

Lewis County Community Development Staff Report: Findings, Conclusions and Recommendations for: Shoreline Substantial Development Permit (SHD23-0005)

Project Applicant: Mineral Lake Lions Club

Project Description: Removal of 12 solid surface floating docks. 5 docks to be replaced in the same footprint with new functional grating and replacement of support piling.

Project Location: The project is located at 113 E Front Street, Mineral, Lewis County, WA. Section 09, Township 14N, Range 05E.

Project Parcel Number: on parcel number 011122001001

Shoreline Stream: Mineral Lake

Shoreline Environment: Shoreline High Intensity and Shoreline Residential

Comprehensive Plan Designation: Resource

Zoning Classification: Forest Resource Land

Background Information:

The application was submitted on September 8, 2023 and determined complete to begin review on November 29, 2023. A Master Site Review (MSR23-0522) for critical areas and resource lands will be issued upon final approval and expiration of appeal deadlines of this decision.

Lewis County is Lead Agency for this proposal. The SEPA Checklist, SEPA Threshold Determination and Shoreline Substantial Development Permit Application were routed internally to county departments and externally to federal, state and tribal agencies on December 5, 2023 to request comments. No appeals were received and the DNS Threshold Determination is retained.

The proposed project was reviewed under the Lewis County 2021 Shoreline Master Program and other applicable Lewis County Codes in effect at the time of complete application.

2021 Lewis County Shoreline Master Program Findings:

Applicability: The project is located within the Shoreline Jurisdiction of Mineral Lake and/or its associated wetlands. The 2021 Lewis County Shoreline Master Program applies to this project.

Shoreline Jurisdiction: Yes; Shoreline Residential and High Intensity Environments

Shoreline of Statewide Significance: No

Shoreline Environment Designations:

Shoreline Residential Management Policies:

1. Preserve ecological functions by establishing development standards for shoreline height, shoreline buffers, building setbacks, density, impervious surface coverage, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in shoreline jurisdiction.
2. Provide public access and joint use for community recreational facilities, where feasible and applicable for multifamily developments, residential developments containing more than four lots, and recreational developments.
3. Ensure access, utilities, and public services are available and adequate to serve existing needs and or planned future development.
4. Limit commercial development to water-oriented uses.

Shoreline High Intensity Management Policies:

1. Prioritize uses on sites with physical access to the water in the following order of preference:
 - a. Water-dependent
 - b. Water-related
 - c. Water-enjoyment
2. Allow for non-water-related uses within this designation where water-dependent uses are not feasible, because a lake, river, or stream is unnavigable, or where there is a developed roadway between the OHWM and the proposed use or this designation is used as a parallel designation that is not adjacent to the OHWM.
3. Allow the development of new non-water-oriented uses either as part of a mixed-use development or where the applicant can demonstrate that the use will not conflict with or limit opportunities for water-oriented uses.
4. Design new development located in the shoreline jurisdiction to result in no net loss of ecological function.
5. Restore and remediate shoreline areas within new development sites consistent with State and Federal laws.
6. Require visual and physical access where feasible with physical access prioritized over visual access.
7. Require full use of existing urban lands in shoreline jurisdiction before expanding intensive development.

Staff Response: The project is located in the Shoreline Residential and High Intensity Environments and consists of replacement of previously established docks within the same footprint. The project does not include any landward disturbance. As proposed, the project meets the applicable policies.

General Regulations:

Environmental Impacts and Mitigation:

Regulations:

- A. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations.
- B. Mitigation measures shall be considered and applied in the following sequence of steps, listed in order of priority:
 - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - 2. 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;
 - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - 4. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - 5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - 6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- C. In determining appropriate mitigation measures applicable to development in shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.
- D. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in shoreline jurisdiction.
- E. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation measures that have been identified within a watershed plan, and address limiting factors or other critical resource conservation needs in the shoreline jurisdiction may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

Staff Response: The project will not disturb any wetlands or associated buffers. The docks are water dependent structures and uses and have a zero (0) setback from the ordinary high water mark (OHWM) of Mineral Lake. No clearing or grading is proposed or anticipated for the construction of the docks. Best Management Practices will be utilized to limit impacts to the shoreline

environment during construction. As proposed, the project meets the applicable policies.

