

SEABORN
PILE DRIVING COMPANY

ESTABLISHED 1947

9311 SE 36TH STREET, SUITE 204
MERCER ISLAND, WASHINGTON 98040
(206) 236-1700 – PHONE
(206) 236-2700 – FAX
CONTRACTOR LICENSE SEABOPD942CG
WEBSITE: WWW.SEABORNPILEDIVING.COM

February 10, 2014

City of Bellevue
PO Box 90012
Bellevue, WA. 98009

Received

FEB 18 2014

Permit Processing
City of Bellevue

Attn: Heidi Bedwell – Planner

Subject: Critical Area Report for the proposed new pier and ELL at the Lukens Residence at 2015 Killarney Way, Bellevue, WA. 98004

Refer: Bellevue Substantial Development permit 13-122010WG

Dear Heidi;

I am acting as the agent for Terence Lukens for the application for a permit to construct a new residential pier and ELL at the subject site. The proposed pier measures 52' long and 4' wide with a 6' wide by 8' long ELL at the end of the pier.

Per **LUC 20.25E.080.N.1.a** allows one non commercial residential moorage facility provided the pier meets the development standards outlined in **LUC 20.25E.808.N.1.b**. The proposed pier measures 52' long and 4' wide with an ELL measuring 8' long by 6' wide. The landward end of the ELL is in water measuring 6.5' deep. Per **LUC 20.25E.808.N.1.b.iv.(3).(a)** Ells are allowed only over water with depths of nine feet or greater at the landward end of the ell.

The ELL has been located at the end of the proposed pier where the water is deepest. Increasing the length of the pier to allow the inshore side of the ELL to reach the 9' depth will require extending the pier 12'. This additional length will negatively impact the access to the existing residential pier to the west and impede their ability to enter and exit their existing dock.

We feel extending the proposed dock another 12' is also contrary to the intent of the local, state and federal guidelines and codes where the intent is to construct a pier with the least overwater coverage possible.

We feel the applicant has the right to construct a pier that will provide safe and secure boat moorage, and that will provide the adjacent property owners clear access into and out of their piers, without obstruction from a pier that extends further than necessary into Lake Washington.

The applicant is applying for the **Critical Area Land Use Permit** as a result of the current code requiring that the ELL be located where the inshore end of the ELL is in water depth 9' or greater.

The application herein contains a critical area report demonstrating that there will be a net increase in critical area functions and values as a result of the proposed actions. This net increase is based on mitigation consisting of proposed shoreline plantings per the City's Critical Area Handbook.

We have also applied for a Shoreline Substantial Development Permit from the City of Bellevue (13-122010WG), and will apply for a HPA from the WA State Department of Fish & Wildlife after receiving the Bellevue SEPA decision. The US Army Corps of Engineers has issued a Letter of Permission to complete the work on February 5, 2014.

We have included a JARPA for review by the City of Bellevue. The work window for the site has been established by the federal and state permits as July 16 – April 30 of every year.

Our submission of the Critical Areas Report will address several sections and sub-sections of the Bellevue Land Use Code (LUC) and specifically section **20.25E.808.N.1.b.iv.(3).(a)**; including:

- **20.25H.230 Critical areas report – Purpose** – which is a mechanism by which the requirements of this part, certain requirements of Part **20.25E** LUC of that part may be modified for a special purpose.
 - **Under this section we will direct our efforts to the following section of the code.** The critical areas report must demonstrate a net increase in certain critical area functions.
- **20.25H.245 Incorporation of best available science.** The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provision of this part.
- **20.25H.250 Critical areas report – Submittal requirements**
 - **Specific Proposal Required.** A critical areas report must be submitted as part of an application for a specific development proposal. In addition to the requirements of this section, additional information may be required for the permit applicable to the development proposal.

- **Minimum Report Requirements.** The critical area report shall be prepared by a qualified professional and shall at minimum include the content identified in this section. The Director may waive any of the report requirements where, in the Director's discretion, the information is not necessary to assess the impacts of the proposal and the level of protection of critical area function and value accomplished. At a minimum, the report shall contain the following:

1. Identification and classification of all critical areas and critical area buffers on the site.

The site is a single family waterfront residence on Lake Washington. The property includes an existing basalt rock bulkhead with some native plantings along the shoreline supporting existing waterlife and fish.

2. Identification and characterization of all critical areas and critical area buffers on those properties immediately adjacent to the site.

The adjacent sites are also adjacent to Lake Washington with a continuous natural rock bulkhead or sand beach along the lakefront.

3. Identification of each regulation or standard of this code proposed to be modified.

The regulation to be modified by this critical area permit is: **LUC 20.25E.808.N.1.b.iv.(3).(a)**

4. A habitat assessment consistent with the requirements of LUC 20.25H.165:

A. Detailed description of vegetation on and adjacent to the site.

The proposed and adjacent sites contains trees, shrubs and plantings native to the northwest and extending from the street to the shoreline of Lake Washington.

B. Identification of any species of local importance that have a primary association with habitat on or adjacent to the site, and assessment of potential project impacts to the use of the site by the species.

There are existing shoreline grasses and plantings that will be incorporated into the proposed shoreline planting plan for the site. Some of these shrubs along the shoreline are flowering and will drop leaves and nutrients into the lake to sustain and support the fish and aquatic wildlife. There will be no potential project impacts as a result of the trees and grasses currently present on the site.

C. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the site.

