

Initial Project Review

Shoreline Substantial Development Permit: Schmidt

Application Numbers: 921005 and 921006
Parcel Number: 4552000150

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: January 22, 2020, at 6:30 p.m., City of Gig Harbor, southeast entrance, Community Room A, 3510 Grandview, Gig Harbor, WA 98335

Proposal: The two-level patio, stairs, and retaining walls, built without permits in the regulated 75-foot shoreline buffer, will be modified as follows:

- Remove concrete pavers on upper level and replace with grass.
- Remove level pavers and blocks at the shoreline edge with pea gravel and approved plantings.
- Retain a limited number of pavers to serve as steps,
- The small retaining walls will remain.

The purpose of this application is to bring this single-family residential site into compliance with Pierce County Shoreline Code (Title 18S).

Project Location: 15622 Avenue Court NW, Gig Harbor, WA, in the Residential and Aquatic Shoreline Environment Designations, Rural 10 (R10) zone classification, and the Gig Harbor Community Plan area, in the NW ¼ of Section 13, T22N, R1E, W.M., in Council District #7.

Review Summary: Staff has reviewed this proposal for compliance with all policies, codes, and regulations and feels the project needs revisions before it can be approved.

State Environmental Policy Act (SEPA): A SEPA checklist was submitted for this application. Staff has reviewed the proposed action and determined that it is **not** likely to result in any significant adverse environmental impacts. Pursuant to the State Environmental Policy Act and the Pierce County Environmental Regulations, Title 18E, the Pierce County Responsible Official has reviewed this project and issued a Determination of Nonsignificance (DNS) on December 24, 2019, with a 14-day comment and appeal period.

County Contact: Ray Hoffmann, Associate Planner, ray.hoffmann@percecountywa.gov, 253-798-2788

Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=921005>



Project Data

Complete Application Date: October 8, 2019

Initial Project Review Mailed: January 15, 2020

Applicant/Owner: Brian and Kathleen Schmidt
4009 52nd Street NE
Tacoma, WA 98422
Bschmidt.nse@gmail.com

Legal and Public Notice

- *October 21, 2019*: Notice of Application (NOA) and Public Meeting Notice, was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
- *October 22, 2019*: Public Notice sign was posted on-site, confirmed with a Declaration of Posting.
- *January 15, 2020*: Public Notice of the Gig Harbor Peninsula Advisory Commission (PAC) meeting was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
- *January 15, 2020*: Legal notices were published in the official County newspaper (*Tacoma News Tribune*), and *Peninsula Gateway* newspaper, advertising the PAC public meeting.

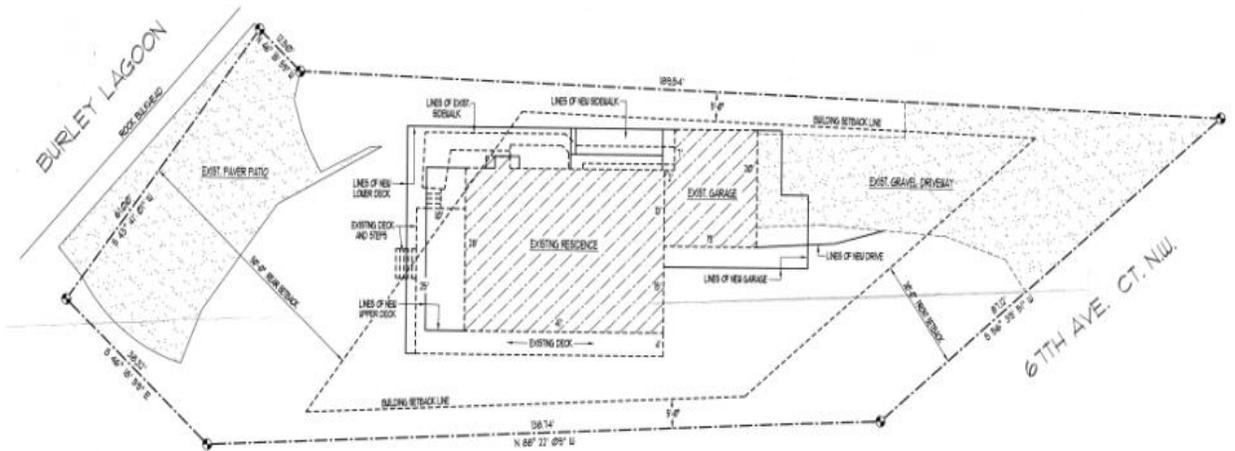
2017 Ortho Photo (County Location)



2017 Ortho Photo



Site Plan (Current Condition)



Proposed Plantings and Retained Constructed Features in the Shoreline Buffer



Review Responsibility

The following list includes examples of jurisdictional areas for various County departments and divisions typically involved in the review and administration of this proposal:

A. Planning and Public Works (PPW):

- Planning verifies compliance with the Pierce County Comprehensive Plan, applicable community plans and Development Regulations such as, but not limited to, zoning, critical areas, shoreline management, and potential environmental impacts.
- Development Engineering reviews for drainage, erosion control, site development, flood, survey, landslide and erosion hazard, lot dimensions and road standards.
- Resource Management reviews wetlands, streams, and fish/wildlife.

