



CITY OF BLACK DIAMOND

May 5, 2016

CITY OF BLACK DIAMOND STAFF REPORT KASPER SHORELINE SUBSTANTIAL DEVELOPMENT FILE NO.: PLN16-0015

I. APPLICATION INFORMATION

Applicant:

Kim Cogger, Waters and Wood, Inc.
3040 B St. #7
Auburn, WA 98001

Owner:

Mike Kasper
30201 234th Ave SE
Black Diamond, WA 980

Project Name: Kasper Dock Shoreline Substantial Development

Location: 30201 234th Ave SE, Black Diamond, WA 98010; within the SW ¼ of Section 3, Township 21 North, Range 6 East, W.M., King County, WA

Parcel Number: 0321069057

Zoning: R4, Single Family Residential

Comprehensive Plan Designation: Low Density Residential

Shoreline Environment Designation: Shoreline Residential

Project Description: The applicant is proposing to construct a 312 square foot dock for boat moorage and swimming access on the eastern portion of Lake Sawyer. Included in the proposal is a freestanding boatlift with associated 24 foot translucent canopy.

II. FINDINGS

1. The applicant is proposing to construct a dock and associated boatlift for the private noncommercial use of the property owner of the subject lot.
2. The shoreline designation of the property is Shoreline Residential, which allows non-joint use docks that are accessory to residential uses as a permitted use per Table IV – Shoreline Modifications in SMP Chapter 5, Section B.
3. The total valuation of the proposal is \$34,600. The valuation threshold for new dock construction to qualify for a shoreline exemption is \$10,000. Since the proposal exceeds that threshold, a shoreline substantial development permit is required.
4. The City reviewed the potential environmental impacts as the lead agency for the proposal under SEPA Review permit PLN15-0047.
 - a. The City, as lead agency, determined that the proposal does not have a probable significant adverse impact on the environment. The decision was made after

- review of a completed environmental checklist and other information on file with the lead agency. See Attachment 4 (SEPA Checklist for permit PLN15-0047).
- b. The City, as lead agency, made a Determination of Mitigated Non-Significance (MDNS). See Attachment 3 (SEPA MDNS for permit PLN15-0047). Mitigation measures incorporated into the determination include the following:
 - i. Apply best management practices and standard project considerations prior to commencement of work to minimize sediment from entering water bodies. This can be accomplished by providing a Temporary Erosion and Sediment Control (TESC) Plan in association with building permit application.
 - ii. Use decking materials that allow a minimum of 50% of light to transmit through.
 - iii. The applicant shall replant any disturbed areas within the shoreline setback with noninvasive plant material similar to that which most recently occurred on-site to minimize habitat loss and the impact of invasive plants.
 - iv. The boat lift canopy must use translucent material, pursuant to the City's adopted Shoreline Master Program.
 5. A Shoreline Substantial Development Permit is a Type 3-Quasi-judicial type decision per SMP Chapter 7, Section E(2); Type 3 decisions are made by the Hearing Examiner.
 6. The Shoreline Substantial Development Permit application (Attachment 1) was submitted on March 16, 2016 and determined to be complete for processing on April 7, 2016.
 7. A consolidated Notice of Land Use Application, Public Hearing, and SEPA MDNS (Attachment 2) was issued on April 19, 2016. One comment letter was received by the City during the comment period (Attachment 5).
 8. A consolidated Notice of Land Use Application, Public Hearing, and SEPA MDNS was mailed to all property owners within 300 feet of the perimeter of the affected parcel on April 18, 2016, pursuant to BDMC 18.08.120(C)(1).
 9. A consolidated Notice of Land Use Application, Public Hearing, and SEPA MDNS was advertised in the City's official newspaper, which is designated as the Voice of the Valley per BDMC 1.20.010, on April 19, 2016, pursuant to BDMC 18.08.120(C)(2).
 10. A Notice Board containing project information and removable copies of the combined Notice of Land Use Application, Public Hearing, and SEPA MDNS was posted on the project site, 30201 234th Ave SE, on April 18, 2016, pursuant to BDMC 18.08.120(C)(3).
 11. A combined Notice of Land Use Application, Public Hearing, and SEPA MDNS was published on the Public Notices section of the City's website on April 18, 2016, pursuant to BDMC 18.08.120(C)(4).

III. APPLICABLE PLANS, CODES AND STANDARDS

1. Black Diamond Municipal Code (BDMC) Chapter 18.08, Administration: Procedures, Notice, and Appeals
2. Black Diamond Municipal Code (BDMC) Chapter 18.12, Decision Criteria for Permits
3. Black Diamond Municipal Code (BDMC) Chapter 18.30, Single-Family Residential Districts – R4 and R6
4. Black Diamond Shoreline Master Program (SMP) Chapter 5 – Shoreline Modification Provisions, Section F – Overwater Structures and Launching Facilities
5. Black Diamond Shoreline Master Program (SMP) Chapter 6 – Administration, Section F – Substantial Development Permits

IV. ANALYSIS

This section of the report analyzes the proposal in light of the various standards contained in adopted plans, codes and regulations. SMP Chapter 6, Section F establishes review criteria for Substantial Development Permits.

SMP Chapter 6 – Administration, Section F. Substantial Development Permits:

A substantial development permit shall be granted only when the development proposed is consistent with:

a. The policies and procedures of the SMA (Shoreline Management Act);

The following policies are applicable to this proposal, as outlined by Revised Code of Washington (RCW) Section 90.58.020 and truncated on the Department of Ecology's website:

1. Shoreline use: The SMA establishes the concept of preferred uses of shoreline areas. The Act requires that "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..." . "Preferred" uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved for "water-oriented" uses, including "water-dependent", "water-related" and "water-enjoyment" uses.

The Act affords special consideration to Shorelines of Statewide Significance that have greater than regional importance. Preferred uses for Shorelines of Statewide Significance, in order of priority, are to "recognize and protect the state wide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned shoreline areas; and increase recreational opportunities for the public in the shoreline area."

Staff Comment: This proposal for a new dock and associated boat lift are dependent on shoreline location for their use and are a preferred use in the shoreline as accessory development to a single family residence.

2. Environmental protection: The SMA is intended to protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..." against adverse effects. All allowed uses are required to mitigate adverse environmental impacts to the maximum extent feasible and preserve the natural character and aesthetics of the shoreline.

