



City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name: Cabrera Dock

Proposal Address: 2009 Killarney Way

Proposal Description: Shoreline Substantial Development Permit to construct a new dock with a ground based boatlift and personal watercraft lift. The proposal includes shoreline planting at the water's edge.

File Number: 14-124074-WG

Applicant: Marcelle and Louis Cabrera

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

Planner: Heidi M. Bedwell, Planner

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

Carol V. Helland

Carol V. Helland, Environmental Coordinator
Development Services Department

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

By: *Carol V. Helland*
Carol V. Helland, Land Use Director

Date of Application: February 4, 2014
Notice of Application: March 6, 2014
Decision Publication Date: October 23, 2014

Deadline For Appeal of Process II Administrative Decisions:

Shoreline Substantial Development Permit: November, 13 2014 (21 days following publication of a notice of decision)

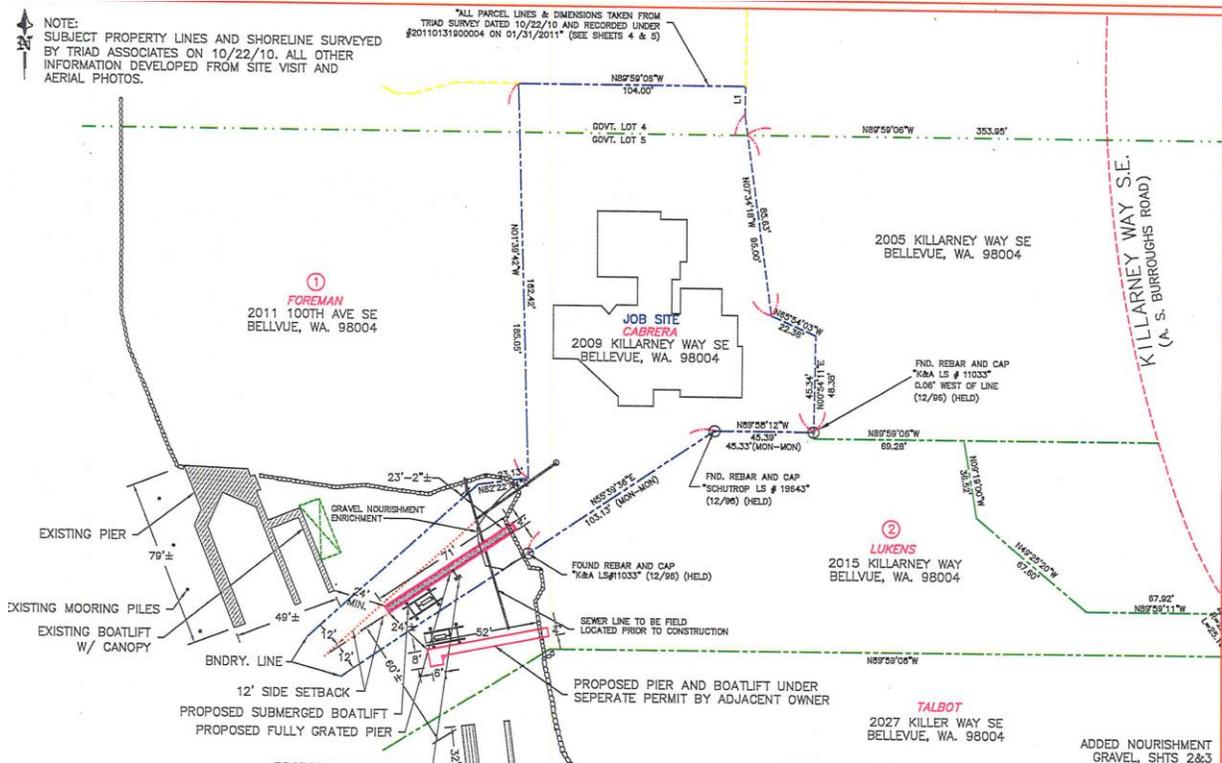
For information on how to appeal a project proposal, visit the Permit Center at City Hall or call 425-452-6800. Appeal of any Process II Administrative decision must be made by 5 p.m. on the date noted for appeal of the decision. Appeal of the SEPA Threshold Determination must be made to the City of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

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I. Proposal Description

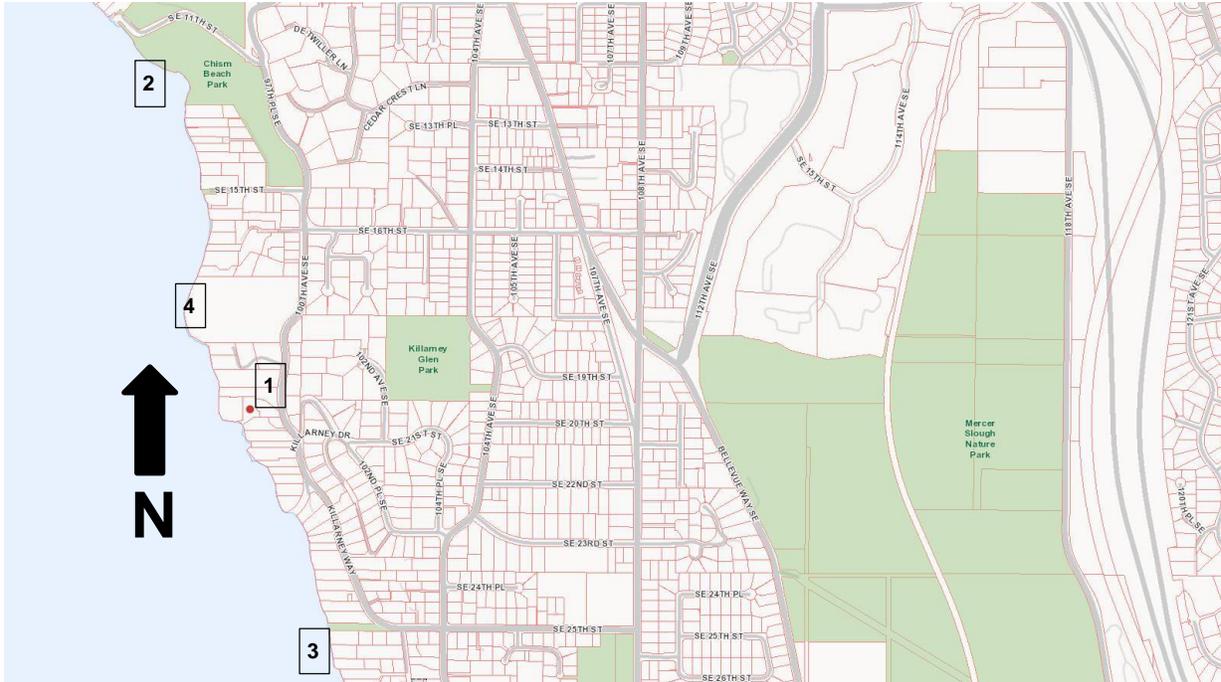
Applicant requests approval to construct a new dock and install a ground based boatlift and personal watercraft lift attached to the proposed dock. The proposed dock will be fully grated, 4 feet in width, 68 feet in length. The dock will be supported by eight 8" steel piles and located a minimum of 12 feet from the extended property lines. The boatlift is proposed to be installed on the south side of the dock along with a personal watercraft lift. The proposal includes shoreline planting at the water's edge.



The proposed project is subject to the Shoreline Substantial Development Permit and SEPA requirements because the proposed work is within a shoreline of statewide significance. The provisions of the Shoreline and Critical Areas Overlay Districts apply.

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

A. Site Description and Land Use Context



The subject site¹ is located in Southwest Bellevue within the Enatai neighborhood. Properties in the vicinity are generally developed with single family residences. The exceptions to single family residential development are the Bellevue City Parks of Chism Beach² and Chesterfield³ as well as the privately held Sisters of Saint Joseph of Peace⁴ property. The neighborhood is characterized by mature trees and well maintained higher end properties. The proposed dock would be located within a small cove surrounded by existing residential docks. The property to the south of the subject property has received City and other agency approval for construction of a new dock. Additionally, the existing dock to the south will be reconfigured to accommodate revised access to the boat slip. Rather than accessing from the north, the revised configuration will be from the south so as to limit navigational issues between the existing and proposed docks in the cove. Refer to file 14-130535-WG for approved reconfiguration plan.

B. Zoning

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

C. Critical Area Functions

i. Shorelines

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

ii. Habitat Associated with Species of Local Importance

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

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

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

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

B. Shoreline Master Program Requirements LUC 20.25E:

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

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

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

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

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

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

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

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

No vegetation is proposed for removal.

- e. Maximum height limitation for any proposed structure within the Shoreline Overlay District shall be 35 feet, except in land use**

districts with more restrictive height limitations. The method of measuring the maximum height is described in WAC 173-14-030(6). Variances to this height limitation may be granted pursuant to Part 20.30H LUC.

The proposed dock will be less than 35-feet in height. No other structures are proposed for construction.

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

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

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

The proposal will be required to obtain a building permit. Approval and permit issuance will be verification of compliance with applicable regulations.

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

No dead storage of watercraft is proposed.

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

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

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

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

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

Development Standards	Proposal	Complies Y/N
The only structures permitted in the first 30 feet waterward of the ordinary high watermark are piers and ramps. All floats and ells must be at least 30 feet waterward of the OHWM.	No Ell is proposed and no structures within 30' of OHWM	Y
No skirting is allowed on any structure.	No skirting is proposed.	Y
Surface coverage shall not exceed 480 square feet.	Coverage is 272 square feet.	Y
Piers shall not exceed four feet wide and shall be fully grated.	Pier width is 4 feet or less and fully grated.	Y
Ell are allowed only over water with depths of nine feet or grater at the landward end of the ell.	No Ell proposed.	N/A
Ells may be up to six feet wide by 26 feet long with grating over the entire ell.	No Ell proposed.	N/A
Total Facility Length. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark.	Total length 68 feet from the front of the bulkhead (OHWM) and 71 feet in total length from the landward point to the waterward point of the proposed dock.	Y
Structural Piling Specifications. The first (nearest shore) piling shall be steel, four-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA pilings are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Steel piles will be installed using approved sound attenuation measures.	All proposed piling are 4-inch steel piling and the first set of piling are more than 18 feet from OHWM.	Y
Shoreline Critical Area and Critical Area Buffer Functions. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer	Applicant has provided a planting plan meeting this requirement.	Y

Development Standards	Proposal	Complies Y/N
of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of ordinary high water mark.		
Setback. No private moorage or other structure waterward of the ordinary high watermark, including structures attached thereto, shall be closer than 12 feet to any adjacent property line except when a mutual agreement of adjoining property owners is recorded with the King County Records and Elections Division and the Bellevue City Clerk. Excepted from the requirements of this section are boat lifts or portions of boatlifts which do not exceed 30 inches in height measured from ordinary high watermark.	The proposed pier is 12 feet or more from the property lines.	Y

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

IV. Public Notice and Comment

Date of Application: February 4, 2014
Notice of Application: March 6, 2014
Minimum Comment Period: April 3, 2014

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin March 6, 2014. It was mailed to property owners within 500 feet of the project site. Staff received the following comments:

Comment: Staff from the Muckleshoot Tribe recommend that the project add fish friendly sized gravel to the site as a partial mitigation measure for the new pier where one does not currently exist and would improve shallow water habitat conditions for juvenile salmon as this pier is in shallow water (i.e. less than 15'). This mitigation measure would be in addition to the proposed planting.

Response: As part of the dock permitting, the Army of Corps of Engineers has required the applicant to revise plans including gravel nourishment to enhance shallow water fish habitat. This requirement will be included in the building permit plans prior to City approval.

Comment: Proposal will pose a risk to navigation and boater safety.

Response: The applicant's consultant has provided an analysis of the navigation relative to the proposed dock and existing and proposed docks in the vicinity. The consultant assessed the navigational issues taking into consideration the cove

condition. The proposed separation between the existing dock to the north and the subject application will result in 24 feet between the two docks, sufficient area to navigate a boat. Additionally, the 24 feet of separation is a common distance for safe operation within a marina environment.

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

With regard to individual ingress or egress as is the case here, it is the City's position that any balancing required by the Shoreline Management Act is already encompassed in the Shoreline Overlay and particularly the 12-foot setback from respective property lines for residential piers and other structures waterward of the OHWM. The objective of the setback is to create a 24-foot clear path between respective piers to ensure room for maneuvering and adequate docking space for abutting property owners. No evidence has been provided that would demonstrate a significant impact on navigation in the vicinity of the proposed dock.

Comment: The proposal will significantly interrupt the views of the adjacent property owner to the north and violates the City's and State's shoreline policies to protect views from unwarranted intrusion.

Response: The property owner to the south has also submitted and received approval for an application to construct a new dock. The proposed dock will not significantly alter the views because the view already contains a number of docks within the subject's view corridor.

Comment: Concern about the proposed development displacing existing recreational uses, specifically existing recreation right to safely access the dock to the north.

Response: Recreation, as defined by City code pertains to parks, marinas, and other public recreation activities. The subject uses are associated with a single family residence. No evidence has been provided that demonstrates recreation uses will be displaced.

Comment: The proposed dock interferes with the easement access rights of the property owner to the north.

Response: The City has not been provided any evidence that the proposal is restricted by the presence of an easement. The applicant and easement holder have a private agreement in which the city does not have an interest or obligation to enforce. Nothing in this approval would foreclose access rights across the land adjacent to the Ordinary High Water Mark (or shoreline). Concerns about the access right should be addressed through other court proceedings and not the subject

shoreline permit.

Comment: The subject application cannot be approved because the waterfront of the property is only 40-feet in width.

Response: City code allows for moorage to be located on a “lot created prior to the effective date of the ordinance codified in this section” LUC 20.25E. The ordinance was effective in September of 2006 and the subject lot was created prior to the effective date. The dock can be located without violating required setbacks.

V. Summary of Technical Reviews

Clearing and Grading:

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

Utilities Department:

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

Construction is not permitted within 5’ of the sewer main on the site. All equipment, barges, and anchors must be kept away from the sewer main during construction. **See Conditions of Approval in Section IX of this report**

VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project and is provided as an addendum to this staff report (Attachment A). The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

A. Earth and Water

Erosion and sediment control best management practices include the installation of a silt barrier around the work area to prevent migration of suspended sediment to the surrounding water column. The applicant will also be required perform turbidity monitoring during construction to ensure suspended sediment is contained to the work area. The applicant is also required to adhere to the City Environmental Best

Management Practices related to the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources. **See Conditions of Approval in Section IX of this report**

B. Animals

Adult and juvenile chinook salmon and steelhead trout (listed as Threatened under the Federal Endangered Species Act) migrate through Lake Washington. Lake Washington also contains coho salmon (Species of Concern under the Federal Endangered Species Act). Lake Washington potentially contains bull trout, a salmonid listed as Threatened under the Federal Endangered Species Act. These fish species and their habitat will be protected during the project construction through timing of the work to occur in the water. All work will occur within the construction window established by state and federal agencies to minimize or avoid impacts to fish and wildlife. **See Conditions of Approval in Section IX of this report**

C. Plants

No plants are proposed for removal as part of the current proposal. The applicant is proposing native shoreline plantings per the submitted plans in Attachment B.

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. Construction noise will be limited by the City's Noise Ordinance (Chapter 9.18 BCC) which regulates construction hours and noise levels. **See Conditions of Approval in Section IX of this report**

VII. Decision Criteria

A. Shoreline Substantial Development Permit Decision Criteria 20.30R

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

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

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

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

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

Codes and Standards.

