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**DEPARTMENT OF COMMUNITY PLANNING
AND ECONOMIC DEVELOPMENT**

Creating Solutions for Our Future

Joshua Cummings, Director

**THURSTON COUNTY COMMUNITY
PLANNING & ECONOMIC DEVELOPMENT REPORT**

HEARING EXAMINER HEARING

October 22, 2019

PROJECT NO.: 2019100758, Manke Reasonable Use Exception, Shoreline Conditional Use Permit, and Shoreline Substantial Development Permit

SEQUENCE NO.: 19 102076 XI; 19 102079 XK; 19 102080 XC; 19 102077 XA

APPLICANT: Scott Manke

PROPONENT: Kathy Hargrave, Sitts and Hill Engineers, Inc.

REQUEST

The Applicant requests approval of three permit applications: a Reasonable Use Exception to add square footage to an existing house and permit two accessory buildings constructed in the critical area buffer without permits; a Shoreline Substantial Development Permit for an existing stair tower to the beach; and a Conditional Use Permit for unpermitted retaining walls in the shoreline jurisdiction.

GENERAL INFORMATION

- A. Applicant: Scott Manke
9020 Baird Road NE
Olympia WA 98158
- B. Representative: Kathy Hargrave
Sitts & Hill Engineers, Inc.
4815 Center Street
Tacoma WA 98409

- C. Location: 9020 Baird Road NW, Olympia, WA
- D. Legal Description: 4-19-1W 4.76A LOT 2 LESS 19.59A
Tax Parcel No. 11904130700
- E. Area: 4.76 Acres

PROJECT DESCRIPTION

The Applicant seeks approval of a Reasonable Use Exception (RUE) to construct an addition to a single-family residence, and get approval for three unpermitted structures, all within wetland, marine, and stream buffers. Based on the RUE application, the proposed kitchen addition amounts to 341 square feet; the bonus room addition would be added as a second story above the existing garage, and the new garage addition would add approximately 531 square feet bringing the total to approximately 1,100 square feet. The unpermitted office sanctuary is described at 784 square feet. Although the unpermitted utility shed is smaller than 400 square feet and does not require a building permit, it is required to meet development standards and critical area setbacks.

This review also includes a Shoreline Substantial Development Permit (SSDP) application for an existing unpermitted stair tower and a Shoreline Conditional Use Permit application for retaining walls within the shoreline jurisdiction. Each element of the proposal will be analyzed separately within this staff report.

The parcel in question is at the tip of a small peninsula in Puget Sound, and is designated a conservancy shoreline which is regulated by the Critical Areas Ordinance (CAO) in Thurston County. Baird Cove, an estuary, is to the west and an unnamed stream is on the east. There are confirmed wetlands on a sandbar on the beach near the foot of the marine bluff. These wetlands and other critical areas are addressed in a Critical Areas Report and Habitat Management Plan (Attachments l and m) submitted by Grette Associates.

Conservancy shorelines in Thurston County are regulated through TCC 24.25.050 and have a buffer of 250 feet, the required setback for any new development. The Critical Areas Report designates a 220-foot buffer for the beach wetland; this buffer is eclipsed by the Conservancy shoreline buffer, so is not meaningful for this proposal. Marine bluff hazard areas are regulated by TCC 24.15.015(B)(2), stating that the setback shall be a distance from the Ordinary High Water Mark landward at a slope of 2:1 (horizontal to vertical) which intersects with the topography of the site; or the minimum distance recommended by a geotechnical assessment. Based on elevation tools, the marine bluff is approximately 33 feet high, creating a setback of at least 66 feet. This setback is also eclipsed by the 250 conservancy shoreline buffer. Pursuant to TCC 24.25 -1, the standard riparian habitat buffer width for a stream draining directly to Puget Sound is 150 feet (east side of parcel).

To clarify, although many critical areas encumber this parcel, the overriding buffer for all development, unpermitted and proposed, is the conservancy shoreline buffer of 250 feet.

