

# Initial Project Review

## Shoreline Substantial Development Permit: Mills

**Application Number: 966426**

**Parcel Numbers: 0121061045 and 0121061047**

**Key Peninsula Advisory Commission (KPAC) Public Meeting: October 20, 2021, at 6:30 p.m.**

Due to COVID-19 restrictions, this meeting will be held virtually. To participate, visit [www.Zoom.com](http://www.Zoom.com) and click “Join a Meeting” or call 253-215-8782, then enter the Meeting ID: 912 9540 3231, and Passcode: 7156 or click on the following link:

<https://piercescountywa.zoom.us/j/91295403231?pwd=MnRublpKR3cyVDY1dklISzU0aW9LUT09>

For additional questions regarding the virtual meeting process, contact Danica Williams at 253-798-7156, or [danica.williams@piercescountywa.gov](mailto:danica.williams@piercescountywa.gov).

**Proposal:** The proposed project is to reconstruct a recently damaged but unpermitted zig zag “M” shaped stairway system, accessory to an existing single-family residence on two parcels for a total of 3.09 acres, located on the southwest shore of Henderson Bay.

The proposed stairway system starts at the top of the bank and terminates at the toe of the bank and landward of the bulkhead. The proposed structure is approximately 128 feet long and 3.5-feet wide with four landings ranging from 20 square feet to 60 square feet in size (the two largest are located at the top and the bottom of the bluff).

**Project Location:** 9117 and 9111 - 141<sup>st</sup> Avenue Court NW, Gig Harbor, WA, in the Conservancy Shoreline Environments, Rural 10 (R10) zone classification, and the Key Peninsula Community Plan area, within the SW ¼ of Section 6, T21N, R1E, W.M., in Council District #7

**Review Summary:** County staff has reviewed this proposal for compliance with all applicable policies, codes, and regulations. The County finds, based on an initial project review, that the proposed stairway will provide a safe access to the shoreline and appears to be consistent with the applicable codes and regulations, subject to conditions such as vegetation on the face of the bluff and having smaller landings on the top and at the bottom of the proposed stairway system (less than proposed 60 square feet).

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.

**State Environmental Policy Act (SEPA):** Pursuant to the State Environmental Policy Act, Washington Administrative Code, Chapter 197-11 and the Pierce County Environmental Regulations, Title 18D, the Pierce County Environmental Official designate has reviewed this project and determined that the project is exempt from SEPA provisions.

**County Contact:** Mojgan K. Carlson, Senior Planner, [mojgan.carlson@piercecountywa.gov](mailto:mojgan.carlson@piercecountywa.gov), 253-798-7234

**Pierce County Online Permit Information:**

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=966426>



**Project Data**

Complete Application Date: July 19, 2021

Initial Project Review Mailed: October 13, 2021

Applicant/Owner: Creighton D. and Susan F. Mills  
PO Box 990  
Vaughn, WA 98394  
[creightonmills@gmail.com](mailto:creightonmills@gmail.com)

Agent: Halsan EF & P, LLC  
Attn: Carl Halsan  
PO Box 1447  
Gig Harbor, WA 98335  
[carlhasan@gmail.com](mailto:carlhasan@gmail.com)

