Initial Project Review

Shoreline Substantial Development Permit, Shoreline Administrative Conditional Use Permit, and Shoreline Variance: Steffen

Application Numbers: 936569, 936571, 945524, 936572; 939025
Parcel Number: 3915000121

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: February 10, 2021, at 6:30 p.m., Due to COVID-19 restrictions, this meeting will be held virtually. To participate, visit www.Zoom.com and click “Join a Meeting” or call 253-215-8782, then enter the Meeting ID: 984 4855 8361 and Passcode: 398859, or click on the following link: https://piercecountywa.zoom.us/j/98448558361?pwd=ckFmL1RwYVVISWVVRHJUVWFzZVRNdz09 For additional questions regarding the virtual meeting process, contact Tiffany Aliment at 253-798-3226 or tiffany.aliment@piercecountywa.gov.

Proposal: The applicants are proposing to:

1. Remove the existing (140-foot x 8-foot), joint-use dock approved in 1993 under case number SD38-92, to construct a new 150-foot long by 21-foot wide single-use dock (the actual width of the dock is 8 feet).
2. Place a boatlift (11.5-feet x 23-feet) and a floating drive-on dock (5-feet x 13-feet) on the northeast end and parallel to the float portion of the proposed dock.
3. Demolish the concrete boat ramp and associated bulkhead in order to replant the area with native vegetation.
4. Repair the south end portion of the existing concrete bulkhead with a rock bulkhead.
5. Place Large Woody Debris (LWD) on the beach area.
6. Place a boatlift (11.5-feet x 23-feet) and a floating drive-on dock (5-feet x 13-feet) on the northeast end and parallel to the float portion of the proposed dock.

The proposed project is accessory to an existing single-family residence on a 0.59-acre parcel.

Project Location: The site is in a Rural 10 (R10) zone classification, Residential/Aquatic Shoreline Environments, and Gig Harbor Peninsula Community Plan area, located at 3823 Forest Beach Drive NW, on the west Shoreline of Horsehead Bay, within the SW 1/4 of Section 21, T21N, R1E, W.M., in Council District #7.

Review Summary: The project can be conditioned to comply with all applicable policies and objectives of the Pierce County Code, Shoreline Regulations, Comprehensive Plan, and Gig Harbor Peninsula Community Plan area. Staff has reviewed this proposal for compliance with all policies, codes, and regulations and intends to recommend partial approval, with conditions.
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: Mojgan K. Carlson, Senior Planner, mojgan.carlson@piercecountywa.gov, 253-798-7234

Pierce County Online Permit Information: https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=936569

Project Data

Complete Application Date: October 15, 2020 (SD/SACP)
June 17, 2020 (SDV)

Initial Project Review Mailed: February 3, 2021

Applicant/Owner: Lisa and Kerwin Steffen
3823 Forest Beach Drive NW
Gig Harbor, WA 98335
ffreaky@aol.com

Agent: Leon Environmental, LLC
Attn: Michelle Bahnick
8047 Burke Avenue North
Seattle, WA 98103
bahnick@leon-environmental.com

Legal and Public Notice

- **June 25, 2020**: 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.
- **October 29, 2020**: Revised Notice of Application (NOA) and Public Meeting Notice, for the Shoreline Variance, 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.
- **June 26, 2020, and November 6, 2020**: Public Notice signs were posted on the site, confirmed with a Declaration of Posting.
- **January 29, 2021**: Public Notice of the PAC meeting 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.
- **February 3, and 4, 2021**: Legal notices were published in the official County newspaper (Tacoma News Tribune), and Peninsula Gateway newspaper, advertising the PAC public meeting.
Site Plan
Cross-Section and Elevation Plans for Proposed Retaining Wall and Dock
Portion of Structures to be Removed
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.

