

SHORELINE COMMITTEE AGENDA ITEM COVER SHEET

Meeting Date	Staff Contact	
12/18/2008	STEVEN SUNDIN, 778-8359	
Subject:		
<p>Removal of an existing private wooden community dock, floats and concrete pilings. The existing dock is approximately 116-feet in length, its lateral structure is approximately 62-feet in width and has a water surface area coverage of approximately 1,200 square feet.</p> <p>Installation of a new private community dock that includes:</p> <ul style="list-style-type: none"> • A fixed pier that is 4-feet wide by approximately 45-feet in length. • A gangway that is 4-feet wide by approximately 40-feet in length. • Float extension that is 6-feet wide by approximately 50-feet in length. • Six lateral floats that are 6-feet wide by 20-feet in length. • Total length of new pier / gangway / floats is approximately 140-feet. • Twelve 8-inch steel galvanized pilings. • Pier, gangway, floats and decking are aluminum and synthetic. • Total footprint of new structure is approximately 1,500 square feet. 		
Attachments:		
1. EXHIBIT A Vicinity map		
2. EXHIBIT B Pier, dock, float design		
3. EXHIBIT C Aerial photographs		
4. EXHIBIT D Compliance with City's SMP		
5. EXHIBIT E Applicant's statement		
6. EXHIBIT F Public comments		
Meeting Type		Category
<input type="checkbox"/> Public Hearing		<input type="checkbox"/> Legislative
<input checked="" type="checkbox"/> Public Meeting		<input type="checkbox"/> Quasi-judicial
<input type="checkbox"/> Work Session		<input type="checkbox"/> Information Only
<input type="checkbox"/> Briefing		
Clearances	Initials	Date
Tim Stewart, Director	<i>TMS</i>	12/10/08
Alan Marriner, Legal	<i>AM</i>	12/10/08
Steven Sundin, Planning	<i>SS</i>	12-08-2008
Previous Commission Meeting or Action:		
None.		
Recommended Action:		
Approve with conditions as specified in Section VII of the STAFF REPORT.		

1 **STAFF REPORT**

2
3 **Agenda Topic:** Shoreline Permit #SHR2008-8; Replacement / expansion of the
4 Silver Shores Homeowners Association (SSA) community dock on
5 Lake Whatcom.
6

7 **For:** December 18, 2008 Shoreline Committee Public Meeting (Quasi-
8 judicial)
9

10 **Staff Contact:** Steve Sundin, Planner
11

12 **I. SUMMARY OF PROPOSAL**
13

14 Removal of an existing private wooden community dock, floats and concrete pilings on Lake
15 Whatcom. The existing dock is approximately 116-feet in length from the ordinary high water
16 mark (OHWM), its lateral structure is approximately 62-feet in width and has a water
17 surface-area coverage of approximately 1,200 square feet.
18

19 Installation of a new private community dock that includes the following elements:
20

- 21 • A fixed pier that is 4-feet wide by approximately 45-feet in length with hand-rails and
22 is approximately 18-inches above the elevation of the ordinary high water mark.
- 23 • A gangway that is 4-feet wide by approximately 40-feet in length including hand-rails
24 and grated decking.
- 25 • Float extension that is 6-feet wide by approximately 50-feet in length.
- 26 • Six lateral floats that are 6-feet wide by 20-feet in length.
- 27 • **Total** length of new pier / gangway / floats is approximately 140-feet from OHWM.
- 28 • Twelve 8-inch steel galvanized pilings.
- 29 • Support structures of pier / gangway / floats are aluminum.
- 30 • Decking of gangway is grated and floats are constructed of synthetic thru-flow
31 panels.
- 32 • Total footprint of new structure is approximately 1,500 square feet but the actual
33 water-surface area coverage is approximately 1,350 square feet.
34

35 **II. SHORELINE COMMITTEE ROLE**
36

37 The Shoreline Committee will review this proposal and the staff recommendations as
38 specified in **SECTION VII** and forward their recommendations to the Planning and
39 Community Development Director.
40

41 **III. ATTACHMENTS**
42

43 EXHIBIT A	Vicinity Map	EXHIBIT D	SMP Compliance
44 EXHIBIT B	Pier, Dock, Float Designs	EXHIBIT E	Applicant's Statement
45 EXHIBIT C	Aerial Photographs	EXHIBIT F	Public Comments

46

47 **IV. STAFF RECOMMENDATION**
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49 Staff recommends approval of the project as proposed with conditions as specified in
50 **SECTION VII**.
51

1 **IV. BACKGROUND**

2
3 1977: Play area, shed, fence, small float approved. (Permit #82)

4
5 1978: Extension of float / dock approved. (Permit #95)

6
7 *(Shoreline Permits 1-100 were destroyed in fire so there are no files remaining for these.)*

8
9 1984: Western portion of "T" was modified to angle *slightly* to the west.

10
11 1997: Applied for a two-phase expansion in 1996 which was denied. The two phases
12 consisted of two approximately 100-foot long extensions from the end of the existing dock.
13 These extensions encroached onto DNR Waterway No. 3 which requires a lease.

14
15 The Planning Department – at that time – recommended a 25-foot long extension with floats
16 perpendicular at the end in a "T" configuration. The applicants chose to move forward with
17 their own request and the application was recommended for denial.

18
19 2007: SEPA DNS granted for replacement of existing dock structure of identical size. DNS
20 issued on 9-19-07.

21
22 2008: New application and new SEPA checklist submitted for the subject proposal.

23
24 **V. ISSUES**

25
26 **WATER QUALITY:** Presently, there is a moratorium in place until March 2009 for the
27 submittal of building permits and land disturbance activities within the Lake Whatcom
28 watershed. This moratorium does not prohibit submittal of applications for land use
29 enablement permits such as shoreline permits.

30
31 This moratorium has been placed in response to the Department of Ecology's TMDL
32 findings dated April 21, 2008. These findings report that the phosphorus inputs into the lake
33 must be reduced by 74 percent in order to prevent further degradation of water quality.

34
35 The majority of phosphorus inputs are stormwater from road surfaces, fertilizers applied to
36 lawns and gardens, exposed earth / soil and failing septic systems.

37
38 Removal of the existing concrete pilings and wooden pier structure will not impact water
39 quality. Installation of new steel pilings, inert floats, aluminum support structures and
40 synthetic thru-flow decking will not impact water quality.

