

Initial Project Review

Shoreline Administrative Conditional Use Permit: (Swenson Buoy)

Application Number: 995383
Tax Parcel Number: 4995000324

Gig Harbor Peninsula Advisory Commission (PAC) Meeting: June 28, 2023, at 6:30 p.m. at the City of Gig Harbor, southeast entrance, 3510 Grandview Street, Gig Harbor, WA 98335

Proposal Installation of a permanent helical embedment anchor used as a recreational mooring buoy that will be 305 feet from mean higher high water (MHHW) at minus 8.6 feet in depth. It will be placed in front of a residential property on the southeast side of Raft Island and east side of Henderson Bay.

Project Location: 234 Camp Road NW, Gig Harbor, WA 98335, in the Residential Shoreline Environment, Rural 10 (R10) zone classification, and Gig Harbor Community Plan area, within the NE ¼ of Section of Sec. 10, Township 21N, Range 1E, W.M., within Council District #7

Review Summary: County staff has reviewed this proposal for compliance with all applicable policies, codes, and regulations. The County has reached no conclusion as to whether the proposal can be approved but, it must be noted that the Hearing Examiner's Decision on application #805743, for a joint-use dock on this parcel included a specific requirement that any buoys associated with the application parcels be removed, Adding a buoy to the parcel would appear inconsistent with that Condition of Approval. It is also noted that the Environmental Checklist for the approved joint-use dock made clear that the applicant had no plans for "future additions, expansions, or further activity related or connected with this proposal" (the joint-use dock). It isn't clear what has changed since the Examiner's decision on the joint-use dock such that a mooring buoy is now needed.

State Environmental Policy Act (SEPA): This proposal is exempt from SEPA.

County Contact: Michael Jimenez, Planner, 253-798-7181,
Michael.Jimenez@piercecountywa.gov

Pierce County Online Permit Information:
<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=995383>



Project Data

Application Complete Date: February 1, 2023

Initial Project Review Sent: June 21, 2023

Applicant/Owner: Richard Swenson
219 Raft Island
Gig Harbor, WA 98335
rswenson@mckinneytrailers.com

Agent: Alpha Marine Installations
Attn: Arnold LaVeta
280 Griel Road
Onalaska, WA 98570
alphamarineoffice@gmail.com

Findings of Fact

1. The application for this Administrative Shoreline Conditional Use was submitted and deemed complete February 1, 2023.
2. The site is bordered on the east and west by single-family residences.
3. As of the date of this Initial Project Review no comments were received from neighbors or public.
4. The buoy is to be installed 309 feet from MHHW and depth of 8.6 feet.
5. This permit does not require a public hearing before the Pierce County Hearing Examiner.

Public and Legal Notice

- *March 3, 2023:* Planning and Public Works (PPW) sent a Notice of Application (NOA) to all property owners within a radius of 300 feet, but not less than 2 parcels deep, around the exterior boundaries of the subject property.
- *May 10, 2023:* A Revised NOA and Public Meeting Notice, including the Gig Harbor Peninsula Advisory Commission (PAC) public meeting information, was sent to all property owners within a radius of 300 feet, but not less than 2 parcels deep, around the exterior boundaries of the subject property.
- *March 9, 2023:* The applicant submitted a Declaration of Posting indicating the required notice sign was placed on the site.

Agency Comments

Staff received the following comments:

Scott Sissons, Environmental Biologist, stating the following:

- A parcel may have no more than one mooring buoy.

- In addition to getting a permit from the DNR and ECY, the buoy shall follow the PROVISIONS of the WA Department of Fish and Wildlife Hydraulic Project Approval Issued Date: March 04, 2022 Permit Number: 2022-6-112+01. As well as the U.S. Army Corps of Engineers (Permit) Reference: NWS-2021-973.
- It is the applicant's responsibility to research and comply with all other local, state, and federal regulations and obtain relevant permits.

