

Initial Project Review

Shoreline Substantial Development Permit / Shoreline Conditional Use Permit / Shoreline Variance: Longbranch Marina

Application Numbers: 936787 / 936789 / 936793 / 936794
Parcel Number: 0020242026 (and adjacent State tidelands)

Key Peninsula Peninsula Advisory Commission (KPAC) Public Meeting: July 15, 2020, at 6:30 p.m. Due to COVID-19 restrictions, there are limitations on gatherings; therefore, this meeting will be held remotely. To participate in the remote meeting, contact Tiffany Aliment at tiffany.aliment@piercescountywa.gov or by phone at (253) 798-3226.

Proposal: At the existing Longbranch Marina, a phased improvement project is requested to provide a public boat pumpout station (for boat sewage), public floating restroom (with shower facility and portable toilet dump station), dock extension, and related improvements to the facility. The pumpout station, plumbing, and upland holding tanks would be Phase I. The other improvements would occur in later phases.

Project Location: 5213 Key Peninsula Highway SW, Longbranch, WA, on the west shoreline of Filucy Bay (Puget Sound) and within the Key Peninsula Community Plan area. Further, the site is in the Aquatic Marine (water) and High Intensity (uplands) Shoreline Environments and Rural Neighborhood Center (RNC) zone classification, within the NW 1/4 of Section 24, T20N, R1W, W.M. in Council District #7.

Review Summary: Staff has reviewed this proposal for compliance with applicable policies and regulations. It appears Phase 1 is consistent with such with the exception that it is unclear to Staff why the upland holding tanks need to be within the 50-foot shoreline buffer (it appears they could be moved further from the shoreline). However, Phases 2 and 3 may not be consistent with applicable policies and regulations. The primary concern is if the marina is already too large relative to its physical setting. Staff would respectfully suggest the KPAC may want to break out its recommendation into three motions, one for each phase.

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. Pursuant to the State Environmental Policy Act and the Pierce County Environmental Regulations (Pierce County Code, Title 18D), the Department has reviewed the proposal and determined that a Determination of Nonsignificance (DNS) is likely to be issued. Issuance of a DNS means that the County has determined the proposal is not likely to result in any probable significant adverse environmental impacts.

Contact: Ty Booth, Planner, ty.booth@piercecounitywa.gov 253-798-3727

Pierce County Online Permit Information:

<https://pals.piercecounitywa.gov/palsonline/#/permitSearch/permit/departementStatus?applPermitId=936787>



Project Data

Complete Application Date: June 9, 2020

Initial Project Review Mailed: July 8, 2020

Applicant: Longbranch Improvement Club
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brett.allen@contourengeeringllc.com