The US Army Corps of Engineers has required the implementation of a site specific shoreline planting plan. They also require mitigation for the Endangered Species that may habitat near the site with the installation of a fully grated deck on the proposed pier. The proposed shoreline planting plan and grated deck surface was accepted and is part of their Letter of Permission NWS-2013-0849 issued 2/5/2014.

The proposed planting plan is to provide nutrients and habitat for the salmonoids known to travel along the shores of Lake Washington.

We have not applied for a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife; however we will make application after we receive the SEPA decision. However, on October 14, 2013 Christa Heller of WDFW

sent a letter to the US Army Corps of Engineers requesting that the project include a (5) tree (or equivalent) planting plan. This has been included in the proposed planting plan in the project drawings.

- D. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality.**
The proposed pier and ELL will be constructed within a 5 day period utilizing minimally invasive 8" steel piles spaced to the maximum distance the building code allows. The proposed pier and ELL will not present potential impacts to the aquatic wildlife in and surrounding Lake Washington either directly or indirectly during a continuing long-term period.
- E. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed use or activity and to be conducted in accordance with the mitigation sequence set forth in LUC 20.25H.215.**
- a. Avoiding the impact altogether by not taking a certain action or parts of an action. The waterfront property owner has the right to construct a single family pier for the adjacent single family residence. The proposed pier and the associated ELL have been designed to provide the least overwater coverage and the fewest number of support piles to provide for safe and accessible boat moorage and water recreational activities. Increasing the proposed pier 12' in length to a location where the water depth at the inshore section of the ELL is 9' or greater, will cause a navigation hardship for access to the existing pier and moorage on the adjacent property owner to the west.
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts. The proposed pier and ELL will be constructed with the latest technologies to provide support and protection of personal property with minimal disturbance to the lakebed and waters of the lake. The proposed pier and ELL will be constructed utilizing state and federal acceptable materials for in-water applications that are compatible with the waters of Lake Washington; and which won't negatively impact those waters. The proposed pier and ELL will be constructed during federal and state mandated open work windows.
 - c. Performing the following types of mitigation (listed in order of preference): We propose to implement a shoreline planting plan consisting of native trees, plants and shrubs to provide an improved habitat for the ESA fish that travel in Lake Washington. The proposed shoreline planting plan and the existing plants will be maintained and monitored for 5 years to provide a continuous source of lakeshore nutrients.
 - d. Monitoring the hazard or other required mitigation and taking remedial action when necessary. The proposed pier and ELL will be monitored to ensure that it doesn't change it's impact on the vegetation and aquatic life in Lake Washington.
- F. A discussion of ongoing management practices that will protect habitat after the site has been developed, including proposed monitoring and maintenance programs. (Ord. 5680, 6-26-06, § 3).**
The proposed shoreside plants will be monitored per the City of Bellevue Critical Areas Handbook for five (5) years. During this period we will 1). track the survival of the existing planted vegetation, 2). Track the percent coverage of planted and existing vegetation, 3). Track the diversity of planted vegetation, and 4). Track the percent cover of non-native invasive weeds.

5. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development.

There are no probable cumulative impacts to Lake Washington, the shoreline along Killareny Way or the lakebed as a result of the proposed pier and ELL. The proposed pier and ELL have been designed and sized to provide the residential homeowner with a safe and secure boat moorage with the least intrusion into Lake Washington, and the least driven piles to support the structure. The city code does allow a longer pier and longer and wider ELL, however the applicant has instead limited the pier length to provide easier navigation and access to the adjacent piers.

6. An analysis of the level of protection of critical area functions and values provided by the regulations or standards of this code, compared with the level of protection provided by the proposal. The analysis shall include:

- a. **A discussion of the functions and values currently provided by the critical area and critical area buffer on the site and their relative importance to the ecosystem in which they exist.** Lake Washington provides a habitat for fish, ducks, geese and birds and it is important to the ecosystem in which they exist.
- b. **A discussion of the functions and values likely to be provided by the critical area and critical area buffer on the site through application of the regulations and standards of this Code over the anticipated life of the proposed development:** The application of this code will ensure that the proposed pier and ELL doesn't negatively impact the lake's existing species and ecosystem, as well as provide for improvement through shoreline aquatic and plant enhancement. The proposed pier and ELL's length, width and overwater coverage do meet the current city code if the pier is extended into water that is 2' greater in depth.
- c. **A discussion of the functions and values likely to be provided by the critical area and critical area buffer on the site through the modifications and performance standards included in the proposal over the anticipated life of the proposed development.** The addition of shoreline enhancement and mitigation with the implementation of a shoreline planting plan consisting of trees, plants and shrubs that will provide nutrients into the adjacent waters of Lake Washington; and will provide a net increase in critical area functions and values to Lake Washington in the project area.

7. A discussion of the performance standards applicable to the critical area and proposed activity pursuant to LUC 20.25H.160, and recommendation for additional or modified performance standards, if any

- a. **If habitat associated with species of local importance will be impacted by a proposal, the proposal shall implement the wildlife management plan developed by the Department of Fish and Wildlife for such species. Where the habitat does not include any other critical area or critical area buffer, compliance with the wildlife management plan shall constitute compliance with this part.** The project site habitat does not impact other species and the Washington Sate Department of Fish & Wildlife management plan is not affected by the proposed pier and ELL.