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

Finding: The applicant's proposal is consistent with the following policies and has demonstrated compliance with the applicable procedures through this application. The subject proposal is compatible with existing and project land uses and is within the size and scale expected of dock development within the vicinity. The proposed dock overwater coverage is less than all docks within the immediate vicinity of the subject site.

Specifically the proposal is consistent with the following:

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

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

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

The dock is associated with a single family residential use and is for water dependent recreational activities. The dock is similar in design to those in the vicinity of the proposed dock. The applicant has provided information from a qualified professional that demonstrates that the proposed dock will not significantly impact navigation and the public's access to the public waters of the State (See Attachment E). The proposed dock and docks to the south and north will be separated by approximately 24 feet. The applicant has demonstrated that no significant navigational issues will be created between these docks or other docks in the vicinity.

As proposed dock the will be constructed with materials suitable for construction in water and will not have an adverse affect on water quality, vegetation, fish, and wildlife in or near the water. With the proposed mitigation planting, water quality and native vegetation will be improved from the existing non-native planting conditions. No lighting has been proposed therefore light and glare will not be a significant issue associated with the proposal.

VIII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the construction of dock associated with a single family residence

and the associated mitigation. Revision to of this approval shall be in accordance with LUC 20.30R.190.

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

IX. Conditions of Approval

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

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-6190
Utilities Code	Mark Dewey 425-452-6179
Land Use Code- BCC 20.25H	Heidi Bedwell, 425-452-4862
Noise Control- BCC 9.18	Heidi Bedwell, 425-452-4862

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

1. **Dock Dimension:** The applicant shall submit a building permit demonstrating compliance with the proposed plans in Attachment B and subject to the following approved dock dimensions:

Overall Length: 68 feet from OHWM

Max. Walkway Width: 4 feet

Authority: Land Use Code 20.25E

Reviewer: Heidi Bedwell, Land Use

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

Authority: Land Use Code 20.30R.155

Reviewer: Heidi Bedwell, Land Use

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

Authority: Bellevue City Code 23.76
Reviewer: Janney Gwo, Clearing & Grading

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

– July 16 – April 30

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

Authority: Land Use Code 20.25H.160
Reviewer: Heidi Bedwell, Land Use

5. **Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18
Reviewer: Heidi Bedwell, Land Use

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

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

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

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

8. **Mitigation Monitoring Plan:** As mitigation for disturbance associated with proposed pier, the applicant shall establish native vegetation in compliance with the

planting plan in Attachment B. As part of the building permit the application shall include a monitoring and reporting plan that describes the performance standards related to plant establishment.

Authority: Land Use Code 20.25E.080.N
Reviewer: Heidi Bedwell, Land Use

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

Authority: Land Use Code 20.25E.080.B
Reviewer: Heidi M. Bedwell, Land Use Division

Attachments:

- A.** Environmental Checklist
- B.** Proposed dock plans.
- C.** Comment Letters
- D.** Navigation Report

ENVIRONMENTAL CHECKLIST

10/9/2009

Thank you in advance for your cooperation and adherence to these procedures. If you need assistance in completing the checklist or have any questions regarding the environmental review process, please visit or call Development Services (425-452-6800) between 8 a.m. and 4 p.m., Monday through Friday (Wednesday, 10 to 4). Assistance for the hearing impaired: Dial 711 (Telecommunications Relay Service).

INTRODUCTION

Purpose of the Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21c RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the City of Bellevue identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the City decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Answer the questions briefly, with the most precise information known, or give the best description you can. You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer or if a question does not apply to your proposal, write "do not know" or "does not apply." Giving complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the Planner in the Permit Center can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. Include reference to any reports on studies that you are aware of which are relevant to the answers you provide. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impacts.

Use of a Checklist for Nonproject Proposals: *A nonproject proposal includes plans, policies, and programs where actions are different or broader than a single site-specific proposal.*

For nonproject proposals, complete the Environmental Checklist even though you may answer "does not apply" to most questions. In addition, complete the Supplemental Sheet for Nonproject Actions available from Permit Processing.

For nonproject actions, the references in the checklist to the words *project*, *applicant*, and *property* or *site* should be read as *proposal*, *proposer*, and *affected geographic area*, respectively.

Attach an 8 ½" x 11 vicinity map which accurately locates the proposed site.

Received
FEB 05 2014
Permit Processing
City of Bellevue

ENVIRONMENTAL CHECKLIST

4/11/2013

If you need assistance in completing the checklist or have any questions regarding the environmental review process, please visit or call Development Services (425-452-6800) between 8 a.m. and 4 p.m., Monday through Friday (Wednesday, 10 to 4). Assistance for the hearing impaired: Dial 711 (Telecommunications Relay Service).

BACKGROUND INFORMATION

Property Owner: Luis Cabrera

Proponent: Waterfront Construction, Inc.

Contact Person: **GREG RAUCH**
 (If different from the owner. All questions and correspondence will be directed to the individual listed.)

Address: 205 NE Northlake Way Seattle, WA 98105

Phone: 206-548-9800

Proposal Title: Cabrera Pier Project

Proposal Location: 2009 101st Ave SE (Killarney Way) Bellevue, WA 98004

(Street address and nearest cross street or intersection) Provide a legal description if available

PLEASE SEE REVERSE SIDE OF THIS PAGE.

Please attach an 8 1/2" x 11" vicinity map that accurately locates the proposal site.

Give an accurate, brief description of the proposal's scope and nature:

1. General description: Construction of a new pier.
2. Acreage of site: N/A
3. Number of dwelling units/buildings to be demolished: N/A
4. Number of dwelling units/buildings to be constructed: N/A
5. Square footage of buildings to be demolished: N/A
6. Square footage of buildings to be constructed: N/A
7. Quantity of earth movement (in cubic yards): N/A
8. Proposed land use: N/A
9. Design features, including building height, number of stories and proposed exterior materials:
N/A
10. Other

Estimated date of completion of the proposal or timing of phasing:
As soon as permits allow and within authorized work windows.

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
No.

List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None. The project will be submitted to federal agencies using the Reference Biological Evaluation completed for the Corps RGP-1 and RGP-3.

Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. List dates applied for and file numbers, if known.

None known.

List any government approvals or permits that will be needed for your proposal, if known. If permits have been applied for, list application date and file numbers, if known.

Shoreline Substantial Development Permit- City of Bellevue, SEPA Determination- City of Bellevue, Building Permit- City of Bellevue, Demolition Permit- City of Bellevue, Hydraulic Project Permit- WA State Dept. of Fish and Wildlife, Section 10 Permit- U.S. Army Corps of Engineers

Please provide one or more of the following exhibits, if applicable to your proposal.
(Please check appropriate box(es) for exhibits submitted with your proposal):

Land Use Reclassification (rezone) Map of existing and proposed zoning

Preliminary Plat or Planned Unit Development
Preliminary plat map

Clearing & Grading Permit
Plan of existing and proposed grading
Development plans

Building Permit (or Design Review)
Site plan
Clearing & grading plan

Shoreline Management Permit
Site plan

A. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site: Flat Rolling Hilly Steep slopes Mountains Other

b. What is the steepest slope on the site (approximate percent slope)?

Steepest slope on the property is approximately 5% and the yard area at the shoreline is relatively flat.

c. What general types of soil are found on the site (for example, clay, sand, gravel, peat, and muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

No prime farmland soils are present.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
None Known.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
None.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
No.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
The amount of impervious surface will not change.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
As a precaution and to implement Best Management Practices, a silt floatation curtain will be placed in the water to contain debris during construction and will be maintained in working order the entire time. Although a vibratory pile driver is planned for pile driving, if a drop hammer is required for driving or proofing piles, sound attenuation measures recommended by USFWS and NOAA-F will be implemented.

2. AIR

Erosion Control
Measures per BCC 23.76

a. What types of emissions to the air would result from the proposal (i.e. dust, automotive exhaust, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

During construction, the running of equipment will contribute some emissions in the area. Once construction is complete, there will be no emissions.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
No.

c. Proposed measures to reduce or control emissions or other impacts to the air, if any:

The equipment used at the project site will pass all emission standards required by the state agencies.

HMB 3-3-14

3. WATER

a. Surface

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Yes. Lake Washington which flows into the Ship Canal then into Puget Sound.

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If Yes, please describe and attach available plans.

Yes. See attached drawings.

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None.

- (4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No.

- (5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No.

- (6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No.

b. Ground

- (1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description.

No.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.) Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

None and N/A.

HMB 3-3-14

c. Water Runoff (Including storm water)

- (1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Storm water follows existing grade and this will not be changed.

- (2) Could waste materials enter ground or surface waters? If so, generally describe.
No.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
None.

4. Plants

- a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other Alder, Maple, Aspen
 evergreen tree: fir, cedar, pine, other Fir, Cedar, Blue Spruce, Pine, Hemlock
 shrubs
 grass
 pasture
 crop or grain
 wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
 water plants: water lily, eelgrass, milfoil, other
 other types of vegetation Ornamental plants

- b. What kind and amount of vegetation will be removed or altered?

Non-native Himalayan Blackberries will be removed to accommodate native planting plan.

- c. List threatened or endangered species known to be on or near the site.

None.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

None.

5. ANIMALS

a. Check or circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

Birds: hawk, heron, eagle, songbirds, other: Ducks, Geese

Mammals: deer, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened or endangered species known to be on or near the site:
Chinook Salmon, Bull Trout, Bald Eagle

Puget Sound chinook salmon and Coastal-Puget Sound bull trout Steelhead of Puget Sound

c. Is the site part of a migration route? If so, explain.

Juvenile salmonids migrate along the lake shoreline. Possibly migratory waterfowl.

d. Proposed measures to preserve or enhance wildlife, if any:

Please see reverse side of this page.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy need? Describe whether it will be used for heating, manufacturing, etc.

None.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No.

c. What kinds of energy conservation features are included in the plans of the proposal? List other proposed measures to reduce or control energy impacts, if any:

None.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

None.

(1) Describe special emergency services that might be required.

No requirement for emergency service is anticipated. However, should they be needed, the Washington Department of Ecology, an Emergency Response Cleanup Team, and WDFW will be contacted.

(2) Proposed measures to reduce or control environmental health hazards, if any.

A hazardous spill management plan will be present on-site. Spill clean-up and containment materials will also be on-site. Included in the clean-up packets will be containment booms, materials designed to absorb petroleum products, and plastic bags for material transport.

b. Noise

(1) What types of noise exist in the area which may affect your project (for example, traffic, equipment, operation, other)?

None.

- (2) What types and levels of noise would be created by or associated with the project on a short-term or long-term basis (for example, traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Please see reverse side of this page.

- (3) Proposed measures to reduce or control noise impacts, if any:

Construction will be limited to business hours during the workweek, which will minimize impacts to local residents. All materials and construction equipment will be transported via barge to and from site.

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?

Site: Single Family Residence / Adjacent Properties: Single Family Residence

- b. Has the site been used for agriculture? If so, describe.

No.

- c. Describe any structures on the site.

Structures on the site include a single family residence and a small rock bulkhead at and behind the OHWL of Lake Washington.

- d. Will any structures be demolished? If so, what?

No.

- e. What is the current zoning classification of the site?

R-1.8

- f. What is the current comprehensive plan designation of the site?

Single Family Residence

- g. If applicable, what is the current shoreline master program designation of the site?

Unknown.

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

No.

- i. Approximately how many people would reside or work in the completed project?

N/A

- j. Approximately how many people would the completed project displace?

None.

- k. Proposed measures to avoid or reduce displacement impacts, if any:

None.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposal is consistent with existing and projected COB uses and plans.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
N/A

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
N/A

- c. Proposed measures to reduce or control housing impacts, if any:
N/A

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
The proposed pier will be approximately 2'-6" above Ordinary High Water Line.
- b. What views in the immediate vicinity would be altered or obstructed?
None.
- c. Proposed measures to reduce or control aesthetic impacts, if any:
None needed or proposed.

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
None. N/A.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
No.

- c. What existing off-site sources of light or glare may affect your proposal?
None.
- d. Proposed measures to reduce or control light or glare impacts, if any:
None.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
Water recreation opportunities at the site include boating, swimming, water skiing, and fishing.
- b. Would the proposed project displace any existing recreational uses? If so, describe.
No.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
None.

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
No.
- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site.
N/A
- c. Proposed measures to reduce or control impacts, if any:
N/A

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
Access is from 101st ave. SE. All project construction materials and equipment will be brought by barge.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
N/A
- c. How many parking spaces would be completed project have? How many would the project eliminate?
N/A
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).
No. N/A.
- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
Minimal recreational boat traffic on Lake Washington occurs in the area.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
N/A
- g. Proposed measures to reduce or control transportation impacts, if any:
N/A

15. Public Services

a. Would the project result in an increased need for the public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

No.

b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A

16. Utilities

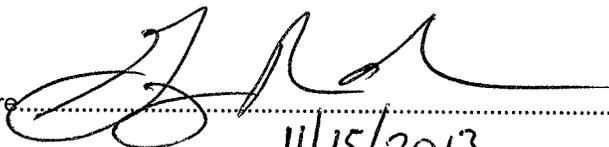
a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

None.

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature.....

Date Submitted..... 11/15/2013

HMB 3-3-14

PROJECT DESIGNED BY:
Waterfront Construction Inc.
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VICINITY MAP/NO SCALE

LEGAL DESCRIPTION

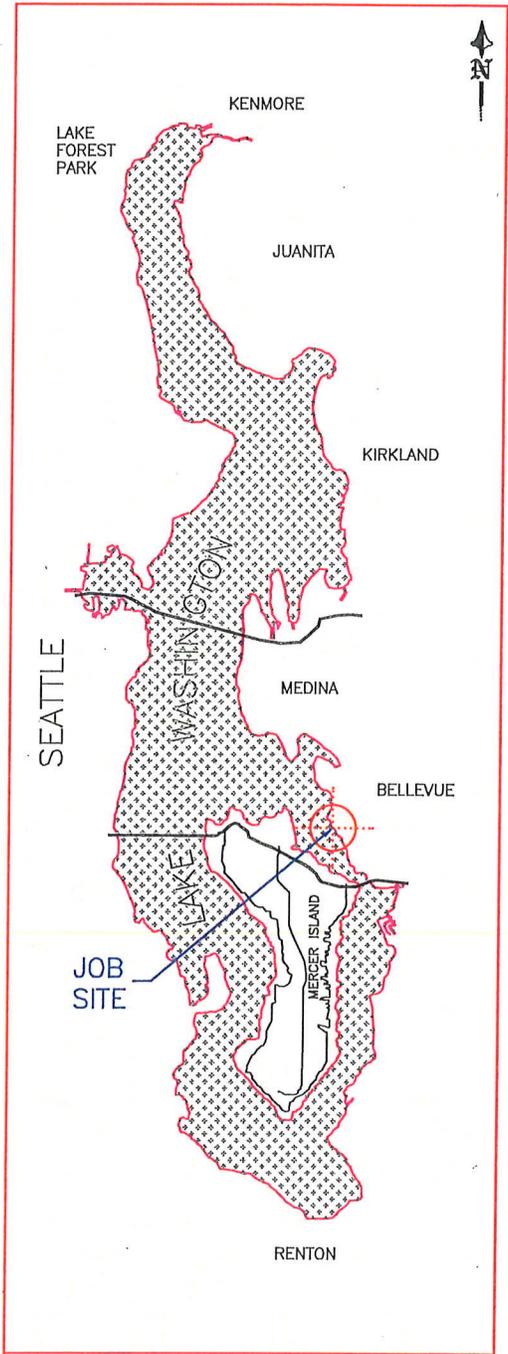
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 TAXLOT #: 062405 9077

