



## Hearing Examiner Staff Report and Recommendation

**Report Date:** 5/2/2019  
**Hearing Date:** 5/9/2019

**Application Submittal Date:** 8/1/2016  
**Application Complete Date:** 8/1/2016

**Project Name:** Lefler and Carstensen Pier Ramp and Float Replacement  
**Type of Application:** Shoreline Substantial Development  
**Permit Number:** Permit # 16-03459

### Project Location

37645 Teel Lane NE  
Hansville, WA 98340  
Commissioner District 1

37649 Teel Lane NE  
Hansville, WA 98370

### Assessor's Account #

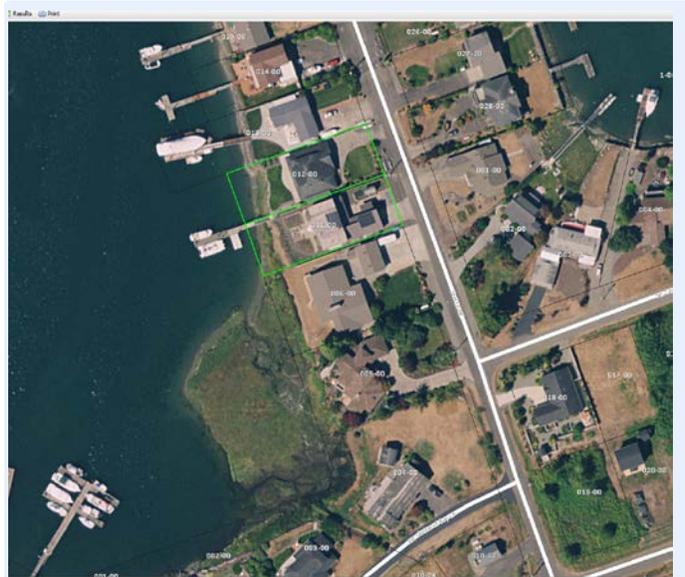
Assessor Account #  
4261-000-011-0003  
4261-000-012-0002

### Applicant/Owner of Record

Applicant/Owner: George Lefler  
37645 Teel Lane NE  
Hansville, WA 98340

Dennis Carstensen  
37649 Teel Lane NE  
Hansville, WA 98370

### VICINITY MAP



### Recommendation Summary

Approved, subject to 10 conditions listed under section 13 of this report.

#### 1. Background

The property consists of two single family residences which have a common and shared pier, ramp and float (PRF) facility. The PRF is located on parcel 4261-000-011-0003, owned by George and Loretta Lefler, at 37645 Teel Lane NE, Hansville, WA. The adjoining waterfront parcel to the north (Parcel 4261-000-012-0002 is owned by Dennis Carstensen (37649 Teel Lane NE), and is party to a shared use dock agreement. The proposed use is to extent the dock waterward by construction of an entirely new shared-use dock to allow for safe moorage for the existing boats.

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Currently the Lefler sailboat grounds on the shoals during low-tide events, and the Carstensen boat not operable at these tidal events.

## **2. Project Request**

The proposed dock extension will involve removal of the existing 102-foot long (91-foot overwater) residential pier, ramp and float, consisting of 6X20-foot un-grated wood pier, supported by 2 creosote piles, 4X36-foot non-grated aluminum ramp, and 8X36-foot non-grated float supported by three creosote wood piles. The replacement structure proposed would be approximately 49-feet longer and include 140-foot overwater (151-foot total) PRF consisting of 6X59-foot (48-foot overwater) 100% grated aluminum pier supported by two 10-inch diameter galvanized steel piles, 4X40-foot (32-foot span) 100% grated aluminum ramp, and 8X60-foot 50% grated float supported by five 10-inch galvanized steel piles. The extension is needed to prevent the boats from grounding during low tides.

## **3. SEPA (State Environmental Policy Act)**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of "major" environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Non-significance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated July 24, 2017 (Exhibit 14). A Determination of Non-significance (DNS) was issued on April 5, 2019 (Exhibit 22). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under *Environmental* conditions at the end of this report:

The SEPA appeal period expired April 19, 2019. No appeals were filed; therefore, the SEPA determination is final.