41
42 **MORE FLOATS MORE BOATS:** Sentiment exists that by developing additional docks / float
43 / moorage slips results in more boats on Lake Whatcom. The proposed facility is only for
44 boats owned by people who reside within the plat of Silver Shores. People who are Silver
45 Shore residents may or may not choose to utilize the proposed facility. People who are
46 Silver Shore residents may or may not go out and purchase a new boat to utilize the new
47 facility. If the facility did not exist boat-owners within the SSA could launch their boats from
48 Bloedel Donovan Park and continue recreate on Lake Whatcom. This shoreline permit does
49 not give the City the legal authority to prohibit boat owners from boating on Lake Whatcom.
50

1 The Silver Shores Homeowners Association (SSA) has 35 single family homes within it. The
2 Silver Shores Association contact person has advised that there are approximately 10-12
3 'ski-boat' owners. Many other residents have smaller 'skiffs' with outboards or other non-
4 motorized and hand-carry craft that can either be beached on shore or stored in existing
5 boat racks on the common property. In either case, presently, there are not laws within the
6 City that prohibit a citizen's ability to purchase boats for use on Lake Whatcom. (Ordinance
7 2005-06-045 does prohibit 2-stroke engines on water-craft on Lake Whatcom)

8
9 By way of example, the Lakeside North Condominiums at 708 Poplar Drive (approx. ¼ mile
10 to the southwest) received a shoreline permit in 2007 for replacement and expansion of their
11 association's private dock. According to their manager as of December 1st, 2008 there was
12 no increase in boat ownership as a result of the newly installed facilities. (4 out of 17
13 residences own boats at Lakeside North Condominiums.)

14
15 Maynard Place has enough moorage for all nine platted lots within that subdivision. (Only
16 two lots remain vacant at this time.) Four out of seven residences own boats. The developer
17 (who also resides within that plat) has advised that the boat-owning residences owned boats
18 prior to moving to Maynard Place.

19
20 **HABITAT & FISH:** The 2004 City of Bellingham Shoreline Characterization and Inventory
21 specifies that Lake Whatcom provides spawning and rearing functions for cutthroat trout.
22 Silver Beach Creek – which is within proximity to the east but not on Silver Shores property
23 – provides these functions at a very low level. Other Lake Whatcom tributaries such as
24 Anderson, Austin, Brannian and Blue Canyon Creeks provide significantly higher spawning
25 and rearing functions than does Silver Beach Creek.

26
27 The City of Bellingham's Habitat Assessment produced in 2003 by Nahkeeta Northwest
28 indicate that Silver Beach Creek *may* include fisheries resources but needs further
29 examination. In addition, according to the inventory, the habitat corridor associated with
30 Silver Beach Creek is compromised but functions best for avian species and urban tolerant
31 mammals.

32
33 Cutthroat spawn and rear within a stream for a period of time before they move out into
34 open water. When moving out into open water they typically stay away from shaded areas
35 especially in deeper water where predatory fish tend to reside – most notably bass
36 underneath docks and floats.

37
38 The design of the pier and floats minimizes the amount of over-water shading both in deeper
39 water and within near-shore areas. This is important because it decreases the likelihood that
40 predatory fish will be present (in shaded areas) and where food is more readily available for
41 juveniles.

42
43 To summarize, the proposal is anticipated to provide a beneficial element to existing
44 resident cutthroat that utilize Silver Beach Creek and kokanee.

45
46 **LENGTH & SAFETY:** The new dock / floats extends an additional 24-feet out into Lake
47 Whatcom from 116-feet out to approximately 140-feet. The new dock / floats also *narrow* by
48 16-feet from 64-feet to 48-feet.

1 The proposed additional length is consistent with the City staff recommended proposal on
2 the 1996-97 shoreline permit request of 25 feet. (The applicant chose to move forward with
3 their original application which was an extension of 110 feet. That request was denied.)
4

5 An additional 24 feet of dock length in this location will not impact neighboring boating safety
6 given its proximity to adjacent properties. The property to the east is owned by DNR and
7 does not have boating facilities. There is another private community dock on the east side of
8 the DNR parcel but is available for only 9 residences. (Maynard Place) There are four
9 single-family docks clustered to the west but are separated from the proposed facility by the
10 SSA swim area.
11

12 Even though the proposed facility length is 140-feet and the neighboring docks described
13 above average a length of 100 feet there is not the same amount of passer-by traffic as
14 there is on the east side of the lake. A simple analogy might be visualizing living at the
15 bulbous end of a cul-de-sac versus living in the middle of the block.
16

17 Furthermore, this location is literally at the end of the fetch. The prevailing winds are from
18 the south – especially in the winter and this carries an amount of sediment to this location
19 that over time has caused the lake to shallow up. Overtime, this has brought swimmers out
20 to deeper water and boat owners into shallow water to tie up which presents a safety
21 hazard. The number of boaters and swimmers utilizing this private common area during the
22 summer can reach 100 so there are many opportunities for user conflicts.
23

24 In addition, by providing laterals that are narrower than the existing ones such that they can
25 be directly accessed as opposed to traveling the circuitous route around the end of the “T”
26 into shallower water further reduces this conflict.
27

28 Please also see the applicant’s statement in regards to how the area operates in **EXHIBIT**
29 **E.**
30

31 **VI. ANALYSIS SUMMARY**

32
33 **The proposal achieves the following objectives:**
34

- 35 ✓ **Uses materials that do not pose a negative water quality impact to Lake**
- 36 **Whatcom.**
- 37 ✓ **Uses materials that allow for light penetration through the water column -**
- 38 **especially within the near shore area.**
- 39 ✓ **Reduces conflicts and improves safety between different types of users within**
- 40 **the SSA common area; motor-boaters, non-motorized boats and swimmers.**
- 41 ✓ **Does not present a safety hazard to boaters of adjacent properties and general**
- 42 **public.**
43

44 **ADDITIONAL STAFF ANALYSIS ON COMPLIANCE WITH THE CITY’S SMP CAN BE**
45 **FOUND IN EXHIBIT D.**
46

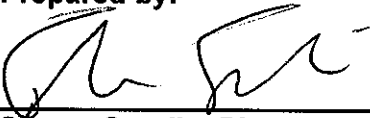
47 **VII. STAFF RECOMMENDATION**

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49 **Staff recommends approval of the proposal with the following conditions:**
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1. A minimum of two '5 MPH' no-wake buoys shall installed; one shall be placed off the end of the proposed facility and the other shall be placed at the outer extent of the swim area.
2. The SSA shall supply each existing and future new tenants with a copy of "Boat Notes" which are available from the Environmental Resources Section of the City's Public Works Department.