SEE TRIAD SURVEY PAGE 2 OF 2 DATED 10/22/2010

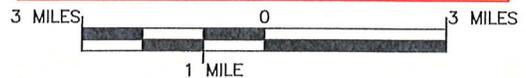
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 LONG: -122.20918

ADDED NOURISHMENT
 GRAVEL, SHTS 2&3

REVISED
7-10-14



AREA MAP/Scale: 1"=3miles



PURPOSE: PROVIDE PRIVATE MOORAGE

DATUM: COE 0.0' EST 1919

ADJACENT OWNERS:

- ① RICHARD & DIANE FOREMAN
 2011 100TH AVE SE
 BELLVUE, WA. 98004
- ② LUKENS TERENCE & ANN
 2015 KILLARNEY WAY
 BELLVUE, WA. 98004

PROJECT NAME: CABRERA

REFERENCE #: **NWS-2014-622**

SITE LOCATION ADDRESS:

2009 KILLARNEY WAY SE
 BELLEVUE, WA. 98004

DWG#: 09-31049-A.1-1

PROPOSED:

CONSTRUCT FULLY GRATED PIER.
 INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
 INSTALL NATIVE PLANTING PLAN. **gravel**

IN: LAKE WASHINGTON

NEAR: BELLEVUE

COUNTY: KING

STATE: WA

APPL BY: LUIS CABRERA

SHEET: 1

OF: 7

DATE: 8-31-09

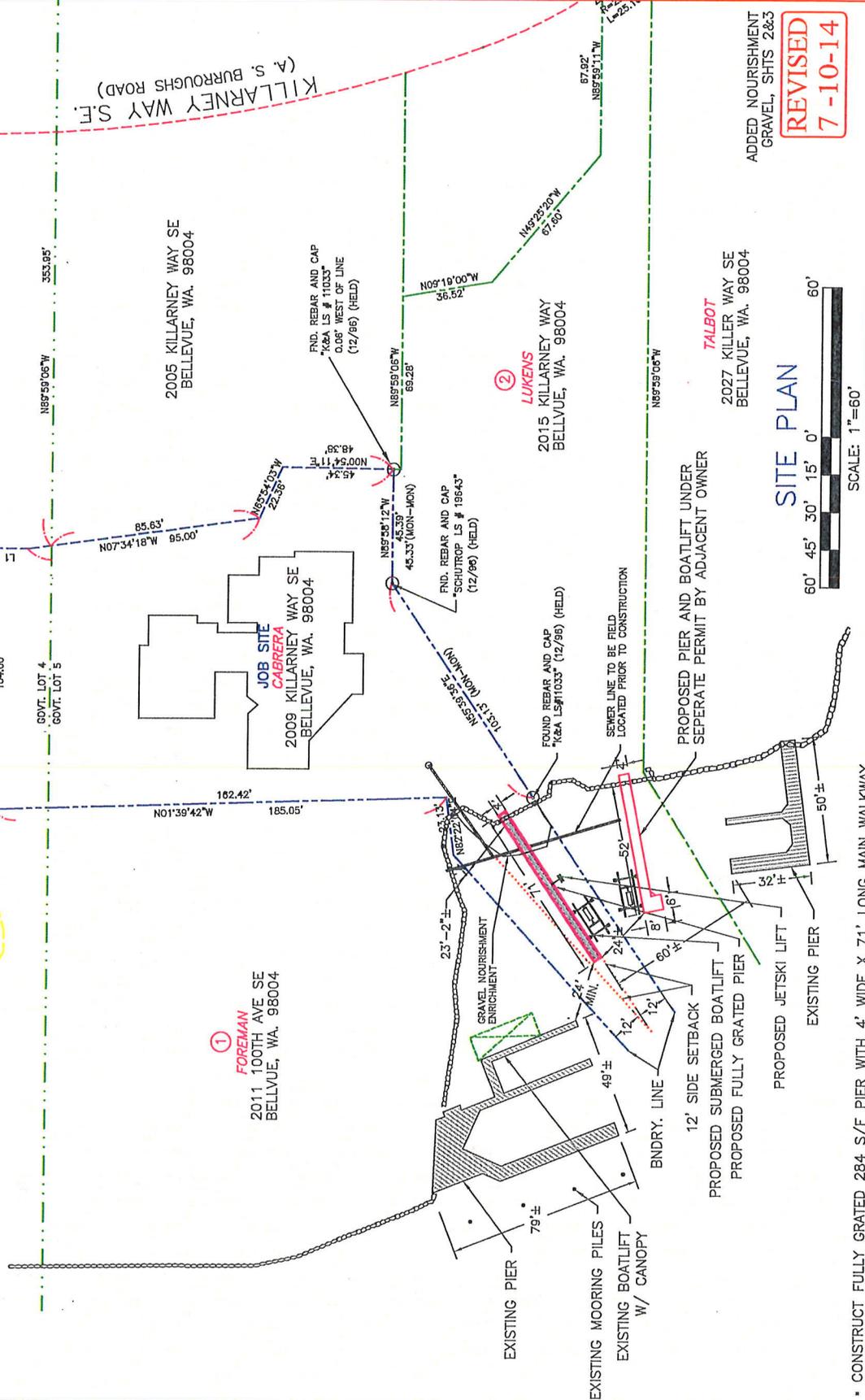
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Waterfront Construction Inc.

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NOTE:
SUBJECT PROPERTY LINES AND SHORELINE SURVEYED BY TRIAD ASSOCIATES ON 10/22/10. ALL OTHER INFORMATION DEVELOPED FROM SITE VISIT AND AERIAL PHOTOS.

ALL PARCEL LINES & DIMENSIONS TAKEN FROM TRIAD SURVEY DATED 10/22/10 AND RECORDED UNDER #20110131000004 ON 01/31/2011 (SEE SHEETS 4 & 6)



ADDED NOURISHMENT GRAVEL, SHTS 2&3
REVISED
7-10-14

SITE PLAN

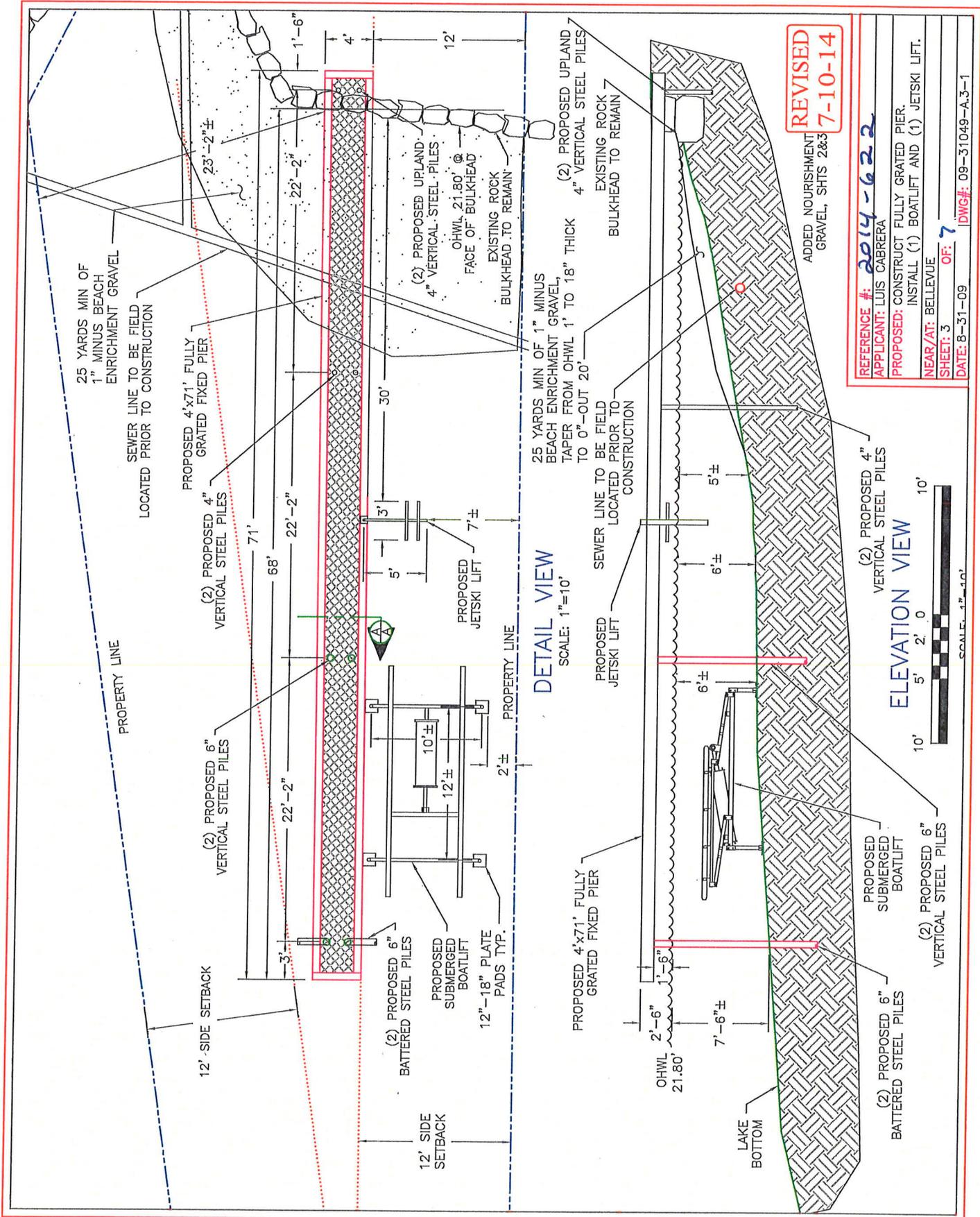
REFERENCE #:	WWS-2014-622
APPLICANT:	LUIS CABRERA
PROPOSED:	CONSTRUCT FULLY GRADED PIER, INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
NEAR/AT:	BELLEVUE
SHEET:	2 OF 7
DATE:	8-31-09
DWG#:	09-31049-A-2-1

- CONSTRUCT FULLY GRADED 284 S/F PIER WITH 4' WIDE X 71' LONG MAIN WALKWAY.
- INSTALL (2) 4" DIAMETER (UPLAND) AND (2) 4" AND (4) 6" DIAMETER (INWATER) STEEL PILES. THE MOST WATERWARD PILE SET WILL BE BATTERED.
- INSTALL (1) FREE STANDING BOATLIFT AND (1) DOCK MOUNTED JET-SKI LIFT.
- INSTALL A NATIVE RIPARIAN PLANTING PLAN.
- PILES WILL BE DRIVEN TO PRACTICAL REFUSAL USING A VIBRATORY PILE DRIVER.
- CONSTRUCTION WILL TAKE PLACE DURING AUTHORIZED WORK WINDOWS DESIGNED TO PROTECT LISTED SPECIES.
- RAMP, DOCK, BOATLIFT AND JET-SKI LIFT WILL BE PREFABRICATED AND DELIVERED TO THE SITE VIA CONSTRUCTION BARGE.
- THE CONSTRUCTION BARGE WILL NOT BE ALLOWED TO GROUND OUT ON THE LAKE BOTTOM AT ANYTIME.

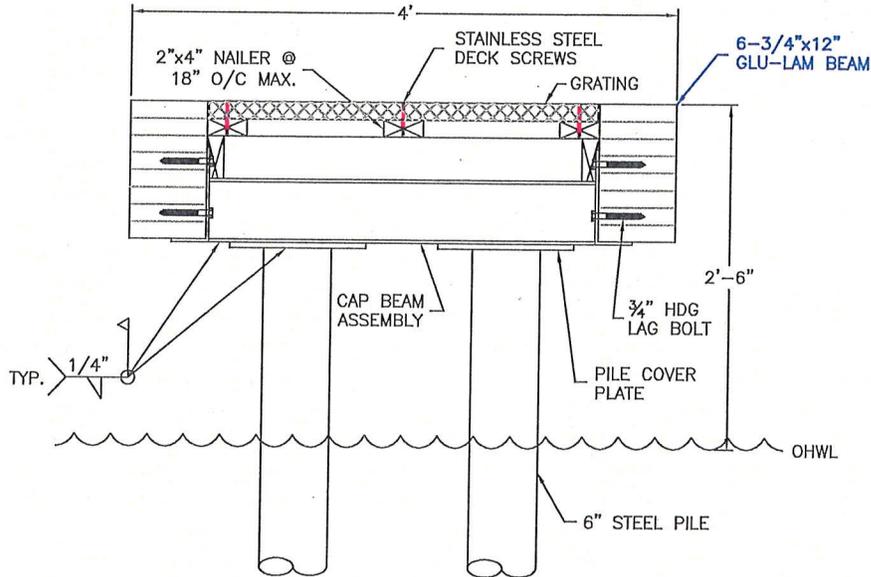
PROJECT DESIGNED BY:

Waterfront Construction Inc.

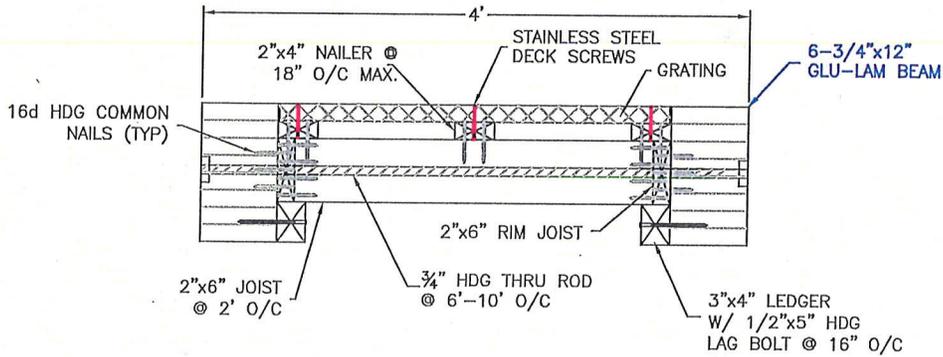
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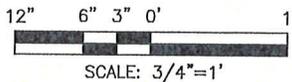
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PROPOSED SECTION VIEW A-A
 SCALE: 3/4"=1'



PROPOSED SECTION FRAMING A-A



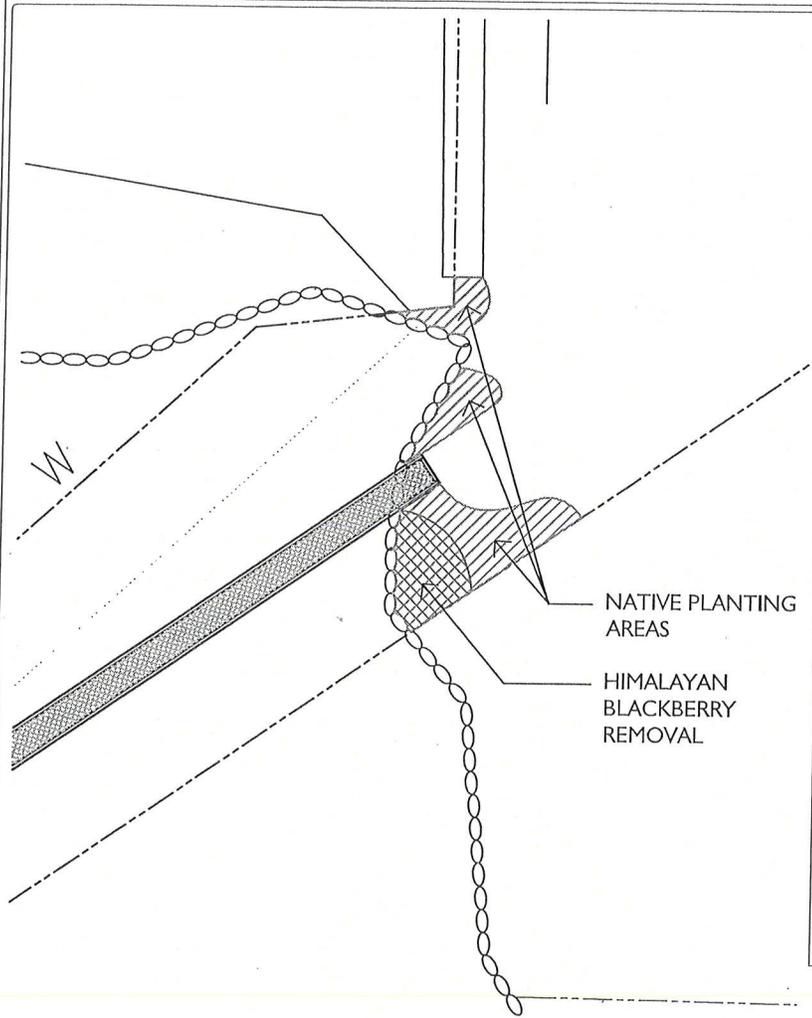
MATERIAL LIST

PART	SPECS	TREATMENT
PILING	4" & 6" STD WALL STEEL	EPOXY COATED
CAPS	W6x15 "H" BEAM	HDG
GLU-LAMS	6-3/4"x12" DF 24F-V4	ACZA
JOIST	2"x6" DF #2 OR BTR	ACZA
RIM JOIST	2"x6" DF #2 OR BTR	ACZA
NAILERS	2"x4" DF #2 OR BTR	ACZA
LEDGERS	3"x4" DF #2 OR BTR	ACZA
GRATING	POLYPROPYLENE	NONE
HARDWARE	STEEL	STAINLESS OR HDG.

