

# Initial Project Review

## Conditional Use Permit / Shoreline Substantial Development Permit: Fox Island Chapel / Chapel on Echo Bay

Application Numbers: 913560, 913558  
Tax Parcel Numbers: 5875000340, 5875000387

**Gig Harbor Peninsula Advisory Commission (PAC) Meeting: September 11, 2019, at 6:30 p.m.,**  
City of Gig Harbor – Council Chambers, 3510 Grandview St., Gig Harbor, WA 98335

**Proposal:** Legalize an unpermitted event center previously utilized as a church. The site is currently used for indoor and outdoor events, such as weddings, family events, art shows, etc. No physical changes to the site are proposed. The site is located on waterfront with 70 feet of shoreline frontage.

**Project Location:** 400 – 6th Avenue, Fox Island, WA, within the Gig Harbor Peninsula Community Plan area, Rural 10 (R10) zone classification, and Residential Shoreline Environmental, within the Section 35, T21N, R1E, W.M., in Council District #7

**Review Summary:** Staff has reviewed the proposal for compliance with applicable policies and regulations. For decades, the principal use was for a church and included a variety of accessory uses typically associated with churches. Activities would frequently occur outside along the shoreline. In 2000, the Fox Island Chapel Preservation Society purchased the site. However, the principal use was changed from a church to an event center. The prior accessory uses became the principal use. The conversion occurred without, at a minimum, the necessary Zoning Code Conditional Use Permit. The question before the PAC is whether use of the site as an event center is acceptable and, if so, whether any conditions should be imposed on use of the site. At a minimum, concerns have been expressed by an abutting property owner regarding outdoor events and noise. However, other neighbors disagree. Overall though, the proposal preserves a historic structure, provides a valuable public service, and facilitates the ability of the public to view and access the shoreline.

**State Environmental Policy Act (SEPA):** In accordance with the Revised Code of Washington (RCW) Chapter 43.21C, Washington Administrative Code (WAC) 197-11, and County Environmental Regulations (Pierce County Code, Title 18D), the proposal is exempt from environmental (SEPA) review.

**County Contact:** Ty Booth, Planner, 253-798-3727, [ty.booth@piercecountywa.gov](mailto:ty.booth@piercecountywa.gov)

**Pierce County Online Permit Information:**

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=913558>



## **Project Data**

Application Complete: June 20, 2019

IPR Mailed: September 4, 2019

Owner/Applicant: Fox Island Chapel Preservation Society  
Attn: Rick Nahum, Board President  
PO Box 545  
Fox Island, WA 98333-0545  
[rick@nahum.us](mailto:rick@nahum.us)

## **Public and Legal Notice**

- July 8, 2019: Notice of Application and Public Meeting Notice, including the 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;
  - Property owners on Tanglewood Island (1,400 feet to the west); and
  - Applicable Agencies.
- July 10, 2019: Public Notice sign was posted on-site, confirmed with a Declaration of Posting.
- August 28, and 29, 2019: Legal notices were published, respectively, in the The News Tribune (official County newspaper) and Peninsula Gateway newspapers, advertising the Gig Harbor Peninsula Advisory Commission (PAC) public meeting.

## Site Photo (2017)



### Comments from the Public and Agencies

Public: The following is a summary of comments received:

- In opposition: The only objections that have been raised are from the abutting property owners to the north. They are not opposed to use of the site as an event center but have concerns regarding noise as well as use of the site for outdoor events.
- In support: A substantial number of comments have been received including from other abutting property owners. They state that the chapel was present before the neighbors to the north purchased their parcel, the chapel is respectful of the neighborhood, is a cultural center of Fox Island, and is beloved for hosting important events in people's lives.

