Initial Project Review

Shoreline Substantial Development Permit / Shoreline Conditional Use Permit: VanDershelden

Application Numbers: 950103, 950104
Parcel Number: 5875000263

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: March 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: 930 1718 0460, Passcode: 869427, or click on the following link: https://piercecountywa.zoom.us/j/93017180460?pwd=ZllWWDDi1THB6eGhqWVVLROFM2drUT09. For additional questions regarding the virtual meeting process, contact Tiffany Aliment at 253-798-3226 or tiffany.aliment@piercecountywa.gov

Proposal: Remove remnants (asphalt/concrete) of the old County road that ran along this shoreline, add a 2-foot wide cap onto the top of the existing bulkhead (on the water side of the old road), construct inset beach access stairs into the bulkhead (extending landward of the bulkhead face), remove a boat storage cover (located on top of the old road), add a 25-foot by 12-foot boathouse (setback 15 feet from the bulkhead), add a path extending upslope from the old road to a new home, and construct a 4-foot tall retaining walls at the toe of the slope (landward of the road). The parcel is approximately three-quarters acre in size. Separately from these applications, a shoreline exemption application has been submitted to demolish the existing residence and construct a new one (along with a garage). Building permit applications have been submitted. This parcel shares an existing dock (built in 2015) with the abutting parcel to the south (5875000230), which has the same ownership. The abutting parcel is also developed with a residence.

Project Location: 466 6th Avenue, on the north side of Fox Island/south shoreline of Hale Passage (Puget Sound), in a Rural 10 (R10) zone classification, Residential/Aquatic Shoreline Environments, and in the Gig Harbor Peninsula Community Plan area, within Section 35, T21N, R1E, W.M. in Council District #7

Review Summary: Staff has reviewed the proposal for compliance with applicable policies and regulations. The proposal appears to meet all except for the following:

- There may not be justification for the bulkhead cap. At a minimum, a geotechnical report may be needed to demonstrate the need;
- The retaining walls may require a Shoreline Variance;
There may/may not be a violation (regarding vegetation removal) within the required 75-foot upland shoreline buffer. Regardless, that PAC may want to consider that vegetation be planted on-site to mitigate the impacts of the proposal; and

An archaeological study may be appropriate.

**State Environmental Policy Act (SEPA):** A SEPA checklist but no application was submitted for this proposal. SEPA is typically triggered for any work in-water work. However, per longstanding County policy, typically SEPA is not required for bulkhead work unless it is located waterward of the face of the bulkhead. In this case, no work is proposed waterward of the face of the bulkhead. However, a cap is proposed on the top. As such, that potentially could trigger SEPA review.

**Contact:** Ty Booth, Planner, ty.booth@piercecountywa.gov, 253-798-3727

**Pierce County Online Permit Information:**
https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=950103

**Project Data**

**Complete Application Date:** December 14, 2020

**Initial Project Review Mailed:** March 3, 2021

**Owners/Applicants:** Dale VanDerschelden
466 6th Avenue
Fox Island, WA 98333-9715
docvan99@aol.com

**Applicants’ Agent:** Halsan EF & P LLC
P.O. Box 1447
Gig Harbor, WA 98335
carlhalsan@gmail.com

**Legal and Public Notice**

- **December 30, 2021:** Notice of Application and Public Meeting Notice (including the Gig Harbor Peninsula Advisory Commission (PAC) meeting date, time, 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
- **January 5, 2021:** Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- **February 24th and 25th, 2021:** Legal notices were published, respectively, in the official County newspaper (*The News Tribune*) and the *Peninsula Gateway* newspaper, advertising the public meeting to be held by the Gig Harbor Peninsula Advisory Commission (PAC).
2016 Washington State Coastal Atlas Aerial Photo
Site Plan/Cross-Section (submitted with these shoreline applications)
Site Plan (submitted with new house/garage building permit applications)

Comments Received

No comments have been received from abutting property owners or public. However, various comments have been received from agencies:

- County Development Engineering Division: They have entered their approval but request the following items be added as conditions of approval:
  - A site development plan must be submitted in accordance with Pierce County Code, Title 17A – Site Development and Stormwater Drainage.
  - Any wall greater than 4 feet in height, measured from the bottom of the lowest course to the top of the highest course, requires a building permit.
  - The proposed boathouse shall follow the requirements in Pierce County Code, Title 18E, Chapter 18E.70 (Flood Hazard Areas), and specifically Section 18E.70.040 E.3.

- County Resource Management Division (Environmental Biologists): The site plan shows the old asphalt road to be remove along the shoreline. A native planting plan shall be provided to Pierce County Resource Management and Planning Divisions for review and approval as conditions of approval.

