



# Initial Project Review

## Shoreline Substantial Development Permit / Shoreline Conditional Use Permit / Shoreline Variance:

**Puget Landing, LLC**

**Application Numbers: 886339/886340/886341/886342**

**Parcel Number: 0221326037**

**Puget Landing, LLC**

**Application Numbers: 886344/886345/886346/886347**

**Parcel Number: 0221311051**

**Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: March 27, 2019, at 6:30 p.m.,** City of Gig Harbor, 3510 Grandview, southeast entrance, Gig Harbor, WA 98335

**Proposal:** The applicant proposes the following on adjacent lots:

1. Tax Parcel 0221326037
  - Construct a two-story 1,026 square foot boathouse
  - Construct a ten-foot tall retaining wall
  - Construct a gravel driveway
  - Excavate 530 cubic yards of material
  
2. Tax Parcel 0221311051
  - Construct a two-story 1,026 square foot boathouse
  - Construct a ten-foot tall retaining wall
  - Construct a gravel driveway
  - Excavate 605 cubic yards of material

The applicant has applied for a Boundary Line Adjustment to amend the property lines so that the boathouses would be completely on separate lots. The retaining wall and gravel driveway would cross the property line. The Boundary Line Adjustment has not been completed as of the writing of this review.

**Project Location:** 1412 and 1503 Sullivan Drive NW, Gig Harbor, WA 98335, in the Rural-Residential Shoreline Environment, Rural 10 (R10) zone classification, and the Gig Harbor Community Plan, within Section 31, T21N, R02E, W.M. and within Section 32, T21N, R02E W.M., in Council District #7.

**Review Summary:** County staff has reviewed this proposal for compliance with all applicable policies, codes, and regulations.

**State Environmental Policy Act (SEPA):** SEPA Checklists were submitted with the applications. As of the writing of this report a determination had not been made.

**County Contact:** Andrew Van Gordon, Associate Planner, [andrew.vangordon@piercecounitywa.gov](mailto:andrew.vangordon@piercecounitywa.gov) (253) 798-7113

**Pierce County Online Permit Information:**

<https://pals.piercecounitywa.gov/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=886339>



**Pierce County Online Permit Information:**

<https://pals.piercecounitywa.gov/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=886344>



**Project Data**

Applications Complete: 886339 / 886340 / 886341 / 886342: May 15, 2018  
886344 / 886345 / 886346 / 886347: May 16, 2018

Staff Report Mailed: March 20, 2019

Owner / Applicant: Puget Landing, LLC  
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**Public and Legal Notice**

- *May 22, 2018:* Notice of Application 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.
- *May 27, 2018:* Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
- *February 25, and 26, 2019:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*) and *Peninsula Gateway* newspaper, advertising the public meeting to be held by the Gig Harbor Peninsula Advisory Commission.