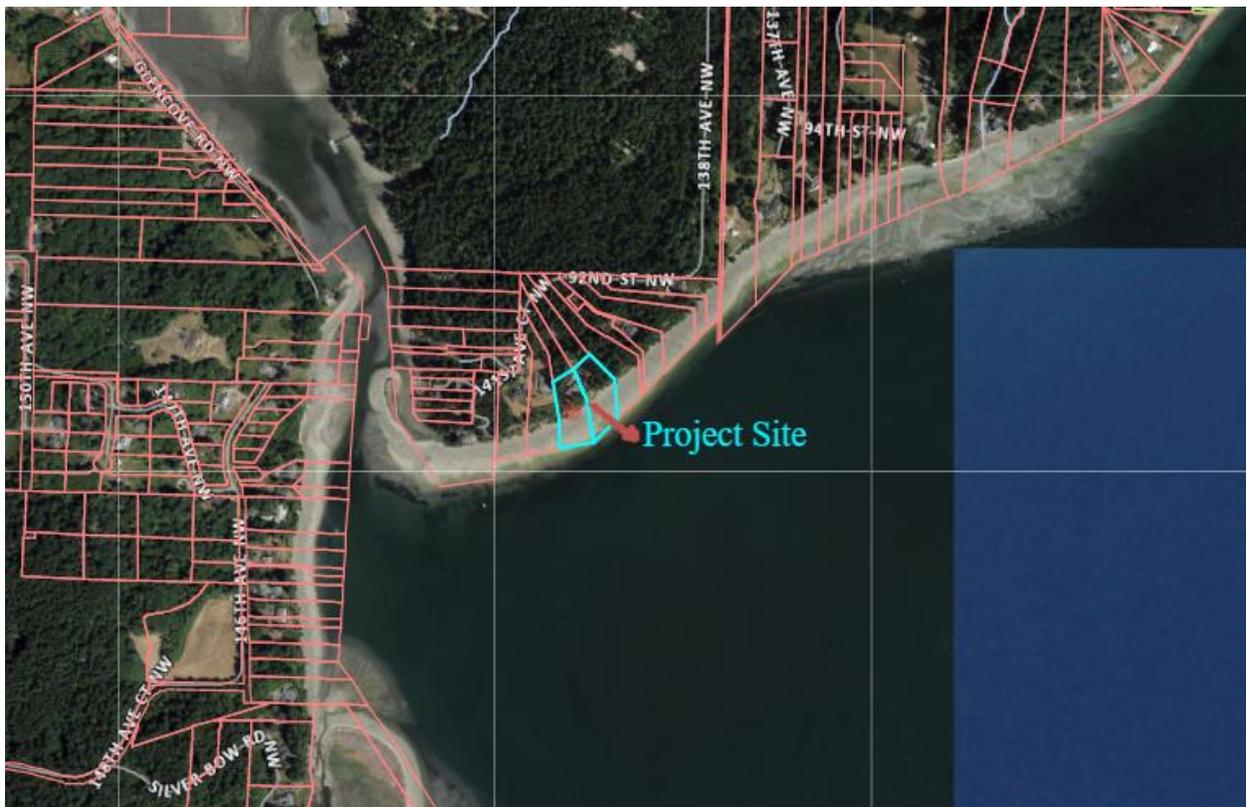
**Legal and Public Notice**

- *August 3, 2021:* Notice of Application (NOA) and Public Meeting Notice, including the Key Peninsula Advisory Commission (KPAC) meeting date, was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
- *August 10, 2021:* Public Notice sign was posted on-site, confirmed with a Declaration of Posting.
- *October 6, 2021:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the KPAC public meeting.
- This permit does not require a public hearing before the Pierce County Hearing Examiner per Pierce County Code, Title 18S.60.040.F Approval.