8. A discussion of the mitigation requirements applicable to the proposal pursuant to LUC 20.25H.210, and a recommendation for additional or modified mitigation, if any;

a. **Where a mitigation or restoration plan is required under this part or Part 20.25E LUC, the plan shall be developed in accordance with the standards of LUC 20.25H.210 through 20.25H.225 inclusive. Any mitigation or restoration plan shall be approved as part of the permit or approval required for the underlying activity. Where a project requires a critical areas report and a mitigation or restoration plan, the mitigation or restoration plan may be included with the critical areas report. (Ord. 5680, 6-26-06, § 3)**

The proposed mitigation plan has been developed and is in accordance with the subject standards, as well as the standards set forth by the Washington State Department of Fish and Wildlife and the site specific US Army Corps of Engineers Letter of Permission (NWS-2013-0849 issued 2/5/2014).

9. Any additional information required for the specific critical area as specified in the sections of this part addressing that critical area.

This critical areas permit application and report as well as the proposed mitigation plan addresses all of the sections and requirements.

Additional Report Submittal Requirements.

1. Unless otherwise provided, a critical areas report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director.

A completed SEPA checklist, state JARPA and the federal permit (NWS-2013-0849 issued 2/5/2014) has been included as part of this critical areas report.

2. Where a project requires a critical areas report and a mitigation or restoration plan, the mitigation or restoration plan may be included with the critical areas report, and may be considered in determining compliance with the applicable decision criteria, except as set forth in subsection C.4 of this section.

The proposed mitigation planting plan is included in the drawings as part of the critical area study.

3. The applicant may consult with the Director prior to or during preparation of the critical areas report to obtain approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

The report is submitted for review without consultation.

4. Proposals to obtain reductions in regulated critical area buffers below the buffers required by this part shall include the following information in addition to the minimum critical areas report contents described in subsection B of this

section. The restoration proposed to improve existing function included in the proposal must be separate from any impact mitigation proposal:

This critical area report doesn't address the need for a reduction in the regulated critical area buffer.

- **20.25H.255 Critical areas report – Decision criteria.**
- **A. General**

Except for the proposals described in subsection B of this section, the Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

1. The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;

We are confident that the proposed mitigation planting plan leads to a net increase in critical area functions and values for the site.

2. Adequate resources to ensure completion of any required mitigation and monitoring efforts;

We have developed and will schedule adequate resources to complete the required mitigation proposed as part of this critical area report.

3. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and

We are confident that the mitigation and resulting modifications are not detrimental to the functions and values to the critical areas and critical area buffers off-site.

4. The resulting development is compatible with other uses and development in the same land use district.

The proposed pier and ELL and planting plan mitigation is compatible and consistent with other numerous piers and waterfront recreation uses found in the vicinity and throughout Lake Washington. In addition, the preparation and submittal of the Critical Area report is to construct an ELL where the water depth at the furthest end of the pier is less than 9'. The applicant does have the right, and the City of Bellevue code will allow the applicant the right; to construct the proposed pier and ELL at a distance another 12' from the OHWL, where the water depth at the landward end of the ELL meets the code (9'). The

applicant has chosen to limit the length of the proposed pier, and the size of the ELL, to allow for clear access for the property owners to the adjacent pier to the west.

The responses provided directly address the Design Criteria listed in 20.25H.255 above as it is believed this will serve as the basis for approval of the project as designed. It is our goal to prove that the design has been developed to demonstrate that the proposed mitigation will more than offset the proposed pier and ELL and result in a positive enhancement of the critical area. In addition, as a result of other codes and restrictions, the alternative design and proposed pier length will have a negative effect on the adjacent sites.

Development Standards

vi. Shoreline Critical Area and Critical Area Buffer Functions.

- (1) Existing Habitat Features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be preserved and new or expanded moorage facilities placed to avoid disturbance of such features.

The proposed pier and ELL have been designed and located to avoid disturbing any existing habitat that may be determined to exist in the area.

- (2) Invasive weeds (e.g., milfoil) may be removed with nonchemical means only.

There are currently no invasive weeds located in the critical area of this proposed project, and none will be removed as part of this project.

- (3) Shoreline Planting. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species). Such planting shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25H.210. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent beach use of the shoreline critical area.

Response and Environmental Considerations: The proposed planting plan consists of native shrubs and trees extending 16' onto the property and into the yard, and along the entire width of the property adjacent to Lake Washington.

There is a 6' deep cut-out to allow access to the pier. The content of the proposed planting plan is to provide nutrients into the lake to support the aquatic life and to provide a sustainable net increase in critical area functions and values at the site.

The proposed shoreline planting plan mitigation supports the position that the proposed project reflects less impact than the existing site and therefore warrants review and approval based on the net increase in critical area functions and values as a result of these proposed actions.

**As demonstrated above pertaining to Development Standard
20.25E.808.N.1.b.iv.(3).(a)**

- The mitigation and proposed planting plan lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code.
- Adequate resources to ensure completion of any required mitigation and monitoring efforts that will be put in place.
- The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site.
- The resulting development is compatible with other uses and development in the same land use district.
- The proposed development reflects an improvement over existing conditions.

Incorporation of Best Available Science – All elements of the project reflect Seaborn Pile Driving's as well as Terence Lucken's commitment to incorporate Best Available Science into every aspect of the pier and ELL construction. This is demonstrated through the use of local, state and federal regulatory design standards including constructing a pier with steel piles and using epoxy coated steel hardware, and conducting work only during authorized in-water work windows.