Prepared by:



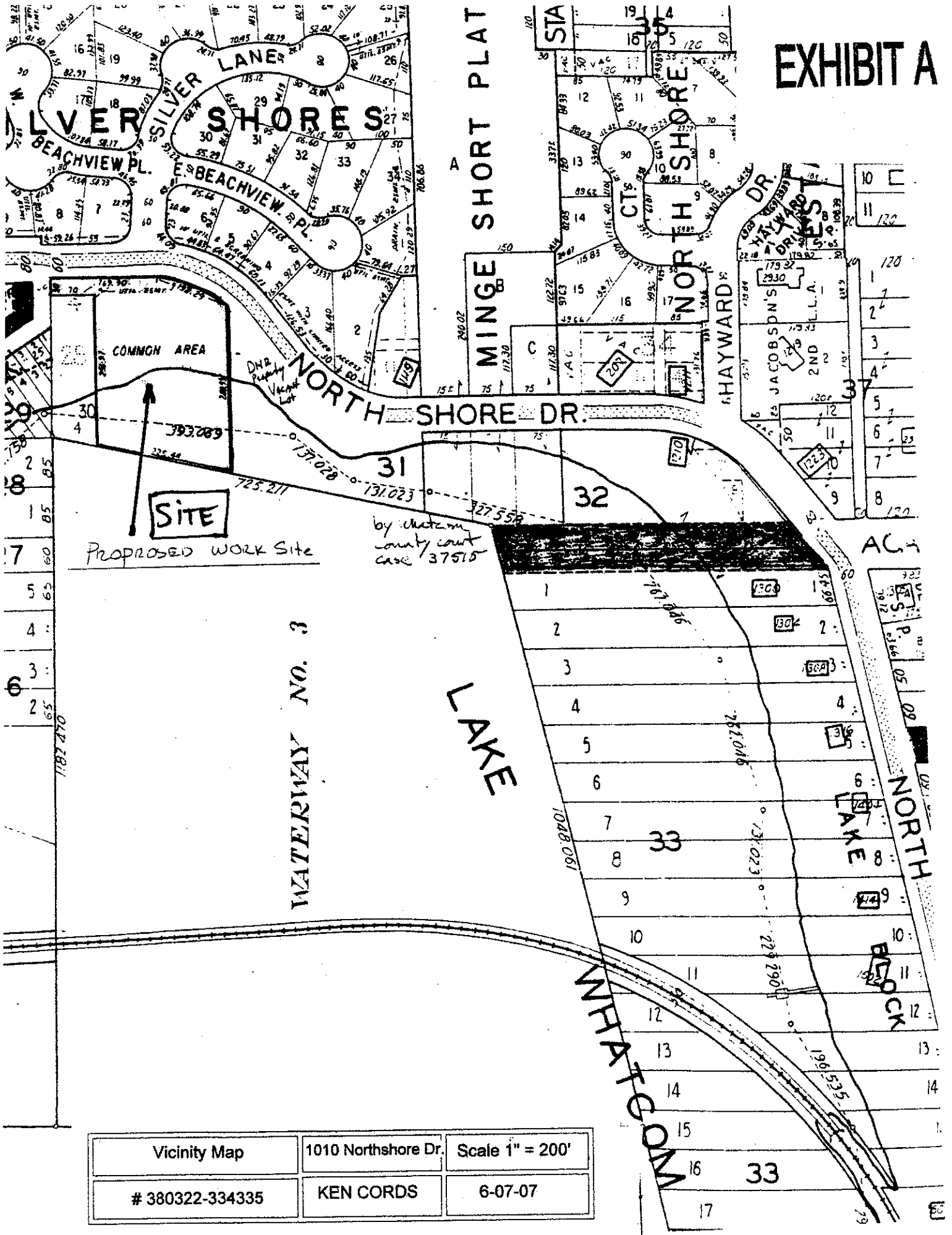
Steven Sundin, Planner
KDH

Approved by:



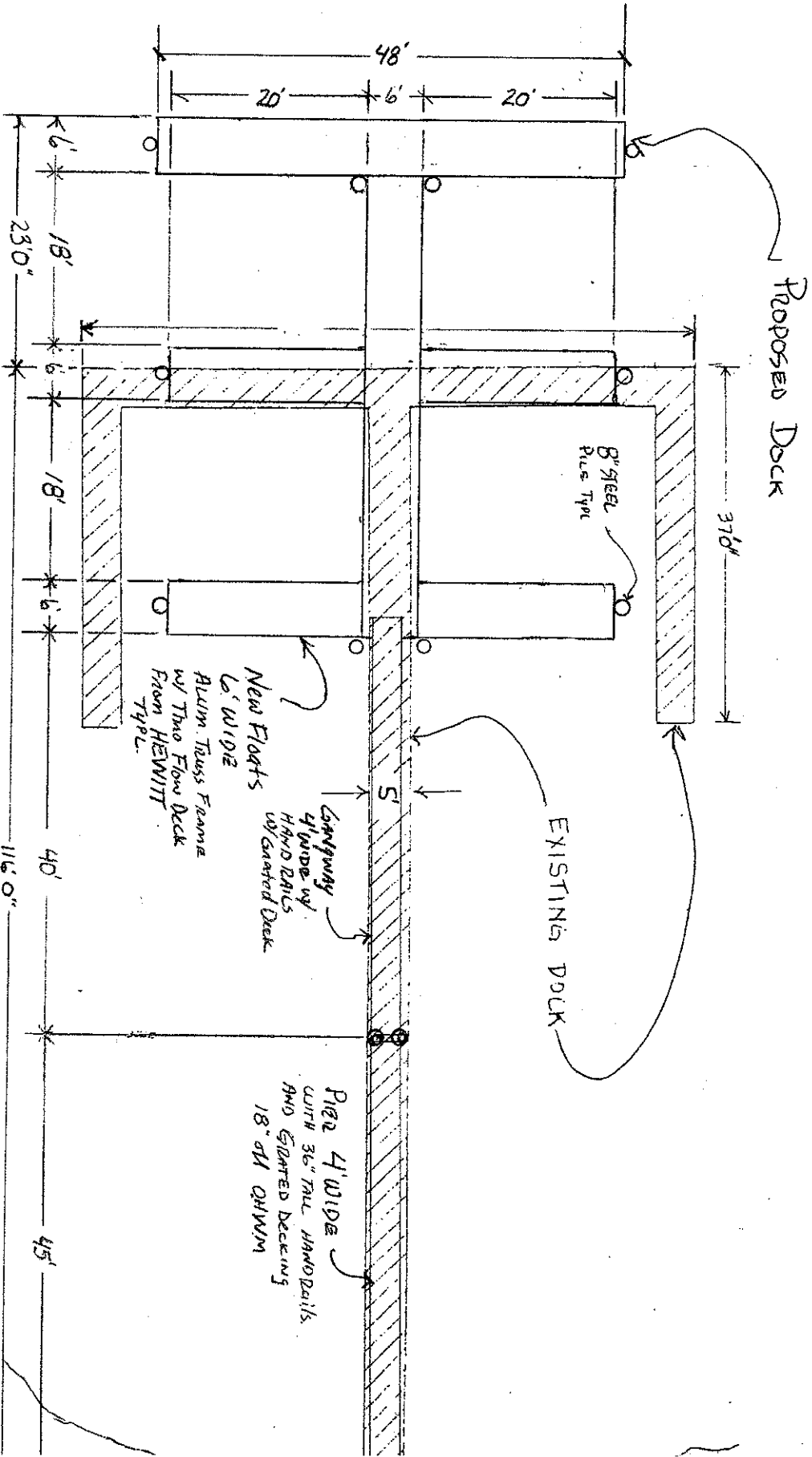
Tim Stewart, Director

EXHIBIT A



Vicinity Map	1010 Northshore Dr.	Scale 1" = 200'
# 380322-334335	KEN CORDS	6-07-07