Aerial Images



Proposed Buoy Location (Longitude and Latitude)

DocuSign Envelope ID: A147DEE8-903F-4755-83DB-697254AABAC9

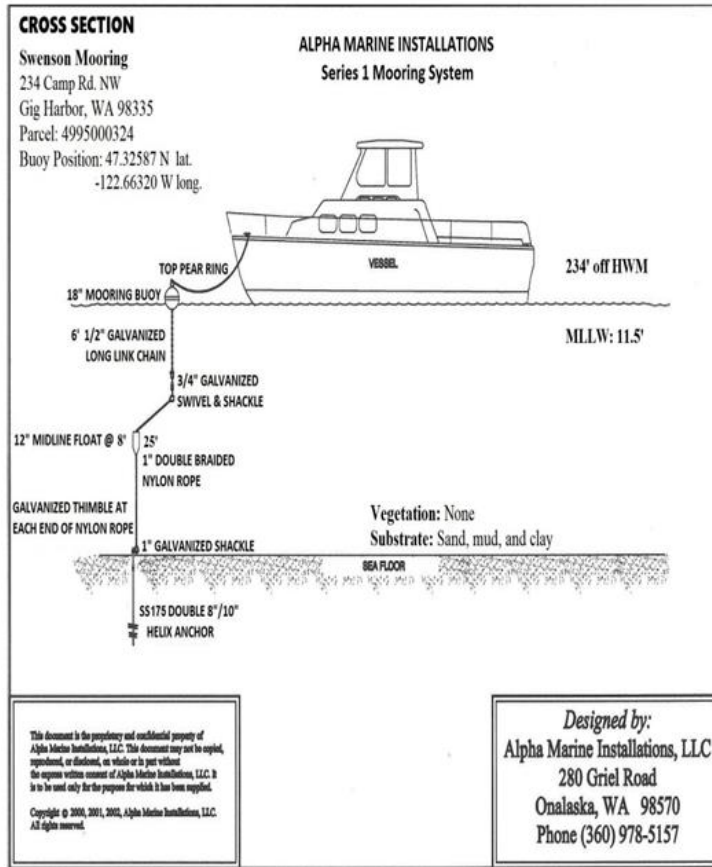
Swenson Proposed Mooring Buoy
Authorization No.: xx-xxxxxx
Location: Raft Island, Pierce County



Section 10, Township 21, Range 1
Scale 1 to 5,000.
Prepared By: ksa. Date: May 26, 2022.

Every attempt was made to use the most accurate and current geographic data available. However, due to multiple sources, scales, and the currency of the data used to develop this map Washington Department of Natural Resources cannot accept responsibility for errors and omissions in the data. Furthermore, this data is not survey grade information and cannot be substituted for an official survey. Therefore, there are no warranties that accompany this material

Cross Section



Governing Regulations

- Pierce County Regulations
- Gig Harbor Peninsula Community Plan
- Shoreline Master Program

Staff Review for Consistency with Applicable Land Use Policies and Regulations

The regulations governing this matter are contained in the Pierce County Code (PCC, Title 18S), Pierce County Comprehensive Plan (PCC, Title 19A), and the Gig Harbor Community Plan. The most recent edition, prior to application submittal, was June 1, 2014. The following are the applicable Sections of the Zoning Code:

Pierce County Code- Title 18S Development Regulations - Shorelines

18S.20.070 Aquatic Shoreline Environmental Designation (SED).

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

B. Management Policies.

1. 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.
2. Development that adversely impacts the ecological functions of marine and freshwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when all identified impacts are mitigated as necessary to assure maintenance of shoreline ecological functions and processes.
3. Shoreline development and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
4. 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.
5. Multiple uses of the same over-water facility should be encouraged.
6. Overwater linear public transportation and utility facilities may be allowed when it is the most technically, economically, and environmentally feasible option.

