

# Initial Project Review

## Shoreline Substantial Development Permit: Ehrlich

**Application Numbers: 1006895, 1003312**

**Related Application Number: 1007250**

**Tax Parcel Number: 0020013022**

**Key Peninsula Advisory Commission (KPAC) Meeting: Wednesday, April 19, 2023, at 5:30 p.m.,** This meeting is being held remotely, via Zoom, and at the Pierce County Public Services Building (Annex), Pantages Conference Room, 2401 South 35<sup>th</sup> Street, Tacoma, WA. To participate in the virtual meeting, visit [www.Zoom.com](http://www.Zoom.com) and click “Join A Meeting” or call 253-215-8782, then enter the Meeting ID: 968 2830 3077, and Passcode: 253, or follow this link: <https://piercecountywa.zoom.us/j/96828303077?pwd=REdrS1VaSlpzZjIveEVONjFXS2dlUT09> For additional questions regarding how to participate in the public meeting process, contact Long Range Planning at [PPWLONGRANGEADMIN@piercecountywa.gov](mailto:PPWLONGRANGEADMIN@piercecountywa.gov) or at (253) 798-3736.

**Proposal:** The applicant is seeking to construct a 305-square foot dock in the Aquatic Freshwater Shoreline Environment in Bay Lake. Additionally, the applicant seeks to install a separate 11-foot x 13.5-foot covered pontoon boat lift. Lastly the applicant seeks to erect a temporary free standing kayak rack near the shoreline and a 4-foot-wide primitive trail to the shoreline.

**Project Location:** The site is located at 1410 158th Avenue SW, Lakebay, WA 98349, within the SW 1/4 of Section 1, T20N, R00E, W.M., in Council District #7.

**Staff Review:** The project can be conditioned to comply with all applicable policies and objectives of the Pierce County Code, Comprehensive Plan, and Key Peninsula Community Plan area. Staff has reviewed this proposal for compliance with all policies, codes, and regulations and intends to recommend **approval**.

**Zone Classification:** Rural Sensitive Resource (RSR)

**Community Plan Area:** Key Peninsula Community Plan Area

**Shoreline Environmental Designation:** Conservancy & Aquatic Freshwater

**State Environmental Policy Act (SEPA):** SEPA Review is required for this proposal.

**County Contact:** Brian Bischof, Associate Planner, (253) 798-2987,  
[brian.bischof@piercecountywa.gov](mailto:brian.bischof@piercecountywa.gov)

