

Initial Project Review

Shoreline Substantial Development Permit and Shoreline Administrative Conditional Use Permit: Spencer Beach House

Application Numbers: 984865 (SD), 984864 (SACP), 984867 (SEPA)
Parcel Numbers: 0120011009, 0120011055, 0120011056

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: June 22, 2021, at 6:30 p.m., at the City of Gig Harbor, southeast entrance, 3510 Grandview Street, Gig Harbor, WA 98335

Proposal: The applicant is requesting to construct a 175-foot long by 8-foot wide joint-use dock for three (3) parcels, consisting of a 104-foot x 6-foot pier (606 feet over water) and 42-foot x 3-foot ramp (102 feet over water), both with 100% grating. A 40-foot x 8-foot float with 2 stub pilings for a total of 8 galvanized steel pile would support the entire structure. The proposal would be an accessory to the two existing single-family residences and one recreational parcel. All three parcels equal 14 acres and are located on Fox Island along the western shore of Hale Passage in Puget Sound.

Project Location: 753 10th Court, Fox Island, WA, in the Residential and Aquatic Shoreline Environments, Rural 10 (R10) zone classification, and the Gig Harbor Peninsula Community Plan area, within the SE ¼ of Section 01, T20N, R01E, 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 cannot conclude at this point in its review that the proposal is consistent with applicable codes and regulations. Specifically, staff will be engaging with the applicant on the mitigation sequencing requirements of code and the specific criteria that must be demonstrated as part of the Substantial Development and Administrative Conditional Use permits (see discussion to follow).

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. Pursuant to the State Environmental Policy Act and the Pierce County Environmental Regulations (Pierce County Code, Title 18D), the Department has reviewed the proposal and determined that a Determination of Nonsignificance (DNS) is likely to be issued. Issuance of a DNS means that the County has determined the proposal is not likely to result in any probable significant adverse environmental impacts.

County Contact: Jenny Kreifels, Associate Planner, jennifer.kreifels@piercecountywa.gov, 253-798-6322

Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departementStatus?applPermitId=984865>



Project Data

Complete Application Date: March 31, 2022

Initial Project Review Mailed: June 15, 2022

Applicant/Owner: Spencer Beach House LLC/
Spencer Family Revocable Trust
Attn: William and Virginia Spencer
Po Box 413
Fox Island, WA 98333
foxislandbeach@aol.com

Agent: Marine Floats Corporation
Attn: Tabitha Simonetti
313 East "F" Street
Tacoma, WA 98421
Tabitha@marinefloats.com

Legal and Public Notice

- *April 15, 2022*: Notice of Application (NOA) and Public Meeting Notice, including the Gig Harbor Peninsula Advisory Commission (PAC) 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.
- *April 25, 2022*: Revised NOA and Public Meeting Notice, including the PAC 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.
- *May 23, 2022*: 2nd Revised NOA and Public Meeting Notice, including the PAC 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.
- *April 20, 2022*: Public Notice sign was posted on-site, confirmed with a Declaration of Posting.
- *June 8, 2022*: Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the PAC public meeting.

