

# Initial Project Review

## Shoreline Substantial Development Permit (SD): Hale swimming pool

Application Number: 974846

Parcel Number: 0221301114 (formerly 0221301107)

**Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: January 26, 2022, at 6:30 p.m.** Due to COVID-19 restrictions, this meeting will be held virtually. To participate, visit [www.Zoom.com](http://www.Zoom.com) and click “Join a Meeting” or call 253-215-8782, then enter the Meeting ID: 930 0280 0299, and Passcode: 106734, or follow this link:

<https://piercecountywa.zoom.us/j/93002800299?pwd=VkNIUGVvRGRTRzNSY1ROc1NEb2QrQT09>

For additional questions regarding the virtual meeting process, contact Tiffany Aliment at 253-798-3226 or [tiffany.aliment@piercecountywa.gov](mailto:tiffany.aliment@piercecountywa.gov).

**Proposal:** In 2016, this and the abutting parcel to the west were under the same ownership (Allen), developed with existing residences/accessory structures, and shoreline permits were approved to allow the demolition of everything along with the construction of new residences/accessory structures on both. Since then, the residences have been demolished, bulkhead/dock work completed, parcels sold to different parties (Brynestad and Hale), and construction started on new residences (on both parcels). For this eastern parcel (now owned by Hale), they are proposing to construct a 480-square foot (16-foot by 30-foot) concrete cast in place swimming pool. The pool would be located on the southeast side of the new residence, within the 200-foot shoreline jurisdiction (as measured from Puget Sound), and just outside the required 75-foot shoreline buffer. The pool was not addressed in the existing shoreline permits and since then the County has adopted a new Shoreline Code (Title 18S replaced Title 20).

**Project Location:** The site is in the Rural 5 (R5) zone classification, Residential Shoreline Environment, and Gig Harbor Peninsula Community Plan area, located at 2910 East Bay Drive NW, within the NE 1/4 of Section 30, T21N, R2E, W.M., in Council District #7.

**Review Summary:** Staff has reviewed this proposal for compliance with applicable policies and regulations. The proposal appears to meet applicable requirements. Of note, the proposal would meet the required 75-foot buffer from Puget Sound and is proposed in the same general location as the residence (currently under construction) which was approved through prior shoreline permits. The only readily apparent concerns are as follows:

- The Puyallup Tribe has requested that the County require an archaeological/cultural study.
- When the pool is drained, any chemically treated water should not be directly drained to Puget Sound.
- The proposal should clarify if a separate mechanical and/or pool room is proposed.
- A Shoreline Conditional Use Permit, possibly an Administrative one, may also be required. This is discussed further at the end of this report.

**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. Notably, SEPA review is required for landfills and excavations over 500 cubic yards. It appears this proposal would be far under that amount.

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



**Pierce County Online Permit Information:**

<https://pals.piercecounitywa.gov/palsonline/#/permitSearch/permit/departementStatus?applPermitId=974846>

**Project Data**

Complete Application Date: November 9, 2021

Initial Project Review Mailed: January 19, 2022

Owner/Applicant: Hale Family Properties 01 LLC  
Attn: Travis and Lisa Hale  
1821 Dock Street, Suite 100  
Tacoma, WA 98402  
[Lisahale00@hotmail.com](mailto:Lisahale00@hotmail.com)

Travis and Lisa Hale  
12605 Nuthatch Drive NW  
Gig Harbor, WA 98332  
[Lisahale00@hotmail.com](mailto:Lisahale00@hotmail.com)

Applicant's Agent: Permit Granted  
Attn: Terri Schultz  
4810 Point Fosdick Drive NW, #156  
Gig Harbor, WA 98335  
[terri@permitgranted.com](mailto:terri@permitgranted.com)