Staff Comment: This proposal for a new dock and associated boat lift has been reviewed for potential environmental impacts during the associated SEPA Review (permit PLN15-0047). Mitigation measures ensuring ecological protection and no net loss of ecological functions have been incorporated by reference in the determination of non-significance. Additionally, the proposal conforms to the dimensional standards of the SMP, which establishes maximum allowances for deck development to minimize environmental impacts.

3. Public access: Master programs must include a public access element making provisions for public access to publicly owned areas, and a recreational element for the preservation and enlargement of recreational opportunities.

Staff Comment: Not applicable, this proposal is for the construction of a dock and associated boat lift on private, not public, property.

b. Applicable state regulations;

The following regulations are applicable to this proposal, as outlined by Washington Administrative Code (WAC) Section 173-26-176(3) – General policy goals of the act and guidelines for shorelines of the state:

- a) The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use
Staff Comment: This proposal for a new dock and associated boat lift are dependent on shoreline location for their use.
- b) The utilization of shorelines and the waters they encompass for public access and recreation
Staff Comment: Not applicable, this proposal is for a private noncommercial use dock associated with a single family residence.
- c) Protection and restoration of the ecological functions of shoreline natural resources
Staff Comment: This proposal for a new dock and associated boat lift has been reviewed for potential environmental impacts during the associated SEPA Review (permit PLN15-0047). Mitigation measures ensuring ecological protection and no net loss of ecological functions have been incorporated by reference in the determination of non-significance. Additionally, the proposal conforms to the dimensional standards of the SMP, which establishes maximum allowances for deck development to minimize environmental impacts.
- d) Protection of the public right of navigation and corollary uses of waters of the state
Staff Comment: Navigation rights have been analyzed for the proposal, specifically relating to the proposed length of the dock. Staff has determined that there will be no impact on navigation rights of adjacent property owners. The proposed dock meets the minimum 15 foot setback requirements from property lines as established in the SMP. Attachment 8 (Vicinity Dock Length Exhibit) illustrates how the dock will extend into the Lake in relation to adjacent properties.
- e) The protection and restoration of buildings and sites having historic, cultural and educational value
Staff Comment: Not applicable, there are no sites with historic, cultural, or educational value that will be impacted by this proposal.
- f) Planning for public facilities and utilities correlated with other shorelines uses
Staff Comment: Not applicable, the proposal is on private property not owned by the City. Nor does the City have public facilities or utility work planned on the subject property.
- g) Prevention and minimization of flood damages
Staff Comment: Not applicable, the proposal is not within identified flood hazard areas or floodways.
- h) Recognizing and protecting private property rights
Staff Comment: The proposed dock and associated boat lift are permitted accessory uses to residential development in the Shoreline Residential designation pursuant to Table IV – Shoreline Modifications in SMP Chapter 5, Section B.
- i) Preferential accommodation of single-family uses
Staff Comment: The proposed dock and associated boat lift are permitted accessory uses to residential development in the Shoreline Residential designation pursuant to Table IV – Shoreline Modifications in SMP Chapter 5, Section B.
- j) Coordination of shoreline management with other relevant local, state, and federal programs

Staff Comment: This proposal for a new dock and associated boat lift have been reviewed for conformance with regulations outlined by the SMP, State Agencies, Federal Agencies, local Tribes, and other applicable regulatory agencies. The applicant will have to apply for permits with the Washington Department of Fish and Wildlife (WDFW) prior to commencing construction activities and the Department of Ecology will be sent the Hearing Examiner's decision for filing.

c. The provisions of this SMP;

The following regulations are applicable to this proposal, as outlined by SMP Chapter 5, Section F - Overwater Structures and Launching Facilities, with Staff analysis provided:

1. All new, reconstructed, repaired, or modified overwater structures must comply with all regulations contained in this SMP and all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.

Staff Comment: This proposal for a new dock and associated boat lift have been reviewed for conformance with regulations outlined by the SMP, State Agencies, Federal Agencies, local Tribes, and other applicable regulatory agencies. The applicant will have to apply for permits with the Washington Department of Fish and Wildlife (WDFW) prior to commencing construction activities and the Department of Ecology will be sent the Hearing Examiner's decision for filing.

2. Mitigation shall be provided for all new, reconstructed, or modified overwater structures to ensure no net loss of ecological function.

Staff Comment: Mitigation measures were incorporated into the associated SEPA Review for the proposal (permit PLN15-0047) and the applicant has proposed additional voluntary mitigation measures that consist of planting the shoreline area with 2 trees and 3 shrubs native to the State of Washington upon permit approval by WDFW.

3. New piers and docks shall be allowed only for public access and water-dependent uses, which includes a structure associated with a single family residence provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in the this section.

Staff Comment: The proposed dock construction is associated with a single family residence on the property and complies with the other regulations contained in this section.

4. Piers and docks may be permitted accessory to a development provided:
 - a. The applicant has demonstrated to the satisfaction of the Shoreline Administrator that a shared or joint-use pier is not feasible.

Staff Comment: A single-use dock is a permitted use in the Shoreline Residential designation, pursuant to Table IV – Shoreline Modifications in SMP Chapter 5, Section B. Additionally, the properties adjacent to the north and south of the applicant's property have existing docks.

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

Staff Comment: There is no existing dock on the applicant's property.

5. New piers and docks that are not accessory to single family residences shall be permitted only when intended for public use or when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

Staff Comment: Not applicable, the proposed new dock is accessory to a single family residence.

6. New residential development of more than two dwellings (e.g. short subdivision) shall provide a joint use or community moorage structure, rather than individual piers or docks.

Staff Comment: Not applicable, there is no subdivision associated with this proposal.

7. Proposed overwater structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a variance.

Staff Comment: The current proposal shows a finger or 'flag' at the furthest waterward portion of the dock that is 8 feet wide. Pursuant to the dimensional standards outlined in this section, the maximum width of any portion of a new dock is 6 feet. Based on conversations with the applicant, they are willing to reduce the width of the finger or 'flag' to 6 feet to meet the dimensional standards of the SMP. A recommended condition of approval has been incorporated into this staff report that states the width of the finger or 'flag' be reduced to 6 feet.

8. Fixed pile piers elevated at least two (2) feet above the OHWM shall be preferred. Floating docks shall be allowed if floating elements are not located within the first thirty (30) feet of the shoreline measured waterward of the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible and an alternative design would result in less ecological impact.