## **4. Physical Characteristics**

The property consists of two residential units on Lots 11 and 12 of the Sixth Division of the Plat of Driftwood Keys, recorded in Volume 11 of Plats, Page 61. Covenants are a

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component of the recorded Plat, and there is an active Homeowners Association and Architecture Committee. The residences are built on low-sloping properties, and the shoreline consists of an existing impacted riparian zone comprised of low-growing landscape vegetation and lawn. There are areas of dunegrass located between ordinary high water (OHW) and Highest Astronomical Tide (HAT). The existing Pier, ramp and float bisects the riparian zone near the property line. Driftwood Key Bay (AKA Coon Bay) is a dredged and artificially maintained embayment. Habitat lacks diversity and connectivity to the upland. The upper shore zone consists of a homogeneous silty substrate that lacks salt marsh or attached macroalgae for the most part. There is no documented forage fish spawning at the project site or within the embayment. The lower shore zone also has a silty substrate. There was no attached macroalgae or eelgrass observed during the June 8, 2016 habitat dive survey. These findings were verified during multiple (and recent) site visits.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Zone: Rural Residential	Standard	Proposed
Minimum Density	1 unit per 5 acres	These are considered lots of Legal Record
Maximum Density	1 unit per 5 acres	
Minimum Lot Size	NA	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	<140 feet
Minimum Lot Depth	NA	NA
Maximum Height	35 feet	<35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes:

17.120.060.A.42(b) Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

*Staff Comment: The Urban Restricted Zoning setbacks apply as the lot is less than the minimum 140 feet in width and is less than one acre. However, due to the physical site constraints, the proponent is unable to utilize the reduced front setback provision. Reduced side setbacks are utilized for this proposal.*

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17.120.160.A.48 Shoreline properties are subject to Title 22 and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Properties constrained by critical areas are subject to Title 19 and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Cornices, canopies, eaves, belt courses, sills, bay windows, fireplaces or other similar cantilevered features may extend up to twenty-four inches into any required yard area. In no case shall a habitable area be considered for encroachment into a required yard through any land use process. Additionally, fire escapes, open/uncovered porches, balconies, landing places or outside stairways may extend up to twenty-four inches into any required side or rear yards. Open/uncovered porches, balconies, landing places, or outside stairways shall not extend more than six feet into any required front yard and shall be a minimum of five feet from the front property line.

*Staff Comment: The Rear (west) setback abuts a shoreline of the state under Title 22, and therefore defers to the Shoreline buffers and setbacks. This parcel has a Shoreline Environment Designation of Shoreline Residential, which has a Standard buffer of 85 feet and additional 15-foot building setback. The application is for a replacement of the residential dock proposal. The residences are considered legal lots of record.*

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (East)	20 feet	NA
Side (South)	5-feet	The pier is compliant with the setback for the shared-dock facility
Side (South)	5-feet	NA
Rear (East)	SMP jurisdiction	NA

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residence (RR)
South	Single-family residence	Rural Residential (RR)
East	Single-family residence	Rural Residential (RR)
West	Single-family residence	Rural Residential (RR)

**Table 4 - Public Utilities and Services**

Provider	
Water	Kitsap PUD #1
Power	Puget Sound Energy

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Sewer	Private septic
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

**5. Access**

Site access is via the existing county-maintained road.

**6. Site Design**

Landscaping and shoreline restoration is planned.

**7. Policies and Regulations Applicable to the Subject Proposal**

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016

The following Comprehensive Plan goals and policies are most relevant to this application:

The following Comprehensive Plan goals and policies are most relevant to this application. The 2016 Comprehensive references these goals and policies in the December 2014 Shoreline Master Program.

Natural Systems

Policy NS-42

Encourage developers to protect continuous corridors of native vegetation wherever possible, to disturb as little natural vegetation as feasible, and to enhance or restore wildlife habitat by transplanting or planting native vegetation in the developed landscape.

Rural and Resource Lands

Policy RL-4

Limit development only to that which serves rural residential or resource needs and not draw people from UGAs.

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Policy RL-39

Require that land use activities within or adjacent to resource lands are sited and designed to minimize conflicts with and impacts on resource lands. Minimization of impacts may be accomplished through the use of setbacks, buffers and other requirements.

Policy RL-42

Encourage the use of Best Management Practices (BMPs) for all resource activities.

**22.300, Shorelines, General Goals and Policies**

Policy SH-1

Shoreline characteristics such as scenic vistas, estuarine areas, biological wetlands, beaches, and other unique biological functions, valuable natural systems and aesthetic features should be preserved and restored.

Policy SH-2

Encourage and support shoreline diversity through planned and coordinated development, which gives preference to water-dependent uses, traditional and historic use patterns, resource values, and environmental protection.

Policy SH-4 Kitsap County shall safeguard shoreline resources by only allowing development that is compatible with sensitive shoreline areas.

**22.300.145 Shorelines of Statewide Significance.**

**Designation.** The Act designated certain shoreline areas as shorelines of statewide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people of the state derive benefit, the statewide interest should be recognized and protected over the local interest.

