



## Initial Project Review

### Shoreline Substantial Development Permit / Shoreline Variance: Polo New Dock, Repair Net Shed, and Retaining Wall

**Application Numbers: 897787, 897792, 897789**  
**Parcel Numbers: 0221054176**

**Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: February 13, 2019, at 6:30 p.m.,** City of Gig Harbor, 3510 Grandview, southeast entrance, Gig Harbor, WA 98335

#### Proposal:

- Remove and dispose of approximately 1,025-square foot dilapidated net shed.
- Remove and dispose of existing approximately 930-square foot deck and remove and dispose of existing (25) 12-14” creosote pilings.
- Remove existing concrete debris serving as make-shift retaining wall.
- Construct a new single-family residential dock system which consists of:
  - Pier: (1) 24-foot x 40-foot timber framed pier with installation of (15) 10.75” galvanized steel pilings. The proposed decking will be 100% fiberglass grating with 1.5” squares and 69% open area.
  - Net Shed/Boat House: Re-construct a 640-square foot (20’ x 32’) net shed on top of proposed replaced pier.
  - Pier: (1) 4-foot x 45-foot timber framed pier with installation of (4) 8.75” galvanized steel pilings. The proposed decking will be 100% fiberglass grating with 1.5” squares and 69% open area.
  - Ramp: (1) 3-foot x 50-foot aluminum ramp that includes decking of 100% grating with 1.5” squares and 69% open area.
  - Float: (1) 8-foot x 30-foot float (will have polyethylene foam filled flotation tubs) with installation of (4) 10.75” galvanized steel pilings. To prevent the float from grounding there will be (2) pile mounted float stops installed.
  - Retaining Wall: Construct new maximum 6-foot high x 91-linear foot concrete or keystone block retaining wall located landward approximately 15-foot of ordinary high water mark (OHWM).

**Project Location:** 8428 Goodman Drive NW, Gig Harbor, WA 98335, in the Rural Residential Shoreline Environment and Single Family (SF) zone classification of the Gig Harbor Peninsula Community Plan area, within Section 5, T21N, R02E, W.M., in Council District #7

**Review Summary:** The project can be conditioned to comply with all applicable policies and objectives of the Pierce County Code, Shoreline Regulations, Comprehensive Plan, and Gig Harbor Peninsula Community Plan. Staff has reviewed this proposal for compliance with all policies, codes, and regulations.

**State Environmental Policy Act (SEPA):** A SEPA checklist was submitted for this application. Planning and Public Works (PPW) has not yet concluded its environmental review. Note: The project is **not** likely to result in any significant adverse environmental impact and a Determination of Nonsignificance (DNS) is likely to be issued.

**County Contact:** Robert Perez, Assistant Planner, [robert.perez@piercecounitywa.gov](mailto:robert.perez@piercecounitywa.gov), 253-798-3093

**Pierce County Online Permit Information:**

<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departementStatus?applPermitId=897787>



**Project Data**

Complete Application Date: October 25, 2018

Initial Project Review Mailed: January 31, 2019

Applicants/Owners: James and Kathleen Polo  
5905 123<sup>rd</sup> Street NW  
Gig Harbor WA, 98332  
[jamesapolo@aol.com](mailto:jamesapolo@aol.com)

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**Legal Notice**

- *November 9, 2018:* Notice of Application and Public Meeting Notice 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 16, 2018:* Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
- *January 30, and 31, 2019:* Legal notices were published in the official County newspaper (*Tacoma News Tribune*) and the *Peninsula Gateway* newspaper, advertising the public meeting to be held by the Gig Harbor Peninsula Advisory Commission.





## **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.
- Cartography reviews road names and addresses.
- Resource Management reviews for consistency with the County wetland and fish & wildlife regulations.

B. Gig Harbor Peninsula Advisory Commission (PAC):

The PAC's role in the review process for a land use proposal includes the following:

- Review the proposal for consistency with the goals and policies in the Community Plan.
- Provide a local perspective that includes input from the community and insights of which PPW staff or the Hearing Examiner may not be aware.
- Offer recommendations for project design to fit with the community's vision while remaining consistent with the Community Plan.

PCC Chapter 2.45 Land Use Advisory Commissions provides regulations that apply to the PAC. Per PCC 2.45.130, Land Use Advisory Commission (LUAC) recommendations on a land use application shall be to approve, modify and approve, deny, or make no recommendation. The LUAC may recommend the Hearing Examiner continue a scheduled public hearing to obtain additional information or LUAC recommendations.

## **Review Criteria**

The following regulations and policies shall be used during the review process including, but not limited to:

- A. Pierce County development regulations and construction and infrastructure regulations;
- B. Pierce County Comprehensive Plan and Key Peninsula Community Plan;
- C. Applicable state statutes; and
- D. All applicable notes on related previously recorded County documents.

