural design treatments to integrate the proposed buildings into the character of the surrounding development. Design treatments are analyzed in Section III of this report. The applicant has also designed site perimeter and interior landscaping that helps improve the aesthetic and natural values of the site while reducing the potential for impact on the neighboring single-family community.

H. The proposed use will be served by adequate public facilities including streets, fire protection, water, stormwater control and sanitary sewer; and

Finding: This application has been reviewed by the City's Fire, Utilities, and Transportation Departments. The project as designed has been found to be served by adequate public facilities. To

proceed to construction, the proposal will be required to obtain all applicable development permits and must comply with all applicable City standards. A summary of technical review of the project proposal is included in Section IX of this report. See related conditions of approval in Section XV of this report.

I. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and

Finding: This is a proposal for the redevelopment of an existing marina use that is located on the shoreline of Lake Washington and is surrounded by other existing marina developments. The redevelopment of this site will not be detrimental to the surrounding uses as the use is consistent with what is currently located on the site and currently in operation. Short and long term impacts associated with redevelopment of this property, including mitigation measures, have been addressed in this report. The project has been found to meet the City's utility and fire technical requirements. The project design has been found to meet the requirements of the City's Land Use Code and staff have determined the project will provide adequate parking, a well designed integrated structure and landscaping, environmental improvements, and enhanced traffic flow and circulation. Where potential conflicts exist that have been identified as pertinent to the project review City staff have worked with the applicant to revise the project design to reduce or eliminate the potential for impact.

J. The proposed use has merit and value for the community as a whole; and

Finding: The proposed use has merit and value for the community in that it will provide additional opportunity for those citizens who do not have waterfront access or the ability to store a recreational vessel to access the shoreline. This facility will add to Bellevue's marina capacity with limited impact to the surrounding natural environment and will provide for a different type of upland boat storage that increases the efficiency of boat launching and provides a high level of service to customers seeking an enhanced boating experience. Further, through design this proposed development will be limited in impact to the surrounding community and will integrate into the existing site conditions.

K. The proposed use is in accord with the Comprehensive Plan; and

Finding: The proposed project is consistent with the goals and policies of the City of Bellevue Comprehensive Plan. A summary of comprehensive plan consistency is found in Section V of this report. Generally, as a private development on private property, the proposed project will promote the public's use and enjoyment of the shoreline while also protecting the public interest. Additionally, the project includes extensive site restoration, improved aesthetics, and complies with all of the City's development standards. The project will not block views, will not degrade the natural environment, will not overburden the City's infrastructure, and has been found to be consistent with the surrounding uses and existing development.

L. The proposed use complies with all other applicable criteria and standards of the Bellevue City Code.

Finding: As described in this report, the proposal meets all other applicable criteria and standards of the Bellevue City Codes. See related conditions of approval in Section XV of this report.

XV. RECOMMENDATION AND DECISION OF DIRECTOR WITH CONDITIONS

After conducting the various administrative reviews associated with this proposal, including applicable Land Use consistency, SEPA, and City Code and Standard compliance reviews, the

Director of Planning and Community Development does hereby **APPROVE with CONDITIONS** the application for Land Use Code Variance, **APPROVE with CONDITIONS** the application for Critical Areas Land Use Permit, **APPROVE with CONDITIONS** the application for Shoreline Substantial Development Permit, and **RECOMMENDS APPROVAL** of the Shoreline Conditional Use Permit **with CONDITIONS** to the Hearing Examiner.