2017 County Ortho Photo

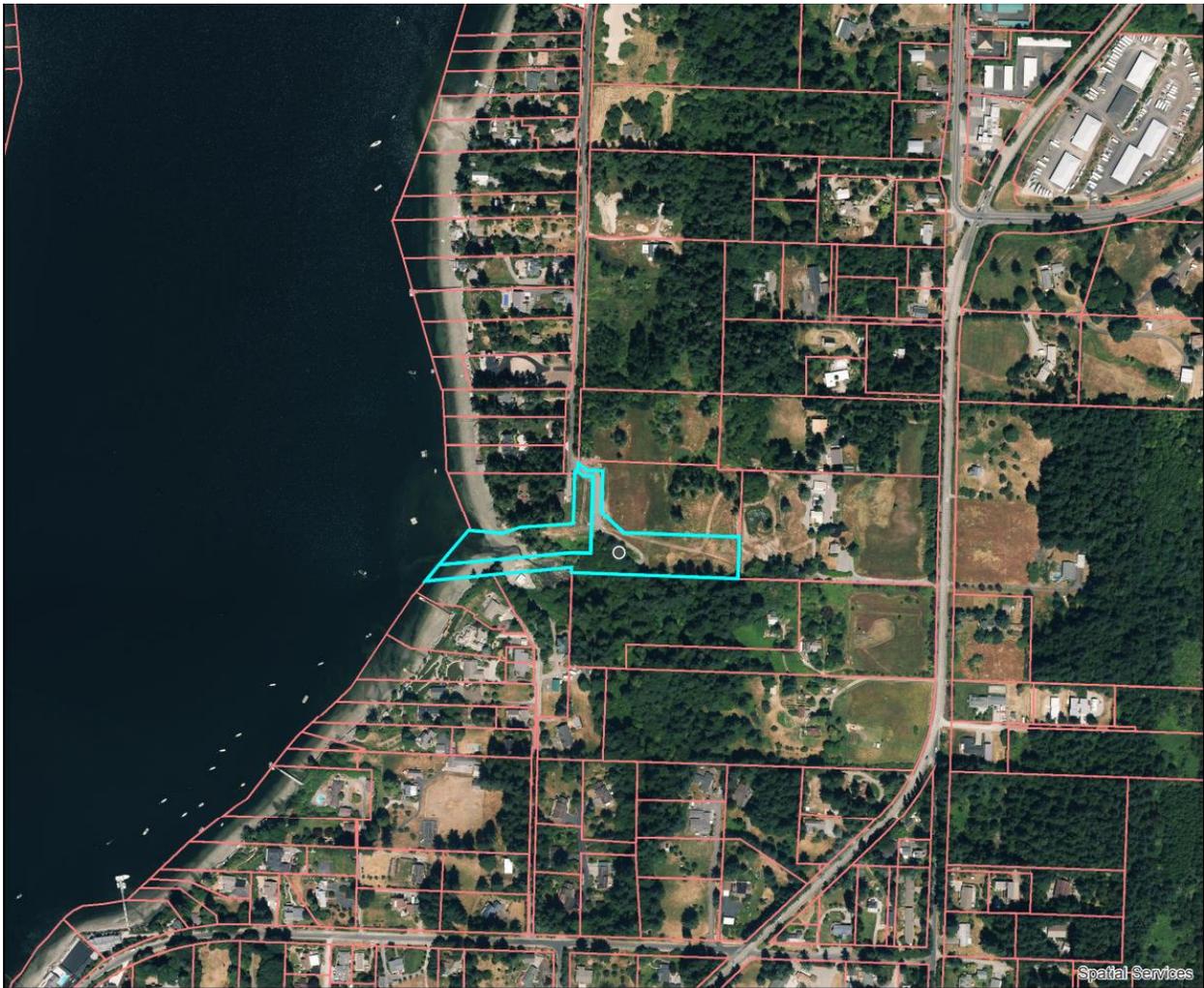


Figure 1: Applicant's property highlighted.

