

# Initial Project Review

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

**Application Number: 999782**

**Parcel Number: 0022341054**

**Key Peninsula Advisory Commission (KPAC) Public Meeting: January 18, 2023, at 6:30 p.m.,** at The Mustard Seed Project, 9016 154th Avenue Court NW, Lakebay, WA

**Proposal:** The applicant is seeking to construct a 192-square foot (12-foot by 16-foot) concrete cast in place swimming pool with an attached 7-foot by 7-foot hot tub. The pool would be located on the southwest side of the existing residence, within the 200-foot shoreline jurisdiction (as measured from the ordinary high water mark (OHWM) of Puget Sound) and is currently proposed just outside the required 75-foot shoreline buffer.

**Project Location:** The site is in the Rural 10 (R10) zone classification, Residential Shoreline Environment, and Key Peninsula Community Plan area, located at 18907 107th Street Court NW, within the NW 1/4 of Section 34, T22N, R00, 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. Planning Staff concludes the project can be approved, if properly conditioned. The proposal would meet the required 75-foot buffer from Puget Sound and is proposed in the same general location as the residence. The only identified issues, at this point in time, are as follows:

- The applicant needs to confirm the location of the OHWM to ensure the pool is located outside the 75-foot buffer.
- The limits of disturbance need to be more clearly identified. The current site plan identifies a silt fence within just a few feet of the bulkhead, well within the 75-foot buffer.
- The Nisqually Tribe has requested that the County require an archaeological/cultural study.
- The applicant will have to explain how the pool may be drained, to ensure that pool water is not directly drained to Puget Sound.
- The proposal should clarify if a separate mechanical and/or pool room is proposed.

**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:** Brian Bischof, Associate Planner, [brian.bischof@piercecounitywa.gov](mailto:brian.bischof@piercecounitywa.gov), 253-798-2987

**Pierce County Online Permit Information:**

<https://pals.piercecounitywa.gov/palsonline/#/permitSearch/permit/departementStatus?applPermitId=999782>



**Project Data**

Complete Application Date: November 17, 2022

Initial Project Review Mailed: January 11, 2022

Owner/Applicant: Steven M. Walsh  
15305 14<sup>th</sup> Street SE  
Mill Creek WA, 65012  
[asawalsh@frontier.com](mailto:asawalsh@frontier.com)

Applicant's Agent: Aqua Rec Inc  
Attn: Mark C. Bourdon  
1407 Puyallup Avenue  
Tacoma WA, 98421  
[mark@squarec.com](mailto:mark@squarec.com)

**Legal and Public Notice**

- *December 6, 2022:* Notice of Application, including the Key Peninsula Advisory Commission (KPAC) meeting date, time, and 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
- *December 20, 2022:* Public Notice sign was posted on the site by the Agent, confirmed with a Declaration of Posting.
- *January 4, 2023:* Legal notice was published in the official County newspaper (*Tacoma News Tribune*), advertising the public meeting to be held by the KPAC.

