

Initial Project Review

Shoreline Substantial Development Permit / Shoreline Conditional Use Permit: Beach Access Aerial Tram/Boathouse/Deck (Simchuk)

Application Numbers: 894175, 894176, 894177
Parcel Number: 0120026008

Gig Harbor Peninsula Advisory Commission (PAC) Meeting: October 24, 2018, at 6:30 p.m., City of Gig Harbor, 3510 Grandview, southeast entrance, Gig Harbor, WA 98335

Proposal: Construction of a beach access aerial tram, boathouse, and deck on this vacant waterfront parcel. The development would be located along but landward of the shoreline. A single-family residence will be constructed within approximately the next five years.

Project Location: 434 Foxfire Road, on the west shoreline of Fox Island and east shoreline of Carr Inlet, in the Conservancy Shoreline Environment and Rural 10 (R10) zone classification, in the Gig Harbor Peninsula Community Plan area, within the NW ¼ of Section 2, T20N, R1E, W.M. in Council District #7

Review Summary: Staff has reviewed the proposal for compliance with all applicable policies and regulations. Staff has the following observations:

- Tram. Is it reasonable for a waterfront property owner to be able to the access beach? If so, then a tram might be a better option (as compared to a stairway) provided vegetation removal and clearing/grading/filling is minimized to the maximum extent feasible.
- Boathouse. Is it reasonable for a property owner to be able to store life preserves, kayaks, etc. along the shoreline in lieu of transporting them up/down a steep slope? If so, perhaps another design for the boathouse could be conceived that elevates it on pilings or something else to minimize the amount of disturbance.
- Deck. The ultimate use of this parcel will be for a residence. Decks over 4 feet above grade are not typically allowed within 50 feet of the shoreline without a shoreline variance. A shoreline variance has not been submitted. Therefore, the PAC should review to determine the surfaces associated with the tram and boathouse are the minimum necessary for their function and not for use as a deck.

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. Planning and Public Works (PPW) has not yet concluded its environmental review. However, the proposal appears to be exempt from SEPA as all work would be located landward of the ordinary high water mark (OHWM) of the shoreline and does not exceed any of the exempt work as addressed in Chapter 18D.20 of the County Environmental Regulations (Pierce County Code, Title 18D).

County Contact: Ty Booth, Planner, ty.booth@piercecounitywa.gov 253-798-3727

Pierce County Online Permit Information:

<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departementStatus?applPermitId=894175>