Staff Comment: The SEPA Checklist submitted in association with this proposal indicated that the deck surface will be 18 inches above the Ordinary High Water Mark (OHWM). A recommended condition of approval has been incorporated into this staff report that states the deck surface should be a minimum of 24 inches above the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible or how the proposed alternative of 18 inches would result in less ecological impact.

9. All float tubs shall be fully encapsulated and the decks shall be fully grated except for the float tubs, designed with a ramp section connecting to the upland and are prohibited from resting on the substrate. Floating docks are required to be designed to not ground during low water conditions.

Staff Comment: Not applicable, there is no proposed float tub included in the proposal.

10. All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.

Staff Comment: The proposed dock and boat lift will have to obtain a building permit from the City of Black Diamond, ensuring adherence with this standard.

11. Wooden components that will be in contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Structures shall be made out of materials that have been approved by applicable state and federal agencies.

Staff Comment: Not applicable, there will be no wooden components in contact with the water as a result of this proposal. The pilings proposed are galvanized 4" standard wall steel.

12. New Boat houses located over water or within the shoreline setback area are not permitted.

Staff Comment: Not applicable, there is no boat house included in this proposal.

13. Covered moorage with a solid roof and structural elements is not permitted, however one boat canopy with a translucent covering and one boat lift per lot is permitted, except for joint use docks, where one boat lift and one canopy per ownership interest is permitted. Up to two lifts for personal watercraft shall also be permitted.

Staff Comment: One boat lift is permitted per lot, and will include translucent covering.

14. No portion of a deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than six (6) feet above the OHWM.
Staff Comment: Adherence to recommended condition of approval regarding dock height above OHWM as detailed in regulation 8 listed above will ensure compliance with this regulation.
15. No residential dwelling unit may be constructed on an overwater structure.
Staff Comment: Not applicable, there is no residential component to this application.
16. No pier, moorage, float, or overwater structure or device shall be located closer than fifteen feet from the side property line extended, except that such structures may abut property lines for the common use of adjacent property owners when mutually agreed to by the property owners in a contract recorded with King County Records, a copy which must accompany an application for a building permit or a shoreline permit.
Staff Comment: The proposed dock and associated boatlift will be setback from the northern and southern property lines approximately 18.5 feet.
17. All pier and dock lengths shall be minimized to the maximum extent feasible and comply with regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
Staff Comment: The dock length is in compliance with the dimensional standards outlined in this section. Additionally, the subject property is in a small 'cove' along the eastern edge of Lake Sawyer, requiring a longer dock length to allow proper use throughout the year as the water recedes in the summer months. Attachment 8 (Vicinity Dock Length Exhibit) graphically illustrates this information as it relates to the project site. The length of the dock will not impact navigational rights of adjacent property owners.
18. The length, width, and total area of moorage structures are provided in Table V below (standards are as follows):
- a. Maximum Length*: The point at which 11 ft. of water depth is reached, not to exceed 60 ft. All measurements are based on the OHWM as determined in the field.
**Footnote: The proposed length must be the minimum necessary to support the intended use. The total dock length includes approach ramp and floating element(s). A report prepared by a qualified professional that includes verifiable survey information demonstrating the average water depth is required for all docks or piers over forty (40) feet in length. Existing public piers may be repaired or replaced to their previous length. Piers or docks extending further waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation.*
Staff Comment: The proposed dock length is 56 feet. Pursuant to the dimensional standards established in this section, any dock over 40 feet in length must provide verifiable survey information that demonstrates average water depth. The City assessed this requirement by analyzing bathymetry data available from the Department of Ecology as it relates to this proposal. The proposed dock, at its most-waterward edge, is approximately 40 feet away from the 10-foot-depth area of Lake Sawyer. The data used in the City's analysis was prepared by the U.S. Geological Survey and the Washington Department of Ecology. Attachment 7 (Kasper Water Depth Exhibit) graphically illustrates this information as it relates to the project site. Attachment 6 (Lake Sawyer Bathymetry Map) illustrates the bathymetry for Lake Sawyer as a whole.
 - b. Maximum Width*: 4 ft. required within the first 30 feet from the OHWM, 6 feet required elsewhere.

**Footnote: Includes all walkways and additional fingers. The proposed width must be the minimum necessary to support the intended use. All pier and dock primary walkways or decks must incorporate materials and a design that allow adequate minimum of 50% of light to transmit through the material. Floats must have a minimum 2-foot strip of grating down the center that allows 50% of light to transmit through. The maximum width of a ramp connecting a pier to a float should be minimized to the maximum extent practical and shall also meet the light transmittal standard. An exception to the maximum width standard may be granted in order to meet the American's with Disabilities Act standards and considerations. A demonstration of need must be shown in order to allow this exception.*

Staff Comment: The current proposal shows a finger or 'flag' at the furthest waterward portion of the dock that is 8 feet wide. Pursuant to the dimensional standards outlined in this section, the maximum width of any portion of a new dock is 6 feet. Based on conversations with the applicant, they are willing to reduce the width of the finger or 'flag' to 6 feet to meet the dimensional standards of the SMP. A recommended condition of approval has been incorporated into this staff report that states the width of the finger or 'flag' be reduced to 6 feet.

- c. Maximum Surface Area*: 400 sq. ft. (single owner)

**Footnote: The proposed surface area of the overwater structure must be the minimum necessary to support the intended use. Maximum surface area includes all walkways, ramps, and additional fingers associated with the dock or pier, as well as any float associated with the property or properties (see additional standards for floats below). Joint-use docks and piers must be utilized by two or more residential property owners.*

Staff Comment: The proposed surface area of the dock is currently 312 square feet. If the recommended condition of approval for reducing the width of the finger or 'flag' from 8 feet to 6 feet is incorporated, this surface area of the proposed deck will be reduced to 296 square feet.

V. CONCLUSIONS

The proposed Shoreline Substantial Development satisfies the review criteria and development standards of the Shoreline Master Program and associated regulations outlined in the Black Diamond Municipal Code.

VI. STAFF RECOMMENDATION

The Shoreline Substantial Development Permit requested is in conformance with the provisions of the Shoreline Master Program, as adopted by the City of Black Diamond. Approval of this application would allow the applicant to construct a dock and boatlift that meet the development standards and environmental goals outlined in the SMP.

Staff recommends this Shoreline Substantial Development Permit (PLN16-0015) be approved with conditions.

