

Initial Project Review

Shoreline Substantial Development Permit / Shoreline Variance: Wakefield, Lawrence and Nanci

Application Numbers: 897816, 897817

Parcel Number: 7860000460

Key Peninsula Advisory Commission (KPAC) Public Meeting: February 20, 2019, at 6:30 p.m.,
Key Peninsula Civic Center, VFW Room, 17010 South Vaughn Road, Vaughn, WA 98349.

Proposal: The applicants request approval of an unpermitted second story addition to an existing detached single-family residence. The second story was constructed in 2008.

Project Location: 7904 SR 302 NW, Wauna, WA, in the Rural-Residential Shoreline Environment and Rural 10 (R10) zone classifications in the Key Peninsula Community Plan area, within Section 23, T22N, R2E, W.M., in Council District #7.

Review Summary: Staff has reviewed this proposal for compliance with all policies, codes, and regulations. At this time Staff would recommend **denial** of the project to the Hearing Examiner.

State Environmental Policy Act (SEPA): SEPA review is not required for this proposal.

County Contact: Andrew Van Gordon, Associate Planner, andrew.vangordon@piercecounitywa.gov
253-798-7113

Pierce County Online Permit Information:

<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=897816>



Project Data

Complete Application Date: October 25, 2018

Initial Project Review Mailed: February 7, 2019

Property Owner/Applicants: Wakefield, Lawrence & Nanci Lea
P.O. Box 485
Wauna, WA 98395
nanciinwauna@hotmail.com

Agent: Permit Granted
Attn: Terri Schultz
4810 Pt. Fosdick Drive NW #156
Gig Harbor, WA 98335
permitgranted@comcast.net

Legal and Public Notice

- *November 2, 2018*: Notice of Application, including the Land Use Advisory Commission (LUAC) 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 site.
- *November 16, 2018*: Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
- *February 6, and 7, 2019*: Legal notices were published in the official County newspaper (*Tacoma News Tribune*), and *Peninsula Gateway* newspaper, advertising the Gig Harbor Peninsula Advisory Commission public meeting.