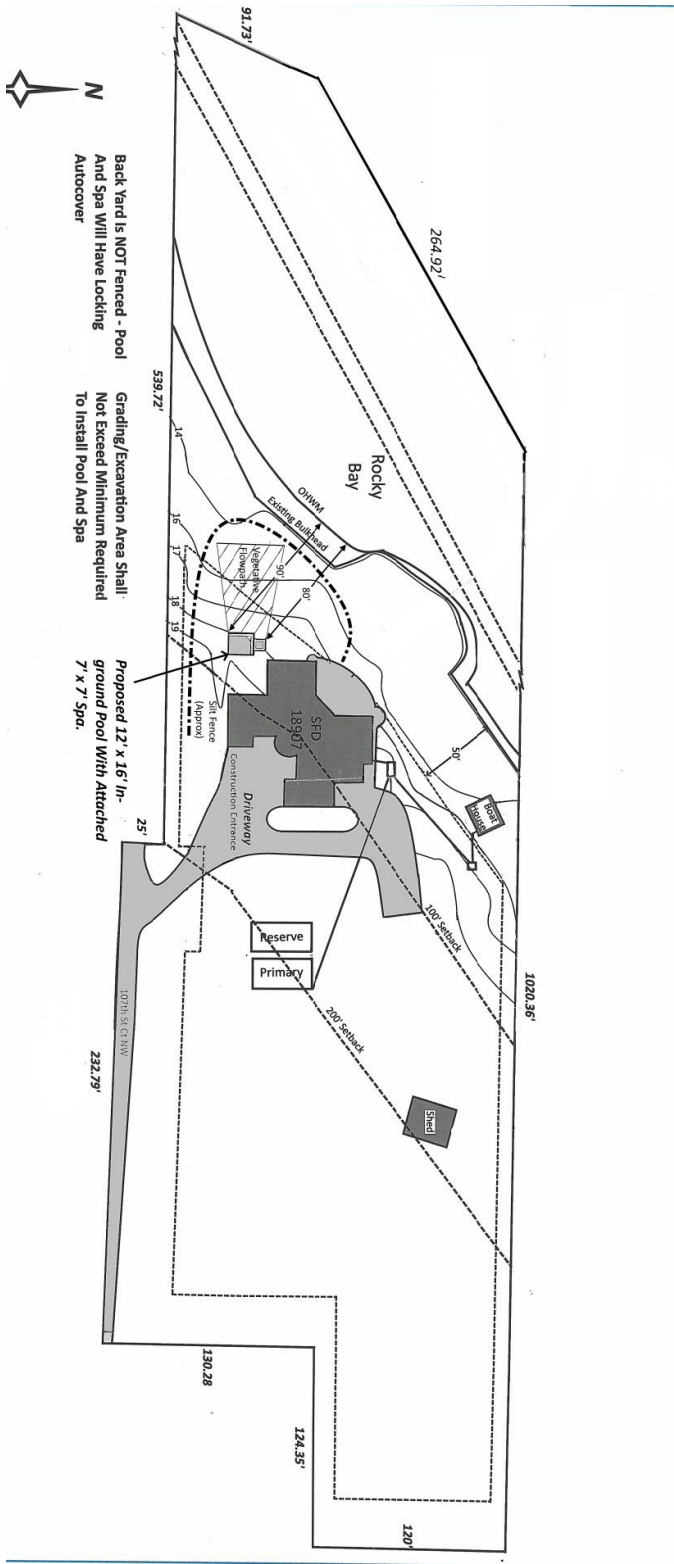
2021 County Aerial Photo (facing west)







# Site Plan



Google Earth imagery (accessed 2022)



## **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.
- Resource Management reviews for consistency with the County wetland and fish & wildlife regulations.

### **B. Key Peninsula Advisory Commission (KPAC) Community Plan area:**

The KPAC'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 KPAC. 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 Key Peninsula (KPAC) Community Plan.
- C. Applicable state statutes; and
- D. All applicable notes on related previously recorded County documents.

## **Site Characteristics**

- The parcel is located on the east shoreline of Rocky Bay.
- It consists of Parcel A of a boundary line adjustment (BLA) recorded in 2010 (Pierce County Auditor recording #2010-03-31-5003).
- The Assessor-Treasurer's website lists the parcel as being 3.1-acres in size.



- The long axis of the parcel is oriented in a west-east direction. The east side is directly accessed from 107<sup>th</sup> Street Court NW. The west side abuts Rocky Bay.
- The parcel has approximately 425 feet of shoreline frontage.
- The parcel has a bulkhead along its entire shoreline frontage.
- The parcel slopes down gently toward the water.
- The parcel has been cleared of most large vegetation since at least 1977.

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

|       | LAND USE                | SHORELINE      | ZONING         |
|-------|-------------------------|----------------|----------------|
| North | Single-family residence | Residential    | Rural 10 (R10) |
| South | Single-family residence | Residential    | R10            |
| East  | Single-family residence | Not applicable | R10            |
| West  | Rocky Bay               | Aquatic Marine | Not applicable |

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

- Comments from Public: No comments received.
- Comments from Agencies:
  - Nisqually Indian Tribe: They state that this proposal is close to known archaeology sites. They further state that the applicant should perform a cultural resource survey prior to any land disturbance.
- Comments received from Pierce County Resource Management Staff requesting a wetland verification application.

**Initial Planning and Public Works Staff Review for Consistency with Applicable Land Use Policies and Regulations**

**Key Peninsula Community Plan (Pierce County Code, Title 19A – Appendix G)**

**GOALS:**

1. KP ENV-1.4: Discourage the use of fertilizers and pesticides on lawns in shoreline areas. Offer educational information to residents regarding environmentally friendly, biodegradable, non-chemical alternatives.
2. KP ENV-8.2 Encourage low impact development techniques along marine shorelines.

*Staff Comment:* The proposed action will require replanting and mitigation for the loss of vegetation including lawn areas to achieve a no-net loss of biological function. These mitigation plantings will need to be native and should be able to survive without chemical assistance and should overall reduce the properties total use fertilizers.