Agencies: Comments have been received from various agencies. The following are of note:

- County Building Division: The occupancy type did not change when the site was converted from a church to event center. No upgrades to the facility are required. Per the International Building Code (IBC), the use is considered an A-3 occupancy. The A-3 occupancy includes assembly uses intended for worship and recreation/amusement.
- County Fire Prevention Bureau (Fire Marshall): As the Building Division stated that this is still an A-3 occupancy and not a change of use, the Fire Prevention Bureau has no requirements.
- County Development Engineering Division: Traffic impact fees are required; a memo from a traffic engineer is required to verify the proposal creates less than 25 peak hour trips; a pathway along the frontage is not required since this is an existing civic use; and no additional hard surfaces are proposed so no additional stormwater drainage facilities are required.
- Tacoma-Pierce County Health Department: Applicant shall document what septic system currently exists on-site; confirm through inspection the location and proper functioning of the system; if the system is functioning properly or identified deficiencies can/are fixed an application shall be submitted with justification from a licensed septic designed/professional engineer; if septic system is in failure a repair application/design shall be submitted (and could require additional requirements per shoreline regulations); if there are large events a portable toilet (with handwashing) is advised to prevent a potential failure of the system; any future expansion of the event facility would require additional requirements (including reserve drainfield area); and the site shall follow food service permitting requirements.

### **Site Characteristics**

1. The site is a waterfront location on the north side of Fox Island.
2. The site consists of two parcels, totals one-quarter acre in size, and has 70 feet of shoreline frontage.
3. The western parcel is primarily developed with the chapel building, waterfront garden, and a bulkhead.
4. The eastern parcel consists of a parking lot.
5. The chapel primarily consists of two stories and 1,644 square feet per story.

### **History (only a summary):**

1. 1900: Church dedicated.
2. January 1, 2000: Site sold from Fox Island United Church of Christ to the current owner.

3. February 2002: Applications submitted with County and subsequently issued for building, mechanical, and plumbing permits for interior remodel. It appears an exterior trellis (attached to the waterside of the building) was also added at this time.
4. May 2003: Final occupancy granted for permits issued in 2002.
5. September 2006: Chapel listed on the Pierce County Register of Historic Places.
6. January 2017: In response to a liquor license request, County issues letter stating that zoning and shoreline permits are required. Letter further states outdoor weddings are not allowed.
7. May 31, 2018: Chapel submits application (#887573) requesting County to recognize that the site has nonconforming (grandfathered) rights. Specifically, the application sought to demonstrate that the current uses of the site are the same as those that were established over 100 years ago and have continued without interruption. The application appears to have been submitted in response to permitting concerns raised in the County's January 2017, letter and/or in response to a dispute the Chapel had with new abutting neighbors to the north.
8. April 8, 2019. County issues determination denying nonconforming rights for use of the site as an event facility. It was determined that converting the use from a church to event center required a Zoning Code Conditional Use Permit and possibly shoreline permits. No appeal was subsequently filed. Note, the determination acknowledged that in 2002, the County issued permits for a remodel. The building permit application referred to the use as a "chapel". By utilizing the term chapel, the County may not have been fully aware of the change of use. Further, the County has approved a number of liquor licenses for the site. However, these issues cannot circumvent the fact that applicable zoning and possibly shoreline permits were not obtained.
9. May 15, 2019: Complaint was filed by an attorney representing some members of the public. It was regarding unpermitted commercial operations at the site.
10. May 30, 2019: Chapel has customer information meeting with County staff (Planning, Building, Fire, Engineering, and Health). The purpose was to determine what permits, requirements, etc. would be necessary to legalize the facility.
11. June 5, 2019: Lawsuit filed in Pierce County Superior Court against the Chapel by the abutting property owner(s) to the north. The reason is due to the operations of an unpermitted event center. In addition, prior to trial, the lawsuit requested an injunction that the facility not be allowed outdoor events and only allow indoor events provided the exterior doors/windows are closed and noise does not exceed the County noise ordinance.
12. June 20, 2019: Applications submitted for Zoning Code Conditional Use Permit and Shoreline Substantial Development.
13. July 12, 2019: Court held hearing on injunction request and was denied.

*Staff Comment: The County has determined that the Chapel can remain open while going through permitting process. Generally, but not always, the County allows unpermitted uses to remain/continue provided they are going through the permitting process and are not a life/safety issue. In this case, there does not appear to be a life/safety issue as the occupancy type of the building has not changed (for example, this is not a situation where a residential building was converted to public occupancy).*

*Note, the lawsuit against the Chapel is a civil issue in which the County is not involved. Regardless of whether the public is upset that a lawsuit has been filed, it is without question that the conversion of the site from a church to event center required necessary County permits which were not obtained.*

### **Surrounding Land Uses and Shoreline / Zoning Designations**

The surrounding area is developed with single-family residences, are zoned R10, and have a shoreline designation of Residential. The only exceptions are that the shoreline designation for that the portion of the cul-de-sac (abutting the east side of the chapel parking lot) is designated High Intensity and the southern third of Tanglewood Island (located to the west) is designated Conservancy.