Department of Ecology Photo dated August 4, 2016
Site Characteristics

Staff conducted various site visits with the last one on July 28, 2020. During site visits staff observed the following:

- The project site is on the eastern portion of an almost rectangular shaped parcel abutting the west shore of Horsehead Bay.
- The long axis of the parcel is oriented in an east-west direction. The topography of the parcel is generally rolling with steep slopes of approximately 18% towards the water, on the east side of the site.
- The County Assessor lists the parcel as .59-acre in size (including the abutting tideland) with approximately 100 feet of shoreline frontage.
- The site is improved with a single-family residence, three-car attached garage, and an outbuilding. The residence is located 50 feet from the bulkhead.
- Currently, the shoreline of the site is improved with a boathouse, a boat ramp, a joint-use dock, and a concrete bulkhead with inset stairs to the beach.
- The existing joint-use dock (140 ft. x 8 ft.) was approved by the Pierce County Hearing Examiner on May 25, 1993, under case number SD38-92.
- The applicant’s purchased this property in 1997. Per Ecology’s aerial photos, the applicant’s placed a boatlift on the northeast end of the dock before August of 2000 and added a floating drive-on dock sometimes before August of 2006. All work was completed without obtaining any type of permits.
- The shoreline of both immediate adjoining neighbors to the north and south is improved with a concrete bulkhead.
- The Shoreline of both immediate adjoining parcels, as well as along the western and eastern shoreline of the Horsehead Bay, is improved with other similar types of single-use and joint-use docks.
- The fetch in this area of Horsehead Bay is approximately 860 feet wide. The proposed dock will be approximately 17.4% or 21 feet longer than 15% length limitation (129 feet).
- The proposed single-use dock would not extend further into the water than other existing docks within the proximity of the site.
- An existing joint-use dock (150-ft. x 8-ft.) is located on the second adjoining parcels to the south (3915000100 and 391000110). This dock was approved by the Pierce County Hearing Examiner on September 7, 2008, under case number SD38-07.
- An existing single-use dock (150-ft. x 8-ft.) is located on the immediate adjoining parcel to the north (0121213011), which was approved by the Pierce County Hearing Examiner on September 17, 2008, under case number SD63-07.
- Mixed sand and gravel characterize the shoreline of the area.
- Horsehead Bay is used for private mooring and, to some extent, water recreation (i.e. sailing, jet skiing, and water skiing; especially in the wider section of the Bay just north of the site).
- The access to the site is via a driveway off Forest Beach Drive NW, which is located to the west of the site.
Surrounding Land Use / Shoreline / Zoning Designation

<table>
<thead>
<tr>
<th>LAND USE</th>
<th>SHORELINE</th>
<th>ZONING</th>
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<tbody>
<tr>
<td>North</td>
<td>Single-family residence</td>
<td>Residential and Aquatic</td>
</tr>
<tr>
<td>South</td>
<td>Single-family residence</td>
<td>Residential and Aquatic</td>
</tr>
<tr>
<td>East</td>
<td>Horsehead Bay</td>
<td>Residential and Aquatic</td>
</tr>
<tr>
<td>West</td>
<td>Forest Beach Dr NW</td>
<td>N/A</td>
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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.

- No written comments were received from the general public; however, staff received a phone call in opposition of changing the existing joint-use dock to a single-use dock.
- No adverse comments were received from reviewing agencies within the County and state.
- On April 3, 2020, Department of Natural Resources (DNR) sent a permission letter to the applicant with conditions as portion of the proposed dock is located on State Owned Aquatic Land.
- Both Squaxin Island Tribe and Puyallup Tribe of Indians indicated the project site is located in an area with a high likelihood of cultural resources. A condition of approval will require the applicants to provide notification of any Inadvertent Discovers of Archaeological Resources/Human Burials for this project.
- On July 27, 2020, a letter from Ecology (ECY) was received that provided contacts for staff related to Solids Waster Management, Toxics Cleanup, and Water Quality. ECY may have additional recommendations for the project.
- County Resource Management Division (Environmental Biologists) visited the site and indicated that a Habitat Assessment Report as well as mitigation plan(s) shall be prepared.

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 in June 30, 2016, Under Appendix E (Title 19A):

GH D-12.2 Require that setback areas be retained in natural vegetation where feasible and supplemented by planted native species where natural vegetation is sparse or nonexistent.

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-2.3.1 Authorize new and replacement bulkheads only when accessory to an existing residential dwelling that is in imminent danger of damage caused by beach erosion and only after alternative techniques are determined to be unsuitable.

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.

GOAL GH ENV-4 Encourage shoreline restoration activities that increase the function and value of the nearshore environment.