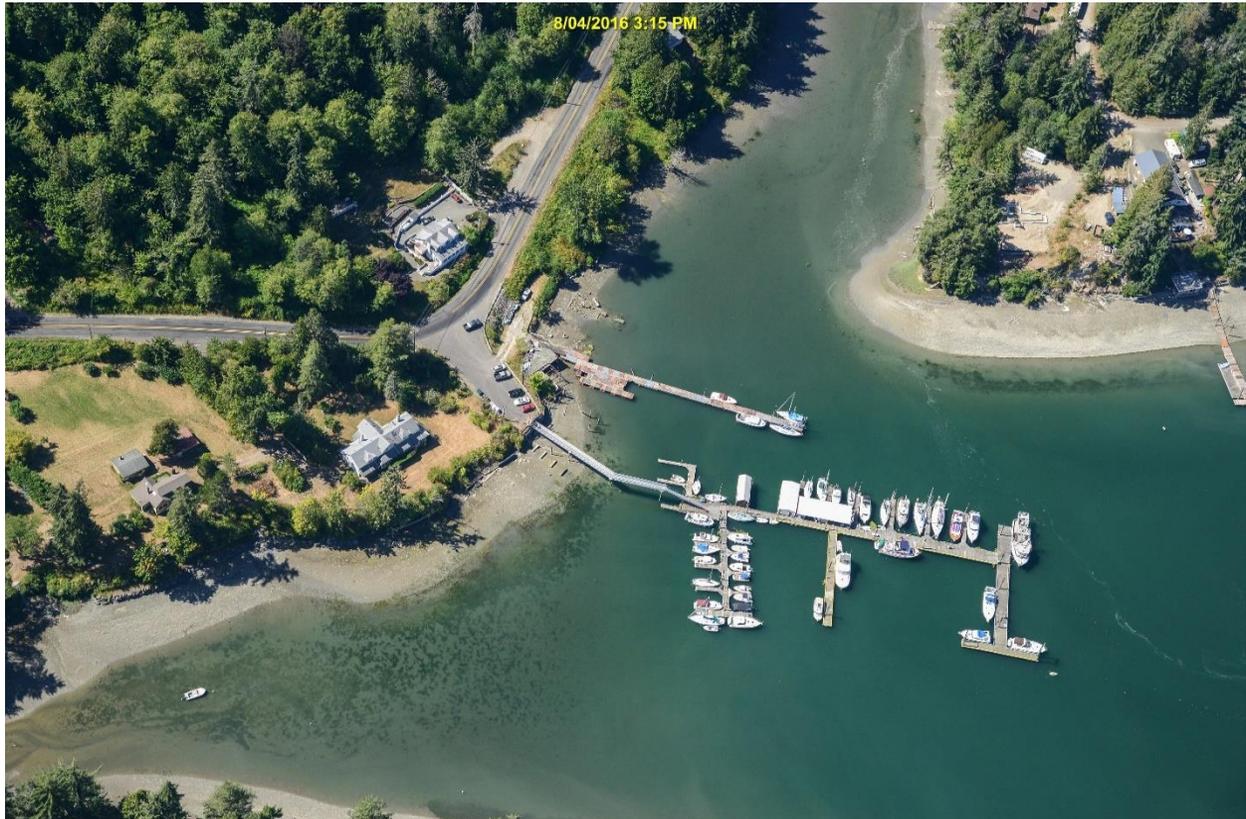
Legal and Public Notice

- *June 25, 2020:* Notice of Application (including the Key Peninsula Advisory Commission (PAC) meeting date, time, location) was sent to the following:
 - Property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the site.
 - Notice was expanded to cover the parcels on the east side of Filucy Bay that directly face the marina.
 - Applicable governmental agencies
- Public Notice sign: At the time this report was issued, the Declaration of Posting has not been submitted. The Agent has been notified.
- *July 8, 2020:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the public meeting to be held by the Key Peninsula Advisory Commission (KPAC).
- *July 9, 2020:* Legal notice was published in the *Peninsula Gateway* newspaper, advertising the public meeting to be held by the KPAC.

