

**DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT
TO CITY OF LAKE FOREST PARK HEARING EXAMINER**

The following review by the City of Lake Forest Park Planning Department is based on information contained in the application and supplemental correspondence, information in the file, comments and letters received on-site investigation, applicable scientific reports, applicable codes, development standards, adopted plans, and other information on file with the City.

SUMMARY INFORMATION

- City File Numbers:** 2017-SSD-0002
- Hearing Date:** Tuesday, October 24, 2017 at 1:00 PM
- Requested Action:** Approval of Shoreline Substantial Development proposal to modify an existing joint-use pier with construction of a new ell; replacement of ten existing pier piles; and replacement of two boat lifts.
- Applicant:** Evan Wehr, representative from Ecco Design Inc. (203 N 36th St., Seattle, WA 98103) on behalf of Sukhjiwan & Ranjiv Hayre and Robert DeFreitas.
- Site Location:** Hayre property:
16116 Beach Dr NE
Lake Forest Park, WA 98155
Parcel # 7738500260
- DeFreitas property:
16202 Beach Dr NE
Lake Forest Park, WA 98155
Parcel # 7738500255
- Comprehensive Plan Designation:** Single Family Residential - High (Exhibit 3)
- Zoning Classification:** RS-7,200 Single-Family Residential (Exhibit 4)

APPLICABLE CODES AND REGULATIONS FOR THE CONDITIONAL USE

(This list may not be completely exhaustive)

Lake Forest Park Municipal Code Sections Directly Applicable to the Proposal:

1. LFPMC Chapter 16.18 – Establishes the SMP (Shoreline Master Program) as the regulatory document for all shoreline uses, development and shoreline modification activities.
2. LFP SMP 3.4 (C) – Establishes notice requirements for an SSD
3. LFP SMP 3.8 (A) – Establishes posting and publishing policy specific to SSD applications
4. LFP SMP 8.5 (A) (1-19) – Establishes general regulations for private and public structures

5. LFP SMP 8.5 (B) (1-3) – Establishes general regulations for new piers
6. LFPMC 16.26.030 – Establishes the authority of the Hearing Examiner to issue quasi-judicial decisions for conditional use applications (Type I application).
7. LFPMC 16.26.110(D) – Establishes the decision of the Hearing Examiner on a Type I application as the final decision of the city.
8. LFPMC 16.26.040(D), .050, .090, and .110(C) – Establishes the public notification requirements associated with Type I applications.

BACKGROUND INFORMATION:**Description of the proposal:**

The Applicants have requested approval of a Shoreline Substantial Development proposal to modify an existing joint-use pier with construction of a new ell; replacement of ten existing pier piles; and replacement of two boat lifts. Applicant will replace existing wooden decking with grated decking, plant shoreline vegetation, and remove three existing wood piles which are no longer in use (Exhibits 2 and 3).

Methods of construction include using a vibratory hammer to remove existing piles and drive new ones. Materials will be brought by barge to the site. A containment boom will be set in place around the work area prior to beginning construction. Existing pier framing will be removed by hand and new pier will be constructed with hand tools. Applicants commit to employing best management practices to prevent deleterious materials from entering Lake Washington (Exhibit 5 and 6).

Applicants Sukhjiwan & Ranjiv Hayre and Robert DeFreitas authorized representation by Mr. Evan Wehr, Ecco Design Inc. (203 N 36th St., Seattle, WA98103), with their initial application, and for applications to other agencies.

The Shoreline Management Act defines “substantial development” as any development in which the fair market value exceeds five thousand dollars. In 2002, the Legislature passed a bill that requires the Office of Financial Management (OFM) to adjust this dollar threshold, based on inflation, every five years beginning July 1, 2007. The threshold was increased to \$5,718 in 2007, then to \$6,416 in 2012. LFP SMP Subsection 3.3.C.6.f (and Ch. 8.5) exempts recreation docks with a fair market value up to \$10,000 from being considered a substantial development. This proposal includes the addition of an ell to an existing pier and the JARPA application (Exhibit 6) indicate that it has a fair market value of \$60,000. Therefore, the fair market value thresholds established by the LFP SMP and by OFM have been exceeded and the proposal requires review by the City Hearing Examiner at a public hearing (Table 3.1 of the LFP SMP).