The following conditions are imposed under authority referenced:

A. COMPLIANCE WITH BELLEVUE CITY CODES AND ORDINANCES

The applicant shall comply with all applicable Bellevue City Codes, Standards, and Ordinances (whether or not discussed in this report) including but not limited to:

Applicable Codes, Standards and Ordinances	Contact Person
Clearing & Grading Code – BCC 23.76	Tom McFarlane, 425-452-5207
Construction Codes – BCC Title 23	Building Review Desk, 425-452-4121
Fire Code – BCC 23.11	Adrian Jones, 425-452-4122
Land Use Code – BCC Title 20	David Pyle, 425-452-2973
Noise Control Code – BCC 9.18	
Sign Code – BCC Title 22	
Transportation Code – BCC 14.60	Ray Godinez, 425-452-7915
Right of Way Use Code – BCC 14.30	Jon Regalia, 425-452-4599
Utility Code – BCC Title 24	Mark Dewey, 425-452-6179

B. GENERAL CONDITIONS

1. CONSTRUCTION WINDOW

To limit the potential for impact to fish migration patterns, all in-water construction activity associated with this project shall take place during the applicable work windows. This site is located South of I-90 within 1 mile of Mercer Slough. The applicable work window is July 16 through July 31 and November 16 through December 31. No in-water work shall take place outside these periods unless otherwise determined by the Hydraulics Project Approval issued by the Washington State Department of Fish and Wildlife.

AUTHORITY: LUC 20.30R

REVIEWER: David Pyle

2. MOORAGE REPAIR AND RECONFIGURATION RESTRICTIONS

To comply with applicable moorage design standards all replacement piling must be steel and all new or replacement dock decking must be grated for light penetration.

AUTHORITY: LUC 20.25E; 20.30R; 20.30C

REVIEWER: David Pyle

3. FIRE CODE REQUIREMENTS

Fire Department review of the project for consistency with Fire Code standards will take place under building permit review. To comply with the City’s Fire Code, the following standards must be incorporated into the project design:

- Provide a paved 20 foot wide unobstructed access to within 150 feet of all buildings including the existing boat dock areas. (International Fire Code 503 & Bellevue City Code 5749)

- Inside turning radius shall be a minimum of 28 feet.
- Provide fire hydrants at approved locations within 50 feet of the Fire Department Connections and within 400 feet of the most remote area of all buildings.
- The storage racks shall be designed for the weight of the boats plus 30 minutes of water from the sprinkler system.

AUTHORITY: City of Bellevue Fire Code

REVIEWER: Adrian Jones

4. UTILITY CODE REQUIREMENTS

The Utilities Department has reviewed and approved the conceptual design only. The applicant must apply for and obtain all required infrastructure development permits and utility extension agreements. All applicable sections of the City's Utilities Codes (BCC 24) must be met prior to permit issuance. Changes to the site layout may be required to accommodate the utilities after utility engineering is approved. All design review, plan approval, and field inspection shall be performed under the Developer Extension Agreements.

AUTHORITY: BCC 24

REVIEWER: Mark Dewey

5. CLEARING AND GRADING CODE REQUIREMENTS

The Clearing and Grading Division has approved this proposal with the condition that the applicant apply for and obtain a Clearing and Grading Permit and that all applicable sections of the Clearing and Grading Code (BCC 23.76) be met prior to permit issuance.

AUTHORITY: BCC 23.76

REVIEWER: Tom McFarlane

6. NOISE REQUIREMENTS

To mitigate noise impact to adjacent residents and the natural environment, construction shall utilize electric tools when feasible and attenuate pile driving sound through the use of a wooden dampening block and a vibratory pile driver. Hours of construction are limited to 7:00 a.m. to 6:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on Saturdays which are not legal holidays. Routine construction exemptions under BCC 9.18.020.C will not be granted for this project due to the proximity to a residential neighborhood. Exemptions will be considered on a case by case basis and exemptions requested solely for the convenience of construction will not be considered.

AUTHORITY: BCC 9.18

REVIEWER: David Pyle

7. CONSTRUCTION STAGING REQUIREMENTS

Construction activity within the site shall be staged to limit the impact of construction activity on the adjacent property owners and limit the obstruction of the access easements that circle the perimeter of the site. The applicant shall prepare a construction staging plan to be submitted and approved as part of the projects right-of-way, construction, and building permits and should coordinate site access with different phases of construction.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

8. STRUCTURE HEIGHT

All structures shall be limited to 30 feet in height as measured from average existing

grade to the highest point of the structure.