- Washington State Department of Fish/Wildlife (WDFW): They have the following concerns:
- Don’t see any justification for the 2-foot cap on the existing bulkhead. This area is low energy as evident by the photos showing pickleweed growing on the beach.
- The current house does not appear to be at risk from toe erosion from the bulkhead.
- Is there a septic field that needs to be protected between the house and the bulkhead?
- If anything, there may be opportunity to soften the armoring here.
- There is definitely an obligation to consider other options before they could permit a 2-foot cap.
- There is also no mention of mitigation for the placement of a new boathouse within the shoreline buffer.
- Is the applicant counting the removal of the County road concrete as pervious surface offset?

- Washington State Department of Ecology: The proposal just provided general, not site-specific comments regarding asbestos removal, waste, toxic material, erosion control, stormwater, etc.
- State and/or Federal approvals are required for overwater development. It is the Applicants responsibility to contact the applicable agencies and obtain any necessary permits/approvals, regardless of if those agencies have provided comments to the County.

Parcel Site Characteristics (Existing)

- The site is located on the north side of Fox Island/south shoreline of Hale Passage.
- The closest opposite shoreline (fetch) is 1,160 to the west/northwest (Tanglewood Island).
- The site is Lot 62 within the subdivision/plat of Crescent Beach (created in 1944).
- The east side of the parcel is abutting by and accessed by 6th Ave.
- The size of the site is 0.74 acres/32,348 square feet in size. The parcel appears to have private tidelands.
- The long axis is oriented, generally, in an east-west direction. The following are the dimensions for each property line: west/shoreline 93 feet, north 287 feet, east 168 feet, and south 287 (approximately).
- The topography of the site general slopes downward from east to west. However, the eastern two-thirds are relatively flat while the western third (of the uplands) has an approximately 20-foot tall but gradual slope behind the shoreline bulkhead. The bulkhead itself is a couple feet tall above the beach.
- An old concrete sack bulkhead is located along the width of the shoreline. Immediately landward of the bulkhead are the asphalt remains (perhaps 20 feet or so in width) of an old County road that extended along the shoreline (with lane striping remaining).
- A joint-use dock (shared with the abutting parcel to the south) extends from the mutual property line of both parcels but extends at an atypical angle in front of this parcel.
- As evidenced by the 2016/2017 photos in this report, the site was heavily vegetated. However, significant amounts of that vegetation have now been cut/cleared.
- As noted by State Fish/Wildlife, there is aquatic vegetation located on the beach waterward of the bulkhead.
- A 1920s era vacation cabin and nearly as old detached outbuilding are currently located outside the current required 75-foot buffer from the shoreline. They, as well as the subject boat cover, are in very poor shape.
Parcel History

- In 2019, there was a lot combination involving this parcel. It is Pierce County Auditor Recording #201909050228. It involved combining a larger parcel (.61 acres) with a smaller one (.13) abutting to the southeast third of the former parcel.
- On October 8, 2020, applications were submitted with the County for the following permits: shoreline exemption, building/demolition, site development, and driveway approach. The existing cabin, carport, and shed will be demolished. In their place, just outside the required 75-foot buffer there would be a new 4,075 square foot single-family residence and (within the area of the former smaller parcel) will be a 2,210 square foot detached garage. The house will be within the 200-foot shoreline jurisdiction but the detached garage will not. A driveway will extend from the house, eastward past the north side of the detached garage, and connect with 6th Avenue. Stormwater would be collected, piped to, and dispersed at the beach. The primary and reserve drain fields will be located north of the driveway.
- In October 2014, the Pierce County Hearing Examiner (Stephen Causseaux, Jr.) issued a decision approving a Shoreline Substantial Development Permit for a joint-use dock for the subject parcel and the abutting parcel to the south. Since then, both sites have been purchased by the current property owner. The approval was for a joint-use dock measuring 180 feet long consisting of a pier, ramp, and float. An existing buoy, 300 feet off-shore, would be retained but a float would be removed.

*Staff Comment:* The vegetation within the 75-foot buffer was recently significantly cut/cleared of vegetation. This may/may not constitute a violation. The author of this report has not yet investigated the matter but has alerted the Planner reviewing the building permits. Depending upon what the Gig Harbor Peninsula Advisory Commission recommends regarding the proposal that they are considering, at a minimum they should consider whether this buffer should be replanted (regardless of if it is/is not a violation). One factor that the PAC may want to consider is that the old road surface would be removed. Therefore, the proposal may result in less impervious surfaces within the buffer than currently exists.