Site Characteristics:

The project site is an existing joint-use dock between the residential single-family lots owned by the Mr. DeFreitas and Mr. and Ms. Hayre. Both lots are developed with a single-family home and are both zoned RS 7,200. The Comprehensive Plan designation for both lots is Single Family Residential-High. The subject properties are designated Shoreline Residential by the SMP (SMP, Chapter 5, Fig. 1). The terrain is flat and the lots are situated northeast to southwest from Beach Drive to Lake Washington (Exhibits 3, 4 and 5).

Adjacent Land Use Characteristics:

The properties on either side of the subject properties are also zoned RS 7,200. The property to the northeast (16206 Beach Dr. NE), includes one single-family house and shares a joint-use pier, approximately 70 feet in length, with the property to its north (16270 Beach Dr. NE). That pier is over 150 feet from the subject pier. The property to the southwest of the subject property (16046 Beach Dr. NE) includes one single family house and also shares a joint-use pier approximately 70 feet in length with the property to the southwest (16042 Beach Dr. NE). That pier is over 115 feet from the subject pier. The Kenmore Interceptor sewer line lies approximately 120 from the shoreline in the project area. (Exhibits 3, 4 and 5).

Project Review Timeline:

The application was submitted on March 10, 2017. The application were determined to be complete as of April 7, 2017. A Notice of Application was published on September 29, 2017 and October 6, 2017. Properties within 300 feet of the subject site were sent the published announcement on or prior to September 29, 2017 and the notice was posted in the three required locations on that same date (Exhibit 7). Subsection 16.26.040(F)(1) LFPMC states that the code administrator to reach decisions within 120 net review days unless there is agreement between the city and the applicant to a different timeframe. The October 24 hearing is being held beyond the 120th net review day. The Hearing Examiner can confirm that this time frame is acceptable to the applicant.

CRITERIA ANALYSIS

The following criteria have been excerpted from the Lake Forest Park Shoreline Master Program. For those criteria not applicable to this proposal, the code language may only be listed on the following criteria list, along with a statement in bold: **Not Applicable**.

Lake Forest Park Shoreline Master Program, Chapter 8

8.5 Overwater Structures: Piers, Docks, Floats and Buoys

8.5.A. General Regulations for Private and Public Structures

- 1. All new, reconstructed, repaired, or modified overwater structures must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.*
- 2. New floating docks shall not be permitted. Piers that terminate in a floating section are allowed provided that the landward edge of the float is over water with a depth of ten (10) feet or more and are at least 30 feet from the OHWM. All float tubs shall be fully encapsulated. **Not Applicable.***
- 3. Proposed overwater structures which are not an accessory use to residential development and are not joint-use structures must obtain a conditional use permit. A conditional use permit may be granted if... **Not Applicable.***
- 4. Except for recreation floats, proposed overwater structures which are not accessory to a residential use and are granted a conditional use permit must comply with the regulations of this section for overwater structures which are accessory to single-family residential development. **Not Applicable.***

5. Proposed overwater structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a variance. **Not Applicable.**
6. No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than five (5) feet above the OHWM.
7. No residential dwelling unit may be constructed on a pier. **Not Applicable.**
8. Grated decking is required on all new or replaced moorage facility surfaces.
9. All pier and dock dimensions shall be minimized to the maximum extent feasible. The proposed length must be the minimum necessary to support the intended use.
10. No skirting is permitted on any structure. **Not Applicable.**
11. All piers, docks, floats, and similar structures shall float at all times on the surface of the water or shall be of fixed-pile construction. Floating structures shall at no time rest on the lake substrate.
12. All over-water structures and other water-use developments shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.
13. Lighting associated with overwater structures shall be beamed, hooded, or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.
14. Piles, floats and other water-use structures that are in direct contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol. Use of wood members treated with arsenate compounds or creosote is prohibited.
15. Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one (1) year at no cost to the environment or the public.
16. Boathouses or other walled covered moorage are not permitted. **Not Applicable.**
17. If a pier, ramp, or dock is provided with a safety railing, such railing shall not exceed 36 inches in height and shall be an open framework that does not unreasonably interfere with shoreline views of adjoining properties. **Not Applicable.**
18. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally non-reflective.
19. No more than one moorage type is allowed per single-family residential lot, except that in cases when an existing moorage structure must be extended to a length consistent with this SMP to achieve adequate moorage depth, one (1) mooring buoy may be allowed as an alternative to structure extension.