Those areas that have been designated as shorelines of statewide significance (RCW [90.58.030](#)) in Kitsap County are:

1. Puget Sound: those areas lying seaward from the line of extreme low tide.
2. Hood Canal: from Kitsap-Mason line to Foulweather Bluff, from the line of extreme low tide to the OHWM, and associated Shorelands.

Goal: To ensure that the statewide interest is recognized and protected over the local interest in shorelines of statewide significance, the county shall review all development proposals within shorelines of statewide significance for consistency with RCW [90.58.020](#) and the following policies (in order of preference):

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Countywide Policies.

1. Policy SH-47. Recognize and protect the statewide interest over local interest.
  - a. The Washington Departments of Fish and Wildlife (WDFW) and Ecology (DOE), affected tribes, other resources agencies, and interest groups should be consulted for development proposals that could affect anadromous fisheries or other priority species or habitats.
  - b. Recognize and consider state agencies' policies, programs and recommendations in developing and administering use regulations.

**Staff Comment:** *The Notice of Application and SEPA determination were mailed to all listed parties. The Suquamish and Port Gamble S'Klallam tribe and WDFW asked for the marine study and no comments were received. Staff contacted WDFW, DOE, ACOE, Department of Natural Resources, the Port Gamble S'Klallam tribe, the Suquamish tribe, the Point No Point Treaty Council and Kitsap Public Health to gather views of the proposal. No one expressed concerns about the proposal.*

2. Policy SH-48. Preserve the natural character of the shoreline.
  - a. Administer shoreline environments and regulations to minimize damage to the unique character and ecology of shorelines of statewide significance.
  - b. Where natural resources of statewide importance are being diminished over time by human activities, restoration of those resources should be facilitated.
  - c. To reduce adverse impacts to the environment while accommodating future growth, new intensive development activities should upgrade and redevelop those areas where intensive development already occurs, rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.
3. Policy SH-49. Result in the long-term over short-term benefit.
  - a. Preserve sufficient Shorelands and submerged lands to accommodate current and projected demand for economic resources, such as shellfish beds and navigable harbors.
  - b. Actions that would convert resources into irreversible uses or detrimentally alter natural conditions that are characteristic of shorelines of statewide significance should be severely limited.
  - c. Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment.
  - d. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or for the general enhancement of shoreline areas.
4. Policy SH-50. Protect the resources and ecology of the shoreline.
  - a. Projects shall be required to consider incremental and cumulative impacts while ensuring no net loss of shoreline ecosystem processes and functions.

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- b. To ensure the long-term protection of ecological resources of statewide importance, activities impacting anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds and other unique environments should be severely limited.
- c. Limit public access where improvements would result in a loss of shoreline ecological functions, such as in priority or sensitive habitats.

**Staff comments for Items 2, 3 and 4:** *The status of each of the listed species in the action area has been provided in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. A determination by those agencies in the Regional General Permit-6 and the NMFS (Reference Number NWS2016-672) is currently transmitted and in review by the Army Corps of Engineers USACOE. The proposed project has been described and the action area defined. A habitat survey was provided. When reviewing all the data, the scientists who studied this proposal identified the potential direct and indirect effects of the proposed action on the listed species and their critical habitat.*

**Direct Effects:** *They found that when considering the direct effects of the proposed project on the listed species and habitats one must determine if the proposed project will immediately reduce or destroy the listed species and/or their habitat. The potential, direct impacts caused by the proposed project include: (1) increased turbidity from installation, (2) increased noise during installation.*

Turbidity: *Increased turbidity caused by installation has adverse effects on salmonid species. The impact level depends on duration of exposure, concentration of turbidity, the life stage during the increased exposure and the options available for the fish to avoid the plumes. The effects can be discussed in terms of lethal, sub-lethal, or behavioral. For this project, turbidity effects are expected to be localized and brief during installation activities.*

Noise: *All components on the proposed project will either be pre-manufactured or assembled out of the water; therefore, noise impacts should only result from the installation of the proposed pilings and connection activities. The increase in noise because of installation is expected to be minimal and short lived. No species in the action area are expected to be impacted due to increased noise during installation.*

**Indirect Effects:** *Indirect effects are effects of the project that occur later in time. Potential indirect effects of the proposed project are: 1) Migratory pathway alteration, 2) Increased predation, 3) Increase noise from operation.*

*Migratory pathway alteration: It is generally accepted that overwater/floating structures can alter migration behavior of juvenile salmon (though the effects may vary depending on the design and orientation of the structure, degree of shading, and presence of artificial light), and*

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*reduce salmon prey resources and refugia by shading aquatic plant life; however, the significance of these effects is not clear. The applicant found no studies that described empirical evidence supporting or refuting that modification of juvenile salmon behavior in shoreline habitats was reflected in changes in survival. Presently, although it is understood that under some conditions small juvenile salmon will delay or otherwise alter their shoreline movements when encountering an overwater/floating structure, the conditions under which this behavioral modification is significant to the fishes' fitness and survival is relatively unknown.*