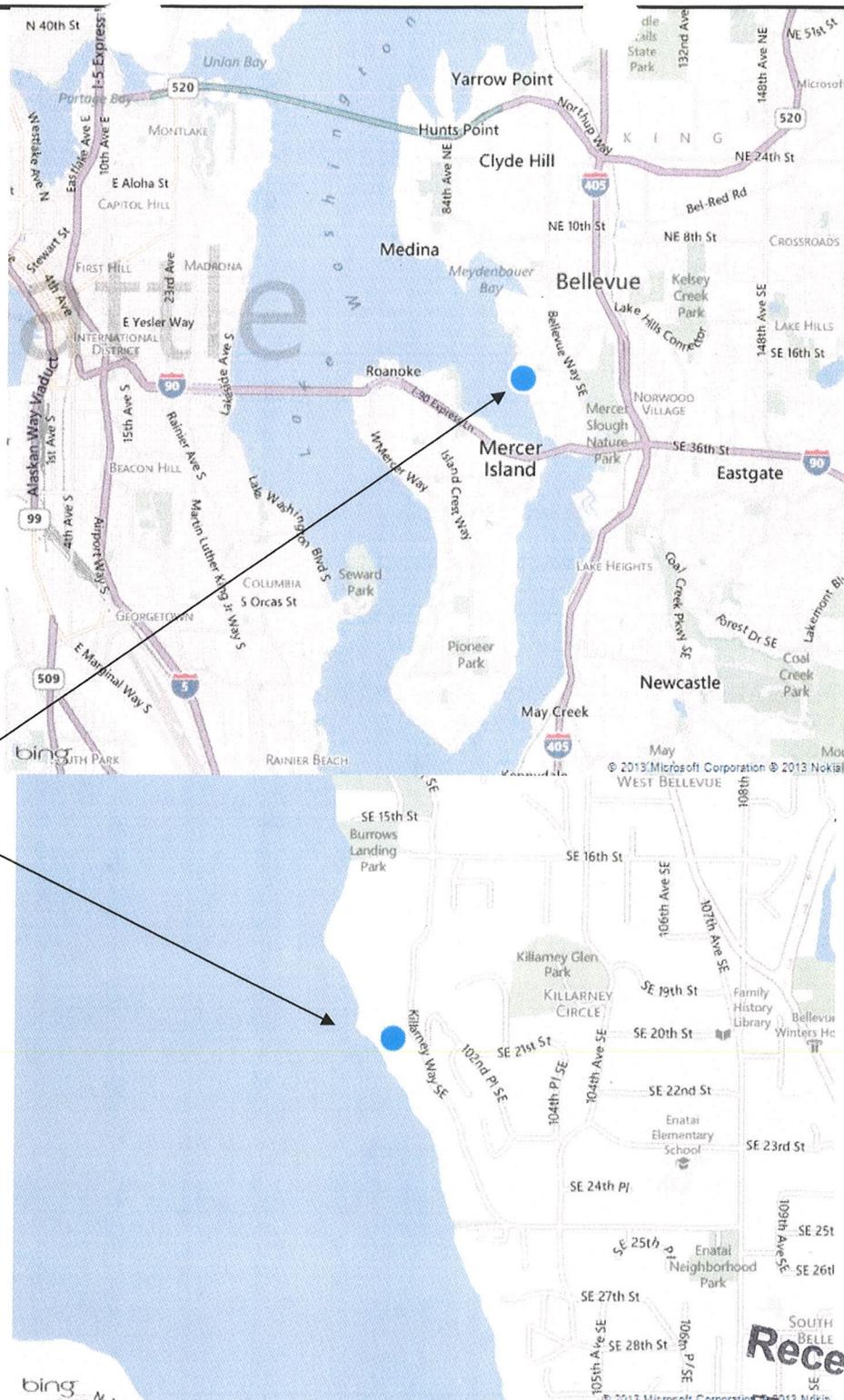
We're very pleased to provide the documentation and address and support the development standards where the proposed project deviates from the City of Bellevue guidelines. If you need any additional information, please feel free to contact the undersigned as agent for the owner.



Ted Burns
Seaborn Pile Driving Company
9311 SE 36th Street
Suite 204
Mercer Island, WA. 98040
206-236-1700 – Phone
206-947-4010 – mobile
tedeburns@yahoo.com - email

enclosures:

Project drawings dated 1/21/14 with the proposed planting plan
JARPA
SEPA checklist
US Army Corps of Engineers Letter of Permission (NWS-2013-0849 – dated 2/5/14)



PROJECT SITE

PROJECT ADDRESS: 2015 KILLARNEY WAY BELLEVUE, WA. 98004 LAT: 47.592442 N. LONG: 122.208580 W.
 PARCEL NUMBER: 0624059066
 APPLICANT: TED BURNS – SEABORN PILE DRIVING CO. 9311 SE 36TH STREET SUITE 204 MERCER ISLAND, WA 98040 206.236.1700

PURPOSE: PROVIDE ACCESS TO LAKE WASHINGTON FOR RECREATIONAL ACTIVITIES AND SMALL BOAT MOORAGE.



PROPOSED: Construct a 52' long by 4' wide dock, with 8' long by 6' wide ELL supported by eight 8" steel piles. Install a ground based boatlift. Install a shoreline planting plan.

