

Initial Project Review

Shoreline Substantial Development Permit / Shoreline Conditional Use Permit / Shoreline Variance: Hannula and Beckman

Application Numbers: 895673, 895674, 895675, 897245

Parcel Numbers: 0021283005 and 0021283001

Key Peninsula Advisory Commission (KPAC) Public Meeting: April 17, 2019, at 6:30 p.m.,
Key Peninsula Civic Center, VFW Room, 17010 South Vaughn Road, Vaughn, WA 98335

Proposal: The proposed project is to:

1. Retain an approximate 118.5-foot long wood bulkhead ranging in height from 4.5 feet to 4.7 feet (95 feet on parcel #0021283005 and 23.5 feet on parcel #0021283001).
2. Retain the new concrete patio located immediately behind the bulkhead ranging in width from 6.58 feet to 18 feet.
3. Retain four upland rockeries with the closest one 11 feet from the bulkhead. Two are located entirely on parcel #0021287300505 and the other two are located partially on each parcel. The rockeries vary in length (45 ft. to 120 ft.) and height (1.1 ft. to 4.5 ft.).
4. Retain a 70-foot long by 5.5-foot wide concrete pathway located entirely on parcel #0021283005.

The project is accessory to two existing single-family residences, on two adjacent parcels, located on the eastern shore of Case Inlet.

Project Location: 1610 and 1616 North Herron Road NW in Lake Bay, WA, in a Rural Shoreline Environment, Rural 10 (R10) zone classification, and the Key Peninsula Community Plan area, within the SW 1/4 of Section 28, T21N, R1W, W.M., in Council District #7

Review Summary: Staff has reviewed this proposal for compliance with all policies, codes, and regulations and intends to recommend approval with conditions.

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. The SEPA environmental checklist for the proposal is currently being reviewed by other agencies and parties. As of the writing of this report, Planning and Public Works (PPW) has not yet concluded its environmental review.

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/departmentsStatus?applPermitId=895673>



Project Data

Complete Application Date: October 25, 2018

Initial Project Review Mailed: April 10, 2019

Applicant/Owner: Daniel and Margaret Hannula
1334 Coral Drive
Fircrest, WA 98466-5832
dhannula@rhhk.com

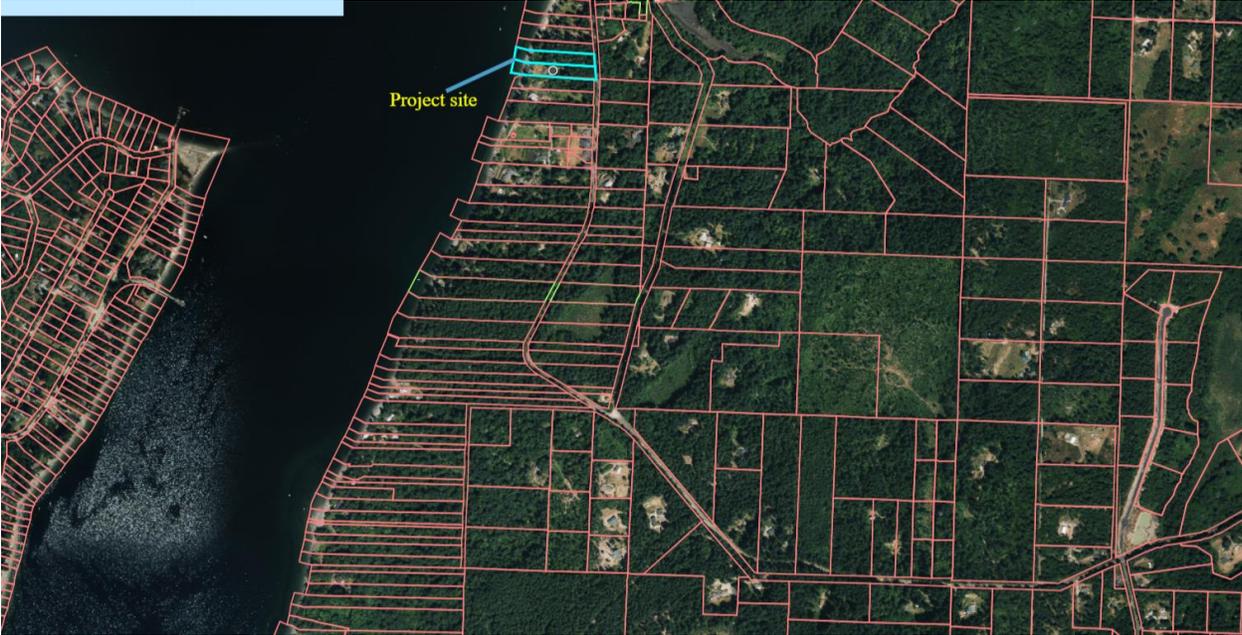
Barbara Sharon and Lois Beckman
1718 South Aurora Avenue
Tacoma, WA 98465-1329