### **Proposal (Additional Details)**

No changes are proposed to the site. The Applicant simply wants to continue to be able to utilize it as an event center as has been done since 2000. The site is currently utilized for weddings, family events, business meetings, art shows, visual/performing arts events, and a variety of others. These activities occur both inside and outside.

*Staff Comment: The application appears to have been hurriedly submitted in response to the County's nonconforming determination and dispute with the abutting property owner. As such, it is sparse on details/information. Prior to the public hearing before the Pierce County Hearing Examiner (yet to be scheduled), the application materials shall provide the following: more information regarding the proposal (examples include types of events, number of events per year, number of visitors/employees per event, hours of operation, anticipated number of vehicles per event, etc.); respond to the required findings for the granting of the Conditional Use Permit, and address the additional application requirements for commercial, civic, and industrial proposals listed in Chapter 18S.70 – Appendix D of the shoreline regulations.*

*In addition, the Applicant has been represented by an attorney but sounds as if they may now have a different and/or additional attorney representing them. If so, the County needs a letter of authorization from the Applicant stating who is representing them.*

### **Staff Preliminary Review for Consistency with Policies and Regulations**

1. Gig Harbor Peninsula Community Plan  
(Pierce County Code, Title 19A, Chapter 19A.10, Chapter 14, Appendix E, Page E-97)

- A. The site is located within unincorporated Pierce County and within the Gig Harbor Peninsula Community Plan. The plan went into effect in 2002.

B. The following are some applicable policies from the plan as they apply to this proposal. There are any number of additional policies from the Plan that could apply but would result in an excessively long report:

- (1) GOAL GH LU-11 The rural area shall be separate and distinct from the urban area in terms of land use, infrastructure, and visual character. Visually, it is intended to be an area characterized by an abundance of pastureland, forests, and naturally vegetated buffer areas. Provide an incentive, including property tax assessments at the current use rather than the highest and best use for prioritized open space properties and similar programs, to accomplish this goal. Limit land uses within the area to low density and intensity, and limit them primarily to agricultural, forestry, natural resource industries, and single-family residential uses. Large lot sizes should prevail, and homes should be generally well separated from one another. Within the rural area, recognize historic communities such as Arletta, Rosedale, and Fox Island and make limited provisions for the continued existence of the cultural focal points of these communities. Plan and construct infrastructure improvements, such as the transportation system, to reflect and support the desired goals for the rural area.
- (2) GOAL GH ENV-6 Increase recreational opportunities at existing shoreline access points and promote additional public access to shoreline locations.
- (3) GH ENV-6.1 Encourage acquisition of shoreline access points that provide opportunities for boat launches, public docks or piers, beach walking, wildlife viewing, and other shoreline-dependent uses. Protect public rights to access beaches, shorelands, tidelands, and associated waterbodies.

*Staff Comment: The site is a cultural focal point of the community and provides for shoreline public access. As such, the proposal appears consistent with the Plan. However, it must still be respectful of other uses in the area.*

## 2. Pierce County Zoning Code (Pierce County Code, Title 18A)

- A. The Zoning Code in effect on January 1, 2000 (sale date) reveals that use of site by the church was defined as a Religious Assembly, Level 1 use type in Section 18A.25.220 H. Level 1 consists of seating for 250 or fewer persons within the principal place of assembly. In the R10 zone, Level 1 was allowed outright per Table 18A.25.150 E. in the R10 zone.
- B. The Zoning Code in effect on January 1, 2000 (sale date) reveals that the use of the site for an event center most closely matched what was defined as a Community and Cultural Services, Level 2 use type in Section 18A.25.220 C. This use type referred to establishments primarily engaged in the provision of services that are strongly associated with community, social, or public importance. Typical uses include libraries, museums, art galleries, senior centers, community centers, performing arts theaters, community clubs and organizations, granges, blood banks, food banks, and shelters for the homeless. Level 2 consists of uses that generally serve more than one neighborhood and are open to the general public on an equal basis, with or without fee. Examples including: boys and girls clubs, libraries, museums, blood banks, food banks, shelters for the homeless, cemeteries, and associated services. In the R10 zone, Level 2 required a conditional use. However, a conditional use permit was not applied for. The use was not legally established.