The PAC may question why the work outside the 75-foot buffer (involving the cabin demolition, house construction, etc.) is not part of proposal being reviewing by the PAC. This work is being reviewed under a Shoreline Exemption application. Specifically, Section 18S.60.020 of the County Shoreline Regulations (Pierce County Code, Title 18S) and Section 173-27-040 of the Washington Administrative Code (WAC) provides exemptions for the need to obtain, at a minimum, a Shoreline Substantial Development Permit. For example, there is an exemption for the construction of a single-family residence. With that said, the PAC may still have concerns as a provision in the WAC states that “if any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project”. However, it has been longstanding County policy that the County will typically allow a house, and other related work outside the required buffer, to proceed with an exemption even if other parts of a project require shoreline permit (such as with the case no.).
Surrounding Land Use / Shoreline / Zoning Designation

<table>
<thead>
<tr>
<th>LAND USE</th>
<th>SHORELINE</th>
<th>ZONING</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Single-family residence</td>
<td>Aquatic Marine (water) and Residential (land)</td>
</tr>
<tr>
<td>South</td>
<td>Single-family residence</td>
<td>Aquatic Marine (water) and Residential (land)</td>
</tr>
<tr>
<td>East</td>
<td>6th Avenue and single-family residences across the street</td>
<td>Not applicable</td>
</tr>
<tr>
<td>West</td>
<td>Puget Sound</td>
<td>Aquatic Marine (water)</td>
</tr>
</tbody>
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Initial Staff Review for Consistency with Policies and Regulations

**Gig Harbor Peninsula Community Plan (Pierce County Code, Title 19A, Appendix E):**

In 2008, the Plan went into effect. It is part of the County Comprehensive Plan.

*Staff Comment:* There are any number of policies from the Community Plan that could apply. Staff has not listed them in this report as the County Shoreline Regulations (Pierce County Code, Title 18S) have similar ones that are addressed later in this report. In summary though, the Community Plan places great emphasis on maintaining shoreline aesthetics, vegetation, and stability.

**Pierce County Shoreline Policies/Regulations (Pierce County Code, Title 18S)**

Title 18S regulates development on County shorelines. It regulates not only the waterbody itself, but also the abutting uplands located within 200 feet of the shoreline. Each regulated shoreline has been assigned one or more shoreline environment designations (SEDs).

*Staff Comment:* The upland areas of this parcel have been designated a Residential SED (Section 18S.20.050) and the abutting marine waters an Aquatic Marine SED (Section 18S.20.070). Regarding the Residential SED, the proposal appears consistent. However, the removal of vegetation on the site (notably the 75-foot buffer) is inconsistent with the policies. With that said, the removal of the old road pavement (impervious surfaces) does mitigate those impacts to some extent. Regarding the Aquatic Marine SED, the only potential concern is making improvements to and/or increasing the height of the bulkhead, when the cap (and bulkhead itself) might be unnecessary in the first place. With that said, there do not appear to be any concerns with incorporating a stairway into the bulkhead, provided it does not extend any further waterward that the face of the bulkhead.

**18S.30.020 Archaeological, Cultural, and Historic Resources (Pierce County Code, Title 18S, Section 18S.30.030)**

*Staff Comment:* Based on this Section, and more recent County policy, the County may require an archaeological survey of the site. Note, when the road and bulkhead were constructed, these issues were generally not an important consideration to the level that they are today. For example, Tanglewood Island is located only 1,160 feet away. After the lodge (at the north end of the island)
was illegally demolished a few years back, the County required an after-the-fact archaeological study. The report revealed that when the lodge was first constructed, at least one burial was found during construction (the island was utilized in the past for Native American burials). As a result, the concrete slab (in which the lodge was located upon) was required to remain after demolition concluded. Back to this proposal, if the road is removed, it is possible something may be found. Otherwise, Staff does not object to the road removal.

**Ecological Protection (Pierce County Code, Title 18S, Section 18S.30.030)**

- Table 18S.30.030-2 of this Section requires, in the Residential SED, the 75-foot buffer.
- Section 18S.30.030 E.3. provides modification allowances to the buffer. Generally, if a proposal does not meet those allowances, a Shoreline Variance would be required.
- Section 18S.30.030 E.3., however, also allows (without a Shoreline Variance) certain uses and development within the buffer. Specifically, it states the following:
  a. Water dependent uses and public shoreline access are allowed within the standard shoreline buffer subject to applicable regulations of the Master Program.
  b. An unpaved access path from a residential dwelling to the shoreline is allowed if:
     (1) The path width is limited to 4 feet;
     (2) The length of the path is minimized by keeping the path at a right angle to the shoreline to the degree feasible; and
     (3) No trees are removed.
  c. Up to 500 square feet or 25 percent of the area encompassed within the first 50 feet measured from the ordinary high water mark (OHWM) may be disturbed to accommodate shoreline access, landscaping, or minor construction associated with a water dependent use upon review and approval of a Vegetation Planting Plan pursuant to subsection G.2. of this Section. Such disturbance shall not be concentrated nor span the extent of the shoreline at the water's edge.
- Section 18S.30.030 F. states, in part, that “for residential development, not more than one third of the parcel within shoreline jurisdiction and landward of the ordinary high-water mark shall be covered by effective impervious areas”.
- Section 18S.30.030 G. states, in part, that “retention of existing vegetation shall be a priority within the entire shoreline jurisdiction. Retention of existing trees is particularly important”.