Agent: Halsan Frey LLC
Attn: Carl Halsan
P.O. Box 1447
Gig Harbor, WA 98338
carlhalsan@gmail.com

Legal and Public Notice

- *November 9, 2018*: Notice of Application (NOA) and Public Meeting Notice, including the Key Peninsula Advisory Commission (KPAC) 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.
- *November 19, 2018*: Revised NOA and Public Meeting Notice, including the KPAC 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.
- *November 15, 2018*: Public Notice sign was posted on-site, confirmed with a Declaration of Posting.
- *April 3, and 4, 2019*: Legal notices were published in the official County newspaper (*Tacoma News Tribune*), and *Peninsula Gateway* newspaper, advertising the KPAC public meeting.

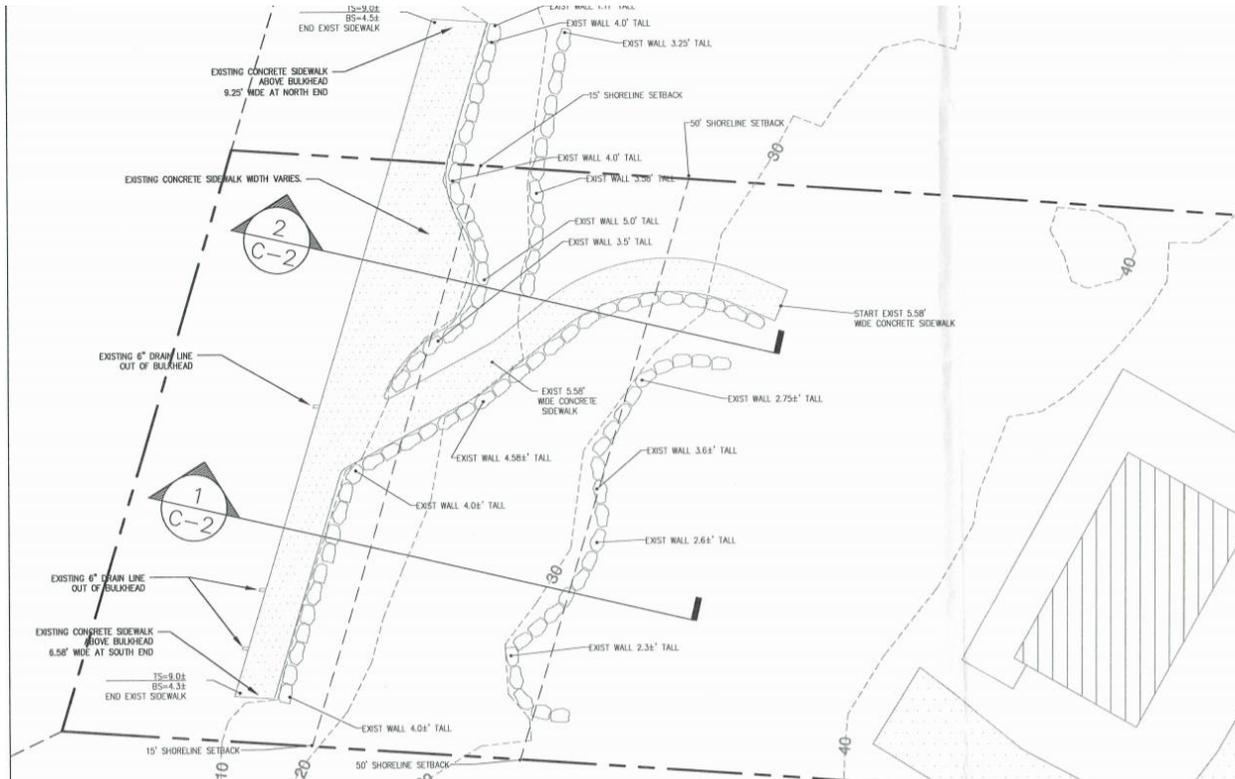
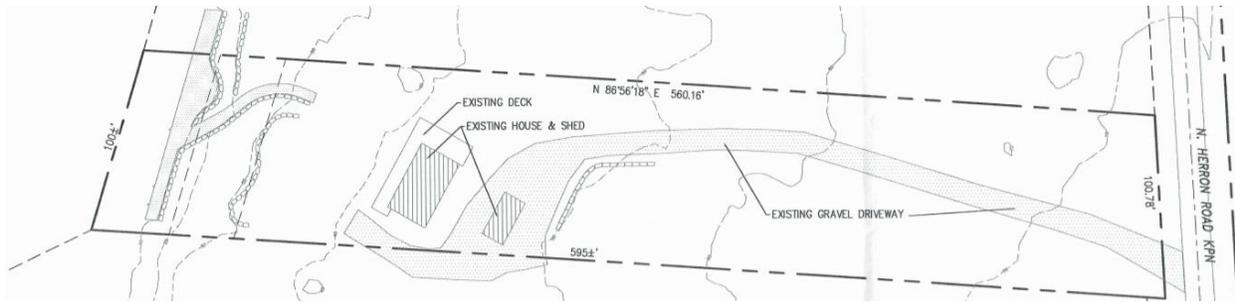
2017 County Aerial Photos