Project Data

Complete Application Date: September 5, 2018

Initial Project Review Mailed: October 17, 2018

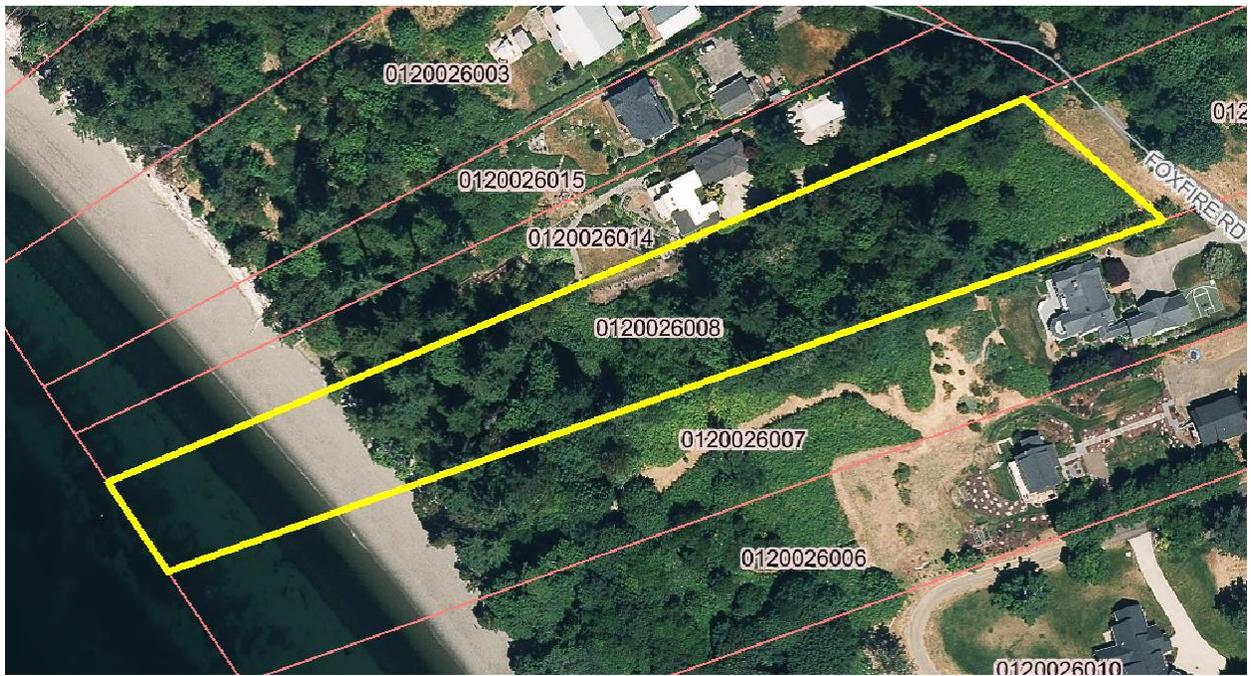
Property Owners/Applicants: John Simchuk
4511 NE 86th Street
Seattle, WA 98115
jsimchuk@paraport.com

Applicants' Agent: Carl Halsan
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Gig Harbor, WA 98335
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Legal and Public Notice

- *September 2018:* Notice of Application was sent to the following:
 - Property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the site.
 - Applicable governmental agencies
- *September 21, 2018:* Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- *October 10, 2018:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*) advertising the Gig Harbor Peninsula Advisory Commission (PAC) public meeting.