AUTHORITY: LUC 20.20.010; 20.25E; 20.30C; 20.30R

REVIEWER: David Pyle

9. SEASONAL CLEARING AND GRADING RESTRICTIONS

The project is located adjacent to Lake Washington where the potential for discharge into the Lake is high. The project will be subject to work restrictions during the rainy season. The clearing & grading code defines the rainy season as November 1st through April 30th. The Department of Planning and Community Development must grant approval to initiate or continue clearing or grading activity during the rainy season. Any approval will be based on site and project conditions, extent and quality of the erosion and sedimentation control, and the project's track record at controlling erosion and sedimentation.

AUTHORITY: BCC 23.76

REVIEWER: Tom McFarlane

10. HOLIDAY CONSTRUCTION & TRAFFIC RESTRICTIONS

Construction activities such as hauling and lane closures between November 15th and January 5th will be allowed only between the hours of 10:00 pm and 6:00 am due to holiday traffic. The Transportation Department will be monitoring traffic and may modify this moratorium accordingly.

AUTHORITY: BCC 14.30.060

REVIEWER: Jon Regalia

11. IMPERVIOUS SURFACE

No increase in impervious surface beyond what is currently located on the site is allowed.

AUTHORITY: LUC 20.20.460

REVIEWER: David Pyle

12. PROVISIONS FOR LOADING

The property owner shall provide an off-street loading space which can access a public street. On-street loading and unloading will not be permitted.

AUTHORITY: LUC 20.20.590.K.4

REVIEWER: Jon Regalia

13. SITE ENVIRONMENTAL MANAGEMENT

To mitigate potential adverse water quality impacts, operations on the site must comply with Bellevue's Environmental Best Management Practices.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

14. OPERATIONAL HOURS

General facility operational hours shall be as follows:

Peak Season (June 1 to August 31): 7 AM to 9 PM

Non-Peak Season (April 15 to May 31 and September 1 to November 15): 8 AM to 6:30 PM

Off Season (November 16 to April 14): 8 AM to 4:30 PM

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

15. PARKING REQUIREMENTS

As a general operational requirement, the Seattle Boat Newport facility shall identify, stripe, and mark parking outside of areas encumbered by easements and leaseholds

within the site as follows:

- 13 parking spaces within the east parcel along the south property line adjacent to SE 40th Street; and
- 26 parking spaces within the west parcel; and
- 61 parking spaces within the east parcel (these spaces may be used for boat storage as described in this report).

AUTHORITY: LUC 20.20.590; 20.30C

REVIEWER: David Pyle

C. PRIOR TO ISSUANCE OF ANY CONSTRUCTION PERMIT

1. RIGHT-OF-WAY USE PERMIT

Prior to issuance of any construction or clearing and grading permit, the applicant shall secure applicable right-of-way use permits from the City's Transportation Department, which may include:

- a) Designated truck hauling routes.
- b) Truck loading/unloading activities.
- c) Location of construction fences.
- d) Hours of construction and hauling.
- e) Requirements for leasing of right of way or pedestrian easements.
- f) Provisions for street sweeping, excavation and construction.
- g) Location of construction signing and pedestrian detour routes.
- h) All other construction activities as they affect the public street system.
- i) Pavement restoration requirements.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access.

The applicant shall secure sufficient off-street parking for construction workers before the issuance of a clearing and grading, building, a foundation or demolition permit.

AUTHORITY: BCC 11.70 & 14.30

REVIEWER: Jon Regalia (425) 452-4599

2. SILT CURTAIN

To meet the requirements of the Shoreline Substantial Development Permit approval, the applicant is required to modify the dock repair and reconfiguration plans to include the use of a silt curtain that will limit the release of sediments during pile driving and construction.