2017 County Aerial

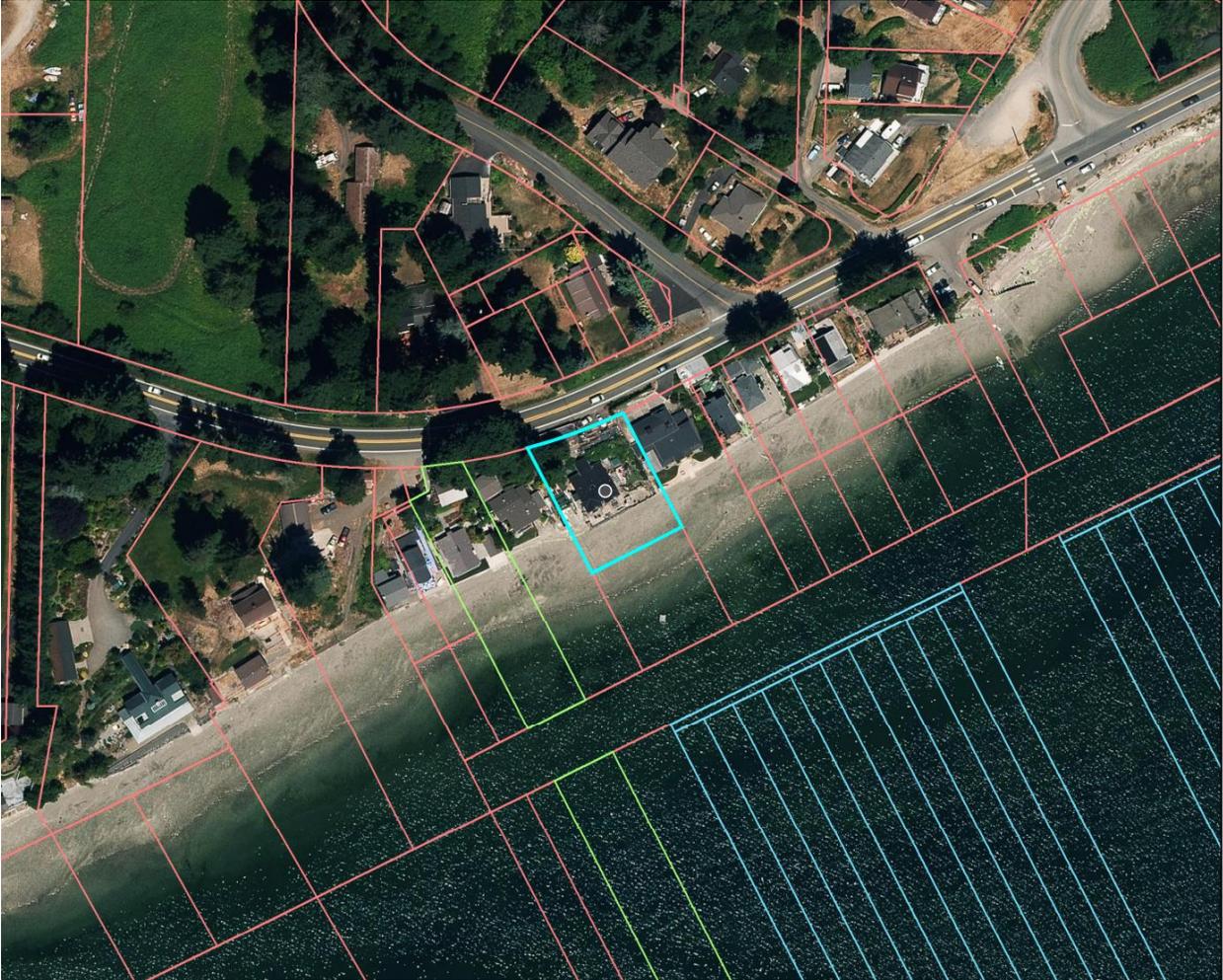
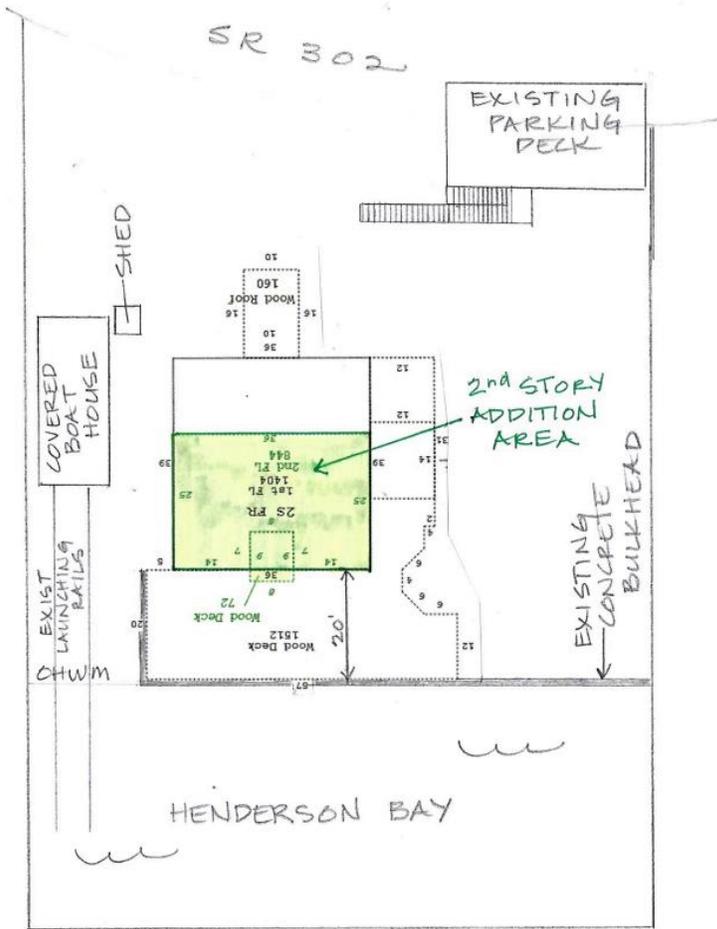
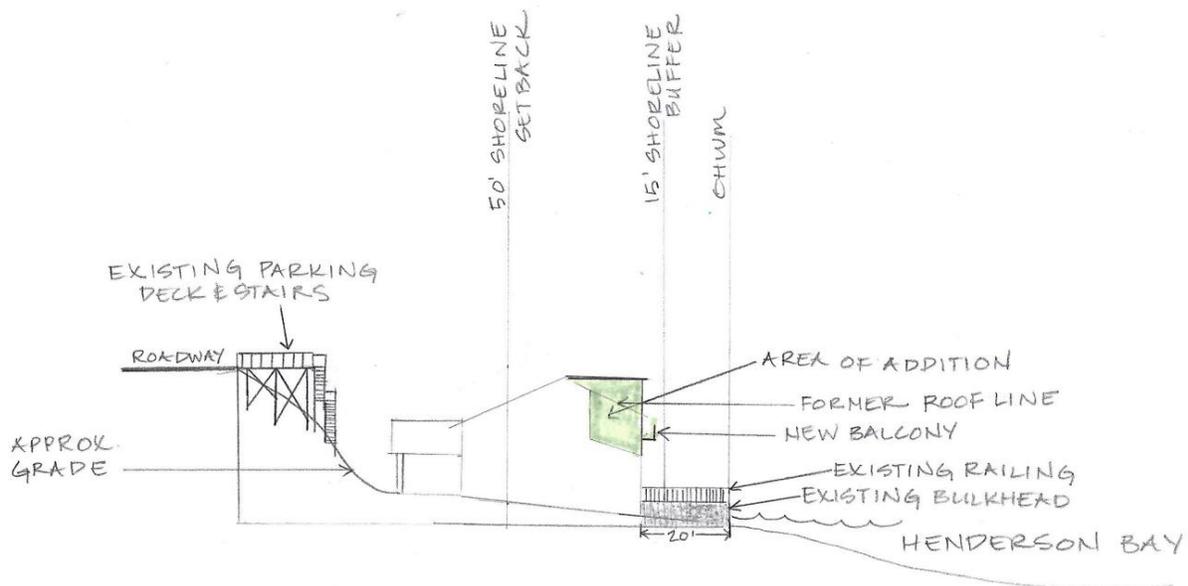


