



CITY OF KIRKLAND
Planning and Building Department
123 Fifth Avenue, Kirkland, WA 98033
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**CITY OF KIRKLAND
NOTICE OF DECISION
SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

August 31, 2022

Permit Application: Shoreview Dock Association Boat Lifts

File No.: [SHR21-00750](#)

Location: 6401, 6363, 6333 Lake Washington Blvd, and Department of Natural Resources parcel no. 678000-0091.

Applicant: Evan Wehr with ecco design inc.

Project Description: Install eleven new boat lifts and permit seven non-permitted boat lifts and one un-permitted jet-ski lift on a preexisting pier and slips (see Attachment 2).

Review Process: Substantial Development Permit - Process I

Project Planner: David Aldridge III, Planner (425) 587-3256
DAldridge@KirklandWA.gov

SEPA Determination: Determination of Non-Significance, File No. SEP22-00150 (see Attachment 3)

Department Decision: **Approval with Conditions**

Deputy Planning and Building Director
for Adam Weinstein, Director
Planning and Building Department

Decision Date:	August 30, 2022
Appeal Deadline:	21 days after Department of Ecology receives this decision

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

How to Appeal: *Only the applicant or those persons who previously submitted written comments or information to the Planning Director are entitled to appeal this decision. A party who signed a petition may not appeal unless such a party also submitted independent written comments or information.*

Appeals of the City's decision may be filed with the State Shoreline Hearing's Board. The 21-day appeal period begins on the date that the Department of Ecology receives the City's decision, referred to as the filing date. Contact the Department of Ecology to obtain the official filing date. In the event of an appeal, the City and the applicant will be notified of the appeal. The City cannot issue any development permits related to this shoreline permit until the State appeal process is complete.

Comment to City Council: If you do not file an appeal, but would like to express concerns about policies or regulations used in making this decision or about the decision making process, you may submit comments to citycouncil@kirklandwa.gov. Expressing your concerns in this way will not affect the decision on this application but will enable the City Council to consider changes to policies, regulations or procedures that could affect future applications.

I. CONDITIONS OF APPROVAL

1. This application is subject to the applicable requirements contained in the shoreline regulations of Chapters 83 and 141 of the Kirkland Zoning Code (KZC). In addition, for the building permit, the applicant is subject to the requirements of Municipal Code, the Building and Fire Code, should a permit be required and other regulations in the Zoning Code. Attachment 4, Development Regulations is provided in this report to familiarize the applicant with some of these development regulations. This attachment references current regulations and does not include all of the additional regulations. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. When a condition of approval conflicts with a development regulation in Attachment 4, the Condition of Approval shall be followed (see Conclusion VII.B).
2. Prior to final inspection, the applicant shall locate at least two (2) covered and secured waste receptacles upland of the OHWM.

II. SITE AND NEIGHBORHOOD CONTEXT

Shoreline Designation	R-M/H (A), Residential - Medium/High
Zone	WD I, Medium Density Residential
Location	Abuts Lake Washington
Property Size	46,912 ft ² / 1.08 acres combined
Current Land Use	Three Condominium Buildings and DNR Lease Lands
Current In-Water Structures	A Multifamily Pier (26 slips) with eight boat lifts and one jet-ski lift
Shoreline Condition	Rip rap with a concrete bulkhead
Terrain	The subject property is mostly flat.

Vegetation in Shoreline Setback	Existing vegetation includes lawn and landscaping
Neighboring Zoning and Development	
• North	Condominiums
• South	Condominiums
• East	Condominiums & One Single-Family Residence
• West	Lake Washington

III. PUBLIC NOTICE AND COMMENT

The public comment period for this application ran from March 10, 2022 to April 11, 2022. No public comments were received during this time.