*There is no question that underwater structures may alter migration patterns – that is not in dispute. As seen in studies, there is evidence that indicate that salmon migration is not affected by the presence of overwater/floating structures. Of course, there are other studies indicating migration patterns are altered by overwater/floating structures.*

*This issue is that no one has shown that these migration changes lead to increased mortality or decreased fitness. None of the studies that report changes in salmonid migration patterns caused by overwater/floating structures have reported that these changes have a negative impact on salmonids.*

*Nevertheless, the Services (National Marine Fisheries and US Fish and Wildlife Service) have chosen to accept the hypothesis that overwater/floating structures will have negative impacts on salmonids, even though there is no current scientific research proving that this hypothesis is true. Impact minimization recommendations are based on this assumption. With that said, all floating structures in this project are proposed to be in deeper waters where none of the above impacts are expected to occur.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 14	Buildings and Construction
Title 17	Zoning
Title 18.04	State Environmental Policy Act (SEPA)
Title 21.04	Land Use and Development Procedures
Chapter 22	Shoreline Master Program

**8. Documents Consulted in the Analysis**

A complete index of exhibits is in the project file. To date, the index to the record consists of Exhibits 1-27.

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Exhibit #	Document	Dated	Date Received
1	Project Application		08/01/16
2	Supplemental Application – Joint Aquatic Resources Permit Application (JARPA)		08/01/16
3	Project Narrative		08/01/16
4	State Environmental Protection Act (SEPA) Checklist		08/01/16
5	Submittal Waiver		08/01/16
6	Letter of Authorization		08/01/16
7	PRF Replacement Mitigation Plan		08/01/16
8	Marine – Eelgrass Report		08/01/16
9	Photos		08/01/16
10	Site Plans		08/01/16
11	Notice of Complete Application		08/01/16
12	Letter Response to Information Request		06/19/17
13	No Net Loss Report		06/19/17
14	Notice of Application	07/27/17	
15	Geotechnical Report		07/28/17
16	Neighbor Comment Letters – Sprague & Nelson		08/03/17
17	Dept. of Ecology Comment Letter – Toxics		08/03/17
18	Certification Letter - Thompson Pile Driving		04/05/18
19	Navigation Study		07/30/18
20	No Net Loss Report – 4 <sup>th</sup> Submittal		08/03/18
21	Information Request – C4		08/03/18
22	SEPA Mitigated Determination of Nonsignificance (MDNS)	04/05/19	
23	Clerk Email Response to Port Gamble S’Klallam Tribe request for Reports	04/11/19	
24	Notice of Public Hearing	04/24/19	
25	Certification of Public Notice	05/01/19	
26	Staff Report	05/02/19	
27	Staff Presentation		

**9. Public Outreach and Comments**

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
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1-4	Several concerns have been raised from upslope and adjacent shoreline neighbors stating that moving and extending the existing PRF facility will create a view blockage as the boats will be moved farther to the west.	
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Issue Ref. No.	Issue	Staff Response
1-4	View blockage	There is no view blockage code citing in any County code related to the presence of boats moored onto established piers or floats. The County SMP, adopted in December of 2014 describes view concerns under KCC 22.400.135. This code is related to adjacent principal buildings and accessory structures. Boats are moored to accessory structures but are not considered structures as a component of the use.

**10. Analysis**

**a. Planning/Zoning**

The proposed pier, ramp and float is a joint use feature and does not require setbacks (per Meg Sands, Land Use Planner).

**b. Lighting**

No new lighting is proposed

**c. Off-Street Parking**

NA

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
NA	NA	NA	NA

Total

**d. Signage**

NA

**e. Landscaping**

NA

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**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	Shoreline restoration per the Compensatory Mitigation Plan
Required Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	

**f. Frontage Improvements**

NA

**g. Design Districts/Requirements**

There is no Land Use zone design District. However, the application will be examined by the Driftwood Keys architectural committee, as a component of the Covenant of the Division 6 recorded Plat.

**h. Development Engineering/Stormwater**

No stormwater review was required for the application at this time. Review of the building permit will occur to determine if stormwater control will be required (per Candace Vickery, Engineer 1).

**i. Environmental**

The SMP codes and analysis are followed in this section.

**ANALYSIS APPLICABLE TO TITLE 22 REGULATIONS**

**KCC 22.200.115 Shoreline Residential**

A. Purpose. To accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses.

*Staff comment: The proposed new replacement pier, ramp and float meets the residential appurtenant structure criteria. The residential use provides for public beach access, but the proposed use is considered a private facility for use by the associated parcels.*

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B. Designation Criteria.