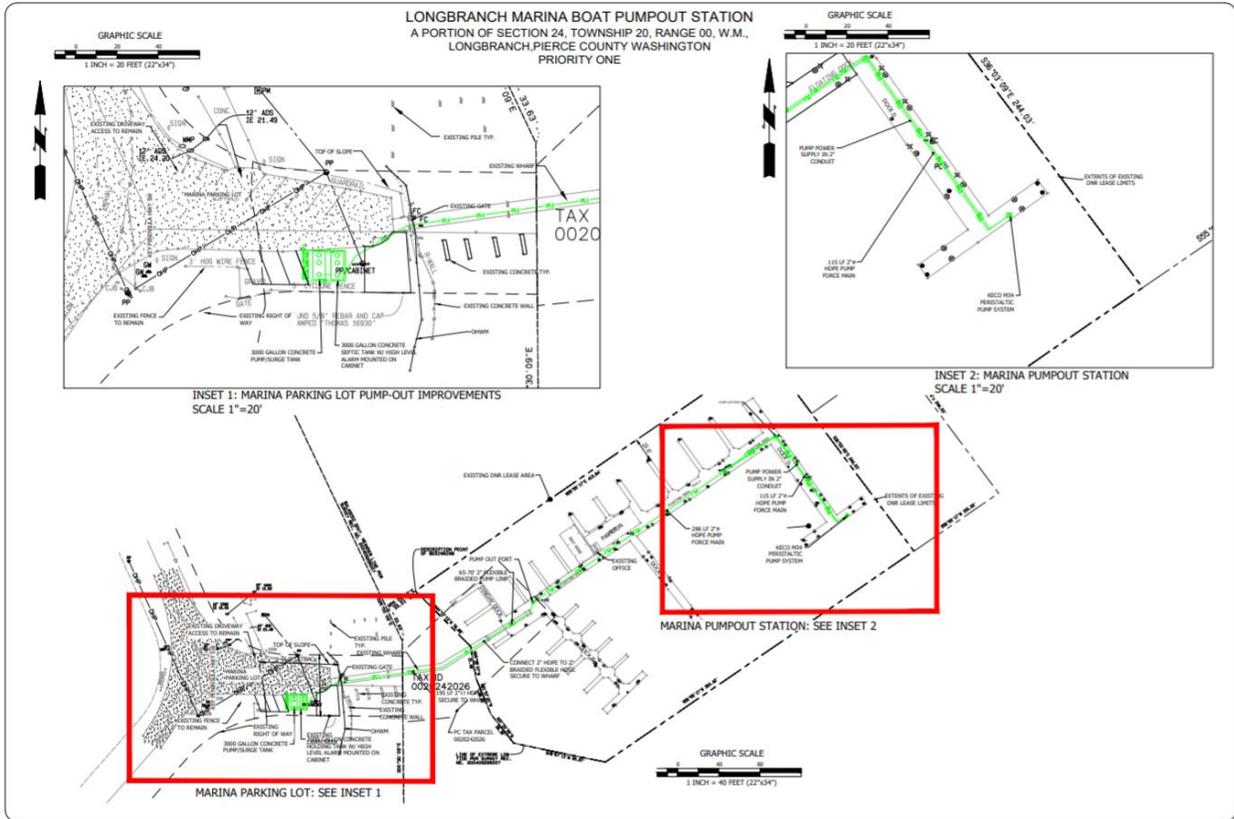
2017 County Aerial Photo



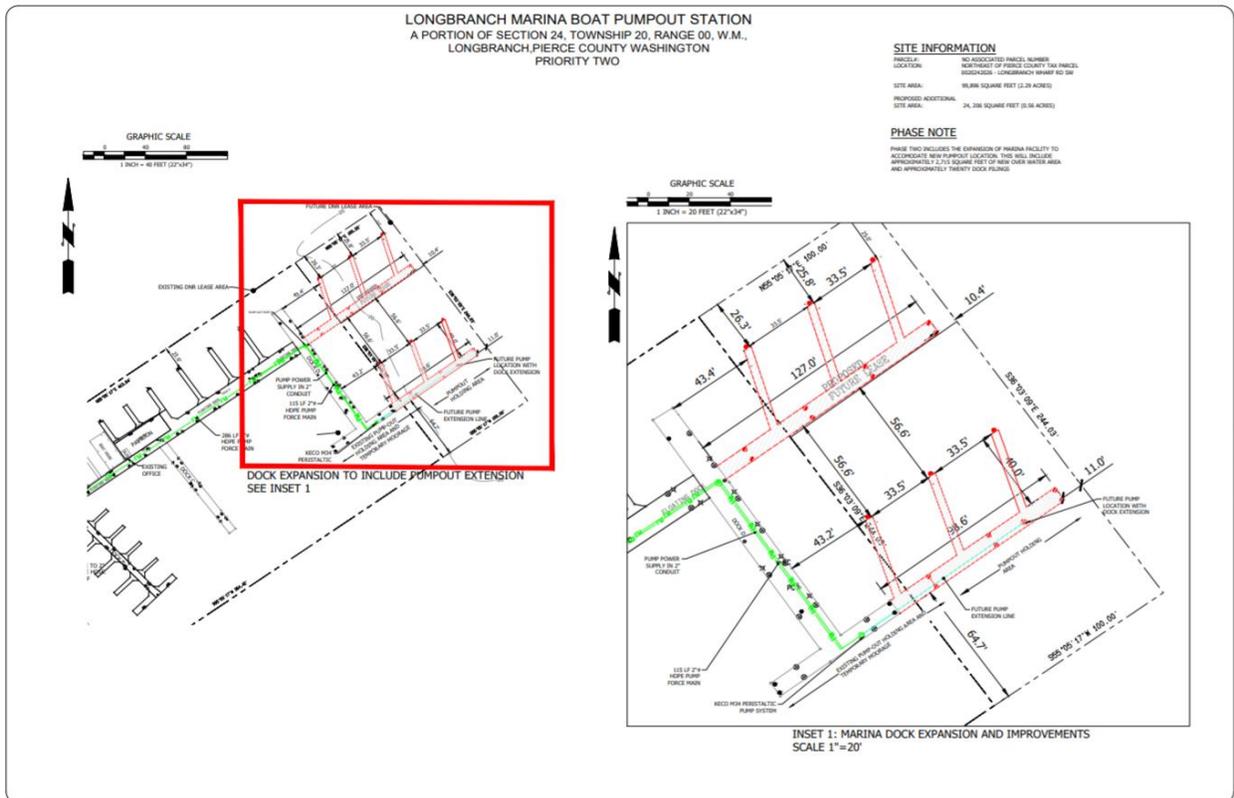
2016 Washington State Coastal Atlas



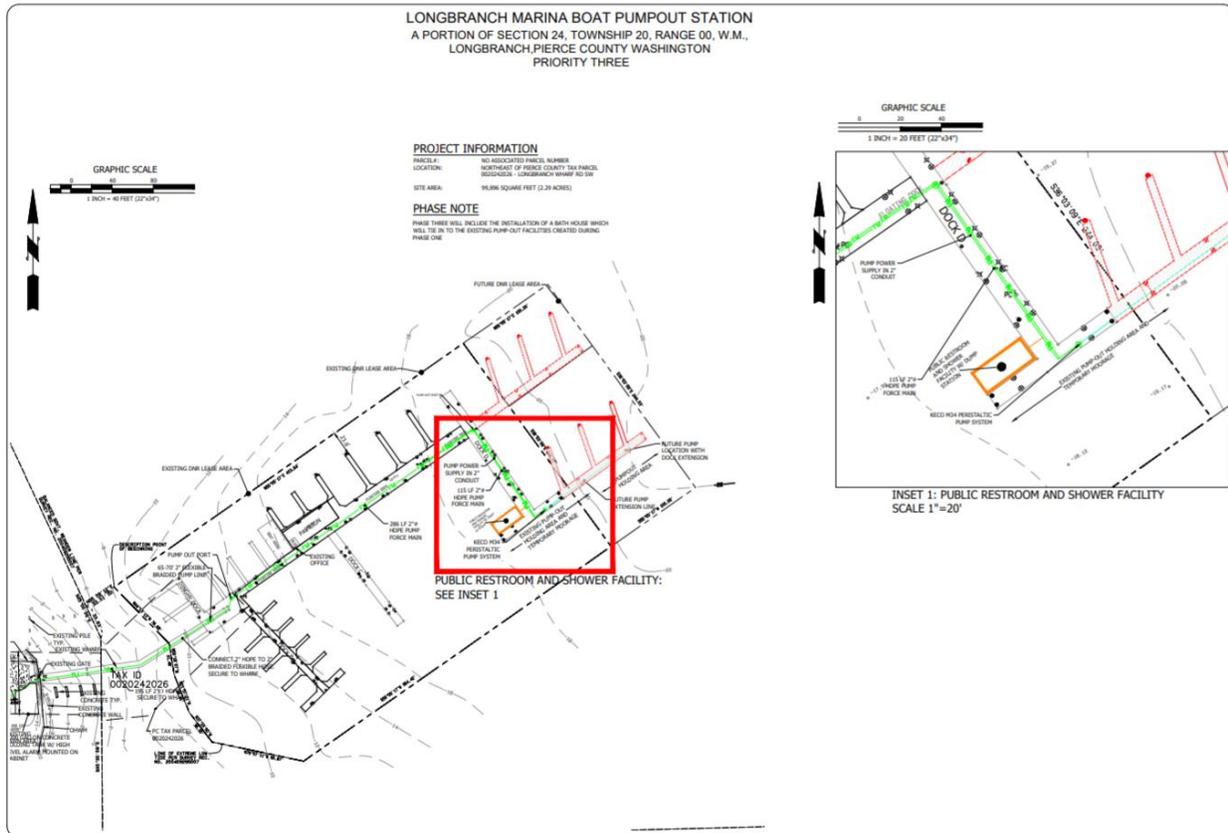
Site Plan (Proposed Phase I)