Critical Areas and Shoreline Vegetation Conservation:

Regulations:

- A. Critical Areas Ordinance Adopted and Modified.
 - 1. Whether or not a shoreline permit or written statement of exemption is required, the provisions of this section shall apply to all uses, alterations, or developments within shoreline jurisdiction or shoreline buffers. All shoreline uses and activities shall be located, designed, constructed, and managed to protect the ecological functions and ecosystem wide processes provided by critical areas and shoreline vegetation.

Staff Response: The estimated fair market value of the proposed dock exceeds the value listed in the shoreline exemption criteria for new docks. The project requires a shoreline substantial development permit. The proposed docks are not to exceed the footprint of the existing docks. As proposed, the project meets these regulations.

- B. Shoreline Buffers.
 - 1. The required critical area buffers for Type S streams, as established in SMP Table 4-1: Shoreline Buffers, shall be considered shoreline buffers.
 - 4. New uses and development that are not water-dependent, water-related, or water-enjoyment, accessory to water-dependent, water-related, or water-enjoyment uses or development, or that do not facilitate public access to waters of the State generally will not be authorized in shoreline buffers. Some uses or developments not meeting the criteria above may be authorized through buffer averaging or through issuance of a shoreline variance.
 - 5. SMP Table 4-1: Shoreline Buffers establishes shoreline buffers by shoreline environment designation.

Staff Response: Table 4-1 lists water-dependent structures and uses as having a zero (0) foot buffer. As proposed, the project meets these regulations.

Flood Hazard Management:

Regulations:

- A. All proposed flood hazard management measures shall comply with the County's Comprehensive Flood Hazard Management Plan.
- B. Development in floodplains shall not increase flood hazards.
- C. No development is allowed within the SMP flood course or floodway in shoreline jurisdiction, unless a hydraulics and hydrology study shows that it is:
 - 1. Not in a SMP flood course or floodway; or

2. Will not impact the pre-project base flood elevations, floodway elevations, or floodway data widths.
- D. Within the CMZ, SMP flood course or floodway, new development or uses, including subdivision of land, shall not be established when it would be reasonably foreseeable that the development or use would require new structural flood hazard reduction measures.
- E. New development within floodways, the SMP flood course, and the CMZ shall not interfere with the process of channel migration or cause a net loss of ecological functions. If existing CMZ studies are not available for an area of known channel migration, a site analysis may be required to ensure that development does not interfere with the process of channel migration. Areas of known channel migration are shown in the SMP Map Folio Figure 28 in the Shoreline Inventory and Characterization.
- F. Development in the CMZ, SMP flood course, and floodways, is limited to:
1. Actions that protect or restore ecosystem-wide processes or ecological functions;
 2. Forest practices in compliance with the FPA;
 3. Existing and ongoing agricultural practices, provided no new restrictions to channel movement occur;
 4. Mining uses conducted consistent with the shoreline environment designation and the provisions of WAC 173-26-241(3)(h);
 5. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in an unreasonable and disproportionate cost;
 6. Repair and maintenance of an existing legal use, provided that the repair and maintenance does not cause significant ecological impacts or increase flood hazards to other uses;
 7. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;
 8. Development in UGAs, as defined in Chapter 36.70A RCW, where existing structures prevent active channel movement and flooding; or
 9. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.
- G. New structural flood hazard management measures may be permitted if consistent with applicable provisions in SMP Chapter 6: Shoreline Modification Policies & Regulations.
- H. New publicly-funded structural flood hazard management measures, including dikes and levees, shall dedicate and improve public access except in those instances as listed in SMP Section 4.06.02(B).

- I. Removal of gravel for flood management purposes shall be permitted only after a biological and geomorphological study demonstrates that the extraction:
 1. Provides a long-term benefit to flood hazard management;
 2. Does not result in a net loss of ecological functions; and
 3. It is part of a comprehensive flood management solution.

Staff Response: The dock and proposed repairs will be located within the 100 year floodplain, but not located in the Floodway or the mapped Channel Migration Zone (CMZ). Mineral Lake does not have a significantly fluctuating level. The dock replacements will not impact the pre-flood base flood elevations. A flood development permit will be required for the construction of the new docks. As proposed, the regulations have been met.