- C. Since January 2000, many changes have occurred to the Zoning Code. The Zoning Code currently in effect (2019) reveals that the use of the site no longer appears allowed as a Community and Cultural Services use type. The reason being is that the Gig Harbor Peninsula R10 zoning only allows facilities serving the neighborhood or small community and prohibits outdoor wedding facilities.
- D. The Zoning Code currently in effect (2019) reveals that the use of the site for an event center appears allowed, with a conditional use permit, as an Amusement and Recreation, Level 3, use category. Level 3 specifically consists of indoor or outdoor activities, with no specified total floor area, and consisting of batting cages, driving ranges, mini-golf, climbing walls, swimming pools, marinas, outdoor performance centers, racetracks, motor-tracks, outdoor sports arenas, drive-in theatres, recreational fishing ponds, festival and event facility, paintball facilities, gun ranges, etc.

Overall, the Amusement and Recreation use type refers to establishments or places of business primarily engaged in the provision of sports, entertainment, or recreational services to the general public or members. Examples include, but are not limited to, marinas, video arcades, teen clubs, athletic clubs, swimming pools, billiard parlors, bowling alleys, ice or roller skating rinks, indoor movie theaters, drive-in theaters, miniature golf courses, golf courses, outdoor performance centers, sports arenas, festival and event facilities, and race tracks. The use type consists of six levels.

- E. At the time the County issued its determination denying nonconforming rights, the County did not consider the proposal to be a Public Park Facility. However, in preparation for the PAC meeting, Staff reviewed the Gig Harbor Peninsula Community Plan. Policy GH PR-1.2 states that “the size of a regional park typically exceeds 40 acres; however, these parks may be developed on larger or smaller parcels. Parks that provide shoreline access are considered regional parks regardless of size.”

As such, the Zoning Code currently in effect (2019) reveals that the use of the site for an event center also appears allowed, with a conditional use permit, as a Public Park Facilities Level 3, use category. Level 3 specifically consists of regional parks which attract visitors from throughout the region and which may provide access to significant ecological, cultural, historical features or unique facilities.

Overall, the Public Park Facilities Use Type refers to publicly owned or non-profit recreational areas and recreation facilities open to the general public on an equal basis, with or without fee. Typical facilities include local parks, county parks, regional parks, special use facilities, linear parks/trails, resource conservancy parks, fairgrounds, zoos and cemeteries. These facilities may offer open space, arboretums, small or special landscaped areas, community gardens, skate parks, sports fields, tennis courts, golf courses, batting cages, equestrian facilities, community centers, and swimming pools. Rest areas associated with major transportation routes would also fall into this category. Central office, storage and maintenance facilities which provide service and support to one or more public park facilities are allowed in this category. Public parks shall be allowed to include civic, resource, utility, office, business and commercial uses that are accessory and incidental to park and recreation uses. Examples of such uses would be: a snack bar or other food service, a golf merchandise sales shop associated with a golf course, or veterinary services associated with livestock or equestrian events operating during such activities. Caretaker

residences and employee housing are also allowed when such a use is required for the proposed facility. Hours of operation for accessory uses shall be commensurate with the principal use and the General Provisions for Accessory Uses and Structures in PCC 18A.36.060 shall apply. Also see Commercial Category – Amusement and Recreation Use Type for other types of recreation. The use type consists of four levels.

F. Section 18A.05.050 A.3. states that where there is a question regarding the inclusion or exclusion of a particular proposed use within a particular use or category, use type, or use type level, the Director shall have the authority to make the final determination. The Director's determination in these instances may be appealed (see Section 18A.05.050 A.3.).