ADDED NOURISHMENT GRAVEL, SHTS 2&3

REVISED
7-10-14

REFERENCE #:	2014-622
APPLICANT:	LUIS CABRERA
PROPOSED:	CONSTRUCT FULLY GRATED PIER. INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
NEAR/AT:	BELLEVUE
SHEET:	4 OF 7
DATE:	8-31-09
DWG#:	09-31049-A.4-1

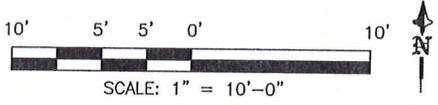


GENERAL PLANTING SEQUENCE:

1. Native plant installation shall occur during frost-free periods only. Preferred months for installation are between September 15th and April 15, prior to hot, dry weather. Plants may only be installed during hot weather if the applicant agrees to immediate irrigation of the entire planting area, delivering at least 2" of water per week from June 1 through September 15th.
2. Procure plants in legend and insure that material meets the minimum requirements outlined in the plant legend and planting details.
3. Locate all existing utilities within the limit of work. The applicant is responsible for any utility damage as a result of the landscape construction.
4. Remove all weeds, particularly Himalayan blackberry, by first cutting down stalks and then carefully grubbing out roots by hand. Dispose of all weed material off-site.
5. Amend soils as needed to provide min. 20% organic material throughout the planting area. As needed, add compost to increase organic content, rototill into planting area.
6. Note: The applicant is responsible for any adverse drainage conditions that may affect proper plant growth and establishment. Notify owner of any poor drainage conditions prior to construction.
7. Layout plant material per plan for inspection by the Landscape Architect. Plant substitutions will NOT be allowed without the approval of the Landscape Architect.
8. Install plants per planting details, sheet 3.
9. Water each plant thoroughly to remove air pockets.
10. Install a 4" depth, coarse wood-chip mulch ring throughout entire project area.
11. Install a temporary or permanent irrigation system capable of delivering 2" of water per week to the entire planted area. Maintain irrigation system in working condition for two (2) summers after initial plant installation.

The applicant shall maintain all plant material until final inspection and approval by agencies having jurisdiction (AHJ). If the owner or applicant chooses to hire a landscape contractor, then all plantings and workmanship shall be guaranteed for one year following final owner acceptance.

PLANTING & WEEDING AREAS



PLANTING DESIGN BY

THE WATERSHED COMPANY
 750 Sixth Street South
 Kirkland WA 98033
 p 425.822.5242 f 425.827.8136
 www.watershedco.com
Science & Design

PURPOSE: PROVIDE PRIVATE MOORAGE	PROJECT NAME: CABRERA	PROPOSED: CONSTRUCT FULLY GRATED PIER. INSTALL (1) BOATLIFT AND (1) JETSKI LIFT. INSTALL NATIVE PLANTING PLAN.
DATUM: COE 0.0' EST 1919	REFERENCE #: <i>NWS 2014-022</i>	IN: LAKE WASHINGTON
ADJACENT OWNERS:	SITE LOCATION ADDRESS:	NEAR: BELLEVUE
① RICHARD AND DIANE FOREMAN 2011 100TH AVE SE BELLEVUE, WA. 98004	2009 KILLARNEY WAY SOUTH BELLEVUE, WA. 98004	COUNTY: KING STATE: WA
② LUKENS TERENCE & ANN 2015 KILLARNEY WAY BELLEVUE, WA. 98004	DWG#: 09-31049-A.1-1	APPL BY: LUIS CABRERA
		SHEET: <i>5</i> OF: <i>7</i> DATE: 8-31-09

REV. 7-10-14

PLANT SCHEDULE

SYMBOL	NAME	SIZE	QTY.	REMARKS
--------	------	------	------	---------

TREES

	ACER CIRCINATUM VINE MAPLE	5 GAL.	1	MULTI-STEM, WELL BRANCHED
	PINUS CONTORTA VAR. CONTORTA/ SHORE PINE	10 GAL.	1	WELL BRANCHED, SINGLE STEM, BUSHY
	SALIX HOOKERIANA HOOKER'S WILLOW	1 GAL.	2	MULTI OR SINGLE STEM, VIGOROUS

SHRUBS

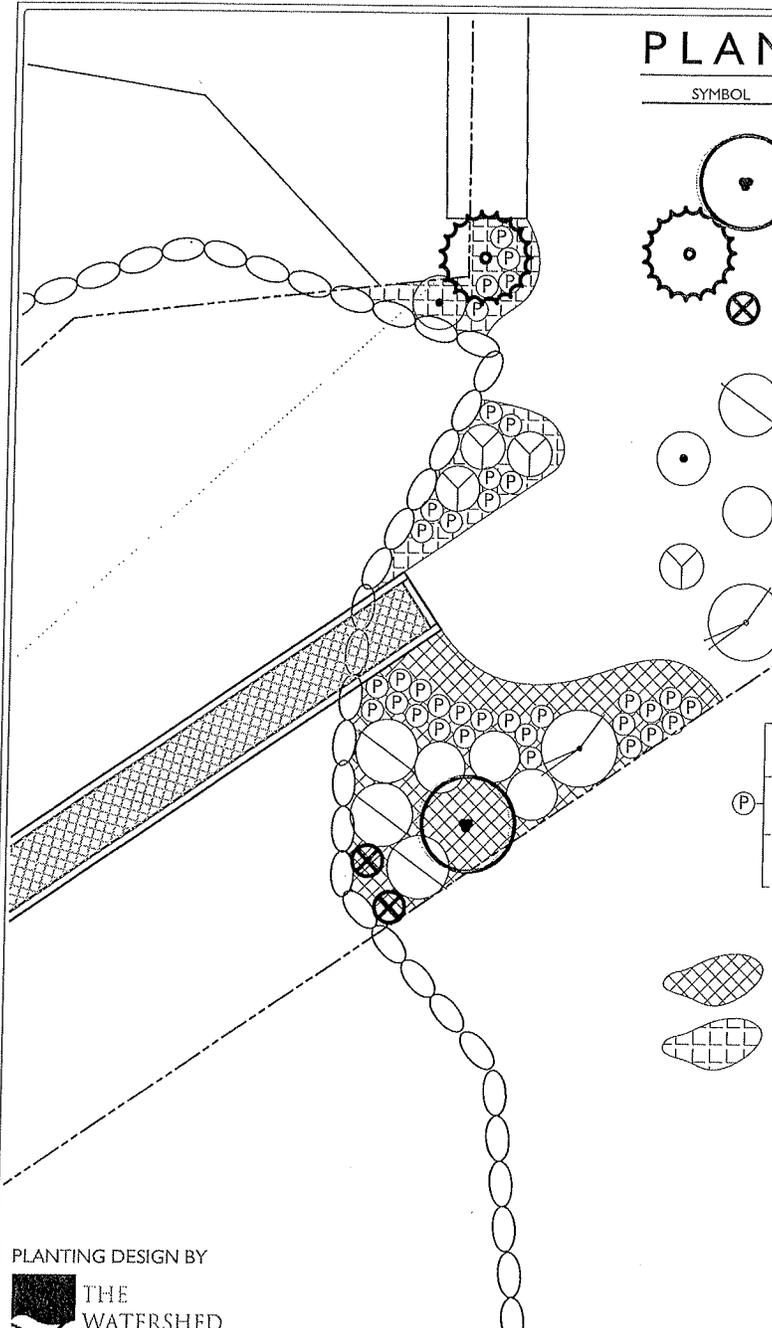
	CORNUS STOLONIFERA RED TWIG DOGWOOD	2 GAL.	3	FULL, WELL-BRANCHED
	HOLODISCUS DISCOLOR OCEAN SPRAY	2 GAL.	1	FULL, WELL-BRANCHED
	RIBES SANGUINEUM RED FLOWERING CURRANT	2 GAL.	3	FULL, WELL-BRANCHED
	VACCINIUM OVATUM EVERGREEN HUCKLEBERRY	2 GAL.	3	FULL, WELL-BRANCHED
	VIBURNUM EDULE HIGHBUSH CRANBERRY	2 GAL.	1	FULL, WELL-BRANCHED

PERENNIALS & FERNS

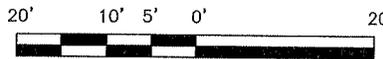
	CASTILLEJA MINATA COMMON RED PAINTBRUSH	1 GAL.	36	SOURCE AND INSTALL AT LEAST 2 OF THE PERENNIAL SPECIES
	DELPHINIUM MENZIESII MENZIES' LARKSPUR	1 GAL.		
	PENSTEMON SERRULATUS COAST PENSTEMON	1 GAL.		
	POLYSTICHUM MUNITUM SWORD FERN	1 GAL.		

GROUNDCOVER

	ARCTOSTAPHYLOS UVA-URSI KINIKINNICK	4" POTS	72	18" O.C.
	ASARUM CAUDATUM WILD GINGER	4" POTS	36	24" O.C.



PLANTING PLAN AND LEGEND



PLANTING DESIGN BY



750 Sixth Street South
Kirkland WA 98033

p 425.822.5242 f 425.827.8136
www.watershedco.com

Science & Design

PURPOSE: PROVIDE PRIVATE MOORAGE

DATUM: COE 0.0' EST 1919

ADJACENT OWNERS:

- RICHARD AND DIANE FOREMAN
2011 100TH AVE SE
BELLEVUE, WA. 98004
- LUKENS TERENCE & ANN
2015 KILLARNEY WAY
BELLEVUE, WA. 98004

PROJECT NAME: CABRERA

REFERENCE #: 2014-622
SITE LOCATION ADDRESS:

2009 KILLARNEY WAY SOUTH
BELLEVUE, WA. 98004

DWG#: 09-31049-A.1-1

PROPOSED:

CONSTRUCT FULLY GRATED PIER.
INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
INSTALL NATIVE PLANTING PLAN.

IN: LAKE WASHINGTON

NEAR: BELLEVUE

COUNTY: KING

STATE: WA

APPL BY: LUIS CABRERA

SHEET: 6

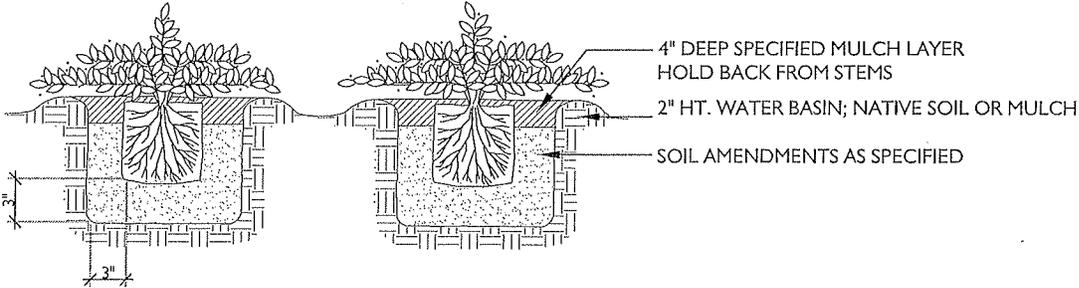
OF: 7

DATE: 8-31-09

rev. 7-10-14

NOTES:

1. PLANT GROUNDCOVER AT SPECIFIED DISTANCE ON-CENTER (O.C.) USING TRIANGULAR SPACING, TYP.
2. LOOSEN SIDES AND BOTTOM OF PLANTING PIT AND REMOVE DEBRIS
3. LOOSEN ROOTBOUND PLANTS BEFORE INSTALLING
4. SOAK PIT BEFORE AND AFTER INSTALLING PLANT



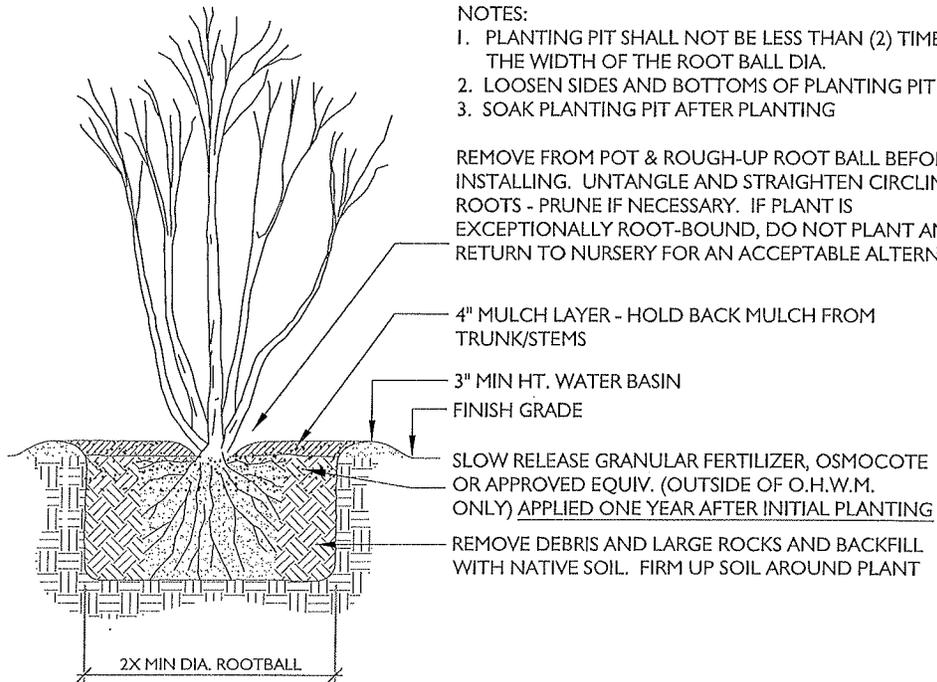
A GROUNDCOVER & PERENNIAL PLANTING DETAIL

NTS

NOTES:

1. PLANTING PIT SHALL NOT BE LESS THAN (2) TIMES THE WIDTH OF THE ROOT BALL DIA.
2. LOOSEN SIDES AND BOTTOMS OF PLANTING PIT
3. SOAK PLANTING PIT AFTER PLANTING

REMOVE FROM POT & ROUGH-UP ROOT BALL BEFORE INSTALLING. UNTANGLE AND STRAIGHTEN CIRCLING ROOTS - PRUNE IF NECESSARY. IF PLANT IS EXCEPTIONALLY ROOT-BOUND, DO NOT PLANT AND RETURN TO NURSERY FOR AN ACCEPTABLE ALTERNATIVE



B TREE & SHRUB PLANTING DETAIL

NTS

PLANTING DESIGN BY



750 Sixth Street South
Kirkland WA 98033

p 425.822.5242 f 425.827.8136
www.watershedco.com
Science & Design

PURPOSE: PROVIDE PRIVATE MOORAGE

DATUM: COE 0.0' EST 1919

ADJACENT OWNERS:

- ① RICHARD AND DIANE FOREMAN
2011 100TH AVE SE
BELLEVUE, WA. 98004
- ② LUKENS TERENCE & ANN
2015 KILLARNEY WAY
BELLEVUE, WA. 98004

PROJECT NAME: CABRERA

REFERENCE #: 2014-622
SITE LOCATION ADDRESS:

2009 KILLARNEY WAY SOUTH
BELLEVUE, WA. 98004

DWG#: 09-31049-A.1-1

PROPOSED:

CONSTRUCT FULLY GRATED PIER.
INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
INSTALL NATIVE PLANTING PLAN.

