

Initial Project Review

Shoreline Substantial Development Permit (SD) / Shoreline Administrative Conditional Use Permit (SACP): Brynestad Joint Use Dock

**Application Numbers: 1003723 (SD), 1003724 (SACP), 1003725 (SEPA)
Parcel Number: 0121271019**

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: April 26, 2023, at 6:30 p.m., at the City of Gig Harbor, southeast entrance, 3510 Grandview Street, Gig Harbor, WA

Proposal: Construct a 200-foot long joint-use dock on the subject parcel. The dock is for use by the four parcels being developed by the owners for single family homes. The parcels have recently been adjusted with three of the lots being roughly three quarters of an acre and the remaining larger parcel is almost 2.5 acres. One parcel has an existing home, and another has small accessory structures, while the rest are currently vacant and being developed.

Project Location: The site is located at 3112 92nd Avenue Court NW, on the west shoreline of the Hale Passage (Puget Sound), in the Gig Harbor Peninsula Community Plan area, Rural Sensitive Resource (RSR) zone classification, and Residential Shoreline Environments, within Section 27, T21N, R1E, W.M. in Council District #7.

Review Summary: Staff has reviewed this proposal for compliance with all policies, codes, and regulations and concludes the project can be approved, if properly conditioned.

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, Title 18E, the Pierce County Responsible Official has reviewed this project and has not yet issued a Determination. No comments were received, and at this time no decision has been issued.

Contact: Dan Buhl, Planner, dan.buhl@piercecountywa.gov, 253-798-3268

Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=1003723>



Project Data

Complete Application Date: December 29, 2022

Initial Project Review Mailed: April 19, 2023

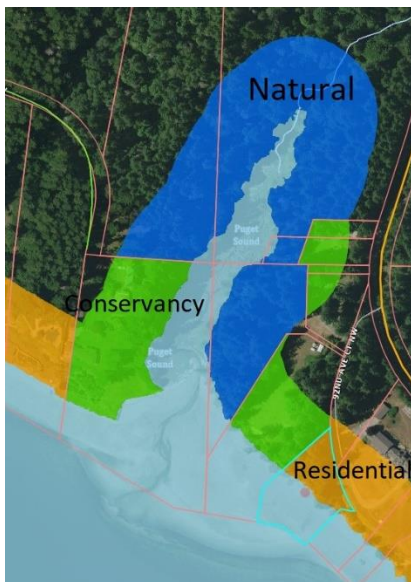
Owners/Applicants: Bart Brynestad
9218 Warren Drive Northwest
Gig Harbor, WA 98335
bartbrynestad@gmail.com

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

Legal and Public Notice

- *March 8, 2023*: Notice of Application, including the Gig Harbor Peninsula Advisory Commission (PAC) 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
- *March 20, 2023*: Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- *April 12, 2023*: Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the PAC public meeting.

