

Initial Project Review

Shoreline Substantial Development Permit: Hodges Beach Access/Decks

Application Numbers: 941937, 952894, 952895, 938172
Parcel Number: 0020263059

Key Peninsula Advisory Commission (KPAC) Public Meeting: April 21, 2021, at 6:30 p.m.

Due to COVID-19 restrictions, this meeting will be held virtually. To participate, visit www.Zoom.com and click “Join a Meeting” or call 253-215-8782, then enter the Meeting ID: 956 0898 6695, and Passcode: 543639 or click on the following link:

<https://piercecountywa.zoom.us/j/95608986695?pwd=ZUxLYVd1QnUrVmgrekgwUDNTdXMxQT09>

For additional questions regarding the virtual meeting process, contact Tiffany Aliment at 253-798-3226 or tiffany.aliment@piercecountywa.gov.

Proposal: Accessory to an existing single-family residence, a replacement beach access stairway is proposed down a medium high shoreline bank. The proposal consists of a ramp (40 feet long by 4 feet wide), upper landing/deck (12 feet wide by 12 feet wide), stairs (20 feet long) and bottom landing (6 feet by 6 feet). For the upper landing/deck, approximately 80 cubic yards of excavation of the bluff is proposed. The proposal (like the prior stairs) would be located landward of a legally existing bulkhead. A slide recently damaged the existing but unpermitted stairs. The stairs are proposed in the southwest corner of this .56-acre parcel. The residence is set back approximately 44 feet from the top of the bank.

Project Location: The site is on the west shoreline of Key Peninsula, east shoreline of Case Inlet and just west of Taylor Bay, in a Residential Shoreline Environment, Rural 10 (R10) zone classification, and in the Key Peninsula Community Plan area, located at 18120 78th Street Court SW, Longbranch, WA, within the SW 1/4 of Section 26 , T20N, R1W, W.M., in Council District #7.

Review Summary: Staff has reviewed the proposal for compliance with applicable policies and regulations. The ability of the Applicant to have access (safe access) to the shoreline appears appropriate subject to the following:

- The Applicant hire a qualified archaeological monitor to be present on-site during ground disturbing activities...and allow the Tribes to be present as well (if they choose to do so). Two Tribes have expressed potential archaeological concerns at this site.
- Reduce the quantity of excavation to the minimum necessary (especially considering the landslide that previously occurred). For example, increase the height of the upper landing/deck and increase the length of the stairway. This may also eliminate the need to have such a long access ramp.

- Fully address any lingering concerns that the County Development Engineering Division may have regarding landslide hazards.
- Replant some of the slope with vegetation.
- Require one of the following for the proposed upper landing/deck within the required 75-foot shoreline buffer:
 - Reduce it in size so that it only functions as a stair landing;
 - Allow a somewhat smaller landing/deck than the 144 square feet proposed (perhaps 100 square feet) without a Shoreline Variance by eliminating an existing 144 square foot deck (located at the top of the slope but somewhat further from the shoreline) and transferring that square footage to the proposed upper landing/deck; or
 - Submit a Shoreline Variance for the proposal, as presented (144 square foot upper landing/deck).
- If necessary, require a Zoning Code Variance to the setback from the abutting County right-of-way located to the west. In the alternative, if this is a concern, perhaps the entire structure could be slid somewhat further to the east.

With the adoption of the new County Shoreline Regulations in 2018, decisions on Shoreline Substantial Development Permits are now made administratively by the Planning and Public Works Department. Staff will take the KPAC recommendation into consideration prior to rendering a decision.

However, Shoreline Variances also require a public hearing and approval by the Pierce County Hearing Examiner. Further, they also require approval by the Washington State Department of Ecology. For Zoning Code Variances, depending upon what is proposed, decisions require either administrative review or an Examiner hearing.

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. However, per Washington Administrative Code, Chapter 197-11 and Pierce County Code, Title 18D, the entire proposal is exempt from environmental review pursuant to SEPA.