IV. CRITERIA FOR SHORELINE SUBSTANTIAL DEVELOPMENT APPROVAL

- A. Facts: KZC Section 141.70.c states that Shoreline Substantial Development (SDP) permits must meet the requirements in Washington Administrative Code (WAC) 173-27-140 and WAC 173-27-150. The approval criteria are discussed below:
1. WAC 173-27-140 establishes the general review criteria that must be met:
 - a. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is consistent with the policy and provisions of the Shoreline Management Act and the master program.
 - b. No permit shall be issued for any new or expanded building or structure of more than 35' above average grade level on the shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.
 2. WAC 173-27-150 establishes that a substantial development permit may only be granted when the proposed development is consistent with all of the following:
 - a. The policies and procedures of the Shoreline Management Act (WAC 173-26-176).
 - b. The provisions of WAC 173-27, which outlines the permit review process for SDPs.
 - c. The applicable Shoreline Master Program (SMP), which can be found in Chapter 83 KZC.
 3. The project is a water dependent use consistent with WAC 173-27-140 and WAC 173-27-150 and also meets the State's SMA policies, and the policies and regulations of the City's SMP found in KZC 83.
 4. The project is consistent with the applicable policies of the City's SMP found in the Shoreline Area chapter of the Comprehensive Plan and as discussed below in Sections V and VI.
 5. A complete application for a SDP has been submitted by the proponent and the City has given appropriate notice of the application and is thus consistent with WAC 173-27.

- B. Conclusions: The proposal meets WAC 173-27-140 and WAC 173-27-150 because it is found to be consistent with the City's SMP and thus the SMA. The permit review process of WAC 173-27 has been followed.

V. SHORELINE POLICIES

- A. Facts: The City of Kirkland, through adoption of the Shoreline Master Program update, implements the Washington State Shoreline Management Act and its policies. Below are the applicable shoreline policies found in the Shoreline Area Chapter of the Comprehensive plan, followed by Staff analysis in italics.

1. Policy SA-1.3: Maintain existing and foster new uses that are dependent upon or have a more direct relationship with the shoreline and Lake Washington.

Certain shoreline uses are more dependent on or have a more direct relationship with the shoreline than others. The Shoreline Management Act requires that shoreline master programs give priority to:

A water-dependent use, as defined in KZC Chapter 83, is dependent on the water by reason of the intrinsic nature of its operations and cannot exist in any other location. Examples include swimming beaches, boat launches, boat piers, and marinas.

Staff Comment: As a water-dependent use, boat lifts meet the intent of Policy SA-1.3 and the SMA's policy of promoting shoreline access.

2. Policy SA-11.2: Design and construct new or expanded piers and their accessory components, such as boatlifts and canopies, to minimize impacts on native fish and wildlife and their habitat.

Minimizing overwater coverage and associated support structures can benefit salmon. Studies related to shading effects from varying types of pier decking indicate that grated decking provides significantly more light to the water surface than traditional decking methods and may lead to improved migratory conditions for juvenile Chinook salmon.

Staff Comment: The shoreline regulations in Chapter 83 implement Policy SA-11.2. KZC 83.280 permits new piers and boatlifts, provided that they meet the design standards for location, maximum number, maximum area, dimensional standards, and the use of materials conducive to light trespass to the water's surface.

- B. Conclusions:

1. Staff has reviewed and concluded that the proposal is consistent with policies of the City's Shoreline Area Chapter of the Comprehensive Plan as implemented in Chapter 83.
2. KZC Chapter 83 contains standards consistent with Washington State's SMA that minimize the impact of the water-dependent uses on the lake that the applicant is required to meet with the pier and proposed boatlifts.

VI. DEVELOPMENT REGULATIONS

The following is a review, in a checklist format, of compliance with the design requirements for piers and boatlifts found in KZC 83.280.