GH ENV-4.1 Require a habitat restoration plan for shorelines on those sites that have existing shoreline violations prior to any permit approval.
GH ENV-4.2 Encourage the removal of bulkheads and other hard armoring along marine waters where it would improve fish habitat.
GH ENV-4.3 Promote the voluntary retention and replanting of native vegetation along lakes, streams, and marine waters.

Staff Comment: The proposal would not cause the removal of any vegetation from the site. In contrast, upland vegetation would be planted landward of the bulkhead to restore the shoreline buffer and to provide intertidal beach habitat.

The new County shoreline regulations require that proposals result in no net loss of shoreline function. In this case the applicants are removing the existing boat ramp, portion of the existing bulkhead, and the existing 140-foot long joint-use dock in order to replace it with a slightly longer single-use dock (150 feet). In addition, the applicants are proposing to retain; but relocate, the unpermitted existing boatlift and floating drive-on dock, to be parallel to the northeast end of the proposed dock. As noted earlier, the impervious area proposed to be removed (bulkhead and ramp) from the site will be replanted and restored with native vegetation to provide beach habitat.

In terms of cumulative impacts, the proposed dock would be similar to other existing development in Horsehead Bay area. As noted previously, there are similar length docks on the adjoining parcels to the north and south as well as the surrounding area of the Bay. The existing single-use dock to the north (150 ft. x 8 ft.) was approved by the Pierce County Hearing Examiner on September 17, 2008 (wider fetch-977 ft.), and the existing joint-use dock to the south (150 ft. x 8 ft.) was approved by the Pierce County Hearing Examiner on April 9, 2008.

As proposed, the 150-foot long single-use dock does not meet the 15% fetch requirement; however, if the dock is approved with conditions, it will not be out of character with other shoreline uses within the close vicinity 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 single-use dock, boatlift, and floating drive-on dock will be considered an accessory use to the existing residence. If approved with conditions, the proposed recreational facility will be compatible with the surrounding development and uses.

The proposed project, if approved with conditions, will not adversely impact the view of surrounding single-family residences both from the water and/or from the land as docks, boatlifts, and floats in this area are common features.

**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:** Table 18S.60.030-1 (Shoreline Permit Table), under Water Access Facilities, states that residential water access facilities (serving less than four parcels) requires a Shoreline Substantial Development Permit and Administrative Shoreline Conditional Use Permit.

An 86-foot portion of the proposed 150-foot long dock will be considered as a pier, which will be 100% grated aluminum. In addition, the proposed dock will include 100% grated ramp and 50% grated float.

The proposed project is considered a water dependent use that will not interfere with surface navigation and recreation if it is reduced in length to be 15% of the fetch.

**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.

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<tr>
<th>Table 18S.30.030-1. Mitigation Sequencing</th>
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<tr>
<td>Higher Priority</td>
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<tr>
<td>Avoiding the impact altogether by not taking a certain action or parts of actions.</td>
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<tr>
<td>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.</td>
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<tr>
<td>Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.</td>
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<tr>
<td>Reducing or eliminating the impact over time by preservation and maintenance operations.</td>
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<tr>
<td>Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.</td>
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<tr>
<td>Monitoring the impact and compensation projects and taking appropriate corrective measures.</td>
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<td>Lower Priority</td>
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**Staff Comment:** For this proposal, the applicants are removing the entire non-grated existing joint-use dock which includes 111-square feet of solid pier, 150 square feet of solid ramp, 1,008 square feet of solid float that grounds out, and 4 creosote piling. In addition, they are also removing approximately 24 linear feet of the existing concrete bulkhead and 180 square feet of the concrete boat ramp.

To mitigate the impacts of constructing the new surface grated single-use dock along with the attached boatlift and floating drive-on dock, the applicants are proposing planting native vegetation as well as beach nourishment and placement of LWD. Further, additional mitigation may be required to satisfy requirements of the Washington State Department of Fish/Wildlife and US Army Corps of Engineers.
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.

C. Regulations – General.
• 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.
• The ability of watercraft to navigate past the site should not be blocked unless inherently impossible for the use proposed, such as a dam.
• Appropriate measures shall be employed to protect public safety and prevent adverse impacts on navigation, public access, recreation, and other approved shoreline development.