8.5.B. New Piers

1. New piers may be permitted as an accessory to residential development provided:

a. The applicant has demonstrated to the satisfaction of the Shoreline Administrator that a shared or joint-use pier is not feasible.

b. No more than one (1) pier for each single-family residence is permitted.

c. On lots with less than fifty (50) feet of waterfront, joint-use piers shall be required, except when both lots abutting the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may the lot with less than fifty (50) feet of waterfront be permitted an individual pier. **Not Applicable.**

2. A new, joint-use pier may be permitted on a community recreation lot shared by a number of waterfront and/or upland lots provided the applicant has demonstrated a need for moorage. **Not Applicable.**

3. Development Standards

a. Only piers and ramps are permitted in the first 30 feet of the OHWM. All floats, fingers and ells must be at least 30 feet waterward of the OHWM.

b. All new decking must be fully grated.

c. Length.

i. The maximum waterward intrusion of any portion of any pier shall be one hundred twenty (120) feet. In cases where more than 80 feet are desired, the applicant shall demonstrate to the satisfaction of the Shoreline Administrator that there are unique circumstances that require additional length, such as situations where the excess pier length is necessary to achieve a minimum depth of 10 feet. The proposed length must be the minimum necessary to support the intended use.

ii. The maximum length of ells and fingers is 26 feet. The maximum length of a float is 20 feet.

d. Width.

i. The maximum width of a pier walkway is four (4) feet with ells and floats up to six (6) feet wide. Any additional fingers must be two (2) feet wide.

ii. The maximum width of a ramp connecting a pier to a float is 3 feet. **Not Applicable.**

e. Size. Surface coverage, including all floats, ramps and ells, shall be limited to the following:

i. Four hundred eighty (480) square feet for a single property owner; **Not Applicable.**

ii. Seven hundred (700) square feet for a joint-use structure utilized by two residential property owners;

iii. One thousand (1,000) square feet for a joint-use structure utilized by three or more residential property owners. **Not Applicable.**

f. Spacing. Except for joint-use structures, piers shall be spaced a minimum of 20 feet apart from adjacent piers or 10 feet from the side yard, whichever is greater. **Not Applicable.**

g. Piles. Piles shall be the minimum size allowed by site-specific engineering or design considerations, and shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds. Piles shall be spaced a minimum of 18 feet apart except when shown not to be feasible for site-specific engineering or design considerations.

h. Mitigation. All proposals involving new piers or docks are subject to the following mitigation requirements:

i. Any existing in-water and overwater structures shall be removed if they are associated with either a moorage structure or other recreational use that is located within 30 feet of the OHWM.

ii. Emergent vegetation shall be planted waterward of the OHWM, unless the City determines that it is not appropriate or feasible.

iii. Native riparian vegetation shall be planted in at least 75 percent of the nearshore riparian area located along the water's edge. The vegetated portion of the nearshore riparian area shall average ten (10) feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Joint-use piers required under the provisions of this Chapter shall require a vegetative riparian zone along all properties sharing the pier. Other joint-use piers shall be required to provide the same mitigation as required for one property, which can be split evenly between the subject properties.

iv. Mitigation plantings shall be subject to the following requirements:

a) Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and 60% shrubs must be included in the plan. Plant materials must be native. Plant density and spacing shall be appropriate for the site and commensurate with spacing recommended for each individual species proposed. An alternative planting plan or mitigation measure in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies.

In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation.

v) In addition to a native planting plan, a 5-year vegetation maintenance and monitoring plan shall be submitted to the City for approval. The monitoring plan shall include the following performance standards:

a) Preparation of as-built drawings after installation of the mitigation plantings;

b) Annual monitoring reports for 5 years that include written and photographic documentation on tree and shrub mortality, subject to the following success criteria:

i. One-hundred (100) percent survival of all planted native trees and shrubs during the first two (2) years after planting; and

ii. One hundred (100) percent survival of trees and eighty (80) percent survival of remaining native plants in years three (3) through five (5).

Copies of reports that are submitted to state or federal agencies in compliance with permit approvals may be submitted in lieu of a separate report to the City, provided that the reports address a 5-year maintenance and monitoring plan.