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

Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=941937>



Project Data

Complete Application Date:	January 19, 2021
Initial Project Review Mailed:	April 14, 2021
Owner/Applicant:	Kay Hodges 18120 78th Street Court SW Longbranch, WA 98351-9793 hodgessk@comcast.net

Applicant's Agent:

Sealevel Bulkhead Builders, Inc.
Attn: Jennifer Rotsten
PO Box 375
Kingston, WA 98346 -0375
Jenny@sealevelbb.com

Legal and Public Notice

- *February 10, 2021*: Notice of Application and Public Meeting Notice (including the Key Peninsula Advisory Commission (KPAC) meeting date, time, and location) 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
- *February 16, 2021*: Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- *April 7, 2021 and April 8, 2021*: Legal notices were published in the official County newspaper (*The News Tribune*) and the *Peninsula Gateway* newspaper, advertising the public meeting to be held by the Key Peninsula Advisory Commission (KPAC).

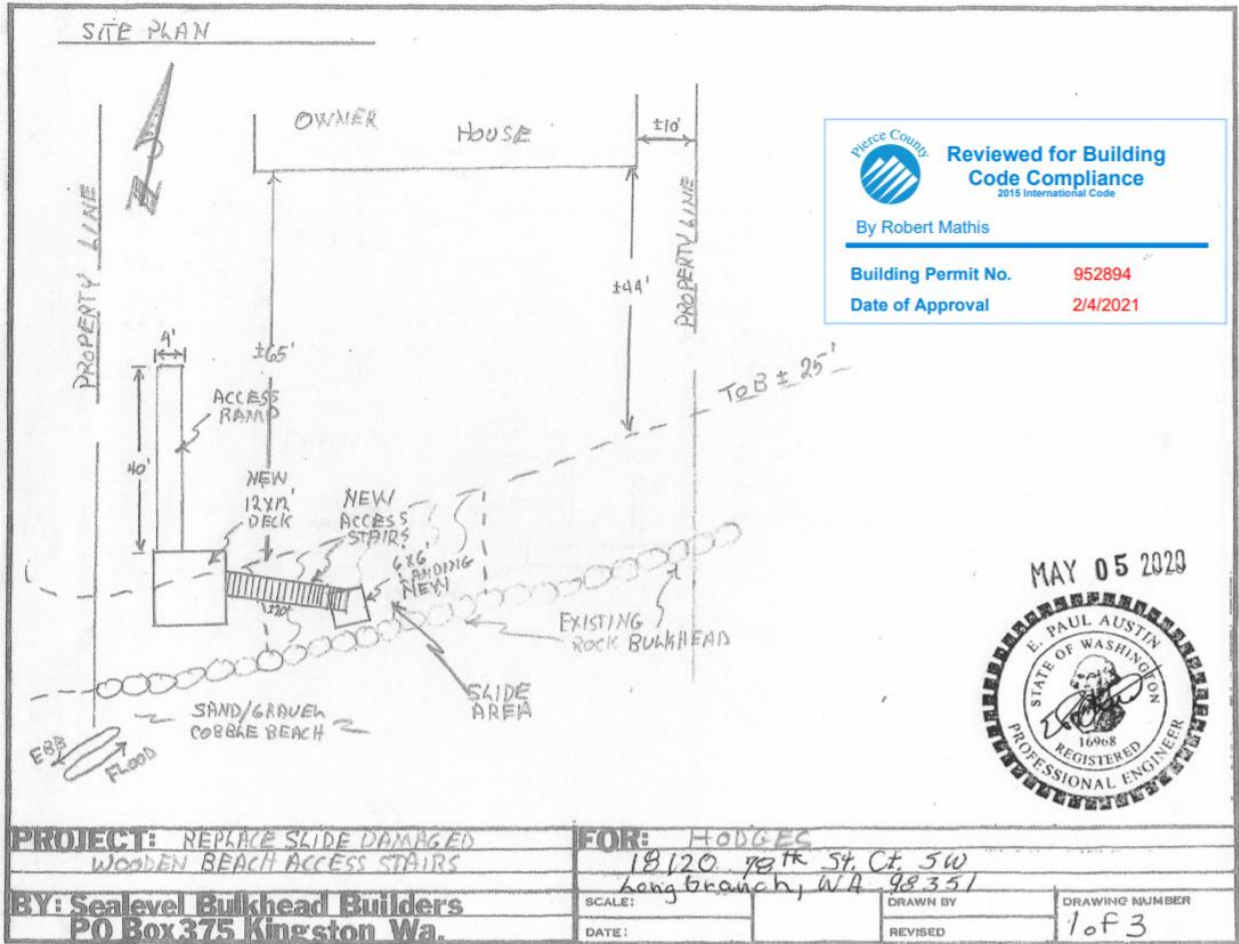
2017 County Aerial Photo



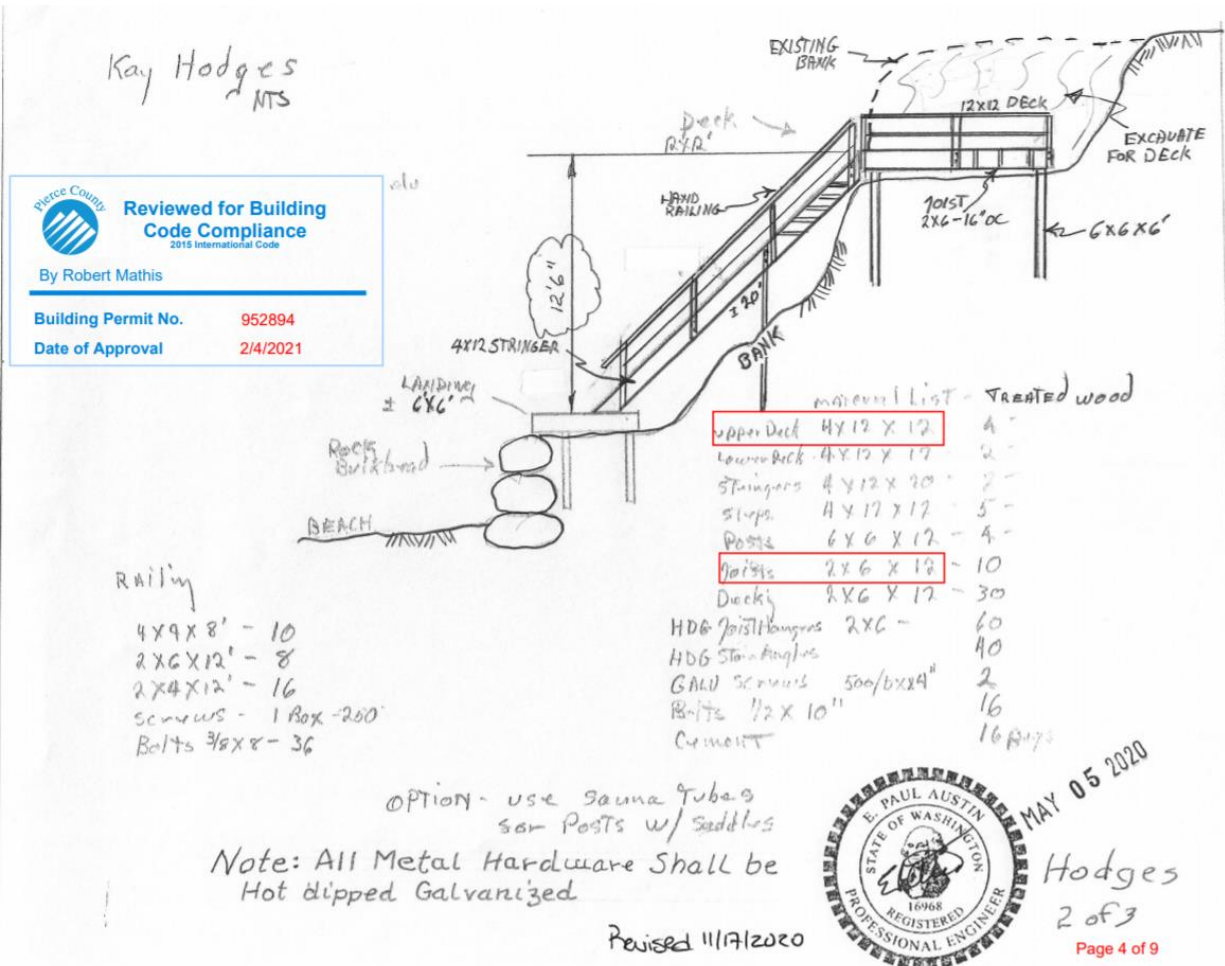
2016 Washington State Coastal Atlas Aerial Photo