B. Gig Harbor Peninsula Advisory Commission (PAC):

The PAC’s role in the review process for a land use proposal includes the following:

- Review the proposal for consistency with the goals and policies in the Community Plan.
- Provide a local perspective that includes input from the community and insights of which PPW staff or the Hearing Examiner may not be aware. A Shoreline Substantial Development (SD) is an administrative review with no Hearing Examiner meeting unless an appeal filed.
- Offer recommendations for project design to fit with the community’s vision while remaining consistent with the Community Plan.
- PCC Chapter 2.45 Land Use Advisory Commissions provides regulations that apply to the PAC. Per PCC 2.45.130, Land Use Advisory Commission (LUAC) recommendations on a land use application shall be to approve, modify and approve, deny, or make no recommendation.

Review Criteria

The following regulations and policies shall be used during the review process including, but not limited to:

- A. Pierce County Development Regulations, and construction and infrastructure regulations.
- B. Pierce County Comprehensive Plan and Gig Harbor Peninsula Community Plan.
- C. Applicable state statutes.
- D. All applicable notes on related previously recorded County documents/permits.

Site Characteristics

- The project area is on an irregular shaped parcel (Lot 15 of the Plat Holly Tides) on the eastern shore of Henderson Bay, about a mile north of the Purdy Bridge.
- The long axis of the parcel is oriented in an east-west direction. The topography of the parcel has a gentle slope up by the driveway, and a steeper slope of approximately 25% between the home and the water’s edge, on the east side of the site.
- The County Assessor lists the parcel as .21 acre in size with approximately 50 feet of shoreline frontage.
- Currently, the site is improved with a single-family residence built in 1979. A pathway starts at the home and ends with an approximately 8-foot wide paver stair section at the shoreline. There are a few trees at the top and base of the slope, with the lawn and constructed pavers/decorative walls between the shoreline and home.

Surrounding Land Use / Shoreline (SED) / Zoning Designation

	LAND USE	SHORELINE	ZONING
North	Single-family residence	Residential and Aquatic	Rural 10 (R10)
South	Single-family residence	Residential and Aquatic	R10
East	Private Water Co. (wells)	N/A	R10
West	Water Body	Residential and Aquatic	N/A

Comments from the Public and Agencies

The proposed project has been routed to interested departments and agencies for review. Comments received from various departments and agencies may be found by accessing the Online Permit Information referenced on page 1. Comments have been received, and corrections and/or additional information requested, by the following agencies on the application:

- Pierce County Development Engineering Section of PPW (Jeff Kidston) providing recommend conditions for the eventual written order.
- Pierce County Resource Management Section of PPW (Mary Van Haren), requesting additional mitigation.
- Squaxin Indian Tribe comments providing notification/instruction should Archaeological/Cultural Resources be discovered.
- No comments have been received by the general public.

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

Gig Harbor Peninsula Community Plan

The Plan was adopted as part of the County Comprehensive Plan in June 30, 2016, Under Appendix E (Title 19A):

GOAL GH ENV-2 Development standards along shorelines should ensure the preservation of native vegetation and wildlife habitat and protect water quality and natural shoreline processes.

GH ENV-2.2.1 Discourage lawn areas that extend to the edge of slopes, bluffs, or beaches. Encourage retention of native vegetation immediately adjacent to the waterbody in any required setback.

GH ENV-2.4 Base allowable uses along the shoreline on the Comprehensive Plan land use designation and SMP and permit them on a case by case basis.

GH ENV-2.4.1 Analyze the cumulative impacts of shoreline development when evaluating an individual project.

Staff Comment: This project, if modified to remove more built structures, has the ability to create more shoreline vegetation than there was prior to the pavers (namely lawn); and thus, enhance wildlife habitat, increase water quality, and enhance natural shoreline processes.

Development Regulations - Zoning, Title 18A

Setbacks

Section 18A.15.040, Rural and Resource Setbacks, Rural Ten (R10) zoning classification:

- Front: 25 feet from the edge of the right of way (67th Avenue Court NW)
- Interior/Side: 10 percent of lot width
- Rear: 30 feet

Development Regulations – Critical Areas, Title 18E

Wetlands (Chapter 18E.30)

- A Categorize, Delineation and Non-compensatory mitigation plan application was submitted on April 12, 2019.
- A County Biologist performed a wetland delineation on May 23, 2019. A category II estuarine wetland is located along the shoreline. The Category II wetland has a base buffer of 100 feet plus an additional 50 feet for high intensity land use for a total buffer of 150 feet.
- No direct wetland impacts occurred; however, all work occurred within the wetland buffer.
- The current proposal is to retain the walls and stairs that were constructed, along with a portion of the pavers. Proposed mitigation for impacts consists of planting a portion of the buffer area with shrubs and ground cover, which includes non-native plants.
- The current proposal does not meet Title 18E.30.050 Mitigation Requirements, which requires demonstration of impact avoidance and minimization.

