

# Initial Project Review

## Shoreline Substantial Development Permit / Shoreline Variance/ Variance-Residential: McCarty

**Application Numbers: 923454, 923455, 923458**  
**Parcel Numbers: 4040000152**

**Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: February 12, 2020, at 6:30 p.m.**, City of Gig Harbor, 3510 Grandview, southeast entrance, Gig Harbor, WA 98335

**Proposal:** Construct a detached 2,328-square foot 2-story garage: 1,152 square feet on the main floor and 1,176 square feet on the 2<sup>nd</sup> story storage area.

**Project Location:** 5708 Lagoon Drive NW, Gig Harbor, WA 98335, in the Rural Residential Shoreline Environment and Rural 10 (R10) zone classification of the Gig Harbor Peninsula Community Plan area, within Section 24, T21N, R14, W.M., in Council District #7

**Review Summary:** The project can be conditioned to comply with all applicable policies and objectives of the Pierce County Code, Shoreline Regulations, Comprehensive Plan, and Gig Harbor Peninsula Community Plan. Staff has reviewed this proposal for compliance with all policies, codes, and regulations.

**State Environmental Policy Act (SEPA):** A SEPA checklist was not submitted for this application. Planning and Public Works (PPW) has concluded that environmental review is Categorically Exempt. Note: The project is **not** likely to result in any significant adverse environmental impact.

**County Contact:** Robert Perez, Assistant Planner, 253-798-3093, [robert.perez@piercecountywa.gov](mailto:robert.perez@piercecountywa.gov)

### Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=923454>



## Project Data

Complete Application Date: November 18, 2019

Initial Project Review Mailed: February 5, 2020

Applicants/Owners: Kyle J. McCarty  
5708 Lagoon Lane NW  
Gig Harbor, WA 98335

Agent: CBay Consulting  
Attn: Sheldon Smith  
4001 72nd Street East  
Tacoma, WA 98443  
[sheldon@cbayconstruction.com](mailto:sheldon@cbayconstruction.com)

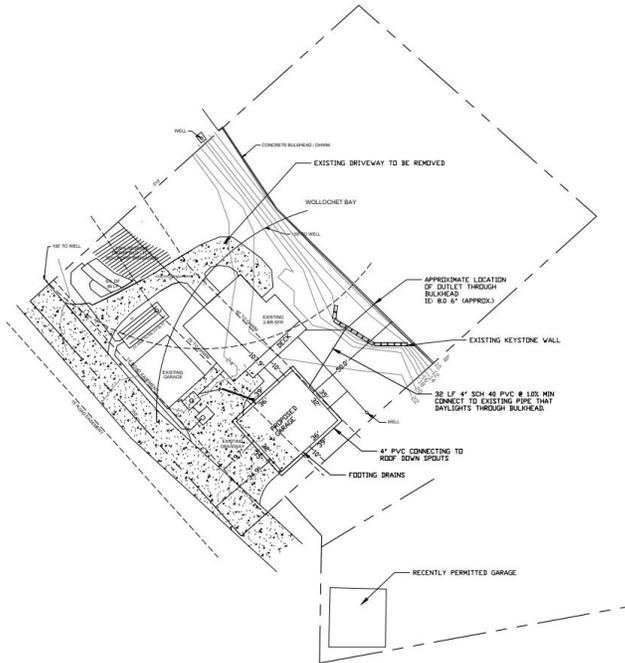
## Legal Notice

- *November 25, 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.
- *December 2, 2019:* Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
- *January 29, 2020:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the public meeting to be held by the Gig Harbor Peninsula Advisory Commission (PAC).
- *February 6, 2020:* Legal notice was published in the *Peninsula Gateway* newspaper, advertising the public meeting to be held by the PAC.