Site Plan



Cross-Section (revised October 2020)



Comments Received from the Abutting Property Owners, Public, and Government Agencies

- **Comments from Public:** No comments have been received.
- **Comments from Agencies:** Various comments have been received. The following are of note:
 - County Development Engineering Division: Addressed later in this report under the Parcel History portion.
 - County Resource Management Division (Environmental Biologists): No wetlands are present and no in-water work is being proposed. All work would be from the uplands. However, forage fish/Pacific smelt spawning is mapped by the Washington State Department of Fish and Wildlife along this beach. A Notice on Title for forage fish/Pacific smelt shall be recorded with the Pierce County Auditor's Office. This will be made a condition of approval. Although not a requirement it is recommended that scotch broom and other invasive vegetation be removed and replaced with appropriate native shoreline ground cover vegetation such as beach strawberry or/and kinnikinnick.

- Nisqually Indian Tribe: They request that archaeological monitoring be required during all ground-disturbing activities and that they be informed if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials.
- Puyallup Tribe of Indians: The proposed project is within close proximity to confirmed archaeology resources and, therefore, has a high likelihood of impacts to cultural resources.
- Washington State Department of Fish and Wildlife: The beach at this site is documented for surf smelt spawning. Bluff erosion that provides sediment supply is an important process to the physical and biological dynamics of beaches in the Puget Sound. The Applicant already has a bulkhead that is slowing that process or impeding it from happening. If the project is approved, the 80 cubic yards of bluff material excavated for the proposal should be placed on the beach, as nourishment for the beach.

Existing Site Conditions

- The site is located on the southwest shoreline of the Key Peninsula, east shoreline of Case Inlet, and at or approximately 500 feet to the west of the mouth of Taylor Bay.
- The parcel is located on the southeast side of two roads. On the north is 78th Street Court SW (private road) and on the west side is 182nd Avenue SW (County road). The County road terminates at the shoreline and for the most part is undeveloped along the majority of the subject parcel.
- The County Assessor-Treasurer lists the property as being .56 acres in size. The long axis of the parcel is oriented in a north-south direction. The parcel is somewhat rectangular shaped. The measurements of the property lines on the north are 76 feet, south 104 feet, west 250 feet, and east 214 feet. It appears the parcel also has private tidelands which are not included in these measurements.
- The parcel is developed with an existing single-family residence, detached garage, detached deck (at the top of the slope), and remnants of a beach access stairway. The southeast corner of the house is set back approximately 75 feet from the bulkhead while the southwest corner is set back 75 feet. A deck is attached to the south side of the house and is also set back approximately 50 feet from the shoreline (at its closest point).
- The parcel has approximately 85 feet of shoreline frontage. The bank along the shoreline is approximately 42 feet tall. The lower portion is armored with a legally existing rock bulkhead. A flat bench has historically been located behind the bulkhead but the bench/bulkhead were covered (all or in part) by a recent landslide. This is addressed further in the next section of this report.
- Other than the slope along the shoreline, the remainder of the parcel is flat.
- The majority of the parcel is vegetated with grass lawn/ornamental landscaping. More significant vegetation is located along the west property line (or within the County right-of-way) and some along the shoreline slope.

Parcel History

- 1995: Boundary line adjustment recorded with Pierce County Auditor (9509060323) to combine two former parcels into one.
- 1996/1997: Building permits submitted/approved for the following:
 - Single-family residence that is approximately 1,900 square feet in size.
 - Detached pole building located north of the residence.