2020 County Aerial Vicinity Maps

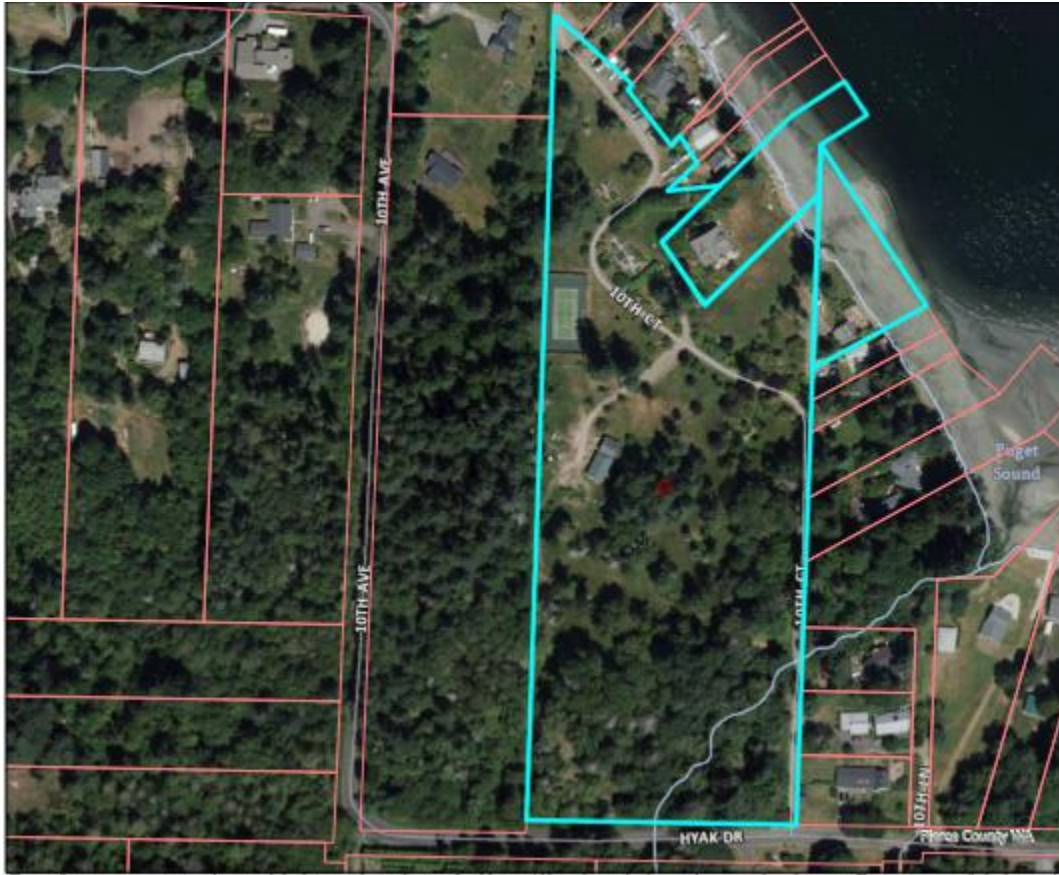


Red dot shows proximity of subject site within of Pierce County



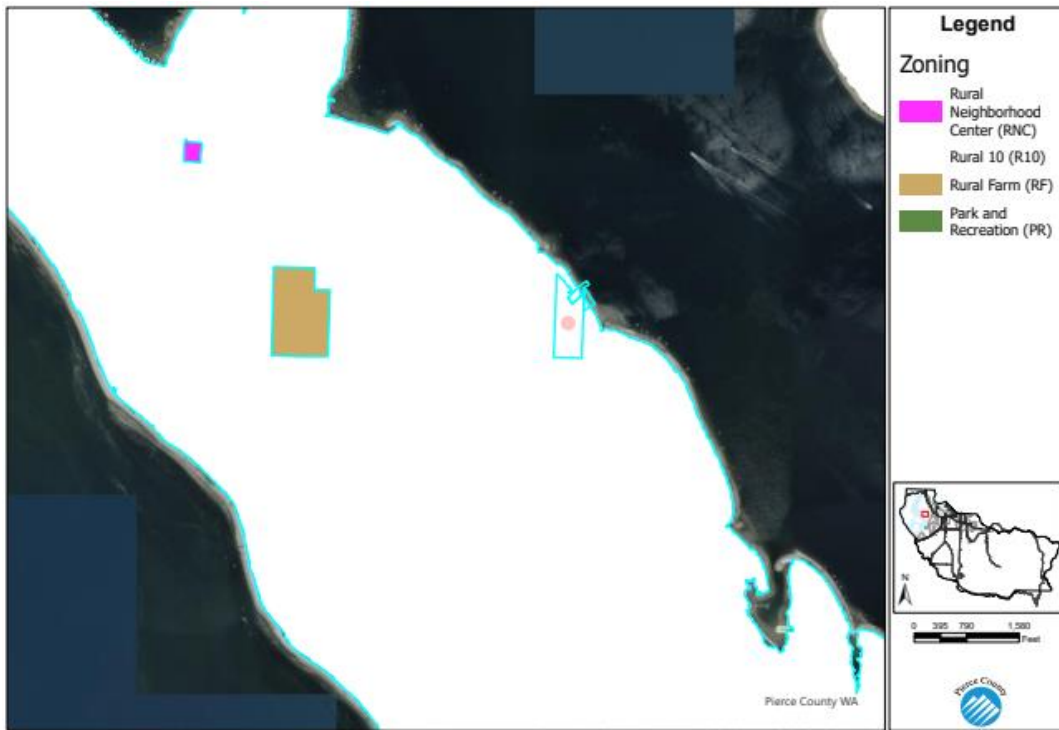
Subject site highlighted in blue

2020 County Aerial Photos



Subject site highlighted in blue

2020 County Zoning Map

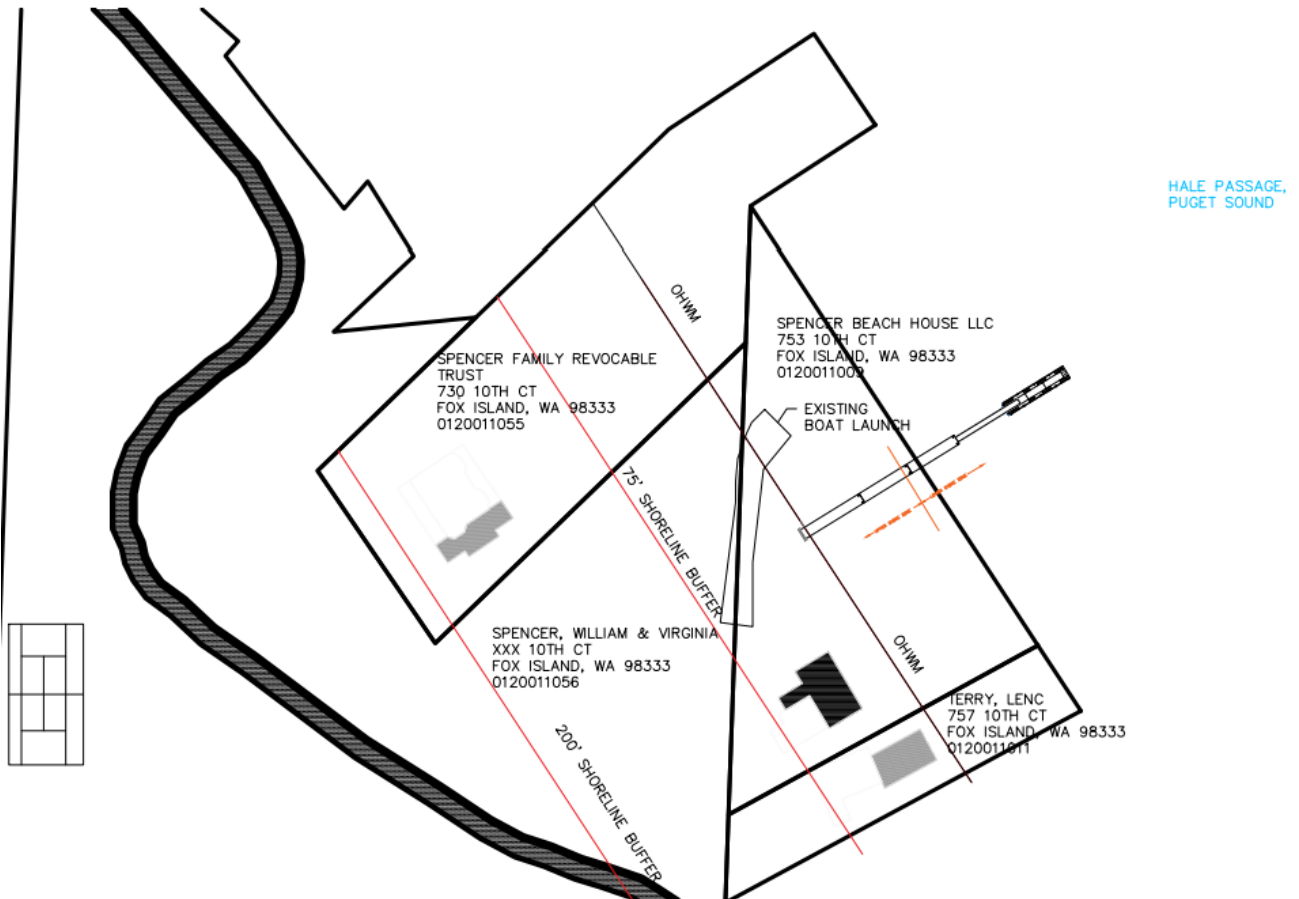


Subject site highlighted in blue is zoned R10

2020 County Shoreline Jurisdiction Map



Site Plan



Cross-Section and Elevation Plans

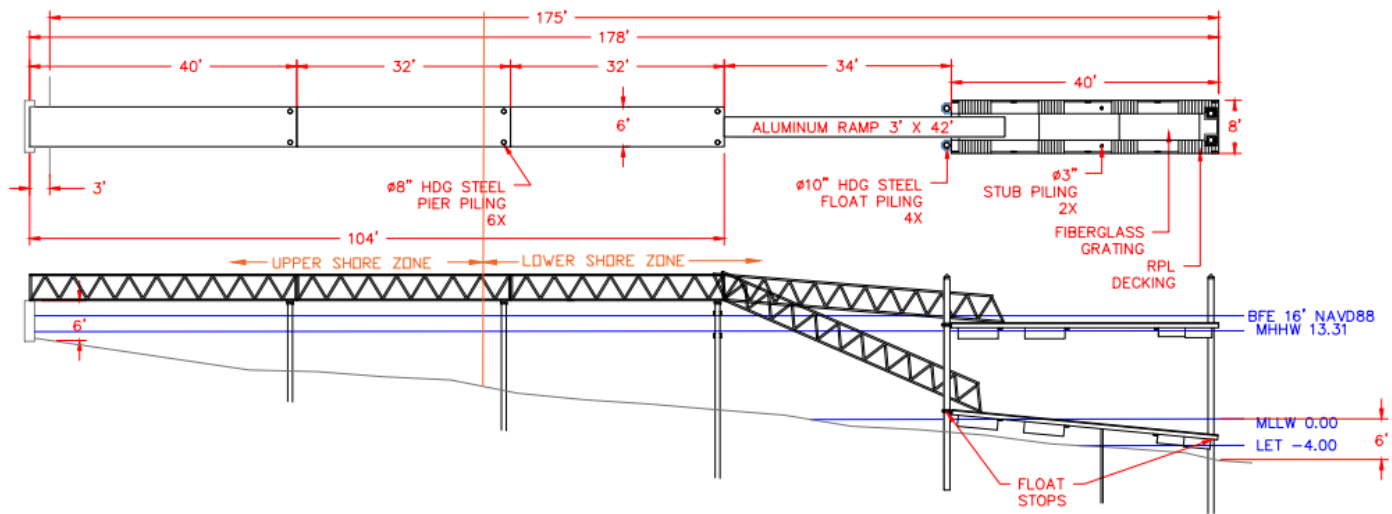


Photo of existing boat launch and bulkhead



Located on parcel 0120011009

1998 Historical Ortho County Map



Earliest photo found of boat ramp is from 1998

Coastal Atlas Photo, dated May 16, 1992



Blue/0120011055. Red/0120011056. Black/0120011009. Pink/boat launch. Dock proposed between black/pink.

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. Gig Harbor Peninsula Advisory Commission (PAC):

The PAC'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 PAC. 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

- The project site consists of three contiguous parcels on Fox Island, along the western edge of Hale Passage within the waters of Puget Sound.
- Topography is relatively flat with slopes between 6-15 percent occurring at the point where all three parcels meet the Puget Sound waters and at the northeastern portions of each parcel.
- The County Assessor lists the (3) parcels as the following:
 - 0120011055, is 0.78 acres in size (including abutting private tideland) with approximately 120 feet of shoreline frontage and a single-family dwelling.