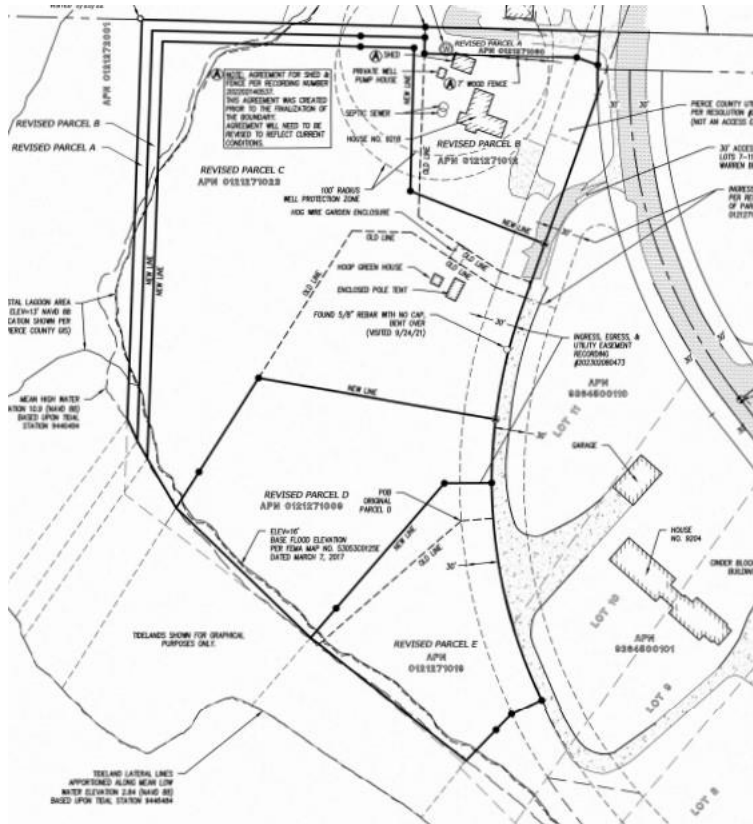
Pierce County Shoreline Environment Map



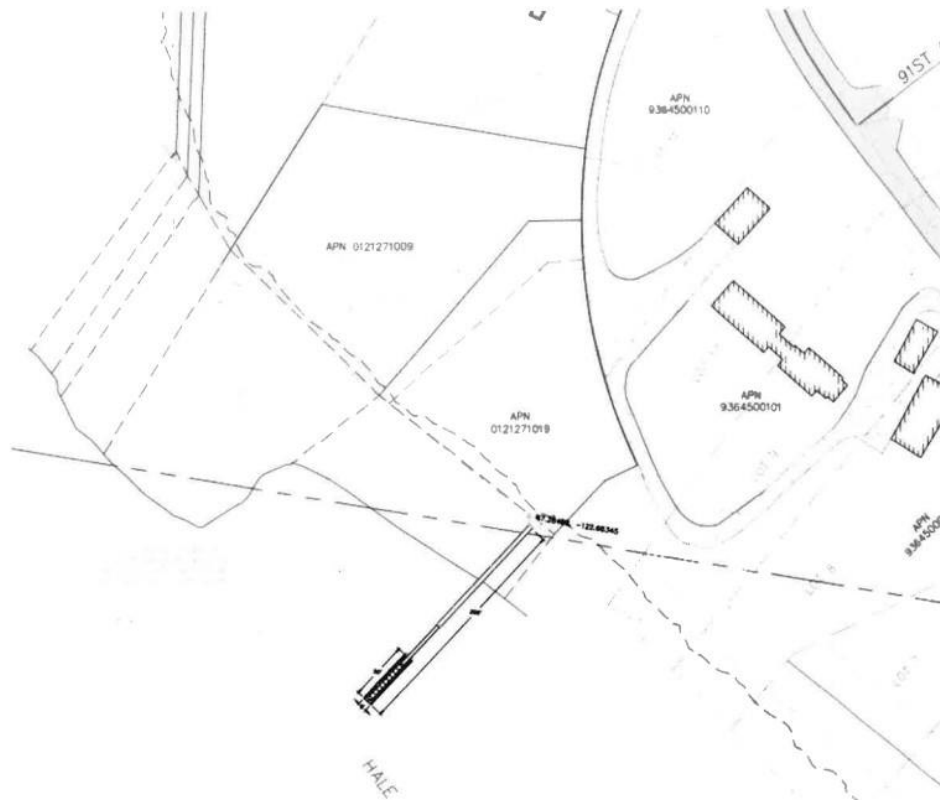
2020 County Aerial Photo



New Parcel Layout



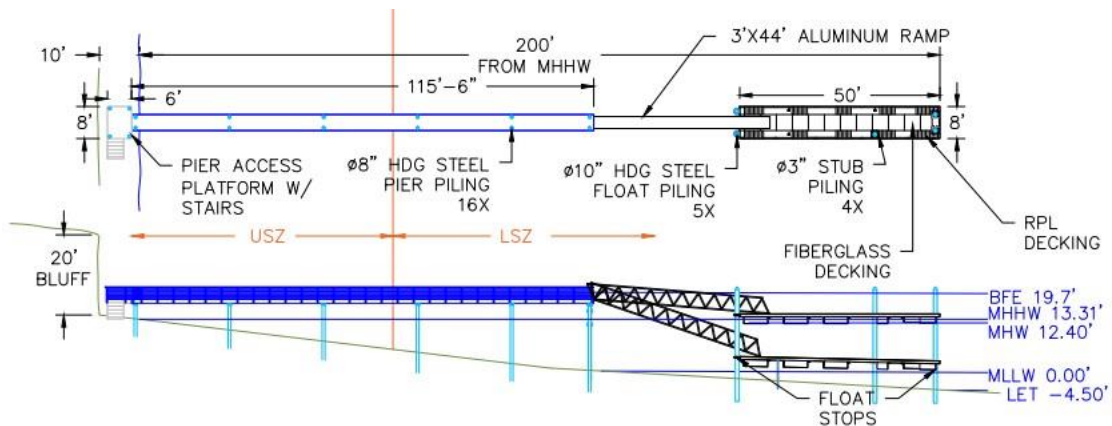
Site Plan (Proposed)



Dock Overlay



Cross-Section



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

Comments from Neighbors/Public: Staff has received no comments from neighbors of the public.

Comments from Agencies: Various comments have been received. See the complete list of review comments using the Pierce County permit system website and the permit application numbers listed on page 1 of this review.

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

Site Characteristics

- The owners purchased the subject property and the other properties involved in the joint use dock in early February of 2022.
- The subject parcel is vacant. Only one of the four involved parcels currently has a home.
- The parcel is 0.69 acre in size per the latest boundary line adjustment (application number 997378). The parcels involved combined are nearly 5 acres.

- The parcel is irregularly shaped. The parcel boundaries follow 92nd Avenue Court NW and the ordinary high water mark (OHWM) of Hale Passage, which both run northwest to southeast.
- The subject parcel, similar to the other parcels involved in the joint use, slopes toward the water with a change in elevation of roughly 20 feet and a steep elevated bank that drops roughly 30 feet to the beach below.
- The subject parcel is heavily vegetated with trees.
- The distance or fetch of Hale Passage, as measured from the proposed location of the dock to the closest point of land on the opposite shoreline, is approximately 2,300 feet.
- A cursory review of the parcel does not readily reveal any shoreline/land use violations.

Surrounding Land Use / Shoreline / Zoning Designation:

	LAND USE	SHORELINE	ZONING
North	Single-family residences and vacant	Residential	Rural 10 (R10)
South	Hale Passage	N/A	N/A
East	Vacant	Conservancy	Rural Sensitive Resource (RSR)
West	Vacant	Residential	R10