*i. The City shall approve the following modifications to a new pier proposal that deviates from the dimensional standards above, subject to both U.S Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. The applicant shall provide documentation at the time of building permit submittal that the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife have approved the alternative proposal design. In addition, the following requirements and all other applicable provisions in this Chapter shall be met. **Not Applicable.***

8.5.D. Pier and Dock Additions

1. Additions to existing piers or docks may be permitted under the following circumstances:

- a. When additional length is required to reach 10 feet of water depth;*
- b. When a single-use pier is converted to a joint-use pier; or*
- c. When the addition of an ell or finger will increase safety and usability.*

2. Enlarged portions must comply with the new pier or dock standards for length and width, height, water depth, location, and pilings and for materials as described in B.3 above.

3. Must convert an area of decking within 30 ft. of the OHWM to grated decking equivalent in size to the additional surface coverage.

4. Mitigation:

- a. The applicant must remove any in-water structures rendered obsolete by the addition;*
- b. Planting must comply with mitigation requirements for new piers.*

8.5.E. Repair of Existing Residential Pier or Docks

1. Repair proposals which replace 75 percent or greater of the existing pier-support piles are considered replacement piers and must comply with requirements for Replacement Piers.

2. Repair proposals which replace between 25 and 75 percent of the existing pier-support piles must achieve the minimum 18-foot spacing to the extent allowed by site-specific engineering or design considerations and shall install deck grating on all areas of replaced decking.

3. All proposed replacement piles shall be the minimum size allowed by site-specific engineering or design considerations, and shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.

4. *Pile repair shall not utilize pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.*
5. *Repair proposals which replace 50 percent or more of the decking must use grating as specified above.*
6. *Other repairs to existing legally established moorage facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If the cumulative repair proposed over a three-year period exceeds thresholds established for reconstructed or repaired piers listed above, the current repair proposal shall be reviewed under those provisions.*

8.5.F. Boatlifts, Canopies, and Covered Moorage

1. *Boatlifts and boatlift canopies may be permitted as an accessory to residential development, or as a conditional use in the Shoreline Residential and Urban Conservancy Environments when not accessory to residential structures, provided that:*
 - a. *All lifts are placed as far waterward as feasible and safe,*
 - b. *Boatlift canopies are elevated above the boatlift to the maximum extent practicable and are made of light-permeable fabric, and **Not Applicable.***
 - c. *Any platform lifts are fully grated.*
2. *A moorage cover over a boat slip or boat lift may be permitted in the Shoreline Residential Environment when accessory to a residential structure or as a conditional use when not accessory to a residential structure , provided that: **Not Applicable.***
 - a. *The cover must be constructed of light-permeable materials,*
 - b. *The cover must be elevated above the water’s surface to the maximum extent practicable, and*
 - c. *The applicant demonstrates to the satisfaction of the Shoreline Administrator that the moorage cover is the minimum size necessary to serve the intended use of protecting the watercraft from the elements.*
3. *All lifts, canopies, and covers must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.*
4. *Boat houses are not permitted. Not Applicable.*

Lake Forest Park Shoreline Master Program

Chapter 8.5.A Overwater Structures: Piers, Docks, Floats and Buoys

8.5 CRITERION A.1: *All new, reconstructed, repaired, or modified overwater structures must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.*

No comments other than Exhibit 9 (King County Wastewater Division) have been received from agencies with jurisdiction at the time of distribution of this staff report. Recommended conditions of approval on the final page of this report address Permittee's responsibility to incorporate conditions from these agencies prior to construction.

Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.6: *No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than five (5) feet above the OHWM.*

The submitted drawings indicate a distance of 1'4" between the OHWM (21.85) and the top of the beam cap (Exhibit 5). Sheet 5 shows that the thickness of the grating and the stringer is equal to or less than 10 inches (Exhibit 5). Sheet 6 appears to show that the water depth at the end of the dock would fluctuate between 5'11" and 6'8" (Exhibit 5). Therefore, the information provided suggests that the greatest elevation that this proposed pier will be above the OHWM is 35". Staff recommends that the applicant provide the Hearing Examiner with additional information, or oral testimony, confirming that to be the case.

This criterion is met, subject to confirmation with oral testimony or additional documentation.

8.5 CRITERION A.8: *Grated decking is required on all new or replaced moorage facility surfaces.*

Sheet 1 for the proposed project indicate that all decking will be grated (Exhibits 3).

This criterion is met.

8.5 CRITERION A.9: *All pier and dock dimensions shall be minimized to the maximum extent feasible. The proposed length must be the minimum necessary to support the intended use.*

The applicant indicates that the depth of water reachable with the proposed pier is 5'11". The new ell matches the length of the existing one (Exhibits 3).

This criterion is met.