- 1998/1999: Applications for a Shoreline Exemption, SEPA, and Building Permit approved for a new rock bulkhead.
- 2002: Prior to this date, based on aerial photos, in the southwest corner of the parcel the following were constructed:
 - Beach access stairs.
 - 144 square foot deck (located at the top of the slope).
- 2015: Applicants purchased the parcel.
- 2018: New County Shoreline Regulations (Pierce County Code, Title 18S) went into effect. The prior County Shoreline Regulations (Title 20) had been in effect since the 1970s.
- February 5, 2020: On or around this date, a high intensity rainfall resulted in a landslide on the bluff face. This is as stated in a Geologic Slope Reconnaissance/Stability Report, prepared by Coastal Solutions, LLC, and dated March 31, 2020, and revised June 11, 2020. The report states, in part, that the landslide was superficial less than 2 feet in thickness but incorporated the majority of the shoreline frontage. The debris came to rest above the bulkhead and on the beach. The landslide also destroyed the existing beach access stairway.
- May 28, 2020: Shoreline Exemption application date (936012) to repair/replace the existing, but damaged/destroyed, beach access stairs. Washington Administrative Code (WAC), Section 173-27-040 and Pierce County Code, Section 18S.60.020 contain exemptions to needing a Shoreline Substantial Development Permit. One such exemption in both the State and County shoreline regulations involves the “normal maintenance or repair (or replacement) of existing structures or developments”. However, to qualify for the exemption, the existing structure/development needs to have been legally established and still functional. Subsequently, the Applicant informed the County that they learned that the existing stairs were built without applicable permits by a prior property owner.
- June 30, 2020: Geological Assessment application date (938172) for landslide hazards. It consisted of a Geologic Slope Reconnaissance/Stability Report, prepared by Coastal Solutions, LLC, and dated March 31, 2020, and revised June 11, 2020. On July 7, 2020, the County Development Engineering Division approved the application.
- January 19, 2021: Application date for the following applications:
 - Shoreline Substantial Development Permit (941937). It was required as the Shoreline Exemption was denied.
 - Building Permit (952894). The County Development Engineering and Planning Divisions have yet to approve it. The Development Engineering Division states a review of the plans show, in part, that the current top of the bank is actually at about 42 feet. This implies that approximately a 14 feet high / 80 cubic yard cut will be done at the top of the bank. There may be additional information needed in the Geological Assessment (further addressed next).
 - Site Development Permit (952895). This application was presumably required due to the excavation proposed. The Development Engineering Division has not yet approved it. It appears they may need additional information regarding Pierce County Code, Chapter 18E.80 (Landslide Hazard Areas) that was not addressed in the prior report. They also state that the site plan shows the top of bank as being approximately 25 feet high. However, County mapping shows it as being approximately 42 feet. They need clarification.

Surrounding Land Use / Shoreline / Zoning Designation

LAND USE		SHORELINE	ZONING
North	Private road and across the street vacant (for the most part)	Not applicable	Rural 10 (R10)
South	Puget Sound	Residential (uplands) and Aquatic Marine (tidelands)	R10
East	Single-family residence	Residential (uplands) and Aquatic Marine (tidelands)	R10
West	County road/unopened right-of-way and across the street are vacant parcels and single-family residence.	High Intensity (uplands) and Aquatic Marine (tidelands)	Not applicable

Staff Review for Consistency with Policies and Regulations

Key Peninsula Community Plan (Pierce County Code, Title 19A, Appendix G)

In 2008, the Plan went into effect. It is part of the County Comprehensive Plan.

Staff Comment: There are any number of policies from the Community Plan that could apply. Staff has not listed them in this report as the County Shoreline Regulations (Pierce County Code, Title 18S) have similar ones that are addressed later in this report. In summary though, the Community Plan places great emphasis on maintaining shoreline aesthetics, vegetation, and stability.

Pierce County Zoning Code (Pierce County Code, Title 18A)

Section 18A.15.040 of the Zoning Code addresses setbacks. In the R10 zone, the required front yard setback from roads (including unopened County right-of-way) is 25 feet. However, if a corner lot abuts the intersection of two or more rights-of-way, the yard not used for vehicular access may be reduced to 15 feet.

Staff Comment: This is a corner lot. However, from reviewing the site plan, it is unclear to Staff if the proposed stairs/deck are set back 15 feet from the County ROW on the west side of the parcel. There are various exceptions in this Section...however, none of them quite seem to apply in this case. If the proposal does not meet the setback or exceptions...then a Zoning Code Variance would be required. However, if the proposal does not meet the setback, it seems simpler to just slide the entire structure somewhat further to the east.