Staff Comment: The proposed project neither requires removal of any vegetation from the site nor has a significant impact on navigation if it’s reduced in length. The proposed project, if approved with conditions, will likely not have an impact to recreation, public access, public use, traffic, abutting uses and views due to its placement in relation to other similar water dependent structures within close vicinity of the site.

18S.30.070 Shoreline Stabilization
The intent of the Shoreline Stabilization policies and regulations is to allow shoreline stabilization structures or measures where no alternatives are feasible to accommodate development along the shorelines, while preserving and improving ecological functions of the shoreline and while protecting the shoreline environment from impacts caused by development within and adjacent to geologically hazardous areas.

C. Regulations
• Shoreline stabilization shall not create dry land.
• The use of the shoreline erosion protection measure shall not cause a significant adverse impact on adjacent properties (i.e., increase erosion on adjacent properties).
• Stabilization structures shall not be located waterward of the ordinary high water mark (OHWM) or any existing shoreline stabilization structure unless there are overriding safety, structural, or environmental concerns, and except for structures that are intrinsically required to be below the OHWM. In such cases, the replacement shall abut existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the OHWM.

Staff Comment: The applicants are removing approximately 24 liner feet of the existing concrete bulkhead and 180 square feet of concrete boat ramp. Per the submitted site plan, from the Applicant’s Agent on October 7, 2020, a 9-foot long by 5-foot tall wall/bulkhead maybe required to be placed at the footprint of the boat ramp to stabilize the southwest corner of the bulkhead and protect the existing boathouse.

The applicants are proposing to place few LWD/soft shore armoring for erosion protection where feasible. As stated previously, all proposed improvements will be located either within or landward of the existing footprint of the bulkhead and ramp and will not create additional dry land.
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.

- Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
- 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.
- Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved 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 modifications.

Staff Comment: The project is to remove 180 square feet of concrete boat ramp as well as approximately 24 linear feet of existing concrete bulkhead in order to restore the shoreline of the site by constructing less than a 9-foot long rock wall (less than 6 feet in height) on the southwest corner of the site.

In addition, the applicants are proposing to construct a new single-use dock. An 86-foot portion of the proposed 150-foot long dock will be considered as a pier which will allow light passage. As stated earlier in this report, the proposed modification will improve ecological functions of the area over existing conditions.

Based on the submitted information, staff will not require the applicants to contact adjoining neighbors regarding the possibility of having a joint-use dock.

18S.30.090 Water Oriented Development.
The intent of the Water Oriented Development policies and regulations is to ensure that water-dependent, water-related, or water-enjoyment, or a combination of such uses, is preferred in shorelines.
A. Applicability. The policies and regulations of this Section shall apply to all uses and development, within all shoreline environment designations.
C. Regulations.
   1. Parking areas associated with a principal use shall be located outside shorelines unless no feasible alternative location exists. Parking as a principal use is prohibited.
   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.

**Staff Comment:** The project is a private recreational facility that will be considered accessory to a
waterfront residence. There will be sufficient parking which is located outside of the shoreline area.
In addition, the proposed project is considered a water dependent use making it a preferred use on
these environments for water enjoyment. The proposed project will not eliminate any vegetation from
the site. To the contrary, the applicants are proposing to replant the area.

18S.40.110 – Restoration and Enhancement
The intent of the Restoration and Enhancement policies and regulations is to manage the
reestablishment or upgrades to impaired ecological shoreline processes or functions.
- Restoration is the process of reestablishing impaired ecological shoreline processes or
  functions. This may be accomplished through measures including, but not limited to, re-
  vegetation, removal of intrusive shoreline structures and removal or treatment of toxic
  materials. Restoration does not necessitate the return of the shoreline area to emulate
  conditions that existed prior to human contact.
- Encourage restoration actions that enhance aquatic and upland ecological functions,
  processes, and physical features (such as native vegetation) and that address the needs of
  regulated fish and wildlife species.

**Staff Comment:** If approved with conditions, the entire project will result in improvements to
the ecological function of the shoreline over the existing condition.

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.
• 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.

