

**From:** Alison Van Gorp <alison.vangorp@mercergov.org>  
**Sent time:** 2022/08/10 12:05:48 PM  
**To:** Ryan Harriman  
**Subject:** FW: Followup on 7422 EMW Dock project  
**Attachments:** image001.png

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FYI, a little more context on the case I emailed you about previously. There are lawyers already involved (Lynn and her husband are both lawyers and she cc'd their lawyer on this matter), and since the construction is underway, it would be helpful to respond quickly. Any chance you could talk this afternoon? I could do 1:00, 2:30 or 4:00.

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**From:** Lynn Tuttle <lynnctuttle@comcast.net>  
**Sent:** Wednesday, August 10, 2022 11:43 AM  
**To:** Alison Van Gorp <alison.vangorp@mercergov.org>  
**Cc:** Reimers, Milt A. <MReimers@SCHWABE.com>; JERome ROACHE <j.roache@comcast.net>  
**Subject:** RE: Followup on 7422 EMW Dock project

Thank you Alison. As I noted, the drawing submitted with the permit is not accurate, as they just drew a line on the dock and said the south portion was "shared dock" and the north portion was not. It appears they submitted incorrect information for their permit. It does not make sense, even without the dock agreement, that those pilings on our dock would belong to Pearl, but she "shares" the dock that is to the side of our property line. While working on these pilings, they might even lift our dock up to remove pilings, and we do not know what the plans are for the pilings except they are repairing them. We are concerned about damage to our dock and no indemnification or information regarding the construction.

As I mentioned to you, because it was a joint space (with the boathouse and dock all attached on the two properties), Nicole always said we needed to agree to any dock work by Pearl. Pearl's attorneys and Seaborn were aware of that from all our discussions years ago. I appreciate your quick response to this.

Lynn C. Tuttle, MBA, JD, MS  
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On 08/10/2022 10:55 AM Alison Van Gorp <[alison.vangorp@mercergov.org](mailto:alison.vangorp@mercergov.org)> wrote:

Lynn - I got your message this morning and located the dock agreement on the KC recorder's website. I'm reviewing it now and I plan to reach out to some other staff for input as well. I will follow up with you later today.

Thanks,  
Alison

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**From:** Alison Van Gorp  
**Sent:** Tuesday, August 9, 2022 2:53 PM  
**To:** 'lynnctuttle@comcast.net' <[lynnctuttle@comcast.net](mailto:lynnctuttle@comcast.net)>  
**Subject:** Followup on 7422 EMW Dock project

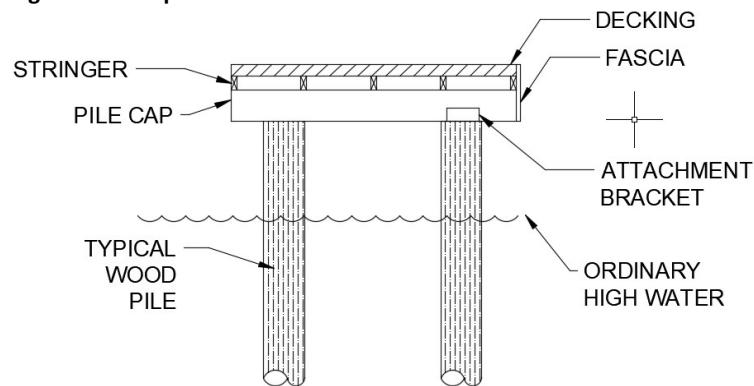
Hi Lynn – I've done some research on the permit history for your neighbor's dock. They applied for two approvals/permits in 2021 – a shoreline exemption and a building permit. The Shoreline exemption is a review that determined a Shoreline Substantial Development permit was not required – it provides land use approval to "repair an existing residential dock and boathouse, restoring them to their original configuration". Repair and replacement of existing legally established docks/structures is allowed under MICC 19.13.040(F)(2). I have copied these provisions below. This type of approval ( a "Type 1" land use approval per [MICC 19.15.030](#)), only requires notification in the weekly permit bulletin. It does not require mailed or posted notice. Application materials related to this approval are available here: <https://mieplan.mercergov.org/public/SHL21-011/>

**MICC 19.13.040 (F)(2)**

2. *Development standards for replacement, repair and maintenance of overwater structures, including moorage facilities.* The maintenance, repair and complete replacement of legally existing overwater structures is permitted; provided, that:

- i. All permit requirements of federal and state agencies are met;
- ii. The area, width, or length of the structure is not increased, but may be decreased;
- iii. The height of any structure is not increased, but may be decreased; provided, that the height above the OHWM may be increased as provided in subsection (F)(2)(ix)(b) of this section;
- iv. The location of any structure is not changed unless the applicant demonstrates to the director's satisfaction that the proposed change in location results in: (A) a net gain in ecological function, and (B) a higher degree of conformity with the location standards for a new overwater structure;
- v. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended best management practices of the Western Wood Preservers. All piling sizes are in nominal diameter;
- vi. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds;
- vii. The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife;
- viii. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success;
- ix. *Structural repair.* The structural repair, which may include replacement of framing elements, of moorage facilities that results in the repair of more than 50 percent of the structure's framing elements within a five-year period shall comply with subsections (F)(2)(ix)(a) through (F)(2)(ix)(c) of this section. For this section, framing elements include, but are not limited to, stringers, piles, pile caps, and attachment brackets, as shown in Figure D:
  - a. One hundred percent of the decking area of the pier, dock, and any platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;
  - b. The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet; and
  - c. An existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in Table D of this section;

**Figure D: Example of Overwater Structure**



- x. *Exterior surface repair.* The exterior surface repair, which may include the replacement of exterior surface materials of moorage facilities that results in the repair of more than 50 percent of the surface area of the moorage facility's decking, fascia, and platform lifts within a five-year period (see Figure D), shall be required to utilize materials that allow a minimum of 40 percent light transmittance over 100 percent of the dock; and
- xi. Any decking that is removed in the course of repair shall be replaced with decking materials that allow a minimum of 40 percent light transmittance.

The building permit (#2104-111) was approved in December 2021 and authorized the repair/reconstruction of the dock and roof structure over the boat lift. The application materials related to this permit are not posted online; I'm attaching the approved plan set for your information. Again, this permit did not require mailed or posted notice.

any information related to the private easement governing the use of this dock. The approved plans indicate that no work will be performed on the shared dock.

Finally, the appeal procedures for land use decisions are in [MICC 19.15.130](#) and for building permit decisions are in [MICC 17.14.020](#).

If you have further questions or concerns you would like to discuss, I'm available until 4:45 this afternoon.

-Alison

**Alison Van Gorp**

Deputy Director

Community Planning & Development | City of Mercer Island

206.275.7733 | [mercergov.org/CPD](http://mercergov.org/CPD)

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