VII. RECOMMENDED CONDITIONS

1. The proposed boatlift (including canopy area) should be realigned to extend no further into Lake Sawyer than the most waterward portion of the dock.
2. The finger (or 'flag') at the end of the waterward portion of the dock must be reduced from 8 feet wide to a maximum of 6 feet wide, pursuant to the SMP development standards for overwater structures.
3. The deck surface should be a minimum of 24 inches above the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible or how the proposed alternative of 18 inches would result in less ecological impact.

VIII. ATTACHMENTS

Attachment 1	Shoreline Substantial Development Application
Attachment 2	Consolidated Notice of Land Use Application, Public Hearing, SEPA MDNS
Attachment 3	SEPA Determination of Mitigated Non-Significance (permit PLN15-0047)
Attachment 4	SEPA Checklist (permit PLN15-0047)
Attachment 5	Public Comments Received
Attachment 6	Lake Sawyer Bathymetry Map
Attachment 7	Kasper Water Depth (Bathymetry) Exhibit
Attachment 8	Vicinity Dock Length Exhibit

Staff reserves the right to respond to matters raised subsequent to the writing of this report.

OFFICE USE ONLY



CITY OF BLACK DIAMOND
PLANNING DIVISION
MASTER APPLICATION

FILE #	PLN16-0015
APPL TYPE	Substantial Shoreline
FEE PAID	

COMMUNITY DEVELOPMENT

MAR 16 2016
RECEIVED

24301 Roberts Dr, PO Box 599 Black Diamond, WA 98010
Phone: (360)886-2560, Fax: (360)886-2592

NAME OF PROJECT/DEVELOPMENT:
Curtis Lang Custom Homes - Mike Kasper

ADDRESS/LOCATION OF PROPERTY:
30201 234th Ave SE Black Diamond, WA 98010

OWNER NAME: Mike Kasper ADDRESS: 30201 234th Ave SE, Black Diamond, WA 98010mike

EMAIL: mike.kasper@comcast.net PHONE: (253) 335-0374 FAX:

APPLICANT NAME: Kim Cogger ADDRESS: 3040 B St, #7 Auburn, WA 98001

EMAIL: kimc@watersandwoodinc.com PHONE: (253) 939-7691 FAX: (253) 804-9470

CONTACT NAME: Kim Cogger ADDRESS: 3040 B St, #7 Auburn, WA 98001

EMAIL: kimc@watersandwoodinc.com PHONE: (253) 939-7691 FAX: (253) 804-9470

BRIEF DESCRIPTION OF PROJECT:

Install new dock. It will be 4' wide x 56' long with a 16x8 flag on the end. Install Basta 6K62 hydraulic lift and 24" canopy.

PARCEL #: 032106+9057	*Legal Description must be attached	1/4 SEC: SW	SEC: 3	TWN: 21	RANGE: 6
SIZE (ACRES/SQ FT): 312ft sq dock surface	ZONING: R-4	COMP PLAN DESIGNATION:			

EXISTING LAND USE: Single Family Residential - R4

ADJACENT LAND USE: NORTH: Single Family Residential - R4 SOUTH: Single Family Residential - R4
EAST: Lake Sawyer WEST: Single Family Residential - R4

DOES THE SITE CONTAIN ANY OF THE FOLLOWING ENVIRONMENTALLY SENSITIVE AREAS? CHECK ALL THAT APPLY:

FLOOD HAZARD AREA LANDSLIDE HAZARD AREA SEISMIC HAZARD AREA
COAL MINE HAZARD AREA STEEP SLOPE HAZARD WETLANDS STREAMS

I certify under penalty of perjury, under the laws of the State of Washington, that the foregoing and attached exhibits are true and correct. I further certify that I am the owner of the property described above or authorized to act on behalf of the above interested parties.

OWNER

PRINT NAME	Mike Kasper
SIGNATURE	

APPLICANT/AGENT

PRINT NAME	Kim Cogger
SIGNATURE	

CHANGES TO APPROVED APPLICATIONS WILL CONSTITUTE A NEW APPLICATION AND WILL BE SUBJECT TO FULL APPLICATION FEES.



CITY OF BLACK DIAMOND

P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592
www.ci.blackdiamond.wa.us

CONSOLIDATED NOTICE OF LAND USE APPLICATION, PUBLIC HEARING, SEPA MDNS

Notice Released: April 19, 2016

The City of Black Diamond has received the following Shoreline Substantial Development application that may be of interest to you. The application and any related documents are available for public review during normal business hours at the Community Development Department at the address noted above. The City has consolidated the required 14-day comment periods for the Land Use Application and SEPA Determination into one comment period for the associated applications. The City will not act on this proposal until after 14 days from the date of this notice.

Project Name: Kasper Dock Shoreline Substantial Development

Application Date: March 16, 2016

Complete Application Date: April 7, 2016

Application Number: PLN16-0015

Name of Applicant: Kim Cogger, Waters and Wood, Inc.

Property Owner: Mike Kasper, 30201 324th Ave SE, Black Diamond

Project Description: The applicant is proposing to construct a 312 square foot dock for boat moorage and swimming access on the eastern portion of Lake Sawyer. Included in the proposal is a freestanding boatlift with associated 24" translucent canopy.

Location: 30201 234th Ave SE, Black Diamond, WA 98010 within a portion of the southwest ¼ of Section 3, Township 21 North, Range 6 East, Willamette Meridian, King County, WA.

Parcel Number: 0321069057

Public Hearing: May 11, 2016 at 5:30 pm, City of Black Diamond Council Chambers, 25510 Lawson Street. In accordance with BDMC 2.30.090, the staff report will be available on the City website no later than May 5, 2016.

Environmental Documents: SEPA Checklist and Review, PLN15-0047

The City of Black Diamond, as lead agency, has determined that this project does not have a probable significant adverse impact on the environment. This decision was made after review of a completed environmental checklist and other information on file with the lead agency, available to the public on request.

Other Permits: Building permit to be applied for upon land use approval

Requested Approval: Shoreline Substantial Development, Type 3 – Quasi-Judicial, Hearing Examiner decision

Staff Contact: Alex Campbell, Community Development Department, City of Black Diamond, 360-886-5700 ext. 5730, acampbell@ci.blackdiamond.wa.us

You are invited to express comments, request a copy of the decision when it becomes available, and be made aware of any appeal rights. Written comments may be submitted during the public comment period, which is 14 days from the date of this notice, to the Community Development Department, 24301 Roberts Drive (in person) or PO Box 599 (via regular mail), Black Diamond, WA 98010.

