



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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Larry Keeton, Director

STAFF REPORT

RECOMMENDATION TO THE HEARING EXAMINER SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Date: November 4, 2008

Application Date: August 12, 2008

Planning File Number: 08 51478

Project Name: Ramsay Single-Use Dock and Boatlift

Type of Application and Description of Proposed Project: Shoreline Substantial Development Permit to construct a new residential, single-use pier, ramp and float (dock) structure with a boat lift. The proposed structure, extending 100 feet from the existing bulkhead, would be composed of a fixed pier measuring 4 feet wide by 38 feet long, a fully grated aluminum ramp measuring 3 feet wide by 40 feet long and a float section measuring 8 feet wide and 30 feet long. Both the pier and float would have 50 percent functional grating installed. The structure would be secured with a maximum of 12 ten inch diameter galvanized steel pilings. Feet float stops would suspend the float at least 12 inches above the beach to prevent grounding at low tide.

Project Location: The proposed project site is located on the northeast shore of Appletree Cove, at 11009 NE West Kingston Road, Kingston, North Kitsap County; Commissioner District 1 (Section 26, Township 27 North, Range 02 East). The nearest road intersection is NE West Kingston Road and West 1st Street NE.

Assessor Number: 4317-000-012-0006

Applicant: John and Catherine Ramsay
3858 42nd Court NE
Seattle, WA 98105

Authorized Representative: Leann Ebe McDonald
Shoreline Solutions
9784 NE Lafayette Avenue
Bainbridge Island, WA 98110

Owner of Record: Same as applicant

SEPA Status: The SEPA comment period occurred concurrent with the Notice of Application dated August 12, 2008. Several comments were received, including but not limited to concerns

relating to aesthetics, habitat impacts, recreational impacts and proposed length and size of the structure. Upon review of the comments and further discussion with the applicant's representative, the applicant agreed to a SEPA mitigating condition to reduce the maximum length of the pier, ramp and float from 125 feet to 100 feet. A Mitigated Determination of Non-Significance was issued on October 27, 2008 with the following mitigation measures attached (the SEPA appeal period ends November 10, 2008):

1. Pursuant to WAC 197-11-330(1)(c), habitat impacts shall be mitigated via compliance with Hydraulic Project Approval from the Washington Department of Fish and Wildlife, Section 10 Permit review by the Army Corps of Engineers, and compliance with Kitsap County Code Section 22.28.190(4)(g).
2. The proposal shall comply with the Shoreline Management Master Program with regard to regulations for Piers and Floating Docks (KCC 22.28.190). Such conditions may alter dock width, length and location.
3. In no case shall the pier, ramp and float extend further than 100 feet waterward from ordinary high water.

Physical Characteristics: The rectangular-shaped .22 acre lot fronts Appletree Cove, Puget Sound. The parcel gradually slopes from NE West Kingston Road down to a concrete bulkhead. The width of the parcel at the shoreline edge is approximately 50 feet, which is fully armored with a recently repaired vertical concrete bulkhead measuring approximately 7 feet high. The parcel has an established lawn with numerous coniferous trees. The shoreline edge has no vegetation aside from mosses growing on the concrete.

Existing Zoning: Urban Low Density Residential (4 - 9 dwelling units per acre)

Comprehensive Plan Designation: Urban Low Density Residential

Shoreline Environmental Designation: Rural

Surrounding Land Use and Zoning: The zoning of the property and surrounding area is urban low density residential and is dominated by single-family residences.

Public Utilities:

Power: Puget Sound Energy

Water: Public Utility District No. 1

Sewer: Kitsap County

Comments Received:

Two letters were received from the applicant with signatures from neighboring landowners, both declining the offer for a joint use dock facility (exhibits 1 and 2).

During the public comment period, comments were received from three parties: Held, Hayes and Donnan (exhibits 26, 29 and 30, respectively, with an additional letter from the Donnan party). The comment letters conveyed concerns relating to aesthetics, habitat impacts, recreational impacts and proposed length and size of the structure.

ANALYSIS

Policies and Regulations Applicable to the Subject Proposal:

Kitsap County Code:

Title 21, Chapter 21.04 - Land Use and Development Procedures

Title 22 Kitsap County Shoreline Management Master Program:

KCC 22.24.010 Shorelines of Statewide Significance – Management Principles and Development Guidance

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Shorelines, thus designated, are important to the entire state. These areas include Hood Canal from Foulweather Bluff to the southwestern corner of the boundary of Kitsap County, near Chinum Point. Also included are areas of Puget Sound lying waterward of Extreme Low Tide (-4.5).

Staff comment: The elevation measurement at the end of the proposed dock is at a 5 feet tidal elevation; thus, the dock would not be located in shoreline waters of statewide significance.

KCC 22.16.070 Rural Shoreline Environmental Designation

Purpose. The proposed project would be located within a rural shoreline environment designated area. The purpose of the rural shoreline designation is to “protect agricultural land from urban expansion, restrict intensive development along undeveloped shorelines, function as a buffer between urban areas and maintain open spaces and opportunities for recreational uses compatible with agricultural and forestry uses.”