BACKGROUND

The subject property is located in rural Thurston County and is zoned Rural Residential Resource One Dwelling Unit per Five Acres (RRR 1/5). The property contains wetlands, a conservancy shoreline, an unstable marine bluff, and a stream. Wetlands, streams, landslide hazards, and conservancy shorelines are critical areas subject to requirements of the Thurston County Critical Areas Ordinance (CAO, TCC 24).

The subject property is 4.76 acres. It is a level lot except for the marine bluff, which is over 30 feet high. The perimeter of the upland portion of the parcel has well-established trees, the remainder of the lot is lawn and hard surfaces. Existing development (impervious surface area) on site is approximately 17,000 square feet, or approximately 13% of the upland parcel area. Surrounding land uses consist of low density single-family residences and large forested tracts.

The applicant originally submitted an application June 22, 2017 for shoreline stabilization, including a log bulkhead. During a site visit, staff discovered several unpermitted structures within critical area buffers, including a stair tower, a detached accessory structure, retaining walls, and a detached garage. During that review, staff required the applicant to apply for development permits, which are now under consideration through this review.

The Reasonable Use Exception application is required for the unpermitted garage, office/sanctuary, and proposed home addition. The Conditional Use Permit application is for the retaining walls within the shoreline buffer. The Substantial Shoreline Development Permit application covers the unpermitted stair tower.

The Reasonable Use Exception, Conditional Use permit, Shoreline Substantial Development, and required SEPA applications were submitted to the County for review on February 21, 2019. (Attachments f, g, and h). The applications were deemed complete for purpose of beginning project review on March 15, 2019.

NOTIFICATION

Written notice of the public hearing was sent to all property owners within 500 feet of the site on October 04, 2019 and notice was published in The Olympian on October 11, 2019, at least ten (10) days prior to the hearing. The site was posted on October 10, 2019.

STAFF ANALYSIS FOR REASONABLE USE EXCEPTION

A. Zoning (TCC 20)

The RRR 1/5 zoning district (TCC 20.09A) allows certain primary uses (TCC 20.09A.020). Single-family residences are allowed as primary uses, subject to applicable design standards. The minimum property line setbacks for all structures larger than 125 square feet are: 20 feet from the front property line, 5 feet from the side property lines, and 5 feet from the rear property line. For this property, the rear line is within critical area buffers, so the rear setback would be determined by CAO regulations, or 250 feet.

Pursuant to TCC 20.09A.050, the maximum coverage by hard surfaces is 10% of the parcel, or in this case, 10% of the upland portion of the parcel (excluding that area located in the tidelands). The upland portion of this parcel is approximately 2.86 acres, or 124,582 square feet. This allows for 12,458 square feet of impervious surface area. Based on aerial photo calculations, the current impervious surface area exceeds 17,000 square feet.

The definition of “impervious surface” is found in TCC 20.03.68.2 and reads: a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

In a letter dated May 8, 2019, staff requested a recalculation of the impervious surface that excludes the tidelands. No recalculation was forthcoming. The revised site plan submitted July 10, 2019 retains the original, erroneous calculation.

B. Critical Areas Ordinance (CAO, TCC 24)

The property contains a stream, conservancy shoreline, wetland, and marine bluff hazard area. Chapter 24.25 of the CAO has standards and limitations for development of property containing stream and conservancy shoreline buffers. Chapter 24.30 of the CAO contains standards and limitations for development of property with wetlands and wetland buffers. TCC 24.15 outlines standards for development near landslide hazards, and TCC 24.24 regulates riparian areas.

The applicant’s parcel is located within a shoreline of Puget Sound that is designated Conservancy, as adopted by the Shoreline Master Program Thurston Region and the Critical Areas Ordinance (adopted July 24, 2012). The required buffer for a conservancy shoreline is 250 feet, with an additional riparian management zone of 50 feet. TCC

24.25.050 states that the “marine riparian habitat areas shall be retained in their existing condition, except as explicitly authorized by this chapter.” The existing home is legal, but non-conforming.