Figure 1: Project will be occurring on the highlighted parcel.

Proposed Site Plan



PROPERTY ADDRESS
 7904 SR 302
 WAUNA, WA 98395
 PN: 7860000460



WAKEFIELD 2nd STORY ADDITION

Comments from the Public and Agencies

- Comments received on this proposal may be found by accessing the online permit information referenced on page 1.
- No comments have been received from the public.
- The Nisqually Indian Tribe has indicated they have no concerns.
- State of Washington Department of Ecology has commented that the project needs to meet Shoreline Variance criteria.

Surrounding Land Use / Shoreline / Zoning Designation

| | LAND USE | SHORELINE | ZONING |
|-------|-----------------------------------|-------------------|----------------|
| North | State Route 302 | N/A | Rural 10 (R10) |
| South | Henderson Bay | N/A | N/A |
| West | Detached Single-Family Residences | Rural-Residential | R10 |
| East | Detached Single-Family Residence | Rural-Residential | R10 |

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

Title 19A Appendix G: Key Peninsula Community Plan

The proposed Shoreline Variance is beyond the level of specificity found in the Community Plan policies. Staff did not find that the proposal conflicted with any goals or policies in the Community Plan.

Title 19D Other Comprehensive Planning Documents, Chapter 19D.190 Shoreline Master Program for Pierce County

The Shoreline Master Program (SMP) for Pierce County states:

- The Rural-Residential Environment B.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.
- The Rural-Residential Environment B.3: Preferred Uses: Single-Family residence.
- Residential (g): Adequate distances between shoreline and structural developments should be maintained in order to protect water quality, maintain dynamic systems, prevent dangerous geological stresses, and insure aesthetic quality.

The project, as proposed, is not expressly prohibited by the SMP.

Pierce County Shoreline Management Use Regulations – Title 20

Shoreline Planning has reviewed the proposal for conformance with the requirements of Title 20 – Shoreline Management Use Regulations.

The following is an analysis of how the project complies with various provisions of Chapter 20.

- Substantial Development (20.04.640)

Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government is exempt from needing approval through a Shoreline Substantial Development Permit.

The applicant has applied for a Shoreline Substantial Development Permit (SD). Staff is unsure why an application was made for an SD. The applicant did not provide the height for the structure. Staff has asked for that information but as of the writing of this report it has not been provided.

- Rural-Residential Environment (20.10)

Preferred uses within this shoreline environment include single-family residences. General regulations and policies include allowances for medium intensity residential uses to 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: Permit Exemptions (20.62.020)

The Shoreline Management Act exempts from obtaining a Substantial Development Permit the construction of a single-family residence by an owner, lessee, or contract purchaser for their own use or the use of their family if said residence does not exceed a height of 35 feet above average grade level. Compliance with the prohibitions, regulations, and development standards is still required.

Staff is unsure of the structure's height above average grade level. The applicant has been asked to provide the height but as of the writing of this report that information has not been provided. If the structure is greater than 35 feet in height the residence is considered a high-rise structure. This requires review and approval of a Shoreline Substantial Development Permit along with a Shoreline Conditional Use Permit. The structure shall also meet requirements found in PCC 20.40 High Rise Structures.

- 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:

1. 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.

Development Engineering has reviewed the proposal. The existing residence is below base flood elevation. The work done is considered substantial work. The value of the work done exceeds 50% of the value of the residence. Because of this the entire structure shall be elevated a minimum of 2 feet above the base flood elevation.