1. Shoreline areas that are predominately single-family or multifamily residential development or are planned or platted for residential development;
2. Does not include shorelines supporting existing residential development that may not support higher densities of development due to potential cumulative impacts to sensitive environments or safety, such as steep slopes or floodplains. Such shorelines shall be designated rural or urban conservancy, whichever applies.

*Staff comment: (designation criteria, 1 and 2): the application meets this criterion.*

C. Management Policies.

1. Standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline ecological functions.

*Staff comment: The proposed project is the installation of a new pier, ramp, float and associated tram. The water dependent use is conditionally approved in the Shoreline Residential jurisdiction. All dock components will be premanufactured or assembled out of the water. The pilings and float attachments will be constructed in the water, and timing of installation will be guided by best management practices. Adverse impacts to the aquatic environment will be minimized by specified work windows and siltation management. Work will only be conducted between July 16<sup>th</sup> and February 15<sup>th</sup> of any given year to avoid migrating salmonids species. A number of impact minimization measures will be implemented including working within the work windows stated above, implementing marine construction and operation management guidelines, providing siltation management (Washington Department of Ecology Stormwater Best Management Practices).*

2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities. If public access is not feasible on site, off-site options such as an in-lieu fee may be recommended.

*Staff comment: public beach use is still provided beneath the proposed dock, but due to the residential nature of the facility, no public access of the facility is provided, nor required.*

3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

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*Staff comment: access is adequate for the residential use.*

4. Commercial development should be limited to water-oriented uses. Water-oriented includes water-dependent, water-related and water-enjoyment uses.

*Staff comment: This is not a commercial use proposal.*

**KCC 22.200.135 Aquatic**

A. Purpose. To protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

B. Designation Criteria. Lands waterward of the OHWM, which include tidelands, badlands, and lands beneath freshwater shorelines of the state.

C. Management Policies.

1. New over-water structures and development on navigable waters and their beds should be allowed only for water-dependent uses, public access or ecological restoration, and when:

a. They do not preclude attainment of ecological restoration; and

**Staff Comment:** *The proposed project is the installation of a new replacement pier, ramp and float. The water dependent use is conditionally approved in the Shoreline Residential jurisdiction. All dock components will be premanufactured or assembled out of the water. The pilings and float attachments will be constructed in the water, and timing of installation will be guided by best management practices. Adverse impacts to the aquatic environment will be minimized by specified work windows and siltation management. Work will only be conducted between July 16<sup>th</sup> and February 15<sup>th</sup> of any given year to avoid migrating salmonids species. Several impact minimization measures will be implemented including working within the work windows stated above, implementing marine construction and operation management guidelines, providing siltation management (Washington Department of Ecology Stormwater Best Management Practices).*

b. The size of the new over-water structure is limited to the minimum necessary to support the structure's intended use; and

**Staff Comment:** *Yes, the proposed new dock components are the minimum size necessary to support the use.*

c. Multiple use of the over-water facility has been encouraged; and

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**Staff Comment:** *The proposed project will be a shared use structure with the Lefler and Carstensen residences on two individual parcels.*

d. The structure or use is located and designed to minimize interference with surface navigation, to consider impacts to public views, to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration, and to ensure that the project does not conflict with existing water-dependent uses; and

**Staff Comment:** *Work will be conducted between July 16th and February 15th of any given year to avoid potential construction impacts to migrating salmonids and spawning forage fish species. The location of the structure does not prevent the common use of the bay for recreation.*

e. The use or modification is designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

**Staff Comment:** *The project is not anticipated to alter natural hydrographic conditions.*

2. When new over-water structures are proposed for residential development of two or more dwellings, joint use or community dock facilities should be utilized rather than single-use facilities.

**Staff Comment:** *The applicant has an existing joint use agreement from Mr. Carstensen, the adjacent neighbor. The proposed use will be for two separate parcels in joint use.*

3. Development should be compatible with the adjoining upland designation.

**Staff Comment:** *The upland land designation is rural residential. The closest shoreline jurisdiction is Shoreline Residential. Adjoining parcels are developed also zoned rural residential with shoreline designations of Residential.*

*The purpose of the Shoreline Residential designation is to accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses. The project meets these requirements, as appropriate.*

4. Existing over-water residences may continue through normal maintenance and repair but should not be enlarged or expanded. New over-water residences should be prohibited.

**Staff Comment:** *No residences are proposed.*

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5. Applicants for any use or modification should schedule a staff consult to review the site conditions, and potential habitats and species. This consult should result in a general understanding of applicable development standards for the proposal.