Critical Areas Ordinance General Requirements:

A. Avoid impacts. All uses and activities on sites containing critical areas and/or associated buffers or riparian or marine shoreline management zones shall be located, designed, and constructed to avoid, or where that is not possible, minimize all adverse impacts to critical areas, associated buffers designed to protect the functions of critical areas and management zones. The County shall not authorize impacts to critical areas or buffers unless the applicant demonstrates an inability to avoid impacts and that there will be no net loss of critical area functions as required in subsection (B). Impacts to critical areas and associated buffers that cannot be avoided shall be minimized by sensitive site design and appropriate precautions during the permitted activity and as specifically provided for in this title.

Staff finds that critical area impacts were not avoided or minimized by sensitive design.

B. No net loss of critical areas functions. Uses and activities carried out pursuant to this title shall result in equivalent or, if the applicant chooses, greater critical area functions. Impacts to critical areas and associated buffers designed to protect the functions of critical areas, shall be repaired or mitigated through restoration, replacement, enhancement, or through purchase of credits at a mitigation bank consistent with the applicable provision of this title.

Staff finds this criterion has not been met. The Habitat Management Plan submitted with the application provides no mitigation beyond erosion control during future construction.

C. Monitoring. In addition to the specific monitoring requirements in this title, the approval authority may require that permitted uses and mitigation projects be reviewed at appropriate intervals as necessary to ensure that they are functioning consistent with the project approval and applicable provisions of this title. The approval authority may require remedial action as warranted to correct problems identified during monitoring to avoid degradation of critical areas and associated buffers designed to protect the functions of critical areas, and to ensure that any required mitigation is successful.

This applies to permitted uses. Mitigation may be required and assessed, depending on the outcome of the examiner’s decision.

D. Access to enable administration. Property owners shall grant access to the county, or designee, for the purpose of inspecting sites proposed for development and performing monitoring required pursuant to this title. County personnel shall present proper credentials and make a reasonable effort to contact the property owner before entering onto private property.

This provision depends on the outcome of the examiner’s decision.

E. N/A

F. N/A

G. Construction setbacks. Construction activity must occur outside of the critical area and associated buffer unless specifically authorized pursuant to this title. Structures or uses requiring a permit shall be set back a minimum of fifteen feet from wetland buffers, riparian habitat areas, marine buffers, important habitat buffers, priority species conservation areas, and landslide hazard buffers unless the applicant demonstrates to the approval authority's satisfaction that the proposed construction activity will not encroach into the protected area. Structures and uses not requiring a building permit are required to observe the setbacks and other requirements of this title.

This is not possible to achieve in the proposed home addition.

For existing development where the standards of the CAO would limit expansion, the Existing Nonconforming Uses, Structures and Lots chapter applies (TCC 24.50). Chapter 24.50.025 would allow expansion of impervious surfaces by 500 square feet if several criteria are met.

A. All new impervious surfaces, which include structures, will be sited at a distance that is greater than or equal to the original structure setback from the water body. *Staff finds this criterion is not met regarding the proposed home addition. This criterion may be met for the unpermitted garage and the office/sanctuary, but for the fact that they both exceed 500 square feet.*

B. The expansion would occur at least one hundred feet from a Type S or F stream and Type N stream draining to a Type S or F stream or marine waters. *Staff finds this criterion is not met regarding the proposed home addition, which is within 100 feet of the stream; the existing detached garage and office/sanctuary were built less than 100 feet from marine waters, and therefore do not comply with 24.50.025.*

C. The area proposed for the expansion was lawfully developed prior to July 24, 2012. *Staff finds this criterion is not met for the unpermitted office/sanctuary or the detached garage.*

D. If the riparian habitat area on the site between the water body and the primary structure has been degraded, the degraded area, or a portion of the degraded area equal to the size of the expansion, whichever is less, will be restored with native vegetation. The degraded area chosen must be the area nearest the most sensitive habitat as determined by the approval authority.

The proposed mitigation outlined in the Habitat Management Plan (HMP) by Grette Associates (Attachment m, p. 11-12), limits mitigation for the proposed home addition to controlling erosion during construction. There is no mitigation proposed for the existing encroachment into the conservancy shoreline buffer.

- E. The expansion, coupled with any proposed mitigation, would be at least as effective in protecting all of the riparian habitat or pond buffer's functions as under current conditions.

Not applicable as there is no real mitigation proposed.