2. Adequate methods of erosion control will be utilized during and after project construction.
The proposal shall meet all erosion control requirements. The project can be conditioned to meet this requirement.
 3. Disturbance of shoreline vegetation will be minimized.
The property has been developed for decades. It does not appear that shoreline vegetation has existed for quite some time.
 4. 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 proposal can be conditioned to meet this requirement.
 5. All residential structures shall be landward of the extreme high water mark.
The residence is landward of the bulkhead.
- B. Bulkheading, filling, substantial regrading or any other similar structure or 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.
Bulkheading, filling, substantial regrading or other similar structure or activity did not occur with the expansion.
- 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.
This 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)
A single-family residence, within the prescribed setback, bulk and height limitations is permitted outright within the Rural-Residential Shoreline Environment. The applicants' residence is within the shoreline setback. Expansion requires a Shoreline Variance. An application for approval through a Shoreline Variance has been made.
- 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 applicant has not provided an impervious surface calculation. However, the original residence was built in 1930 according to the Assessor-Treasurer and predates the Shoreline Management Act. The expansion is above the existing footprint, except for a balcony extending waterward, and does not increase the impervious surface.
 - 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 property is within the Rural 10 zone in the Key Peninsula Community Plan area. The footprint of the existing, legally established structure hasn't changed. The project does not expand the structure so that it is closer to the side and/or front property lines.
 - 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 existing structure is within 50 feet of the legally established bulkhead. The expansion occurs within 50 feet of the legally established bulkhead. A Shoreline Variance application has been made.
 - D. **Exceptions to the Special Setbacks for Shoreline Sites.**
 - 1. The shoreline setback for any proposed building or structures on a vacant lot that has a common property line with one or more lots which is/are developed with a principal use/uses 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.
The property is not vacant. This requirement is not applicable.

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 reasonable adverse effects on the environment and other uses.

The residence is not a water dependent accessory use. The regulations within this section are not applicable.

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 of less than 15 feet.

The lot is approximately 140 feet in depth. However, approximately 40 feet of that is private tidelands leaving approximately 100 feet between the legally established bulkhead and State Highway 302 to develop. At most a reduction of 15 feet is applicable reducing the 50-foot setback from the legally established bulkhead to 35 feet. Even with this reduction the expansion is still within the setback. A Shoreline Variance application has been made.

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 existing structure does not conform to the residential regulations.

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

The proposed expansion is within the shoreline setback. The proposal requires approval through a Shoreline Variance.

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.

Staff does not find that there are conditions or circumstances involved with the project that make strict application of the regulations unnecessary or unreasonable for the applicants' proposal. Although the extent of the expansion in the shoreline setback is relatively small there is room on the property to expand the residence outside of the shoreline setback. It is not unreasonable to expect the applicant to do so.

- 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 granting the Variance will violate, abrogate or ignore the goals, policies or individual environment purposes spelled out in the Master Program.

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

Staff finds that the review criteria for variance permits in Title 173 WAC will not be met. The WAC requirements are reviewed later in the report.

- 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 if regulations are met.

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

The specific provisions did foresee the situation the applicants are facing. The regulations were written with the intent for expansion to occur landward of the shoreline setback. It is reasonable to believe the writers of the regulations would have known that existing, legally permitted residences would potentially be within the shoreline setback, and methods to reduce the shoreline setback are included in the regulations. However, in this instance, the reduction does not benefit the applicant as the expansion still occurs within the shoreline setback.

Title 173 WAC Ecology, Department of

- Review criteria for variance permits (WAC 173-27-170 (2))

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.

The regulations are not preventing reasonable use of the property. According to the Assessor-Treasurer a residence has existed on the site since 1930. The applicants did not expand until 2008. A residence, the reasonable use of the property, had been in existence for 78 years prior to the expansion. The inability to expand the second story waterward neither prevents, 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.

The design decision does not appear to be the result of any unique conditions of the parcel. There is room to expand the residence outside of the shoreline setback.

- 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 proposed design 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 it will cause adverse impact 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.

Staff did not find that other residences within the area which had expanded were approved through a Shoreline Variance.

- e) That the variance requested is the minimum necessary to afford relief.

As previously stated a residence has existed on the property since 1930, providing reasonable use of the property. Additionally, the applicants' have room to expand the residence outside of the shoreline setback.

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

There is no evidence that the public interest will suffer substantial detrimental effect.

- Review criteria for variance permits (WAC 173-27-170 (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. The proposed shoreline project area is already developed with an existing single-family residence as are many of the properties within the area. There is no evidence that the proposal will cause substantial detrimental effects to the shoreline environment. Similar requests are unlikely to cause substantial effects to the shoreline environment or be inconsistent with RCW 90.58.020.