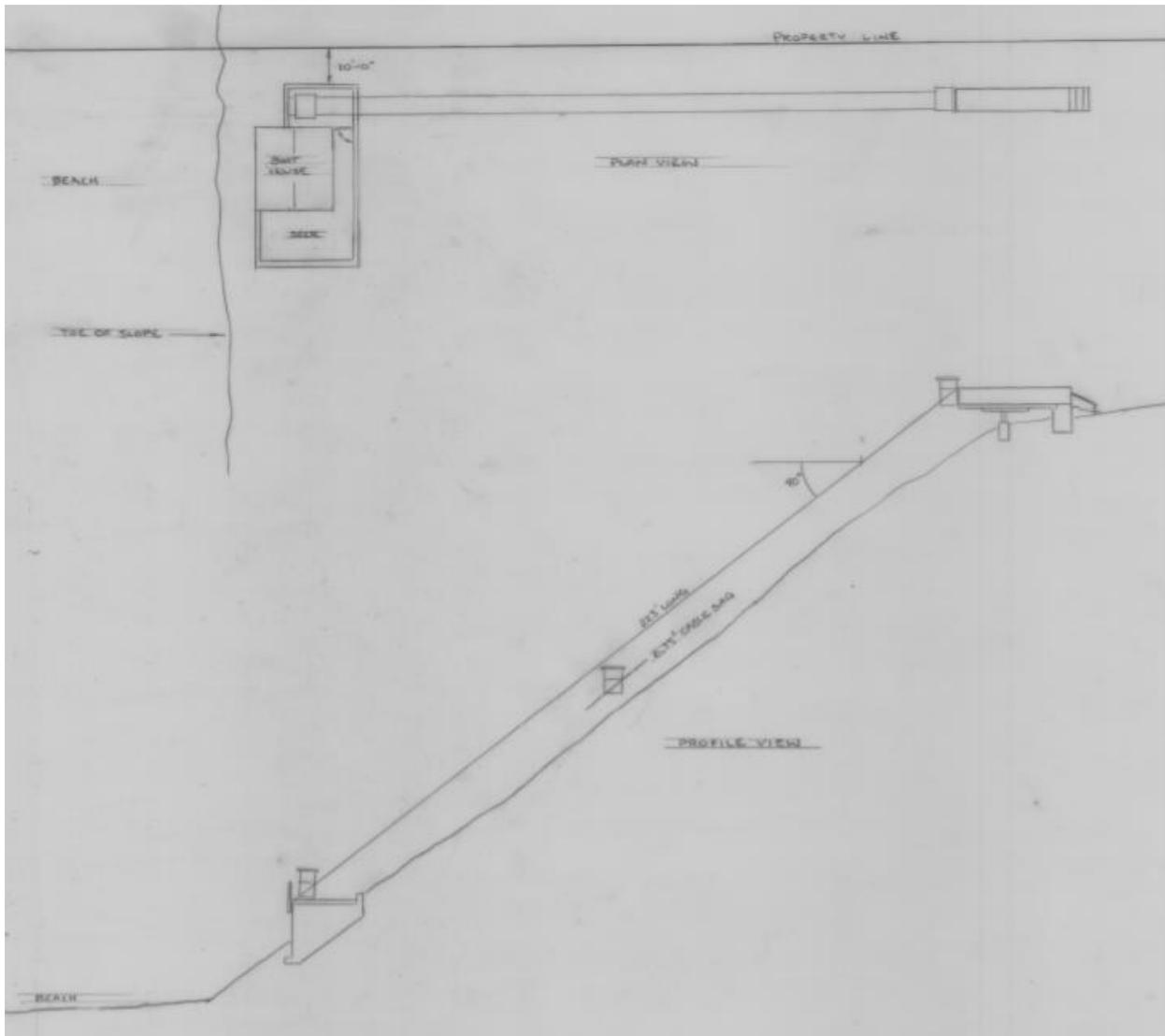
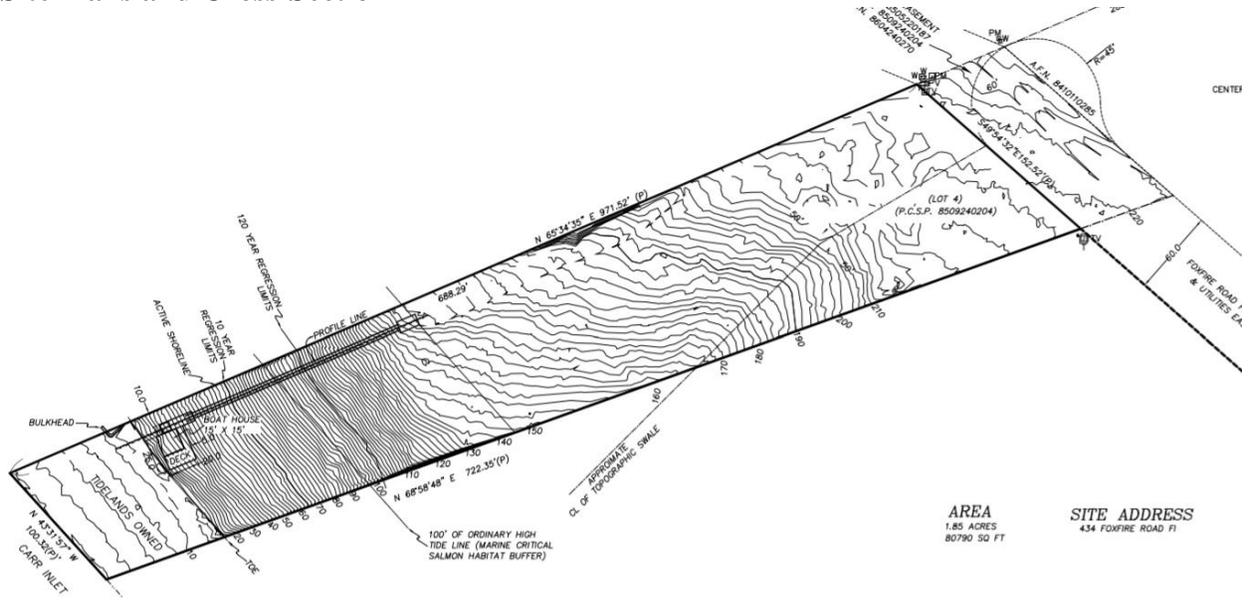
2017 County Photo