Staff Comment: The two families were not the original owners when the existing joint-use dock was constructed. The two current owners have had many issues over the years regarding maintenance and use of the dock. As a matter of fact, they have gone through litigation and agreed to remove the existing joint-use dock in order to cease and desist the use and maintenance agreement recorded with Auditor Fee Number (AFN) 20012193040 (shared dock agreement) in May of 2019. It should be noted that the regulations in Title 18S, Section 18S.40.140 does not prohibit the use of a single-use dock and only encourage having a dock to serve more than one residence.

Section 18S.40.140.D.2.c. states in part that facilities attached to another facility (in this case the proposed boatlift and floating drive-on dock attached to the dock) will be considered permitted accessory uses. In addition, Section 18S. 40.140.G.1. states “Facilities attached to another facility, such as a pier and ramp attached to a dock shall be considered one facility for the purpose of dimensional measuring.” Per Section 18S.40.140.H.4. "Width" means the distance of the facility measured from side to side.

Table 18S.40.140.1 “Residential Water Access Facility Dimensions” states the maximum area of a dock when serving one parcel shall be limited to 900 square feet. The proposed dock is meeting this requirement as it is proposed to be approximately 710 square feet (less than required 900 square feet). This section also states the maximum width of the dock shall be limited to 8 feet. In this case, due to attachment of the boatlift (11.5 ft. x 23 ft.) and floating drive-on dock (5 ft. x 13 ft.) to the northeast end of the dock, the total width of the dock is over 8 feet (total of 21 feet) and, as such, will require approval of a Shoreline Variance application which the applicant submitted on October 15, 2020 (945524).

The proposed single-use dock, if limited to 15% of the fetch, will be consistent with the county regulations. The proposed project (dock, boatlift, and float) from the proposed location will not unduly affect ingress-egress or the use and enjoyment of the water or beach on the adjoining properties as, per the submitted site plan, the proposed dock is over 10 feet from the side property lines. In addition, the depth of water at the end of the proposed dock will obtain -8 feet of water as measured at mean lower low water (MLLW).
The proposed project 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, are to be contained.

18S.60.040 Shoreline Substantial Development Permit.
A. Purpose. The Shoreline Substantial Development Permit (SD) process provides a comprehensive review of development on shorelines to ensure compliance with the Shoreline Management Act (Act), Title 18S PCC, and any other applicable development regulations.
B. Applicability. This Section applies to development allowed on shorelines that do not meet the SD Exemption criteria.
C. Review Process. Shoreline Substantial Development Permits shall be reviewed administratively and shall include public notice and comment. This review process is required to ensure that the development, if established, will be in full compliance with applicable development regulations, the County Comprehensive Plan, applicable community plans, adjacent development, planned uses, and the character of the surrounding area.
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.

Staff Comment: The proposed project can be conditioned to be consistent with the policies and regulations of the Residential and Aquatic shoreline environments as the proposed project is considered an accessory water-dependent use enjoyed by an existing single-family residence on a waterfront parcel.

The proposed project is also consistent with the applicable policies of the Comprehensive Plan, Gig Harbor Peninsula Community Plan, and zoning as the dock structures meet all required setbacks and will not require removal of any vegetation from the site. However, as proposed, the dock does not meet the width and fetch requirement and must be reconfigured.

The Pierce County Environmental Official will most likely issue a Determination of Nonsignificance (DNS) finding that the proposal appears to have no probable significant adverse impacts on the environment.
A. Purpose. The purpose of a Shoreline Administrative Conditional Use Permit is to allow flexibility in the application of development regulations in a manner consistent with the policies of the Shoreline Management Act (Act). Conditions may be attached to the permit to prevent undesirable effects of the proposal or to assure consistency of the project with the Act and the Master Program.

B. Applicability. This Section applies to uses allowed in Table 18S.60.030-1, Shoreline Permit Table, subject to approval of a Shoreline Administrative Conditional Use Permit (AC). Uses specifically prohibited by Title 18S PCC shall not be authorized pursuant to this Section.

C. Review Process. An administrative review process, which includes public notice, is required to ensure that the use, if established, will be in full compliance with applicable regulations and that such use is compatible with the Master Program, Comprehensive Plan, applicable community plan, adjacent development, planned uses, and the character of the surrounding area.