8.5 CRITERION A.11: *All piers, docks, floats, and similar structures shall float at all times on the surface of the water or shall be of fixed-pile construction. Floating structures shall at no time rest on the lake substrate.*

Drawings of the proposed pier show that the structure will be supported with fixed-piles. (Exhibit 5)

This criterion is met.

8.5 CRITERION A.12: *All over-water structures and other water-use developments shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.*

This criterion relates to conditions after construction, and this requirement has been incorporated with recommended conditions of approval.

Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.13: *Lighting associated with overwater structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.*

Lighting installations have not been included with this proposal; however, these requirements have been incorporated with recommended conditions of approval.

Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.14: *Piles, floats and other water-use structures that are in direct contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol. Use of wood members treated with arsenate compounds or creosote is prohibited.*

Drawings for this proposal show that the pilings will be made of steel. There is no indication that the steel will receive treatment of any kind (Exhibit 5 and 6). There is no indication within this report that the applicant intends to treat or coat the wood members with herbicides, fungicides, paint, or pentachlorophenol. Similarly, the applicant does not indicate an intention to treat those wood members with arsenate compounds or creosote. These restrictions have been incorporated with recommended conditions of approval.

Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.15: *Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one (1) year at no cost to the environment or the public.*

The Applicant has proposed to use a barge in the process of constructing this pier. Proposed construction activities include the use of a vibratory driver (Exhibit 4). Submitted materials do not include details of the design and construction of the barge.

The requirement associated with this criterion has been incorporated with recommended conditions of approval. Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.18: *Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally non-reflective.*

Reflectors have not been specifically called out with the proposed plans. These requirements have been incorporated with recommended conditions of approval.

Criterion met, subject to compliance with recommended conditions.

8.5 CRITERION A.19: *No more than one moorage type is allowed per single-family residential lot, except that in cases when an existing moorage structure must be extended to a length consistent with this SMP to achieve adequate moorage depth, one (1) mooring buoy may be allowed as an alternative to structure extension.*

This proposal involves altering the only moorage type for two single-family residential lots. A mooring buoy is not part of this proposal (Exhibit 5).

This criterion is met.

Lake Forest Park Shoreline Master Program

Chapter 8. 5. B. New Piers

8.5 CRITERION B.1: *New piers may be permitted as an accessory to residential development provided:*

a. The applicant has demonstrated to the satisfaction of the Shoreline Administrator that a shared or joint-use pier is not feasible.

The proposal is an alteration to a joint-use pier.

This criterion is not applicable.

b. No more than one (1) pier for each single-family residence is permitted.

This criterion is not applicable.

c. On lots with less than fifty (50) feet of waterfront, joint-use piers shall be required, except when both lots abutting the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may the lot with less than fifty (50) feet of waterfront be permitted an individual pier.

The proposal is an alteration to a joint-use pier.

This criterion is not applicable.

8.5 CRITERION B.3.a: *Only piers and ramps are permitted in the first 30 feet of the OHWM. All floats, fingers, and ells must be at least 30 feet waterward of the OHWM.*

Submitted drawings for from the applicants indicate the new ell and replacement boat lifts are 40 feet waterward of the OHWM (Exhibit 5).

This criterion is met.

8.5 CRITERION B.3.b: *All new decking must be fully grated.*

The applicant has proposed all new decking with a grated material. (Exhibits 3).

This criterion is met.

8.5 CRITERION B.3.c: *Length.*

i. The maximum waterward intrusion of any portion of any pier shall be one hundred twenty (120) feet. In cases where more than 80 feet are desired, the applicant shall

demonstrate to the satisfaction of the Shoreline Administrator that there are unique circumstances that require additional length, such as situations where the excess pier length is necessary to achieve a minimum depth of 10 feet. The proposed length must be the minimum necessary to support the intended use.

The applicants have requested approval of an ell that extends to a point 70 feet waterward of the OHWM (Exhibit 5).

This criterion is met.

ii. The maximum length of ells and fingers is 26 feet. The maximum length of a float is 20 feet.

The applicants have requested approval of an ell that is 26 feet long (Exhibit 5).

This criterion is met.

8.5 CRITERION B.3.d: Width.

i. The maximum width of a pier walkway is four (4) feet with ells and floats up to six (6) feet wide. Any additional fingers must be two (2) feet wide.

Drawings of the proposed ell indicate that it will be 6 feet wide (Exhibit 5).