2018 Google Earth



Site Plan



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. Key Peninsula Advisory Commission (KPAC):

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.

Pierce County Code (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.

History

The following is a brief summary of the project:

- May 27, 2010* The matter came to the attention of the County in the form of a citizen complaint.
- July 26, 2010* A “Notice and Order to Correct” letter was sent to the applicants by the Pierce County Code Enforcement.
- November 4, 2010* A “Notice of Violation and Abatement” letter was sent to the applicants by the Pierce County Code Enforcement.
- January 26, 2011* Applicants submitted complete applications (SD/CP/V2-11) for repair of the bulkhead, construction of pathway and patio as well as the retaining walls.
- May 2, 2012* Planning staff determined that all property owners whom the encroachments are affecting (patio, retaining walls, and bulkhead) must sign the application.
- December 12, 2012* Jill Guernsey, Pierce County Deputy Prosecuting Attorney, sent an email to the applicant’s agent inquiring about the status of the project/violation.
- January 10, 2013* All applications were cancelled by the Planning Department due to lack of activity by the applicants.
- January 13, 2014* Mark Luppino, Code Enforcement Officer, was in contact with both property owners’ attorneys regarding resolving the shoreline violations on both sites (resolving property boundary dispute).

- February 27, 2018* Easement Agreement between the two parcels (Hannula-0021283005 and Beckman-0021283001), was signed by both property owners and recorded under AFN 201802270309.
- October 25, 2018* New JARPA applications and SEPA checklist, signed by both property owners, were submitted for the entire project on both parcels.
- April 17, 2019* A public meeting was scheduled before the Key Peninsula Advisory Commission (KPAC).

Site Characteristics

- The project site is on the western portion of two adjacent rectangular shaped parcels abutting the eastern shore of Case Inlet.
- Both properties are gated and located almost across from Herron Island.
- The shoreline of both properties is considered as a medium bank waterfront site.
- The long axis of the parcel is oriented in an east-west direction. The topography of the parcels is generally rolling with steep slopes of approximately 12% going down towards the water, on the west side of the project site.
- The County Assessor lists the northerly parcel #0021283001 (Beckman) as 1.26-acre in size with approximately 105 feet of shoreline frontage and the southerly parcel #0021283005 (Hannula) as 1.33-acre in size with approximately 108 feet of shoreline frontage.
- Currently, each site is improved with a single-family residence. Both residences were constructed prior to enactment of shoreline regulations in 1974. A detached garage is also located on parcel #0021283005, which was originally constructed in 1920.
- The shoreline’s bluff of each parcel is improved with retaining walls constructed without the required permits. Two smaller retraining walls are located partially on each parcel and the other two longer retaining walls are located entirely on the southerly parcel. Neither one of the retaining walls reaches 6 feet in height nor are they located closer than 11 feet to the bulkhead.
- The shoreline of both sites is improved with a manmade bulkhead. The shoreline of the northerly parcel is improved with a rock and wood bulkhead. The shoreline of the southerly parcel is improved with a wood and concrete cap top bulkhead, concrete patio, and a pathway. An overhang of approximately 2.5 inches of concrete patio is over the bulkhead on the southerly parcel.
- The access to the project site is via a long driveway off North Herron Road which is located to the east of parcels.