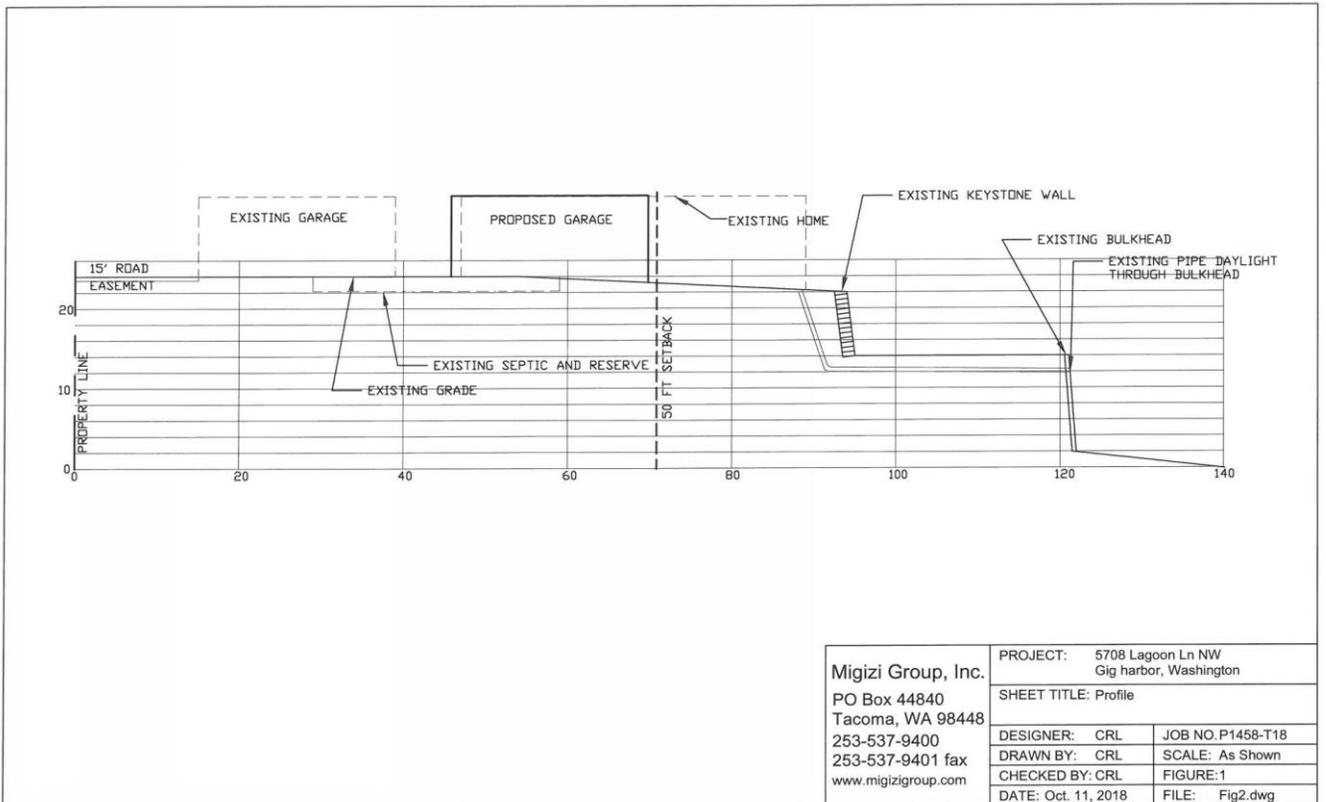
2017 Ortho Photo



# Site Plan



# Cross-Section



## **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):

- Current Planning verifies compliance with the Pierce County Comprehensive Plan, applicable community plans and Development Regulations such as, but not limited to, zoning, critical areas, natural resource lands, shoreline management, design review, and potential environmental impacts.
- Development Engineering reviews for drainage, erosion control, site development, flood, survey, landslide and erosion hazard, lot dimensions, and road standards.
- Cartography reviews road names and addresses.
- Resource Management reviews for consistency with the County wetland and fish & wildlife regulations.

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.
- 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. The LUAC may recommend the Hearing Examiner continue a scheduled public hearing to obtain additional information or LUAC recommendations.

## **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; and
- D. All applicable notes on related previously recorded County documents.

## **Site Characteristics**

- The subject parcel, 4040000152, is listed by the County Assessor as being 0.3753 acre in size.
- The parcel is accessed from the south and is 150 feet in length. The parcel includes 150 feet of tidelands.
- The parcel is located on the west shore of Wollochet Bay.
- The access to the site is via a driveway off Lagoon Lane Northwest.
- The topography of the site gently slopes toward the shore/bulkhead.
- The parcel is improved with a single-family home and there is one detached garage.