- F. The proposed expansion would be consistent with the Shoreline Master Program for the Thurston Region, as amended, the impervious surface limits in the applicable zoning district, and other applicable provisions of this title.

Staff finds that these criteria are not met.

- G. The applicant provides a performance surety consistent with Title 24.70 to ensure survival or replacement of plants used in the restoration.

Not applicable.

- H. No previous expansion has been allowed pursuant to this subsection.

No previous expansion has been allowed.

- I. The applicant will record a document with the subject property's title indicating that no further expansion of the structure's foot print or impervious surface is allowed within the riparian habitat area on the property.

N/A

C. SEPA Environmental Checklist

Any work in or over water requires a SEPA Environmental Checklist application. The unpermitted stair tower triggered this requirement. On March 20, 2019, Notice of Application (Attachment r) was mailed to neighbors within 500 feet and agencies with jurisdiction. Comments were received from Nisqually Tribe, Olympic Region Clean Air Agency, Washington Fish and Wildlife, and Washington Department of Ecology.

A Mitigated Determination of Non-significance was issued October 4, 2019 with conditions (Attachment s).

D. Reasonable Use Exception (TCC 24.45)

The Thurston County Critical Areas Ordinance sets out the process and criteria for any property owner to apply for a Reasonable Use Exception to carry out a land use or activity that is prohibited by the Ordinance (TCC 24.45). The CAO includes eight review criteria that the hearing examiner must consider when determining whether to approve or deny the request (TCC 24.45.030). The eight criteria analysis below will address the Conservancy shoreline, marine bluff landslide hazard, and the estuarine wetlands. Those criteria, along with staff analysis of each, are as follows:

1. No other reasonable use of the property as a whole is permitted by this title.

The entire property except for a small area in the southeast corner is covered by conservancy shoreline and stream buffers. The subject property is 4.76 acres, about half of which is tidal. It is located within the Rural Residential Resource One Dwelling per Five Acres (RRR 1/5) zoning district of rural Thurston County. Permitted uses are single-family residences and agriculture (TCC 20.09A.020). According to Thurston County Assessor's website, the parcel has a 3,000+ square foot home with an attached garage of 700 square feet. Based on Thurston County's zoning code, this development constitutes reasonable use.

2. No reasonable use with less impact on the critical area or buffer is possible. At a minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design. This may include a variance for yard and setback standards required pursuant to Titles 20, 21, 22, and 23 TCC.

If a single-family residence is deemed a reasonable use, then the applicant has reasonable use. The answer to this question on the application addresses only the proposed intensification of the existing use but does not address the unpermitted structures.

The application states that "no change to the proposed work would result in less impact to the critical areas or buffers"—there is no mitigation offered for the proposed expansion of the home and garage or the ongoing impacts of the unpermitted structures.

Staff finds that the proposed addition meets the landslide hazard buffer standard, but not the conservancy shoreline or the Type N stream buffer of 150 feet. Avoiding the proposed work would have less impact to all buffers.

3. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the development proposal site, or increase public safety risks on or off the subject property.

Based on a site visit by planning staff and Thurston County geologist, the shoreline bluff is eroding from the top, most likely from increased surface water caused by impervious surfaces. Although at first glance it may seem that this will only damage the applicant's property, it is feasible that continual sloughing of the bluff could cause damage to the waters around Zittle's Marina, which is in the immediate vicinity. Zittle's must occasionally dredge the area to utilize their marina. This dredging has an environmental and economic impact.

4. **The proposed reasonable use is limited to the minimum encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property.**

Staff finds that the existing home, proposed expansion, and unpermitted structures do not constitute minimum encroachment into the buffers to prevent denial of all reasonable use of the property.

5. **The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions.**

Although the Habitat Management Plan asserts that no critical areas have been degraded (Impact Analysis, Section 4), as noted in other places in this report, Staff finds that the increased and unmitigated impervious surfaces have impacted hydrological and geological conditions. This is addressed in the comment letter submitted by Thurston County Geologist, Mark Biever (Attachment p).

It must be noted that both accessory structures are within the minimum required 50-foot buffer of the marine bluff landslide hazard. The shoreline of this parcel is mapped as unstable in the Washington State Coastal Atlas Map (Attachment bb).