## **Site Characteristics**

- The County Assessor lists parcel 0221054176 as being 0.551 acre in size.
- The parcel is accessed from the east and is approximately 328 feet in length at longest edge to the shoreline. The parcel includes approximately 100 feet of tidelands.
- The parcel is located on the western side of east Gig Harbor.
- The access to the site is via a driveway off Goodman Drive NW.
- The topography of the site slopes toward the shore.
- Parcel is currently vacant.
- The site contains a boat shed and pier.

## Surrounding Land Use / Shoreline / Zoning Designation

	LAND USE	SHORELINE	ZONING
North	Single-family residence	Rural-Residential	Single Family (SF)
South	Single-family residence	Rural-Residential	SF
East	Vacant Land	N/A	SF
West	Puget Sound	N/A	N/A

### Agency Review Comments

The proposed project has been routed to interested departments and agencies for review. Comments received from various departments and agencies may be found by accessing the Online Permit Information referenced on page 1.

Comments have been received, and corrections and/or additional information requested by, the following agencies on the application:

Squaxin Island Tribe  
Washington State Department of Ecology  
Nisqually Indian Tribe

### Public Comments

Public comment was received and summarized:

- Concerned with increased runoff generated from construction associated with this project and a neighboring project. This increased flow has been eroding the beach and possibly impacting the existing wetland.
- Requested appropriate dispersal design over the entire property and a five-year monitoring of the dispersal system by a third party to verify its performance.
- Questioned the proposed setback from the OHWM as shown on the Polo Site Proposal.
- Given the presence of wetland and setback requirements, concerned about the appropriateness of the proposed reduced shoreline setback and has requested that measurements be verified.
- The concrete detritus was the result of an unpermitted dock and floats on the site, and the concrete has been stored on the property in its current configuration.

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

#### Gig Harbor Peninsula Community Plan (Pierce County Code, Title 19A.10)

**GOAL GH ENV-2** Development standards along shorelines should ensure the preservation of native vegetation and wildlife habitat and protect water quality and natural shoreline processes.

**GH ENV-2.1** Consider implementing low impact development tools. These include reducing the amount of impervious surfaces on each site, minimizing soil disturbance and erosion, disconnecting constructed drainage courses, and utilizing micro-detention facilities on each lot, (provided 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-2.2** Require a tree canopy and native vegetation buffer plan for new development in all shoreline environments.

**GH ENV-2.2.1** Discourage lawn areas that extend to the edge of slopes, bluffs, or beaches. Encourage retention of native vegetation immediately adjacent to the waterbody in any required setback.

**GH ENV-2.2.2** Require protection for trees, including snags, located along the shoreline.

**GH ENV-2.3.3** Construct non-water-dependent structures (including single-family residences) along the shoreline at a sufficient distance from the shoreline to ensure that bulkheads are not necessary for the lifetime of the structure.

**GH ENV-2.3.4** Prohibit new bulkheads on vacant parcels and below feeder bluffs.

**GH ENV-2.4.4** Generally prohibit new construction or any expansion of an existing structure over the water (e.g., boathouses shall be located landward of the ordinary high-water mark.)

**GH ENV-2.6** Strictly control requests to obtain variances from development standards along the shoreline. Grant variances only in extraordinary circumstances relating to the physical character or configuration of the building lot.

**GH ENV-2.7** Prioritize vegetation and tree preservation in shoreline locations that are identified on the Open Space Corridors Map.

**GH ENV-3.4** To help control surface water runoff, discourage vegetation removal during construction and site development activity.

*Staff Comment: The Gig Harbor Peninsula Community Plan policy states, in part, that new non-water dependent structures should be constructed a sufficient distance from the shoreline to ensure that bulkheads are not necessary. What is being proposed for a Variance is a retaining wall inside the shoreline setback. This retaining wall is also proposed in a wetland buffer and mitigation area. The entire length of the shoreline is also heavily vegetated along the lower portion of the slope. Staff finds this proposal does not follow the Gig Harbor's Community Plan in relation to vegetation and tree preservation as it seems there will be significant vegetation removal to install the retaining wall.*

*The dock system is proposed to be constructed off site then floated to the site via barge. The float surface will be 50% composite decking and 50% fiberglass grating with 1 x 6 composite decking. Grating is fiberglass with 1.5" squares and 69% open area. The float will utilize the EnviroTuff Float System. This is consistent with community plan policy and industry standards.*