2016 Washington State Coastal Atlas Photo



Site Plans and Cross-Section



Comments from Public

No comments have been received.

Comments from Agencies

Various comments have been received. The following are of note:

- County Resource Management Division: A County Environmental Biologist has reviewed the proposal and stated the following:
 - There are indicators of the presence of a regulated wetland on and/or within 315 feet of the project area or site. Wetland review is required.
 - The parcel is mapped as having Marine Critical Salmon Habitat (per County Critical Area regulations) and a Federal Emergency Management Agency (FEMA) flood layer is mapped on site. A habitat assessment study and/or report is required.
- County Development Engineering Division: A short plat alteration (discussed later in this report) was approved in July 2018. As part of that review, both landslide and erosion hazard geotechnical reviews were required. Reports were submitted and approved in April 2018. The reports mention future construction of a house and access. However, for this proposal, it is possible that further geotechnical review will be required. Development Engineering has not yet reviewed this proposal.

Site Characteristics

- The proposal involves one vacant waterfront parcel. To Staff's knowledge, the parcel does not have a bulkhead.
- The parcel is Lot 4 of an amended short plat recorded in July 2018 (County Auditor recording #2018-07-12-5001). The parcels earlier creation dates back to an amended short plat recorded in 1985 (County Auditor recording #85-09-24-0204) and a short plat recorded in 1984 (County Auditor recording #84-10-11-0285). The purpose of the 2018 alteration was to remove a natural buffer area (NBA) for a swale, remove a Public Works note, add Development Engineering Division notes, and add slope regression limits
- The parcel is 1.85 acres and includes private tidelands. The depth of the parcel is approximately 643 feet as measured from the ordinary high water mark (shoreline) to Foxfire Road. The shoreline frontage is approximately 100 feet.
- The parcel is rectangular shaped, and the long axis is oriented in a northeast-southwest direction. The east side is abutted by and accessed from Foxfire Road (private road) and the west side is abutted by Puget Sound. The abutting parcels to the north and south are developed with single-family residences. The parcel is approximately 880 feet southeast of the former Fox Island navy lab pier.

- The following summarizes a description of the parcel from the 2018 geotechnical report:

The parcel slopes down to the southwest from Foxfire Rd. at about 10 to 15 percent before the site slopes into an old drainage swale that trends northeast to southwest and continues onto the adjacent property to the south. The slopes south southwest into the drainage at about 30 to 35 percent. The site then slopes steeply to the southwest down to the beach at about 80 to 85 percent. This shoreline bluff has approximately 160 feet of vertical height. Total topographic relief across the site is on the order of 220 feet. Vegetation across the majority of the site consists of grasses with several immature deciduous and coniferous trees. Vegetation along the steep slope in the west portion of the site consists of mature and immature firs and deciduous trees with a moderate understory of ferns, salal, and evergreen huckleberries. No surface water was observed but some seepage was noted on the lower portion of the bluff, along with some evidence sloughing and bare soils situated below the seeps and the shoreline. The movement appears consistent with active toe erosion and bluff regression that exposed the shallow, perched water table and allows the water to flow onto the surface as seeps. No evidence of deep-seated slope instability was observed at the site or the adjacent areas.

Staff Comment: Staff is not aware of any violations on the parcel.