This criterion is met.

ii. The maximum width of a ramp connecting a pier to a float is 3 feet.

Not applicable.

8.5 CRITERION B.3.e: Size. Surface coverage, including all floats, ramps and ells, shall be limited to the following:

ii. Seven hundred (700) square feet for a joint-use structure utilized by two residential property owners;

The applicants have requested approval for an additional ell which will bring the total area of the pier to 670 square feet according to proposed site plan (Exhibit 5)

This criterion is met.

8.5 CRITERION B.3.f: Spacing. Except for joint-use structures, piers shall be spaced a minimum of 20 feet apart from adjacent piers or 10 feet from the side yard, whichever is greater.

The proposal is an alteration to a joint-use pier.

This criterion is not applicable.

8.5 CRITERION B.3.g: Piles. Piles shall be the minimum size allowed by site-specific engineering or design considerations, and shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds. Piles shall be

spaced a minimum of 18 feet apart except when shown not to be feasible for site-specific engineering or design considerations.

Drawings for the proposed pier indicate 10 wooden piles will be replaced with 10 six-inch diameter steel piles. The new ell will be supported by six 10 inch diameter steel piles. There are no indications within the application that any toxic compounds proposed to treat these piles. The applicants have not offered an explanation for why the 18-foot spacing is not feasible on the new ell. It would only be feasible to have one 18-foot span within the length of the new, 26-foot ell, so it would not result in any fewer piles than the proposed design (Exhibit 5).

This criterion is met.

8.5 CRITERION B.3.h: Mitigation. *All proposals involving new piers or docks are subject to the following mitigation requirements:*

i. Any existing in-water and overwater structures shall be removed if they are associated with either a moorage structure or other recreational use that is located within 30 feet of the OHWM.

Not applicable. The subject property has no existing in-water or overwater structure.

This criterion is met.

ii. Emergent vegetation shall be planted waterward of the OHWM, unless the City determines that it is not appropriate or feasible.

In similar cases the City and the Hearing Examiner have accepted expert testimony that requiring emergent vegetation plantings (2016, Fudge) in Lake Washington is unlikely to be successful mitigation. In the Fudge case, Sarah Sandstrom, a representative from the applicant's consultant group, the Watershed Company, and author of the Biological Evaluation stated the following:

“Emergent plants were not included waterward of the OHWM in the Fudge Planting Plan because the reverse hydroperiod of Lake Washington (high in summer and low in winter) typically results in poor survival of emergent vegetation below the high water mark.”

Staff finds that this explanation sufficiently addresses the question of appropriateness and feasibility for all such proposals on Lake Washington.

This criterion is met.

iii. Native riparian vegetation shall be planted in at least 75 percent of the nearshore riparian area located along the water's edge. The vegetated portion of the nearshore riparian area shall average ten (10) feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement.

Drawings for this proposal include native riparian plantings along DeFreitas shoreline. The drawing is not to scale so the average depth cannot be determined. The proposal

benefits the DeFreitas property for the most part and they do not have control of 75 percent of the nearshore area (Exhibit 5).

Criterion met, subject to further verification of existing nearshore plantings by applicants and compliance with conditions of approval.

iv. Mitigation plantings shall be subject to the following requirements:

a) Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and 60% shrubs must be included in the plan. Plant materials must be native. Plant density and spacing shall be appropriate for the site and commensurate with spacing recommended for each individual species proposed. An alternative planting plan or mitigation measure in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies.

The planting plan for this proposal calls for three trees to be planted (Exhibit 5). The applicant has been asked to provide further information about how the plan meets the criteria.

Criterion met, subject to further verification of existing nearshore plantings by applicants and compliance with conditions.

In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation.

The applicants may ask to consider existing vegetation as an integral part of meeting the vegetation requirements.

Criterion met, subject to further verification of existing nearshore plantings by applicants and compliance with conditions.

v. In addition to a native planting plan, a 5-year vegetation maintenance and monitoring plan shall be submitted to the City for approval. The monitoring plan shall include the following performance standards:

A maintenance and monitoring plan has not been included with this proposal; however, these requirements have been incorporated with recommended conditions of approval.

a) Preparation of as-built drawings after installation of the mitigation plantings;

b) Annual monitoring reports for 5 years that include written and photographic documentation on tree and shrub mortality, subject to the following success criteria:

i. One-hundred (100) percent survival of all planted native trees and shrubs during the first two (2) years after planting; and

ii. One hundred (100) percent survival of trees and eighty (80) percent survival of remaining native plants in years three (3) through five (5).