IN: LAKE WASHINGTON

NEAR: BELLEVUE

COUNTY: KING

STATE: WA

APPL BY: LUIS CABRERA

SHEET: 7 OF 7 DATE: 8-31-09

Rev 7-10-14

Bedwell, Heidi

From: Bedwell, Heidi
Sent: Monday, March 31, 2014 4:15 PM
To: 'Rick Peterson'
Subject: RE: permit # 14-124074WG comments

Mr. Peterson,

Thank you for your comment on the subject application. Your comments are included in the public record and will be considered as part of the City's review of the proposed dock project.

Sincerely,
Heidi M. Bedwell
Senior Planner, Land Use Division
Development Services Department
425-452-4862
www.bellevuewa.gov



From: Rick Peterson [<mailto:rpeterson@cascadebizgrp.com>]
Sent: Friday, March 28, 2014 12:29 PM
To: Bedwell, Heidi
Subject: permit # 14-124074WG comments

Dear Ms. Bedwell, My name is Rick Peterson of 1863 Killarney Way, Bellevue. I have an issue with the issuance of the above noted permit. This is based on the fact that access, to the four homes and the proposed dock, (one being the applicants) is served by an undersized, illegal, access lane of fifteen feet or less in width. Any new facility such as a new dock will create more use of this driveway. According to the Bellevue Fire Department, Mr. Bill Lehner, a twenty foot minimum width driveway is required. Mr. Ron Hanson of the Bellevue Planning Department stated that four homes require a twenty two foot width driveway. In addition the existing driveway is inherently unsafe as it drops off with no curb protection and is at a steep angle to Killarney way rendering it very unsafe when accessing that street.

Accordingly I object to this permit being issued without addressing the aforementioned issues,.

Rick Peterson
425 462 27444
1863 Killarney Way, Bellevue WA 98004

Bedwell, Heidi

From: Terence Lukens <t.lukens@comcast.net>
Sent: Tuesday, April 01, 2014 10:35 PM
To: Bedwell, Heidi
Subject: Cabrera/Lukens dock
Attachments: CCE04012014_00000.jpg

I have attached our comments on the Cabrera dock proposal.

**Terry Lukens
2015 Killarney Way
Bellevue, Washington 98004**

April 1, 2014

Ms. Heidi Bedwell
Bellevue Development Services Department
P. O. Box 90012
Bellevue, WA 98009-9012

Re: Cabrera Pier
File No. 14-124074-WG

Dear Ms. Bedwell:

I am writing on behalf of my wife and myself; we live at 2015 Killarney Way immediately south of the Cabrerias. As you know we are also applicants for a permit to construct a dock, amended as reflected in File No. 14-124658-LO. Our original dock application predated the Cabrera application by a year or more.

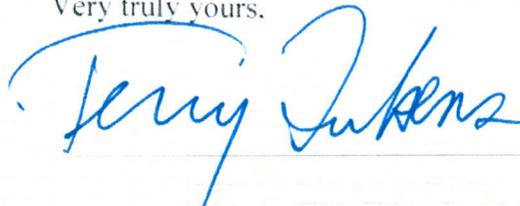
The comments we are submitting are contingent upon the happening of certain future events. As we have discussed with you, we have reached an agreement with our neighbor to the south, Mr. Randy Talbot, to reconfigure his dock. That reconfiguration will eliminate any conflict between his dock and our dock and will also allow us to reconfigure our original dock location, as now reflected in File No. 14-124658-LO. We do not believe that our reconfigured dock will interfere with access to the Cabrera dock nor will their dock interfere with access to our dock.

However if the Talbot reconfiguration is not approved by either the City or the Corps of Engineers, or if the project is unable to proceed to construction for some unknown reason, then our dock proposal will, of necessity, have to be returned to its original configuration. Any such remodified dock will not only result in potential issues with access to the Talbot dock, but will also create significant navigational issues between our dock and the Cabrera dock as reflected in the application they have just filed, following our conversation with them about the Talbot-Lukens collaboration.

As you and I discussed at our meeting, the interrelated approvals of the Talbot and Lukens docks by City and Corps and resolution of any construction issues must precede final consideration of the Cabrera's recent submission.

At such time as the Talbot dock reconfiguration issue is resolved, we reserve the right to provide additional comments, depending on the eventual outcome.

Very truly yours,



Bedwell, Heidi

From: Rick Peterson <rpeterson@cascadebizgrp.com>
Sent: Monday, March 31, 2014 10:11 PM
To: Bedwell, Heidi
Cc: Lisa+ Evan Feinman; Richard and Diane Foreman
Subject: RE: permit # 14-124074WG comments

Thanks for acknowledging my response. I would like to clarify that I do not suggest that the applicant bears the full responsibilities of addressing this problem, (which continually impacts all neighbors with tiers and guest vehicles transcending this narrow road),. Many, documented times, towing trucks are required to remove vehicles blocking all access, in and out, of our homes, including the applicants vehicles can't negotiate the drop off. The issue is, the applicant should participate with, rather than be a sole dissenter in solving this serious issue, while at the same time applying for permits that only amplifies the problem. Rick Peterson

Sent from Samsung tablet

----- Original message -----

From HBedwell@bellevuewa.gov
Date: 03/31/2014 4:15 PM (GMT-08:00)
To Rick Peterson <rpeterson@cascadebizgrp.com>
Subject RE: permit # 14-124074WG comments

Mr. Peterson,

Thank you for your comment on the subject application. Your comments are included in the public record and will be considered as part of the City's review of the proposed dock project.

Sincerely,

Heidi M. Bedwell

Senior Planner, Land Use Division

Development Services Department

425-452-4862

www.bellevuewa.gov



From: Rick Peterson [<mailto:rpeterson@cascadebizgrp.com>]
Sent: Friday, March 28, 2014 12:29 PM
To: Bedwell, Heidi
Subject: permit # 14-124074WG comments

Dear Ms. Bedwell, My name is Rick Peterson of 1863 Killarney Way, Bellevue. I have an issue with the issuance of the above noted permit. This is based on the fact that access, to the four homes and the proposed dock, (one being the applicants) is served by an undersized, illegal, access lane of fifteen feet or less in width. Any new facility such as a new dock will create more use of this driveway. According to the Bellevue Fire Department, Mr. Bill Lehner, a twenty foot minimum width driveway is required. Mr. Ron Hanson of the Bellevue Planning Department stated that four homes require a twenty two foot width driveway. In addition the existing driveway is inherently unsafe as it drops off with no curb protection and is at a steep angle to Killarney way rendering it very unsafe when accessing that street.

Accordingly I object to this permit being issued without addressing the aforementioned issues,.

Rick Peterson

425 462 27444

1863 Killarney Way, Bellevue WA 98004

Bedwell, Heidi

From: Bedwell, Heidi
Sent: Tuesday, April 01, 2014 7:19 AM
To: 'Laura Counley'
Cc: Rich Hill
Subject: RE: Cabrera Pier

Laura,

Thank you for providing the City with comments pertaining to file 14-124074-WG- Cabrera Pier. The comments are included in the public record and will be considered as part of the City's review of the proposed project.

Feel free to contact me again if you have additional comments or questions.

Heidi M. Bedwell
Senior Planner, Land Use Division
Development Services Department
425-452-4862
www.bellevuewa.gov



From: Laura Counley [<mailto:LCounley@mhseattle.com>]
Sent: Monday, March 31, 2014 4:50 PM
To: Bedwell, Heidi
Cc: Rich Hill
Subject: Cabrera Pier

Heidi,

Per, Rich's request, here is a copy of his letter dated today.

A hard copy will follow via U.S. First Class Mail.

Thank you for your courtesy and attention to this matter.

Sincerely,
Laura D. Counley
Paralegal

McCullough Hill Leary, PS

701 Fifth Avenue, Suite 6600
Seattle, WA 98104
Tel: 206-812-3388
Fax: 206-812-3389
Direct: 206-812-3372

www.mhseattle.com

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MCCULLOUGH HILL LEARY, PS

March 31, 2014

VIA U.S. FIRST CLASS MAIL

Heidi Bedwell
Bellevue Development Services Department
P.O. Box 90012
Bellevue, WA 98009-9012

Re: Cabrera Pier
File No. 14-124074-WG

Dear Ms. Bedwell:

This letter is written on behalf of Richard and Diane Foreman. The Foremans live immediately to the northwest of the Cabrera property, at 2011 Killarney Way.

The Cabrera application is for a dock 71' in length. This is substantially the same application applied for in 2011. At that time, the City's decision to issue a permit to the Cabrereras was appealed to the Shoreline Hearings Board. When confronted with the legal and evidentiary issues listed below, the Cabrereras wisely withdrew their application. It is unfortunate that they have now, three years later, re-filed virtually the same application they withdrew three years ago. For the same reason the dock was inconsistent with City policy three years ago, it is inconsistent with City Policy today.

The Foremans have five primary concerns about the Cabrereras' proposal.

First, because of the length of the proposed dock, every time the Foremans take their boat out or bring it in, it is almost inevitable that the Foremans will collide with the Cabrera dock. Because of this fact, the Cabrereras' proposal poses a risk to navigation and boater safety. This violates a number of provisions of the Bellevue Comprehensive Plan, Shoreline Master Program, Shoreline Management Act, and Shoreline Management Regulations, which are cited in our briefing in the SHB appeal, Case No. 11-023 ("SHB Brief") (a copy is attached as Exhibit A to this letter).

Second, the Cabrereras' dock proposal will significantly interrupt the Foremans' view by placing a dock and significant vessel directly in the Foremans' view corridor. This violates the City's and the State's shoreline policies to protect views from unwarranted intrusion.

Third, the SEPA environmental checklist includes a number of errors and omissions.

- Paragraph 8(g): Fails to identify the current shoreline master program designation of the site.
- Paragraph 8(h): Denies that any part of the site has been classified as "environmentally sensitive." Certainly, the area where the dock will be installed is "environmentally

sensitive.” It is located in, after all, a shoreline of statewide significance, and is defined in City Code as a critical area. LUC 20.25E.017.D.1.

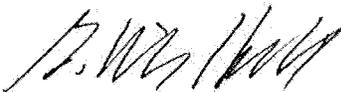
- Paragraph 8(l): Fails to acknowledge that the proposal is incompatible with existing and projected land uses and plans (see specific provisions identified in SHB Brief).
- Paragraph 10(b): Denies that views in the immediate vicinity will be altered or obstructed. As stated above, the proposed dock will alter and obstruct the Foremans’ views.
- Paragraph 11: Denies that the proposal will produce light and glare. In fact, the mooring of the Cabrerass’ vessel in the Foremans’ view corridor will cause glare impacts. Moreover, any lighting of the dock in the evening will cause light impacts.
- Paragraph 12 (b): Denies that the proposal will displace any existing recreational use. In fact, if the permit is approved, it will deprive the Foremans of their existing recreation right to safely access their dock.
- The sketch associated with the application is not a survey and accordingly cannot be trusted. Indeed, the Waterfront Construction sketches utilized in the prior application were demonstrably inaccurate. The Cabrerass should be required to provide an accurate survey of the Cove. Only if this is done can the true impacts of the proposal on the Foreman dock be understood.
- The sketch associated with the application does not include the proposed Lukens dock to the south. Without the sketch, the true impacts of the Cabrerass’ proposal cannot be ascertained.

Fourth, the proposed dock interferes with the Foremans’ easement rights to access. The entire shorelands area where this dock is proposed is subject to an ingress/egress easement benefiting the Foremans’ property. King County Recording No. 5517439. The City should not approve a dock application unless the applicants can prove that there are no restrictions on the property that prohibit their proposed use.

Finally, the application cannot be approved because the Cabrerass only own 40’ of waterfront property. The minimum lot width required by the code for a waterfront dock is 90’. LUC 20.20.010. The Cabrerass’ lot is 50’ shy of the mark.

Thank you for your consideration of these comments. We look forward to continuing dialogue.

Sincerely,



G. Richard Hill

GRH:ldc

cc: Richard Foreman
L:\Foreman, Richard\Corres\Bedwell 031814.doc

EXHIBIT A

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BEFORE THE SHORELINE HEARINGS BOARD
STATE OF WASHINGTON

RANDY TALBOT and MARGARET TALBOT,
TERENCE P. LUKENS and ANN P. LUKENS,
RICHARD FOREMAN and DIANE FOREMAN,
and ENETAI LLC,

Case No. SHB 11-023
PETITIONERS' HEARING BRIEF

Petitioners,

vs.

CITY OF BELLEVUE, a Washington municipal
corporation, LUIS CABRERA, and FELIPE
CABRERA and MARCELE CABRERA,

Respondents.

I. INTRODUCTION

The City of Bellevue ("City") has approved the application of Felipe and Marcel Cabrera to build a dock in a small cove on Lake Washington.

Each of the Cabreras' three immediate neighbors has appealed, because if the dock is built, it will impair safe navigation and create a hazard to boaters in violation of the Shoreline Management Act and the City's Shoreline Master Program. See *Wile v. Island County*, SHB 94-50 (1995).

1 "beach access tract" was merged into the Cabrerias' upland lot in 2011. The "beach access tract"
2 has about 40' of waterfront, and has never had a dock.

3 The next lot to the south is owned by Terence and Ann Lukens ("Lukens"). The Lukens
4 built a home on their lot and moved into the house in 2000. Their lot has about 50' of
5 waterfront, and has never had a dock.

6
7 The fourth lot on the cove, to the south of Lukens, is owned by Randy and Margaret
8 Talbot ("Talbots"). The Talbots have approximately 105' of waterfront. They acquired their
9 home in 2007. There is a dock on their property which was present when they acquired it.

10 **Joint Dock Discussions**

11 Since the Lukens moved into their home, they have had extensive discussions with their
12 neighbors regarding development of a joint dock along their common property line.

13
14 Until 2007, those discussions involved both the Cokers and the Cabrerias, since they were
15 joint owners of the waterfront beach parcel adjacent to the Lukens and south of the upland lot on
16 which the Cabrerias have their home.