G. Conditional Use Permit (18A.75.030).

(1) Purpose The purpose of this Section is to establish decision criteria and procedures for special uses called Conditional Uses which possess unique characteristics. Conditional Uses are deemed unique due to factors such as size, technological processes, equipment, or location with respect to surroundings, streets, existing improvements, or demands upon public facilities. These uses require a special degree of control to assure compatibility with the Comprehensive Plan, adjacent uses, and the character of the vicinity. Conditional Uses will be subject to review by the Examiner and the issuance of a Conditional Use Permit. This process allows the Examiner to: determine that the location of these uses will not be incompatible with uses permitted in the surrounding areas; and make further stipulations and conditions that may reasonably assure that the basic intent of this Title will be served.

(2) Decision Criteria. The Examiner shall review Conditional Use Permits in accordance with the provisions of this Section and may approve, approve with conditions, modify, modify with conditions, or deny the Conditional Use Permit. The Examiner may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts as a condition of the granting of the Conditional Use Permit.

(3) Required Findings. The Examiner may use Design Standards and other elements in this Code to modify the proposal. A Conditional Use Permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record:

(a) That the granting of the proposed Conditional Use Permit will not be detrimental to the public health, safety, and general welfare; adversely affect the established character and planned character of the surrounding vicinity; nor be injurious to the uses, planned uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

(b) That the granting of the proposed Conditional Use Permit is consistent and compatible with the intent of the goals, objectives and policies of the County's Comprehensive Plan, appropriate Community Plan (provided that, in the event of conflict with the Comprehensive Plan, the Comprehensive Plan prevails), and any implementing regulation.

- (c) That all conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
- (d) That the proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.
- (e) That the conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
- (f) That the Level of Service standards for public facilities and services are met in accordance with concurrency management requirements.

*Staff Comment: The site has a long history as addressed previously in this report. It appears to Staff that the impacts generated by the site did not change, for the most part, when it was converted from a church to event center. With that said, Staff does speculate that the site might have become noisier over the years (due to amplified music which may not have been as prevalent in years past) and/or have more frequent/intensive outdoor events than when the site was a church. However, noise is very subjective from person to person as evidenced by the public comments addressed previously in this report. What may be bothersome to one may not be to another. If noise is a concern of the PAC, Staff suggests it consider whether a professional noise study be completed. If noise is determined to exceed the County noise ordinance (addressed later in this report) or a lesser noise level appropriate for the community, then one or more mitigation measures could be implemented. Mitigation (if deemed necessary) could include (for example) restricting outdoor amplification, limiting hours of outdoor amplification, installing noise insulation in the chapel, and/or constructing a sound wall along the property line (although perhaps this could result in unintended consequence of causing noise to be louder on other properties).*

*The only other impact that appears readily apparent is parking. The parking lot is small and overflows onto the surrounding street(s). This issue does not appear any different than when the site was a church. However, if this is a concern of the PAC, then a potential solution could be to require visitors be shuttled to/from the site from another location on the island for larger events.*

*Overall, the proposal would provide (legally for the first time since 2000) a valuable public service as it holds a variety of events. Further, the facility facilitates the ability of the public to view and access the shoreline. The purpose of holding events at the facility is to generate income to preserve the historic chapel. If it is not feasible as an event center, Staff does question if there is another use of the site that could generate the income necessary to preserve the facility. Otherwise, Staff would have a concern that it could be sold, fall into private hands, and be converted to a single-family residence or torn down to construct a new residence. Staff is especially cognizant of the fate of the historic Tanglewood Island Lodge which was visible (before it was torn down) from the chapel site.*

### 3. Pierce County Shoreline Regulations (Pierce County Code, Title 18S)

- A. This Code went into effect on October 26, 2018. It replaces the prior shoreline regulations (Title 20) which had been in effect since the early 1970s.

- B. The regulations apply to not only Puget Sound but also extend 200 feet landward.
- C. The church was legally established prior to shoreline regulations. The question is if the conversion of the church to an event center requires shoreline permits. Since the proposal is seeking to legalize the conversion now (after the fact) the County is reviewing the proposal under the new shoreline regulations (Title 18S rather than old Title 20).
- D. At present, the use of the site as an event center most closely matches what the new shoreline regulations define as a civic and/or commercial use type as addressed in Section 18S.40.050.
- E. The shoreline of the site has been designated "Residential" in the new shoreline regulations. In the regulations, there are five designations: Natural, Conservancy, Residential, High Intensity, and Aquatic. Under the prior shoreline regulations, the site was designated Rural-Residential.
- F. In addition to Section 18S.40.0509, Table 18S.60.030-1 (Shoreline Permit Table) states if/how a civic and commercial use is allowed in the "Residential" designation:
- (1) The Table (18S.60.030-1) further breaks the civic and commercial uses into three levels: water-oriented; non water-oriented; and mixed-used development (commercial/residential).
  - (2) The proposal is considered water-oriented based on the following definitions in Chapter 18S.70 Appendix A,
    - (a) "Water-Oriented" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
    - (b) "Water-Dependent" means a use or portion of 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.
    - (c) "Water-Related" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (1) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (2) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.
    - (d) "Water-Enjoyment" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use, and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