Surrounding Land Use / Shoreline / Zoning Designation

	LAND USE	SHORELINE	ZONING
North	Vacant – forested site	Rural	Rural 10 (R10)
South	Single-family residence	Rural	R10
East	Herron Road NW	N/A	R10
West	Case Inlet	Rural Residential	N/A

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 adverse comments were received from reviewing agencies within the County.
- No adverse comments were received from the general public
- Nisqually Indian Tribe requests notification of any Inadvertent Discoveries of Archaeological Resources/Human Burials for this project.
- The County Biologist, Scott Sissons, required a fish and wildlife review for this project.
- The County Development Engineer, Jeff Kidston required a Geotechnical Assessment - Shoreline Erosion Hazard Geotechnical Report for the proposed project to justify the need for the bulkhead and upland retaining walls.

Initial Planning and Public Works Staff Review for Consistency with Regulations and Policies

Key Peninsula Community Plan

The Plan was adopted as part of the County Comprehensive Plan in October 23, 2007, Under Appendix G (Title 19A):

GOAL KP LU-2 Allow a variety of rural residential land uses in the R10 zone that are consistent with a rural lifestyle.

KP LU-2.1 The dominant land use shall be detached single-family residences.

GOAL KP ENV-2 Consider the implementation of development regulations and incentives that encourage property owners to repair degraded environmental features on their land.

KP ENV-8.6 Promote the use of drought-resistant or native vegetation plantings in landscaping areas

Staff Comment: Both sites have been used and will be used only for single-family and related accessory residential uses. The existing single-family residences were built prior to enactment of shoreline regulations in 1974 in a rural residential area of the Key Peninsula in the Rural Shoreline environment designation. The R10 land use designation provides for a range of low-density residential uses. The intent is to accomplish a rural land use pattern that promotes rural uses, while not requiring urban level services.

The applicants are requesting various shoreline permits to allow retention for structures and uses which are typically suitable and common to single-family homes with waterfront.

Except the bulkhead and a small portion of the existing concrete patio (2.5 inch over hang), all other existing structures seeking approval are located landward of the bulkhead, but within the required 50-foot shoreline setback. All proposed uses are considered accessory to the existing single-family residences.

The timber bulkhead on the southerly parcel was replaced with a wood bulkhead ranging 4.5 feet to 4.7 feet in height. This bulkhead encroaches 23.5 feet into the shoreline of the northerly parcel. The tallest retaining wall out of all 4 walls is approximately 4.5 feet in height and the closest retaining wall is located 11 feet from the bulkhead.

The retaining walls and pathway will alter the existing physical character of the shoreline; therefore, prior to approval, the applicants must submit a Geotechnical Assessment for review to justify the need for the bulkhead and upland walls. If the project is approved, staff will request conditions to plant native shoreline vegetation landward of the bulkhead and between the walls in order to provide additional aesthetic value to the developed area near the shoreline as well as screening of the walls.

Pierce County Shoreline Master Program

The shoreline adjacent to the subject site is designated Rural and is not considered a Shoreline of Statewide Significance.

Rural Environment -

New developments in a Rural Environment should reflect the character of the surrounding area by limiting residential density, providing permanent open space and by maintaining adequate building setbacks from the water.

Preferred Uses

Intensive agricultural uses

Intensive recreational uses

Low density residential uses

Staff Comment: The project sites are currently each improved with a single-family residence. A single-family dwelling is a permitted use in the Rural Shoreline Environment. The applicants do not meet all the general goals and policies of Pierce County Shoreline Master Program; however, this project is to allow retention of previously constructed structures as an accessory use to the existing residences which with adequate conditions will provide better use of the sites for recreational purposes.

Pierce County Development Regulations

Current Planning reviewed the proposal for conformance with the requirements of Title 18A – Pierce County Development Regulations-Zoning, Title 18J – Design Standards and Guidelines, Title 18D – Pierce County Development Regulations – Environmental, Title 18E – Pierce County Critical Areas, and Title 20 – Pierce County Shoreline Use Regulations.

Title 18A, Development Regulations- Zoning

The following is an analysis of how the project (boathouse) complies with various provisions of Title 18A:

Setbacks

Section 18A.15.040-2 Rural and Resources setbacks for Rural 10 (R10) zoning classification:

- Front: 25 feet (setback applies on the side where vehicles enter only)

- Interior/Side: 10 feet
- Rear: 30 feet

Staff Comment: Per Section 18A.15.040.B.4.a, a detached single-story accessory structure may occupy 25 percent of the total area of an interior yard and shall maintain a minimum 3-foot side yard setback.

It should be noted, if the retaining walls are just a structure to hold back the grade and not the building, Staff does not have a concern as the wall structure is allowed up to 6 feet tall without a land use Variance.