Site Plan (Proposed Phase II)



Site Plan (Proposed Phase III)



Comments Received from the Abutting Property Owners, Public, and Government Agencies

1. Comment deadline: The comment deadline is July 27th, 2020. As such, this proposal is still very early in the process.
2. Comments from Public: The only comments received thus far are from Sound Action (environmental organization) inquiring if there is a vegetation survey.
3. Comments from Agencies: The only notable comments received, thus far, are from the Washington State Department of Fish/Wildlife stating the following: a macro algae/Eelgrass survey is required in order to fully evaluate impacts to habitat resulting from the new overwater structure coverage; the size and magnitude of potential impacts to fish life may be greater than those from residential docks; the proposal may require modeling to demonstrate adequate water exchange and circulation after construction.

Note, should the County ultimately approve the proposal, the Applicant will still need to obtain permits/approvals from State and Federal agencies.

Site Characteristics

- On June 29, 2020, County Planning Staff visited the site with the Agent.
- The facility is owned by the Longbranch Improvement Club (LIC).

- The marina location has a long history dating back to the first wharf constructed in 1885. Additional information regarding the history and current use is found on the Longbranch Improvement Club website. An abbreviated history is found on a display when entering the marina.
- The marina uplands are located within County right-of-way which is essentially a 140-foot long by 60 to 70-foot wide off-shoot of the Key Peninsula Highway. The upland area is occupied by a parking area (for approximately 12 vehicles), driveway/access for an abutting pier (not associated with Longbranch Marina), lawn, and portable toilets.
- Between the uplands and tidelands, there is a bulkhead and the marina is gated. However, it is unlocked and open to the public during business hours.
- The overwater portion of the marina is located on County tidelands (parcel #0020242026) and State tidelands managed by the Washington State Department of Natural Resources (DNR).
- The marina includes a pier-ramp-float structure with one covered floating boathouse and one covered pavilion.
- According to the application materials, the Marina operates year-round providing temporary moorage on average to 745 boats during peak summer months for boats up to 80 ft in length. It has 37 boats in permanent moorage and accommodate on average 200 temporary moors during the off season.

Staff Comment: In July 1995, the County Hearing Examiner approved a Shoreline Substantial Development Permit (Case No. SD9-95) to allow removal of 14 covered moorage slips and replacement with 12 uncovered moorage slips and expansion of the easternmost finger float by 840 square feet. Since 2010, the County has issued four shoreline exemptions to allow normal maintenance/repair/replacement and/or emergency work to the overwater portion of the marina.

LIC also owns, 3,000 feet to the north/northwest of the marina, 10 acres of uplands, which includes a historic clubhouse and large parking lot, located

Surrounding Land Use / Shoreline / Zoning Designation

1. Land Use: Filucy Bay is primarily abutted by residential uses. However, abutting to the north is a pier (separately owned), further north is a land conservancy, and scattered around the bay are vacant lands.
2. Shoreline: Filucy Bay itself is designated Aquatic Marine and the uplands (where the public road/marina parking is located) is designated High Intensity. However, the uplands surrounding most of the bay are designated Residential although there are other designations as well.
3. Zoning: The uplands abutting to the west/northwest (consisting of five parcels) are Rural Neighborhood Center (RNC). Otherwise, the uplands surrounding the entire bay are a combination of Rural 10 (R10) and Rural Sensitive Resource (RSR).

Additional Proposal Details:

The following three phases are anticipated to be completed over the next several years:

1. Phase I consists of the boat pumpout station at a temporary location, plumbing, and two side by side upland/underground holding tanks (each 3,000 gallons). The boat pumpout station will be installed on an existing float and connected to the upland holding tanks via piping attached beneath the marina decking. Waste from the holding tanks will be pumped out as needed, requiring no other on-site septic system at the upland location. Due to the existing site configurations and land ownership, the upland holding tanks must be located within the shoreline buffer, within an area that is currently asphalt and gravel and is presently occupied by the portable toilets.