EXHIBIT B



TOP VIEW PLAN
SCALE 1/8" = 1"

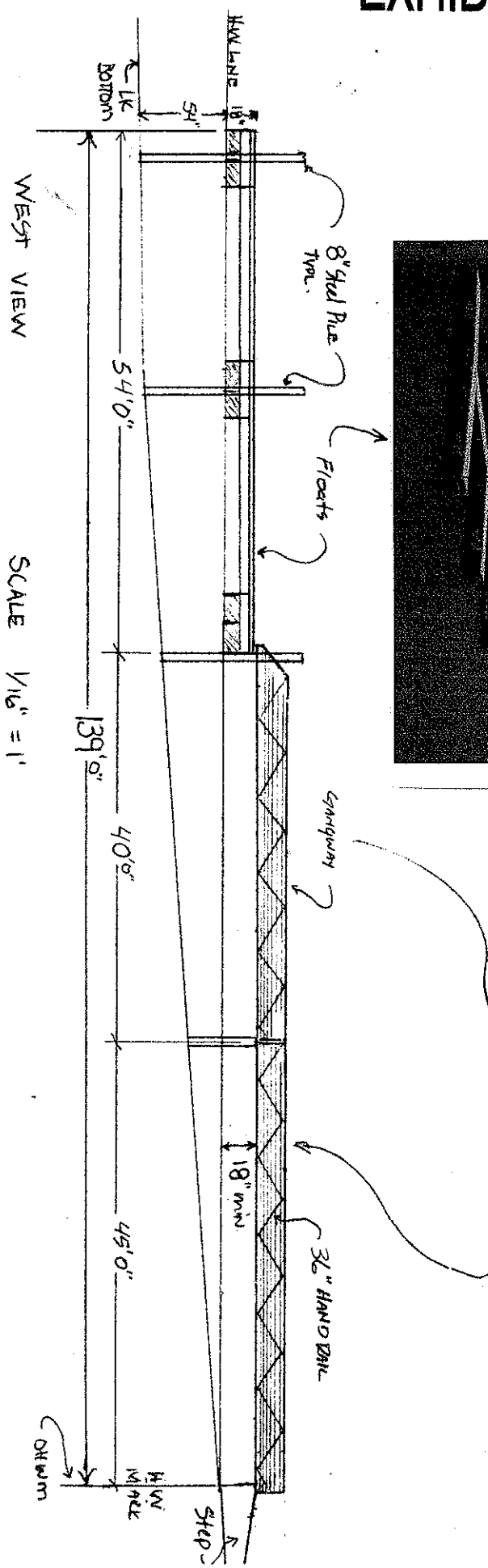
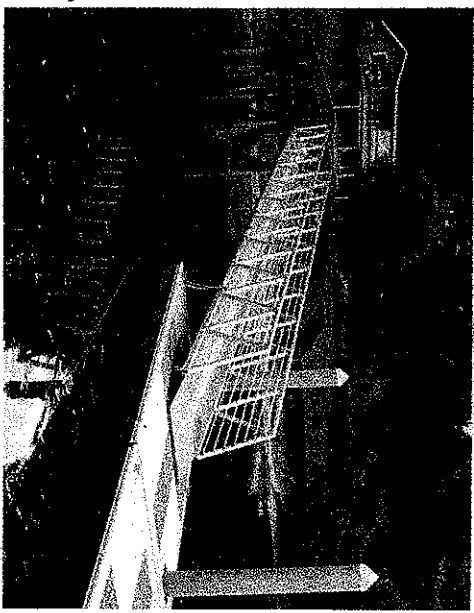
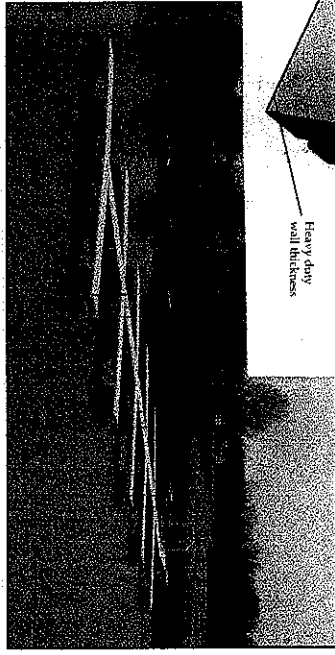
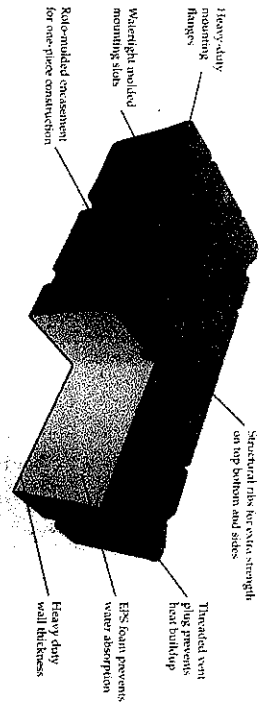
380322-334335
1010 N. SHORE DR.

KEN CORDS
2-12-08

EXHIBIT B

FLOAT TANKS

Polyethylene Hewitt float tanks are designed to resist cracking and corrosion to stand up to the rigors of year-round use. They may even be left out for the winter. In fact, Hewitt float tanks are so rugged they meet U.S. Military specifications! Float tanks carry a 12-year limited warranty.