Development Regulations – Shorelines, Title 18S

Title 18S provides policies, and regulations for development on Pierce County shorelines. The proposal is located within the Residential and Aquatic Shoreline Environment Designations.

18S.20.050 - Residential Shoreline Environment Designation (SED).

The intent of the Residential SED is to accommodate residential development in areas that are already developed with or planned for residential development. The Residential SED may also include water-oriented commercial and recreation uses.

- Priority should be given to residential and water-oriented commercial development where such development can be accommodated with no net loss of shoreline ecological functions.
- Public or private recreation facilities should be encouraged if compatible with surrounding development. Preferred recreational uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.
- Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side, and views of the development from the water.

Staff Comment: The goals of the Residential SED can be met with the removal of additional built structures. The proposed sitting area and access stairs to the beach are not inconsistent with PCC Title 18S. The project will not result in blocked views, and additional plantings will enhance the visual quality of the shoreline. The project can be conditioned to achieve no net loss of shoreline ecological functions.

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

The intent of the Aquatic SED is to protect, restore, and manage the unique characteristics and resources of marine and fresh waters.

- All development on navigable waters and submerged lands should be located and designed to minimize interference with surface navigation, to reduce impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

- Shoreline development and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- New over-water structures should only be permitted for water-dependent uses or public access. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

Staff Comment: All existing features are landward of the Ordinary High Water Mark (OHWM). The logs proposed to be placed at the OHWM (as shown in the site plan) are considered to be soft shoreline stabilization which will have to meet the applicable provisions of PCC Title 18S, in particular 18S.30.070 - Stabilization. If justification for a bulkhead cannot be shown, the logs would not be permitted.

18S.30.030 - Ecological Protection.

The intent of the Ecological Protection policies and regulations is to ensure that shoreline development is established and managed in a manner that protects existing ecological functions and ecosystem-wide process and that mitigates adverse impacts to ecological functions. This means assuring no net loss of ecological functions and processes in shorelines.

- Establish and manage shoreline uses and development in a manner that mitigates adverse impacts so that the resulting ecological condition is maintained or improved.
- All shoreline uses and development should avoid and minimize adverse impacts on the shoreline environment.
- Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by limiting the number and extent of shoreline modifications and by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modification.
- Preserve and protect existing trees and native vegetation within shorelines to maintain shoreline ecological functions and mitigate the direct, indirect, and cumulative impacts of shoreline development. Where shoreline vegetation is inadequate to protect against the impact of new uses or development, native vegetation should be enhanced.
- Avoid impacts to shorelines through application of mitigation sequencing, giving highest priority to impact avoidance whenever new uses or development are proposed in shorelines.
- Replace designated noxious weeds and invasive species with native vegetation and other non-invasive vegetation to establish and maintain shoreline ecological functions and processes.
- Where new developments and uses are proposed, shoreline vegetation shall be conserved or restored when feasible. Shoreline vegetation helps to maintain shoreline ecological functions and processes and mitigate the direct, indirect and cumulative impacts of shoreline development.

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

18S.30.030E.4 - Uses and Development Allowed within Standard Shoreline Buffer

- a. Water dependent uses and public shoreline access are allowed within the standard shoreline buffer subject to applicable regulations of the Master Program.
- b. An unpaved access path from a residential dwelling to the shoreline is allowed if:
 - (1) The path width is limited to 4 feet;
 - (2) The length of the path is minimized by keeping the path at a right angle to the shoreline to the degree feasible; and
 - (3) No trees are removed.
- c. Up to 500 square feet or 25 percent of the area encompassed within the first 50 feet measured from the ordinary high water mark (OHWM) may be disturbed to accommodate shoreline access, landscaping, or minor construction associated with a water dependent use upon review and approval of a Vegetation Planting Plan pursuant to subsection G.2. of this Section. Such disturbance shall not be concentrated nor span the extent of the shoreline at the water's edge.

Staff Comments:

- The project as proposed is not consistent with the mitigation sequencing requirements of PCC 18S.30.030 but, it can be modified to be so.
- Based on the submitted site plan, the total amount of disturbance will not exceed the allowances of PCC 18S30.030.
- The applicant’s goal is to allow safe access to the beach through retention of a small paver staircase, recontouring, retention of low lying walls to visually bench the grade, and creation of a small flat paver sitting area. The sister goal (through this permit review) is to show that the project is also ecologically enhancing the required shoreline buffer to offset the impacts of man-made features.
- The project needs to be modified through the removal of additional features and introduction of additional plantings to ensure the project meets all of the applicable code sections of PCC Title 18S and Title 18E.030 (Wetlands).
- Should the applicant wish to keep the built walls, he will need to show why the paver stacked walls are needed. Staff feels these walls need to be removed. Staff also feels the staircase pavers should be reduced to 4 feet in width.
- It should be noted that this site contains a home lawfully established prior to the passage of Title 18S and thus the house lawfully extends (20 feet at the maximum extend) into the required shoreline buffer.