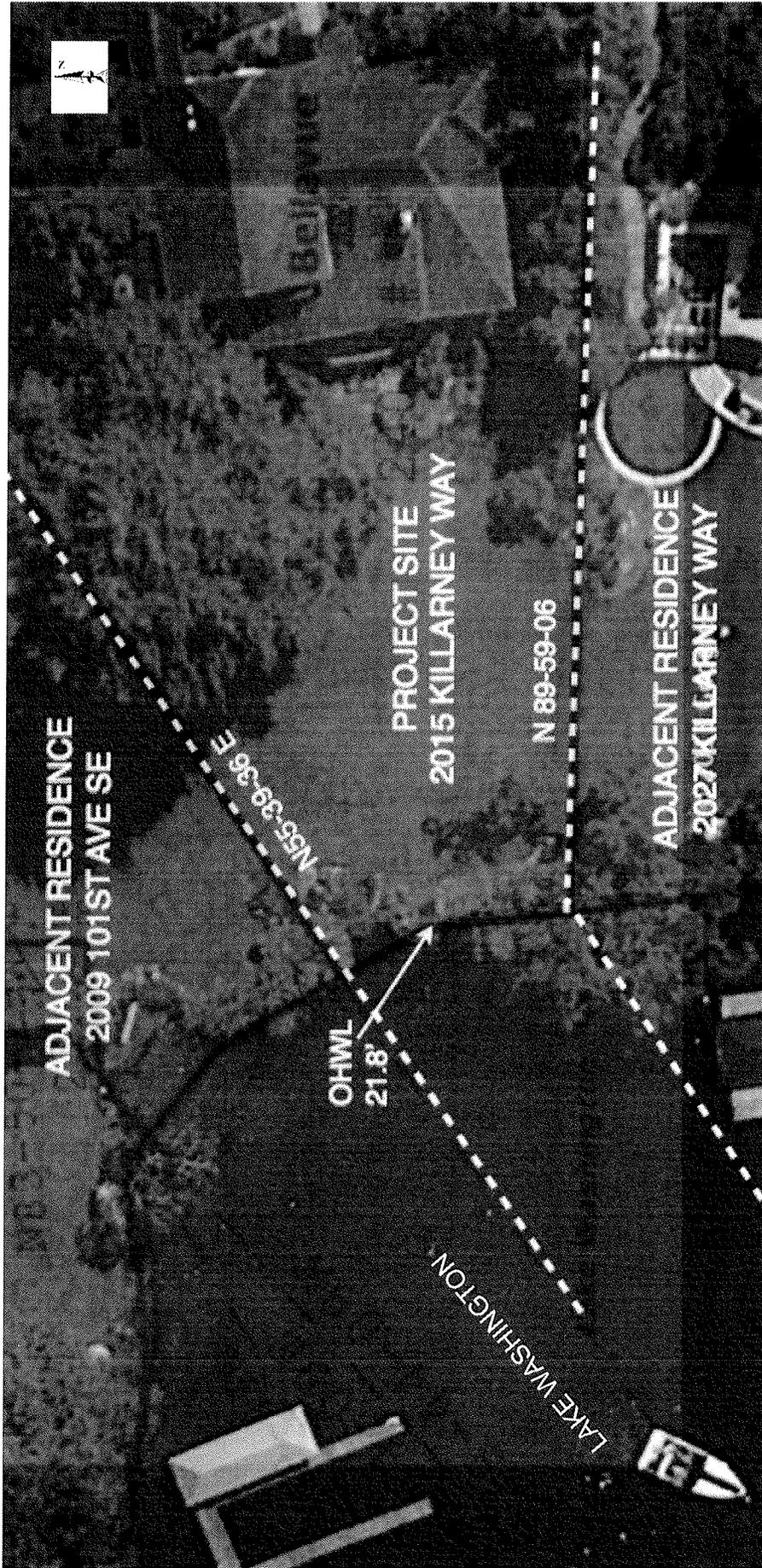
DATUM: CORPS OF ENGINEERS 1919

ADJACENT OWNERS:
 LUIS CABRERA
 2009 101ST AVE SE
 BELLEVUE, WA. 98004

RANDY TALBOT
 2027 KILLARNEY WAY
 BELLEVUE, WA. 98004

IN: LAKE WASHINGTON APPLICANT: TERENCE LUKENS
 AT: BELLEVUE 2015 KILLARNEY WAY
 COUNTY: KING BELLEVUE, WA. 98004
 NWS-2013-0849

DATE: 1/21/14 PAGE 1 OF 8



SITE MAP
SCALE 1" = 35'