- 0120011056, 12.49 acres in size (including abutting private tideland) with approximately 50 feet of shoreline frontage, a 576-square foot detached garage/ carport built in 1978, a tennis court labeled as 9101-RES NO PERK VAC LND REQ DOC.
- 0120011009, 0.74 acres in size (including abutting private tideland) with approximately 165 feet of shoreline frontage and a 576-square foot, single-family dwelling built in 1940.
- As of the drafting of this Initial Project Review (IPR), Staff has not reviewed for legality of any other structures on site or verified additional improvements.
- The shoreline of both immediate adjoining parcels to the east and west is improved with a manmade bulkhead.
- The western edge of Hales Passage is dotted with bulkheads as well as single-family and recreational docks and floats which appear to be common uses along the entire eastern edge of Fox Island.
- The closest adjacent docks to the proposed new dock on parcel 0120011009 are located approximately 400 feet to the northwest on parcel 0120011027 shown in historical photos dating back to 1998, and 600 feet to the southeast on parcel 0120011026 which is present in historical photos dating back to 1970.
- Access to the sites is via 10th Court, a private driveway, from a public right of way known as Hyak Drive, which is located to the south of the site.

Surrounding Land Use / Shoreline / Zoning Designation

LAND USE		SHORELINE	ZONING
North	Single-family residence (SFR)/ Puget Sound	Residential and Aquatic	Rural 10 (R10)
South	SFR/Hyak Drive	Residential and Aquatic	R10
East	SFR	Residential and Aquatic	R10
West	SFR	Residential and Aquatic	R10

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 1.

- One public comment, to date, has been received by an adjacent neighbor concerning public beach access in proximity to the dock placement, the “enhanced needs” since a boat launch currently exists on site and if/whether any additional ramifications are expected.
- County Biologist has asked to include the following recommended Fish & Wildlife Habitat Area Conditions in the written order for wetlands and fish and wildlife section:
 - A Notice on Title for Habitats of Local Importance (Forage Fish/Herring Spawning) shall be recorded with the Pierce County Auditor prior to building permit issuance.
 - The applicant shall implement and abide by the Compensatory Mitigation Plan for Spencer Beach House LLC—Spencer Family Revocable Trust—William and Virginia Spencer, Ramp, Float, and Pier Piling, dated May 3, 2022 (Reference: NWS-2022-286). Mitigation conservation credits shall be purchased before or concurrent with the work authorized by the permit.

- The applicant must provide evidence of the transaction of 61 conservation credits purchased from The Puget Sound Partnership for the South-Central Puget Sound where the project is located.
 - Please be advised that other County departments may have additional requirements associated with your project. It is the applicant's responsibility to research and comply with all other local, state, and federal regulations and obtain relevant permits.
- Washington State Department of Ecology (Ecology) recommends a soil sampling and analysis of this site for arsenic and lead if the project involves soil movement. In addition, Ecology requires erosion control measures in place prior the any construction activity on the site.
 - Squaxin Island Tribe commented that the project area has a high potential for the location of cultural resources but due to the nature of the project, have no specific cultural resource concerns for this project and will concur with DAHP if a survey, or additional recommendations are requested.
 - Puyallup Tribe of Indians commented that the proposed project has a very high probability for impacting cultural resources. While the current project does not propose ground disturbance, please be aware that any future development of this site would require a cultural resource survey prior to ground disturbance.

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

Gig Harbor Peninsula Community Plan

The Plan was adopted as part of the County Comprehensive Plan on June 30, 2016, Under Appendix E (Title 19A):

Pages E-68 and E-69 discusses shorelines within the Gig Harbor Peninsula Community Plan Area. Pages E-80 through E-83 provides a list of shoreline goals. Staff believes the following goals are the most applicable to the proposed pier:

GOAL GH ENV-1 Marine and freshwater shorelines have historically contributed to the economic, recreational, and cultural identity of the Gig Harbor Peninsula. Because of the high quality of life that is offered by living and working near the water, these shoreline areas have received some of the greatest development pressures within the community plan area. It is important that the natural features and critical functions of the marine and freshwater shoreline areas be preserved and protected for present and future generations. The natural character and ecology of the shoreline environment should be preserved. Land use policy should promote long-term values and goals above short-term interests.

GOAL GH ENV-2 Development standards along shorelines should ensure the preservation of native vegetation and wildlife habitat and protect water quality and natural shoreline processes.

GH ENV-2.2.2 Require protection for trees, including snags, located along the shoreline.

GH ENV-2.4.1 Analyze the cumulative impacts of shoreline development when evaluating an individual project.