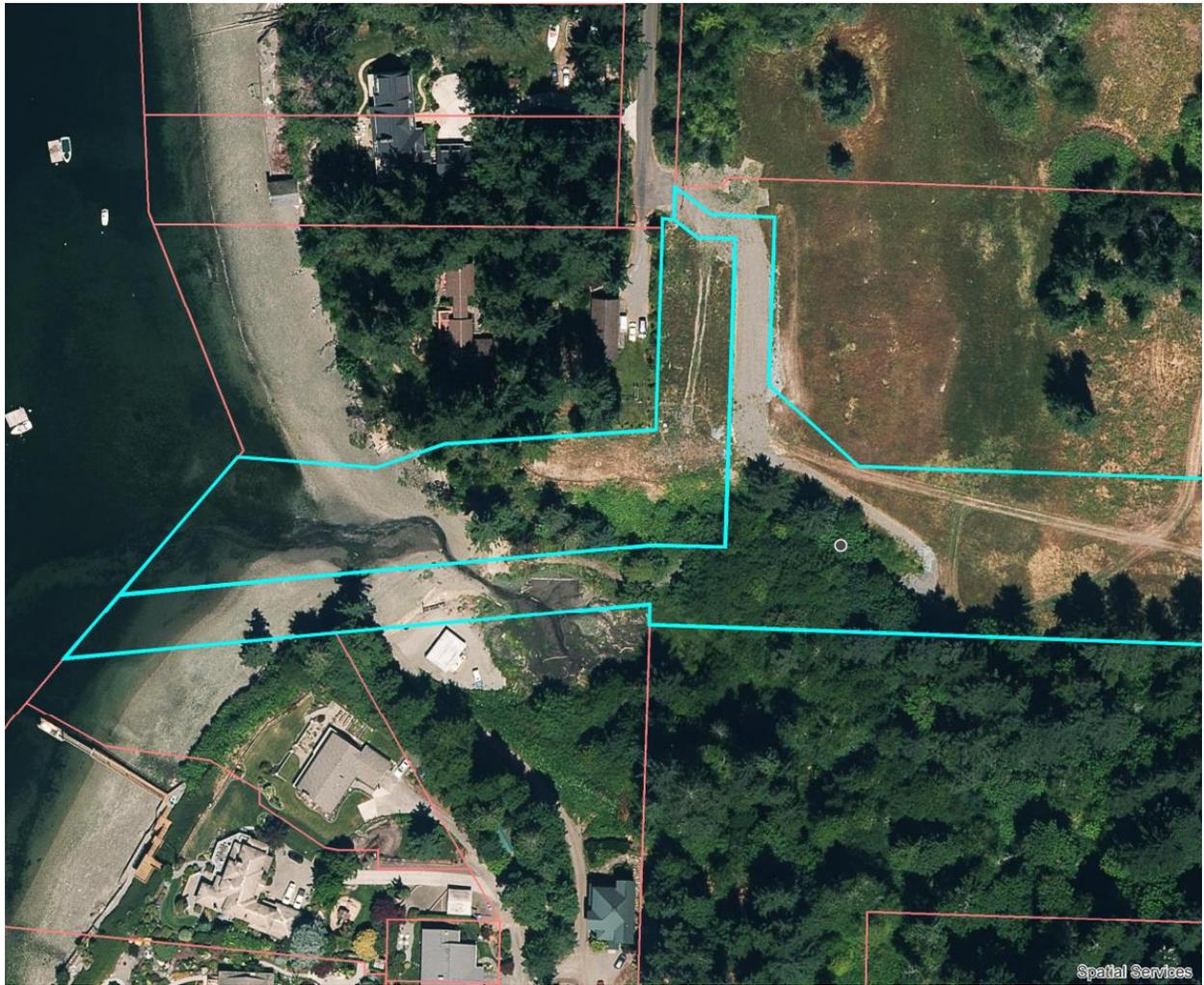
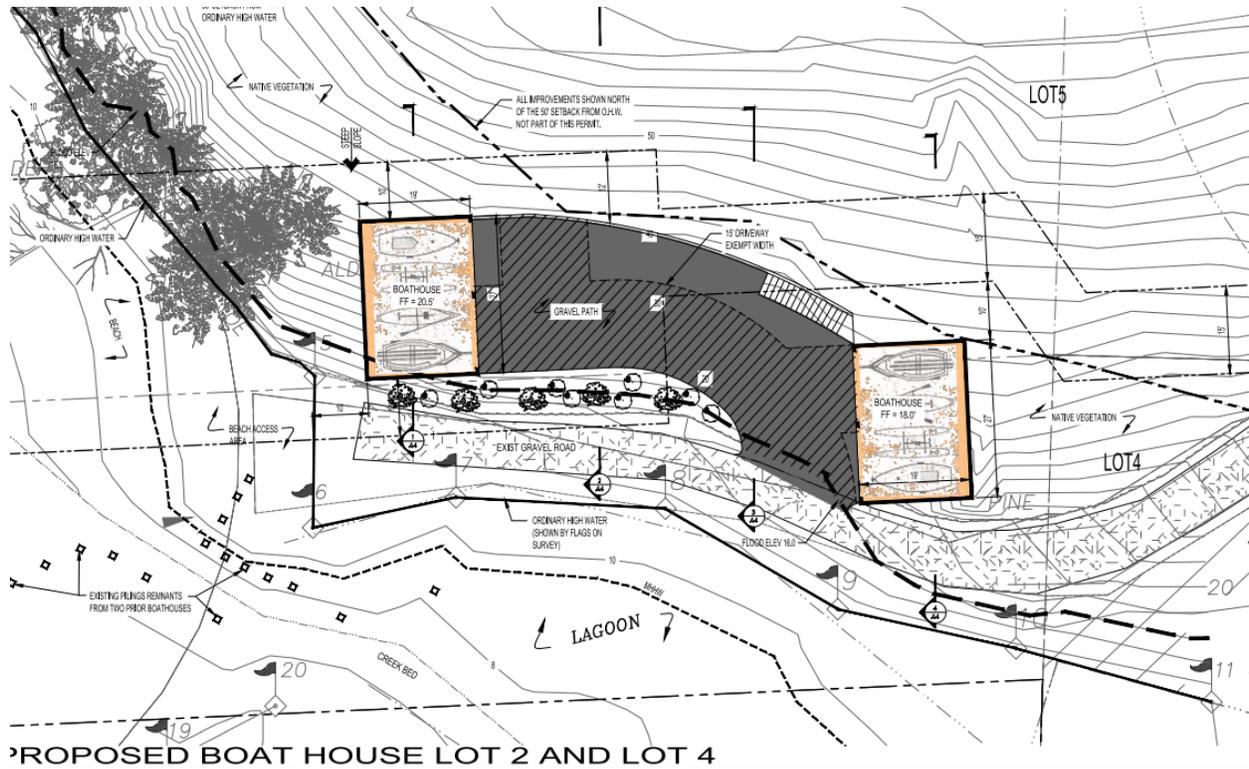


Figure 2: Applicants' property highlighted.