Based on the document submitted by the applicants, all structures meet all required setbacks except the required 50-foot shoreline setback, thus the need for a Shoreline Variance approval.

Pierce County Shoreline Management Use Regulations (Pierce County Code, Title 20)

The following analysis demonstrates how the project complies with various provisions of Title 20:

1. A Shoreline Substantial Development Permit (SD) is required due to the following:
 - A. Pierce County Shoreline Management Use Regulations (Pierce County Code, Title 20) Section 20.76.030 B.1. and Washington Administrative Code (WAC) 173-27-040(2)(a) requires an SD for development exceeding a fair market value of \$7,047.00.
 - B. The site is designated a Rural Shoreline Environment. All portions of the proposal are allowed in the Rural Environment subject to the granting of an SD. However, some portions also require Shoreline Variance (SDV) approval and/or Shoreline Conditional Use Permit (SDCP).
2. A Shoreline Variance is required for the following reasons:
 - A. Pierce County Code (PCC) Section 20.62.050 A. states that not more than 33-1/3 percent of the gross lot area shall be covered by impervious material including parking areas but excluding driveways.
 - B. PCC Section 20.62.050 states that the required setback for residential structures is 50 feet. An SDV is, therefore, necessary for the following:
 - Retention of concrete patio.
 - Retention of four rock retaining walls
 - D. The 50-foot shoreline setback does not apply to water dependent uses.
 - Retention of pathway

Staff Comment: A single-family dwelling is a permitted use in the Rural Shoreline Environment, and all proposed uses are considered accessory to the existing single-family residences subject to approval of SD, SDCP, and SDV applications.

Staff Conducted a site visit on December 5, 2018. During the site visit, staff observed a single-family residence on each parcel, four retaining walls, concrete pathway, concrete patio, and bulkhead on the properties.

The shoreline of the northerly parcel is improved with a rock and wood with concrete cap bulkhead. The shoreline of the southerly parcel is improved with a wood with concrete cap top bulkhead. The total length of the wood with concrete cap bulkhead is 118.5 feet and it ranges from 4.5 feet to 4.7 feet in height. Approximately 95 feet of the bulkhead is located on the southerly parcel and 23.5 feet of it is located on the northerly parcel. In addition, the applicants are proposing to retain four upland rockeries with the closest one located 11 feet from the bulkhead. Two of the longer retaining walls (75 feet and 120 feet in length) are located entirely on parcel #0021283005 and the other two (45 feet long and 60 feet long) are located partially on each parcel. The rockeries vary in height from 1.1 feet to 4.5 feet.

The majority of the patio and the entire pathway are located on the southerly parcel (0021283005). The concrete patio is located immediately behind the bulkhead and it ranges in width from 6.58 feet to 18 feet. The 75-foot long by 5.5-foot wide pathway provides access from the residence on the southerly parcel to the patio and bulkhead.

In addition to a geotechnical assessment required by the PPW department, staff has requested additional information to determine how much dirt was removed from the site for construction of the retaining walls and patio. A Shoreline Substantial Development Permit approval will need to be addressed if the amount of dirt removed from the sites is equal to or more than 250 cubic yards on each parcel.

The submitted site plan does not indicate the total impervious coverage of the sites and whether or not it exceeds the maximum impervious coverage of 33.3% as allowed by PCC (within 200 feet of shoreline jurisdiction). Therefore, staff will recommend a condition of approval for the applicants to demonstrate this calculation to be equal or less than the maximum 33.3%, as allowed by Pierce County Code, on each parcel.

Per PPC, Title 20, Section 20.62.050.D.4.b., porches or decks, less than 4 feet in height, can be located 15 feet from the bulkhead or within the required 50-foot shoreline setback. Historically, the County also allowed fences and retaining walls to project into shoreline setbacks as long as they are less than 4 feet in height and more than 15 feet from the ordinary high water mark (OHWM) or a lawfully established bulkhead. However, County Policy #CP2104-09, dated November 3, 2014, changed this so it only applies to porches and decks. In this case, the patio is located within the 15-foot shoreline setback, thus the need for shoreline variance approval.

Per Washington State Department of Ecology shoreline aerial photos there was a wooden piling type bulkhead located on the property in 1977. However, no retaining walls, pathway, or patio were observed in any of the earlier photos and staff did not find any permits on the listed items. Approval of the SD, SDV, and SDCP is required to retain all these structures. In addition Ecology has the final approval on SDV and SDCP applications.