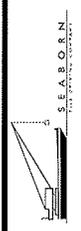
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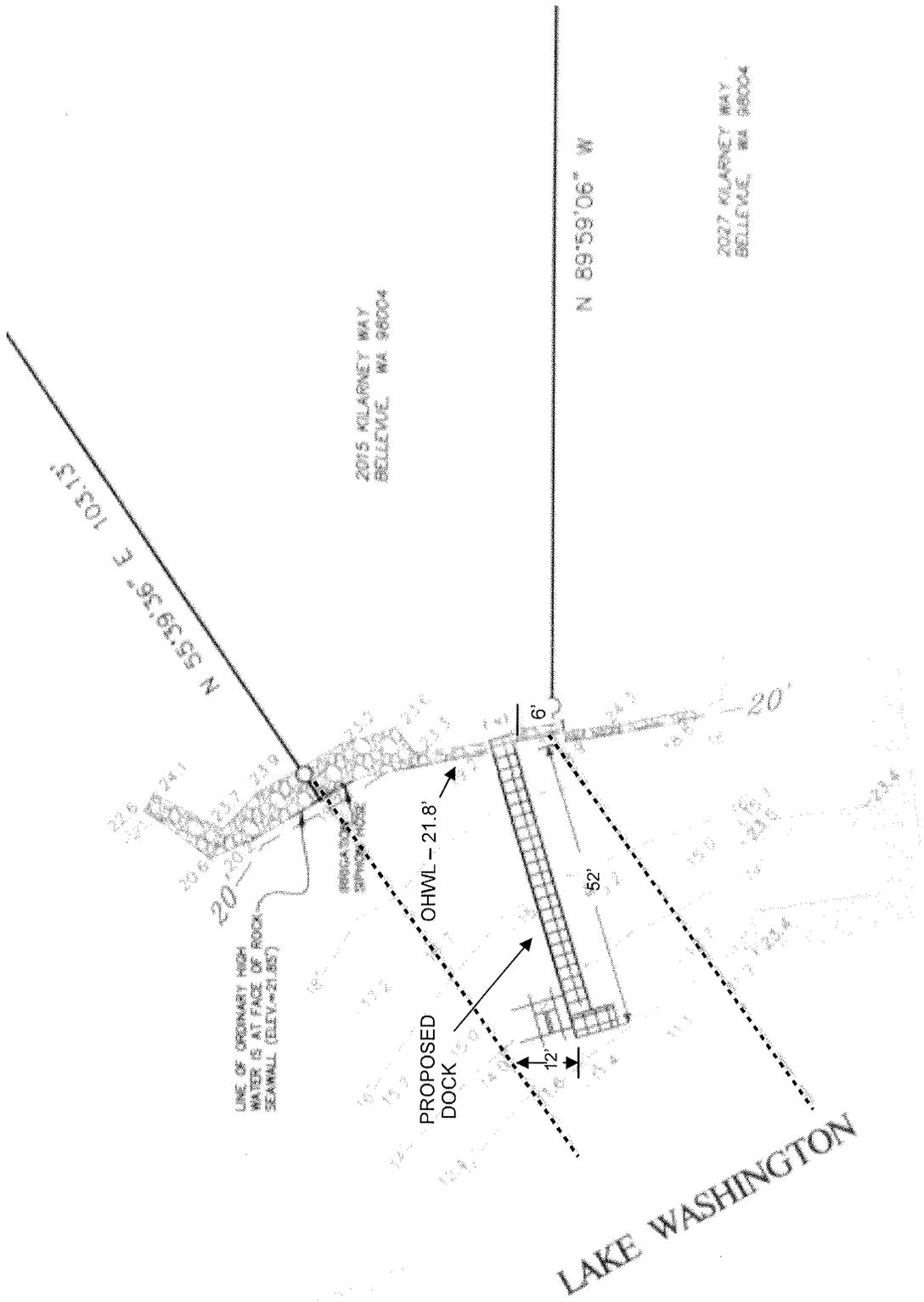
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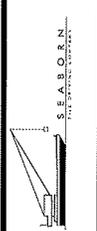
DATE: 1/21/14 PAGE 2 OF 8





PROPOSED SITE PLAN
SCALE 1" = 28'

PURPOSE: PROVIDE ACCESS TO LAKE WASHINGTON FOR RECREATIONAL ACTIVITIES AND SMALL BOAT MOORAGE.



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RANDY TALBOT
 2027 KILLARNEY WAY
 BELLEVUE, WA. 98004