Staff Comment: The moorage buoy, proposed at 305 feet from MMHW, at a depth of minus 8.6 feet for the property, is generally compatible with surrounding development. The buoy does affect views, as all overwater features do. It must be noted that, though, a buoy by itself poses relatively little impact, the buoy with boat attached does more significantly affect views, aesthetics, navigation, and recreation.

18S.30.030 Ecological Protection.

A. **Applicability.** The Ecological Protection policies and regulations shall apply to all uses and development, within all shoreline environment designations.

C. **Regulations – General.**

1. All development shall occur as defined in Table 18S.30.030-1, Mitigation Sequencing, with avoidance of impacts being the highest priority. Lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable. Mitigation sequencing components consist of a series of consecutive steps beginning with avoidance and ending with monitoring and taking appropriate corrective measures.

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; or
	Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
	Monitoring the impact and compensation projects and taking appropriate corrective measures.

4. Where a critical area or critical area buffer is present, the applicable requirements of Title 18E PCC shall apply.

D. Regulations – Critical Areas.

5. For regulations specific to submerged aquatic vegetation, forage fish spawning and herring holding areas and other in-water critical saltwater habitats, see PCC 18E.40.040 D.-F.

Staff Comment: The current proposal is for a buoy for purposes of boat moorage. The need for a buoy in addition to the joint-use dock approved under application #850743 is not clear and its addition does not appear to be consistent with the mitigation sequencing requirements which prioritize “avoidance and minimization” of impacts. Adding a buoy for moorage after receiving approval for a dock for that same purpose does not appear to demonstrate avoidance or minimization. The applicant has already received Washington State Department of Fish & Wildlife (WDFW) Hydraulic Project Approval, which requires mitigation for project impacts as well. Permit#: 2022-6-112+01.

18S.30.060 Scenic Protection and Compatibility.

A. **Applicability.** The policies and regulations of this Section shall apply to all uses and development, within all shoreline environment designations. For private property view enhancement by way of tree trimming see PCC 18S.30.030 G.3.

C. Regulations – General.

4. Compatibility with, and impacts to, the following shall be considered: navigation, recreation, public access, public use of the beaches and surface waters, traffic, abutting uses, and views.

Staff Comment: The applicant is proposing a buoy that will not interfere with navigation, recreation, public access, public use of the surface waters, and views.

18S.30.090 Water Oriented Development.

A. **Applicability.** The policies and regulations of this Section shall apply to all uses and development, within all shoreline environment designations.

C. Regulations.

3. Water dependent uses and public access to shorelines are preferred use in all shoreline environments.
6. In the Residential SED:
 - a. Residential and water-oriented commercial development is allowed where such development can be accommodated with no net loss of shoreline ecological functions.
 - b. Public or private recreation facilities are allowed 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.
 - c. New commercial development should be limited to water-oriented uses. Expansion of existing non water-oriented commercial uses may be permitted, provided that such uses should create a substantial benefit with respect to the goals and policies of Title 18S PCC, such as providing improved public access or restoring degraded shorelines.

Staff Comment: A buoy is a water dependent use and thus is preferred in the shoreline environment. A buoy by its nature is dependent on a location in water to be able to function. This private recreational facility is generally compatible with surrounding development.

18S.40.140 Water Access Facilities.

- A. **Applicability.** This section applies to water dependent facilities such as a mooring buoy, mooring piling, float, lift, railway, launching ramp, dock (pier, ramp, and/or float), boathouse and marina.
- D. **Regulations – Residential.** The following regulations apply to residential water access facilities serving four or fewer parcels:
1. Facilities may be allowed if a residential parcel meets the following criteria:
 - a. The parcel abuts either the water's edge or is separated from the water's edge by an existing road that abuts the water's edge;
 - b. The parcel is vacant or developed with a maximum of two dwellings (not including legally established accessory uses); and
 - c. The parcel is not within a residential development having a previous land use decision that prohibits establishment of the facility.
 2. Residential properties may be served by one dock (including a pier, ramp and/or float). For purposes of this subsection, a residential dock may accommodate temporary floats and boat lifts. The following additional criteria shall apply to the number of water access facilities allowed:
 - a. A parcel may have no more than one railway;
 - b. A parcel may have no more than one mooring buoy or mooring piling except a second mooring buoy may be authorized to secure moorage when authorized by the Washington State Department of Natural Resources;
 - c. Facilities attached to another facility (such as boat and jet ski lifts attached to docks) shall be considered permitted accessory uses.