Pierce County Shoreline Policies/Regulations (Pierce County Code, Title 18S)

Title 18S regulates development on County shorelines. It regulates not only the waterbody itself (Puget Sound), but also the abutting uplands located within 200 feet of Puget Sound. Each regulated shoreline has been assigned one or more shoreline environment designations (SED).

Staff Comment: The upland areas of this parcel have been designated a Residential SED and Puget Sound an Aquatic Marine SED. The dividing line between the two designations is the Ordinary High Water Mark (OHWM) or in this case the bulkhead. The abutting County right-of-way (to the west) is designated High Intensity. This is the least restrictive and generally applies to road ends such as this, roads themselves, ferry landings, etc.

Residential SED (Pierce County Code, Title 18S, Section 18S.20.050)

The intent of the Residential SED is to accommodate residential development in areas that are already developed with or planned for residential development. The Residential SED may also include water-oriented commercial and recreation uses. The Residential SED applies to shoreland areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

Applicable Management Policies.

- Priority should be given to residential and water-oriented commercial development where such development can be accommodated with no net loss of shoreline ecological functions.
- Public or private recreation facilities should be encouraged if compatible with surrounding development. Preferred recreational uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.
- Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side, and views of the development from the water.

Staff Comment: The proposal is for recreational purposes and, therefore, appears to generally be consistent with the applicable policies. It appears fully appropriate that a waterfront landowner have the ability to access the shoreline. Further, this Applicant does have a disability which has likely influenced the proposed design.

Shoreline Permit Table (Pierce County Code, Title 18S, Section 18S.60.030-1)

This table shows that water access facilities (which includes water access trails/stairs) proposed in the Residential SED requires an SD or SD Exemption.

Staff Comment: This report previously addressed why the proposal does not qualify for a Shoreline Exemption.

Water Access Facilities (Pierce County Code, Title 18S, Section 18S.40.140)

The Water Access Facilities policies and regulations are intended to manage development of facilities that support water dependent uses such as water access stairs.

Applicable Policies.

- Discourage facilities that serve only one residence, and encourage facilities serving more than one residence.
- Give preference to facilities:
 - That provide public access and recreational opportunities;

Applicable Regulations:

- C.12.: Height of a facility should be the minimum necessary for safe operations.
- D.11.: Water access stairs shall not be constructed waterward of the OHWM. Landings within the stairway shall be limited to the minimum size necessary to meet applicable building codes.

Staff Comment: The proposed stairs to the water are considered to be a water access facility. Ideally, the stairs would be shared with a neighbor but that is not an absolute requirement. However, decks are not considered a water access facility and generally require a Shoreline Variance within the 75-foot shoreline buffer. The lower landing/deck (proposed behind the bulkhead) is of such a small size that it does not appear to be an issue. However, if the upper deck were reduced to the minimum size to function as just a stair landing, such would be consistent and not require a Shoreline Variance.

On the topic of the upper landing/deck, it would appear that perhaps two birds could be killed with one stone (so to speak). The reason being is that currently the parcel has an upland deck located at the top of the slope. Under the old shoreline regulations (in effect until October 2018)...uncovered decks set back 15 feet from the shoreline and less than 4 feet in height...typically did not require shoreline permits. It likely also did not require a building permit. Therefore, Staff would consider it legal. Staff is not sure if the Applicant plans on retaining that deck or not. However, if they got rid of that deck...Staff could see allowing the Applicant to incorporate that square footage into the proposed upper landing/deck without a Shoreline Variance. However, as that new deck would be getting closer to the shoreline than the old deck...some may question (such as the Washington State Department of Ecology) why that is allowed without a Shoreline Variance. Therefore, if the new deck were reduced perhaps to 100 square feet (10 feet by 10 feet) or so, this could likely be justified without a Shoreline Variance.

Ecological Protection (Pierce County Code, Title 18S, Section 18S.30.030).