Public Access:

Regulations:

- A. Shoreline public access shall be required for the following shoreline developments and uses:
 1. Shoreline recreation in accordance with SMP Section 5.13;
 2. New structural public flood hazard reduction measures, such as dikes and levees;
 3. Shoreline development by public entities, including the County, port districts, State agencies, and public utility districts;
 4. New marinas when water-enjoyment uses are associated with the marina; and
 5. All other development and use types that are required to incorporate shoreline public access as identified in the SMP, or other State or Federal requirements.

Staff Response: The proposed docks are for private use associated with an existing recreational property and do not require public access. Additionally, there are many existing public access opportunities on Mineral Lake. The regulations have been met.

Specific Shoreline Use Regulations:

General Shoreline Use:

Regulations:

- A. Use and development standards shall not apply retroactively to existing, legally established structures, or uses and developments in place at the time of the adoption of the SMP update. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and the shoreline buffers established in the SMP.
- B. Development shall comply with the most restrictive bulk and dimensional requirements in LCC Title 17 or SMP Section 5.04.

- C. Accessory uses, such as parking, stormwater management facilities, and utilities shall be located outside of shoreline and critical area buffers, and associated building setbacks, unless authorized in SMP Section 4.04.02(D) .
- D. Shoreline uses and developments shall be designed to complement the setting of the property and minimize glare. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible.

Staff Response: The project is a replacement and repair of an existing private docks and is designed to meet the bulk and dimensional requirements in the SMP. As proposed, the project meets these regulations.

Allowed Shoreline Uses:

Staff Response: The docks are a water-dependent use associated with an existing recreational site. Table 5-1 lists private single docks and piers as permitted uses in the Shoreline Residential and High Intensity Environments. As proposed, the project meets these regulations.

Boating and Water Access Facilities:

Regulations:

- A. Location Standards
 - 1. New boating and access facilities shall maintain the rights of navigation on the waters of the State.
 - 2. Boating and other water access facilities shall be sited and designed to ensure no net loss of shoreline ecological functions.
 - 3. Boating and other water access facilities shall meet WDNR requirements and other State guidance if located in or over State-owned aquatic lands.
 - 4. Boating and water access facilities shall be located where:
 - a. There is adequate water mixing and flushing;
 - b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
 - c. Water depths are adequate to minimize spoil disposal, the placement of fill, beach enhancement, and other channel maintenance activities; and
 - d. Water depths are adequate to prevent the facility from grounding out at the lowest low water or the facility includes stoppers to prevent grounding.
 - 5. Boating and water access facilities shall not be located:
 - a. Along braided or meandering river channels where the channel is subject to change in alignment;
 - b. On point bars or other accretion beaches;
 - c. Where new dredging or new ongoing maintenance dredging will be required;

- d. In areas with important habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates;
 - e. In areas where it would be incompatible with the need to protect the public health, safety, and welfare.
- 6. Boating and water access facilities shall be designed to ensure that lawfully existing or planned public shoreline access is not blocked, obstructed, or made dangerous.
 - 7. Major boating and water access facilities, such as marinas, shall be located only where adequate utility services are available, or can be provided concurrently.
- B. General Design Standards for Boating and Water Access Facilities
- 1. All boating and water access facilities shall be designed and operated to avoid or minimize impacts. Unavoidable impacts must be mitigated consistent with the mitigation sequence in SMP Section 4.03 and critical areas in SMP Section 4.04.
 - 2. All boating and water access facilities and shoreline modifications to support these uses shall be the minimum size necessary to accommodate the anticipated demand for the facility.
 - 3. Boating and water access facilities shall be designed to provide physical and/or visual public access to the shoreline for as many water-oriented recreational uses as feasible, commensurate with the scale of the proposal, including, but not limited to, physical and visual access to waterbodies, public piers, or fishing platforms.
 - 4. Project applicants shall comply with all local and State policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary or accessory use. These standards include but are not limited to WDNR and WDFW standards and regulations including Hydraulic Code Rules (Chapter 220-660 WAC).
 - 5. All boating or water access facilities shall be constructed and maintained in a safe condition. Abandoned or unsafe boating or water access facilities shall be removed or repaired promptly by the owner.
 - 6. Wooden components of boating or water access facilities that will be in contact with water or installed over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Boating or water access facilities shall be made out of materials that have been approved by applicable State and Federal agencies.
 - 7. Lighting associated with boating or water access facilities shall be shielded to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.
 - 8. Boating or water access facilities must be limited to day moorage only. No live-aboard vessels or floating homes are allowed.
 - 9. Upland boat storage may be allowed within the shoreline jurisdiction provided impervious surface limitations and other standards are met,

mitigation sequencing is followed, and impacts can be mitigated to achieve no net loss.