Surrounding Land Uses and Shoreline / Zoning Designations

	LAND USE	SHORELINE	ZONING
North	Single-family residence	Conservancy	Rural 10 (R10)
South	Single-family residence	Conservancy	R10
East	Foxfire Rd.	Not applicable	R10
West	Puget Sound	Conservancy	Not applicable

Proposal (Additional Details)

1. Tram: A landing would be located at the top at bottom of the slope. The tram cables between the landings would extend approximately 225 feet. The tram would be located 10 feet from the north property line.
2. Boathouse: The boathouse would abut the south side of the bottom tram landing. The boathouse would be 225 square feet in size.
3. Deck: It appears a deck is located on the south and east sides of the boathouse and would be approximately 275 square feet in size.

Staff Comment: The proposal meets the required 10-foot Zoning Code interior/side yard setbacks. However, the recently recorded short plat alteration has a Fire Prevention Bureau note which appears to state a 30-foot setback may be necessary. The Agent has been notified.

The tram and boathouse appear to be located landward of the ordinary high water mark (OHWM). However, it is unclear how far back they would be set back. Since they are water-dependent uses there is no specific setback per the shoreline regulations. However, decks over 4 feet above grade not typically allowed within 50 feet of the shoreline without a shoreline variance. A shoreline variance has not been submitted. However, if those areas are landings for safe use of the tram and boathouse, then they would not be considered a deck.

Additional details on the design of the boathouse should be provided including location of any doors, davits, etc.

Initial Planning and Public Works Staff Review for Consistency with Policies/Regulations.

BACKGROUND:

1. Washington State Shoreline Management Act:
 - A. Summary: In 1971/72, this Act became effective. The Act, or law, governs the use/development of larger water bodies and lands within 200 feet. The Act required Counties, Cities, and Towns throughout the State to develop plans for use/development of their shorelines. The plans are called Shoreline Master Programs. The plans are based on the Act but tailored to the unique characteristics of each community.
 - B. Code Location:
 - Revised Code of Washington, (RCW), Chapter 90.58
 - Washington Administrative Code (WAC), Chapter 173-27
2. Pierce County Shoreline Master Program:
 - A. Summary: In 1974/75, this program became effective. All shorelines were assigned an Environment designation. Designations were based on a shoreline's existing physical characteristics. The Environments created, from least to most restrictive, are: Urban, Rural-Residential, Rural, Conservancy and Natural. The Plan also created policies and regulations for what use/development is allowed in each Environment, what type of permit is required (if allowed), and criteria to be utilized in their review.
 - B. Code Location:
 - Pierce County Code (PCC), Title 19D, Chapter 19D.140
 - Pierce County Code (PCC), Title 20

Staff Comment: The County Shoreline Master Program has designated this parcel as Conservancy. This report contains the policies and regulations applicable to this proposal. The County is currently updating its Shoreline Master Program. The update could become effective mid to late October 2018.

REASONS WHY SHORELINE PERMITS ARE REQUIRED:

1. Shoreline Substantial Development Permit:
 - A. Summary: The entire proposal would exceed the fair market value limit of \$7,047.00. Note: the monetary figures listed in the regulations are outdated. State law has increased the figures to \$7,047.00.
 - B. Code Location:
 - WAC, Chapter 173-27, Section 173-27-040 (2)(a)
 - PCC, Title 20, Chapter 20.76, Sections 20.76.030 A.1. and B.1.
2. Shoreline Conditional Use Permit.
 - A. Summary: The tram and boathouse will ultimately be Residential Development, consisting of a water dependent accessory use, within the required 50-foot setback.
 - B. Code Location: PCC, Title 20, Chapter 20.62, Section 20.62.050 D.2.