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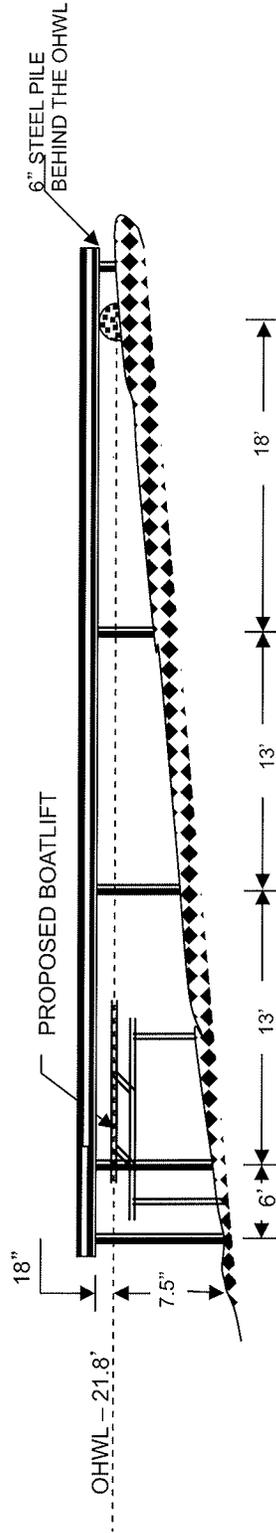
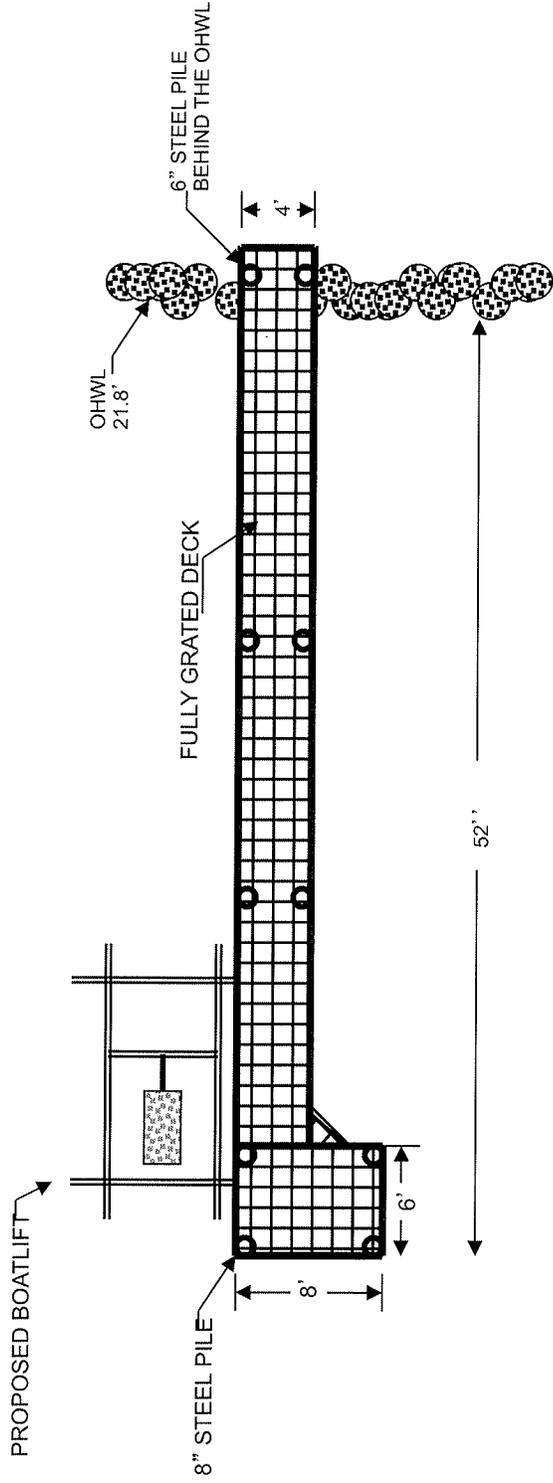
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 2015 KILLARNEY WAY
 BELLEVUE, WA. 98004

NWS-2013-0849

DATE: 1/21/14

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PROPOSED DOCK
SCALE 1" = 10'

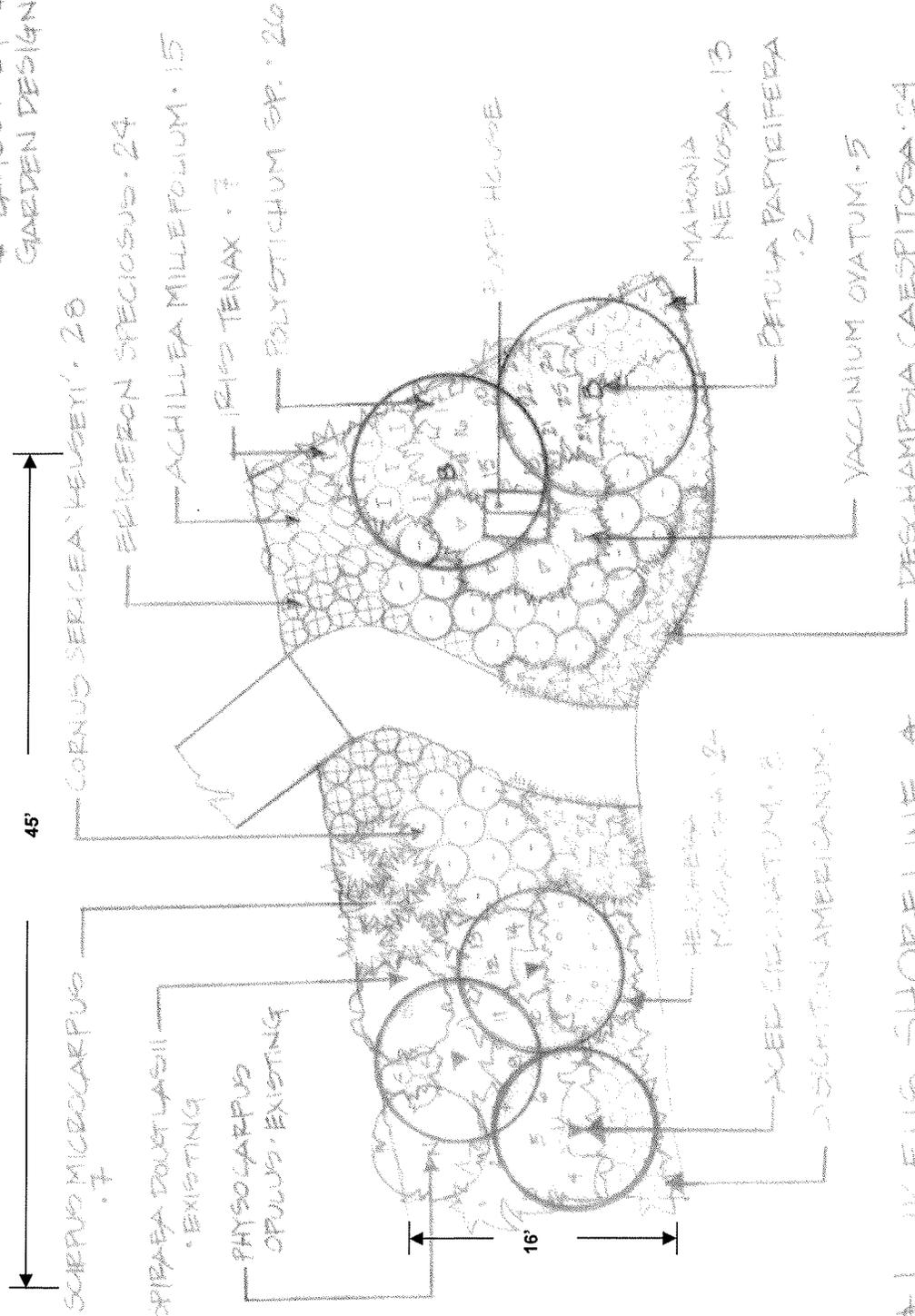
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2009 101ST AVE SE
BELLEVUE, WA. 98004