**2020 Google Earth**

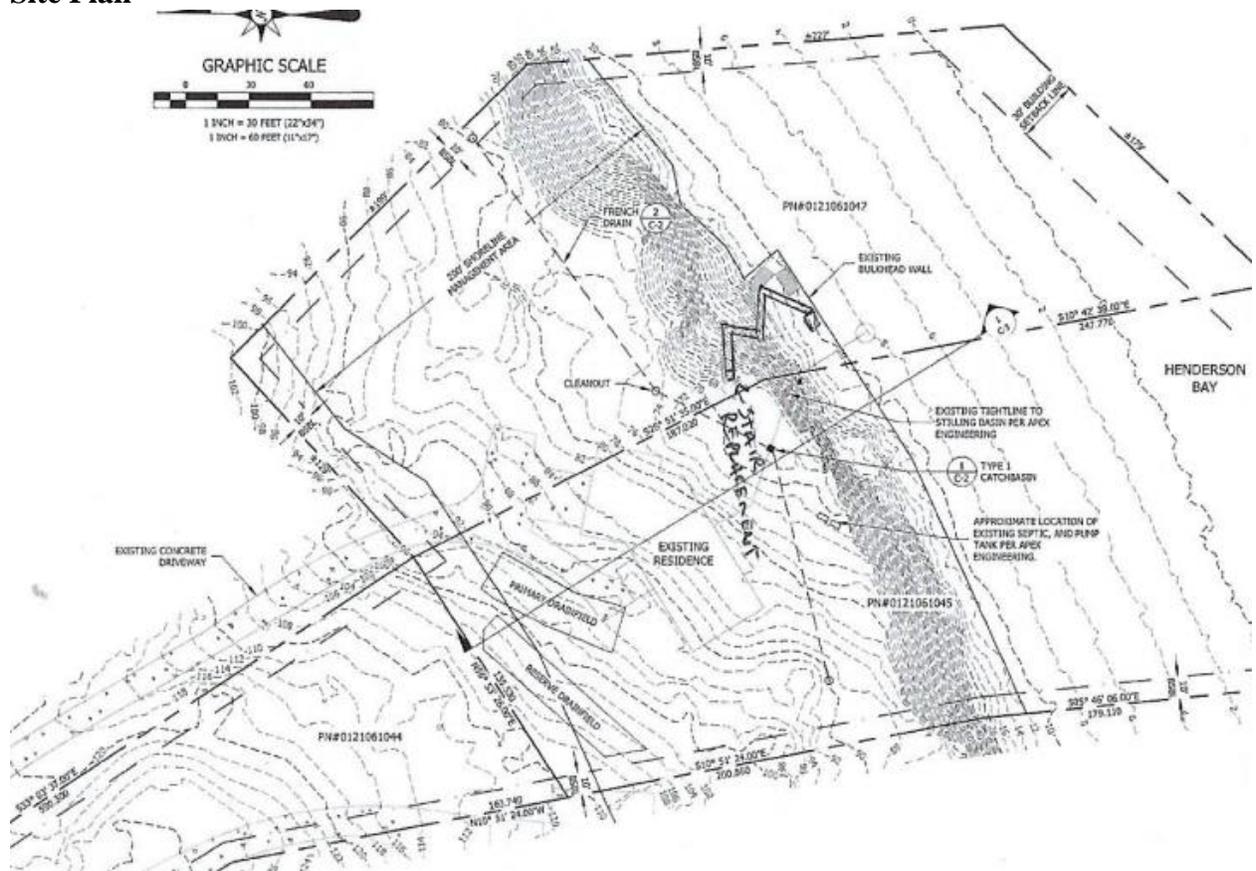


**2020 County Aerial Photos**

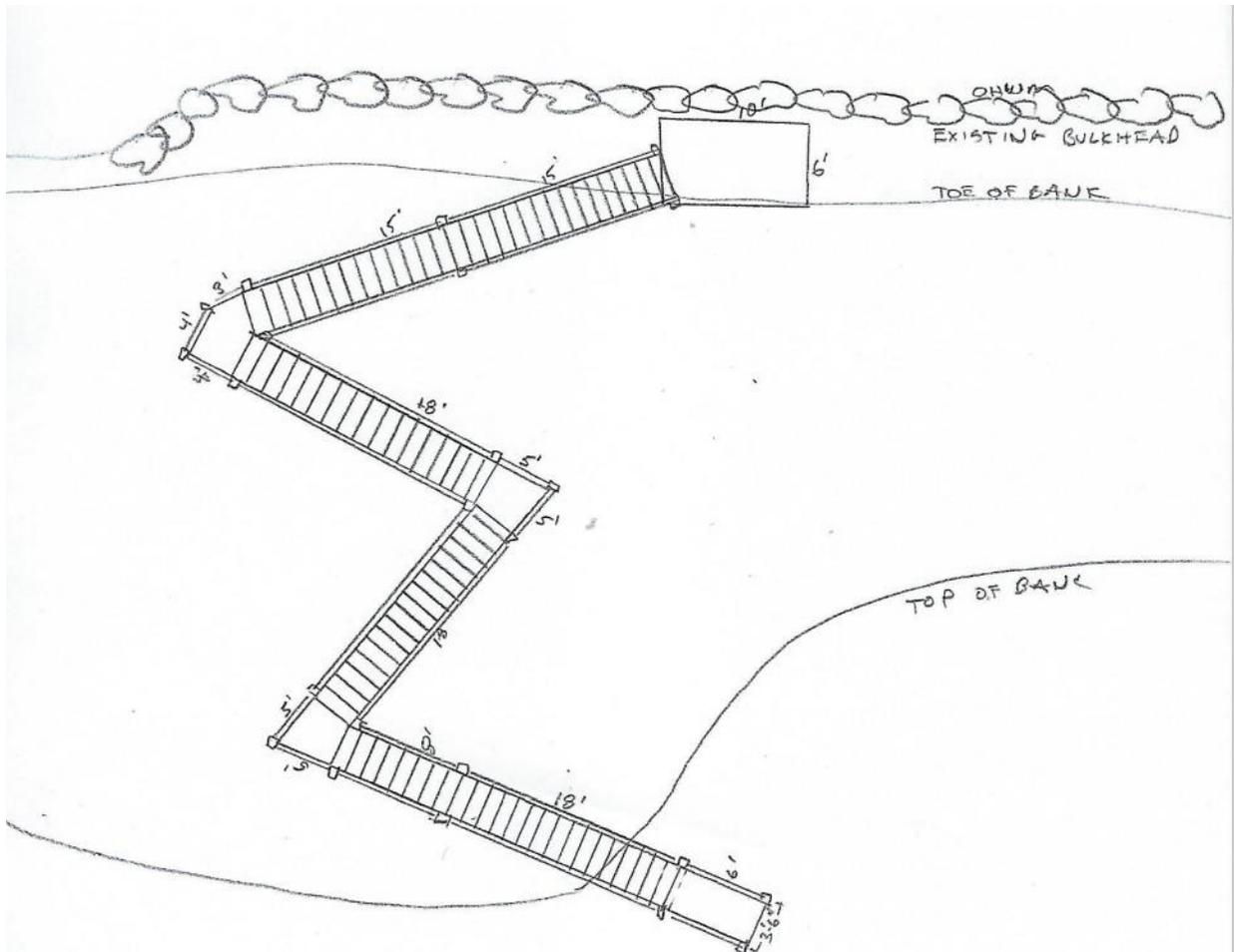




**Site Plan**



## Construction Plan



2017 Photo (Assessor-Treasurer's Office)



Staff Photos 2021



## **Review Responsibility**

The following list includes examples of jurisdictional areas for various County departments and divisions typically involved in the review and administration of this proposal:

### **A. Planning and Public Works (PPW):**

- Current Planning verifies compliance with the Pierce County Comprehensive Plan, applicable community plans, and Development Regulations such as, but not limited to, zoning, critical areas, natural resource lands, shoreline management, design review, and potential environmental impacts.
- Development Engineering reviews for drainage, erosion control, site development, flood, survey, landslide and erosion hazard, lot dimensions, and road standards.
- Resource Management reviews for consistency with the County wetland and fish & wildlife regulations.

### **B. Key Peninsula Advisory Commission (KPAC):**

The KPAC's role in the review process for a land use proposal includes the following:

- Review the proposal for consistency with the goals and policies in the Community Plan.
- Provide a local perspective that includes input from the community and insights of which PPW staff or the Hearing Examiner may not be aware.
- Offer recommendations for project design to fit with the community's vision while remaining consistent with the Community Plan.

PCC Chapter 2.45 Land Use Advisory Commissions provides regulations that apply to the KPAC. Per PCC 2.45.130, Land Use Advisory Commission (LUAC) recommendations on a land use application shall be to approve, modify and approve, deny, or make no recommendation.

## **Review Criteria**

The following regulations and policies shall be used during the review process including, but not limited to:

- A. Pierce County development regulations and construction and infrastructure regulations;
- B. Pierce County Comprehensive Plan and Gig Harbor Peninsula Community Plan;
- C. Applicable state statutes; and
- D. All applicable notes on related previously recorded County documents.

## **Site Characteristics**

Staff visited the site on July 28, 2021, and observed the following:

- The project site is on the southern portion of two irregular shaped parcels abutting the southwest shore of Henderson Bay.
- The long axis of the parcel is oriented in a north-south direction. The topography of the parcel is generally rolling, from road to the shoreline, with steep slopes of over 100% towards the water, on the south side of the site.

- The County Assessor lists parcel 0121061045 (westerly parcel) as 1.58 acres in size (including abutting private tideland) with approximately 175 feet of shoreline frontage and parcel 0121061047 (easterly parcel) as 1.52 acres in size (including abutting private tideland) with approximately 180 feet of shoreline frontage.
- Currently, the westerly parcel is improved with a single-family residence and garage, originally both constructed in 2001. The easterly parcel is currently vacant.
- A small portion of the existing residence was built over the common property line of both parcels and in essence, per PCC Section 18A.15.040.B.4.b, has combined the lots.
- Both parcels are considered as high bank waterfront properties. The Coastal Zone Atlas for Pierce County, provided by the Washington State Department of Ecology, identifies the shoreline of the parcels as a “Feeder Bluff”.
- The shoreline of parcels is improved with a 180-foot long by 6-foot-high rock bulkhead, which was approved by the Pierce County Hearing Examiner on December 12, 2005, under case number SD2-05.
- An unpermitted stairway, crossing both parcels, used to provide access from the residence to the shoreline and terminated landward of the bulkhead. However, it was damaged by a storm in 2020, thus the need for the current application.
- The access to the project site is via a long-paved driveway off 141<sup>st</sup> Avenue Court NW. This driveway crosses the common property line on both parcels and located to the north of the site.

**Surrounding Land Use / Shoreline / Zoning Designation**

	LAND USE	SHORELINE	ZONING
North	141 <sup>st</sup> Avenue Court NW	N/A	Rural 10 (R10)
South	Henderson Bay	Conservancy	N/A
East	Single-family residence	Conservancy	R10
West	Single-family residence	Conservancy	R10

## Ecology Aerial Photo, dated August 4, 2016



### Comments from the Public and Agencies

The proposed project has been routed to interested departments and agencies for review and comment. Comments received on this proposal may be found by accessing the online permit information referenced on page 2.