The intent of the Ecological Protection policies and regulations is to ensure that shoreline development is established and managed in a manner that protects existing ecological functions and ecosystem-wide process and that mitigates adverse impacts to ecological functions. This means assuring no net loss of ecological functions and processes in shorelines and protecting critical areas. In the Residential SED, the required buffer is 75 feet.

Staff Comment: There are buffer exceptions listed in Section 18S.30.030 E.3. including, but not limited to, the water dependent uses (such as beach access stairways). Geotechnical review is ongoing to make sure the slope is stable (especially as a slide has occurred in the past). However, it is questionable why 80 cubic yards of material needs to be excavated. This appears contrary to preserving the natural character of the shoreline. At a minimum, it would seem that if the upper landing/deck was increased in height and the stairs made longer...that the amount of excavation required could be significantly reduced. This may require the entire structure to be slid somewhat further to the east (as the stairs would be getting longer)...but this may be necessary anyhow to meet the Zoning Code setback. Further, the County Environmental Biologist has recommended replanting some of the slope with native vegetation.

18S.30.020 Archaeological, Cultural, and Historic Resources (Pierce County Code, Title 18S, Section 18S.30.020).

The intent of the Archaeological, Cultural, and Historic Resources policies and regulations is to recognize that these resources can be found throughout the County and that they are valuable because they are irreplaceable and limited. When these resources are found on shoreline sites they should be preserved, protected, and restored. Archaeological areas, ancient villages, military forts, old settlers' homes, ghost towns, historic trails, historical cemeteries, and other cultural sites and features are nonrenewable resources, many of which are in danger of being lost through present day changes in land use and urbanization.

Applicable Policies.

- Locate, design, and operate developments to be compatible with the protection of any adjacent identified archaeological, cultural, or historic site.

Staff Comment: Pursuant to the comments received from the Nisqually and Puyallup Tribes, and County policy...should the proposal be approved and prior to construction, at a minimum the Applicant appears to need to hire and have an archeological monitor on-site during all ground-disturbing activities. They should also coordinate with the Tribes and Washington State Department of Archaeology and Historic Preservation (DAHP) as to if they want to be on-site when work occurs. The DAHP website has a wealth of information regarding these issues.

Excavation, Dredging, Filling, and Grading (Pierce County Code, Title 18S, Section 18S.30.040).

The intent of the Excavation, Dredging, Filling, and/or Grading policies and regulations is to provide direction for shoreline excavation, dredging, filling, and/or grading associated with a principal use. This Section may contain more restrictive regulations that limit or effectively preclude a use or development that is authorized pursuant to another Section(s) and this Section shall control in the event of a conflict.

Applicable Regulations.

- Excavation, dredging, filling, and/or grading shall be limited to the minimum amount necessary for the specific use or development proposed.

Staff Comment: Again, it is questionable why 80 cubic yards of material needs to be excavated. Whatever occurs though, some excavation is likely required. For example, at a minimum the slide covered over all or part of the former bench behind the bulkhead. Overall, though, since a slide already occurred, the less excavation on the hillside is probably best.

Shoreline Substantial Development Permit (Pierce County Code, Title 18S, Section 18S.60.040)

D. Decision Criteria. The Director shall review applications for Shoreline Substantial Development in accordance with the following decision criteria:

1. The proposal is consistent with the policies and procedures of the Act.
2. The proposal is consistent with this Title's policies and regulations including, at a minimum, the following:
 - a. Policies and regulations of the shoreline environment designation (SED) in which the proposal is located;
 - b. Policies and regulations for Shorelines of Statewide Significance if the proposal is within such area;

- c. Policies and regulations within the applicable General Policies and Regulations found in Chapter 18S.30 PCC; and
 - d. Policies and regulations within the applicable Use and Development Policies and Regulations found in Chapter 18S.40 PCC.
3. The proposal is consistent with the applicable provisions of Title 18E PCC.
 4. The proposal is consistent with the applicable policies of the Comprehensive Plan and any applicable Community Plan.
 5. The proposal is consistent with all applicable development regulations, including but not limited to Title 18A PCC, Development Regulations – Zoning.

Staff Comment: For the reasons addressed previously in this report, the proposal appears to meet the criteria subject to the potential concerns already addressed.

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