AUTHORITY: LUC 20.25E; 20.30R; 20.30C

REVIEWER: David Pyle

3. UTILITIES

The water, sewer and storm drainage systems shall be designed per the Utility codes BCC 24.02, 24.04, 24.06, and the Utilities Engineering Standards. Utility Developer Extension Agreements are required for the review, approvals and inspection of the water, sewer and storm drainage improvements. The water, sewer and storm drainage design review, approvals and inspection will occur through the Utility Developer Extension process. The

civil engineer shall be licensed in the state of Washington.

AUTHORITY: BCC 24.02, 24.04 & 24.06

REVIEWER: Mark Dewey

4. MODIFY CLEARING AND GRADING PLANS TO INCORPORATE BEST MANAGEMENT PRACTICES FOR CONSTRUCTION ADJACENT TO LAKE WASHINGTON

The applicant shall modify the clearing and grading plans to prepare a TESC plan that includes BMPs designed to limit the potential for surface water discharge into Lake Washington and acceptable to the Clearing and Grading reviewer for construction adjacent to Lake Washington.

AUTHORITY: LUC 20.30C; 20.25E; BCC 23.76

REVIEWER: David Pyle

5. SUBMITAL OF FINAL LANDSCAPE PLANS

Prior to the issuance of any construction permits, the applicant shall prepare and submit a final landscape plan acceptable to the City and consistent with this staff report.

AUTHORITY: LUC 20.30C; 20.30R; BCC 23.76

REVIEWER: David Pyle

6. SUBMITAL OF FINAL SHORELINE RESTORATION PLAN

Prior to the issuance of any construction permits, the applicant shall prepare and submit a final shoreline restoration plan acceptable to the City and consistent with this staff report.

AUTHORITY: LUC 20.30C; 20.30R; 20.25E; BCC 23.76

REVIEWER: David Pyle

7. SUBMITAL OF FINAL WETLAND BUFFER RESTORATION PLAN

Prior to the issuance of any construction permits, the applicant shall prepare and submit a final wetland buffer restoration plan acceptable to the City and consistent with this staff report.

AUTHORITY: LUC 20.30C; 20.25H; BCC 23.76

REVIEWER: David Pyle

8. CIVIL ENGINEERING PLANS – TRANSPORTATION

Civil engineering plans produced by a qualified engineer must be approved by the Transportation Department prior to issuance of the clearing and grading permit. The design of all street frontage improvements and driveway accesses must be in conformance with the requirements of the Americans with Disabilities Act, the Transportation Development Code, the provisions of the Transportation Department Design Manual, and specific requirements stated elsewhere in this document. All relevant standard drawings from the Transportation Department Design Manual shall be copied exactly into the final engineering plans. Specific requirements for the engineering plans include, but are not limited to:

- a) Traffic signs and markings.
- b) Pedestrian path as needed based on requirements of the Mercer Marine Short Plat and driveway approach design. (The engineering plans shall be the controlling document on the design of these features; architectural and landscape plans must conform to the engineering plans as needed.)
- c) Installation or relocation of streetlights and related equipment.
- d) Trench restoration within any right of way or access easement.

AUTHORITY: BCC 14.60; Transportation Department Design Manual

REVIEWER: Ray Godinez

9. RECORDING OF LAND USE CODE VARIANCE

Prior to the issuance of any construction permits and within 60 days of City approval, the applicant shall record the variance from the Land Use Code with the King County Department of Records and Elections.

AUTHORITY: LUC 20.40.500.B.1.a; 20.30H

REVIEWER: David Pyle

10. UPDATED GEOTECHNICAL REPORT

Prior to the issuance of any construction permit, the applicant shall provide an addendum to the geotechnical report verifying that the recommendations of the report meet the current site design.

AUTHORITY: BCC 23.76

REVIEWER: Tom McFarlane

11. STORMWATER TURBIDITY

Prior to the issuance of any construction permit, the applicant shall prepare a stormwater turbidity monitoring plan to be activated during earthwork construction. The plan must include method of monitoring, frequency of monitoring, and location of monitoring. The plan must be acceptable to the City's clearing and grading reviewer. The monitoring of stormwater turbidity shall be required to determine compliance with City of Bellevue (BCC 23.76.160.C) and State Surface Water Quality Standards (WAC 173.201 A). The standard for turbidity (indirect measurement of the amount of suspended sediments in-water) is:

-5 NTU over background turbidity when background turbidity is 50 NTU or less;

-10 percent above background turbidity when background turbidity is greater than 50 NTU.