## Proposed Site Plan



## Surrounding Land Use / Zoning Classification

	LAND USE	SHORELINE	ZONING
North	Single Family Residence	Rural-Residential	Rural 10 (R10)
South	Single Family Residence	Rural-Residential	R10
West	Wollochet Bay	N/A	N/A
East	Single Family Residence	N/A	R10

## Comments from Agencies and Public

- Staff has not received comment from the public.
- Staff has not received comment from agencies explicitly opposed to the project.

## Staff Review for Consistency with Applicable Land Use Policies and Regulations

The proposal is subject to review for conformance with Pierce County plans, codes and regulations.

## Title 19A Appendix E: Gig Harbor Community Plan

Applicable Gig Harbor Community Plan policies include, but are not limited to:

- GH D-12.1: Retaining areas of mature native vegetation on a site is a higher priority than providing supplemental landscaping. Provide incentives that encourage the retention of mature tracts of healthy trees on a site.

- 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.
- Goal GH ENV-2.1: Consider implementing low impact development tools. These include reducing the amount of impervious surface on each site, minimizing soil disturbance and erosion, disconnection constructed drainage courses, and utilizing micro-detention facilities on each lot, (providing such facilities would not contribute to landslide hazards or slope failures) where feasible, rather than one facility at the end of a conveyance system.
- GH ENV-2.3.4: Prohibit new bulkheads on vacant parcels and below feeder bluffs.
- GH ENV-2.7.1: Encourage retention of native vegetation and trees immediately adjacent to the waterbody in any required setback.
- GH ENV-4.3: Promote the voluntary retention and replanting of native vegetation along lakes, streams, and marine waters.

**Title 19D Other Comprehensive Planning Documents, Chapter 19D.190 Shoreline Master Program for Pierce County (March 4, 1974)**

Applicable Shoreline Master Program (SMP) for Pierce County policies include but are not limited to:

- Rural-Residential Environment: General Regulations 2: Medium intensity residential uses should be encouraged in the Rural-Residential Environment in order to relieve pressure from urbanized areas and provide living area for those wishing to enjoy a less densely developed shoreline.
- Residential Development (g): Adequate distances between shorelines and structural developments should be maintained in order to protect water quality, maintain dynamic systems, prevent dangerous geological stresses, and insure aesthetic quality.
- Residential Development (i): Residential development over surface water should be prohibited.

**Title 20 Shoreline Management Use Regulations (June 21, 1988, as amended)**

Technically the proposal is two sets of applications because the project is on two separate lots. The existing lots lines do not match what is showed on the proposal. The applicant owns five adjoining parcels and is in the process of completing a Boundary Line Adjustment intended to result in the lot lines shown on the proposed site plan. The Boundary Line Adjustment will be required to be completed prior to any associated shoreline permits being approved.

For the purposes of this report, given the proximity and inter-relatedness of the structures the proposals will be reviewed as one discrete project.

- Substantial Development (20.04.640)  
The proposal exceeds the established fair market value for development. It is considered substantial development. The proposal meets requirements by applying for a Substantial Development Permit.

- Rural-Residential Environment (20.10)  
The proposal is consistent with the Rural-Residential Environment, which allows medium intensity residential development. This Environment includes areas of existing land use patterns that reflect a suburban environment and also by virtue of existing development do not have the potential for supporting intensive agricultural or recreational activities. Medium intensity residential uses are encouraged in the Rural-Residential Environment in order to relieve pressure from urbanized area.
- Residential Development: Permit Exemptions (20.62.020)  
No part of the project is exempt from obtaining a Shoreline Substantial Development Permit. A Shoreline Substantial Development Permit has been applied for.
- Residential Development: General Regulations (20.62.030)
  - A. Prior to the approval of any residential development and associated roads and utilities pursuant to this Chapter, the appropriate reviewing authority shall be satisfied that:
    - A. The proposed development site is suited for residential use and is not located in areas having significant hazard to life and property and likely to require future public funds to protect and rehabilitate.  
There is no evidence that the proposed site poses a significant hazard to life and property and is likely to require future public funds to protect and rehabilitate.
    - B. Adequate methods of erosion control will be utilized during and after the project construction.  
The proposals shall be required to meet all erosion control standards both during and after project construction.
    - C. Disturbance of shoreline vegetation will be minimized.  
The project sites are located on a steep slope along the shoreline of Wollochet Bay but do not front upon Wollochet Bay itself. The structures are facing upon an existing gravel driveway, which provides access to the shoreline. On the opposite side of the driveway is a lagoon/wetland. The project does not encroach into the buffer of the lagoon/wetland as the reviewing biologist has determined that that driveway is a significant improvement that serves to terminate the buffer.  
  