## Surrounding Land Use / Shoreline / Zoning Designation

|       | LAND USE                | SHORELINE         | ZONING         |
|-------|-------------------------|-------------------|----------------|
| North | Single-family residence | Rural-Residential | Rural 10 (R10) |
| South | Single-family residence | Rural-Residential | R10            |
| East  | Shoreline               | Rural-Residential | N/A            |
| West  | Single-family residence | Rural-Residential | R10            |

### Agency Review Comments

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:

- The Department of Archaeology and Historic Preservation's (DAHP) WISAARD notes this site to be within proximity of several archaeological sites.
- The Nisqually Indian Tribe commented on the proximity to the shoreline of Wollochet Bay and multiple recorded archeological sites. The Nisqually Indian Tribe requests a Cultural Resource Survey.
- The Puyallup Tribe commented on the high probability of uncovering cultural resources. The Puyallup Tribe requests a Cultural Survey before any ground disturbance occurs.
- The Squaxin Island Tribe Cultural Resources Department commented on this project and had no specific cultural resource concerns for this project. However, the Squaxin Tribe would concur with any requests of DAHP recommendations.

### Public Comments

Public comments were received. There was concern over the project having impacts to the scenic character of the neighborhood. Also, there has been a large quantity of trees removed from the area. This proposal would likely result in the loss of more trees.

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

#### Pierce County Code Title Development Regulations – Zoning (PCC, Title 18A)

- Front setback is 25 feet for Rural 10.
- Maximum height is 35 feet due to Shoreline Jurisdiction.
- A setback is the minimum required distance between any structure and a specified line.
- A setback is measured from the edge of a road right-of-way, easement or tract that provides vehicular access, or future road right-of-way as identified by the most recently adopted official control to the closest point of the vertical foundations.

Staff Comment: The height is below the maximum 35 feet in the shoreline jurisdiction. The garage will be outside of the 10-foot interior setback but within the front yard setback by 6 feet, thus requiring a Land Use Variance.

#### 18A.75.040 Variances.

Before any variance may be granted, it shall be shown that:

1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone;
2. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;
3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in such vicinity and zone in which the subject property is located;
4. The granting of such variance is consistent with the Comprehensive Plan including any applicable Community Plan; and
5. No significant adverse environmental impact will be caused as a result of the variance approval.

*Staff Comment:* There are no special circumstances applicable to the subject parcel, though the site location is unique, located in the northern reaches of Wollochet Bay on a peninsula. This property already contains a garage, so this would be the second garage on the site. If this Land Use Variance is granted scenic views will be impacted, vegetation on site could be impacted, and an increase in impervious surface on the southern side of the property. The proposal is not consistent with the Gig Harbor Community Plan but could be conditioned to be more consistent with the Plan. At 6 feet of encroachment the Variance would be administrative but other parts of the proposal still require Hearing.

#### Gig Harbor Peninsula Community Plan (Pierce County Code, Title 19B)

- Ensure that development which does occur in rural areas is planned in an environmentally conscientious manner to be compatible with this desired character through the control of lot sizes, intensity and density of land uses, and protection of open space.
- Visually, it is intended to be an area characterized by an abundance of pastureland, forests, and naturally vegetated buffer areas.
- 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.
- Development should be designed in a manner which preserves water courses, drainage systems, recharge areas, the natural hydrologic cycle open space, and buffer areas in a natural condition.
- Preservation of native vegetation and open space should be required as a component of all new rural developments.
- Retaining areas of mature native vegetation on a site is a higher priority than providing supplemental landscaping. Provide incentives that encourage the retention of mature tracts of healthy trees on a site.
- Development standards along shorelines should ensure the preservation of native vegetation and wildlife habitat and protect water quality and natural shoreline processes.

- Consider implementing low impact development tools. These include reducing the amount of impervious surfaces on each site, minimizing soil disturbance and erosion, disconnecting constructed drainage courses, and utilizing micro-detention facilities on each lot, (provided such facilities would not contribute to landslide hazards or slope failures) where feasible, rather than one facility at the end of a conveyance system.
- 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.