AUTHORITY: LUC 20.30C; 20.30R; BCC 23.76.160.C

REVIEWER: David Pyle

D. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT

1. DESIGN CHANGES

Any changes to the development plans requested prior to the issuance of a building permit or during construction must be reviewed by the City for consistency with the original approval.

AUTHORITY: LUC 20.30C; 20.30R

REVIEWER: David Pyle

2. APPROVAL OF A BOAT STORAGE STANDARD OPERATING PROCEDURE

Prior to the issuance of a certificate of occupancy the applicant shall prepare and submit a standard operating procedure plan for seasonal boat storage that meets the City of Bellevue Fire Department requirements for general safety and fuel storage.

AUTHORITY: Bellevue Fire Code

REVIEWER: Adrian Jones

3. APPROVAL OF A SITE MANAGEMENT STANDARD OPERATING PROCEDURE

Prior to the issuance of a certificate of occupancy the applicant shall submit a standard operating procedure plan for site management that includes facility operating hours, peak day use management, overflow parking management, landscape maintenance standards, maintenance shop environmental hazard control standards, noise control, and customer contract standards.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

4. TRANSPORTATION IMPACT FEE

Payment of the traffic impact fee will be required at the time of building permit issuance. The impact fee is estimated to be \$1170.70. This fee is subject to change and the fee schedule in effect at the time of building permit issuance will apply.

AUTHORITY: BCC 22.16

REVIEWER: Ray Godinez

5. PEDESTRIAN EASEMENTS

If required by the Mercer Marine Short Plat, the applicant shall provide a pedestrian easement to the City such that walkways outside of the City right of way along the property frontage are located within a pedestrian easement area. If the pedestrian trail required as part of the Mercer Marine Short Plat is not located within the property boundaries of the project site no pedestrian easement shall be required.

AUTHORITY: BCC 14.60.100

REVIEWER: Ray Godinez

E. PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

1. NO PARKING SIGNS AND FIRE LANE STRIPING

Fire access and circulation routes within the development shall be posted and marked "Fire Lane-No Parking" per Bellevue Fire Department Standards, unless otherwise approved based on final field inspection.

AUTHORITY: Bellevue Fire Code

REVIEWER: Adrian Jones

2. ACCESS TO SE 40th STREET TO BE MOVED

The applicant shall work with the Newport Yacht Basin Condominium Association to relocate the site's eastern access point further east along SE 40th Street to provide for enhanced access and circulation to the site.

AUTHORITY: BCC 14.60

REVIEWER: Ray Godinez

3. INSTALLATION OF APPROVED REQUIRED LANDSCAPING

Installation of the landscaping as approved including the submittal of a three year maintenance and monitoring plan with the appropriate maintenance and monitoring financial security device must be completed and approved prior to the issuance of a certificate of occupancy. Final landscaping approval shall be made by the project planner.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

4. RESTORATION OF SHORELINE

Installation of the approved shoreline restoration including the submittal of a three year maintenance and monitoring plan with the appropriate maintenance and monitoring financial security device must be completed and approved prior to the issuance of a certificate of occupancy. Final shoreline restoration approval shall be made by the project planner.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

5. RESTORATION OF WETLAND BUFFER

Installation of the approved wetland buffer restoration including the submittal of a three year maintenance and monitoring plan with the appropriate maintenance and monitoring financial security device must be completed and approved prior to the issuance of a certificate of occupancy. Final wetland buffer restoration approval shall be made by the project planner.