6. **A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site.**

Although Grette Associates submitted a Habitat Management Plan with mitigation proposals, Staff finds that the lack of native vegetation impacted does not demonstrate no net loss, nor does the proposed mitigation suggest any mitigation beyond controlling erosion during proposed new construction. The unpermitted accessory structures and the proposed home expansion fall under avoidable impacts.

7. **The reasonable use shall not result in the unmitigated adverse impacts to species of concern.**

Based on information from Thurston County Geodata, the tidal area in the immediate vicinity is mapped with Rock sole, Sand lance, and Smelt spawning areas. The applicant's Habitat Management Plan lists several other species potentially within the vicinity but does not analyze how there is no net loss.

In the short term, it is difficult to measure whether the unpermitted structures are having impacts to these species. However, the removal of trees over the years (see Geodata aerials over time) to accommodate the two unpermitted structures, combined with the increase of impervious surface, creates more surface runoff. The increased

stormwater is influencing the stability of the marine bluff. Failure of the bluff will cause impacts to any species that spawn on the beach below. In 2015, Thurston County permitted the removal of four large Douglas fir trees on the edge of the bluff (after the development of the two accessory structures), possibly undermined by increased stormwater runoff.

8. The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception.

The location and scale of existing development on surrounding properties is not listed by the Applicant as a reason supporting their request.

E. Shoreline Substantial Development Permit

An SSDP application was submitted to bring an unpermitted stair tower into compliance. The Shoreline Master Program Thurston Region (Section Three, XVI(C)(11)(a-c) allows for beach access with a stair tower designed by a licensed engineer under certain circumstances:

- a) The location proposed is mapped as “unstable” or “Intermediate Stability” in the Washington Coastal Zone Atlas.
Staff finds this criterion is met.
- b) All stair towers 24 feet in height or greater.
Staff finds that the existing stair tower is at least 24 feet high, but the applicant has not demonstrated that it has been designed by an engineer. If the stair tower is approved through the SSDP, a building permit will be required. An engineer’s stamped design must be submitted to Thurston County Building Department.
- c) Other instances where the building official determines that site conditions dictate the preparation of plans by a licensed civil engineer.
N/A
- d) Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.
Staff finds this criterion is met.

Because this proposal is within a conservancy shoreline designation, it is also subject to the Critical Areas Ordinance. TCC 24.25.310 has four criteria:

- A. Avoid Habitat Impacts. Stair towers shall not be located, designed, or constructed such that they would ground on Surf smelt, pacific sand lance, or herring spawning beds, or on eelgrass beds.
Staff finds that this criterion may not be met. The stair tower is in a mapped Surf smelt spawning area.
- B. Treated wood. Any treated wood proposed to be used in the construction of the stair tower that would be placed in, over, or within 100 feet of the water is subject to county approval. Only treatments that pose a negligible risk to water quality shall be permitted.

The type of materials used to construct the unpermitted stair tower are unknown to staff.

- C. Armoring. Riprap or other armoring shall not be placed on a beach to protect stair towers.

No riprap or other armoring has been used to protect the stair tower.

- D. Footprint: The footprint of the stair tower shall be the minimum necessary to accommodate the proposed use.

It appears that a storage shed is incorporated into the base of the stair tower (Attachment cc), therefore staff finds that this criterion is not met.

F. Shoreline Conditional Use Permit

A Shoreline CUP application was submitted to address unpermitted shoreline development in the form of retaining walls. It appears from aerial photos and site visit documentation (Attachment dd) that the retaining walls are necessary due to a road cut into the hillside used for beach access.

Any proposal within a shoreline buffer must be reviewed prior to permit issuance.

Conservancy shorelines are regulated under the Critical Areas Ordinance, TCC 24.25.045. Pursuant to TCC 24.25.050(A), marine riparian habitat areas shall be retained in their existing condition, except as explicitly authorized by this chapter.

Table 24.25-3 lists approvable uses and restrictions within marine habitat areas and buffers. The table indicates that slope stabilization or retaining walls (not a bulkhead) are permitted subject to requirements of Title 24.25. TCC 24.25.300 addresses shoreline and slope stabilization.

