

Initial Project Review

Fish & Wildlife Variance: Miescher, Jesse & Ashley

Application Number: 1012181

Related Application Number: 975345

Tax Parcel Number: 0121244067

Gig Harbor Peninsula Advisory Commission (PAC) Public Meeting: July 26, 2023 at 6:30 p.m. This meeting will be held in person at the City of Gig Harbor, Southeast Entrance, 3510 Grandview Street, Gig Harbor, WA. For additional questions regarding this meeting, contact Long Range Planning Admin at 253-798-3736, or ppwlongrangeadmin@piercecountywa.gov

Proposal: The applicant is proposing to reduce the 65-foot buffer for a Type N2 Water to a minimum of 7-feet with a 5-foot building setback to accommodate a single-family residence and have reasonable use of this parcel of record like other parcels in the vicinity. The Applicant is proposing a total of 10,740 square feet of buffer reduction with 16,596 square feet of buffer mitigation.

Project Location: The site is in the Rural Residential (R10) zone classification, in the Gig Harbor area of unincorporated Pierce County, located at 3725 Wollochet Drive NW, Gig Harbor, within the SE ¼ of Section 24, T21N, R1E, W.M., in Council District #7

Staff Review: County staff has reviewed this proposal for compliance with all applicable policies, codes, and regulations. Staff intends to recommend **approval** to the Hearing Examiner, subject to regulatory requirements and recommended conditions of approval.

State Environmental Policy Act (SEPA): SEPA Review is not required for this proposal.

County Contact: Scott R. Sissons, Environmental Biologist 3, (253) 798-2758, scott.sissons@piercecountywa.gov

Pierce County Online Permit Information:

<https://pals.piercecountywa.gov/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=1012181>



Project Data

Complete Application Date: May 9, 2023

Initial Project Review Mailed: July 19, 2023

Property Owner: Jesse & Ashley Miescher
PO Box 351
Fox Island, WA 98333
jmiescher@gmail.com

Legal Notice

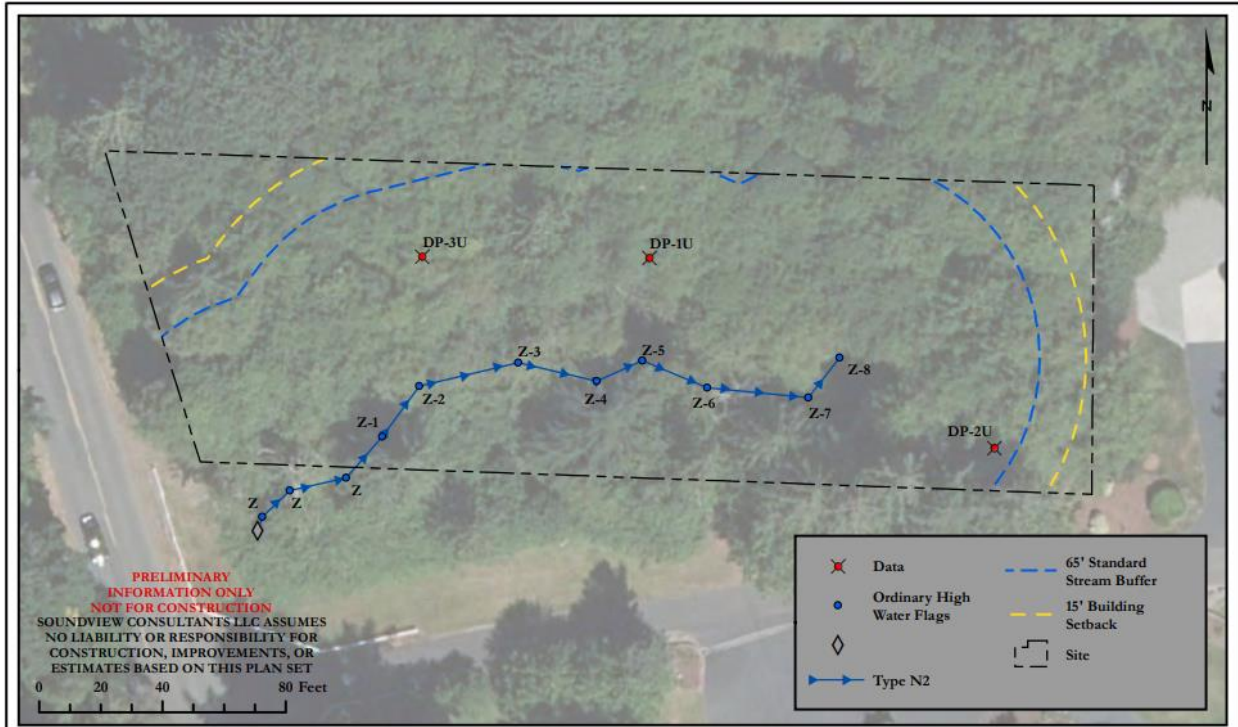
- *June 1, 2023*: Notice of Application (NOA) and Public Hearing Notice, was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
- *November 20, 2021*: The site was posted with a public notice sign and confirmed with a Declaration of Posting.
- *July 12, 2023*: Legal notice was published in the official County newspaper (*Tacoma News Tribune*) advertising the Gig Harbor Peninsula Advisory Commission (PAC) public meeting.