17 Since 2007, those discussions have been solely with the Cabrerias, as they had acquired
18 the Cokers' interest in the waterfront beach parcel in that year. The Lukens and the Cabrerias
19 have been social friends since the Lukens moved into the neighborhood in 2000. The Lukens
20 still understand that the Cabrerias remain their social friends.

21
22 There are a number of reasons that support development of a joint dock: (a) the Cabrerias
23 and the Lukens together have only 90' of waterfront, compared to their neighbors, each of whom
24 has over 100' of waterfront; (b) the configuration of the cove is so small and intimate that the
25 construction of two additional new docks, one for the Cabrerias (if built to 75' in length as they
26 currently propose), and one for the Lukens, would be unreasonably cramped, guarantee conflict,
27
28

1 and risk boat and passenger safety; and (c) the construction of a joint dock would reduce cost and
2 environmental impact.

3 Over the years, the Cabrerias and the Lukens retained consultants to develop alternative
4 designs for a joint dock. An example of such alternative designs is set forth as Attachment B to
5 this Hearing Brief. It is an email from Luis Cabrera (Mr. Cabrera's son) to Mr. Lukens, which
6 encloses three conceptual site plans.
7

8 The third conceptual site plan attached to Luis Cabrera's email, ("Alternative 3"), is the
9 proposal that the Lukens approved at the time. It provides for a dock 50' in length. It enables
10 both the Cabrerias and the Lukens to moor a boat of reasonable size. It also provides adequate
11 freeway for the Talbots to have access to their dock without risking collision with the Cabrerias'
12 dock.
13

14 The Cabrerias did not agree to Alternative 3. The reason they gave was that the dock was
15 not long enough for them to also have a jet-ski and guest moorage in addition to their boat.
16

17 Mr. Lukens' understanding at the time, however, was that their discussions regarding a
18 joint dock were ongoing in good faith.

19 **"Go It Alone" Proposal**

20 After Mr. Lukens responded to Luis Cabrera's 2009 email, Luis Cabrera then advised Mr.
21 Lukens that his parents were going to pursue their own separate dock application, an application
22 that ultimately was for a dock 78' in length.
23

24 The Cabrerias' application was for a shoreline substantial development permit.

25 The Cabrerias' application also did not include any explanation of how it complied with
26 the minimum lot width requirements of LUC 20.25E.080.N.1.a. That code provision requires a
27 90' minimum lot width on the waterfront. The Cabrerias' lot is only 40' wide.
28

1 Petitioner Randy Talbot submitted a timely comment letter on the application. He stated
2 that “the length of the proposed pier will greatly impact navigability of the waters within this
3 confined space [of the small cove], which most likely will increase the likelihood of injury to
4 persons and/or property.”

5
6 Despite Mr. Talbot’s comment, the City engaged in no review whatsoever – whether
7 under its Shorelines Code or under its SEPA review authority -- of the safety or navigability
8 impacts of the Cabrer’s proposal.

9 In reply to Mr. Talbot’s request for a response to his 2009 letter, the City Planner wrote
10 him an email in 2011, acknowledging: “[W]e discussed your concern about the navigability of
11 the waters as relates to your maneuvering your boat into your boat slip (on your existing pier)...
12 You expressed concern that the Cabrera pier could potentially impede navigability access to your
13 pier.”

14
15 The City Planner’s response was that even if Mr. Talbot’s concern was well-founded,
16 there was nothing the City could or would do about it: “The City’s land use authority extends
17 only to the requirements stipulated by our Code which does not have jurisdiction over
18 navigability of waters... The City’s determination to approve the Cabrera pier improvements
19 shall remain...”

20
21 After this appeal was filed, the Cabrer’s acknowledged that their application mis-
22 represented the location of the proposed pier vis-à-vis the Foreman dock. Accordingly, the
23 application was revised, and the 78’ pier was reduced in length to 75’. The City approved the
24 revised application, but conducted no additional SEPA or shorelines review.
25
26
27
28

1 **Impact of Proposal on Foremans**

2 If the Cabrerass' dock is constructed as proposed, virtually every time the Foremans use
3 their boat, it will likely collide with the outer edge of the dock as it leaves the dock and as it
4 returns to it. It is theoretically possible that it can avoid collision on those days when the Lake is
5 completely calm and the currents are placid.
6

7 **Impact of Proposal on Talbots**

8 If the Cabrerass' dock is constructed as proposed, virtually every time the Talbots use
9 their boat, it will likely collide with either the dock or the Cabrerass' boat, as the Talbots boat
10 leaves its dock and returns to it. It is theoretically possible that collision can be avoided on those
11 days when the Lake is completely calm and the currents are placid.
12

13 **Impacts of Proposal on Lukens and on the Cove**

14 If the Cabrerass' dock is constructed as proposed, the Lukens intend to file an application
15 for a dock on their property, which would bring a fourth dock into the small cove. The Lukens,
16 as described above, have planned for a dock ever since they moved into their home in 2000.
17 Their preference is for a joint dock with the Cabrerass. But if that option is not available, they see
18 no choice but to proceed with their own "go it alone" dock. They can construct a dock 50' in
19 length on their property that will not interfere with the Talbots' access to their dock. Their lot
20 meets the minimum waterfront lot width requirements pursuant to LUC 20.25H.080N.1.a.ii.
21

22 **Reasonable Mitigation**

23 As indicated above, the City in its decision did not even consider imposing any
24 mitigating conditions to address navigability and safety concerns. However, reasonable
25 mitigation is certainly available. The Lukens' proposed joint dock with the Cabrerass, 50' in
26 length, would address both the Foremans' and the Talbots' navigability and safety concerns. A
27
28

1 longer dock, 60' in length, could also be constructed along the joint property line with a 6' offset
2 onto the Cabrera property. Undoubtedly, other mitigation options are available as well.

3 III. LEGAL ISSUES

4 In its prehearing order dated November 15, 2011, the Board identified eight legal issues.

- 5 1. Whether the application for Substantial Development Permit No. 09-124777WG
6 (Cabrera Pier Project) meets the permit submittal requirements?
- 7 2. Does the Cabrera Pier Project comply with the setback requirements of LUC
8 20.25E.080.N?
- 9 3. Does the Cabrera Pier Project comply with LUC 20.30R.155B and with the
10 policies of the Shoreline Management Act and the provisions of Chapter 173-14
11 (sic), or does it conflict with the public's rights to recreation, to navigation, and to
12 use of the shoreline?
- 13 4. Are the petitioners' claims for violation of RCW 43.21C, WAC 197-11, and BCC
14 22.02 barred for failure to exhaust administrative remedies?
- 15 5. Was the City's threshold determination of nonsignificance for the Cabrera Pier
16 Project preceded by consideration of environmental factors in a manner sufficient
17 to amount to prima facie compliance with the procedural requirements of RCW
18 43.21C, as to location of the proposal and of other affected structures and potential
19 structures in the built environment in the vicinity, water, aesthetics, recreation,
20 and transportation (including navigation)?
- 21 6. Has the City failed in its obligation to adequately condition the Cabrera Pier
22 Project as required by RCW 43.21C.060, WAC 197-11-660, and BCC 22.02.140,
23 in light of the proposal's impacts on other affected structures and potential
24 structures in the built environment in the vicinity, water, aesthetics, recreation,
25 and transportation (including navigation)?
- 26 7. Whether the Board has jurisdiction at this time to hear Petitioners' SEPA related
27 issues?
- 28 8. Does the Board have jurisdiction to determine private parties' rights pursuant to a
private easement?

IV. ARGUMENT

- A. **Issue 3: The Cabrera Pier Project Impairs Safe Navigation and Creates a Hazard to Boaters in Violation of LUC 20.30R.155B, the Policies of the**

1 **Shoreline Management Act,² the provisions of Chapter 173-27 and the City's**
2 **Shoreline Master Program.**

3 The evidence at hearing will demonstrate that the Cabrera Pier Project will impair safe
4 navigation and create a hazard to boaters – specifically, navigation to and from the Foreman and
5 Talbot docks and the safety of crew and passengers on the Foreman and Talbot boats.

6 The City has never disputed this evidence. The City never asked for or evaluated
7 whether the navigation and safety concerns expressed by the Foremans and the Talbots were
8 well-founded.

9 Rather, the City's response to these concerns was that it had no jurisdiction to address
10 them. As City Planner Carol Hamlin expressed in an email to Randy Talbot: "The City's land
11 use authority extends only to the requirements stipulated by our Code which does not have
12 jurisdiction over navigability of waters."
13

14 In other words, the City's position is that no matter what the impact of the Cabrera Pier
15 Project on safe navigation, and no matter what hazard the Cabrera Pier Project poses to boaters,
16 that the City has no authority to mitigate that impact or to eliminate that hazard.
17

18 The City is incorrect. In fact, it has the obligation to consider these issues and to mitigate
19 these impacts.

20 Bellevue Land Use Code 20.30R.155.B states the criteria that an applicant must address
21 in order to merit approval of an application for a substantial development permit:
22

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

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

28 ² Petitioners have elected not to brief Issues 1, 2, or 8.

- 1 2. The applicant has demonstrated that the proposal complies with the applicable
2 decision criteria of the Bellevue City Code; and
- 3 3. **The applicant has demonstrated that the proposal is consistent with the**
4 **policies and procedures of the Shoreline Management Act and the provisions**
5 **of Chapter 173-14 WAC and the Master Program.**

5 In all other cases, the applicable Department Director shall deny the application
6 (emphasis added).

7 Accordingly, Ms. Hamlin is wrong when she states that her authority “extends only to the
8 requirements stipulated by our Code.” That aspect of her review is set forth in Criterion 2 of
9 LUC 20.30R.155B. Ms. Hamlin fails to acknowledge that, in addition to demonstrating that the
10 application complies with the “requirements stipulated by our Code,” the applicant must also
11 meet Criterion 3 of LUC 20.30R.155B by demonstrating that the proposal is consistent with the
12 policies of the Shoreline Management Act and the City’s Shoreline Master Program.
13

14 As to the policies of the Shoreline Management Act, it is well-established that a dock
15 which interferes with navigation or creates a hazard for boaters, is contrary to the policies of the
16 Act.

17 **Protecting the public’s rights of navigation is a fundamental policy of the Shoreline**
18 **Management Act (SMA):** “This policy contemplates protecting against adverse effects
19 to the public health, the land and its vegetation and wildlife, and the waters of the state
20 and their aquatic life, while protecting generally public rights of navigation and corollary
21 rights incidental thereto.” RCW 90.58.020. The Board has recognized the importance of
22 protecting safe navigation in its decisions: “A principal purpose of the SMA is to protect
23 the public’s rights in the State’s navigable waters. RCW 90.58.020. **Interference with**
24 **the public’s rights of navigation, or creation of a hazard for boaters, is contrary to**
25 **the policies of the Act.”** Bennett et al, v. Department of Ecology, SHB No. 95-30
26 (1996) at 6; Union Bay Preservation Coalition v. Cosmos Development and
27 Administration Corp., SHB 92-51 (1993) (emphasis added).

28 *Harborview Marina v. City of Gig Harbor*, SHB No. 99-013 (2000) at 9-10 (dock extension
proposal remanded to City to enable applicant to present revisions which addressed navigation
and boater safety issues). See also *Wile v. Island County*, SHB No. 94-50 (1995) (proposed

1 private dock is denied because it leaves insufficient room for safe navigation in and out of
2 neighboring dock).

3 The Cabrera Dock Pier Proposal impairs navigation and imposes a risk to boaters. As the
4 *Harborview Marina* and *Wile* cases hold, these impacts violate a “fundamental policy” of the
5 Shoreline Management Act. Accordingly, under LUC 20.30R.155B, the proposal must be
6 denied.
7

8 In addition, the Cabrera Dock Pier Proposal is inconsistent with several policies of the
9 City’s Shoreline Master Program, including the following:

10 **Policy SH-1.** Plan for reasonable and appropriate shoreline uses... Uses and activities
11 should balance environmental needs, the public interest, and private property rights.

12 **Policy SH-8.** Discourage uses, activities, and developments in the shoreline area that
13 create offensive, unsafe, or unmitigatedly adverse impacts.

14 **Policy SH-9.** Preserve the natural amenities and resources of the shorelines in the
15 context of existing and planned residential, recreational, and commercial land uses.

16 The proposal is inconsistent with Policy SH-1 because, in impairing navigation and
17 creating hazardous conditions for boaters, it is neither reasonable nor appropriate, and does not
18 acknowledge existing private property rights. It is inconsistent with Policy SH-8 because it
19 would result in a development in the shoreline area that creates unsafe and unmitigatedly adverse
20 impacts. It violates Policy SH-9 by allowing a new development that fails to acknowledge and
21 accommodate existing residential land uses.
22

23 Because the Cabrera Dock Pier Proposal is inconsistent with several policies of the City’s
24 Shoreline Master Program, it fails to meet Criterion 3 of LUC 20.30R.155B, and therefore must
25 be denied.
26
27
28

1 LUC 20.30R.155D does provide an alternative to outright denial. The City may
2 condition to the proposal "to ensure conformance with subsection B of this section." As
3 indicated above, Petitioners have identified conditions which would mitigate the navigational
4 impairment and boater safety issues.

5
6 In this light, the Board should either deny the proposal outright, or remand to the City to
7 impose conditions that address the navigational impairment and boater safety issues.

8 **B. Issue Three: The Cabrera Dock Proposal Does Not Comply with LUC**
9 **20.30R.155B because the Cabrera Waterfront Does Not Meet the Bellevue**
10 **City Code's Minimum Width Requirements For Single Family Docks.**

11 LUC 20.30R.155B states that a substantial development permit can be approved only if
12 the applicant demonstrates that the proposal complies with the applicable decision criteria of the
13 Bellevue City Code.

14 LUC 20.25E.080.N.1a provides that a new dock is permitted in a single family zone only
15 on:

- 16 i. Lots created on or after the effective date of the ordinance codified in this section
17 having water frontage meeting or exceeding the minimum lot width required in
18 the applicable land use district; [or]
19 ii. Lots created prior to the effective date of the ordinance codified in this section...

20 The minimum lot width required in the applicable land use district in which the Cabrera
21 parcel is located is 90'. See LUC 20.20.010.

22 The water frontage of the Cabrera lot is only 40'. Accordingly, it does not meet the
23 minimum width requirement of LUC 20.25E.080.N.1a.

24 The Cabrera lot was not created until 2007, when the Cabrereras purchased the beachfront
25 parcel that contains the waterfront from their neighbors to the east and their upland lot was
26 informally merged into the beachfront parcel. Prior to that time, the beachfront parcel was a
27 separate parcel owned jointly by the Cokers and the Cabrereras. The lot on which the Cabrereras
28

1 had their home was not a waterfront lot. As a jointly owned beachfront parcel, the waterfront
2 was not a building lot, and therefore not capable of meeting the requirement of LUC
3 20.25E.080.N.1 for a moorage facility.

4 Because the Cabrera waterfront is only 40' in width and does not meet the 90' minimum
5 width requirement for a dock, the proposal fails to comply with LUC 20.30R.155B, and therefore
6 must be denied.
7

8 **C. Issue 5: The City's Determination of Nonsignificance Was Not Preceded by**
9 **Consideration of Environmental Factors Sufficient to Amount to Prima**
10 **Facie Compliance with the Procedural Requirements of SEPA.**

11 In this case, Petitioner Randy Talbot notified the City of significant environmental factors
12 related to the Cabrera Pier Project by submitting a timely comment letter which stated that "the
13 length of the proposed pier will greatly impact navigability of the waters within this confined
14 space [of the small cove], which most likely will increase the likelihood of injury to persons
15 and/or property."