- (3) In the Residential shoreline environment designation, a water-oriented civic or commercial use requires either a Shoreline Substantial Development Permit or Shoreline Exemption. A Shoreline Conditional Use Permit is not required.
- (4) Typically, for a Shoreline Substantial Development Permit to be required though, there must be “development”. Chapter 18S.70 Appendix A, defines "development" as a “use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or redevelopment.” In this case, just the act of converting the use from a church to event center may not require a Shoreline Substantial Development Permit. With that said, in 2002/2003, the County did issue a building permit for the interior remodel. However, typically the County does not require shoreline permit for interior work.

At the same time (part of the building permit) a trellis was added to the exterior of the building on the water side. In addition, at some point an exterior pathway was added to the water side of the building that then extends to the water along the north side of the building. All of this work at a minimum would require a Shoreline Exemption application.

- (5) Section 18S.60.020 contains several exemptions from the need to obtain a Shoreline Substantial Development Permit. The first exemption listed deals with “Fair Market Value” and last exemption listed deals with the “Americans with Disabilities Act (ADA). Both could apply and are as follows:
  - (a) Development of which the total cost or fair market value, whichever is higher, does not exceed \$7,047.00 if such development does not materially interfere with the normal public use of the water or Shorelines of the State.
  - (b) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

G. In the Residential Shoreline Environment, a vegetated buffer of 75 feet is required per Section 18S.30.030 (Ecological Protection). There are various exceptions. Section 18S.30.030 E.4.a. states that “water dependent uses and public shoreline access are allowed within the standard shoreline buffer subject to applicable regulations of the Master Program.”

*Staff Comment: Under advisement from Staff, the Applicant submitted a Shoreline Substantial Development Permit. Under the new shoreline regulations, the decision to approve/deny a Shoreline Substantial Development Permit is now made by Staff. However, they still do require a public meeting before and recommendation by the Gig Harbor Peninsula Advisory Commission. In preparing this report, for the reasons stated above, it would appear that the proposal may indeed qualify for a Shoreline Exemption for the reasons stated above. Staff will reserve judgement until hearing the testimony and recommendation (on the entire proposal) at the PAC meeting. Further, a Shoreline Conditional Use Permit is not required. Finally, it does not appear to Staff that a Shoreline Variance is required for any development or use between the building and shoreline. The reason being is for the reasons already stated. Further, Staff is left with the distinct impression that the area between the building and shoreline has been utilized for decades for all sorts of activities including temporary events involving chairs, tents, etc.*

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

- A. This Title addresses numerous issues consisting of the following: site design; site clearing; tree conservation; landscape buffers; street trees; infill compatibility; noise attenuating barriers and structural walls; off-street parking, pedestrian, bus and bicycle facilities; exterior illumination; parking lot landscaping; plant lists; plant sizes, soil amendments, mulching and irrigation; plant installation; plant protection and maintenance; low impact development (LID); rural pathways for civic uses; mechanical equipment and outdoor storage screening; dry sewer lines; stormwater facilities; recreational areas; residential design standards; outdoor event facilities; mobile home parks; recreational vehicle parks; construction and contractor facilities; outdoor stockpiles; solid waste handling, treatment, and storage facilities; hazardous waste treatment and storage facility; water supply facilities; telecommunication towers and wireless facilities; agritourism; and specific design standards and guidelines (including building design and architectural standards) for the eleven community plans located within unincorporated Pierce County (including the Gig Harbor Peninsula Community Plan).
- B. Section 18J.10.050 states that a project subject to this Title shall be reviewed for conformance with applicable design standards through the project application. If a project is unable to meet an applicable design standard or standards, a Site Plan Review application shall be submitted.
- C. Section 18J.10.040 discusses what proposals the Title applies to. The same Section also lists what is exempt from complying with the Title. Of note, Section 18J.10.040 C.1.a. states the building design and architectural standards of this Title shall not apply to historic buildings.