**Legal and Public Notice**

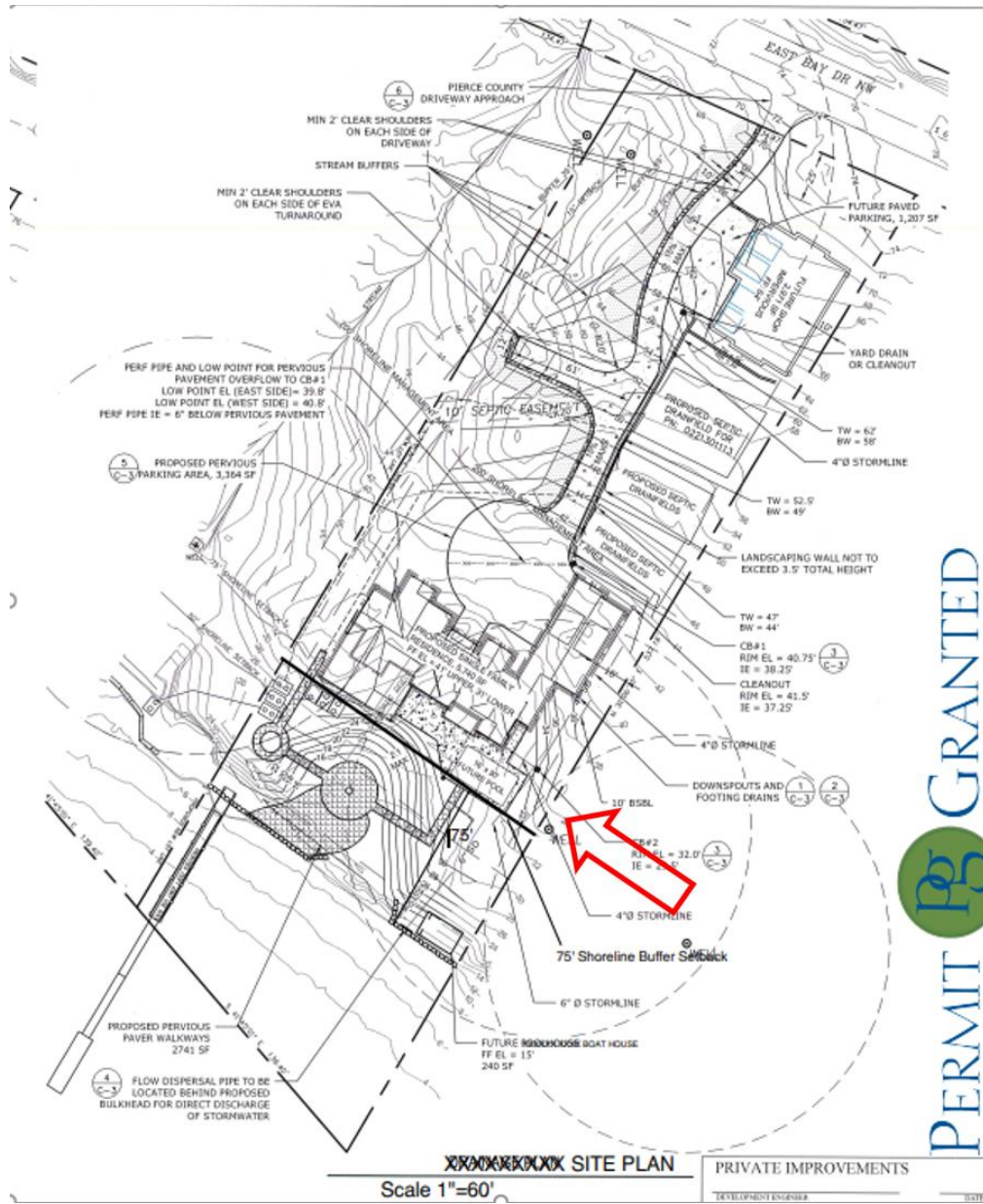
- *December 17, 2021 (updated December 22, 2021):* Notice of Application (including the Gig Harbor Peninsula Advisory Commission (PAC) meeting date, time, location) was sent to the following:
  - Property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the site.
  - Applicable governmental agencies
- *January 7, 2022:* Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- *January 12, 2022:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the public meeting to be held by the PAC.

2020 County Aerial Photo





# Site Plan



## Comments Received from the Abutting Property Owners, Public, and Government Agencies

- Comments from Public: No comments received.
- Comments from Agencies: Various comments were received. The following are of note:
  - Squaxin Island Indian Tribe: They have no specific cultural concerns regarding this proposal.
  - Puyallup Indian Tribe: They state that this proposal is close to not only known archaeology sites but in the immediate vicinity of a historic village site. They further state that the pool site should be surveyed to the depth of the pool +1 foot for cultural resources.

**Site Characteristics:** Planning Staff visited the site on December 21, 2021, and observed the following:

- The parcel is located on the north/east shoreline of Wollochet Bay.
- It consists of Parcel B of a boundary line adjustment (BLA) recorded in 2018 (Pierce County Auditor recording #2018-09-14-5002).
- The recorded survey lists the parcel as being 1.78-acres in size (including tidelands).
- The long axis of the parcel is oriented in a north-south (generally) direction. The north side is abutted by and is directly accessed from East Bay Drive NW, while the south side abuts Puget Sound.
- The parcel has 151 feet of shoreline frontage.
- This and the abutting parcel to the west share a new bulkhead and dock.
- The parcel slopes moderately downwards toward the water.
- The parcel had been heavily vegetated with trees (throughout the parcel) but vegetation has been removed especially in the southern half to facilitate demolition of the prior structures (residence, bulkhead, etc.) and construction of the new ones.