## **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.

### **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.
- 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 proposed pool and spa will be surrounded by the existing footprint of the home, thus will not adversely impact the view of surrounding single-family residences, both from the water and/or from the land and would be considered an accessory use to the residence and would not significantly adversely impact the surrounding area if conditioned to meet impervious limitations.

### **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 proposal triggers a Cultural Resource Survey by County Policy because the project site is within 500 feet of a site known to contain cultural or archeological resources.

Additionally, the project site is situated on low bank/gradual incline shoreline (i.e., those areas where easy access from water to upland is present) within 500 feet of an estuary, lagoon, or perennial freshwater input and the project includes activities that disturb the soil, such as clearing and excavation. County policy would trigger a Cultural Resource Survey and The Nisqually Indian Tribe has requested the same.

### **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.

Staff Comment: Per the submitted site plan, the site is below the maximum 33% impervious surface. The proposed pool and hot tub will add 241 square feet of impervious surface and will need to mitigate, as per the above section, which will outline the required amount of planting.

A potential concern is that when the pool is drained, then any chemically treated water will be directly drained to Puget Sound.

#### 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.

#### 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. 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 10 (R10) zone the required interior/side yard setbacks are 10 feet. The proposal would meet those setbacks as well.

#### 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. Pools have been treated as accessory structures to a single-family residence.

18S.60.040 Shoreline Substantial Development Permit (*Applicant's responses in italics*)

The Shoreline Substantial Development Permit (SD) process provides a comprehensive review of development on shorelines to ensure compliance with the Shoreline Management Act (Act), this Title, and any other applicable development regulations.

1. The proposal is consistent with the policies and procedures of the Act.

*Applicant's Response: This project is consistent with the Shoreline Management Act. The shoreline will not be altered or changed in any way, No wildlife or wild vegetation will be disturbed. Erosion and sediment controls will be in place during construction.*

2. The proposal is consistent with this Title's policies and regulations including, at a minimum, the following:
  - a. Policies and regulations of the shoreline environment designation (SED) in which the proposal is located;

*Applicant's Response: The Shoreline Environmental Designation is residential. No policies or procedure will be adversely affected.*

- b. Policies and regulations for Shorelines of Statewide Significance if the proposal is within such area;

*Applicant's Response: This shoreline is of Statewide Significance. All policies and regulations will be followed.*

- c. Policies and regulations within the applicable General Policies and Regulations found in Chapter [18S.30](#) PCC; and

*Applicant's Response: No significant cultural or historical resources have been identified on the project site. Should any be found during excavation the appropriate authorities will be notified and all work will stop. There will be no net loss of ecological function in the project area. Excavation and grading will be limited to the minimum area required to install the pool and deck. Appropriate erosion and sediment controls will be in use. Shoreline access, public or private, will not be changed in any way either during or after project completion. Scenic vistas will not be impacted in any way. Shoreline stabilization will not be required. There will be no shoreline modification involved with this project. There will be no change to shoreline usage. None of the materials used during construction shall be harmful to water quality or aquatic life. No materials can, or will be introduced into the water – the project is separated from the shoreline by an existing lawn an. Sanitation materials (chlorine) used in the pool after construction are stored in a dry forms that are easily vacuumed and disposed of should a spill occur. Erosion and pollution controls will be in place and storm water will be mitigated via vegetative flowpath. No toxic materials will result from construction materials.*

- d. Policies and regulations within the applicable Use and Development Policies and Regulations found in Chapter [18S.40](#) PCC.

*Applicant's Response: There are no agricultural or aqua cultural activities impacted by this project. This is an addition to an existing single family residence that shall have no effect on shoreline use or access.*

3. The proposal is consistent with the applicable provisions of Title [18E](#) PCC.

*Applicant's Response: This project will be compliant with all applicable provisions of Title 18E PCC.*

4. The proposal is consistent with the applicable policies of the Comprehensive Plan and any applicable Community Plan.

*Applicant's Response: Project will be consistent with the policies of the Comprehensive Plan and any applicable Community Plans.*

5. The proposal is consistent with all applicable development regulations, including but not limited to Title [18A](#) PCC, Development Regulations – Zoning.

*Applicant's Response: This project is consistent with Title 18A PCC as a residential accessory to an existing single family residence. It will comply with applicable development regulations.*

Staff Comment: Applicant appears to meet the required findings for the criteria outlined in 18S.60.040.

**Question from Staff for the KPAC:**

Does the KPAC believe that the applicant is meeting the Shoreline Substantial Development Permit requirements or have any comments or recommendations?

Questions for PSMAC Discussion and Consideration

Walsh SD IPR KPAC-BB.docx