Designation Criteria. Rural shoreline environments have low residential densities, limited access to utilities such as sewer and water, open space, and areas modified from their natural vegetative cover and surface drainage patterns but generally supporting low intensity development and areas possessing valuable mineral deposits.

Management Policies. The following management policies are to be applied to any permissible uses occurring in the rural environment:

- (1) New developments in rural environments should reflect the character of the surrounding area by limiting residential density, providing permanent open space, and providing substantial setbacks from shorelines; and
- (2) Public recreation facilities are encouraged, including water access, pedestrian trails and recreational viewing areas with minimal impact to the natural environment.
- (3) Sensitive shorelines should be protected through vegetation management, maintenance and erosion control regulations.
- (4) Developments should be compatible with uses and activities in adjacent environments.

Staff comment: The Kitsap County Shoreline Management Master Program (SMP) designates the applicant’s parcel within the rural shoreline environment. The proposed single-use, 100 foot long dock on a 50 foot wide waterfront parcel would serve as an appurtenance to moderate residential uses. This section is applicable to the proposed project and further discussed in the analysis below.

KCC Section 22.28.030 and Section 22.28.190(3)(a) authorizes “piers and floating docks” as permitted uses in the Rural shoreline environment subject to the acquisition of a substantial development permit (SDP). Section 22.08.010 provides in part:

“...Whether or not a development constitutes a substantial development, a development must comply with the requirements contained in the act (State Shoreline Management Act) and the master program and may require other permits or approvals under the master program...”

Thus, the proposed dock must meet all policies of the rural environment and criteria for “piers and floating docks” set forth in the SMP.

KCC 22.28.190 Piers and Floating Docks.

1. Definition. A pier is a rigid structure built over the water attached to the shore used as a landing place for marine transport or for recreational purposes. A floating dock is a structure floating upon the water and attached to the shore used as a landing place for marine transport or for recreational purposes.
2. Policies. The cooperative use of piers and docks is preferred.

Staff Comment: The proposed project is not consistent with this policy since the proposal is for a single-use the dock. However, the neighboring parcels declined the offer to pursue a joint use facility.

- b. Priority should be given to the use of community piers and docks in all residential waterfront development.

Staff Comment: The residential lots abutting Appletree Cove were generally developed prior to passage of the Shoreline Management Act; there is no new residential waterfront development proposed at this time.

- c. Docks should be given priority over piers where scenic values are high and the structure will not increase conflicts with established marine uses in the immediate vicinity.

Staff Comment: As a pier, ramp and float, the proposed structure includes elements of both docks and piers; the elevated pier portion will be shortened by 25 feet, thus reducing the scenic impacts slightly from the original proposal. The floating dock portion of the structure will be at water level, and therefore less intrusive visually.

- d. Size and length of piers and docks should be the minimum which provides the required service.

Staff Comment: The proposed 100 foot length appears to be the minimum which would provide the required service. The structure would support a 25 foot long watercraft. The applicant has stated the goal of providing water access at least during a portion of the 5 foot tidal elevation range. While the reduced size slightly decreases water access, it should be noted that some public comments have been received expressing the opinion that access will be even more limited than the applicant may be planning for, based on visual observation of tides in the vicinity.

e. Piers and docks should be designed and located to minimize interference with navigation and the public's use of the shoreline.

Staff Comment: The applicant's proposal generally meets the intent of this policy. The raised pier portion will allow walking and small recreational boating underneath that portion of the structure. However, all piers and docks impact the public's use of the shoreline to some extent. Beach walkers at mid tidal elevations would need to walk around or climb over the float when walking the beach.

f. Piers and docks should be sited and designed to minimize possible adverse environmental impacts, including cumulative impacts on littoral drift, sand movement, water circulation and quality and fish and wildlife habitat.

g. Piers and docks should allow for a maximum of littoral drift and should minimize interference with basic geohydraulic processes.

Staff Comment for f and g: The dock design allows for a maximum of littoral drift and also minimizes interference with basic geohydraulic processes.

The proposal is not anticipated to have a significant impact on littoral drift and geohydraulic processes due to its location in the sheltered northeast portion of Appletree Cove. Visual observation of adjacent docks has provided no obvious indication of such impacts, although commenting parties have indicated other factors may be contributing to further siltation in the cove over the past several decades.

h. Pier and dock projects including joint-use and community dock projects are encouraged to provide for public docking, launching and recreational access.

Staff Comment: The proposed project does not meet the requirements of the intent of this policy since it is not a joint-use dock and it would not be utilized as a community dock for public docking, launching and recreational access. General public use would not be anticipated on a private residential parcel.

i. Use of natural non-reflective materials in pier and dock construction should be encouraged. When plastics and other non-biodegradable materials are used, precautions should be taken to ensure their containment. All construction should comply with the current standards set forth by the Washington State Department of Fish and Wildlife (WDFW) regarding design and materials.

Staff Comment: The dock must use non-reflective materials and construction must comply with WDFW standards.

j. Size and length of the facilities should be the minimum that provides the required service and does not interfere with navigation and other uses of the water.

Staff Comment: The proposed 100 foot length appears the minimum which would provide the required service (see item d, above). The structure would support a 25 foot long watercraft and provide water access in the 5 foot tidal elevation range.