**COMMENTS RELATED TO THIS APPLICATION AND SEPA MDNS ARE REQUESTED BY:
5:00 P.M, May 3, 2016.**



CITY OF BLACK DIAMOND

P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592
www.ci.blackdiamond.wa.us

SEPA Determination of Mitigated Non-significance (MDNS) File Number PLN15-0047

Name of proposal: SEPA – Kasper Dock

Description of proposal: The applicant is proposing to construct a 312 square foot dock for boat moorage and swimming access on the eastern portion of Lake Sawyer. Included in the proposal is a freestanding boatlift with associated 24" canopy. The associated Shoreline Substantial Development Permit application for this proposal is PLN16-0015.

Proponent: Kim Cogger

Location of proposal: 30201 234th Ave SE, Black Diamond - Parcel 0321069057

Lead agency: City of Black Diamond

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Responsible official: Barbara Kincaid

Position/title: Community Development Director

Phone: 360-886-5700

Address: 24301 Roberts Drive, Black Diamond, WA 98010

Date: April 19, 2016

Signature

This MDNS is issued under WAC 197-11-350; the lead agency will not act on this proposal for 14 days from the date above. Comments must be submitted by May 3, 2016.

You may appeal this determination at the Community Development Department, 24301 Roberts Drive, Black Diamond, no later than 5:00 p.m., May 3, 2016 by completing the proper appeal form and paying an appeal fee of \$250.00. You should be prepared to make specific factual objections.

Contact the Community Development Department at 360-886-5700 to read or ask about the procedures for SEPA appeals.

Mitigation Measures: The following SEPA mitigations are hereby incorporated into this determination of non-significance:

1. Apply general best management practices and standard project considerations prior to commencement of work to minimize sediment from entering water bodies. This can be accomplished by providing a Temporary Erosion and Sediment Control (TESC) Plan in association with building permit application.
2. Use decking material that allows a minimum of 50% of light to transmit through.
3. The applicant shall replant any disturbed areas within the shoreline setback with noninvasive plant material similar to that which most recently occurred on-site to minimize habitat loss and the impact of invasive plants.
4. The boat lift canopy must use translucent material, pursuant to the City's adopted Shoreline Master Program.



CITY OF BLACK DIAMOND ENVIRONMENTAL CHECKLIST



WAC 197-11-960 Environmental Checklist

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Kasper Dock, Boat lift and Canopy - 30201 234th Ave SE

2. Name of applicant:

Kim Cogger

3. Address and phone number of applicant and contact person:

3040 B Street, #7 Auburn, WA 98001

(253) 939-7691

4. Date checklist prepared:

2/19/16

5. Agency requesting checklist:

City of Black Diamond

6. Proposed timing or schedule (including phasing, if applicable):

Total construction time will be approximately 2 weeks.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Does not apply.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No

10. List any government approvals or permits that will be needed for your proposal, if known.

HPA from WDFW

Building Permit from City of Black Diamond. Shoreline Substantial development.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Private new 312 sq ft dock for boat moorage and swimming access. Install a freestanding boatlift and 24" canopy.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Tax Parcel # 032106-9057

30201 234th Ave SE Black Diamond WA 98010

SW - 3-21-6

N60FT of FOLG DESC-S 660FT OF FL7 LESS E660 FT THOF LESS CMRGTS

TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE
ONLY

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other

Shoreline of Lake Sawyer, over water abutted by sloped land.

b. What is the steepest slope on the site (approximate percent slope)?

Approximate 5%.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Rocky Lake Bottom.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Does not apply.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Does not apply.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

No.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

None. (312 ft sq dock surface)

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

No soil work planned.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Does not apply.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

No

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Does not apply.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Yes. Lake Sawyer Green/Duwamish Watershed.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Yes. Dock on Lake Sawyer Surface - See attached Building Plan.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

No fill or dredge needed.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

No

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

No

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Does not apply.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

No run off due to construction.

2) Could waste materials enter ground or surface waters? If so, generally describe.

No we are driving galvanized steel piles 4" in diameter. It will not affect water clarity as we will use a containment boom during dock construction as a additional safety measure.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Does not apply.

4. Plants

a. Check or circle types of vegetation found on the site:

- Deciduous tree: Alder, maple, aspen, other
- Evergreen tree: Fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other
- Water plants: Water lily, eelgrass, milfoil, other
- Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Does not apply.

c. List threatened or endangered species known to be on or near the site.

None.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Please see attached for "Mitigation plan".

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

Birds: Hawk, heron, eagle, songbirds,

other:

Mammals: Deer, bear, elk, beaver,

other:

Fish: Bass, salmon, trout, herring, shellfish,

other:

b. List any threatened or endangered species known to be on or near the site.

None.

c. Is the site part of a migration route? If so, explain.

No.

d. Proposed measures to preserve or enhance wildlife, if any:

Douglas Fir Chemonite Treated decking and/or ThruFlow decking. WDFW requires an "Open Grated" decking rather than solid decking. We are using "Open X-Series re-inforced decking". This will be framed 24" on center, allowing more light to pass thru the framing as well.

6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Electric Tools.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Does not apply.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Does not apply.

7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

No.

1) Describe special emergency services that might be required.

Does not apply.

2) Proposed measures to reduce or control environmental health hazards, if any:

Please see attached Mitigation Plan.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Does not apply.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Impact driving of piles, hammering within the hours of 9am & 6pm.

3) Proposed measures to reduce or control noise impacts, if any:

Limit hours & duration.

8. Land and shoreline use

a. What is the current use of the site and adjacent properties?

Single Family Residential - R4

b. Has the site been used for agriculture? If so, describe.

No.

c. Describe any structures on the site.

3490 SFR w/garage. MAIN: 1,244sf. Upper: 1,558sf Lower: 688sf garage and 415sf. Lake Storage: 204sf. Front porch: Front porch: 91sf and

d. Will any structures be demolished? If so, what?

No.

e. What is the current zoning classification of the site?

Single Family Residential - R4

f. What is the current comprehensive plan designation of the site?

Low Density Residential.

g. If applicable, what is the current shoreline master program designation of the site?

Shoreline Residential.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

No.

i. Approximately how many people would reside or work in the completed project?