**Staff Comment:** *A one-hour intake meeting was held in July of 2016 to review a proposed shoreline exemption to cover the dock extension. The applicant representative was told that a SDP would be required. Staff informed the applicants of the permit requirements for the project.*

6. Development over or in critical freshwater or saltwater habitats should be limited to those which mitigate impacts according to mitigation sequencing, and development standards for that development activity.

**Staff Comment:** *The following are mitigation and management measures to minimize or avoid impacts.*

**A. Work Windows:** *No ESA listed species are found within the proposed project's action area. However, installation should take place during work windows when these species are not migrating or spawning near the action area. The approved work windows are as follows: July 16 to February 15 for salmonids. Further guidance will be provided by the USACOE and WDFW.*

**B. Marine Construction and Operation Management:** *Although the proposed dock structures for this project will all be pre-manufactured and assembled out of the water, the guidelines below are required to prevent and minimize any potential environmental impacts because of the installation of these structures.*

- 1. Timing of the in-water work will be as specified in the JARPA, HPA, Corps of Engineers or other authorized regulatory agencies.*
- 2. Where forage fish spawning is documented or reported, additional testing may be requested of WDFW to vary work windows. Site inspection, notification and scheduling will be per WDFW procedures.*
- 3. Work on projects will be accomplished per the submitted and approved drawings and specifications.*
- 4. All man-made debris involved in the construction process will be removed from the site and disposed in approved upland site. Dock debris and demolition materials will be removed and disposed of per the DOE Dangerous Waste Regulations, per WAC 173-303-071 (3) (g), per the August letter from DOE.*
- 5. All required in-water construction will be conducted within the permitted work*

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*window.*

6. *Over-water construction may need to be completed after the in-water work window due to the very limited time frame of the in-water work window. This work may include installation of the floating structures. Over-water work will be conducted under the following procedures:*
  - a. *All materials will be moved by hand equipment or small barges that will bring materials to the site but will not be allowed to ground or in any way be detrimental to the site.*
  - b. *The floating structures will be constructed at an upland off-site location and installed as modular units.*
  - c. *All over-water remaining construction completed with hand tools and small relatively quiet power tools, i.e. skill saw, ½" electric drill, etc.*
  - d. *Typical construction times to complete a dock will be 7 to 14 days.*
7. *All possible precautionary measure will be taken to contain material, material wastes or any other foreign material on project site.*
8. *Over-water structures and/or equipment, and any items stored upon such structures such as materials, garbage, tools, or apparatus, shall be designed and maintained to minimize visual impacts. The maximum height for items stored upon such structures shall be limited to three feet, as measured from the surface of the raft or the dock, unless shoreline conditions serve to minimize visual impacts (for example: high bank environments, shorelines without residential development), but in no case shall the height exceed six feet. Height limitations do not apply to materials and apparatus removed from the site daily. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.*
9. *Lastly, the **Best Management Practices for Marinas** produced by the U.S. Environmental Protection Agency (U.S. EPA, 2012) as well as the **Marina Best Management Practice (BMPs)** by Clean Marina Washington (Clean Marina Washington, 2015) are required for in-water work and operation of the proposed floating structures.*

**C. Siltation Management:** *Several methods are suggested to prevent siltation during installation of pilings. Washington State Department of Ecology's **STORM WATER MANAGEMENT MANUAL FOR THE PUGET SOUND BASIN** often termed "the Technical Manual". (WSDE 2012) provides the following precautions for siltation prevention during*

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*installation processes are suggested in Volume II “Construction Stormwater Pollution Prevention” in the Stormwater Management Manual for Western Washington. These Best Management Practices (BMPs) are as follows:*

*BMP C101: Preserving Natural Vegetation*

*BMP C102: Buffer Zones*

*BMP C103: High Visibility Fence*

*BMP C105: Stabilized Construction Entrance / Exit*

*BMP C106: Wheel Wash*

*BMP C107: Construction Road/Parking Area Stabilization*

*BMP C120: Temporary and Permanent Seeding*

*BMP C121: Mulching*

*BMP C122: Nets and Blankets*

*BMP C123: Plastic Covering*

*BMP C124: Sodding*

*BMP C125: Topsoiling / Composting*

*BMP C126: Polyacrylamide (PAM) for Soil Erosion Protection*

*BMP C130: Surface Roughening*

*BMP C140: Dust Control*

*BMP C150: Materials on Hand*

*BMP C152: Sawcutting and Surfacing Pollution Prevention*

*BMP C153: Material Delivery, Storage and Containment*

*BMP C160: Certified Erosion and Sediment Control Lead*

*Please refer to Volume II “Construction Stormwater Pollution Prevention” in the Stormwater Management Manual for Western Washington for BMP details.*