*Staff Comment: Per the provision above, the building itself is not subject to the Title considering it as historic. As for the remainder of the site, there does not appear to be any exemptions that neatly apply to this proposal. With that said, when reviewing the individual Chapters/Sections of the Title none appear to apply to the proposal either. The reason being is that no physical improvements to the site are proposed or have occurred including clearing, grading, tree removal, parking lot expansion, exterior illumination, stormwater facilities, etc. The only exception perhaps is per Chapter 18J.15.040 (Landscape Buffers). Per this Chapter, it appears that if the proposal is considered an amusement and recreation use type (commercial) that a 20-foot landscaping buffer is required abutting single-family residences. However, if the proposal is considered a public park then it falls within the same category as a church and no buffer is required (note, the parking lot was existing when it was a church). Long-story short, it does not appear a Site Plan Review (SPR) application is required per this Title.*

*With that said, there are a couple Chapters in this Title which could provide assistance to the PAC and/or Examiner in their review of the proposal:*

- *Section 18J.15.070 addresses noise attenuating barriers and structural walls. This Section states that these standards apply to any barrier being built to attenuate noise from a proposed or existing land use, as required by the Hearing Examiner, Director, Responsible Official or voluntarily constructed on any parcel of land. This Section may provide assistance should some sort of conditions be deemed necessary to address noise concerns.*
- *Section 18J.15.190 addresses Outdoor Event Facilities. These standards apply to outdoor event facilities considered to be a community and cultural services use type (civic use type). This proposal is not being reviewed under that category as addressed previously in the Zoning Code section of this report. This Chapter addresses hours of operation; lighting; noise; buffers and screening; setbacks; occupancy; parking areas; outdoor receptions; and access. This Section provides excellent items to consider should some sort of conditions be deemed necessary to address concerns about outdoor events.*

5. Pierce County Health and Welfare (Pierce County Code, Title 8).

Chapter 8.76 (Noise Pollution Control) regulates noise. It addresses, in part, maximum permissible noise levels for uses.

*Staff Comment: This Chapter is enforced by the Tacoma-Pierce County Health Department. Staff's experience is that they do not have adequate resources to regulate/enforce noise. As such, over the years the Planning Department has essentially had to go on its own when dealing with noise issues. A prime example where the Planning Department has dealt with noise over the years is with regards to surface mines. The regulations focus primarily (but not exclusively) on noise occurring between the hours of 10 p.m. and 7 a.m. Based on Staff's experience, noise and noise measurements is a complex science. While noise concerns do not come up on most issues the Department deals with, when valid concerns come up typically the Department recommends/ requires the Applicant complete a noise study. For this proposal, noise appears to be the main issue. Staff would recommend that the PAC consider whether the Applicant should be required to prepare a noise study. Typically, a noise study is prepared by a professional noise consultant and not a "home-made" study" using for example a smart phone application. If a consultant is hired, Staff would also recommend that it be allowed to speak with the consultant to understand when/where they are taking their measurements to help eliminate any future disagreements on the study protocol. Staff has previously discussed this with one of the Chapel Board members. If the PAC recommends a noise study, Staff would suggest a noise study be completed prior to the matter being heard at a public hearing before the Pierce County Hearing Examiner. The same comment could apply to the abutting property owner who is concerned about the facility. They too may want to hire a professional noise consultant to conduct their own study or provide comments on any study the Applicant prepares.*

6. Pierce County Critical Areas (Pierce County Code, Title 18E).

This Title regulates critical areas consisting of wetlands; fish and wildlife species and habitat conservation areas; aquifer recharge and wellhead protection areas; volcanic hazard areas; flood hazard areas; landslide hazard areas; seismic (earthquake) hazard areas; mine hazard areas; and erosion hazard areas.

*Staff Comment: While one or more critical areas may exist on-site (such as a flood hazard area), no substantial changes to the site have really occurred and/or are proposed. Therefore, it is difficult to see how this Title applies to the proposal.*