KCC 22.28.190.3. Environments and Permit Requirements.

a. Piers and docks are permitted subject to a Shoreline Substantial Development Permit (SDP) in the urban, semi-rural, rural, conservancy and conservancy-public lands environments.

Staff Comment: The Kitsap County SMP places the applicant's parcel within the rural shoreline environment and the applicants have applied for an SDP; therefore, the proposal is consistent with this environments and permit requirements.

KCC 22.28.190.3.4. General Regulations.

a. Individually owned, single-family residence docks may be permitted where it can be demonstrated that a joint-use moorage facility is not feasible; however, multi-use and expansion of existing dock is encouraged over the addition and proliferation of new piers and docks.

Staff Comment: The project is proposed as a single-use facility and the applicant has demonstrated that a joint-use moorage facility is not feasible (see exhibits 1 and 2, responses from neighboring property owners).

b. For any subdivisions, short subdivisions and other divisions of land approved after the effective date of this document, moorage facilities shall be limited to a single, joint-use community facility.

Staff Comment: The applicant does not propose a waterfront residential development.

c. Piers and docks shall be located landward of pier head lines and state harbor lines, when applicable.

Staff Comment: The applicants do not propose a structure to be located landward of pierhead lines and state harbor lines.

Harbor Lines are to be located in the navigable waters of harbors, estuaries, bays and inlets of Washington in front of cities or within one mile of the city boundary on either side. Normally, the Harbor Line Commission establishes both an inner and outer harbor line to create a harbor area. There are currently 28 harbor areas throughout the state. The County understands that Harbor Line designation is not applicable to unincorporated towns or cities. Since Kingston is unincorporated, the Harbor Line designation or requirement does not pertain in this case, and is unaffected by the Ramsay dock project.

d. Where state harbor lines and/or construction limit lines have not been designated, piers and docks shall project the minimum distance for their intended use and shall not create a hazard to navigation.

Staff Comment: The applicant's proposal generally meets the intent of this policy, pursuant to the discussion above. While no hazards to navigation are anticipated, beach walkers and small recreational boaters are impacted by almost all piers and docks to some extent.

e. The width of a fixed pier, dock or float shall not exceed eight feet. The size of the boat-mooring float attached to a pier shall be limited to the minimum necessary for boat moorage purposes.

Staff Comment: The proposal of a 4 to 8 foot wide structure is consistent with this regulation (see JARPA Application, exhibit 14).

f. Proposals for piers or docks shall include at a minimum the following information:

- (1) Description of the proposed structure, including its size, location, design, and any shoreline stabilization or other modification required by the project;
- (2) Ownership of tidelands, shorelands and/or bedlands;
- (3) Proposed location of piers, floats, buoys or docks relative to property lines and ordinary high water mark;
- (4) Location, width, height and length of piers or docks on adjacent properties within three hundred feet;
- (5) The applicant shall demonstrate that existing facilities are not adequate or feasible to accommodate the proposed moorage;
- (6) Alternative moorage is not adequate or feasible;
- (7) The possibility of a joint-use facility has been thoroughly investigated; and
- (8) The applicant shall have the burden of providing the requested information in the manner prescribed by the shoreline administrator.

Staff Comment: Information addressing these items has been submitted by the applicant through the permit application process. Regarding existing facilities (5) and alternative moorage (6), the applicant has indicated that there is currently a wait list for moorage at the nearby Kingston Marina, so alternative moorage is not available at this time. A mooring buoy has been considered by the applicant but is not preferred due to "extreme mud on the beach".

g. In areas identified by the Washington Departments of Fish and Wildlife, or Natural Resources as having a high environmental value for shellfish, fish life or wildlife, piers and docks shall not be allowed except where functionally necessary to the propagation, harvesting, testing or experimentation of said marine fisheries or wildlife, unless it can be established conclusively, as determined by the shoreline administrator, that the dock or pier will not be detrimental to the natural habitat or species of concern.

Staff Comment: While the subject shoreline has not been identified by state agencies as having a high environmental value for shellfish, fish life or wildlife during the permit review process, all shorelines provide some habitat value for fish and wildlife species, all docks present some impact on fish and wildlife habitat. In this case, the proposal is not anticipated to conflict with this regulation based on the findings of the Eelgrass/Macro Algae Habitat Survey (exhibit 15). However, the Washington Department of Fish and Wildlife will condition the Hydraulic Project Approval to avoid detrimental habitat impacts, if identified.

As additional background information, in the August 2005 Mason County Hearing Examiner's decision regarding the Fladseth and Sebastian joint-use dock application, the Applicant's environmental consultant testified there are studies which indicate salmon migration is not affected by the presence of overwater structures and concludes that no one has shown these migration changes lead to increased mortality or decreased fitness.

In response, a Skokomish Tribe Habitat Biologist stated an opposite conclusion from the Simenstad and Nightingale 2001b report, relied on by the biologist, as follows: "[o]verwater structures have been proved to pose potential mortality and fitness risk to these animals (estuarine and nearshore fish and shellfish) and their ecosystems."