#### Public:

- The County received an e-mail dated August 31, 2021, from a citizen stating the stairway and landings should not touch the unstable slope.

#### Agencies:

- No adverse comments were received from reviewing agencies within the County.
- Both Squaxin Island Tribe and Nisqually Indian Tribe requests notification of any Inadvertent Discoveries of Archaeological Resources/Human Burials for this project.

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

#### **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 setbacks are as follows:

Front 25 feet, Side 10 feet and Rear 30 feet

*Staff Comment:* The proposed stairway meets the required front yard setback. However, a better site plan is needed to demonstrate the exact location of the stairway and its relation to the side property lines. A condition of approval may require either a lot combination application or a Memorandum of Agreement (MOA) to allow the use of the proposed stairways by both parcels.

### **Pierce County Development Policies and Regulations – Shorelines, (Title 18S)**

Title 18S provides policies, and regulations for development on Pierce County shorelines. It regulates not only the waterbody itself (Puget Sound), but also the abutting uplands located within 200 feet of Puget Sound. The proposal is located within the Conservancy Shoreline Environment Designation.

#### **18S.20.040 – Conservancy Shoreline Environment Designation (SED).**

The intent of the Conservancy SED is to conserve and manage existing natural resources and valuable historic and cultural areas while providing recreational benefits to the public and while achieving sustained resource utilization and maintenance of floodplain processes. Shoreline ecological functions should be preserved by avoiding development that would be incompatible with existing functions and processes, locating restoration efforts in areas where benefits to ecological functions can be realized, keeping overall intensity of development or use low, and maintaining most of the area's natural character.

- Development should be limited to that which sustains the shoreline area's physical and biological resources and temporary uses that do not substantially degrade ecological functions or the natural character.
- Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, including but not limited to boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, may be allowed.

*Staff Comment:* The proposed stairway system will be considered a water dependent use, accessory to the existing single-family residence, which provides a safe access of the residents to the water for recreational purposes.

#### **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.

- Locate, design, and operate facilities so that other water-dependent and preferred uses are not adversely affected.
- 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.3: Facilities shall be stable against the elements and maintained in safe and sound condition.
- C.12.: Height of a facility should be the minimum necessary for safe operations.
- D.3: If a principal residence occupies more than one parcel, then the project site shall be considered one parcel for purposes of this Section.
- D.6: Facilities serving more than one parcel, under the same or different ownership, shall be subject to the following:
  - a. Applications shall include documentation of all parcel property owners that would share the facility. Prior to construction or installation, the owners shall record with the County Auditor a joint-use agreement that will appear on the titles of all parcels sharing the facility. The agreement should address apportionment of responsibilities/expenses, easements, liabilities, and use restrictions.
- 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. Based on the submitted site plan, both the upper deck and the lower landing/deck (proposed on the top of the bluff and behind the bulkhead) are each 60 square feet in size (10 feet long by 6 feet wide).

Decks are not considered a water access facility and generally require a Shoreline Variance if it is located within the 100-foot shoreline buffer area. Staff believes that if the upper deck and lower deck/landing were reduced to the minimum size to function as just stair landings, such would be consistent and not require 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 Conservancy SED, the required buffer is 100 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). However, it is questionable why 60-square foot landings/decks are needed on the top and bottom of the stairway system. In addition, per the requirement of 18S.30.030-1(Mitigation Sequencing), the applicant needs to demonstrate how they are avoiding the impacts to the shoreline through the mitigation sequencing table. As a mitigation measure, perhaps the applicants can plant some native vegetation along the shore and landward of the bulkhead in order to restore the shoreline of the area as well as reducing the size of the proposed landings.

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:* Based on the submitted site plan it appears that some excavation is likely required; however, it is not clear as to how much of excavation would be needed for this project. Overall, 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:* The application does not make clear whether the stairway crosses the common property lines or not. In addition, both upper deck and lower deck/landing must be reduced in size. A condition of approval may require either a lot combination application or a Memorandum of Agreement (MOA) to allow the use of the proposed stairways by both parcels.

If approved with conditions, the proposed structure would be designed and engineered appropriately, and it is the responsibility of the property owners to maintain the structure in a safe and sound condition.

**Question from Staff for the KPAC:**

Does the KPAC believe that the applicant is meeting the SD requirements or have any comments or recommendations?

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