**Pierce County Online Permit Information:**

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=1006895>



## Project Data

Application Complete: February 22, 2023

Initial Project Review Sent: April 12, 2023

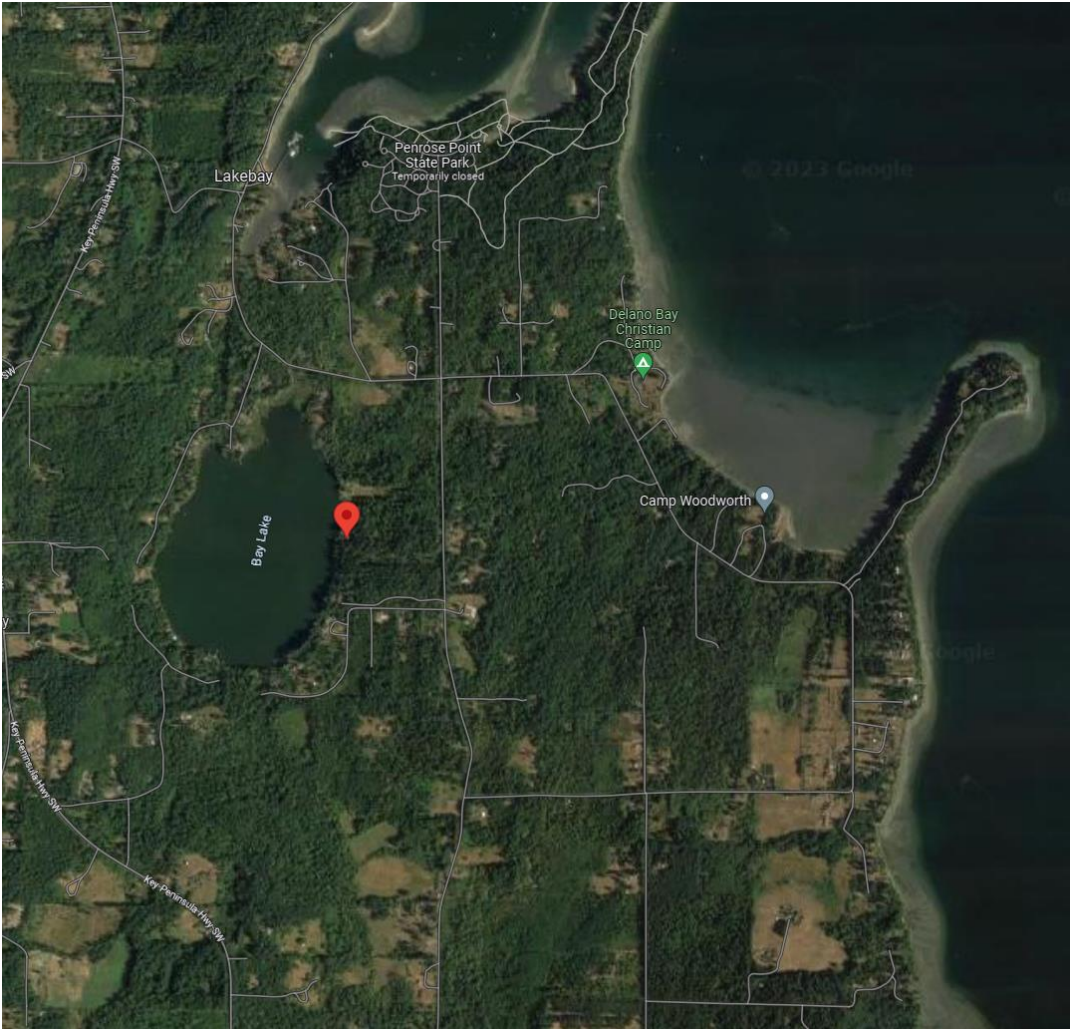
Property Owner/Applicant: Jeremy Ehrlich  
209 Hayes Street  
Seattle, WA 98109  
[jaehrich@gmail.com](mailto:jaehrich@gmail.com)

Agent: Permit Granted, LLC  
Attn: Lorrie Chase  
4810 Pt. Fosdick NW  
Gig Harbor, WA 98335  
[lorrie@permitgranted.com](mailto:lorrie@permitgranted.com)

## Public and Legal Notice

- *March 15, 2023*: Notice of Application (NOA) and Public Meeting Notice, including the Key Peninsula Advisory Commission (KPAC) meeting information, 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.
- *March 27, 2023*: Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
- *April 5, 2023*: Legal Notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the KPAC public meeting.

Vicinity Map (Google 2023)



# 2021 County Aerial Photo



Figure 1: Project property is highlighted.

## Proposed Site Plan

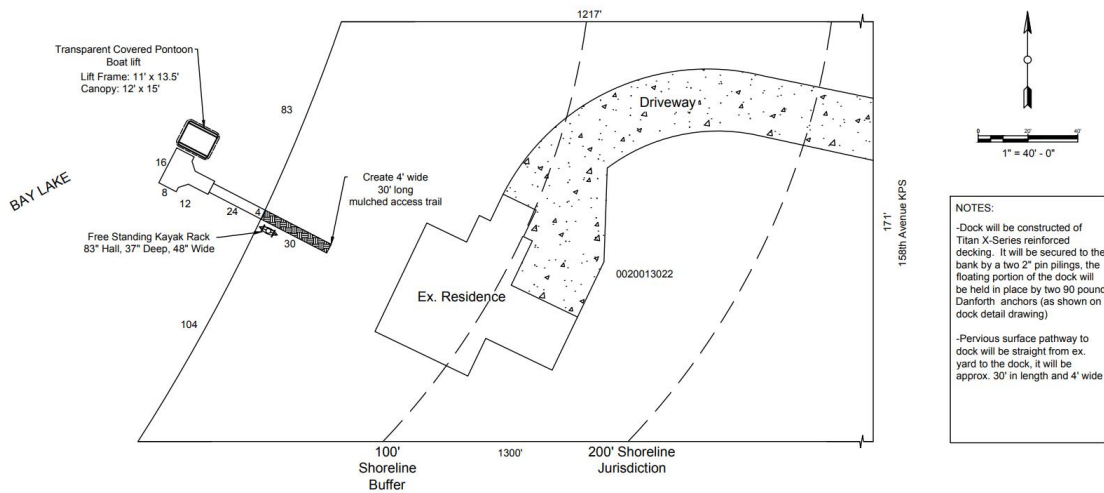
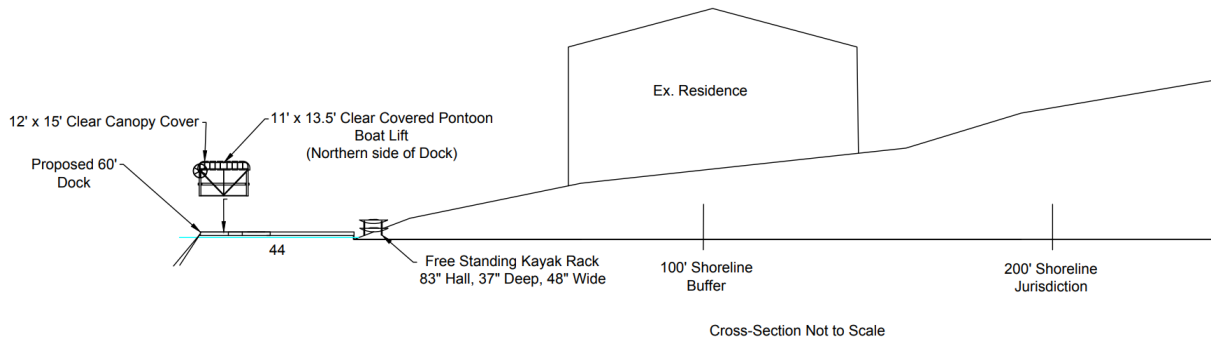