IN: LAKE WASHINGTON
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WATER SHED
GARDEN DESIGN:

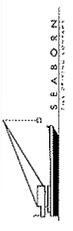


LUKENS SHORELINE
2015 KILLARNEY WAY
BELLEVUE, WA 98004

NOVEMBER 2013 PLANTING PLAN NORTH
SCALE 1" = 10'

PURPOSE: PROVIDE ACCESS TO LAKE WASHINGTON FOR RECREATIONAL ACTIVITIES AND SMALL BOAT MOORAGE.

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ADJACENT OWNERS:
RANDY TALBOT
LUIS CABRERA
2009 101ST AVE SE
BELLEVUE, WA. 98004



IN: LAKE WASHINGTON
AT: BELLEVUE
COUNTY: KING

APPLICANT: TERENCE LUKENS
2015 KILLARNEY WAY
BELLEVUE, WA. 98004

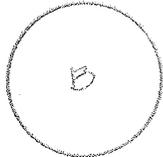
DATE: 1/21/14
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PROPOSED: Construct a 52' long by 4' wide dock, with a 8' long by 6' wide ELL supported by eight 8" steel piles. Install a ground based boatlift. Install a shoreline planting plan.

SHORELINE NATIVE PLANT LIST

Mr & Mrs. Lukens
2015 Killarney Way
Bellevue, WA 98004

Plan by
Garden Designz
Michelle Scannell
206-226-9899

<u>TREE</u>	BOTANICAL NAME	QUANTITY	SIZE
	<i>Betula papyrifera</i>	2	6-8' B&B
	<i>Acer circinatum</i>	3	5-6' B&B
<u>SHRUB</u>			
	<i>Cornus sericea 'Kelseyi'</i>	28	1 gallon
	<i>Physocarpus opulus</i>	1	existing 9' wide
	<i>Spiraea douglasii</i>	1	existing 6' wide
	<i>Vaccinium ovatum</i>	5	2 gallon
<u>FERN</u>			
	<i>Polystichum species</i>	26	1 gallon
<u>GRASS/SEDGE</u>			
	<i>Deschampsia caespitosa</i>	24	1 gallon
	<i>Scirpus microcarpus</i>	2 + 5 existing on site	1 gallon

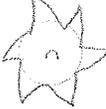
Plan by

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<p>DATUM: CORPS OF ENGINEERS 1919 ADJACENT OWNERS: LUIS CABRERA 2009 101ST AVE SE BELLEVUE, WA. 98004 RANDY TALBOT 2027 KILLARNEY WAY BELLEVUE, WA. 98004</p>	<p>IN: LAKE WASHINGTON AT: BELLEVUE COUNTY: KING APPLICANT: TERENCE LUKENS 2015 KILLARNEY WAY BELLEVUE, WA. 98004 NWS-2013-0849</p>
<p>DATE: 1/21/14 PAGE 7 OF 8</p>	

SHORELINE NATIVE PLANT LIST

Mr & Mrs. Lukens
2015 Killarney Way
Bellevue, WA 98004

Garden Designz
Michelle Scannell
18603 - 22nd DR SE
Bothell, WA 98012-8706
206-226-9899

<u>PERENNIAL/GRNDCVR</u>	<u>BOTANICAL NAME</u>	<u>QUANTITY</u>	<u>SIZE</u>
	<i>Achillea millefolium</i>	15	1 gallon
	<i>Erigeron speciosus</i>	24	1 gallon
	<i>Heuchera micrantha</i>	24	1 gallon
	<i>Iris tenax</i>	7	1 gallon
	<i>Lysichiton americanum</i>	11	1 gallon
	<i>Mahonia nervosa</i>	13	1 gallon

PURPOSE: PROVIDE ACCESS TO LAKE WASHINGTON FOR RECREATIONAL ACTIVITIES AND SMALL BOAT MOORAGE.



PROPOSED: Construct a 52' long by 4' wide dock, with a 8' long by 6' wide EL supported by eight 8" steel piles. Install a ground based boatlift. Install a shoreline planting plan.

DATUM: CORPS OF ENGINEERS 1919

ADJACENT OWNERS:

LUIS CABRERA
2009 101ST AVE SE
BELLEVUE, WA. 98004

RANDY TALBOT
2027 KILLARNEY WAY
BELLEVUE, WA. 98004

IN: LAKE WASHINGTON
AT: BELLEVUE
COUNTY: KING

APPLICANT: TERENCE LUKENS
2015 KILLARNEY WAY
BELLEVUE, WA. 98004

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