E. Supplementary Standards for Docks and Piers

1. New docks and piers shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. New docks and piers shall be allowed only for public access and water-dependent uses, including single-family residences, so long as the dock or pier complies with the regulations contained in this section. Docks and piers shall meet the following standards:
 - a. Docks and piers serving a single-family residence are allowed, provided they are designed and intended as a facility for access to watercraft. To be authorized, the residential use and the associated dock or pier must be allowed in the underlying upland shoreline environment designation. In instances on Mayfield and Riffe Lake, where a buffer owned by Tacoma Power exists between the water and the upland property, the upland property owner may utilize their allowance for a dock on the portion of the buffer property between their lot and the water with the permission of Tacoma Power.
 - b. New docks and piers that are not associated with residences shall be permitted only when they are intended for public use or when the applicant demonstrates that the new dock or pier supports a water-dependent use.
 - c. No more than one dock or pier is permitted for each single-family residence existing as of the effective date of this SMP.
 - d. Only joint-use overwater structures and launching facilities are allowed for new residential development or subdivisions of two or more waterfront dwellings occurring after the effective date of this SMP.
 - e. No more than one pier, dock, or other moorage structure is allowed for a water-dependent commercial use or a multifamily development.
3. When individual lots have less than 50 feet of water frontage, a joint-use dock or pier that is shared with neighboring properties shall be required, provided that an individual dock may be allowed subject to the requirements of SMP Table 5-1: Permitted, Conditional, and Prohibited Uses when lots on either side of the subject lot have legal pre-existing docks or piers and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. In this case, a lot with less than 50 feet of minimum shoreline frontage may be permitted an individual dock or pier.

4. The maximum dimensions of a dock or pier shall meet the following development standards. An explanation of why the dock or pier length was chosen shall be submitted with the application.
 - a. Residential docks and piers shall be no greater than the widths allowed for HPA permits in WAC 220-660-140(3) and shall not exceed 150 feet beyond the OHWM.
 - b. Docks and piers for commercial, recreational, or public access use may be up to ten feet in width and shall not exceed 200 feet beyond the OHWM.
 - c. Docks and piers shall be set back a minimum of ten feet from side property lines. Provided that joint-use facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. A copy of such agreement shall be recorded with the Lewis County Auditor and filed with the shoreline permit application.
 - d. Proposed docks and piers that do not comply with the dimensional standards above may only be approved if they obtain a shoreline variance. Pursuant to WAC 173-27-040 (2)(b), any existing legal nonconforming dock or pier may be repaired or restored to its original size, dimension, and location without the need for a variance, if it is below the replacement thresholds found in SMP Section 5.07.02(J)(1). Projects undertaken pursuant to this section must be permitted within two years of the removal of the pre-existing, nonconforming structure.
5. Non-water-dependent elements and uses, such as decks and gazebos built on docks or piers, are not allowed.

Staff Response: The project will not exceed the footprint of the existing docks and is the replacement of a legally non-conforming use. 12 total docks are currently on site. The proposal will remove 7 of the docks and replace 5 of them with new docks. Boating or water access facilities shall be made out of materials that have been approved by applicable State and Federal agencies. As proposed, the project meets these regulations.

Shoreline Modification Regulations:

Shoreline Modification Table:

Staff Response: Table 6-1 lists clearing and grading as permitted uses in the Shoreline Residential Environment. Very minimal clearing and grading will be needed for the proposal. As proposed, these activities are allowed.