Does not apply.

j. Approximately how many people would the completed project displace?

None.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Does not apply.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Adhere to building & shoreline codes.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Does not apply.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Does not apply.

c. Proposed measures to reduce or control housing impacts, if any:

Does not apply.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not above 30' OWHM. Deck surface will be 18" above OWHM (Top of Dock).

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

Use acceptable, typical building materials

11. Light and glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

The low voltage (12Volt) proposed lights will not reflect into the water at all and are mainly up lighting for ambience. We will use the low voltage Malibu Landscaping lights.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No.

c. What existing off-site sources of light or glare may affect your proposal?

Does not apply.

- d. Proposed measures to reduce or control light and glare impacts, if any:

Does not apply.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

Water sports, Fishing, swimming and boating.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

No

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Does not apply.

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

No

- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

None

- c. Proposed measures to reduce or control impacts, if any:

Does not apply.

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

234th Ave SE

- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No. Approximately 1 mile.

- c. How many parking spaces would the completed project have? How many would the project eliminate?

Does not apply.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Does not apply.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Does not apply.

- g. Proposed measures to reduce or control transportation impacts, if any:

Does not apply.

15. **Public services**

- a. Would the project result in an increased need for public services (for example: Fire protection, police protection, health care, schools, other)? If so, generally describe.

No

- b. Proposed measures to reduce or control direct impacts on public services, if any.

Does not apply.

16. **Utilities**

- a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Electricity, natural gas, water, refuse service, telephone.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Electric lighting

C. **SIGNATURE**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Kim Cogges

Date Submitted:

Feb 29, 2016

D. **SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS**

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

SEPA COMMENTS
FOR
FILE NUMBER PLN15-0047
AND
FILE NUMBER PLN16-0015

These comments are offered for the Hearing Examiner's consideration as he makes his decision regarding the file numbers referenced above. We are long time residents on this lake who have consistently advocated for the protection of this state body of water from the impacts of development both large and small and the strict adherence to the codes and laws governing this state body of water for the long term preservation of the lake's health, the support of the natural environment for the large variety of wildlife that call this lake and shoreline home and the continued enjoyment of the natural beauty and recreational activities by all stakeholders.

The law in this matter is clear. I was one of seven citizens who were selected and seated for the Black Diamond Citizen Advisory Committee for the Shoreline Management Act /Plan. We spent more than three years working with a state consultant, city staff, Dept of Ecology, the Black Diamond Planning Commission, Black Diamond City Council and the public to try and create a plan that both addressed the rights and needs of lake residents and the public while also supporting the State's intended outcome of 'no net ecological loss' to the eco system that is comprised by the lake and everything 200 ft from its shores.

Since the plan's adoption almost two years ago the City of Black Diamond has had nearly complete (if not total) turnover in the Community Development department, including cycling through several SEPA Responsible Officials and Shoreline Administrators. For myself, and most others who dedicated such a vast amount of time to the SMP effort on the Citizen Advisory Committee, I am sad to say that nearly ALL single family dwellings built on the lake since the time the SMP was adopted FAIL to reflect the impacts and intent of that law, mainly due to a lack of understanding, application and enforcement of the law by city staff.

It is important that the City's Hearing Examiner have an understanding of this for not just the Kaspar project, but for the overall impact this has had on the level of SEPA review happening city-wide, some of which is long delayed SEPA associated with the MPDs. With such obvious failings of code application and oversight occurring regularly on the administration of single family dwellings the impacts are exponentially raised when applied to much larger projects. The cumulative effect is certainly not the ideal outcome and these failings should be evaluated to offset any 'deference' that, as a regular matter of course, are afforded the city staff by the Hearing Examiner.

Because the City Staff report is not available at this time I shall provide review and comment on that document at the Open Record Hearing scheduled for next week.

Here are some of the most relevant and applicable parts of the SMP which apply to this project application and set the standard for review and decision:

2. Policies and Regulations

a) Policies

1. New piers and docks should be allowed only for public access and water-dependent uses.
2. New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
3. Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by their construction.
4. The further proliferation of single-purpose, single-owner piers and docks should be discouraged. Preference should be given to joint-use structures in shoreline areas unless the applicant demonstrates why a joint-use structure is not feasible.
5. Substantial additions or alterations to overwater structures, including renovations where the cost of the development exceeds seventy-five (75) percent of the fair market value of the existing structure, should be in conformance with all policies and regulations set forth in this Master Program.

Ordinance No. 14-1029
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Mayor Initial: ADG
Date: 6/23/14

11. Overwater structures and mooring buoys should be designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.

Shoreline Management Act
5.(b) 8 (Pg. 32)

8. Regulate the design, construction, and operation of permitted uses in the shoreline jurisdiction to minimum interference with the public's use of the water.

Shoreline Management Act
6.(c)6 (Pg. 37)

6. Decrease the amount and impact of overwater and in-water structures along Lake Sawyer through minimization of structure size and use of more environmentally friendly materials, including grated decking.

Shoreline Management Act
8.(b)7 (pg.67)

7. The City encourages the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.

It is clear that there is a legal requirement to consider the size and impact of a dock - especially one that is nearly twice the length of the docks on this lake, and certainly is of a precedent setting length.

The dock submitted for review and being considered for approval in these two files is 56 feet long with a 'flag' or 'arm' that runs parallel to the bulkhead/shoreline area. The combined width of the 'flag' and the boat that is to be moored at the other side of the dock totals nearly half the width of the lot. The impact of such a substantial 'blockade' is a privatizing of the open water on the shoreward side and the effect is a 'taking' that impacts many if not all passive recreational uses common to this state body of water, and our cove in particular.

The docks in the cove where this project is proposed vary in length from 25' to one that is 40' at the original Sabin cabin site, one lot to the south of the Kaspar home. For the most part docks are about 30' in length in this cove and only one other home in the cove has a 'flag' or 'arm' that was created by permanently attaching a previous 'floating raft' to the side of an existing pier at Dock #25 and this was done without permit some 10 years ago. None of these docks have lights on them, although there are some light fixtures on the shoreline for about half of the homes/docks in this cove. Between the excessive length and the '10 light package' (which is more lights on one dock than exist in the entire cove ON docks and nearly equals the total amount of lights on the shoreline for all 15 homes at present time) the project brings to mind a large, lighted runway in what currently amounts to a quiet field for flying kites. The light pollution would be an unwelcome intrusion for both the human and animal occupants of this cove and the farther out the dock is the more homes whose views are impacted by the lighted dock.