Copies of reports that are submitted to state or federal agencies in compliance with permit approvals may be submitted in lieu of a separate report to the City, provided that the reports address a 5-year maintenance and monitoring plan.

i. The City shall approve the following modifications to a new pier proposal that deviates from the dimensional standards above, subject to both U.S Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. The applicant shall provide documentation at the time of building permit submittal that the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife have approved the alternative proposal design. In addition, the following requirements and all other applicable provisions in this Chapter shall be met.

Chapter 8.5.D Pier and Dock Additions

8.5 CRITERION D.1: *Additions to existing piers or docks may be permitted under the following circumstances:*

- a. When additional length is required to reach 10 feet of water depth;*
- b. When a single-use pier is converted to a joint-use pier; or*
- c. When the addition of an ell or finger will increase safety and usability.*

Sub-criteria a. and b. are not applicable. The subject pier is already a joint-use pier and depth is not an issue for the applicants. The ell allows the DeFreitas boatlift to be moved away from the main pier, thereby reducing conflicts with other activities on the dock (Exhibit 5)

This criterion is met.

8.5 CRITERION D.2. *Enlarged portions must comply with the new pier or dock standards for length and width, height, water depth, location, and pilings and for materials as described in B.3 above.*

The new ell complies with the standards for new piers as discussed above (Exhibit 5).

This criterion is met.

8.5 CRITERION D.3. *Must convert an area of decking within 30 ft. of the OHWM to graded decking equivalent in size to the additional surface coverage.*

Graded decking will replace all existing decking (Exhibit 5).

This criterion is met.

8.5 CRITERION D.4. *Mitigation:*

a. The applicant must remove any in-water structures rendered obsolete by the addition;

b. Planting must comply with mitigation requirements for new piers.

Three existing piles are being removed that have been rendered obsolete. The applicant has been asked to provide further information about how the plan meets the criteria. (Exhibit 5).

Criterion met, subject to further verification of existing nearshore plantings by applicants and compliance with conditions.

Chapter 8.5. E. Repair of Existing Residential Pier or Docks

8.5 CRITERION E.1: *Repair proposals which replace 75 percent or greater of the existing pier-support piles are considered replacement piers and must comply with requirements for Replacement Piers.*

The existing pier had nineteen piles. Three existing piles are being removed that have been rendered obsolete. Six wooden piles are to remain. Therefore, the threshold not met since only 62.5 percent of the piles are being replaced (Exhibit 5).

Not applicable.

8.5 CRITERION E.2: *Repair proposals which replace between 25 and 75 percent of the existing pier-support piles must achieve the minimum 18-foot spacing to the extent allowed by site-specific engineering or design considerations and shall install deck grating on all areas of replaced decking.*

Drawings for the proposed pier indicate 10 wooden piles will be replaced with 10 six-inch diameter steel piles. Three existing piles are being removed which increased the spacing in the nearshore area. The applicants have not offered an explanation for why the 18-foot spacing is not feasible. (Exhibit 5).

Criterion can be met by requiring a change in design, but it is recommended that the applicant be given the opportunity to justify the proposed spacing.

8.5 CRITERION E.3: *All proposed replacement piles shall be the minimum size allowed by site-specific engineering or design considerations, and shall not be treated with*

pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.

The applicants have not offered an explanation as to whether smaller diameter piles are feasible. There are no indications within the application that any toxic compounds proposed to treat these piles.

Criterion can be met by giving the applicant the opportunity to confirm that the diameter of new and replacement piles is the minimum size allowed by site-specific engineering or design considerations.

8.5 CRITERION E.4: *Pile repair shall not utilize pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.*

No pile repair is proposed.

Not applicable.

8.5 CRITERION E.5: *Repair proposals which replace 50 percent or more of the decking must use grating as specified above.*

Graded decking will replace all existing decking (Exhibit 5).

This criterion is met.

8.5 CRITERION E.6: *Other repairs to existing legally established moorage facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If the cumulative repair proposed over a three-year period exceeds thresholds established for reconstructed or repaired piers listed above, the current repair proposal shall be reviewed under those provisions.*

Not applicable.