Figure 2: Image showing the proposal. Proposed dock off the rear of the lot.

## Cross-Section and Elevation Plans



## Site Photos





**Looking southwest from the sloped backyard**

## **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. The LUAC may recommend the Hearing Examiner continue a scheduled public hearing to obtain additional information or LUAC recommendations.

## **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 Key Peninsula Community Plan;
- C. Applicable state statutes; and
- D. All applicable notes on related previously recorded County documents.

## **Site Characteristics**

- The County Assessor lists parcel 0020013022 as being 4.86 acres in size.
- The applicant owns the adjacent undeveloped parcel to the south.
- The parcel is accessed via a driveway from 158<sup>th</sup> Avenue Southwest, a public road.
- Currently, the site is improved with a single-family residence with an attached garage, both built in 2010.
- Bay Lake is developed with single-family residences, a majority of which are located on the western side of the lake.

- There is a public recreational Washington Department of Fish and Wildlife boat ramp about a mile drive away.
- The site gradually slopes towards the water and has about a 20-foot drop from the dwelling to the lake.

**Surrounding Land Use/Zoning Classification**

	LAND USE	ZONING
<b>North</b>	Vacant (undeveloped)	Rural Sensitive Resource (RSR)
<b>South</b>	Vacant (undeveloped)	RSR
<b>East</b>	185 <sup>th</sup> Avenue West	RSR
<b>West</b>	Bay Lake	Aquatic Freshwater Shoreline

**Utilities/Public Facilities**

Utility service and public facilities are proposed as follows:

- Water – Well water**
- Power - Peninsula Light**
- Sewer - N/A -Septic**

**Comments from the Public and Agencies**

The proposed project has been routed to interested departments and agencies for review. Comments received from various departments and agencies may be found by accessing the Online Permit Information referenced on page 1.

Comments have been received, and corrections and/or additional information requested, by the following agencies on the application:

- Resource Management has reviewed the application and has also visited the site, per application #1007250, to verify wetlands. A title notification for priority habitats of local importance will be recorded for waterfowl concentrations and the lake itself as a regulated feature.
- Development Engineering has approved the application.
- The Nisqually and Squaxin Island Indian Tribes have not requested a cultural resource survey but have asked that the applicant adhere to the County’s policy of inadvertent discovery.

**Initial Planning and Public Works Staff Review for Consistency with Applicable Land Use Policies and Regulations:**

The proposal is subject to review for conformance with Pierce County plans, codes, 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.



## **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.

*Staff Comment:* The proposed single-use dock will be considered an accessory use to the existing residence. The proposed recreational dock will not adversely impact the surrounding area as, although there are other similar size docks constructed on the lake, the eastern shore of Bay Lake is sparsely developed. This side of the Lake also enjoys a sloped lakefront which allows larger viewsheds in which the dock will present some level of visual impact but will be lessened by the adjacent properties' vantage points.