***D. Eelgrass Management:*** *No impacts to Zostera marina is anticipated for the project.*

**Staff Evaluation of Decision Criteria for SSDP:**

1. The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC 21.04.030 and KCC 22.500.105(E)(1 and 2)

**KCC 22.400.105(B) Standards for Work Waterward of OHWM:**

1. Water-dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this program.

***Staff Comment:*** *Shoreline buffers and setbacks are not a part of this proposal.*

2. Projects involving in-water work must obtain all applicable state and federal permits or approvals, including those from the U.S. Army Corps of Engineers, Ecology, Washington

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Department of Fish and Wildlife (WDFW), and/or Washington Department of Natural Resources.

**Staff Comment:** *In the JARPA application (Exhibit 2), the applicant has listed all local, state and federal permits that they will need to obtain for approval of the SDP; thus, the applicant is aware of these requirements.*

3. Projects involving in-water work must comply with timing restrictions as set forth by state and federal project approvals.

**Staff Comment:** *As Endangered Species Act (ESA) listed species are found within the proposed project's action area, installation should only take place during work windows when these species are not migrating or spawning near the action area. The approved work windows are as follows: July 16<sup>th</sup> to February 15<sup>th</sup> as stated in the Army Corps of Engineers Nationwide letter of permission and general conditions (NWS-2014-475).*

4. Protection of waters in the Bay during restoration of the shoreline bank.

a. Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the mitigation work.

b. All disturbed areas must be restored and protected from erosion using vegetation or other means.

5. If, at any time, water quality problems develop as a result of in-water work, immediate notification must be made to any appropriate state or federal agency, e.g., Ecology, WDFW, National Marine Fisheries Service, U.S. Fish and Wildlife Service, etc. Affected tribes shall also be notified.

**Staff Comment:** *This is a shoreline mitigation project where bank alteration or impact to vegetation will occur. Protection of the waters in the Bay are critical during the shoreline restoration work. If there are water quality problems as a result of in-water work, immediate notification shall be made to any appropriate state and federal agency.*

**j. Access, Traffic and Roads**

NA

**k. Fire Safety**

NA

**l. Solid Waste**

Analysis

**m. Water/Sewer**

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NA

**n. Kitsap Public Health District**

NA

**11. Review Authority**

The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Shoreline Substantial Development Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are at KCC, Chapter 2.10.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

**13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the Shoreline Substantial Development Permit request for the Lefler and Carstensen New Replacement Pier, Ramp and Float be **approved**, subject to the following 10 conditions:

**a. Planning/Zoning**

1. This is a shared use facility and is exempt from setbacks.

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**b. Development Engineering**

2. No specific concern for Stormwater control at this time. Stormwater will be reviewed with the associated PRF building permit.

**c. Environmental**

3. Permit subject to review, approval and conditions guided by the US Army Corps of Engineers RPG-6 and associated NWS16-672 permit, including project timing.
4. Permit subject to conditions and approval by the Washington State Department of Fish and Wildlife and associated HPA.
5. Permit subject to the recommendations of the Department of Ecology and associated memo, dated August 8, 2017.
6. Permit approval subject to the recommendations of the Compensatory Mitigation Plan by Bill Rehe, dated January 5, 2019.

**d. Traffic and Roads**

7. No specific concerns or conditions currently. Review will occur with the building permit.

**e. Fire Safety**

8. No specific concerns or conditions currently. Review will occur with the building permit.

**f. Solid Waste**

9. No specific concerns or conditions currently. Review will occur with the building permit.

**g. Kitsap Public Health District**

10. No specific concerns or conditions currently. Review will occur with the building permit.

**Report prepared by:**



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Steve Heacock, Staff Planner / Project Lead

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05/02/2019

Date: 5/2/2019

**Report approved by:**

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Shawn Alire, Department Supervisor

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05/02/2019

**Attachments:**

Attachment A – PRF Plan View

Attachment B – PRF Elevation View

CC: Applicant/Owners: Dennis Carstensen, [dencarst@gmail.com](mailto:dencarst@gmail.com); George & Laretta Lefler, [geolorie@comcast.net](mailto:geolorie@comcast.net)

Engineer or Project Representative: Bill Rehe, [bill@northforkenvironmental.com](mailto:bill@northforkenvironmental.com)

Interested Parties:

Nelson, Tom & Mary, [nelsom@usa.net](mailto:nelsom@usa.net)

Hallett, Wendy & Sprague, Randall, [randallsprague@gmail.com](mailto:randallsprague@gmail.com)

Edwards, Lawrence, [edwards@memphis.edu](mailto:edwards@memphis.edu)