The purpose of the proposal is to provide waste management facilities for public and private recreational boaters. The Longbranch Marina has been supported by the Washington State Parks and Recreation Commission as a location to address the lack of pumpout stations in South Puget Sound. The proposed pumpout station would be the first pumpout station in South Puget Sound to serve boats greater than 50 feet in length. The proposed pumpout station would also be the second pumpout station in Carr Inlet and would be located approximately equidistant between the pumpout stations at Zittel's Marina and Penrose State Park.

2. Phase II will consist of the extension of two floats to the existing marina dock to offset moorage space lost to the public pumpout and restroom facilities. The new floats will cover approximately 2,715 square feet and provide moorage space for approximately 8 to 14 boats (depending on size). The proposed floats will each require approximately 10 piles to hold them in place. The pumpout station initially installed at a temporary location will be relocated to a new float to improve accessibility. The new floats will be installed at the waterward end of the existing dock, in relatively deep water. The decking will have a minimum of 50 percent functionally grated surface with either multi-directional grating that provides a minimum of 40 percent open space or square grating that provides a minimum of 60 percent open space. Floation will be fully enclosed and contained.
3. Phase III. The Applicant proposes to install a public restroom and shower facility with a porta potty dump station adjacent to an existing dock float. Wastewater from the public restroom and shower facility will be directed into the plumbing installed for the pumpout station such that the wastewater is sent to the upland holding tanks. However, the proposed project requires the installation of the holding tanks within the shoreline buffer, 2,715 square feet of overwater coverage from the two new floats, and 400 square feet of overwater coverage from the floating public restroom. The bathroom would be just over 10 feet tall.

Associated mitigation would also be provided, such as clean-up of some debris on the beach.

Initial Staff Review for Consistency with Policies and Regulations

Key Peninsula Community Plan (Pierce County Code, Title 19A, Chapter 14, Appendix G)

The plan went into effect in 2008. It is part of the County's larger Comprehensive Plan which went into effect in 1994. A copy of the Key Peninsula Community Plan is found at the following link: <http://www.co.pierce.wa.us/DocumentCenter/View/38488>.

A review of the plan reveals that there are numerous policies that could apply to this proposal but would result in an excessively long report. For example, there is a lot of discussion regarding improving water quality and encouraging tourism. One such discussion occurs on pages 52-53 as follows (somewhat similar language is also found on page 59):

“LONGBRANCH RURAL NEIGHBORHOOD CENTER: The Longbranch RNC is the smallest of the Key Peninsula commercial centers at 5.87 acres but is the only commercially zoned area on the Peninsula to have an operating marina. Based on the proximity of the marina, the Longbranch RNC has opportunities for new development associated with maritime activities and tourists. The RNC is also the most southerly located commercial area and serves a fairly large geographic area. Presently, the Longbranch RNC has one acre of established commercial development (the Longbranch Mercantile) which is under repair. The balance of the commercially zoned land at Longbranch is either underdeveloped (existing single-family residence) or consists of vacant land. There is good potential for this center to flourish and thrive once redevelopment has occurred. The RNC could support a variety of commercial and retail uses.”

Staff Comment: The proposal appears consistent with the Key Peninsula Community Plan, although there are concerns regarding Phases 2 and 3 as addressed later in this report.

Pierce County Zoning Code (Pierce County Code, Title 18A)

Section 18A.05.050 A.4. states the following: “Water dependent uses, to include associated incidental and necessary uses, that are located within shoreline jurisdiction and regulated by Title 18S PCC, Development Policies and Regulations – Shorelines, shall not be regulated by the Use Tables of this Title. A water dependent use is a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.”

Staff Comment: Although the proposal may not be subject to the use table provisions...it might still be subject to the parking requirements. For Phases 2 and 3, this will need to be further investigated as to if a Zoning Code Variance is also necessary.

Pierce County Construction and Infrastructure Regulations – Building and Fire Codes (Pierce County Code, Title 17C)

Should the shoreline permits be approved, a building permit and compliance with applicable fire codes would be required. The marina is served by a private community well system.

Staff Comment: Relative to Phases 2 and 3, the Applicant should check with the Pierce County Fire Prevention Bureau well in advance as to determine if the system can provide, in the event of a fire, adequate water. The KPAC may recall the Camp Seymour situation where they had to install large water tanks (which they had not planned for) to address a lack of adequate water. If it is determined a tank/tanks are necessary, they need to be included in this proposal. It is noteworthy to point out that when marinas/moored vessels catch fire that does not often go well, even if the marina is in an urban area with lots of fire trucks, etc. (this site is rural and relatively remote).

Pierce County Sign Code (Pierce County Code, Title 18B)

No signage is proposed.

Pierce County Construction and Infrastructure Regulations – Road and Bridge Design and Construction Standards (Pierce County Code, Title 17B) and Pierce County Storm Drainage and Site Development Regulations (Pierce County Code, Title 18C)

The County Development Engineering Division will likely require a site development permit for the upland work (should the proposal receive approval).

Pierce County Environmental Regulations (Pierce County Code, Title 18D)

As addressed previously in this report, environmental (SEPA) review is on-going.