A) N/A (refers to bulkheads)

- B) Bioengineering. Stabilization of stream, lake, pond and marine shorelines, if necessary, shall be accomplished with bioengineering or similar soft stabilization techniques unless the applicant's qualified engineer and biologist demonstrates that such techniques are not sufficient to protect structures and facilities listed in this section from erosion and slope failure. The stabilization shall be designed and installed to minimize adverse impacts on the habitat's functions.

Staff finds this criterion has not been met. It has not been demonstrated that an engineer has analyzed the retaining walls and excluded the possibility of using bioengineering methods. However, through a site visit, staff finds that the road cut for which the retaining walls were constructed are likely the minimum necessary for the unpermitted home office/sanctuary structure, which is built nearby.

- C) Combination of Bioengineering and Hard Armoring. If the applicant's qualified engineer and biologist demonstrate to the approval authority's satisfaction that bioengineering alone will not be sufficient to protect structures and facilities listed in this section, the approval authority, in consultation with a biologist and qualified engineer, at the applicant's expense, may authorize a combination of bioengineering and structural solutions that is least damaging to the habitat. The stabilization shall be designed and installed to minimize adverse impacts on the habitat's functions. The structural stabilization solutions shall comply with subsection (D) below.

Staff finds this criterion has not been met.

- D) Structural Techniques. If the applicant's qualified engineer and biologist demonstrate to the approval authority's satisfaction that the nonstructural techniques provided for in this section are not possible or will not be sufficient to protect structures and facilities listed in this section from erosion and slope failure, they may, in consultation with a biologist and qualified engineer at the applicant's expense, propose a structural stabilization solution consistent with the following:

1. Hard armoring, such as rip-rap and bulkheads, may only be used when the applicant demonstrates to the approval authority's satisfaction that a public facility, public road, utility (not individual service lines that can be relocated), sole access road, or occupied structure cannot be safely and practically maintained without such measures. The armoring shall be the minimum dimension necessary to protect the structure.

Does not apply to retaining walls.

2. Hard armoring shall not be allowed along Type S or F streams, in marine habitat areas, or in salmonid spawning, migration or rearing areas unless it is necessary to protect critical public facilities, human life, or a threatened dwelling.

Staff finds that the unpermitted retaining walls do not meet this criterion.

3. Structural techniques shall only be allowed along riparian habitat areas when:
 - a. It is to protect a legally permitted threatened structure; and
The unpermitted retaining walls do not meet this criterion.
 - b. The residence and normal appurtenances are located within the 2:1 slope measured from the toe of the bluff or within the fifty-foot top of slope buffer, whichever is greater; and
The appurtenant structures are located with the 2:1 slope.
 - c. Only if a geotechnical assessment complete per Chapter 24.35 TCC finds that the structure to be protected will be threatened based on the long-term erosion rate (thirty—fifty-year average) within the next three years if toe protection is not provided.

This applies only to bulkhead armoring.

G. Commenting Agencies

Review agencies have submitted their comments, which are attached and made part of this report.

The Environmental Health section of the Thurston County Public Health and Social Services Environmental Health Division reviewed the project for compliance with health codes. The Environmental Health Department requested information in a July 23, 2019 letter (Attachment y). The requested information was not forthcoming. Environmental Health was unable to recommend approval of the project (Attachment z).

The Washington State Department of Ecology submitted two comment letters. One addresses the nearby contaminated site and instructions for the potentiality of discovering contaminants on site. The second letter addresses shoreline regulations for the unpermitted structures (Attachment q).

Olympic Region Clean Air Agency (ORCAA) submitted comments regarding asbestos testing and asbestos abatement information (Attachment aa).

H. Comprehensive Plan

The Comprehensive Plan designation for the subject property is Rural Residential Resource– One Dwelling Unit per Five Acres (RRR 1/5) in rural Thurston County. This designation was created to maintain the rural character of the county; to buffer environmentally sensitive areas and resource management areas from incompatible activities; and to maintain a balance between human uses and the natural environment (Section 2-19 – Land Use).