GH ENV-2.7.1 Encourage retention of native vegetation and trees immediately adjacent to the waterbody in any required setback.

GOAL GH ENV-5 Promote coordination between Pierce County and other agencies, such as the City of Gig Harbor, Army Corps of Engineers, and state agencies such as the Departments of Ecology, Fish and Wildlife, and Natural Resources, that have an interest in shoreline issues.

GOAL GH ENV-6 Increase recreational opportunities at existing shoreline access points and promote additional public access to shoreline locations.

GH ENV-6.1 Encourage acquisition of shoreline access points that provide opportunities for boat launches, public docks or piers, beach walking, wildlife viewing, and other shoreline-dependent uses. Protect public rights to access beaches, shorelands, tidelands, and associated waterbodies.

GH ENV-6.4 Promote development of public and private pedestrian access to shorelands and tidelands. Property owners that provide public access to marine waters may be eligible for a property tax reduction.

Staff Comment: The joint-use dock/pier/float application was routed to all applicable state and federal agencies and tribes of interest for comment. There are a number of overwater structures in the general vicinity of the subject site; though, there is no dock on the immediate adjoining parcels to the north or south of the subject site. The dock will be the only overwater structure within an approximately 1,000 foot section of shoreline, will extend onto public tidelands, and will affect the public's ability to recreate in that area. The submitted application material indicates no shoreline vegetation will be removed or altered on the site. The proposed dock/pier/float will be made of material that will not release toxic substances into the water. The applicant may be asked to provide additional onsite mitigation such as: native shoreline plantings, removal of some or all buoys, or removal of the portion of the boat ramp that extends beyond the ordinary high water mark..

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

Title 18S provides policies, and regulations for development on Pierce County shorelines. The proposal is located within the Residential and Aquatic Shoreline Environment Designations.

18S.20.050 - Residential Shoreline Environment Designation (SED).

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.

- 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.

18S.20.070 - Aquatic Shoreline Environment Designation (SED)


The intent of the Aquatic SED is to protect, restore, and manage the unique characteristics and resources of marine and fresh waters.

- All development on navigable waters and submerged lands should be located and designed to minimize interference with surface navigation, to reduce impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- Shoreline development and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- New over-water structures should only be permitted for water-dependent uses or public access. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

18S.30.030 - Ecological Protection.

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.

- Establish and manage shoreline uses and development in a manner that mitigates adverse impacts so that the resulting ecological condition is maintained or improved.
- All shoreline uses and development should avoid and minimize adverse impacts on the shoreline environment.
- Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by limiting the number and extent of shoreline modifications and by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modification.
- Preserve and protect existing trees and native vegetation within shorelines to maintain shoreline ecological functions and mitigate the direct, indirect, and cumulative impacts of shoreline development. Where shoreline vegetation is inadequate to protect against the impact of new uses or development, native vegetation should be enhanced.
- Avoid impacts to shorelines through application of mitigation sequencing, giving highest priority to impact avoidance whenever new uses or development are proposed in shorelines.
- Replace designated noxious weeds and invasive species with native vegetation and other non-invasive vegetation to establish and maintain shoreline ecological functions and processes.
- Where new developments and uses are proposed, shoreline vegetation shall be conserved or restored when feasible. Shoreline vegetation helps to maintain shoreline ecological functions and processes and mitigate the direct, indirect and cumulative impacts of shoreline development.

Table 18S.30.030-1. Mitigation Sequencing	
Higher Priority  Lower Priority	Avoiding the impact altogether by not taking a certain action or parts of actions.
	Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
	Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
	Reducing or eliminating the impact over time by preservation and maintenance operations.
	Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
	Monitoring the impact and compensation projects and taking appropriate corrective measures.

Staff Comment: Joint-use docks are preferred over single-use docks as they serve to minimize the number of overwater structures, and their related impacts to shoreline function. However, it must be acknowledged that the applicants already have a boat ramp and three buoys so, it isn't clear that impacts are being avoided or minimized to the degree feasible. The applicant will be meeting State and Federal mitigation requirements through the purchase of mitigation credits but, this does not immediately meet the County's mitigation requirements. Staff would like to see a discussion of removing the existing floats and/or removing a portion of the boat ramp.