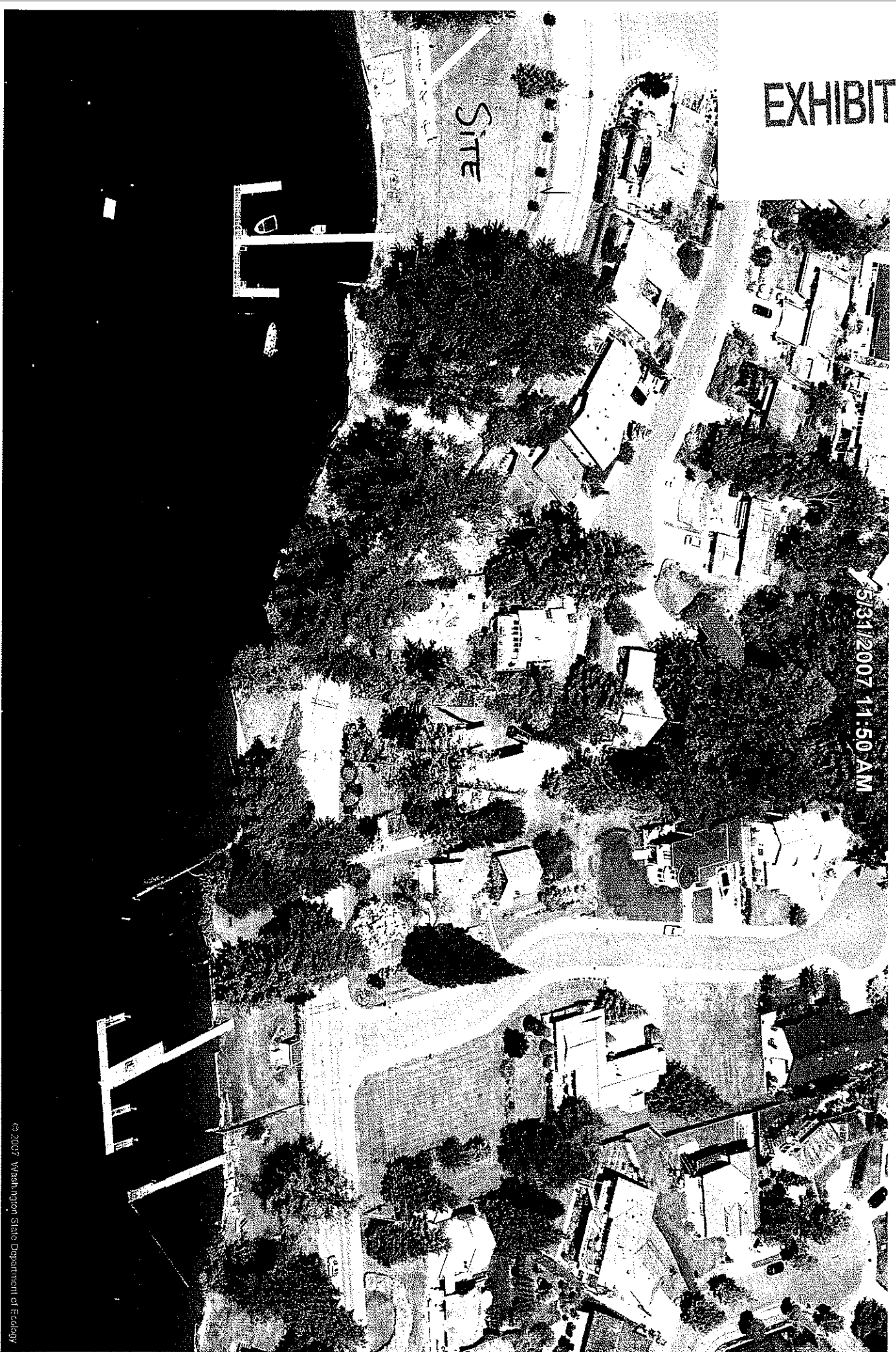


WEST VIEW

SCALE 1/16" = 1'

CROSS SECTION PLAN	# 380322-334335	KEN CORDS
	1010 N. SHORE DR.	2-12-08

EXHIBIT C



5/31/2007 11:50 AM

EXHIBIT C



EXHIBIT D

Compliance with the applicable sections of the City's 1989 Shoreline Master Program

Section 23: URBAN ENVIRONMENT I:

A. DEFINITION: Areas, which are currently developed to an Urban density of where intense development would be consistent with the Master Program.

B. PURPOSE AND INTENT: The purpose of the Urban Environment I is to allow for intense shoreline development while at the same time enhancing the shoreline and recognizing its aesthetic attributes.

C. REGULATIONS: Unless permitted by Section 26 of this ordinance, no fills, hard surfacing, permanent structures or storage shall be located within 25 feet of the ordinary high water mark.

Permanent structures shall be set back from the ordinary high water mark 25 feet or one foot for each foot of building height, whichever is greater. This required setback shall not exceed 50 feet.

STAFF RESPONSE: The proposal is consistent with this section.

Section 26: GENERAL REGULATIONS:

A. The following activities are allowed within the setbacks required in Section 18 through 25 of this ordinance or in any water body, EXCEPT in a Natural Environment.

7. Over-water construction including: Piers docks, floats, breakwaters, jetties and groins are permitted within Urban I, Urban Maritime and Urban Multi-Use Environments and those areas of Conservancy I designation located from the north section line of Section 14 Township 37 north, Range 2 east northerly to the south right-of-way line of Willow Road and from the extended north line of Lot 7, Block 3, Division No. 2 northerly to the southerly line of Cowgill Avenue extended westerly subject to pertinent provisions contained herein.

STAFF RESPONSE: The proposal is located within an Urban I shoreline designation.

SECTION 27: USE ACTIVITY REGULATIONS:

A. **MARINAS:** The following regulations shall apply to all marina activities including wet moorage, dry storage and launch ramps.

1. The placement of breakwaters, jetties, groins, bulkheads, landfills, and dredging activities associated with marina construction shall comply with regulations contained herein pertaining to those activities.
2. Marinas shall be designed to allow sufficient circulation and flushing action of the marina enclosure.
3. Discharge of solid waste or sewage into the water body is prohibited. Marinas shall be supplied with adequate restroom and solid waste receptacles to accommodate marina users.
4. Disposal or discarding of fish or shellfish cleaning wastes, scrapfish, viscera, or unused bait in or near a marina is prohibited.
5. Facilities and procedures for receiving, storing, dispensing, and disposing of oil and other toxic products shall be designed to insure that such oil and other toxic products are not introduced into the water body. Additionally marinas shall have facilities and established procedures for the containment and recovery of spilled products.
6. All new marinas shall provide adequate space and utility capability for pump-out, holding and/or treatment facilities for sewage contained on boats or vessels.
7. Launch ramps, which are not directly associated with wet moorage or dry storage facilities, shall have a minimum of 25,000 square feet of adjacent upland area. More parking may be required depending on the capacity of the launch. Such area shall include spaces for the temporary parking and storage for no less than 30 cars and trailers per launch ramp, which shall be located as far upland of the shore/water interface as feasible. Additionally, such launching ramp area shall contribute to public access to the shoreline.
8. Marinas shall provide viewpoints, which will allow the general public to view marina activity.

9. Covered moorage is permitted only in the "old marina" portion of Squalicum Harbor between and including slip gates #1 and #5 as shown on the Port of Bellingham Squalicum Harbor Plan.
10. All covered moorages or boathouses shall be of similar and/or compatible design, color, length and height and shall be constructed in contiguous groups or modules except where a different design is an improvement upon existing design or is required to accommodate a different type of boat such as a sail boat.
11. Covered moorage shall be located in areas so as not to interfere with nor detract from established points of visual access of the marina.
12. All applications for marinas shall be reviewed by the Bellingham Arts Commission and the Interdisciplinary Advisory Committee.