Community Development staff confirmed in a May 2, 2016 email that they have "no drawings in their file that incorporated the locations of navigational buoys in the cove or this dock in scale/relation to other docks in the cove."

The proposed length of the subject dock is excessive. The Shoreline Mgmt Act actually discourages the use of single family docks and encourages shared use. This is not an idea I've supported either as a CAC member many years ago or now. That said the recreational rights of any property owner in this cove are fully supported by a dock in the 25-35 ft range. The Wahlmans, Stanfords and Perkins all have docks that are 30 ft or less that are equipped with boat lifts. Even with last year's record drought the ability to get boats in and out of such lifts on 'short' docks was possible well beyond the Labor

Day traditional 'end of the boating season' and was possible well beyond that into late September. We removed our boat in late September without ever losing the ability to use our boat slip. None of the homeowners in our cove had to resort to tying up to buoys or alternate sources other than their own docks last year for moorage even with the record drought and low water levels in the lake.

The rains began in late October and on November 15-16th the lake was inundated by the release of over 1 million gallons of untested and untreated water due to the removal of a beaver dam on one of the inflows without any notice to homeowners.

So the excessive length request of this dock is not justified by any claim to necessity in support of the homeowner's right to recreate and clearly **does** impact the recreation and navigation rights of other stakeholders / lake users.

I think it is also very important to emphasize that a great deal of **the impacts from future drought years or global warming are best addressed by the State of Washington and the City of Black Diamond addressing and assigning responsibility for the weir on Lake Sawyer which IS the mechanical measure by which lake level is to be controlled.**

<http://www.merriam-webster.com/dictionary/weir>

Despite the City of Black Diamond annexing in the lake some 18 years ago (as their largest tax district) the City has refused to provide maintenance or management of this critical, mechanical control device regardless to impacts to public health, welfare, property rights, property value or safety. Many decades ago the Washington State Department of Fish and Wildlife had some responsibility for this seasonal adjustment activity, but they divested themselves of that duty due to a dearth of funding and staff. Mayor Olness denied services to support the weir and first tried to assign ownership to a local social club - the Lake Sawyer Community Club. Various legal reps for the city and the LSCC exchanged letters to little effect. Then Mayor Gordon tried to offload and assign ownership to the two private homeowners whose property is 'touched' by the weir on either side of the outlet. He attempted to negotiate a release of liability from the property owners for city staff to have access for maintenance and other activities but Mayor Gordon's term was less than one year and riddled with bigger distractions. Mayor Benson, serving as Mayor for the last 18 months, has refused to address or remedy this situation. Currently on the city council calendar is an item to address replacing the culvert under 216th which is between the weir and Covington Creek and yet this project has skirted and ignored the obvious weir issues.

Regardless, **ultimately the issue of the management of water levels for this lake need to be addressed and controlled via the weir**, not by the building of ever longer docks by individual home owners. The lake is never going to get bigger and the SMP's emphasis on preference for the smallest size that serves the need is in recognition of that fact and reflects a priority on leaving the maximum amount of open water for use by all.

Returning to the cites from Black Diamond's SMP above and the data file associated with this project there are additional areas where this effort has not risen to the level of effort required by the law.

It is clear from 2.(a) 3 & 11, as well as 5.(b) 8 that the city staff and more specifically the Shoreline Administrator has an obligation to conduct a review that assess the impact to and any restriction of the public's use of the lake, evaluate whether any conflicts are created by the proposed construction, as well as assess the impact on navigable water's and any public safety impact for the public's use of the lake and shoreline.

And yet Community Development has not got any scale or relational drawings included in this file to evaluate or assess such conflicts or impacts by their own admission. Further - and the Staff Report is not yet posted - I was concerned last week when in the course of a discussion initiated by the Chief of Police about water safety issues and new signage at the boat launch I asked about the Marine Patrol's 'review and input' on both navigable waters and public safety. BDMC 2.30.090 makes it clear that Community Development / Shoreline Administrator has the responsibility to 'coordinate and assemble the reviews of other city departments and governmental agencies having an interest in the subject application' and since the Black Diamond Marine Patrol has been the sole source of patrol and enforcement on this state body of water for 18+ years it is clear they are the most qualified to provide such input and assessment. Instead the Chief of Police told me that Alex Campbell from Community Development told her HE would assessing the navigation impacts and safety assessment. So, pending the availability of the staff report, it appears that Mr. Campbell does not have any tools, experience or reference material to conduct such a review. I don't know if Mr. Campbell has ever even been on a boat on Lake Sawyer, let alone in possession of a WA. State Boating Card to pilot a craft on this or any other lake. The exclusion of input by a qualified city department on their area of expertise is of some concern to me. It fails to fulfill the requirements and intent of both the SMP sections identified above AND BDMC 2.30.090.

Also of concern - the City sent two 'correction letters' (included in the City's file) in October and November of 2015. The second correction letter (sent by Alex Campbell, part time Black Diamond Community Development Staff member) mistakenly tells the applicant to provide "a report prepared by a qualified professional that includes verifiable survey information demonstrating the average water depth" at the end of the dock /pier. However, there should be a qualified professional's survey report re the ***depth of the lake at 56 feet from the shoreline to show that it is less than 11 feet based upon the OHWM not based upon average water depth.*** After numerous inquiries to both Alex Campbell and the Shoreline Administrator, SEPA Responsible Official and head of Community Development Barbara Kincaid I was told the following:
[Mrs. Wheeler,](#)

Our staff review for PLN15-0047 is complete pending public comment. You have received the file contents for review as requested. Please consider submitting inquiries for this project in the form of a comment letter.

Thank you,
Barb

This response does not adequately answer the request for the depth report requested by the city six months ago as a 'required correction' and follow up through City Clerk/ PDR Specialist Brenda Martinez resulted in this clarifying response:

From: Brenda Martinez <BMartinez@ci.blackdiamond.wa.us>
Date: May 3, 2016 at 2:10:12 PM PDT
To: 'Cindy Wheeler' <cincity63@comcast.net>
Cc: Barbara Kincaid <bkincaid@ci.blackdiamond.wa.us>
Subject: **Depth Report Records Request**

Dear Mrs. Wheeler:

Thank you for your records request seeking the depth report for the Kasper dock. Please be advised Community Development staff has let me know there is no responsive document to your request.