Luton, Bradley and Sylvia, 37267 Teel Ln NE, Hansville WA 98340

Tammy Saccayanan, WA State Dept of Ecology, [TSAC461@ECY.WA.GOV](mailto:TSAC461@ECY.WA.GOV)

DRIFTWOOD KEY CLUB, [acc@driftwoodkey.org](mailto:acc@driftwoodkey.org)

Chuck Nicholson, Driftwood Key President, [president@driftwoodkey.org](mailto:president@driftwoodkey.org)

Dee Boughton, Attorney, [dee@crosssoundlaw.com](mailto:dee@crosssoundlaw.com)

Kitsap County Health District, MS-30

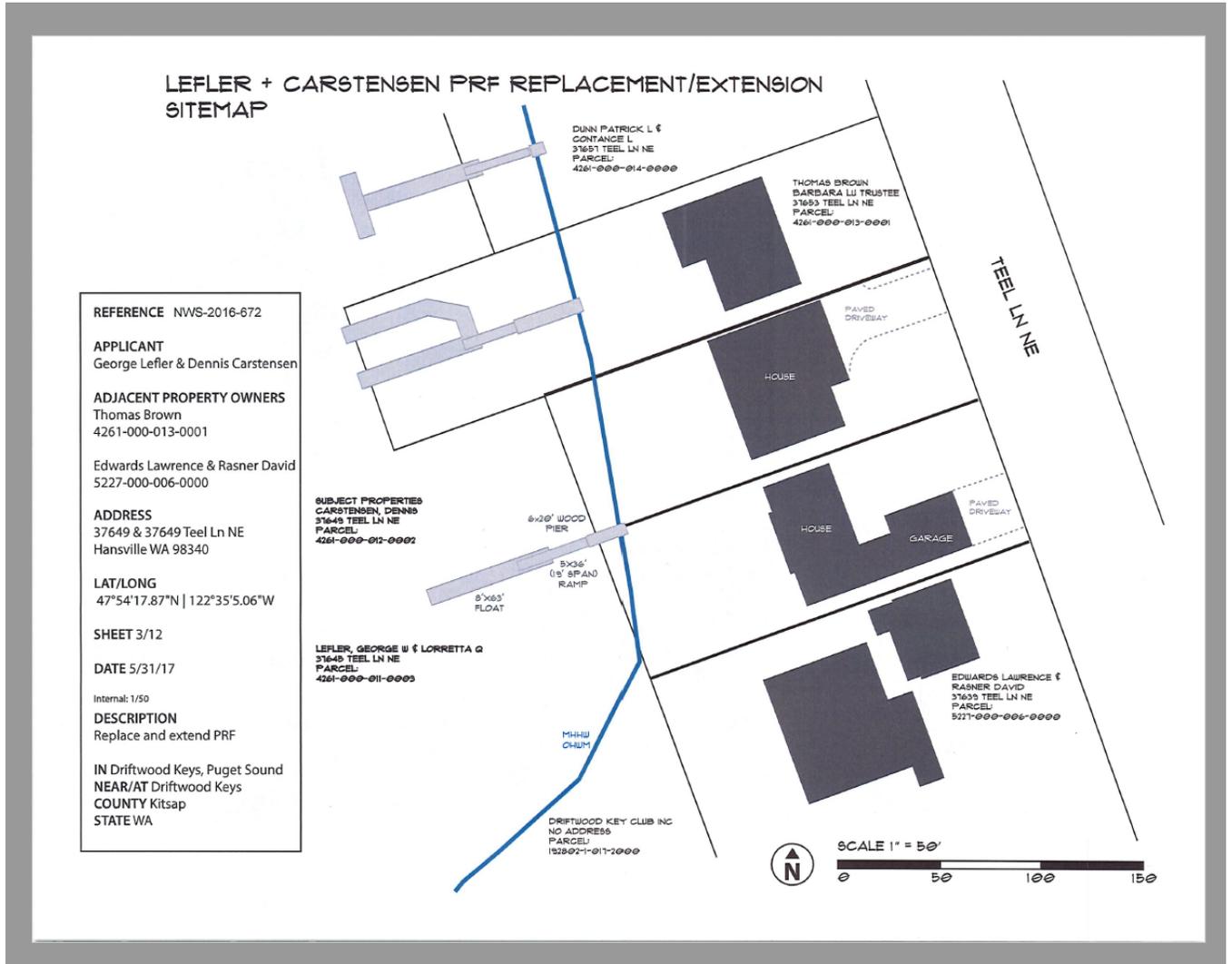
Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Steve Heacock

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Site Plan

Attachment A Site Plan



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Attachment B, Planned Elevation