While the proposed site of the structures will disturb vegetation, the location is preferable. By placing the structures as proposed the applicant is avoiding a feeder bluff adjacent to Wollochet Bay. The feeder bluff will not be developed, and the natural vegetation will be preserved. Preserving and protecting the natural process of the feeder bluff is important and preferred.
    - D. Solutions will be provided to the problem of contamination of surface waters, depletion and contamination of ground water supplies and generation of increased runoff into water bodies.  
The project shall meet all required stormwater regulations and can be conditioned to do so.

- E. All residential structures shall be landward of the extreme high-water mark.  
The proposals are landward of the extreme high-water mark. The proposals meet the requirements of this section.
- B. Bulkheading, filling, substantial regrading or any other similar structure activity shall not be permitted when such structures or activities are clearly non-essential for the reasonable use or production of the lot or tract upon which it is located.  
Regrading will occur.-However, it is reasonable to expect that boathouses will be located near the shoreline and, by placing the structures where proposed, in contrast to their original location upon the feeder bluff, they are reducing the amount of grading that will be needed. If the proposals were to be placed on the feeder bluff there would be an even greater amount of regrading taking place in addition to losing the important ecological functions of the feeder bluff itself.
- C. In any development project containing five or more residential sites, a commonly owned natural open space area shall be provided and maintained between the shoreline and the first tier of lots adjacent to the shoreline for the benefit, use and enjoyment of all lots within said subdivision and for the purpose of maintaining the natural visual appearance of the waterfront. However, if due to topography or other significant site characteristics, another site would be more appropriately used as open space, and it is determined that linear access is not required, the appropriate reviewing authority may allow an equivalent area to be utilized as open space.  
The requirement does not apply to the proposal. The applicants are not requesting a subdivision.
- D. All new platting on rivers of statewide significance shall include a pedestrian easement along the stream bank for the use of the public. Said easement shall be a minimum width on a horizontal plane from ordinary high water as necessary for a practical trail which will not damage stream banks.  
This requirement does not apply to the proposal. The applicant is not requesting a subdivision nor is the project located on a river of statewide significance.
- E. All new platting on lakes and marine shorelines shall include pedestrian easements to public waters if the appropriate reviewing authority determines that adequate public access does not presently exist in the area.  
This requirement does not apply to the proposal. The applicants are not requesting a subdivision.
- Residential Development: Environmental Regulations – Uses Permitted (20.62.040)  
The proposals are uses commonly accessory to a single-family residence. After the Boundary Line Adjustment has been completed, both boathouses will be located on a lot associated with a single-family residence. The uses can be permitted upon the issuance of a Shoreline Substantial Development Permit. Shoreline Substantial Development Permits have been applied for.

- Residential Development: Bulk Regulations (20.62.050)

- A. Lot Coverage. Not more than 33-1/3 percent of the gross lot area shall be covered by impervious material including parking areas but excluding driveways.

The impervious surface amounts have been calculated based on the proposed lot configuration. The impervious surface amount for tax parcel #0221326037 (shown as Lot 4 on the drawings) is 13.2%. Tax parcel #0221311051 (shown as Lot 2 on the drawings) is 8.8%.

- B. Setbacks. All setbacks, with the exception of the setbacks from the ordinary high water line or lawfully established bulkhead, shall be as required by the Pierce County Zoning Code or other County regulations.

The proposal meets zoning code setbacks provided the Boundary Line Adjustment is completed.

- C. Special Setbacks for Shoreline Sites. The required setback for buildings and structures from any lot line or lines abutting the ordinary high water line or lawfully constructed bulkhead shall be 50 feet except that the special shoreline setback shall not apply to docks, floats, buoys, bulkheads, launching ramps, jetties and groins.