Chapter 8.5.F Boatlifts, Canopies, and Covered Moorage

8.5 CRITERION F.1: *Boatlifts and boatlift canopies may be permitted as an accessory to residential development, or as a conditional use in the Shoreline Residential and Urban Conservancy Environments when not accessory to residential structures, provided that:*

a. All lifts are placed as far waterward as feasible and safe,

The new ell allows the DeFreitas boatlift to be located significantly more waterward than the old location submitted drawings (Exhibit 5).

This criterion is met.

b. Boatlift canopies are elevated above the boatlift to the maximum extent practicable and are made of light-permeable fabric, and

This criterion is not applicable. Boatlift canopies are not included with this proposal.

c. Any platform lifts are fully grated.

This criterion is not applicable. A platform lift is not included with this proposal. Drawings reference the proposed boatlift as free-standing.

8.5 CRITERION F.3: *All lifts, canopies, and covers must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.*

This requirement and the potential for subsequent requests from agencies of jurisdiction have been contemplated the recommended conditions of approval on the final page of this report.

This criterion is met.

PUBLIC AND AGENCY COMMENT

The City has not received any public comments for this proposal other than the letter from King County Wastewater Treatment Division (Exhibit 9).

CONCLUSIONS AND RECOMMENDATION

The Planning Department concludes that the applicant has shown that the proposal meets or can meet all of the criteria for a Shoreline Substantial Development.

The Planning Department recommends approval of the proposal of the design in Exhibit 5 subject to with the conditions listed below and additional testimony justifying certain aspects of the design and mitigation.

The Planning Department recommends the conditional approval of the request for Shoreline Substantial Development (2017-SSD-0002) for the reasons discussed above subject to the following conditions:

1. The site plan is valid for a period of five years from the date of approval.
2. Permittee must apply for and receive all necessary permits from the Department of Planning and Building prior to commencing any proposed work.
3. All over-water structures and other water-use developments shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.
4. Lighting associated with overwater structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.

Exhibit 1.19

5. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one (1) year at no cost to the environment or the public.
6. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish shall be generally non-reflective.
7. Prior to building approval, the Permittee must receive City approval for a 5-year vegetation maintenance and monitoring plan for the approved mitigation according to criteria stated in LFP SMP 8.5 (B)(3)(h)(v).
8. If applicable, the Permittee shall provide documentation at the time of building permit submittal that the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife have approved the proposed design.
9. The Permittee is responsible for complying with any conditions of approval placed on these or other state or federal permits or approvals, and for submitting revised drawings to the City for its review and approval, if necessary, to reflect these state or federal conditions of approval.
10. The Permittee shall not cover grated decking material with any objects which would impact light transmission.
11. Prior to construction, the Permittee shall provide evidence that the wood members proposed to construct this pier have not been treated or coated with herbicides, fungicides, paint, or pentachlorophenol; Additionally, the Permittee shall provide evidence that wood members used to alter this pier have not been treated with arsenate compounds or creosote.
12. The Permittee must attempt to arrange with the Snoqualmie Indian Tribe for their archeology staff to be present to observe construction. Contact information is as follows:
Adam Osbekoff, Phone: (425) 753-0388, email: adam@snoqualmietribe.us
13. The Permittee is responsible for supplying as-built drawings and all monitoring reports for this project. Contact information is as follows:
Karen Walter, Muckleshoot Indian Tribe Fisheries Division
39015 172nd Avenue SE
Auburn, WA 98092
14. Construction drawings for building permit review must include the location of the Kenmore Interceptor lake line. Drawings must be submitted to the following address for project impact analysis:
Mark Lampard, Local Public Agency Coordinator
King County WTD, Project Management Unit
201 South Jackson Street, KSC-NR-0508
Seattle, WA 98104-3855

15. Permittee must contact Mr. Lampard at King County WTD a minimum of 72 hours prior to commencing any construction. Permittee is required to arrange for a King County Inspector to be on site during construction. Contact information is as follows:

Mark Lampard, Local Public Agency Coordinator

Phone: 206-477-5414, and e-mail: mark.lampard@kingcounty.gov

Submitted: _____ **Date:** _____
Stephen Bennett, AICP

For information about this proposal or questions about this staff report, please contact Stephen Bennett, Planning Director at Lake Forest Park City Hall, 17425 Ballinger Way NE, (206) 957-2812 or e-mail steve@cityofflp.com

PARTIES OF RECORD

Grace Smith

Water Quality Planner
King County WTD, Project Management Unit
201 South Jackson Street, KSC-NR-0508
Seattle, WA 98104-3855