STAFF RESPONSE: While this facility is not a marina per se it does provide one element that a traditional marina provides; boat storage. This facility is exposed and unprotected from wind, wave and current action and hence boats are not moored at this facility year round. Moorage occurs only during the summer months of the year.

The boats moored at this location are not live-aboards. There is not a launch-ramp at this location. Pump-out facilities are not proposed.

There are no jetties, breakwaters or groins proposed for this facility. There are not any covered moorages or boathouses proposed.

Portable restrooms are furnished at the common area during the summer months.

Parking is not provided for this common area except for what can be accommodated on the shoulder areas of North Shore Road.

B. PERS: The following regulations shall apply to the installation of all piers, docks, and floats on the shorelines of the City.

1. Piers, docks or floats shall be constructed so as to cause minimum interference with the public use of the water surface and shoreline, and so as to cause no undue harm to adjacent properties.
2. Prior to the granting of a permit for a pier, dock or float, the effect of that structure upon adjacent shorelines shall be determined by the Director of the Bellingham Planning and Economic Development

Department and the disposition of the permit shall reflect such determination.

3. Where feasible pile or floating piers and docks shall be used instead of rip-rapped or bulk-headed supports.
4. Piers, docks, or floats within 200 feet of the point of entrance of a freshwater stream into marine waters shall not interfere with or endanger the migration of anadromous fish species nor be constructed over estuarine mudflats which are exposed at mean lower low tide.
5. No covered moorage or boathouses shall be constructed on the shorelines except in an authorized marina.
6. Use of treated wood on Lake Whatcom: Piles, floats or other members in direct contact with the water on Lake Whatcom shall not be treated or coated with paint, pentachlorophenol, arsenate compounds, creosote or other preservative treatment. Wooden members situated above the water may be constructed of factory applies copper arsenate providing it is approved by the U.S. Environmental Protection Agency (EPA) for the purpose and the EPA regulations for its use are adhered to. No field application of paint, preservative treatment or other chemical is permitted over the water of Lake Whatcom or in a location where water run-off could enter the lake.

STAFF RESPONSE: This proposal is not anticipated to impact the public's use of the water-area in this location. Abutting single-family property owners with individual docks will not be impacted by this proposal. The SSA proposal provides more than adequate distance between dock users.

No new bulkheads are proposed.

Even though the Lake's resident cutthroat and kokanee are not *anadromous* the pier and floats have been designed so that the potential impact to these species is mitigated with the grating and thru-flow panels which allow significant light penetration through the water-column.

C. **RESIDENTIAL DEVELOPMENT:** The following regulations shall apply to all residential development on the shorelines of the City.

1. Residential development over water is prohibited.
2. Residential development including single family subdivisions shall be designed to provide a common water-front area in a manner

which will offer equal access for all residents of the subdivision to all properties within the subdivision abutting a water body.

3. Residential development on the shorelines shall not exceed 35 feet in height except in the Urban Multi-Use Environment.

STAFF RESPONSE: The proposal will not affect existing access to the common water-front area for the SSA.

SHORELINE GOALS AND OBJECTIVES:

SHORELINE USE ELEMENT

- GOAL:** Coordinate the regulation of shoreline uses so as to insure uses which result in long-term over short-term benefit, protect the resources and ecology of the shorelines, increase both visual and physical public access to the shorelines, and accommodate water dependent uses.
- OBJECTIVE:** Identify and reserve shoreline and water areas with unique attributes for particular long-term uses, including commercial, industrial, residential, recreational and conservational uses.
- OBJECTIVE:** All uses should be developed in a manner which will result in the least modification of the shoreline unless such modification contributes to the attainment of Master Program goals.
- OBJECTIVE:** Uses which will provide an opportunity for a substantial number of people to enjoy the shorelines should be permitted.
- OBJECTIVE:** Inappropriate shoreline uses should be identified and established as nonconforming uses.

PUBLIC ACCESS ELEMENT

- GOAL:** Increase public access to the shorelines of the City and preserve and enhance views of the shoreline and water.
- OBJECTIVE:** Identify public properties adjacent to shorelines as well as public rights-of-way which offer physical and/or visual access to the shoreline.
- OBJECTIVE:** Development of public access should respect and protect private property rights; however, public accessibility to private shorelines should be encouraged where such access will not be deleterious to the property.

RECREATION ELEMENT

- GOAL:** Increase the amount of shorelines dedicated to public recreation and optimize their potential.
- OBJECTIVE:** Shorelines which provide a locally unique opportunity for public recreation should be obtained for public use as soon as possible.
- OBJECTIVE:** Recreational development where warranted, should be designed to minimize adverse effects on the natural amenities of the shoreline while enhancing its recreational value and protecting the public health and safety.

CONSERVATION ELEMENT

- GOAL:** Preserve, protect, and restore shoreline areas to optimize the support of wild, botanic, and aquatic life.
- OBJECTIVE:** identify those areas of unique geological or biological significance and prohibit or severely restrict development in those areas.
- OBJECTIVE:** Conservation efforts should be aimed at preserving the natural function of the watercourse as well as the aesthetic and ecological qualities of the shoreline.
- OBJECTIVE:** Some areas, because of unique and/or fragile geological or biological characteristics should be protected from public access.
- OBJECTIVE:** Areas, which are biologically and aesthetically degraded, should be reclaimed and restored to the greatest extent feasible while maintaining appropriate use of the shoreline.
- OBJECTIVE:** Standards should be developed for shoreline use, which will insure the optimal harmonious integration of human use of the shorelines with the shorelines' natural system.
- OBJECTIVE:** The continuous scientific study of Bellingham's shorelines should be encouraged and areas with unique attributes for scientific study should be identified and protected.

USE ACTIVITY POLICIES:

Marinas

Marinas are facilities which provide boat launching, storage, supplies and services for commercial and pleasure craft. Two basic types of marinas are the open type

construction (floating breakwater and/or open pile work) and solid type construction (bulkhead and landfill). Because the number of pleasure craft is increasing each year, while suitable sites for marinas are limited, a third type of marina should be considered which would consist of shoreline land boat storage together with launching cranes, ramps, etc. This type of marina lessens or entirely eliminates the need for breakwater protection and might allow such use in areas where prevailing weather would normally make the cost of marina construction prohibitive.

Policy: Marinas should be designed to minimize the adverse effects on the water habitat.

Policy: Marinas should be designed to be aesthetically compatible with the shoreline area.

Policy: Viewpoints should be provided which would allow the general public to view marina activity.

Policy: Marinas should be designed in conformance with federal, state, and local regulations.

Policy: Upland parking areas for boat launch facilities should be designed to provide adequate parking for the size of the facility.

Residential Development

Policy: Residential development on the shorelines of the City should be designed in a manner which would provide equal shoreline access to all residents of the subdivision.