The proposals include boathouses, driveways and retaining walls within 50 feet of the Ordinary High Water. Boathouses are allowed within 50 feet as they are considered water dependent uses.

The applicants' proposals for the boathouses include a second story and bathroom in each structure. The term "boathouse" has become, over the years, something of a term of art, and the line separating a "boathouse" from other sorts of structures can get blurred. With that said, the definition "boathouse" provided in County code, "a covered or enclosed moorage space" (PCC20.04.03), makes it clear that the principle use of a boathouse is for boat storage. The County does accept that a boathouse may also include storage of water dependent activity items such as life jackets, boat-related maintenance items and similar gear. However, a boathouse is first and foremost intended to be a utilitarian storage structure.

With that said, the applicants' have stated the first floor of the boathouse will be used for storage of their boats and the second story will be used for storage of equipment related to use of the boats along with a bathroom. Staff do not find a bathroom to be needed or appropriate for a functional utilitarian storage structure. Removal of the bathroom from the boathouses will be a recommended condition of approval.

The walls are not water dependent uses and shall be reviewed through a Shoreline Variance. Shoreline Conditional Use Permits and Shoreline Variance Permits have been applied for.

- D. Exceptions to the Special Setbacks for Shoreline Sites.

1. The shoreline setback for any proposed buildings or structures on a vacant lot that has a common property lines with one or more lots which is/are developed with a principle use/uses and which abut the ordinary high water line shall be as follows:

- a. Not less than the average of the setbacks of the principle uses on the adjacent properties. (In determining the average, a vacant parcel shall be considered a 50-foot setback). However, no building or structure will be required to be set back more than 50 feet from nor allowed closer than 15 feet to the ordinary high water line or the lawfully established bulkhead.

This requirement is not applicable. Once the Boundary Line Adjustment is complete the properties will not be vacant.

2. Any water dependent accessory use may be allowed within the 50-foot setback upon the issuance of a Conditional Use Permit. The issuance of a Conditional Use Permit shall be predicated upon a determination that the project will be consistent with the following Conditional Use criteria, and the Conditional Use criteria listed in WAC 173-14-140, and will cause no unreasonable adverse effects on the environment and other uses.

- a. Views from surrounding properties will not be unduly impaired.

The proposed boathouses are set into a hillside and do not directly front upon Wollochet Bay. Vegetation will be preserved along a feeder bluff adjacent to Wollochet Bay that will partially screen the proposals. While the structures will most likely be able to be seen from neighboring properties there has been no evidence that they will unduly impair views from surrounding properties.

- b. Adequate separation will be maintained between the structure and adjacent properties and structures.

The proposals will meet setback requirements once a Boundary Line Adjustment is complete.

- c. Screening and/or vegetation will be provided to the extent necessary to insure aesthetic quality.

Mitigation plantings are required to be placed between the structures and the existing gravel driveway. Preserved vegetation will also provide screening. Additionally, the hillside itself will provide some screening as the structures are set into it.

- d. Design and construction materials shall be chosen so as to blend with the surrounding environment.

The proposals can be conditioned to meet this requirement.

- e. No additional harm to the aquatic environment will result from the reduced setback.

The applicant has stated that they will be storing non-motorized vessels in the boathouses that will be hand trailered down to the shoreline. This is more environmentally friendly than motorized boats being stored in the boathouses. Additionally, the applicants have avoided placing the proposals on the feeder bluff thereby protecting the important ecological functions of said bluff. There has been no evidence that additional harm to the aquatic environment will result from the reduced setback.

3. The shoreline setback for lots of record as of April 4, 1975, having a depth of less than 115 feet may be reduced, if appropriate by one foot for each foot that the lot is less than 115 feet deep, but in no case shall such adjustment result in a setback less than 15 feet.

This requirement is not applicable. The lots are not less than 115 feet deep.

4. Existing buildings and structures in existence on or before the effective date of this Title may be remodeled or rebuilt in the same location, provided the ground floor lot area of the said building is not increased and further provided that the building or use thereof shall have been and continues to be conforming to these regulations and shall be for the same use.

This requirement is not applicable. The applicants have proposed new structures.

- a. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, sun shades and gutters may project into a required yard a distance not to exceed one and one-half feet.

The proposals are meeting all setback requirements.