18S.30.080 Shoreline Modifications

The intent of the Shoreline Modification policies and regulations is to limit those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modifications are those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

- Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.
- Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

18S.40.140 - Water Access Facilities

The Water Access Facilities policies and regulations are intended to manage development of facilities that support water dependent uses such as mooring buoy, mooring piling, float, lift, railway, launching ramp, dock (pier, ramp, and/or float), marina, and water access stairs.

- 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.
- Discourage railways, docks and launching ramps on shallow, gradually-sloping beaches that result in excessively long facilities, or normal length facilities that are nonfunctional (e.g., high and dry) a majority of the time.

- New piers and docks shall be allowed only for water-dependent uses or public access and shall be the minimum size necessary to meet the needs of the proposed use. As used here, a dock associated with a single-family residence is a water-dependent use; provided, that it is designed and intended as a facility for access to watercraft or the water.
- Floating facilities (including anchor lines) and vessels moored to all facilities shall not ground or beach on the substrate. Flotation material shall be fully enclosed and contained.
- Facilities shall be stable against the elements and maintained in safe and sound condition.
- Facilities waterward of the OHWM in marine waters shall consist of an open framework (e.g., pilings, grated surfaces, cable railings, floating facilities held in place with anchors) as opposed to solid surfaces with no openings, to the maximum extent feasible.
- In- and over-water facilities shall be visible under normal day and nighttime conditions. Visual aids may include reflectors and warning lights, and shall be consistent with any applicable U.S. Coast Guard requirements.
- Height of a facility should be the minimum necessary for safe operations.
- In a constricted body of water, docks, except for residential docks, shall be allowed only where there is one surface acre of water within the constricted body, measured at mean low water, for each boat moorage (including buoys) within said constricted body.
- Maximum intrusion into the water shall be only so long as to obtain a depth of 8-feet of water as measured at mean lower low water (MLLW) on saltwater shorelines, or as measured at ordinary high water in freshwater shorelines, except that the intrusion into the water of any pier or dock shall not exceed the lesser of 15 percent of the fetch or the maximum allowed length.

Staff Comment: The proposal for a joint-use dock will be reviewed for the preceding sections from 18S Development Policies and Regulations-Shorelines. The full decision criteria for Shoreline Substantial Development Permits are listed in Section 18S.60.040 and for Shoreline Administrative Conditional Use Permits in 18S.60.050.

The site is situated along the east side of Fox Island, along the western shore of Hales Passage. If approved, the proposed joint-use dock will be accessory to the existing single-family residences on two parcels.

The pier/ramp/float (dock) design will be reviewed for consistency with the character of other over-water structures in this area of the bay. Based on the submitted site plan, the dock does not appear to unduly affect ingress-egress or the use and enjoyment of the water or beach. However, the dock would interrupt a section of beach roughly 1,000 feet in length with no overwater structures and it would interfere with the public use of the beach and water.

Staff find that the discussion provided of the criteria for an Administrative Conditional Use Permit requires expansion. The discussion provided merely recites back the verbiage of each criteria. Staff are particularly concerned about the response that notes the dock will not interfere with the normal public use of public shorelines or the water. The 175-foot dock, which will extend past the applicant's parcel boundaries onto public tideland, will interfere with the public use of these areas.

Staff are also concerned about the potential for cumulative impacts. PCC 18S 60.050 D3 requires that the County give: “..... *consideration.....to the cumulative impact of additional requests for like actions in the area*”. Were approval to be given for similar requests for a dock in an area where there were already other water access features, such as buoys and boat ramps, Staff would be concerned over the potential for “,,,substantial adverse effects to the shoreline environment”.

The dock proposal will need to meet the requirements for the fetch, length, piling vertical clearance, and setbacks in addition to all code sections in Title 18S. and, if approved, it would be designed and engineered appropriately. Further, if approved, it is the responsibility of the property owners to maintain the structure in a safe and sound condition. A condition of approval will address this requirement.

Question from Staff for the PAC

Does the PAC believe that the applicant is meeting the Shoreline Substantial Development Permit and Shoreline Administrative Conditional Use Permit requirements or have any comments or recommendations?

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