*The Net Shed/Boat House is inconsistent with Gig Harbor Community Plan policy, which generally prohibits new construction overwater and specifically states boathouses should be located landward. The demolition and replacement of the Net Shed/Boat House has an impact on water quality and near shore habitat. The proposal for the net shed is an entire rebuild in a different configuration with added external entry, and the conversion of the pier to a deck (with a resulting smaller footprint). This would appear to be inconsistent with the prohibition of expansion of over water structures.*

## **Pierce County Shoreline Master Program Policies (Pierce County Code, Title 19D.190)**

- Piers associated with single-family residences should be discouraged.
- In considering any pier, considerations such as environmental impact, navigational impact, existing pier density, parking availability, and impact on adjacent proximate land ownership should be considered.
- Encourage the use of mooring buoys as an alternative to space consuming piers such as those in front of single-family residences.
- Piers and floating docks should be encouraged to be built perpendicular to the shoreline rather than along it.
- Encourage pier construction to include larger spans on fewer pilings rather than smaller spans and more pilings. Piers in marine waters may provide habitat suitable for predatory fish with consequent detriment to young salmonids.
- When plastics or other non-degradable materials are used in pier construction precautions should be taken to insure their containment.
- Areas having a significant near shore fishery should not be used for floating docks.
- Residential development over surface water should be prohibited.

*Staff Comment: Regulations prefer joint-use docks over single-use docks. The proposed dock is a single-use dock. The Shoreline Master Plan (SMP) discourages piers associated with single-family residences. The dock is proposed to be built perpendicular to the shore, and navigation of neighboring properties could be impacted negatively because of the angle of the adjacent dock and would thus impinge on the use of the neighboring dock. This proposal would also increase pier density; however, in this case virtually every property already owns a dock system. Given that there is already a boathouse/net shed with associated pier, staff would encourage the use of a mooring buoy instead of dock.*

*Should the County approve the dock, additional approvals are necessary from State and Federal agencies. These approvals will consider the number of pilings, amount of grating, and proper containment for flotation material.*

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

- Construction of the proposed project exceeds established fair market value (\$7,047.00) for development and, therefore, the proposed construction shall be considered a substantial development for the purpose of this Title.
- A saltwater dock exceeding 50 feet in length requires a Shoreline Substantial Development Permit (SD) in the Rural Residential Shoreline Environment.
- Important navigational routes or marine oriented recreation areas will not be obstructed or impaired.
- Views from surrounding properties will not be unduly impaired.
- Ingress-Egress as well as the use and enjoyment of the water or beach on adjoining property is not unduly restricted or impaired.
- Public use of the surface waters below ordinary high water shall not be unduly impaired.
- A reasonable alternative such as joint use, commercial or public moorage facilities does not exist or is not likely to exist in the near future.
- The use or uses of any proposed dock, pier or float requires, by common and acceptable practice, a shoreline location in order to function.

- The intensity of the use or uses of any proposed dock, pier and or float shall be compatible with the surrounding environment and land and water uses.
- In areas identified by the Department of Fisheries, Game or Natural Resources in accordance with a study in existence at the time of application as having a high environmental value for shellfish, fish life or wildlife, piers, docks and floats shall not be allowed unless functionally necessary to the propagation, harvesting, testing or experimentation of said marine or wildlife, unless it can be conclusively established that the dock, pier or float will not be detrimental to the natural habitat.
- All piers and docks shall be constructed and maintained in a safe and sound condition.
- Pilings employed in piers or any other structure shall have a minimum vertical clearance of one foot above extreme high tide.
- When plastics or other nondegradable materials are used in pier construction, precautions shall be taken to ensure their containment.
- Single-use piers and docks: Maximum intrusion into water should be only so long as to obtain a depth of eight feet of water as measured at mean lower low water (MLLW) on saltwater shorelines or as measured at ordinary high water in freshwater shorelines, except that the intrusion into the water of any pier or dock should not exceed the lesser of 15 percent of the fetch or 150 feet on saltwater shorelines and 40 feet on freshwater shorelines.
- Single-use piers and docks: Maximum length parallel to shore should not exceed eight feet.
- Single-use piers and docks: A minimum separation of 10 feet should be maintained between the structure and the side property lines extended at a right angle to the shoreline.