### **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.

*Staff Comment:* The proposed dock is a water dependent use that will not interfere with surface navigation as it will be less than 15% (2.9%) of the fetch. The submitted Joint Aquatic Resources Permit Application (JARPA) notes that the dock will be grated to Washington Administrative Code (WAC) and Washington Department of Fish & Wildlife (WDFW) requirements. The proposed size is in-line with residential docks in the area. The proposed boat lift is a bit more of a concern as it is really a maintenance feature more so than a feature integral to boating. Boats are often removed from the water during the winter, especially in marine water, and a boat lift spares the landowner from having to trailer the boat out of the lake from the boat ramp.

**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	
<p>Higher Priority</p>  <p>Lower Priority</p>	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:* The applicant has not submitted any mitigation plans at this time. The applicant will be required to prepare a vegetation replanting plan with total areas of mitigation determined by the total area of disturbance for the primitive trail, as well as total over water structure size. Staff will require a condition of approval for the applicant to restore shoreline vegetation that is removed for the purpose of constructing the dock.

#### **18S.30.030E.4 Uses and Development Allowed within Standard Shoreline Buffer.**

- a. Water dependent uses and public shoreline access are allowed within the standard shoreline buffer subject to applicable regulations of the Master Program.
- b. An unpaved access path from a residential dwelling to the shoreline is allowed if:
  - (1) The path width is limited to 4 feet;
  - (2) The length of the path is minimized by keeping the path at a right angle to the shoreline to the degree feasible; and
  - (3) No trees are removed.
- c. Up to 500 square feet or 25 percent of the area encompassed within the first 50 feet measured from the ordinary high water mark (OHWM) may be disturbed to accommodate shoreline access, landscaping, or minor construction associated with a water dependent use upon review and approval of a Vegetation Planting Plan pursuant to subsection G.2 of this Section. Such disturbance shall not be concentrated nor span the extent of the shoreline at the water's edge.

*Staff Comment:* The applicant has not submitted any mitigation plans at this time. The applicant will be required to prepare a vegetation replanting plan with total areas of mitigation determined by the total area which, at this time, is a 120 square foot area but may change as the grade of the slope may require additional disturbance. At this time a straight perpendicular 4-foot-wide path, approximately 30 feet long, is proposed. Lastly the applicant proposes to have a kayak rack adjacent to the shoreline and path. The nature of this rack will be temporary and should not remove any large vegetation for its installation. The rack is 3 feet x 4 feet and appears to hold two kayaks.

#### **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.
- Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

*Staff Comment:* The project is to construct a 45-foot long single-use dock. A condition of approval will require the applicant to contact the adjoining neighbor to the north or south regarding the possibility of using the proposed structure as a joint-use dock.

#### **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 site is located at the eastern shore of Bay Lake. The proposed dock design and size are consistent with the character of other over-water structures in this area of the lake. The dock from the proposed location will not unduly affect ingress-egress or the use and enjoyment of the water or beach on the adjoining properties. Based on the submitted site plan, the proposed dock is over 10 feet from the side property lines. According to the County's 2021 aerial imagery, the closest dock to the north is approximately 1,500 feet and the closest dock to the south is 1,100 feet from the subject site. The application does not make clear whether joint use of the dock has been explored or not. Prior to a decision being made the applicant should address the feasibility of a joint use dock with adjacent parcel owners.

The dock meets the requirements for the fetch, length, piling vertical clearance, and setbacks. The proposed dock, based on the submitted site plan, is approximately 45 feet in length, which is permitted by Pierce County Code for a freshwater access. The proposed dock is 305 square feet; the maximum permitted in the Freshwater Aquatic designation is 360 square feet. The applicant also proposes an 11-foot x 13.5-foot boat lift on a pontoon. This will add another approximately 150 square feet of over water structure in the form of boats on the lift. Pierce County Shoreline Code does permit boat lifts but does not regulate them specifically. The code speaks to an additional float which, for a single use dock, is 100 square feet. The additional overwater structure, as noted by code, should be the minimum size necessary to accommodate the use. The applicant should demonstrate need and avoidance for same. An alternative to the lift would be to remove the boat from the water when not in use via the public boat ramp a mile away.

**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.

**Question from Staff for the KPAC**

Does the KPAC believe that the applicant is meeting the criteria for a Shoreline Substantial Development Permit, or do they have any comments or recommendations?

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