The proposal is for single-family residential accessories, a use allowed in this zoning designation. However, Chapter 9 recognizes the natural environment as one of Thurston County's most important assets and addresses natural hazards. The comprehensive Pan requires development of the Critical Areas Ordinance to regulate development within and around these natural assets and hazards (9-21 E Goals, Objectives, and Policies).

DEPARTMENT RECOMMENDATION

If the examiner finds that the criteria for approval are satisfied, Staff recommends the following conditions to ensure compliance with applicable development standards and regulations:

1. The applicant shall submit building permit applications for all buildings requiring building permits and shall complete any requirements deemed necessary by Thurston County

building department. Prior to, or in conjunction with, the issuance of any building permit, all applicable regulations and requirements of the Thurston County Public Health and Social Services Department, Public Works Department, Fire Marshal and Thurston County Community Planning and Economic Development Department shall be met.

2. The applicant shall submit stamped engineered drawings for the stair tower and the retaining walls, as required by Thurston County building department.
3. All construction debris that has been placed in the shoreline buffer/marine bluff shall be removed and taken to an approved upland location.
4. This property is within a quarter mile of a known or suspected contaminated site. The site is Zittle's Marina. If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) at (360)407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Thomas Middleton with the SWRO (360) 407-7263.
5. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the applicant's responsibility to obtain this permit if required.
6. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.
7. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified [Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300].
8. The Applicant shall contact Nisqually Indian Tribe ((360)456-5221)) and the Department of Archaeological and Historic Preservation ((360) 586-3065)) if, during any development work, any artifacts or human remains are discovered.
9. The applicant shall acquire all necessary permits from other agencies, including WDFW.

10. The applicant shall provide a meaningful mitigation plan for all impacts, existing and proposed. The mitigation plan shall be approved by staff and implemented prior to any certification of final occupancy of any building permit.



Leah Davis
Associate Planner

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LIST OF EXHIBITS

- EXHIBIT 1 Land Use and Environmental Review Section Report with the following Attachments:
- Attachment a Notice of Public Hearing
 - Attachment b Project matrix
 - Attachment c Master Application, received February 21, 2019
 - Attachment d Reasonable Use Exception application, received February 21, 2019
 - Attachment e CPED hold letter, dated March 18, 2019
 - Attachment f Reasonable Use Exception application (revised) and RUE narrative addendum (5 pages), dated March 19, 2019
 - Attachment g JARPA application, dated February 21, 2019
 - Attachment h SEPA application, dated February 21, 2019
 - Attachment i Site Plan, (revised) received July 10, 2019
 - Attachment j Site plan (enlarged)
 - Attachment k Hold letter, dated May 8, 2019
 - Attachment l Critical Areas Report (revised), dated May 31, 2019
 - Attachment m Habitat Management Plan, received February 21, 2019
 - Attachment n Geotechnical Report, dated June 22, 2017
 - Attachment o Geological Assessment letter, dated June 14, 2017
 - Attachment p Geotech documents review memorandum from Mark Biever, county geologist (6 pages w/photos), dated April 30, 2019
 - Attachment q Comment letters from Ecology, dated March 21 and April 9, 2019
 - Attachment r SEPA Notice of Application, mailed March 20, 2019

Attachment s MDNS, issued October 4, 2019

Attachment t Comment email from Squaxin Tribe, dated March 13, 2019

Attachment u Comment letter from Nisqually Tribe, dated March 7, 2019

Attachment v Comment email from Chris Edmark, TC Plans Examiner, dated March 7, 2019

Attachment w Memorandum from Amy Crass, Environmental Health, dated June 4, 2019

Attachment x Response letter from Sitts & Hill, dated July 10, 2019

Attachment y Memorandum from Amy Crass, Environmental Health, dated July 23, 2019 (with attached documentation of email being sent).

Attachment z Final memorandum from Amy Crass, Environmental Health, dated October 2, 2019

Attachment aa Email comment from ORCAA, dated March 12, 2019

Attachment bb Aerial photo from Washington Coastal Atlas website showing unstable bluff

Attachment cc Photo of stair tower base

Attachment dd Photo of retaining wall

Attachment ee Photo of construction debris dumped on shoreline bluff

Attachment ff Photo of home office/sanctuary