*Staff Comment: The pier/ramp/float design and size are consistent with the character of other over-water structures nearby. However, the proposed length and angle of the dock could create conflict with the dock to the south, which angles towards the Polo site. A reasonable alternative to the dock appears to exist in the form of the Randall Boat Ramp approximately a quarter mile away. Also, the proposal appears to encroach into the 10-foot side yard setback along the northern property line.*

*The repair and replacement of the net shed/boathouse appears to be inconsistent with Title 20. Also, since the proposal is to demolish the structure and replace it with a different structure, with a different configuration, this would necessitate a Shoreline Conditional Use Permit. The submitted proposal also has the conversion of the existing pier into a deck. Decks overwater are prohibited as they are not a water dependent use and they should be located landward of OHWM.*

*Finally, missing from the JARPA, but shown on the Site Plan, is the construction of a paved pathway from a proposed single-family residence to the boathouse within the shoreline setback. This would require the application for a Shoreline Conditional Use Permit.*

### **Pierce County Shoreline Management Use Regulations (Title 20.72.020 Variances)**

It is understood that the 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 must show that if he complies with the provisions he cannot make any reasonable use of his property. The fact that he might make a greater profit by using his property in a manner contrary to the intent of the program is not sufficient reason for a Variance.

Following is the Variance criteria regulated by Title 20.72.020 and the applicants submitted responses for each of the criteria. Staff comment on the applicant responses follows, at the end of this section.

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

- 1. 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.**

Applicant Response: This parcel has a steep slope from building area to the shoreline. An existing unpermitted, un-engineered, concrete block wall was installed by a previous owner and will be removed. A new max 6 ft high x 91 ft long engineered retaining wall is to be installed in its place, for slope retention.

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

Applicant Response: The granting of a variance allowing for a new retaining wall will not violate, abrogate or ignore the goals, policies, or individual environment purpose, spelled out in the Master Program.

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

Applicant Response: No other regulations will be violated, abrogated or ignored as a result of granting the variance.

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

Applicant Response: Public health, safety and welfare will not be adversely affected.

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

Applicant Response: The provisions to be relaxed clearly did not foresee or consider the need for slope retention on this particular shoreline site.

*Staff Comment: The existing concrete blocks on site were placed without County review or approval. They are likely the remnants of the previously unpermitted concrete floats that were removed. Under the current proposal a retaining wall is being proposed waterward of the concrete blocks. The proposed wall would generally be parallel to the existing wall but would project waterward of the existing wall within the southern 30 feet of the parcel. This would result in filling landward of the wall. This fill would result in damage to a wetland buffer and, potentially, wetland, and exceeds what is allowed under Title 20.44 Landfills, defined as: the creation of dry upland area by filling or depositing of sand, soil, or gravel into a wetland area. Considering that this is also a vacant lot except for the established boathouse/net shed this proposal seems to run counter to maintaining adequate distances to protect water quality and maintain dynamic systems, as there appears to be a high likelihood of damage to a wetland.*

**Washington Administrative Code Section 173-27-170(2) –**

Following is the Washington Administrative Code Section 173-27-170(2) requirements for a Variance. Each requirement is then followed by the applicant's response to the requirement. Staffs Comment on this section is at the end of the section.

Variance permits for development and/or uses that will be located landward of the ordinary high-water mark (OHWM), as defined in RCW 90.58.030 (2)(b), 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;**
- b) **That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;**

Applicant Response: The hardship that the applicant is faced with is related to the property, due to the steep slope and the application of the Master Program, not because of deed restrictions or anything done by the applicant.

- 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;**

Applicant Response: The design of the proposed retaining wall is compatible with other uses and is comparable to other permitted retaining walls seen within the Gig Harbor area. The proposed retaining wall is compatible with uses planned for the area under the Comprehensive Plan and Shoreline Master Program. It will cause no adverse impacts to the shoreline environment whatsoever.

- d) **That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;**

Applicant Response: The granting of the variance for a retaining wall on this site, will not constitute a grant of special privilege. Other property owners in the area, under similar circumstances, have been granted variances for retaining walls within the 50 ft shoreline setback.

- e) **That the variance requested is the minimum necessary to afford relief; and**

Applicant Response: The height and length of the proposed retaining wall is the minimum necessary to retain the existing slope. The applicant is not requesting more than what is needed for this purpose.

f) **That the public interest will suffer no substantial detrimental effect.**

Applicant Response: The public interest will suffer no detrimental effects whatsoever.

*Staff Comment: Under the current proposal Staff recommends denial of the Variance and the Substantial Development Permit. The retaining wall does not meet the Variance Criteria as it is not the minimum necessary to afford relief and the substantially expanded pier and dock system encroaches onto side setbacks. It hasn't been shown that the location and size of the proposed retaining wall are the minimum needed to retain the existing slope. Staff also recognizes that this proposal results in wetland and buffer impacts, loss of shoreline vegetation, and alteration to the natural character of the shoreline.*

*It should be noted that the need for the retaining wall is related to a single-family residence that has not been permitted. As such, the need for the wall appears to be due to the desire to locate the residence much closer than the standard 50-foot setback.*

*Note: Scott Sissons the assigned Biologist to this review, has requested that the applicant apply for a Wetland Variance as the proposal encroaches into the required wetland buffer.*

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