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 finds the project can be conditioned to be consistent with the requirements of an Administrative Conditional Use Permit for the reasons previously addressed in this review. One additional comment though is that there exists a point where new dock construction along this shoreline would cause Pierce County to recognize the increase in dock construction along this section of shoreline that would trigger concerns over cumulative impacts. However, based on analysis completed as part of the County’s Shoreline Master Program Update (Pierce County SMP Update Cumulative Impact Analysis, October 2014), this area of Horsehead Bay was considered to have a “Higher Potential” for new docks. Therefore, the County finds that the nature of the shoreline area within which the project is located is such that additional requests for similar projects in the area would not likely result in substantial adverse impacts to the shoreline and, as such, the proposed dock is consistent with RCW 90.58.020.
18S.60.070 Shoreline Variance

A. Purpose. The purpose of a Shoreline Variance is limited to granting relief from dimensional standards found in this Title (e.g., buffer, height, or lot coverage requirements) where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this Title will impose unnecessary hardship on the applicant or thwart the policies found in the Shoreline Management Act (Act).

B. Applicability. This Section applies to proposals that do not comply with, or where one proposes to deviate from, the dimensional standards of this Title. In these cases, such proposal can only be authorized by approval of a Shoreline Variance. A Shoreline Variance shall not authorize uses or development which is specifically prohibited by the Master Program.

C. Review Process. Shoreline Variances shall be subject to review by the County Hearing Examiner, which includes public notice, public hearing, and the issuance of a written decision.

D. Decision Criteria – General. A Shoreline Variance shall not be granted unless the applicant demonstrates that denial of the permit would result in a thwarting of the policy enumerated in the Act due to extraordinary circumstances, and the public interest would suffer no substantial detrimental effect.

E. Decision Criteria – Development Landward of Ordinary High Water Mark (OHWM). In addition to the General Decision Criteria in subsection D. of this Section, Shoreline Variances for development landward of the OHWM or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:
   1. The strict application of the bulk or dimensional standards precludes or significantly interferes with reasonable use of the property.
   2. The hardship described in subsection E.1. of this Section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Title and not, for example, from deed restrictions or the applicant's own actions.
   3. The design of the project is compatible with other authorized development within the area and with development planned for the area under the Comprehensive Plan and this Title, and will not cause adverse impacts to the shoreline environment.
   4. The Shoreline Variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
   5. The Shoreline Variance requested is the minimum necessary to afford relief.

F. Decision Criteria – Development Waterward of OHWM. In addition to the General Decision Criteria in subsection D. of this Section, Shoreline Variances for development that will be located waterward of the OHWM or within any wetland may be authorized provided the applicant can demonstrate all of the following:
   1. That the strict application of the dimensional standards found in this Title precludes all reasonable use of the property;
   2. That the proposal is consistent with the criteria established under subsections E.2. through E.5. of this Section; and
   3. That the public rights of navigation and use of the shorelines will not be adversely affected.

Staff Comment: Residential docks, floats, and boatlifts are common uses along the shoreline of Horsehead Bay. Per Section 18A.36.060.A.8. “Private docks and mooring facilities” may be allowed as accessory uses to a single-family residence.

Section 18S.40.140.H. states in part that “length” means the linear distance of the dock measured from the OHWM which includes any attached "U", "T" or "L" segments; and “width” means the distance of the facility measured from side to side.
The submitted site plan, dated June 17, 2020, shows there is sufficient water depth at the end of the proposed 150-foot dock as measured at MLLW (-8 feet); however, the width of the dock (including boatlift and the drive-on dock) is over the maximum allowed 8 feet (21 feet).

Based on the submitted documents, the applicants claim that both boatlift and floating drive-on dock is necessary for storage of the their watercrafts; but, the question still remains that although the design of the project is somewhat compatible with the other uses within the close vicinity of the site the project, as proposed, does not meet all the criteria listed for approval of a Shoreline Variance under Sections 18S.60.070.E. and 18S.60.070.F. Therefore, staff believes the attached boatlift and the floating drive-on dock, as proposed, cannot be approved and must be reconfigured or removed.

It should be noted that staff did not research the legality of all existing structures (boatlift and floats) in this area of Horsehead Bay.

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