**Surrounding Land Use / Shoreline / Zoning Designation**

LAND USE		SHORELINE	ZONING
North	East Bay Dr. NW	Not applicable	Rural 5 (R5)
South	Puget Sound	Aquatic Marine	Not applicable
East	Single-family residence	Residential	R5
West	Single-family residence	Residential	R5

**Proposal (Additional Details):** In 2016, this and the abutting parcel to the west were under the same ownership (Allen), developed with existing residences/accessory structures, and shoreline permits were approved to allow the demolition of everything along with the construction of new residences/accessory structures on both. Since then, the residences have been demolished, bulkhead/dock work completed, parcels sold to different parties (Brynestad and Hale), and construction started on new residences (recently completed on the western/Brynestad parcel). For this eastern parcel (now owned by Hale), they are proposing to construct a 480-square foot (16-foot by 30-foot) concrete cast in place swimming pool. The pool would be located on the southeast side of the new residence, within the 200-foot shoreline jurisdiction (as measured from Puget Sound), and just outside the required 75-foot shoreline buffer. The pool was not addressed in the existing shoreline permits and since then the County has adopted a new Shoreline Code (Title 18S replaced Title 20).

*Staff Comment:* A question may come up as to why the proposal is not being processed as a revision or amendment to the existing shoreline permits instead of submitting a new one. The following is Staff’s response:

1. The current Revision criteria are contained in Section 18S.60.080 of the new Pierce County Shoreline Regulations (Pierce County Code, Title 18S) and Section 173-27-100 of the Washington Administrative Code (WAC). The proposed changes must be within the scope and intent of the original permit. There are six criteria. One of them is that “the use authorized pursuant to the original permit is not changed.” For this proposal, the site was and will be utilized for a single-family residence. Based on that, perhaps adding a pool could be considered as being the same “use”. However, another could view it that the pool would be a new “use” not previously contemplated under the prior shoreline permit.

2. In this instance, the County took the more conservative route and has required the submittal of a new Shoreline Substantial Development Permit. One consideration in that decision is that between when the existing shoreline permits were approved and the pool was proposed...the County shoreline regulations changed in October 2018.
3. With that said, in February 2021, the County did approve a revision for the abutting parcel to the west (parcel #0221301113 now owned by Brynestad). However, for that proposal, they were making changes to the previously approved residence and not adding any new “use”. Specifically, although the new owner wanted to construct the already permitted residence (consistent with the shoreline permit), they also proposed to add 370 square feet to the garage, 842-square foot bonus room above the garage, and 266-square foot main floor study. The total additional impervious surfaces (ground area covered) created would be 583 square feet. All proposed additions were located on the landward side of the residence and 50-foot shoreline setback (shoreline setback in effect when the shoreline permits were approved). However, as changes were proposed to the previously approved shoreline permits, a revision was required. Note, at the time of approval the subject parcel number was 0221301105. It has since changed to 0221301113.

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

#### **Gig Harbor Peninsula Community Plan (Pierce County Code, Title 19A – Appendix E)**

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:* The prior approved shoreline permit requires substantial amount of vegetation/landscaping between the shoreline and proposed pool. The pool is accessory to a residence previously approved through a shoreline permit.

#### **Pierce County Shoreline Code (Pierce County Code, Title 18S):**

This code applies to Puget Sound and the uplands located 200 feet landward of the shoreline. This parcel has been assigned a Residential Shoreline Environment Designation.

1. 18S.20.050 - Residential Shoreline Environment Designation (SED):

The intent of the Residential policies and regulations is to accommodate residential development and appurtenances. Single-family residences are a preferred use within the Conservancy and Residential Shoreline Environment Designations (SEDs) when consistent with control of pollution and prevention of damage to the natural environment. The Residential policies and regulations encourage sustainable residential development through restrictions on the scale of development, preservation of vegetation and topography, and minimization of impacts to fish and wildlife habitat.

*Staff Comment:* The proposal would be considered an accessory use to the residence. The proposed pool would not significantly adversely impact the surrounding area. Many residences along Wollochet Bay are located far closer to the shoreline than this proposed pool.

2. 18S.40.100 – Residential Development Policies and Regulations.

The intent of the Residential policies and regulations is to accommodate residential development and appurtenances. Single-family residences are a preferred use within the Conservancy and Residential Shoreline Environment Designations (SEDs) when consistent with control of pollution and prevention of damage to the natural environment. The Residential policies and regulations encourage sustainable residential development through restrictions on the scale of development, preservation of vegetation and topography, and minimization of impacts to fish and wildlife habitat.

*Staff Comment:* This section has a lot of policies and regulations. However, the pool would be placed in the same general location where a residence is currently under construction. The pool would be located outside the current required 75-foot shoreline buffer. Further, it does not appear that more than one third of the parcel (within shoreline jurisdiction and landward of the ordinary high-water mark) will be covered by impervious areas (including parking areas but excluding a 12-foot wide driveway). Since the pool will hold water, by its very nature it is considered an impervious surface.