- b. Uncovered porches or decks may project into a required setback, provided that such porches or decks are no higher than four feet from the finished ground level; and further provided that in no case shall they be closer than 5 feet to any lot line nor closer than 15 feet to ordinary high water or the lawfully established bulkhead.

This requirement is not applicable. The proposals don't include porches or decks.

5. Offstreet Parking. At least one but not more than three offstreet parking spaces shall be provided for each dwelling unit on a site or tract of land subject to the limitation of total lot coverage. No parking area shall be located within 30 feet of the ordinary high water mark.

This requirement is not applicable. The proposals do not include dwelling units or parking spaces.

6. Site Preparation. It shall be the intent of this Chapter to require the maintenance, enhancement, and preservation of the natural site amenities. To this end the County may limit the extent of grading and clearing to the extent deemed necessary for the reasonable and necessary use of the site and tract.

The proposals have been limited to the extent deemed necessary for the reasonable and necessary use of the site.

- E. **Height Limitations.** The maximum height above average grade level of any residential structure shall be 35 feet unless a Conditional Use Permit is obtained pursuant to Chapter 20.40, High Rise Structures.

The boathouses are proposed to be 27 feet in height.

- Shoreline Substantial Development Permits, Variances, Conditional Uses, and Expansion of Nonconforming Use Permits: Variances (20.72.020)

The proposed retaining walls are within 50 feet of the Ordinary High Water Mark.

It is understood that the Shoreline regulations may cause unnecessary hardships in particular situations, or that the regulations might be unreasonable in light of new evidence, technology or other special circumstances, and the goals and policies of the Master Program may not necessarily be served by the strict application of the regulations. The property owner shall show that if they comply with the provisions they cannot make any reasonable use of their property. The fact that they might make a greater profit by using their property in a manner contrary to the intent of the program is not a sufficient reason for a Variance.

A Variance will be granted only after the applicant can demonstrate the following:

- A. There are conditions or circumstances involved with the particular project that make strict application of the regulations unnecessary or unreasonable for the applicant's proposal.

The proposals are located on a steep hillside. Proximity to the shoreline for a boathouse is a reasonable expectation. It would be unreasonable to require the applicant to place the boathouses further away to avoid the slope as that would place them at a considerable distance from the shoreline. It would also most likely require considerable grading. Work within this area of the shoreline requires that some form of retaining wall be used in support of placing boathouses.

- B. That granting the Variance will not violate, abrogate, or ignore the goals, policies, or individual environment purposes spelled out in the Master Program.

Staff does not find that the Variances will violate, abrogate or ignore the goals, policies or individual environment purposes spelled out in the Master Program. By placing the structures in the currently proposed spot the applicants have avoided work on the feeder bluff which would have greater environmental impacts and would not meet this requirement.

- C. That no other applicable regulations will be violated, abrogated, or ignored.

Staff has not found that the walls will violate, abrogate, or ignore other applicable regulations.

- D. That the public health, safety and welfare will not be adversely affected.

There is no evidence that the public health, safety and welfare will be adversely affected.

- E. That the specific provision or provisions to be relaxed clearly did not foresee or consider the particular situation the applicant is facing.

It does not appear that the shoreline regulations foresaw this particular scenario. A boathouse is expected to be within a reasonable distance of the water so that said location allows boats and equipment to be carried to the shore. Moving the boathouses outside the 50-foot setback to avoid any disturbance would preclude that. While regrading and filling actions are addressed in the shoreline code, walls, in support of regrading deemed reasonable, are not.

- Shoreline Substantial Development Permits, Variances, Conditional Uses, and Expansion of Nonconforming Use Permits: Conditional Uses (20.72.030)

Uses considered to be Conditional Uses are those which may be permitted provided all the following criteria are met. This section applies to the boathouses.

A. That there is some necessity for a shoreline site for the proposed use or that the particular site applied for is essential to the use.

A boathouse is deemed a water dependent structure. Water dependent structures necessitate a shoreline site.

B. The use will cause no unreasonably adverse effects on the environment or other uses.

There is no evidence that the use will cause unreasonably adverse effects on the environment or other uses.

C. That water, air, noise and other classes of pollution will not exceed the level customarily found in that particular environment.

There is no evidence that water, air, noise and other classes of pollution will exceed the level customarily found this environment.

D. Design of the site will be compatible with the Master Program.

The proposal meets requirements found in the Master Program. The design of the site will be compatible with the Master Program.

E. The use will not interfere with public use or public shorelines.

The boathouses are placed in such a manner that they are not directly adjacent to Wollochet Bay. Access to the boathouses is by way of an existing gravel driveway. The use will not interfere with the public use or public shorelines.