Shoreline Modification Provisions:

Regulations:

- A. Structural shoreline modifications may be allowed if they are demonstrated to be necessary to support or protect a legally permitted shoreline structure or use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement.
- B. Shoreline modifications shall be limited in number and extent.
- C. The Shoreline Administrator shall base all decisions regarding shoreline modification on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant.
- D. Shoreline modifications must be designed and located to ensure that they will not result in a net loss of shoreline ecological functions and will not have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.
- E. Shoreline modifications and uses shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- F. Shoreline modification standards shall not apply retroactively to existing, legally established shoreline modifications. Existing structures may be maintained, repaired, and operated within shoreline jurisdiction and within the shoreline buffers established in the SMP. Repair and replacement provisions in later sections of this chapter may apply to specific modifications.
- G. All disturbed upland areas shall be restored and protected from erosion by using native vegetation or other means.
- H. All shoreline modifications are subject to the mitigation sequence in SMP Section 4.03, with appropriate mitigation required for unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Section 4.04.

Staff Response: No disturbance to the shoreline landward of the docks is anticipated. If any disturbance occurs during the construction of the docks, all disturbed upland areas shall be restored and protected from erosion by using native vegetation and BMPs for erosion control. As proposed, the project meets these regulations.

Clearing, Grading and Fill:

Regulations:

- A. Clearing, grading, and the placement of fill shall be minimized to the extent feasible and only allowed when necessary to accommodate an approved shoreline use or development.
- B. All clearing, grading, and the placement of fill shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
- C. Speculative clearing, grading, and the placement of fill are prohibited.

- D. When clearing, grading, or the placement of fill will cause adverse impacts to ecological functions, a mitigation plan, prepared by a qualified professional, must be completed consistent with the provisions of SMP Section 4.04.
- E. Clearing, grading, and the placement of fill within wetlands, floodways, or CMZs, and/or the placement of fill waterward of the OHWM, is only allowed when:
 - 1. Due consideration has been given to the site specific conditions;
 - 2. All impacts have been mitigated;
 - 3. All required State and Federal permits, and necessary approvals from WDNR for State-owned aquatic lands, have been obtained; and
 - 4. The shoreline use or development is one of the following:
 - a. A water-dependent use or public access to the shoreline;
 - b. The cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 - c. The disposal of dredged material considered suitable under, and conducted in accordance with, the WDNR's Dredged Material Management Program and the United States Army Corps of Engineers' (USACE) Dredged Material Management Office. See also SMP Section 6.04;
 - d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline, where alternatives to fill are infeasible;
 - e. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or
 - f. The protection of historic or cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such fill must be coordinated with any affected tribes and comply with applicable provisions of SMP Section 4.02.
- F. Upland clearing, grading and the placement of fill outside of wetlands, floodways, and CMZs is permitted provided it:
 - 1. Is the minimum necessary to implement the approved use or modification;
 - 2. Does not significantly change the topography of the landscape in a manner that affects hydrology or increases the risk of slope failure, consistent with the applicable provisions of SMP Section 4.04; and
 - 3. Is conducted outside required shoreline buffers, unless specifically authorized by the SMP, or is necessary to provide protection to historic or cultural resources.
- G. Grading, the placement of fill, and beach nourishment shall be designed to blend physically and visually with the existing topography whenever feasible, so as not to interfere with lawful access and enjoyment of scenery.
- H. Clearing, grading, and the placement of fill shall not be located where shoreline stabilization will be necessary to protect the materials placed or removed, except when part of an approved plan for the protection of historic or cultural resources, or as part of an approved environmental cleanup plan or project.

- I. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided that demonstrates the stability of a steeper slope.
- J. A temporary erosion and sediment control plan, including BMPs, consistent with the County's stormwater manual, shall be submitted to and approved by the Shoreline Administrator prior to commencement of all clearing, grading, and fill activities.
- K. To prevent a loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway per SMP Section 4.05.
- L. The placement of fill on State-owned aquatic lands must comply with WDNR and WDFW standards and regulations.

Staff Response: The project will utilize BMPs and have temporary erosion and sediment control plan in place prior to ground disturbance. As proposed, the project meets these regulations.

Staff Report Conclusions:

After review of the shoreline permit application, its drawings, designs, reports, studies and mitigation plans, the following are staff conclusions regarding the proposed project.

The project is in compliance with the State Environmental Policy Act, the Lewis County Code (LCC) Chapter 17.38 (Critical Areas) and the applicable elements of the 2021 Lewis County Shoreline Master Program.

Shoreline Permit Recommendation:

Staff recommendation is to approve the shoreline substantial development permit with appropriate conditions citing specific regulations from the above referenced master program elements.