Not Applicable	Complies as proposed	Complies as conditioned	Code Section
			KZC 83.280.1 <i>Piers, Docks, Moorage Buoys and Piles, Boat Lifts and Boat Canopies Detached, Attached or Stacked Dwelling Units (Multifamily)</i>
☐	☒	☐	Piers, docks, moorage buoy and pier piles, boat lifts and canopies may only be developed and used accessory to existing dwelling units on waterfront lots or upland lots with waterfront access rights.
☐	☐	☒	Use of these structures is limited to the residents and guests of the waterfront lots or upland lots with legal lake access rights to which the moorage is accessory. Moorage space shall not be leased, rented, or sold unless otherwise approved as a marina under the provisions of KZC 83.290.
☐	☒	☐	Only one (1) pier or dock may be located on a subject property. <u>Staff Analysis:</u> There is only one pier that serves three condominium buildings. No work is proposed to the existing pier.
☐	☒	☐	Boats may not be temporarily or permanently moored within 30' of the OHWM. <u>Staff Analysis:</u> All mooring structures are at least 30' from the OHWM (see Attachment 2).
☐	☒	☐	Each pier or dock shall contain a pier ladder for access into the lake.
☐	☐	☒	See KZC 83.370 for structures to be extended waterward of the inner harbor line. <u>Staff Analysis:</u> Work waterward of the inner harbor line requires relevant State and Federal approvals.
Not Applicable	Complies as proposed	Complies as conditioned	Code Section
			KZC 83.280.2 <i>All piers, docks, boat lifts and moorage piles serving detached, attached or stacked dwelling units shall comply with the following setback standards:</i>
☐	☒	☐	From side property line – 5'. for moorage piles, otherwise 10'.

			<u>Staff Analysis:</u> The pier is a preexisting nonconforming structure. Lifts are located within existing slips that are no closer to the property lines than the pier.
☒	☐	☐	From a lot containing a detached dwelling unit; The area defined by a line that starts where the OHWM of the lot (containing a detached dwelling unit) intersects the side property line of the lot (containing the side property line) closest to the moorage structure and runs waterward toward the moorage structure and extends at a 30-degree angle from that side property line. This setback applies whether or not the subject property abuts the lot but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment. <u>Staff Analysis:</u> The pier is a preexisting nonconforming structure. The boat lifts are allowed provided the degree of nonconformance is not increased (see Attachment 5).
☐	☒	☐	From another moorage structure not on the subject property, excluding adjacent moorage structure that does not comply with required side property line setback – 25'. except that this standard shall not apply to moorage piles. <u>Staff Analysis:</u> The closest moorage structure is approximated 127' to the north of the pier.
☒	☐	☐	From outlet of a stream regulated under KZC 83.510, including piped streams - Maximum distance feasible while meeting other required setback standards established under this section
☐	☒	☐	From Public Park – 100'; or The area defined by a line that starts where the OHWM of the park intersects with the side property line of the park closest to the moorage structure and extends at a 45-degree angle from the side property line. This setback applies whether or not the subject property abuts the park but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment. <u>Staff Analysis:</u> There are no parks within 100' of the pier.
			KZC 83.280.3 <i>Number of Moorage Spaces</i>
☐	☒	☐	The City will limit the total number of moorage slips to one (1) per each dwelling unit on the subject property. In addition, each unit shall be allowed to moor jet skis or kayaks or similar watercraft on the property. <u>Staff Analysis:</u> There are 26 slips on the pier. Per King County Assessors, there are 73 units between the three condominium buildings.

			KZC 83.280.4 <i>General Standards.</i>
☐	☐	☒	a. Must provide at least two (2) covered and secured waste receptacles upland of the OHWM. b. All utility and service lines located waterward of the OHWM must be affixed below the pier or dock deck and above the water. All utility and service lines located upland of the OHWM shall be underground, where feasible. c. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. d. Exterior finish shall be generally nonreflective. e. Moorage structures must display the street address of the subject property. The address must be oriented to the lake with letters and numbers at least four (4) inches high. f. See KZC 83.470, Lighting, for required lighting. g. See KZC 83.420, Public Access, for required public access. h. A mooring buoy may be used to provide moorage space in lieu of a pier. No more than two (2) mooring buoys or a number equal to 10 percent of the dwelling units on the subject property, whichever is greater, is permitted. Water craft moored to a moorage buoy shall be no closer than 30' from the OHWM and have a water depth that prevents moored boats from resting on the lakebed. i. Pier bumpers are permitted if they meet the following standards: 1) Maximum pier bumper width allowed is 10 inches. Spacing between bumpers must be at least 4' on center. Bumpers may not extend into the water more than 1.5' below the OHWM. The number of bumpers allowed is the minimum necessary to prevent a boat from going under a pier along the mooring tie up area. Bumpers may only be located where a boat is permanently moored. A limited number of bumpers may also be permitted in a designated tie-up area for guest moorage. j. The following structures and improvements are not permitted:

			1) Covered moorage, boathouses, or other walled covered moorage, except boat canopies that comply with the standards in this subsection. 2) Skirting on any structure. 3) Aircraft moorage. 4) Residential boat launches and boat rails. <u>Staff Analysis:</u> The location of waste receptacles should be confirmed with the inspection. No alterations are planned for the pier. Therefore, it may remain in its current form and any deviations from the standards above are considered a legal pre-existing nonconformance. None of the items other than the waste receptacles will be verified with the final inspection.
Not Applicable	Complies as proposed	Complies as conditioned	Code Section
			KZC 83.280.8 <i>Boat lifts and boat lift canopies may be permitted as an accessory to piers and docks, subject to the following regulations:</i>
☐	☒	☐	Location: Boat lifts shall be placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for piers and docks established in subsection (5) of this section. <u>Staff Analysis:</u> All of the existing and proposed boat lifts are located within existing slips. The existing jet-ski lift is located on the south side of the pier near Slip #1. The OHWM on the north side of the pier extends further west than the OHWM on the south side of the pier. Relocating the jet ski lift to slip #2 would result in a setback from the OHWM that is virtually the same as the setback with the current location.
☐	☒	☐	Maximum Number: One (1) freestanding or deck-mounted boat lift is allowed per dwelling unit on the subject property Two (2) jet ski lifts or one (1) fully grated platform lift is permitted per dwelling unit on the subject property Two (2) boat lift canopies or equal to 10 percent of the dwelling units on the subject property, whichever is greater

			Staff Analysis: See "Number of Moorage Spaces" above. No boat lift canopies are proposed.
☒	☐	☐	Canopy - Must be made of translucent materials
☐	☐	☒	Maximum of two (2) cubic yards of fill are permitted to anchor a boat lift, subject to the following requirements: • May only be used if the substrate prevents the use of anchoring devices that can be embedded into the substrate • Must be clean • Must consist of rock or pre-cast concrete blocks • Must only be used to anchor the boat lift • Minimum amount of fill is utilized to anchor the boat lift

VII. DEVELOPMENT STANDARDS

- A. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 4.
- B. Conclusion: The applicant should follow the requirements set forth in Attachment 4.

VIII. SUBSEQUENT MODIFICATIONS

WAC 173-27-100 established the procedures and criteria under which the City may approve a revision to a permit issued under the Shoreline Management Act and the City's Shoreline Master Program.

IX. APPEALS AND JUDICIAL REVIEW

A. **APPEAL TO SHORELINE HEARINGS BOARD:**

Pursuant to RCW 90.58.180 and WAC 173-27-220 any person aggrieved by the City's final decision on the Shoreline Substantial Development Permit may seek appeal to the State Shoreline Hearings Board by filing a petition for review. All petitions for review shall be filed with the Shoreline Hearings Board within 21 days of the date the applicant receives written notice from the Department of Ecology that the Department has received the City's decision. Within seven days of filing any petition for review with the Shoreline Hearings Board, the petitioner shall serve copies of the petition for review on the Department of Ecology, the State Attorney General, and the City of Kirkland. The petition for review must contain items required by WAC 461-08-055.

B. **JUDICIAL REVIEW**

Section 145.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

X. LAPSE OF APPROVAL

Pursuant to RCW 90.58.200 and WAC 173-27-090, construction or substantial progress toward construction of a project for which a Substantial Development Permit has been granted pursuant

to the Shoreline Management Act must be undertaken within two (2) years after the date of approval. The project must be completed within five (5) years and a one (1) year extension may be considered.

"Date of approval" means the date of approval by the City of Kirkland, or the termination of review proceedings if such proceedings were initiated pursuant to RCW 90.58.180 and WAC 173-27-220.

XI. APPENDICES

Attachments 1 through 5 are attached.

1. Vicinity Map
2. Proposed Plans
3. SEPA DNS
4. Development Standards
5. KZC 83 Correspondence dated November 5, 2021

XII. PARTIES OF RECORD

Applicant: Evan Wehr with ecco design Inc
Parties of Record
Planning and Building Department
Department of Public Works