Pierce County Critical Area Regulations (Pierce County Code, Title 18E)

Based on this Code, it is potentially possible that the County Resource Management Division may require wetland (Chapter 18E.30) and/or fish and wildlife species/habitat area (Chapter 18E.40) reviews. The Health Department may require aquifer recharge/wellhead protection review (Chapter 18E.50). Further, the County Development Engineering Division may require flood hazard (Chapter 18E.70), landslide hazard (Chapter 18E.80), and/or erosion hazard (Chapter 18E.110) reviews.

Staff Comment: The Applicant did submit a report titled “Shoreline, Fish and Wildlife Habitat and FEMA Habitat Assessment Report and Conceptual Mitigation Plan” dated May 29, 2020 and prepared by Soundview Consultants. However, WDFW does seem to want more information, notably an underwater survey of any aquatic vegetation that may exist.

Pierce County Design Standards and Guidelines (Pierce County Code, Title 18J)

Section 18J.10.040 B.3. states that this Title does not apply to the following: “Water dependent uses regulated and conducted within the jurisdiction of the Pierce County Shoreline Management and Use Regulations.”

Pierce County Shoreline Policies and Regulations (Pierce County Code, Title 18S)

This Code went into effect in 2018. It applies to, among others, Puget Sound and the uplands within 200 feet of the ordinary high-water mark (OHWM) of Puget Sound. This Code consists of policies and regulations regarding development within these areas.

Staff Comment: As with the Key Peninsula Community Plan, again, there are several Shoreline policies and regulations that could apply to this proposal but would result in an excessively long report. Therefore, Staff has only identified the ones that are applicable, are noteworthy, and/or are potential areas of concern relative to this proposal:

1. 18S.20.020 Shorelines of Statewide Significance.

The portions of the site located waterward of extreme low tide (approximately -4.5 feet) and abutting uplands are designated a Shorelines of Statewide Significance. The Act affords special

consideration to Shorelines of Statewide Significance that have greater than regional importance. Preferred uses for Shorelines of Statewide Significance, in order of priority, are to "recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long-term over short-term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned shoreline areas; and increase recreational opportunities for the public in the shoreline area."

Staff Comment: Phase 1 would appear consistent with this designation. However, Phases 2 and 3 may not. Adding additional moorage space and overwater coverage could impact the natural character of the shoreline. A question exists as to if the existing marina and/or Phases 2 and 3 (in conjunction with the facility abutting to the north) is too large for Filucy Bay. For example, do these marina related uses overwhelm the bay to the detriment of other uses including for abutting residences, other public recreation uses (such as fishing and shellfish harvesting), and use by fish/wildlife. In addition, the use on summer/holiday weekends (including rafting of vessels) does/could create potential noise, fire hazard, parking, and pedestrian safety impacts. Notably, the parking lot is small and located on a blind curve. A few additional parking spaces may be achieved with the proposal (vehicles may be able to park on top of the holding tanks). However, if a pathway or shuttle were provided to the LIC property 3,000 feet to the north this could address parking and pedestrian issues.

For comparison sake, similar concerns about overutilization, fire hazards, parking, etc. have come up in the past on Anderson Island's Oro Bay. The south side of that bay is occupied by a out-stations for the Tacoma Yacht Club, Bremerton Yacht Club, as well as the Oro Bay marina. On holiday/summer weekends, it can become party town.

2. 18S.20.070 - Aquatic Shoreline Environment Designation (SED)

The Aquatic SED applies to all shoreline areas waterward of the ordinary high-water mark. There are two separate SEDs (Marine and Freshwater). The intent of the Aquatic SED is to protect, restore, and manage the unique characteristics and resources of marine and fresh waters. The following are the management policies (ones that clearly do not apply have been omitted):

- A. All development on navigable waters and submerged lands should be located and designed to minimize interference with surface navigation, to reduce impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- B. Development that adversely impacts the ecological functions of marine and freshwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when all identified impacts are mitigated as necessary to assure maintenance of shoreline ecological functions and processes.
- C. Shoreline development and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- D. New over-water structures should only be permitted for water-dependent uses or public access. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- E. Multiple uses of the same over-water facility should be encouraged.

Staff Comment: As addressed previously in this report, Phase 1 would appear consistent with this designation. However, Phases 2 and 3 may not.

3. 18S.20.060 High Intensity Shoreline Environment Designation (SED).

The upland portion of the marina is designated High Intensity. This designation typically is applied to public roads located within 200 feet of the shoreline. The intent of the High Intensity SED is to provide for high-intensity water-oriented commercial, transportation, and industry development that foster economic development while protecting existing shoreline ecological functions, and to restore ecological function on previously degraded sites. The following are the applicable management policies (ones that clearly do not apply have been omitted):

- A. The first priority for development shall be intensive water-dependent uses. The second priority shall be water-related and recreational uses.
- B. Development shall be designed to ensure no net loss of ecological functions. Some instances may involve off-site mitigation outside of the High Intensity SED due to site limitations and the need for effective mitigation measures.
- C. Visual and physical access should be required where feasible and where public safety can be assured.
- D. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate location of development, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. Non water-oriented uses should not be allowed except as part of a mixed-use development.
- F. Non water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the water's edge. Such situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-201(3)(d)(ix).
- G. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant State and Federal law.