16 Despite this notification, the City engaged in no environmental review whatsoever of the
17 navigability or safety issues associated with the proposal.
18

19 The City's SEPA checklist includes a question under Land and Shoreline Use, that asks
20 "Proposed measures to ensure the proposal is consistent with existing and proposed land uses..."
21 The answer provided in the checklist is: "The proposal is consistent with existing COB uses..."
22 There is no mention of existing docks in the immediate vicinity, nor of the potential for
23 navigability and safety impacts associated with these existing land and shoreline uses.
24

25 The City's SEPA checklist also includes questions under Recreation, which asks what
26 existing recreational uses exist in the vicinity of the site, and what proposed measures are
27 included to address impacts on those existing recreational uses. While the Checklist vaguely
28

1 acknowledges the existence of boating uses in the vicinity of the site, it identifies no impact on
2 those uses from the proposal, and it suggests no mitigation.

3 The City cannot lawfully approve a proposal if it has not even considered the proposal's
4 key environmental impacts. Indeed, the Washington Supreme Court held in *Lassila v.*
5 *Wenatchee*, 89 Wn.2d 804, 576 P.2d 54 (1978), that if a governmental body makes a
6 determination of nonsignificance without first demonstrating that environmental factors were
7 considered in a manner sufficient to amount to prima facie compliance with the procedural
8 dictates of the State Environmental Policy Act, RCW 43.21C, and specifically RCW 43.21C.030,
9 the determination of nonsignificance is invalid.
10

11 Since in this case the City neglected even to consider the environmental issues of safety
12 and navigation impairment, its determination of nonsignificance must be withdrawn, the decision
13 approving the project must be reversed, and the matter remanded to the City to conduct an
14 adequate consideration of environmental factors associated with the proposal.
15

16 **D. Issue Six: The City Has Failed in its SEPA Obligation to Adequately**
17 **Condition the Cabrera Pier Project.**

18 As indicated above, the Cabrera Pier Project will impair navigation and create a hazard to
19 boaters. The City refused to evaluate these issues, and advised petitioners that it was without
20 authority to mitigate the impacts of the proposal. As City Planner Carol Hamlin stated in her
21 September 29, 2012 email to Petitioner Randy Talbot, "The City's land use authority extends
22 only to the requirements stipulated by our Code which does not have jurisdiction over
23 navigability of waters."
24

25 In that email, Ms. Hamlin asserted that because the Cabrera dock complied with the 12
26 foot setback requirement from the property line and therefore complied with the code setback
27

1 requirement of LUC 20.25E.080.N, that was the end of the inquiry as far as the City was
2 concerned, no matter the impacts on navigability which the proposal creates.

3 The City's SEPA ordinance does not support Ms. Hamlin's statement. It provides that
4 "[a]ny proposal may be conditioned or denied by the city pursuant to RCW 43.21C.060 and
5 WAC 197-11-660..." LUC 22.02.140. Specifically, the ordinance states that where there are
6 "[u]nusual circumstances related to a site... as well as environmental impacts not easily
7 foreseeable or quantifiable in advance, [a proposal] will be subject to site-specific or project-
8 specific SEPA mitigation." LUC 20.02.140 (emphasis added).

9
10 It goes without saying that this small cove on Lake Washington is "an unusual
11 circumstance related to a site," particularly where, as here, the cove already has two existing
12 docks facing inward toward the cove, and it is subject to prevailing strong winds, currents, and
13 wakes from passing motorized craft. This is exactly the type of situation where a dock proposal
14 such as this one creates "environmental impacts not easily foreseeable or quantifiable in
15 advance." In this case, then, the proposal "will be" subject to "project-specific SEPA
16 mitigation."

17
18 Despite this explicit SEPA authority and duty, the City refused even to consider any
19 project-specific SEPA mitigation to address the identified environmental hazards and risks
20 associated with the Cabrera project. This abdication of responsibility is unlawful. Because the
21 proposal, in the language of LUC 22.02.140, "will be" subject to SEPA mitigation, and because
22 the City failed to impose any such mitigation, the City's decision must be reversed and remanded
23 for compliance with the requirements of SEPA.
24
25

26 ///

27 ///

ATTACHMENT A

ATTACHMENT B

Terence Lukens

From: Luis Cabrera [cabreraiv@gmail.com]
Sent: Friday, May 15, 2009 2:36 PM
To: t.lukens@comcast.net; cabrerall@gmail.com; Marcelle Stagno
Subject: The 'Lower H' Revised
Attachments: Prelim_Dock_Schematic_-_The_Lower_h_-_5.2.2009_copy.pdf;
Prelim_Dock_Schematic_-_The_Lower_h_Revised-5.15.2009_copy.pdf;
LUK_Conceptual_Site_Plan_8-26-08.pdf

Terry,

I was forwarded your email and have made adjustments per your requests. Please start by reviewing the attachments. I have attached the three relevant drawings at this point:

- #1. The original lower 'h' you received last week for a basis of reference
- #2. The modified lower 'h' to incorporate your request to shorten the length of the 'stem', shorten the length of your side, and jog over into the cabrera waters.
- #3. One of the last conceptual site plans I saw from Layton Sell which is a great point of reference to compare the new drawing. (If you print this one out and place it under drawing #2 and hold up to a window or light you will see that we have almost exactly mirrored the design you proposed in August for these dock segments.)

The dock was brought significantly closer to the shoreline. We will just want to make sure there is an appropriate amount of water for the lifts, however, since the boats will always be 'nose in' I would suspect this would not be a problem.

By comparing drawings #2 & #3 you can see that there is about 30' on your side for your boat. Obviously we can modify this to be longer or shorter depending on what you need.

In your email you stated: 'what we need to do is have the common dock on our property, with a jog so that our dock is on your side of the line.' We cannot keep the entire part of your dock on our side of the property line without sacrificing the width and length of our berth. Which is why I have tilted the axis slightly to accommodate the jog and our desired lengths on our side. I do not know the motivations for keeping the entire length on the cabrera side, but as you can see in the comparison of #2 & #3, the impact to the location of the dock will be visually negligible. The majority of the structure is sitting within cabrera property lines as drawn.

These drawings are rough, but they give us a very good idea of the layout and practical use. Please take a look and discuss with Ann when you have a moment. My parents have signed off, so if we are all on board conceptually I would suggest we move towards more formal drawings/measurements to ensure that we can implement this design.

Feel free to give me a call if you have any questions.

Luis
206 730 5826



WORKSHEET

100' 200' 300' 400' 500'

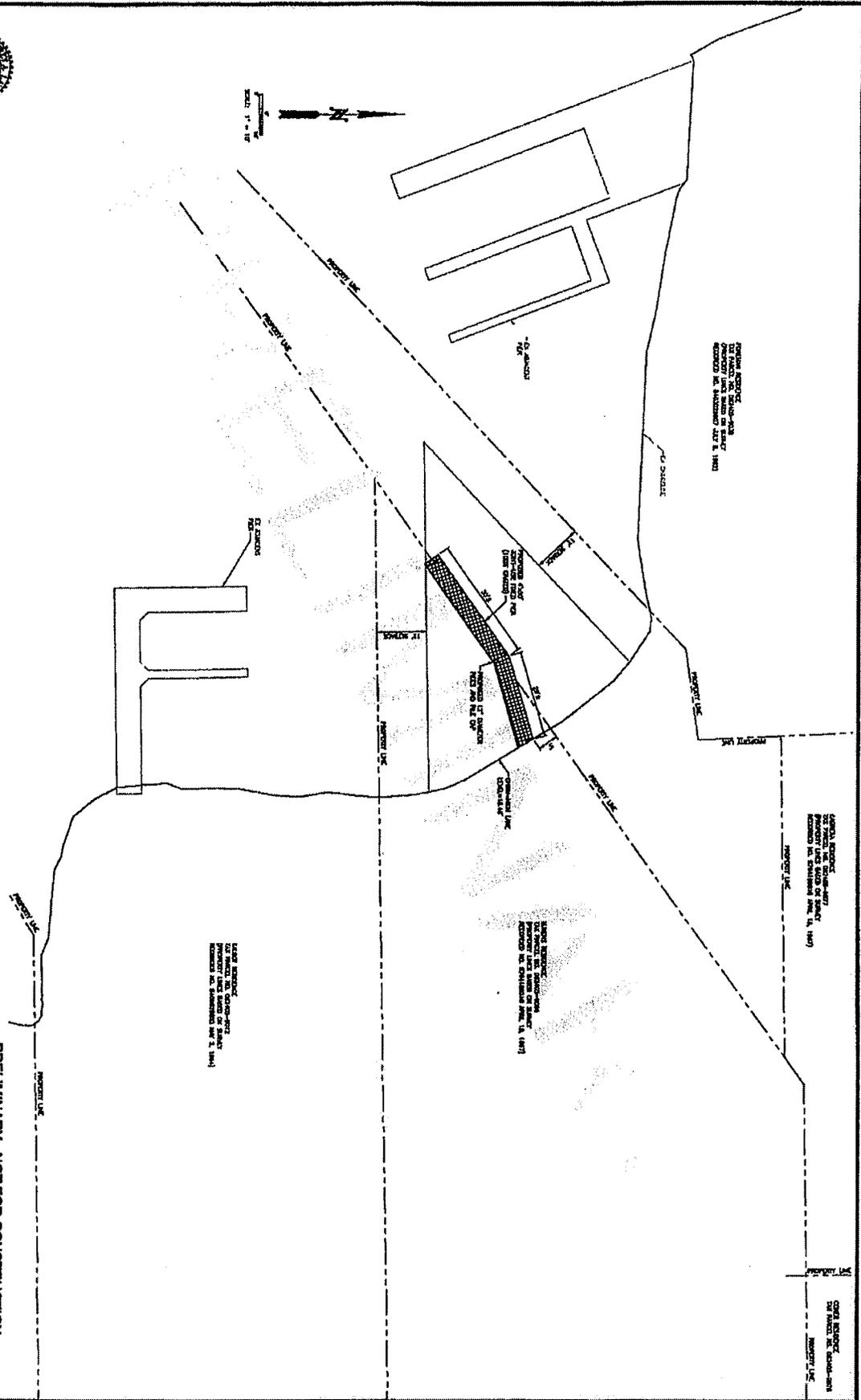


Layton & Co., Inc. P.C.
10000 10th Street, Suite 200
Dallas, Texas 75243
Phone: (972) 242-1100
Fax: (972) 242-1101

DATE	10/11/07
BY	JL
CHECKED BY	JL
DATE	10/11/07
PROJECT NO.	07-001
DRAWING NO.	07-001-01
SCALE	AS SHOWN
DATE	10/11/07

PRELIMINARY - NOT FOR CONSTRUCTION
LUKENS JOINT USE PIER
SHELL OIL TANKS
CONCEPTUAL SITE PLAN
ALTERNATIVE 3

1 of 2





June 10, 2014

To: Heidi Bedwell
Development Services Department
450 110th Ave NE
P.O. Box 90012
Bellevue, WA 98009
hbedwell@bellevuewa.gov

Received

JUN 11 2014

Permit Processing

Re: Cabrera Dock
File No: 14-124074-WG

Dear Ms. Bedwell,

Acting as agent for Felipe Cabrera and Marcelle Stagno, who are the applicants under the above-reference file. This letter is written to respond to your preliminary review of the applicants proposal for a new pier with boat and jet ski lifts.

Key Point #1 The setting/presence of the cove and the configuration of the existing shoreline creates narrowing property widths as they exit the shoreline. The narrow lots limit dock location and moorage options.

Key Point #2 The potential mitigation design of the Cabrera's pier is the minimum needed to provide adequate depth for moorage and boatlift operation. Also, it is designed to meet the city required 12 foot setback.

Key Point #3 The proposed Cabrera pier and the proposed Luken's pier that is adjacent to the south of the Cabrera proposed pier and the Foreman's existing pier to the Northwest of the Cabrera's proposed pier are shown on the plan dated 3/18/14. We also provide 2 other alternate views dated 3/26/14 if the Lukens were to adjust their proposed pier slightly. We see these alternates as very viable options for the Luken's to consider. Please see attached drawings.

The proposed Jet Ski lift will be accessible via the corridor between the 2 proposed boat lifts (Cabrera and Lukens).

The proposed activity meets the standards of RCW 90.58.020 by virtue of the fact that it is a water dependent use adjacent to shoreline. It is a preferred use under this code as a proposed pier adjacent to a single family residence. RCW 90.58.020 states, "Uses shall be preferred which are...unique to or dependent upon use of the state's shoreline." "Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines

of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.”

Impacts to Navigation:

The proposed project does not impact navigation because it is tucked in the cove well away from normal navigation channels. There will be minor impacts to adjacent piers during construction when the barge is onsite but onsite construction time will be minimized by pre-fabrication of the pier in the contractor's yard in Seattle. Ingress and egress maybe altered by the proposed structure but will not be obstructed. The subject property is private property with no public access to the shoreline. Due to the fact the proposed pier will be tucked back in the cove it is outside of the normal public access areas of the lake.

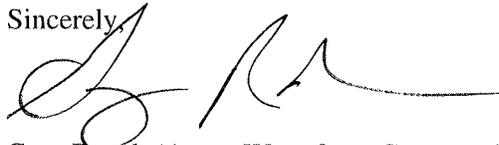
In response to the Lukens response letter dated 4/1/2014, we concur with the Lukens assessment that if they are required to proceed with construction of the dock that is shown in the drawing dated 1/21/14 it will create significant navigational concerns for both the Cabrera's and the Lukens. If the Talbot's dock reconfiguration is approved by the city and the US Army Corps of Engineers it will greatly decrease the navigational concerns that the Cabrera's and Lukens both have.

In response to Mr. Peterson's e-mail dated 3/28/14. The Cabrera's proposed pier project will not increase traffic on the existing driveway. At this time we are not aware of plans to modify the existing driveway by any of the home owners that use this driveway.

In response to the Foreman's letter dated 3/31/2014 written by their representative G. Richard Hill. We concur with the letter written by Donald E. Marcy dated 6/9/2014. (Please see attached letter from Mr. Marcy).

Thank you for your efficient review of this project. If you have any questions or comments, please call me at (206) 548-9800. You may also contact me via email at greg@waterfontconstruction.com.