Initial County Planning and Public Works Department staff review for consistency with policies and regulations:

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):

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-2.2.1 Discourage lawn areas that extend to the edge of slopes, bluffs, or beaches. Encourage retention of native vegetation immediately adjacent to the waterbody in any required setback.

GH ENV-2.4 Base allowable uses along the shoreline on the Comprehensive Plan land use designation and SMP and permit them on a case by case basis.

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

Staff Comment: A joint-use dock is proposed for this site. There is not a dock on the immediate adjoining parcels to the east or west of the subject site; however, there are roughly a dozen docks within a mile to the east of this property.

Based on the submitted site plan, the water depth at the end of the requested 200-foot dock, as measured at mean lower low water (MLLW), is approximately 0 feet.

The proposed dock will not cause removal of any vegetation from the site, nor will it have any appreciable impact on the views of the neighboring properties, as the project site and surrounding sites are all considered as high bank waterfront properties. Moreover, if approved, the dock will not be out of character with other properties within close vicinity of the site, as there are other similar size docks to the west of the site as well as one to the east of the site.

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 joint-use dock will be considered an accessory use to the existing parcel and any future dwellings to be constructed on the Brynestad properties. A notice on title will note the same. The proposed recreational dock will not adversely impact the surrounding area as the subject site and surrounding parcels are considered high bank waterfront sites with their respective residences away from the bluff. In addition, there are other similar size docks within close vicinity of the site; therefore, views of adjoining lots are unlikely to be adversely impacted by the proposed dock.