Staff Comment: As addressed previously in this report, Phase 1 would appear consistent with this designation (although a question exists as to why the holding tanks could not be located further from the shoreline). However, Phases 2 and 3 may not be consistent. A primary concern regarding Phase 3 is whether the bathroom really needs to be located overwater. Although less convenient, it clearly could be located upland. With that said, an upland bathroom may further reduce the amount of limited parking available.

4. 18S.30 General Policies and Regulations

The purpose of this Chapter is to provide general development policies and regulations that are, or could be, applicable to all shoreline uses and development in all shoreline environment designations.

- A. 18S.30.020 Archaeological, Cultural, and Historic Resources.

Staff Comment: The site is historic. The proposal appears to meet the intent of this Section. However, notice of the proposal has been sent to Indian Tribes, Washington State Department of Archaeology and Historic Preservation, and the County Historical Officer. At this time, Staff has only heard from the Nisqually Tribe which has no concerns.

B. 18S.30.030 Ecological Protection. The intent of the Ecological Protection policies and regulations is to ensure that shoreline development is established and managed in a manner that protects existing ecological functions and ecosystem-wide process and that mitigates adverse impacts to ecological functions. This means assuring no net loss of ecological functions and processes in shorelines, and protecting critical areas designated in Title 18E (County Critical Area regulations).

Table 18S.30.030-1. Mitigation Sequencing	
Higher Priority  Lower Priority	Avoiding the impact altogether by not taking a certain action or parts of actions.
	Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
	Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
	Reducing or eliminating the impact over time by preservation and maintenance operations.
	Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
	Monitoring the impact and compensation projects and taking appropriate corrective measures.

Staff Comment:

- Mitigation sequencing (as shown above) is a big focus of this Section.
- Table 18S.30.030-2 addresses buffers and setbacks. In the High Intensity shoreline designation, the required buffer from the shoreline is 0 feet for water-dependent uses or those portions of a use that are water-dependent. However, the buffer is 50 feet for non water-dependent uses or those portions that are not water-dependent. The upland holding tanks do not appear to be water dependent, as they do not have to be within 200 feet of the shoreline to function (although in this case space is limited on-site). As such, it is unclear to Staff why the tanks could not at least be located outside of the 50-foot buffer (it appears there is space).
- Phases 2 and 3 of the proposal may not meet the intent of the “no net loss” concept. Although the proposal would result in upgrades to the facility (modern pilings, flotation, and decking surfaces) the proposal may not fully mitigate the impacts. WDFW echoed the same comments as addressed previously in this report.
- Opportunities should be explored for installing upland vegetation along the shoreline. However, the upland area is limited and would likely worsen the parking situation.

C. 18S.30.040 Excavation, Dredging, Filling, and Grading.

Staff Comment: Approximately 100 cubic yards would be required to install the underground holding tanks. However, the proposal appears to meet the intent of this Section.

D. 18S.30.050 Shoreline Access.

Staff Comment: This site is open to the public and provides public access. The proposal would improve public access. The proposal appears to meet the intent of this Section.

E. 18S.30.060 Scenic Protection and Compatibility.

Staff Comment: The existing facility impacts views to a certain extent and the proposal may further impact views. Views (and what one finds objectionable) can be quite subjective from person to person. The proposed overwater bathroom would only be about 10 feet tall.

F. 18S.30.070 Shoreline Stabilization.

Staff Comment: The site has an existing bulkhead. However, no additional bulkheads are proposed. The proposal meets the intent of this Section.

G. 18S.30.080 Shoreline Modifications.

Staff Comment: No dike, breakwater, pier, weir, dredged basin, fill, bulkhead, etc. are proposed. The proposal meets the intent of this Section.

H. 18S.30.090 Water Oriented Development. The intent of the Water Oriented Development policies and regulations is to ensure that water-dependent, water-related, or water-enjoyment, or a combination of such uses, is preferred in shorelines.

Staff Comment: The proposed overwater bathroom may not meet the intent of this Section. Further, parking areas shall be located outside shorelines unless no feasible alternative location exists. In this case, an upland parking lot already exists.

I. 18S.30.100 Water Quality, Stormwater, and Nonpoint Pollution.

Staff Comment: Phase 1 would clearly meet the intent of this Section. Phase 2 and 3 could potentially increase pollution by resulting in increased usage of the facility.

5. 18S.40 Use and Development Policies and Regulations.

To implement this Title, various types of uses and development anticipated to be carried out on, or occupy, shorelines have been grouped into categories. The categories are the mechanism for applying appropriate policies and regulations to different types of uses and development. This Chapter lists the categories and the corresponding policies and regulations.:

A. 18S.40.050 Commercial, Civic and Industrial.

Staff Comment:

- The proposal includes mitigation to address impacts of the proposal including improvements to water quality and replacement piling, flotation, and decking surfaces.
- The proposed overwater bathroom may not meet the intent of this Section.
- The application materials may not have provided all the information required in Chapter 18S.70 – Appendix D Commercial, Civic and Industrial Application Requirements.

B. 18S.40.090 Recreation.

Staff Comment: The following aspects of the proposal may not meet the intent of this Section.