Piers

A pier, dock or float is a structure built over or floating upon the water, used as a landing place for marine transport or for recreational purposes. Construction of dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee or contract purchaser of a single family residence, the cost of which does not exceed \$2,500 is exempted from the provisions of the Shoreline Act.

Policy: The cooperative use of piers, docks and floats should be encouraged.

Policy: Piers, docks or floats should be constructed so as to cause minimum interference with the public use of the water surface and shoreline.

Policy: Prior to the granting of a permit for a pier, dock or float, the effect of that structure upon adjacent shorelines should be determined by the Department of Planning and Economic Development and the disposition of the permit shall reflect such determination.

Policy: Preservative treated wood should not be placed in direct contact with the water in the Lake Whatcom watershed. All treated wood and other materials used for over-water construction on Lake Whatcom shall conform to E.P.A. standards applying to the protection of drinking water.

Policy: Over water construction on piers, docks or floats should be reserved for water oriented uses and where feasible should provide public access.

Recreation

There is a tremendous variety of recreational activities which should be provided for in Master Programs, from boating and fishing to passive enjoyment of the shoreline environment, be it natural or otherwise.

Policy: The procurement, for public use, of shorelines, which provide a locally unique opportunity for public recreation should be encouraged.

Policy: Recreational development should be designed to minimize adverse effects on the natural amenities of the shoreline while enhancing its recreational value and protecting the public health and safety.

STAFF RESPONSE: The subject proposal is for a replacement of an existing private common dock for a home owner's association. The *25-foot extension* of this facility has been designed with consideration for adjacent properties existing use areas for similar activities. And in fact, when the SSA proposed a 100-foot extension in 1996 – staff recommended a 25-foot extension as an alternative. This proposal is consistent with that staff recommendation from just over ten years ago.

The proposal has been designed to have minimal impact on water quality and fishery resources of Lake Whatcom. The applicant consulted early on in the process with fishery biologists from Washington State Department of Fish and Wildlife to arrive at the proposed design. The pier, gangway and floats have all been designed to use materials that do not present impacts to water quality – given that Lake Whatcom is our drinking water reservoir. The decking materials allow a significant amount more light pass through than conventional decking materials. This is important for the success and expansion of existing cutthroat and kokanee stocks within Lake Whatcom.

This proposal has also been designed to improve safety for recreational users both for the SSA and for adjacent property owners by minimizing space conflicts between boaters and swimmers.

SHORELINES OF STATEWIDE SIGNIFICANCE (SSWS): Certain shorelines are managed for their statewide significance as specified in RCW 90.58.020. These shorelines are; marine waters water-ward of the elevation of the mean lower low water mark AND all waters and shorelands associated with lakes that have a surface area larger than 1,000 acres. Therefore, Lake Whatcom, its associated shorelands and the waters of Bellingham Bay are SSWS. (Lake Whatcom has more than 5,000 acres of surface area.)

The only language in the City's existing SMP that speaks directly to SSWS is within the definitions section. Nonetheless, RCW 90.58.020 (Subsection of the Shoreline Management Act) includes criteria by which these certain water-bodies should be managed both in terms of developing master programs and applying to individual permits.

RCW 90.58.020: "The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."

STAFF RESPONSE: The State has an interest in the shorelines of Lake Whatcom from a water-quality and a recreation perspective. The proposal is designed such that it will not degrade water quality by virtue of the materials chosen to construct it. It does not prioritize one over the other but rather state-wide interest over local interest. It is the City's responsibility to balance these interests.

It is also important to point out that single-family residences and their appurtenant structures including docks and floats are among the preferred uses specified in the Shoreline Management Act. Water-dependent uses are also preferred uses; marinas and shipping piers.

Recreation on Lake Whatcom comes in many forms but most notably these are boating, (motorized and non-motorized vessels) swimming, fishing, and sight-seeing and viewing. The proposal does not compromise citizens of the state their ability to recreate on Lake Whatcom.

The common property including the shoreline itself that is owned by the SSA is not uniquely natural. The property has been utilized as a common private recreation area since approximately 1972. The shoreline itself has not been significantly altered over time. It is not vegetated except for some perimeter / property line vegetation including mature trees and shrubs. It is situated at the terminus of the fetch for Lake Whatcom and as a result, receives significant weather from November 1 to April 1. The shoreline is not bulk-headed or stabilized and continues to function for its users *relatively unmanaged*.

The long-term benefit is that because of the materials utilized in its construction it is not expected to introduce any pollutants to the lake that would affect water quality. It also preserves the opportunity for those homeowners within the SSA to engage in a variety of water-oriented recreational activities.

(The proposal may or may not attract *more* boats to Lake Whatcom which may or may not cause an impact to water quality. The purview of this permit does not allow the City to regulate whether boat owners should or should not be allowed to use their boats on Lake Whatcom.)

BELCHER SWANSON LAW FIRM, P.L.L.C.

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BELLINGHAM, WA 98225-3105
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DOUGLAS K. ROBERTSON
JEFFERY J. SOLOMON
BRADLEY D. SWANSON
SCOT S. SWANSON
PETER R. DWORKIN
MARK A. LACKEY

EXHIBIT E

June 19, 2008

Steve Sundin
City of Bellingham Planning Dept.
210 Lottie Street
Bellingham, WA 98225

Re: Silver Shores Shoreline Permit

Dear Steve,

Attached is our application for Shoreline Substantial Development Permit and SEPA Checklist, including plans and vicinity map.

The design of the pier, ramp, and floats is substantially different than the existing structure. The changes made were principally done in order to make the structure safer, more functional as moorage for the many boats owned by the residents of the development, and more environmentally sensitive. The design was developed in consultation with Pete Castle of WDFW, who is now retired. Nevertheless, the applicant tried to incorporate many of his suggestions. The design also takes into account RPG-3 issued by the Corps of Engineers for Lake Washington, Lake Sammamish, the Samish River, and Lake Union, including the Lake Washington Ship Canal. While these regulations are not technically applicable to Lake Whatcom, they include many environmentally sensitive requirements which are incorporated into our proposal. These include the black tub flotation devices, which reduce shading by causing the floats to ride higher in the water. Also, the floats themselves are structural aluminum trusses, and because of their significantly lighter weight, also create the same effect. Moreover, the entire structure, pier, ramp, and floats are fully grated composite materials. Additionally, the width of the structure has been reduced, which, once again, further reduces the shading effect. As I'm sure you know, the reason shading is important is because predators use the shade as hiding places and is much more effective at reducing the trout population. One major change is the length of the float. We were forced to lengthen the float by 23 feet for a couple of reasons. These are:

1. Boat owners have always had problems with water depths at our existing dock. Boats and props were often grounding out during parts of the year when the lake was somewhat

low. This occurs particularly in September, when the city starts to lower the lake in anticipation of winter rains, and many of my neighbors still have their boats in the water.