Staff Comment: This proposal is for a single mooring buoy which has been approved by the Washington State Department of Natural Resources (DNR). This property was approved for a joint-use dock permit #805743, under previous Pierce County Code Title 20. That code has been replaced with Pierce County Code 18S. This fact is brought up to address a condition of approval for the joint-use dock requiring the removal of any buoys. With the adoption of the new Shoreline Master Program, PCC18S, Staff conclude that the landowner may propose a buoy – with no certainty of approval.

18S.60.020 Shoreline Substantial Development (SD) Permit Exemptions.

- C. **SD Exemptions.** SD Exemptions are described as follows, pursuant to WAC 173-27-040.
6. **Navigational Aid.** Construction or modification of navigational aids such as channel markers and anchor buoys.

Staff Comment: This proposal is for a mooring buoy, which is exempt from obtaining a Shoreline Substantial Development Permit per WAC 173-27-040 and 18S.60.020 C.6.

18S.60.030 Shoreline Permit Table.

Table 18S.60.030-1. Shoreline Permit Table						
Uses, Modifications and Development	Shoreline Environment Designation (SED)					
	N	C	R	H	AF	AM
N=Natural, C=Conservancy, R=Residential, H=High Intensity, AF=Aquatic Freshwater, AM=Aquatic Marine						
Water Access Facilities (See PCC 18S.40.140 for Water Access Facilities Policies and Regulations)						
Residential Water Access Facility (serves 4 or fewer parcels)					(8)	AC (8)

Staff Comment: A moorage buoy requires approval of an Administrative Conditional Use Permit, which the applicant has applied for.

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.

Staff Comment: Staff agrees that the proposal is consistent with many of these criteria. The most significant consistency issue pertains to cumulative impacts. If buoys were to be approved for other properties possessing docks, it is likely there would be inconsistency with the policies of RCW 90.58.020 and there would be significant adverse effects.

1. That the proposed use will not interfere with the normal public use of public shorelines, nor use of waters under the Public Trust Doctrine;

Staff Comment: All overwater features have the potential to interfere to some degree with the public's use of the water. However, Staff conclude that this proposal is unlikely to result in little effective interference with normal public use of the water or of public shorelines. However, as noted, the applicant fairly recently was granted approval of a dock to serve the same purpose as the buoy. The combination of the two features obviously results in greater impact on the public's use of the shoreline than either feature singly.

- 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;

Staff Comment: The proposal of a mooring buoy is generally compatible with the surrounding area though, it must be noted that the buoy (and attached vessel) will be situated in a narrow section south of Raft Island which, depending on tidal elevation and size of boat, may result in more than a minor amount of incompatibility with other authorized uses.

- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it will be located;

Staff Comment: Staff agrees the nature of the proposal will not result in significant adverse effect to the shoreline environment.

- e. That the public interest suffers no substantial detrimental effect; and

Staff Comment: The public interest will suffer no substantial detrimental effect. However, as noted, the buoy will be situated in a narrow "neck" in the waterway between Raft Island and the mainland. Depending on tidal elevation and size of boat attached to the buoy, there may be more than a minor amount of detrimental impact to the public.

- f. The proposed use is consistent with all applicable development regulations.

Staff Comment: Staff agrees this proposal is consistent with most applicable Pierce County Regulations. At this point in our review, Staff do not find the proposal to be consistent with the mitigation sequencing requirements of PCC18S nor with the requirements of Conditional Use Permit in regard to cumulative impacts.

Question from Staff for the PAC

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