- As noted in the Shorelines of Statewide Significance section of this report, Staff has concerns regarding Phases 2 and 3. Specifically, is the use of the site already maximized and does/would use of the marina overwhelm the bay to the detriment of other uses including for other public recreation uses (such as fishing),
- The floating bathroom may not meet the intent of this Section.
- This Section states that over-water recreational structures shall not exceed more than 15% of the fetch (further discussed later in this report under the Water Access Facilities section).

C. 18S.40.120 Transportation.

Staff Comment: It is questionable whether this Section applies to this proposal. However, if it does, the issues are addressed in other Sections listed in this report.

D. 18S.40.130 Utilities.

Staff Comment: Although some utility work is proposed, the intent of this Section applies to where utilities are the principal use of the site (such as a dam, transmission lines, stormwater outfall, etc.).

- E. 18S.40.140 Water Access Facilities. The intent of this Section is to manage development of facilities that support water dependent uses such as mooring buoy, mooring piling, float, lift, railway, launching ramp, dock (pier, ramp, and/or float), marina, and water access stairs.

Staff Comment: The following aspects of the proposal may not meet the intent of this Section.

- The existing marina, proposed Phase 2/3 expansion, and the associated impacts may be too much for the area (especially as it is located in a constricted body of water).
- In a constricted body of water, docks, shall be allowed only where there is one surface acre of water within the constricted body.
- The existing facility already far exceeds the amount of moorage spaces relative to the amount of shoreline footage (60-70 feet) the site has. Phases 2 and 3 would only add to that. Refer to Section 18S.40.140 E.1.
- Over-water recreational structures shall not exceed more than 15% of the fetch. This site is in a bit of a pinch point between land masses. As measured from the landward end of the pier, based upon how fetch is measured in the regulations, the fetch is approximately 450 feet to the abutting land to the north, 550 feet to the abutting land to the south, and 2,300 feet to the east. The existing facility extends approximately 500 feet into the water, which exceeds the fetch no matter how it is measured.
- Maximum intrusion into the water shall be only so long as to obtain a depth of 8-feet of water as measured at mean lower low water (MLLW) on saltwater shorelines, shall not exceed the lesser of 15 percent of the fetch or the maximum allowed length. Staff does not know the current or proposed water depth at the end of the marina. However, the existing

marina currently far exceeds the fetch measurement and the proposed pier expansion (Phase 2) would only add to that.

- Again, is the overwater bathroom an appropriate overwater use.

6. 18S.60.030 Shoreline Permit Table.

This table lists out categories of common uses/development and shows what permits are required for those uses in the SEDs. Further, some of those categories are further broken into different levels including for water-oriented and non-water oriented which are defined in Chapter 18S.70, Appendix A. For example, "Water-Oriented" is defined as a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Staff Comment: Of the uses listed in the table, this proposal appears to fit into multiple categories as addressed previously in this report. In reviewing all these categories, the proposal appears to require the following permits/ approvals: Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Shoreline Variance.

7. 18S.60.040 Shoreline Substantial Development Permit.

Shoreline Substantial Development Permits shall be reviewed administratively and shall include public notice and comment. This review process is required to ensure that the development, if established, will be in full compliance with applicable development regulations, the County Comprehensive Plan, applicable community plans, adjacent development, planned uses, and the character of the surrounding area.

Staff Comment: This permit is required for the entire proposal (all phases) as the proposal does not meet any of the Exemptions to a Shoreline Substantial Development Permit addressed in Section 18S.60.020. In terms of this permit being requested, as addressed previously in this report, Phase 1 appears to meet the criteria for this permit. However, it is more questionable for Phases 2 and 3.

8. 18S.60.060 Shoreline Conditional Use Permit.

The purpose of a Shoreline Conditional Use Permit is to allow flexibility in the application of development regulations in a manner consistent with the policies of the Shoreline Management Act (Act). Conditions may be attached to the permit to prevent undesirable effects of the proposal to assure consistency of the project with the Act and the Master Program.

Staff Comment: This permit appears required for the entire proposal (all phases). As addressed previously in this report, Phase 1 appears to meet the criteria for this permit. However, it is more questionable for Phases 2 and 3. Notably, one of the criteria requires consideration be given to the cumulative impact of additional requests for like actions in the area and shall not produce substantial adverse effects to the shoreline environment.

9. 18S.60.070 Shoreline Variance.

The purpose of a Shoreline Variance is limited to granting relief from dimensional standards found in this Title (e.g., buffer, height, or lot coverage requirements) where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this Title will impose unnecessary hardship on the applicant or thwart the policies found in the Shoreline Management Act (Act).

Staff Comment: The Variance appears necessary for the following: upland holding tanks within the 50-foot buffer, marinas are limited to a depth of 8 feet, fetch is limited to 15%, and the number of moorage spaces exceeds the amount allowed relative to shoreline frontage. Note, there are various sections in the Shoreline Regulations that say a dock “shall not” exceed 15% of the fetch which, therefore, is questionable if a variance can even be obtained for that aspect. Overall, for Phases 2 and 3, Staff does raise the question that if so, many variances are required for a proposal, is that an indication that maybe the proposal is not necessarily be appropriate for this specific location? By absolutely no means is Staff attempting to shut down the existing marina or say it is not appropriate for the area. Instead, Staff is just raising the potential concern that perhaps the expansion proposed in Phases 2 and 3 may not be appropriate.

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