Sincerely,

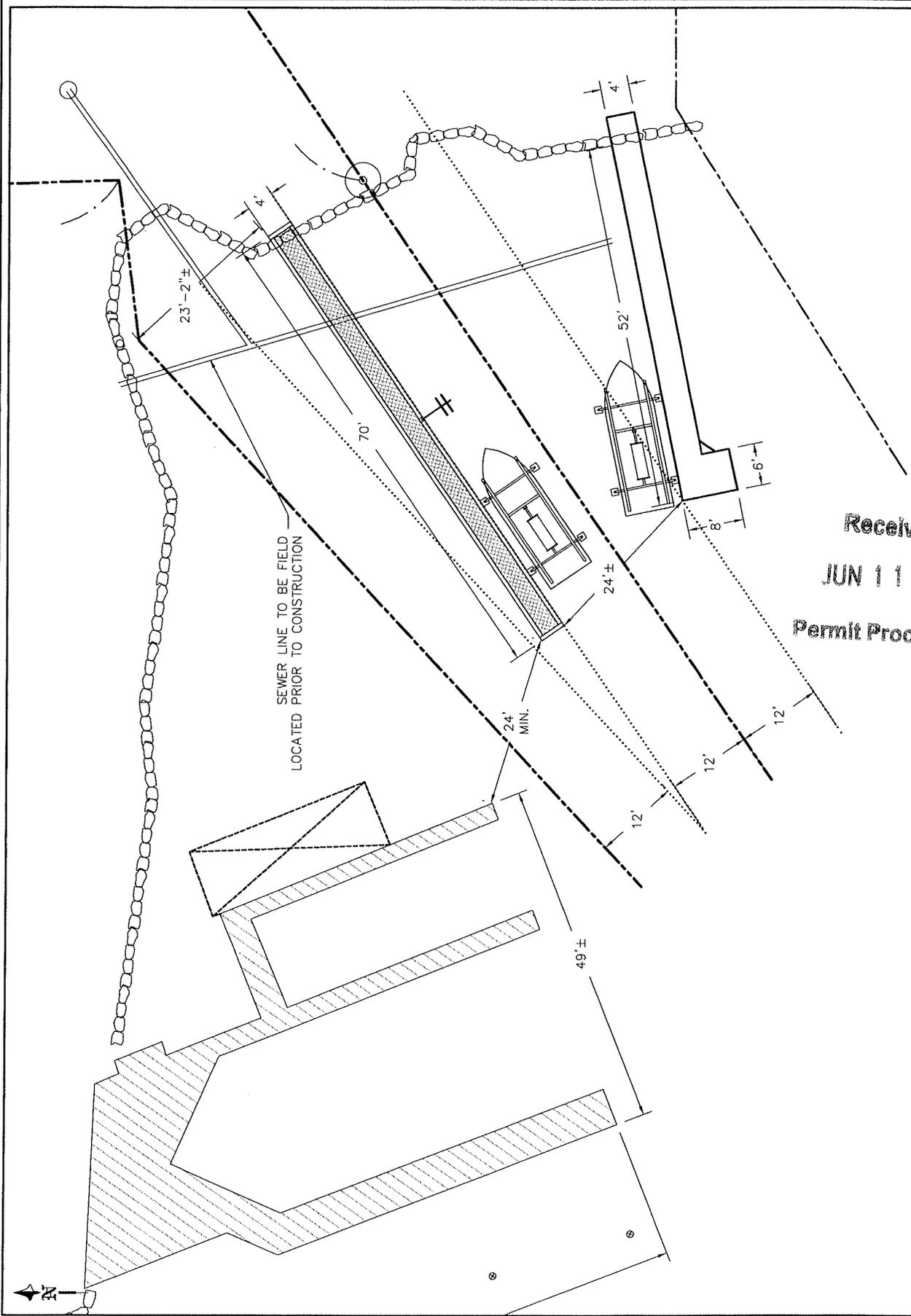
A handwritten signature in black ink, appearing to read 'Greg Rauch', with a long horizontal flourish extending to the right.

Greg Rauch (Agent Waterfront Construction)

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Waterfront Construction Inc.

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REFERENCE #:	
APPLICANT:	LUIS CABRERA
PROPOSED:	CONSTRUCT FULLY GRATED PIER. INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
NEAR/AT:	BELLEVUE
SHEET:	1 OF 1
DATE:	3-18-14 DWG#: 14-1

Received

JUN 11 2014

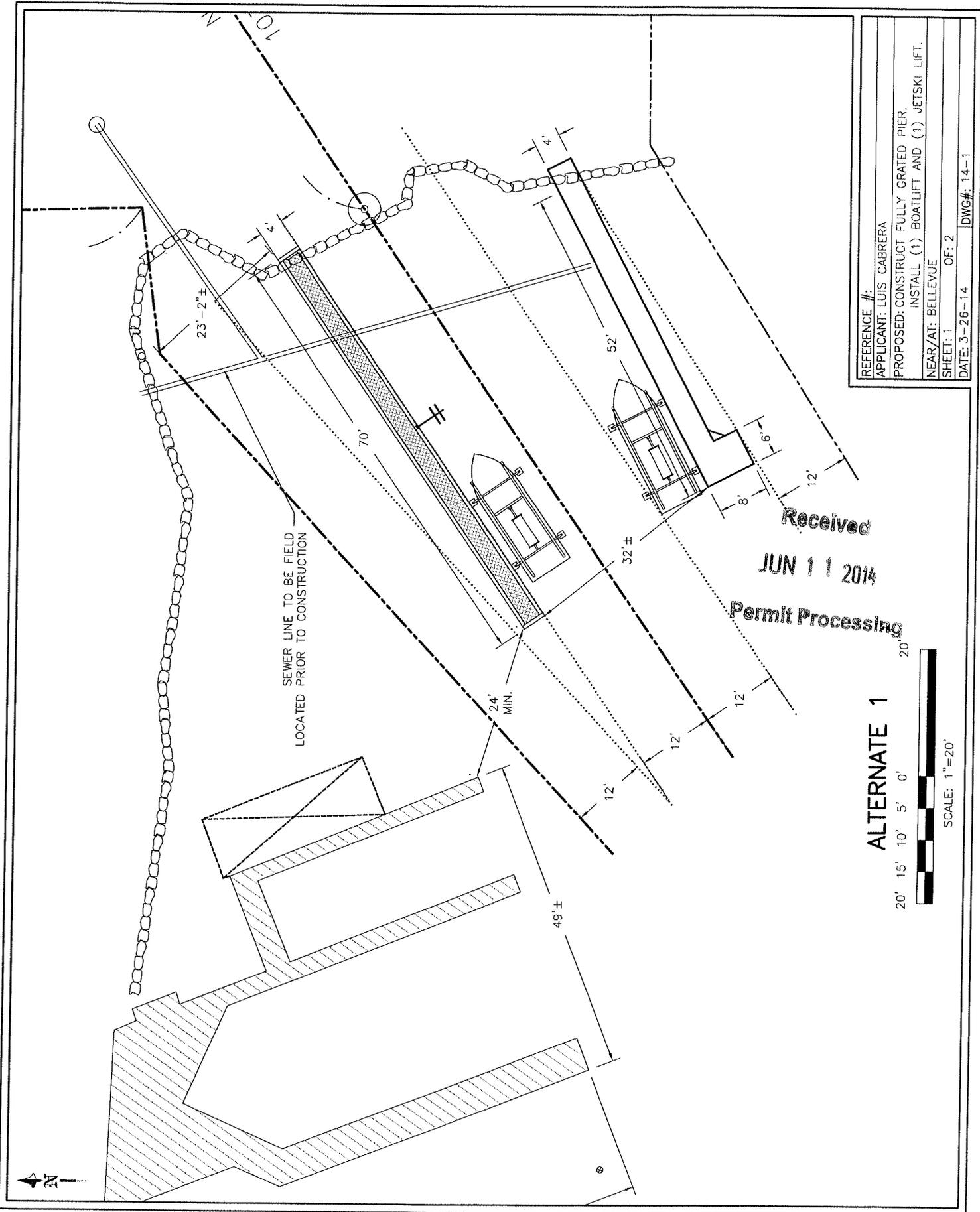
Permit Processing

SITE PLAN



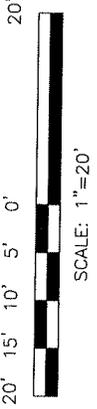
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REFERENCE #:	
APPLICANT:	LUIS CABRERA
PROPOSED:	CONSTRUCT FULLY GRATED PIER, INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
NEAR/AT:	BELLEVEUE
SHEET:	1 OF 2
DATE:	3-26-14
DWG#:	14-1



Received
 JUN 11 2014
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ALTERNATE 1

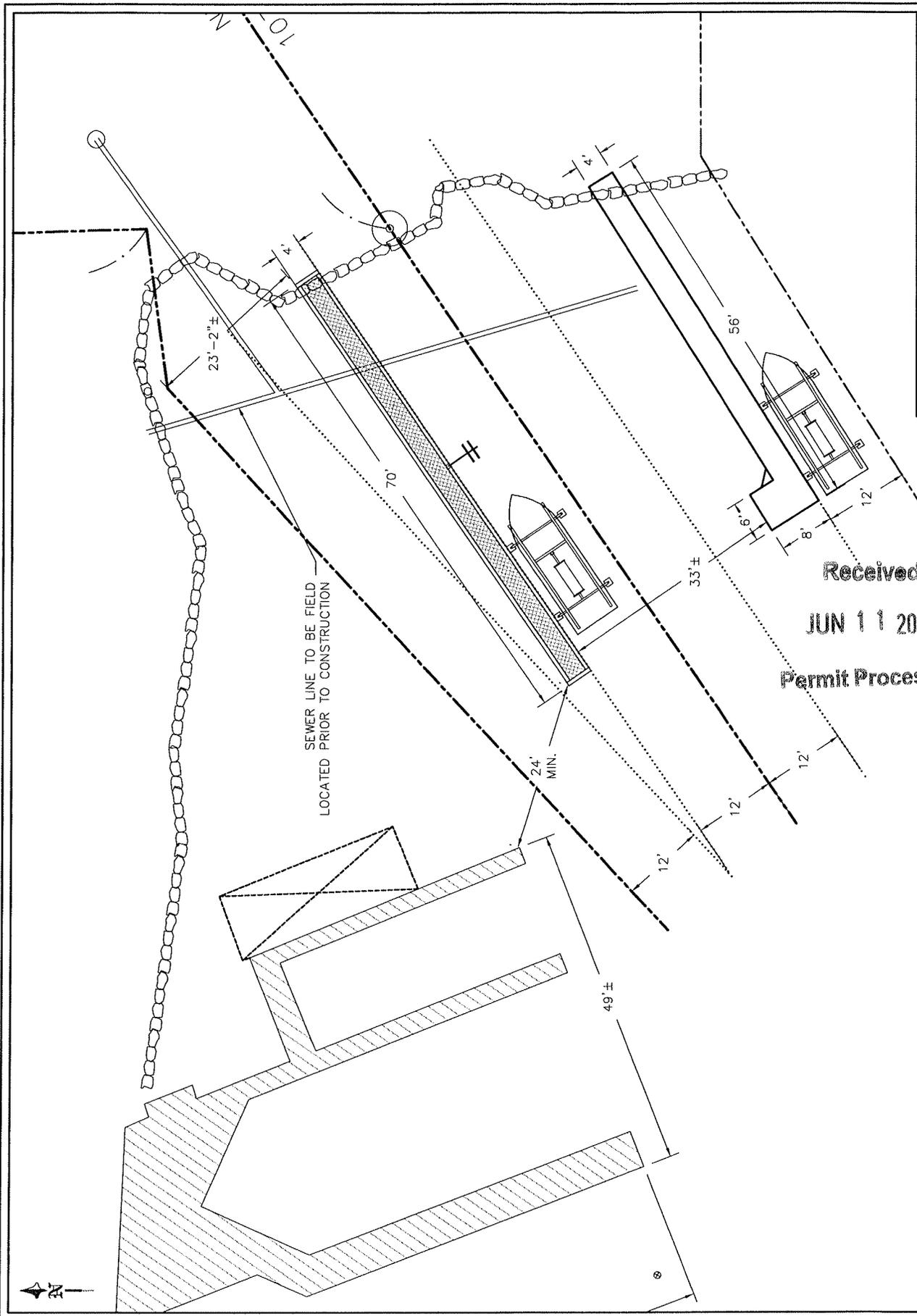


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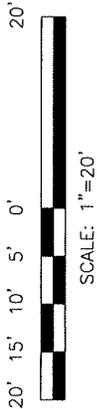
REFERENCE #:
APPLICANT: LUIS CABRERA
PROPOSED: CONSTRUCT FULLY GRATED PIER, INSTALL (1) BOATLIFT AND (1) JETSKI LIFT.
NEAR/AT: BELLEVUE
SHEET: 2 OF: 2
DATE: 3-26-14 DWG#: 14-2



Received
JUN 11 2014

Permit Processing

ALTERNATE 2



CAIRNCROSS&HEMFELMANN
524 2nd Ave, Suite 500
Seattle, WA 98104
www.cairncross.com

ATTORNEYS AT LAW
office 206 587 0700
fax 206 587 2308



June 9, 2014

VIA EMAIL

Heidi Bedwell
Development Services Department
450 110th Ave NE
P.O. Box 90012
Bellevue, WA 98009
hbedwell@bellevuewa.gov

Re: Cabrera Dock
File No. 14-124074-WG

Dear Ms. Bedwell:

We represent Felipe Cabrera and Marcelle Stagno-Hardy (the "Cabreras") who are the applicants under the above-referenced file. This letter is written to respond to a letter dated March 31, 2014 from G. Richard Hill to you and written on behalf of Richard and Diane Foreman (the "Foremans"). We will address each of the five concerns raised by Mr. Hill.

1. Navigation and Boater Safety

The Cabreras' proposed dock has been designed so there is approximately 24 feet from the edge of the Cabrera dock to the edge of the Foreman dock. That is more than ample space through which to pilot a boat like the one the Foremans have moored on the east side of their dock complex. The distance between the proposed Cabrera dock and the proposed Lukens dock is also 24 feet, and experienced marina and dock designers have deemed that to be a safe separation distance for the operation of 20 to 28 foot boats.

2. View Blockage

The Foremans do not have a view easement over the Cabreras' property, and a dock is not the unwarranted intrusion on views that the Shoreline Management Act was intended to prevent. Moreover, the proposed Lukens dock also sits within the Foremans' view corridor, but the Foremans have not

dmarcy@cairncross.com
direct: (206) 254-4465
{02573993.DOCX;1 }

objected to that dock. Finally, the Foremans own a substantial dock complex that already intrudes on their views.

3. SEPA Checklist

Mr. Hill's concerns about the SEPA checklist are primarily due to the fact his client does not agree with the answers in the checklist. However, we will address each of the concerns.

- a. Shoreline designation – although not in the checklist, it is provided in the application for the shoreline substantial development permit that the checklist accompanies.
- b. Environmentally sensitive areas – an area may be a critical area but not be environmentally sensitive. This is the case with the shoreline in front of the Cabrera residence.
- c. Compatibility with land uses – there is nothing about the proposed dock that is incompatible with residential uses. Lake Washington is lined with docks adjacent to residential uses.
- d. View alteration – as discussed above, any view intrusion is not significant and not precluded by applicable law.
- e. Light and glare – there will be minimal light or glare produced by the boats or the dock. As noted above, the Foremans did not raise this issue with the proposed Lukens dock.
- f. Displacement of recreational uses – as discussed above, the Foremans' ability to use their boat and their dock complex is not precluded.
- g. Drawings – the drawings included are sufficient for the purposes of this permit application.
- h. Drawings – the failure to include the Lukens dock is not material. There are other drawings in the file that show both docks, and professional designers have concluded the docks can operate satisfactorily.

4. Easement

The Foremans may have an easement over a portion of the Cabrera property, but the existence and extent of that easement are not concerns of the City. The proper forum to address those issues is King County Superior Court. The City is not the forum to evaluate and determine the rights of the Cabreras and the Foremans under that easement. Extensive discussion of the easement was presented to the City by attorneys for the Cabreras and the Foremans for City of Bellevue Project No. 09-124777 WG. That project was a dock application submitted by the Cabreras in 2009. We can provide copies of

Heidi Bedwell
June 9, 2014
Page 3

that correspondence if the City no longer retains the file for that project. However, the City correctly decided to issue the permit in that case and leave the parties to sort out their easement issues outside the context of the shoreline permit process. The City should make the same decision in this case.

5. Cabrera Lot Width

This issue was reviewed by Lacey Hatch and Carol Helland of the City Attorney's office and the Department of Planning & Community Development, respectively, for Project No. 09-124777 WG. The conclusion of those departments was that the Cabrer's lot has sufficient width for a dock. As with the easement issue, we can provide additional information if you require it.

Please let us know if you have any questions or require additional information.

Sincerely,



Donald E. Marcy

DEM/kgb

cc: Felipe Cabrera
Marcelle Stagno-Hardy
Greg Rauch