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 is not expected to significantly interfere with surface navigation. The dock will be less than 15% of the fetch. A 115-foot portion of the proposed 200-foot-long dock will be a timber pier. In addition, the proposed overwater structure (dock) will be limited to the maximum size allowed with a 100% grated ramp and 50% grated float.

18S.30.020 Archaeological, Cultural, and Historic Resources

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.


Staff Comment: The applicant had a cultural resource survey conducted on the property by Brett Lenz of Columbia Geotechnical Associates, Inc. dated December 23, 2022. Per the study, "Investigation of the proposed home and dock resulted in the observation of no cultural materials identified. It does not appear that any recorded cultural resources are present on the parcel and no other cultural resources were found as a result of the survey."

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: Staff is currently assessing the appropriate mitigation through the course of review. There is currently a meeting scheduled onsite with the applicant, Planning staff, and Resource Management staff. A condition of approval will require restoration of any vegetation that is disturbed.

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 on the northern shore of Hale Passage, just east and adjacent to the mouth of Warren Creek. The proposed pier/ramp/float (dock) design is consistent with the character of other over-water structures in this area of the passage, but its length of 200 feet is generally a bit longer. The dock from the proposed location is not expected to 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 2020 aerial photo, the closest dock to the southwest is approximately 900 feet and the closest dock to the northeast is 3,200 feet from the subject site. In addition, per the submitted site plan, the depth of water at the end of the proposed dock will be approximately 0 feet at mean lower low water (MLLW), but the dock is at its maximum length of 200 feet, to serve four parcels, and cannot be extended any further to reach -8 feet MLLW.

The proposed dock 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. In addition, if approved, a condition of approval will require that all plastics or other nondegradable materials, which are used in pier construction, will be contained.

Table 18S.60.030-1 - Shoreline Permit Table

Per the table, in the Aquatic Marine and Residential designations, residential water access facilities (serving less than four parcels) are allowed subject to approval of a Shoreline Substantial Development Permit. However, in the Aquatic Marine designation, a Shoreline Administrative Conditional Use Permit is also required.

Staff Comment: Both permit applications have been submitted. The applicable criteria are addressed later in this decision. However, before that, this decision lists applicable policies/regulations from other parts of the Shoreline Code.

18S.60.040 Shoreline Substantial Development Permit.

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 the Title 18S PCC 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.
- E. Burden of Proof. The applicant has the burden of proving that a proposal meets all applicable criteria for a Shoreline Substantial Development Permit.
- G. Denial. The Director may deny an application for a Shoreline Substantial Development Permit if the proposal fails to comply with specific standards found in the Master Program or if any of the decision criteria of PCC 18S.60.020 E.2. through 6. are not supported by evidence in the record as determined by the Director.

Staff Comment: After review of the submitted findings for this section of shoreline code, the proposal appears to meet many but not necessarily all the criteria necessary for approval.

18S.60.050 Shoreline Administrative Conditional Use Permit.

D. Decision Criteria.

1. The Director shall review the location of the proposal for compatibility with development permitted in the surrounding areas; and make further stipulations and conditions to reasonably assure that the basic intent of the Master Program will be served.
 2. An Administrative Conditional Use Permit may be granted provided that the applicant demonstrates all of the following:
 - a. That the proposed use is consistent with the policies of the Act and the Master Program;
 - b. That the proposed use will not interfere with the normal public use of public shorelines, nor use of waters under the Public Trust Doctrine;
 - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Master Program;
 - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
 - e. That the public interest suffers no substantial detrimental effect; and
 - f. The proposed use is consistent with all applicable development regulations.
 3. In the granting of all Shoreline Administrative Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Administrative Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- E. Burden of Proof. The applicant has the burden of proving that a proposal meets all applicable criteria for a Shoreline Administrative Conditional Use Permit.

G. Denial. The Director may deny an application for a Shoreline Administrative Conditional Use Permit if the proposal fails to comply with specific standards found in this Title, or if any of the decision criteria of subsection D of this Section are not supported by evidence in the record as determined by the Director.

Staff Comment: After review of the submitted findings for this section of shoreline code, the proposal appears to meet many but not necessarily all the criteria necessary for approval.

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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