Staff Comment:

- A. *Residential. There is currently no residence on the parcel but may be within five years. As such, considering the proposal under the Residential Chapter of the Shoreline Regulations is not the perfect fit. If it was, the proposal would require a Shoreline Substantial Development Permit (as the fair market value of the proposal exceeds the \$7,047 established by the State). Further, the tram and boathouse would be considered water-dependent and trigger a Shoreline Conditional Use Permit. However, a deck (beyond just a landing for the tram and boathouse) would be considered residential and require a Shoreline Variance. A Shoreline Variance has not been submitted.*

- B. *Recreational. Since there is no residence, the use of the site could be viewed under the Recreational Chapter of the Shoreline Regulations. However, that appears more intended for public or group facilities. Under this category an SD would still be needed due to the cost. Per this Chapter, it states that "proposals for recreational developments which would in the judgment of the appropriate reviewing authority substantially alter the natural characteristics of the shoreline will be considered a Conditional Use." In this case, more than 500 cubic yards of material is proposed to be moved. This appears substantial especially considering this shoreline is designated a Conservancy Shoreline Environment.*

- C. *Unclassified Use. If the use is not residential or recreational, it could be considered an Unclassified Use. Such a use requires a Shoreline Conditional Use Permit as well as an SD (due to the fair market value).*

For the PAC meeting, this report only addresses the residential criteria (otherwise an already long report would be even longer). However, if the PAC feels it should be addressed in a different way for the Examiner then Staff can certainly do so.

SHORELINE PERMIT REVIEW CRITERIA:

- 1. Conservancy Policies/Regulations (applies to the entire proposal):
 - A. Definition and Purpose. The Conservancy Environment is designed to protect, conserve and manage existing natural resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational benefits to the public and to achieve sustained resource utilization. This environment should also include areas of steep slopes which present potential erosion and slide hazards, areas prone to flooding, and areas which cannot adequately deal with sewage disposal.
 - B. General Regulations and Policies. The following general regulations and policies should apply to all shorelines classified as in a Conservancy Environment:
 - (1) Areas should maintain their existing character.
 - (2) Developments which do not consume the natural physical resource base should be encouraged.
 - (3) Substantial and non-substantial developments which do not lead to significant alterations of the existing natural character of an area should be encouraged.
 - C. Preferred Uses.
 - (1) Outdoor recreation activities.
 - (2) Commercial timber harvesting.
 - (3) Passive agricultural uses (pasture and range lands).
 - (4) Code Location:

- PCC, Title 19D, Chapter 19D.140, Page 18
- PCC, Title 20, Chapter 20.14

Staff Comment: On a steep slope like this an aerial tram is potentially a good option compared to constructing a stairway.

While some taller trees/bushes may need to be removed in the line of the tram it tends to minimize vegetation removal. However, if over 500 cubic yards of clearing/grading/filling is going to occur, this could result in the removal of a lot of vegetation. As the site is designated as Marine Shoreline Critical Salmon Habitat (as well as Conservancy Shoreline Environment), the shoreline is intended to remain vegetated. Further, the parcel is located within the Gig Harbor Peninsula Community Plan area. There are policies of the plan that address, in part, preservation of marine shoreline vegetation.

Also, on a steep slope like this an aerial tram is a good option as it minimizes the need for earth work. However, in this case, the proposal involves over 500 cubic yards of clearing/grading/filling. Staff assumes this is primarily related to the boathouse/deck. Regardless, this amount of clearing/grading/filling seems excessive especially considering the site is located in a Conservancy Shoreline Environment (second most restrictive). Staff has suggested to the agent that instead of digging the boathouse into the hillside to instead slightly elevate it on pilings and add a davit. Although this may make it more visible.

2. Residential Development Policies:

A. Policies

- Adequate distances between shorelines and structural developments should be maintained in order to protect water quality, maintain dynamic systems, prevent dangerous geological stresses, and insure aesthetic quality.
- Residential developers should be required to indicate how they plan to preserve shore vegetation and control erosion during construction.