2. We have done depth soundings to determine water depths needed for the water craft and are asking only for the minimum amount needed for safety.

3. It is my belief over the past 30 years of observation that the lake is actually getting shallower. We have a relatively long fetch. During the winter months, storms often wash up much gunk that remains from the days when the sawmills operated in this vicinity.

4. The community swimming area is roped off immediately to the west of the dock. Even though we have used buoy lines to prevent boats from encroaching into that area, we still from time to time have people who, for whatever reason, don't get it. We have had some close calls. There are lots of kids swimming in there who could be seriously injured by a boat. By extending the dock this additional length, it will provide a screen and a deterrent from boats which otherwise might enter the swimming area. This is a serious safety issue, particularly in light of the fact that the water is now shallower and swimmers have been forced to venture farther from shore in order to have adequate depth for swimming and diving.

5. Diving at the end of our existing dock has always been a problem. My own son hit bottom with his face as a teenager. The increased length will also help eliminate that risk.

Thank you for your cooperation.

Sincerely yours,



Jack O. Swanson

Enclosures

cc: Ken Cords

49 RECEIVED
AUG 08 2008

City of Bellingham
Planning

July 27, 2008

City of Bellingham
Planning and Community Development Department
Planning Division
210 Lottie Street
Bellingham, WA 98225

EXHIBIT F

Attn: Mr. Steve Sundin

1010 N. SHORE

RE: Notice of Application and DNS Process #SHR 2008-0008 and #SEP 2008-00026

Dear Mr. Sundin,

We the undersigned disagree with approving the above-mentioned application for the following reasons having to do with the potential environmental impact:

- 1) Removal, enlargement and replacement of the existing dock would disturb the shoreline and lakebed, which could increase contamination of our city's drinking water.
- 2) The enlargement of the dock encourages additional boat moorage, which may cause more people to boat on the lake and contaminate our drinking water.
- 3) Altering the lakebed disturbs habitat for plant life, fish, frogs etc., along the shoreline and in the water. This is especially an issue since this property abuts a natural green space and the inlet of Silver Beach Creek inlet into Lake Whatcom.

We understand that the City of Bellingham has put a building moratorium in effect in the Silver Beach/Lake Whatcom watershed area due to concerns about water quality raised by the State Dept. of Ecology. The city's presentation at a recent Silver Beach Neighborhood Association meeting indicated that the water quality in this first basin of Lake Whatcom is especially problematic and is a primary reason for concern. The lakebed around this dock is very shallow, and any disturbance will undoubtedly contribute to impaired water quality. If people are forbidden from building **on shore** in order to protect the city's drinking water, then certainly people should be forbidden from building **in the water**. This reason alone should be enough to deny this application.

In addition, any time construction takes place, there is potential for unforeseen environmental contamination. For instance, in the Silver Shores neighborhood last summer, a contractor poured a substantial quantity of black tar-like waterproofing compound into Silver Beach Creek, just across North Shore Drive from the lake. The Dept. of Ecology sent a Haz-Mat team, and spent a week or so cleaning up the contamination. (It is our understanding that the contractor was not fined.) We do not want another "accident" to pollute our water.

Your notification of application states: "The PCDD has reviewed the proposed project for probable adverse impacts and expects to issue a Determination of Non-Significance for the project." The words "expects" and non-significance" are of concern.

- 1) So the determination has not yet been arrived at?
- 2) Adverse impacts being non-significant? Does this mean that impacts are expected, but that you are willing to allow them if you think they will be small?

If this application is approved, then others around the lake will lobby to be allowed to do so, too. Each project increases the environmental impact on our drinking water and the lake's natural habitat just a little bit, "non-significantly" in your words. When will it end?

We urge you and your department to set high standards and enforce them. You are the only ones that can compel citizens to make appropriate decisions regarding water quality in the Lake Whatcom watershed.

Thank you for your attention regarding this matter,

Name (Printed)	Address	Phone #	Signature
• OLIVIA LEE FOX	1008 NO. SHORE DR.	738-0930	<i>Olivia Lee Fox</i>
• Vale D Hartley	1125 E Beachview Pl.	734-8857	<i>Vale D Hartley</i>
• James H. Triggler	1125 E. Beachview Pl.	234-8857	<i>James H. Triggler</i>
• Carol-KOLODY	1121 E BEACHVIEW PL	733-2018	<i>Carol Kolody</i>
• Tom McILvenna	1114 E Beachview Pl	4410214	<i>Tom McILvenna</i>
• ERYN MESSER	1114 E. BEACHVIEW	920-8455	<i>Eryn Messer</i>
Karen Bade	1030 W. Beachview	2010521	<i>Karen Bade</i>
• STEVEN A LAGERWEY	3038 SILVER LN	647-9673	<i>Steven Lagerwey</i>
• Roberta Grady	1010 W. Beachview	733-4524	<i>Roberta Grady</i>
• Fiona Nichols	1004 W Beachview	671 4019	<i>Fiona Nichols</i>
• Kim Spees	1038 W Beachview Pl.	733-6724	<i>Kim Spees</i>
• Handace Ackelson	1030 W Beachview Pl.	(406)381-5697	<i>Handace Ackelson</i>

August 15, 2008

(highlighted)

Note: These pages contained additional signatures, which were not included on the letter sent earlier. Please combine these with the original submission.

Thank you,

Vale D Hartley

Ms. Vale D. Hartley
360-734-8857

1125 E. Beachview Pl.
Bellingham, WA 98226

RECEIVED

AUG 15 2008

City of Bellingham
Planning

July 27, 2008

City of Bellingham
Planning and Community Development Department
Planning Division
210 Lottie Street
Bellingham, WA 98225

RECEIVED

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Carol Kolody	1121 E BEACHVIEW PL	733-2018	<i>Carol Kolody</i>
Tom McLuenna	1114 E Beachview Pl	441-0214	<i>Tom McLuenna</i>
Eryn MESSER	1114 E Beachview Pl.	920-855	<i>Eryn Messer</i>
<i>[Signature]</i>	1120 Beachview co owner	233-4009	<i>[Signature]</i>
Dean Bame	216 Northshore	676-9519	<i>D Bame</i>
Jennifer Heiner	125 S 34 th St.	360-610-6476	<i>Jennifer Heiner</i>
DANIKA RODGERS	2827 W MAPLEWOOD AVE. #103	(425) 241-6105	<i>Danika Rodgers</i>
Tai Norman	112 E Maple #307	425 802-5831	<i>Tai Norman</i>

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ERYN MESSER	1114 E Beachview Pl.	920-8455	<i>Eryn Messer</i>
Reard Dwyler	1108 E. BEACHVIEW PL.	6769948	<i>Reard Dwyler</i>
LOUISE MCCARTNEY	1722 E ALLERIDGE	734-2852	<i>Louise McCartney</i>