### **Title 173 WAC Ecology, Department of (2003)**

- Review criteria for conditional use permits (WAC 173-27-160)

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of a use regulation in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program. The boathouses are reviewed through a conditional use permit.

1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program.

Staff has not found or seen evidence that the proposal will be inconsistent with the policies of RCW 90.58.020 and the master program.

- b) That the proposed use will not interfere with the normal public use of public shorelines.  
As spoken to previously in the report the boathouses will not interfere with public use of public shorelines.
- 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 shoreline master program.  
Within the Wollochet Bay area there are many boathouses and other shoreline development, some of which extend much closer to the shoreline. Staff has not done a complete review of all structures to identify if they were legally permitted, but Staff is aware of other projects with boathouses that have been approved in the general vicinity. The proposal would not be out of place or incompatible with the other uses in the area.
- d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located.  
A SEPA Review is being completed although at the time of this writing a SEPA Determination has not been released. As of this time there is no evidence that the proposed use will cause significant adverse effects to the shoreline environment.
- e) That the public interest suffers no substantial detrimental effect.  
Staff has not found or seen evidence that the public interest will suffer substantial detrimental effect.
- 2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if 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.  
The Wollochet Bay shoreline is already developed with both boathouses and residential shoreline uses. Additionally, there is an existing gravel driveway that appears to predate the Shoreline Management Act. Most properties would not have similar pre-existing access. If it was proposed today it would most likely not be approvable. This makes the proposal unique. Staff believes that there will be few proposals being made in the area that are similar. Because of this Staff has not seen evidence that cumulative impacts would produce substantial adverse effects to the shoreline environment or be inconsistent with the policies of RCW 90.58.020.
- 3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.  
This requirement is not applicable. Boathouses are classified.

- 4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

A boathouse is not specifically prohibited by the master program.

- Review criteria for variance permits (WAC 173-27-170)

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. The retaining walls are reviewed through a variance permit.

- 1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown, and the public interest shall suffer no substantial detrimental effect.

The proposals are a reasonable and appropriate use of the shoreline. By placing the proposals where they have, the applicants are attempting to minimize impacts while protecting an environmentally sensitive feeder bluff. It is in the interest of the public and the state to preserve said feeder bluff as doing so meets policies 1 through 4 of RCW 90.58.020.

Denying the variance would thwart the policy's enumerated in RCW 90.58.020. The applicants have shown that extraordinary circumstances exist. They have also been flexible in their boathouse design and placement. Denying the variance would thwart policies 5 and 6.

- 2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHMW), as defined in RCW 90.58.030 (2)(c), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

- a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property.

As has been previously discussed in the Staff Report, having a boathouse is a reasonable use of shoreline property. The area proposed for the boathouses is a reasonable location given the topography of the site and a retaining wall is a necessity for the safety of the structures.

- b) That the hardship described in (a) of this subsection is specifically related to the property and is the result of the unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example from deed restrictions or the applicant's own actions.

The hardship described in (a) is due to the topography of the site.

- c) That the 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 shoreline master program and will not cause adverse impacts to the shoreline environment.  
The project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program. There is no evidence that the retaining walls will cause adverse impacts to the shoreline environment.
- d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.  
Denial of the variances would essentially mean a denial of the boathouses as the walls are integral to them. As such, they do not constitute a special privilege.
- e) That the variance requested is the minimum necessary to afford relief.  
The applicants have not expanded the walls beyond the areas related to the boathouses. Staff does not find that what is proposed is excessive.
- f) That the public interest will suffer no substantial detrimental effect.  
There is no evidence that the public interest will suffer substantial detrimental effect.
- 3) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized.  
This requirement does not apply. The proposal is landward of the OHWM and is not within a wetland.
- 4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other development and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.  
The Wollochet Bay shoreline is already developed with both boathouses and residential shoreline uses. Additionally, there is an existing gravel driveway that appears to predate the Shoreline Management Act. Most properties would not have similar pre-existing access. If it was proposed today it would most likely not be approvable. This makes the proposal unique. Staff believes that there will be few proposals being made in the area that are similar. Because of this Staff has not seen evidence that cumulative impacts would produce substantial adverse effects to the shoreline environment or be inconsistent with the policies of RCW 90.58.020.
- 5) Variances from the use regulations of the master program are prohibited.  
The retaining walls are not prohibited uses of the master program.