*Staff Comment:* The bulkhead cap is addressed in the next section of this report. Otherwise, aside from the retaining walls and vegetation removal, it appears the proposal meets the allowances within the buffer. However, it appears the retaining walls may require a Shoreline Variance. Staff questions whether the walls are needed. As for vegetation removal, a planting plan appears required. Finally, the Agent should also clarify what would occur with the area currently occupied by the road, after it is removed.

**Shoreline Stabilization (Pierce County Code, Title 18S, Section 18S.30.070)**
This Section applies to the bulkhead aspect of the proposal.

*Staff Comment:* The bulkhead may no longer be necessary. What is/would it be protecting? Further, perhaps it could be removed or converted into a softer structure (more natural type of bulkhead). With that said, the bulkhead is legal so removal would not appear required. However, adding a cap to a bulkhead may be questionable considering that the bulkhead may not be
necessary in the first place. With that said, Staff has no concerns incorporating stairs into the bulkhead, provided they are located landward of the face of the bulkhead. Staff will need to further discuss the bulkhead cap with the County Development Engineering Division. A geotechnical report may be necessary to demonstrate the need for the bulkhead cap.

**Water Access Facilities (Pierce County Code, Title 18S, Section 18S.40.140)**
This section applies to the boathouse, path, and stairs part of the proposal.

Applicable Regulations:
- Utilities should be placed on or under, and not overhead, of the facility.
- Boathouses.
  - Boathouses shall be constructed landward of the OHWM;
  - Boathouses may be served by utilities, but otherwise shall not be utilized for purposes other than boat storage;
  - A boathouse may include a sink and toilet but shall not include other bathroom facilities or other human habitation accommodations;
  - A boathouse shall be limited to a maximum of 300 square feet and shall not exceed a building height of 12 feet; and
  - A boathouse may have a zero setback from the OHWM, but allowance of the boathouse shall not justify the need for shoreline armoring.
- Water access stairs shall not be constructed waterward of the OHWM. Landings within the stairway shall be limited to the minimum size necessary to meet applicable building codes.

*Staff Comment:* The bulkhead cap has already been discussed. As for the remainder of the proposal, it all appears consistent with this section. However, additional details on the design of the boathouse should be provided. Examples include a cross-section of what it would look like, height, if it would have bathroom facilities, and whether it is located far enough back from the shoreline such that no bulkhead cap is necessary to protect it. Note, there do not appear to be any regulations in the Water Access section addressing the width of a boathouse, trail, stairs and/or their setback from property lines. However, in terms of setbacks, these are required to be setback a minimum of 3 feet from interior/side property lines per the Zoning Code (Pierce County Code, Title 18A, Section 18A.15.040.B.4.)

**Shoreline Permit Table (Pierce County Code, Title 18S, Section 18S.60.030-1)**
This table shows the following:
- Water access facilities (for residential facilities serving less than four parcels) in the Residential SED requires a SD or SD Exemption. Further, in the Aquatic SED they also require an SACP.
- Shoreline stabilization (for the bulkhead cap) in the Residential SED requires a SD or SD Exemption. Further, in the Aquatic Marine SED they also require the same as well as a Conditional Use Permit.
Shoreline Substantial Development Permit Criteria (Pierce County Code, Title 18S, Section 18S.60.040)

Staff Comment: The proposal requires an SD as it does not meet any of exemptions listed in Pierce County Code, Title 18S, Section 18S.60.020 or Washington Administrative Code, Chapter 173-27, Section 173-27-040. The proposal appears to meet all criteria aside from the potential concerns addressed previously in this report.

Shoreline Conditional Use Permit Criteria (Pierce County Code, Title 18S, Section 18S.60.060)

Staff Comment: For all aspects of the proposal, the need for either a Conditional Use Permit or Administrative Conditional Use Permit only appears necessary for work proposed within the Aquatic Marine SED. In this case, no work is proposed waterward of the existing face of the bulkhead. Therefore, it may be potentially possible that any type of Conditional Use Permit is not necessary in the first place. If work was proposed waterward of the face of the bulkhead…then that would be a different story. If a Conditional Use Permit is necessary, the only concern again is regarding the bulkhead cap.

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