Within the Zoning Code (Pierce County Code, Title 18A), Table 18A.15.040-2., states that within the Rural 5 (R5) zone the required interior/side yard setbacks are 10 feet. The proposal would meet those setbacks as well.

3. 18S.30.020 Archaeological, Cultural, and Historic Resources.

The intent of the Archaeological, Cultural, and Historic Resources policies and regulations is to recognize that these resources can be found throughout the County and that they are valuable because they are irreplaceable and limited. When these resources are found on shoreline sites they should be preserved, protected, and restored. Archaeological areas, ancient villages, military forts, old settlers' homes, ghost towns, historic trails, historical cemeteries, and other cultural sites and features are nonrenewable resources, many of which are in danger of being lost through present day changes in land use and urbanization.



*Staff Comment:* The Puyallup Tribe has requested a survey. However, Staff will need to follow-up with them as to if they are willing to provide any more information as to the proximity of the resources (they have identified) relative to this parcel. At this point, it is difficult for the County to require a study without further information. Note, in addition to these regulations, other than SEPA (which is not required for this proposal) the only other “regulations” that the County has regarding this topic is a policy from February 2020. In that policy, one of the triggers to require a full-blown survey is if known resources are on and/or within 500 feet of the site.

The issue regarding when the County will require archaeological/cultural surveys (not just for this site, but throughout unincorporated Pierce County) has been coming up more in more in the last several years...and have risen to the level of the County Council. Whether or not they will take any legislative action on this topic (such as incorporating the issue into the County Critical Areas Code) is unknown at this point.

4. 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, and protecting critical area designated in the Critical Areas Code (Pierce County Code, Title 18E). Of note, within this section Table 18S.30.030-2. requires a 75-foot buffer in the Residential shoreline environment designation.

*Staff Comment:* The pool would be placed in the same location where a residence is currently under construction. The pool would be located outside the current 75-foot shoreline buffer. The only potential concern is that when the pool is drained, then any chemically treated water will be directly drained to Puget Sound. Of note, the prior approved shoreline permit requires substantial amount of vegetation/landscaping between the shoreline and proposed pool.

5. 18S.30.040 Excavation, Dredging, Filling, and Grading.

The intent of the Excavation, Dredging, Filling, and/or Grading policies and regulations is to provide direction for shoreline excavation, dredging, filling, and/or grading associated with a principal use. This Section may contain more restrictive regulations that limit or effectively preclude a use or development that is authorized pursuant to another Section(s) and this Section shall control in the event of a conflict.

*Staff Comment:* It appears the proposal meets all of the applicable policies and regulations in this section.

6. Table 18S.60.030-1 Shoreline Permit Table

In the Residential shoreline designation, this table shows that residential accessory uses require a Shoreline Substantial Development Permit.

Staff Comment: A Shoreline Substantial Development Permit application has been submitted. The table does not show that an additional Conditional Use Permit or Administrative Conditional Use Permit are required for residential accessory uses/structures in the Residential shoreline designation. However, the County Shoreline Supervisor has indicated that an Administrative Shoreline Conditional Use Permit may also be required. The reason being is because a “swimming pool” is not considered a “normal appurtenance” to a single-family residence. Chapter 18S.70 Appendix A, item B, defines "Normal Appurtenance" as a feature, development, activity, or structure necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high-water mark.

Since a swimming pool is not considered a “normal appurtenance”, the supervisor believes this makes a swimming pool an “unclassified use” and therefore automatically requiring a Conditional Use Permit of some sort.

Staff apologizes that this is not yet resolved for the PAC. Note, for decades, the County presented proposals to the PAC and LUACs in general late in the process...typically a couple weeks before they would be heard by, for example, the Hearing Examiner. The advantages in presenting cases to the LUACs late in the process were that most issues (such as this one) would have already been ironed out so to speak. However, a few years ago the process was changed whereby LUACs would hear proposals early in the process. The reason for the change was, in part, because LUAC members felt that they were considering proposals so late in the process that their input did not matter as much. This was a completely valid concern. However, the off shoot of that is that by considering proposals early in the process...not all issues (such as this one) may be ironed out yet.

Note, if a Conditional Use Permit is required, the criteria are contained in Chapter 18S.60. At this point Staff does not necessarily have any concerns regarding the proposals’ consistency with Conditional Use Permit criteria. If such a permit is required, this then also requires approval by the Washington State Department of Ecology.

7. Chapter 18S.60 – Permits and Approvals.

The decision criteria for Shoreline Substantial Development Permits are listed in Section 18S.60.040.

Staff Comment: Staff has not listed them here as the report identifies (elsewhere) any potential concerns regarding compliance with those criteria.

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