|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| |  | | --- | |  | |  |  |  | | |
|  |  |  | 205 NE Northlake Way, Suite 230  Seattle, WA 98105-6816 | |
|  |  |  | Tel (206) 548-9800 |  |
|  |  |  | Fax (206) 548-1022 | |
|  |  |  | Contractor’s License #: WATERCI881RS | | |

To Whom It May Concern;

The purpose of this letter is to provide evidence that this project is eligible for Shoreline Exemption and SEPA Exemption based on current laws of Mercer Island, Washington State Code, and Federal regulations. In conversations with the City of Mercer Island, several codes were discussed:

**WAC 173-27-040(2)(b**) **Normal maintenance or repair of existing structures or developments**, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

**WCI Comment:** This project qualifies as normal maintenance and repair. Replacing the decking and repairing damaged piles is necessary to maintain comparable condition and longevity of use. The methods Waterfront Construction use are well documented as the common method of repair (see SHL17-012 in Mercer Island archives, or any number of WCI projects available upon request). Furthermore, the standardization of materials provides ecological benefit by allowing light transmission through the surface to the water below at a rate of 40% at the proposed project height above the OHWL. There are no new improvements nor any expansions to the footprint of this development. The client is willing to undertake certain conservation mitigation actions, provided that does not disqualify this project as repair.

**WAC 197-11-800 (3) Repair, remodeling and maintenance activities.** The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks).

**WCI Comment**: This project qualifies for categorical exemption because it is repair. While undertaken primarily on lands covered by water, not all lands are covered by water, the project scope may include ecological conservation mitigation along the shoreline, and the pier is supported and anchored to the shore.

**MICC 19.07.110(B)(1)** Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that nonconformance with the standards and regulations of this section is not increased.

**WCI Comment**: This project is of legal non-conformance, previously permitted with all legal authorities, and in keeping with the extent of the law at the time of permitting. No nonconformity will be expanded during the repair for this project. We have also provided photogrammetry shot of the pier from the Department of Natural Resources dated 7/01/1959, as well as **Sea & Shore Pile Driving permit# 62-348** which proves the design was properly permitted at the time of original construction. Finally, we have provided permit documentation for **WCI permit# 86-230,** which shows that Waterfront Construction properly applied for a pier revision.

Respectfully,

Mark Kushino  
Permit Coordinator  
Waterfront Construction