AUTHORITY: LUC 20.30C

REVIEWER: David Pyle

6. COMPLETION OF REQUIRED SITE UTILITY IMPROVEMENTS

Prior to the issuance of a certificate of occupancy the applicant shall install all required site infrastructure utility improvements as approved under the Utility Developer Extension Agreement. The Extension Agreement must be accepted by the Utility Department prior to certificate of occupancy sign off.

AUTHORITY: BCC 24.02, 24.04 & 24.06

REVIEWER: Mark Dewey

7. MERCER MARINE SHORT PLAT IMPROVEMENTS

Prior to certificate of occupancy, the applicant shall construct all required improvements associated with Lot 6 of the short plat as identified under the approval of the Mercer Marine Short Plat including any portion of the required pedestrian trail along SE 40th Street that is located within the project site property boundaries or any other required utility improvements identified in the short plat.

AUTHORITY: LUC 20.45

REVIEWER: David Pyle

8. STREET FRONTAGE IMPROVEMENTS

All street frontage improvements and other required transportation elements must be constructed by the applicant and accepted by the City Inspector. Bonding or other types of assurance devices will not be accepted in lieu of construction. Specific requirements are detailed below.

- a) Construction of any applicable portion of the 5-foot wide pedestrian trail along the southern portion of the site adjacent to SE 40th Street as required as part of the Mercer Marine Short Plat.
- b) 35-foot wide driveway at the eastern corner of the site.

AUTHORITY: BCC 14.60

REVIEWER: Ray Godinez

9. PAVEMENT RESTORATION

Pavement restoration associated with street frontage improvements or to repair damaged street surfaces shall be provided as follows:

- a) Lake Washington Boulevard SE & SE 40th Street: Based on this street's excellent condition, it is classified with the City's overlay program as "Overlay Required." Street cutting is permitted only with extraordinary pavement restoration. Pavement restoration requirements are a minimum of 50 feet extending from each side of the trench cut for the full-width of the paved right-of-way.

AUTHORITY: BCC 14.60. 250; Design Manual Design Standard #21

REVIEWER: Jon Regalia

10. TRANSPORTATION COORDINATOR / TRAFFIC CONTROL

The owner of the property shall establish one employee to be designated as the

“Transportation Coordinator” for the marina. This employee will serve as the City’s point of contact with regard to any traffic issues that may arise in the future.

In addition, the owner of the property will be required to provide appropriate traffic control via a right-of-way permit from the City’s Right-of-Way Manager for all boating events that may create excessive queues of boating traffic along SE 40th Street. Known boat event days are: the fourth of July holiday, first day of boating season, Sea fair, Salmon fishing season.

Verification that this condition has been met shall be provided by the applicant to the City in a signed agreement stating the above.

AUTHORITY: BCC 14.60.180

REVIEWER: Ray Godinez

F. AFTER ISSUANCE OF CERTIFICATE OF OCCUPANCY

1. FUTURE PROPOSED CHANGES

Any future proposed changes to the approved shoreline conditional use permit or site development plans including standard operating procedures, site plans, landscaping, lighting, building design, or the installation of communication equipment must be reviewed and approved by the City or for consistency with this approval.

AUTHORITY: LUC 20.30C; 20.30R

REVIEWER: David Pyle

LIST OF ATTACHMENTS

- I. Project Site Land Ownership Map
- II. Plans and Drawings
- III. Title Verified Survey
- IV. East Parcel Lease Agreement
- V. Marina Bull Forklift Spec Sheet
- VI. Seattle Boat Newport Proposed Peak Day Operating Procedures
- VII. Seattle Boat Newport Customer Contract
- VIII. Project Site Aerial Photo
- IX. Site and Vicinity Photos
- X. Existing Use Aerial Photo
- XI. Easement Documents
- XII. Parking Study
- XIII. Seattle Boat Lake Union Use Logs
- XIV. Peak Day Parking Plan
- XV. City’s Revisions Request Letter
- XVI. Applicant’s Revisions Response Letter
- XVII. East Parcel Revisions Submittal Letter
- XVIII. SEPA Checklist
- XIX. Critical Areas Report