If you have any questions please let me know.

Kind regards,

Brenda L. Martinez, CMC | City Clerk / HR Manager
City of Black Diamond | www.ci.blackdiamond.wa.us
P: 360-886-5700 | F: 360-886-2592

NOTICE OF PUBLIC DISCLOSURE: This e-mail is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this e-mail, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

So the City of Black Diamond has sent two correction letters in regard to this project, requesting information required by the SMP (the depth report is pursuant to the Dimensional Standards for Overwater Structures listed in Table V of Chapter 5, Section F(2)(b)(19) of the SMP) and despite

never receiving these corrective data requirements the City has deemed the file complete and set a hearing date. There seem to errors of omission unrecognized by the staff responsible for this task.

Another example of staff's lack of follow through on their own correction letters regarding the Kaspar dock is the 'vegetation plan.' City Staff quote Chapter 5, Section F(2)(b)(2) related to native vegetation. This is sadly laughable as ZERO native vegetation remained on the Kaspar lot as of the Nov. 19, 2015 date of this letter as development of this lot in the last year resulted in a TOTAL removal of ALL trees from the lot, including some half dozen significant trees in the 35 Ft. required setback zone, as well as ALL native vegetation due to aggressive development practices unsupported or allowed by the SMP. As a previously un-landscaped or developed lot this property was required under the SMP to retain ALL vegetation in the 35 ft setback from the OHWM. In fact a silt fence was installed AT the OHWM and a metal beam clutched in the pincher of a backhoe was used to literally SCRAPE all vegetation until the lot was complete bare earth by CJ Construction, hired by Curtis Lang, developer. Despite a letter to Joe Burcar, WA State Dept. of Ecology from departing employee Aaron Nix in Spring of 2015 promising a restoration landscape plan after this illegal action that 'will be coordinated with Stan May, Black Diamond, and Joe Burcar, Dept of Ecology.'" See email of April 21, 2015. Despite Mr. Nix - then Shoreline Administrator saying 'I'm confused regarding your concern about just grass being placed within the setback area. That's never been the intent and Stan is very aware of the need to revegetate within the setback area. Grass will be utilized in order to help stabilize this area, in addition to other plantings as approved by the City/ Department. " FYI - The property today is just grass all the way down to the bulkhead with the exception of an area of pavers set up as a firepit immediately behind the bulkhead. The original property file has Dan DeSantos, city staff, recording a dig test 4 feet behind the bulkhead that finds the water level less than 3 ft. down from the surface behind the bulkhead. That dig test was performed in Feb, 2015 and was included as a link on the Permit Trax system but does not appear as part of the city's electronic file any longer.

Further inaccuracies and sloppiness in related to the details of this project are reflected in the varied calculations produced by the city for the sq. footage of the dock project. The actual area is below the max allowed for in the SMP and the reasons this dock should be denied are not associated with these calculations but the lack of attention and accuracy is demonstrative of the failure of city staff to understand, apply and execute the actions associated with the SMP and documenting a construction file. Here is a quick summary of the dates and docs with various sizes posted by the city.

<u>Document</u>	<u>Date</u>	<u>Area</u>
PLN15-0047 Permit Application	10/21/15	354 sq. ft.
BD Environmental Checklist	3/16/16	312 sq. ft.
PLN15-0047 Site Plan	3/16/16	322 sq. ft.

The PLN15-0047 Site Plan omits the dimension for the width of the 'flag' at the end of the dock. We used the 8 ft. length in the description in other documentation to come up with the area calculation of 322 sq ft.

This is one more way that the SEPA Responsible Official and Shoreline Administrator are failing in their duty to have clear information for the public's review and input which the SMP relies heavily on AND is a requirement of the City's Public Participation Plan.

Also confusing in the city's file (which was sent to all neighbors within 300 ft of the project per BDMC) was a continual reference to at 24" canopy being added alongside the pier. We had to all 'assume' they mean a 24 foot canopy, not 24 inch canopy. The site plan does not have dimensions noted on the canopy.

The SEPA Cklist is not accurate or complete as to wildlife. Most notably committed are King Fishers, Brown Bats, fresh water otters, crawdads and several species of fish including trout, bass, perch and sunfish. No comments or evaluations are offered as to the impact of the light pollution on these populations but the bats are particularly sensitive to any additional artificial light sources and the bats have been struggling to maintain their former level of population in this area due to the 'nose fungus' and other challenges in the environment.

So in summary - the dock is not of an appropriate size to be a good fit in the cove where it is to be located. It is overly large and the Kaspar's should be allowed a single family use dock that is in keeping with the surrounding docks and which fully support the family's right to recreate without creating a substantial denial of use impact or safety impact to the public and other stakeholders. The SMP and other applicable code make this decision clear.

Your attention to this appreciated.

On a much bigger scale and of more concern is the lack of thoroughness and follow through in the explanation, application and enforcement of the SMP by the Shoreline Administrator and staff, as well as the associated failure to the SEPA process due to staff errors and lack of completeness as well.

The Rock Creek Bridge SEPA was issued in Oct by this same staff as a DNS with a comment/appeal date that violated both city code and state law. When asked about this by me the SEPA Responsible Official wanted to first know why I cared so much and then told me she would not budge on her notice date. Only when the Muckleshoot Tribe submitted identical written concerns about erroneous dates was the city moved to retract the Rock Creek Bridge DNS and re-issue with a correct date to allow the public the full measure of response time. With incomplete data in that file, failure to notify required agencies and other serious errors the Rock Creek Bridge SEPA was withdrawn a second time in early 2016 but that notice is no longer visible on the city's Public Notice page. That final withdrawal notice was not sent to the required agencies - including the SEPA Registry folks at Dept of Ecology. WA Dept of Fish and Wildlife were also NOT

notified of the withdrawal for PLN15-0040 despite their ongoing efforts to evaluate the SEPA information in considering the required Hydraulic Permit Application - which you remember citizens having to fight to have recognized as a legal requirement in the Plat 1A Appeal Hearing.

The public trust is at an all time low regarding the manner in which the environmental review and approvals for ALL projects in this city are being handled city staff. Again this is important information for the City's Hearing Examiner to be aware of, especially moving forward with much larger plat activities and SEPA analysis long delayed.

It seems the citizens who told you in 2010 that "SEPA delayed will be SEPA denied" were all too accurate in their forecasts.

William and Cynthia Wheeler