B. Code Location: PCC, Title 19D, Chapter 19D.140, Page 28

3. Residential Development Regulations:

A. Regulations

- The proposed development site is suited for residential use and is not located in areas having significant hazard to life and property and likely to require future public funds to protect and rehabilitate.
- Adequate methods of erosion control will be utilized during and after project construction.
- Disturbance of shoreline vegetation will be minimized.
- Solutions will be provided to the problem of contamination of surface waters, depletion and contamination of ground water supplies and generation of increased runoff into water bodies.
- All residential structures shall be landward of the extreme high water mark.
- Bulkheading, filling, substantial regarding, or any other similar structure or activity shall not be permitted when such structures or activities are clearly non-essential for the reasonable use or production of the lot or tract upon which it is located.

B. Code Location: PCC, Title 20, Chapter 20.62, Section 20.62.030

Staff Comment: The majority of these issues were previously addressed in this report. However, no bulkhead is proposed. The proposal should be designed such that the development is located far enough back from the shoreline and/or designed in such a way that a bulkhead will not be necessary to protect the structures now or in the future. While we cannot predict the future, it should be located/designed to minimize that need.

4. Shoreline Conditional Use Permit:

A. County Residential Criteria

- Views from surrounding properties will not be unduly impaired.
- Adequate separation will be maintained between the structure and adjacent properties and structures.
- Screening and/or vegetation will be provided to the extent necessary to insure aesthetic quality.
- Design and construction materials shall be chosen so as to blend with the surrounding environment.
- No additional harm to the aquatic environment will result from the reduced setback.

B. County High Rise Structure Criteria (for structures over 35 feet tall):

- Views from adjacent residential properties will not be unduly impaired.
- Adequate separation will be maintained between the high rise structures and adjacent properties.
- High rise structures will not interfere with the public use of public shorelines.
- The uses and enjoyment of adjacent properties will not be unduly diminished due to the height of the high rise structure or to the size of the lot upon which it is located, or the location of the structure on the site.

C. County General Criteria:

- That there is some necessity for a shoreline site for the proposed use or that the particular site applied for is essential for this use.
- The use will cause no unreasonably adverse effects on the environment or other uses.
- That water, air, noise, and other classes of pollution will not exceed the level customarily found in that particular environment.
- Design of the site will be compatible with the Master Program.
- The use will not interfere with public use or public shorelines.

D. State Criteria:

- That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of the master program.
- That the proposed use will not interfere with normal public use of the shorelines.
- That the proposed use of the site and design of the project is compatible with other permitted uses within the area.
- The use will cause no unreasonable adverse effects on the environment in which it is located.
- That the public interest suffers no substantial detrimental effect.

- In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

E. Code Locations (respectively):

- PCC, Title 20, Chapter 20.62, Section 20.62.050 D.2.
- PCC, Title 20, Chapter 20.40, Section 20.40.030
- PCC, Title 20, Chapter 20.72, Section 20.72.030
- WAC, Chapter 173-27, Section 173-27-160

Staff Comment: The applicants own a waterfront parcel. They should be allowed a safe access to the beach. The tram would be a reasonable request to access the beach.

Without a boathouse, water recreation equipment is exposed to the elements, potential theft, or must be hauled up/down on the tram. How easy it is to haul equipment up/down depends upon the person's physical abilities, the weight of the equipment, and how often they have to haul it. For example, able bodied adults may find this easy (but annoying) while children and seniors may find it challenging.

As addressed previously in this report the tram and boathouse are necessary to support recreational use of the water. They would be located on land and not interfere with use of the water. They would be centrally located on the parcel and not interfere with use of abutting parcels. Further, they would be located on and at the base of a steep slope and not block views. They would be visible from the water. However, they would be compatible with and not impact other uses in the area.

While the shoreline regulations encourage joint-use of docks, they do not really discuss joint-use trams, boathouses, etc. However, an over-arching goal of the shoreline regulations is to minimize unnecessary development along the shorelines. To that end, it may be appropriate to have the Applicants inquire with either abutting property owner about sharing an existing access/boathouse that they may have or sharing the proposed access/boathouse. Aside from a regulatory standpoint, sharing facilities can potentially result in significant cost savings in that one can share the permitting/construction costs with another party.