*Staff Comment:* The proposed garage is consistent with the guidance provided by the Gig Harbor Peninsula Community Plan. Additionally, there is a proposal to remove a rear driveway reducing the impervious surfaces on the north side of the site.

The site is already developed with a lawn approaching the top of the bulkhead. Opportunities exist on the site to utilize low impact development and possible vegetation planting plan in the removed driveway.

Pierce County Shoreline Management Use Regulations (Pierce County Code, Title 18S)

- For residential development, not more than one third of the parcel within shoreline jurisdiction and landward of the ordinary high water mark shall be covered by effective impervious areas, except that new lots created in a Natural or Conservancy SED shall be limited to 10 percent effective impervious surfaces. The calculation for impervious surfaces shall include parking areas but may exclude a 12-foot-wide driveway. This restriction applies to both principal and accessory uses and structures.
- Retention of existing vegetation shall be a priority within the entire shoreline jurisdiction. Retention of existing trees is particularly important.
- Where retention of shoreline vegetation is not feasible, new developments shall include a vegetation management plan as defined in subsection G.2. of this Section.
- Encourage sustainable residential development through restrictions on the scale of development, preservation of vegetation and topography, and preservation of views.
- Locate new residential structures with respect to views and with a height limit of 35 feet.
- Maintain, enhance, and/or restore shoreline features including vegetation.

*Staff Comment:* The proposed site for this development is appropriately suited for residential use and is currently in single-family use. The shoreline on this site is already hard armored with a bulkhead. The proposal encroaches into the 75-foot buffer by 25 feet which exceeds the 25 percent allowance of PCC 18S, and so requires a Shoreline Variance and hearing. This proposal represents a substantial increase in project scale from the original proposal, with associated increases in impacts.

18S.60.070 Shoreline Variance.

D. Decision Criteria – General. A Shoreline Variance shall not be granted unless the applicant demonstrates that denial of the permit would result in a thwarting of the policy enumerated in the Act due to extraordinary circumstances, and the public interest would suffer no substantial detrimental effect.

- E. Decision Criteria – Development Landward of Ordinary High Water Mark (OHWM). In addition to the General Decision Criteria in subsection D. of this Section, Shoreline Variances for development landward of the OHWM or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:
1. The strict application of the bulk or dimensional standards precludes or significantly interferes with reasonable use of the property.
  2. The hardship described in subsection E.1. of this Section is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Title and not, for example, from deed restrictions or the applicant's own actions.
  3. The design of the project is compatible with other authorized development within the area and with development planned for the area under the Comprehensive Plan and this Title, and will not cause adverse impacts to the shoreline environment.
  4. The Shoreline Variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
  5. The Shoreline Variance requested is the minimum necessary to afford relief.
- I. Decision Criteria – Cumulative Impact. In the granting of all Shoreline Variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Variances were granted to other development in the area where similar circumstances exist, the total of the Shoreline Variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

*Staff Comment:* Staff finds it difficult to recommend approval as this proposal is not the minimum necessary to afford relief. The original Shoreline Substantial Development Permit, #896833, was for a 576-square foot structure with second floor for storage. This original project did not require a variance under PCC Title 20S, under which it was vested, and could likely have been allowed under PCC Title 18S without a variance. A new application was triggered due to the applicant expanding the proposal to a 1,152-square foot main floor garage structure with a 1,176-square foot storage area as a second story. This expansion necessitated the need for both the Land Use Variance and the Shoreline Variance as well as requiring the new application to be reviewed under 18S.

The strict application of the dimension standards doesn't preclude the reasonable use of this property since there is already a garage existing on this site. Approval of this proposal would likely be unique in the fact that it would be a second garage on the property and larger than most other garages in the immediate area.

The cumulative impacts of additional similar projects (i.e. if other residence on this small peninsula added a second garage at this scale) would be significant.

Additionally, staff has been informed that there is a high probability of cultural, anthropological, or historical significance and is requiring a cultural survey be completed.