2020 Aerial Photo



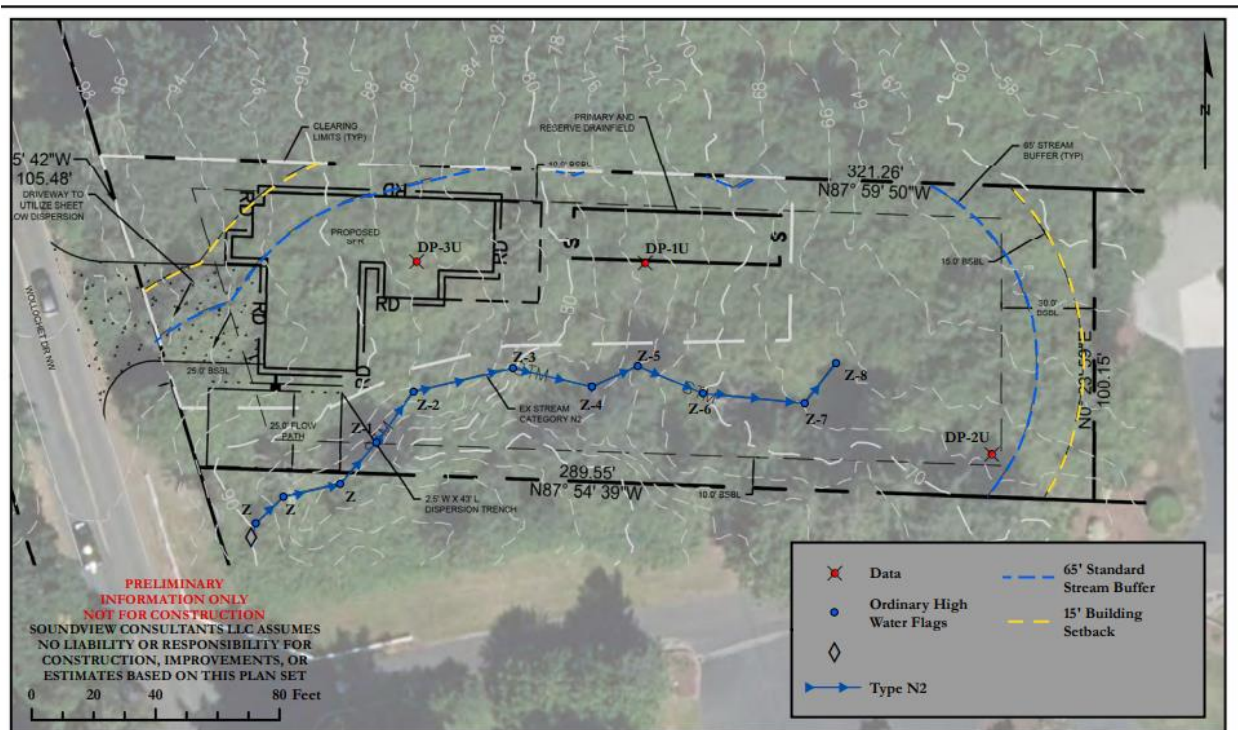
Existing Conditions

EXISTING CONDITIONS



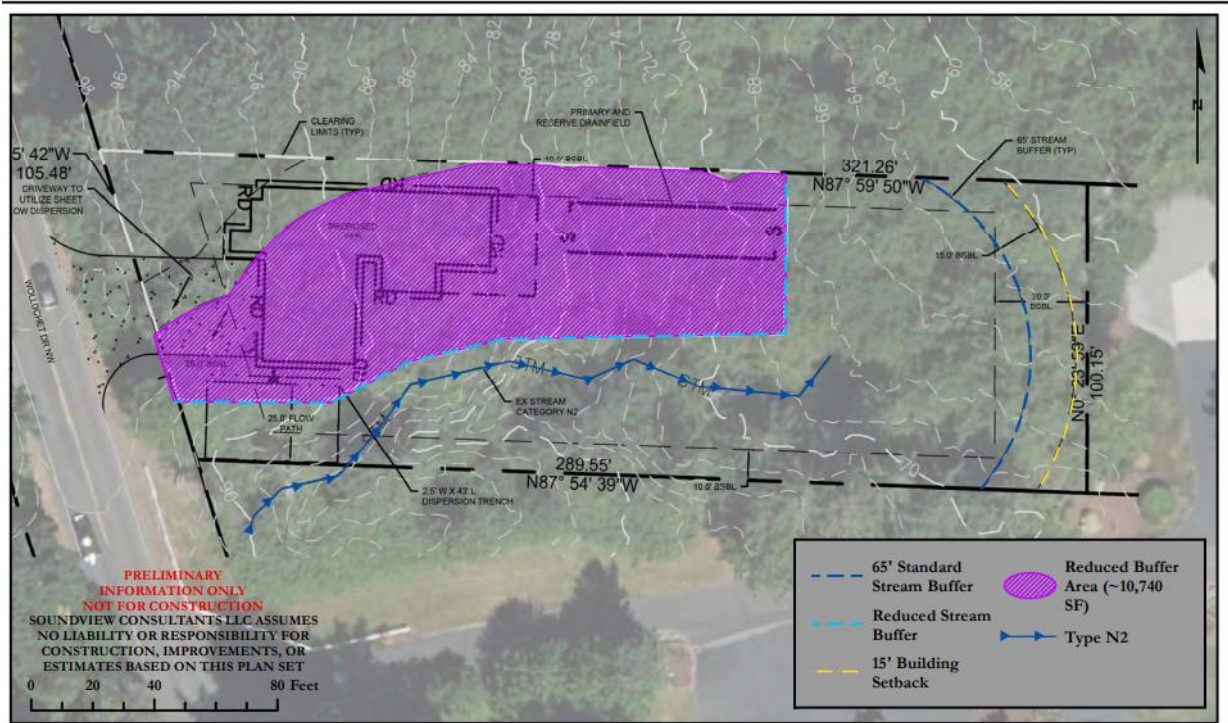
Proposed Site Plan

PROPOSED PLAN



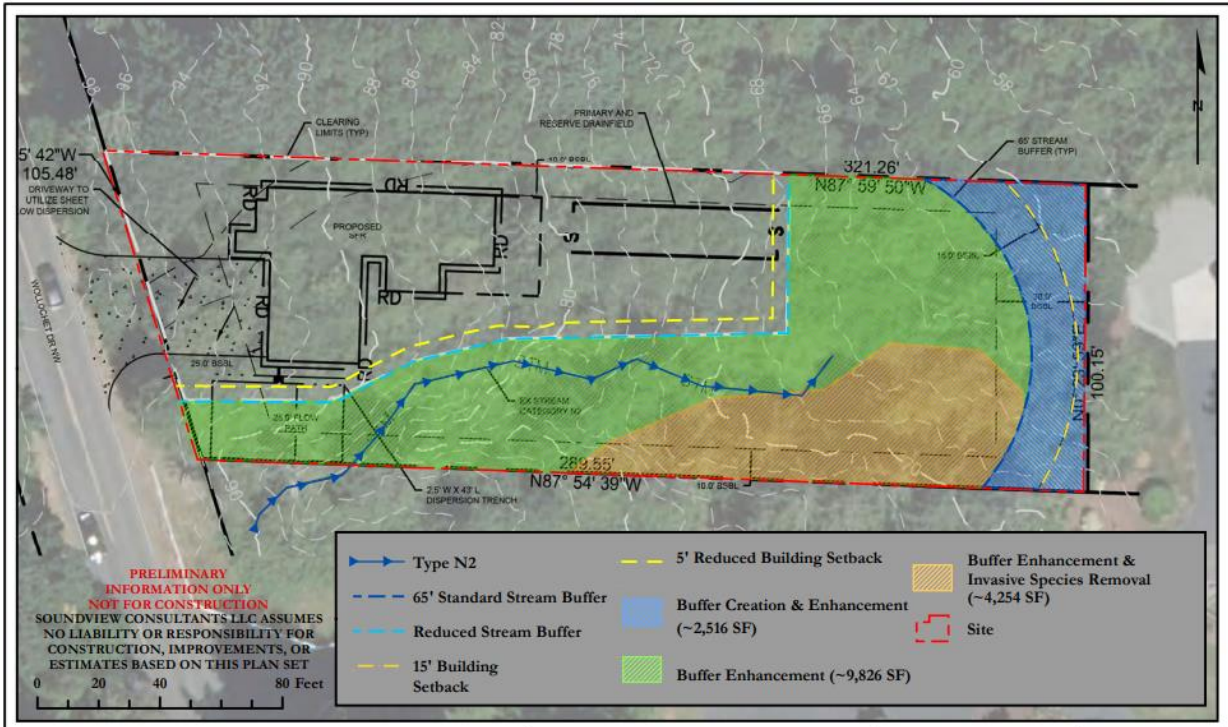
Buffer Impacts Site Plan

BUFFER IMPACTS



Proposed Mitigation Site Plan

PROPOSED MITIGATION



Site Characteristics

- The parcel is located at 3725 Wollochet Dr. NW in Gig Harbor. Parcel number is 0121244067. The parcel is rectangular in shape, and sloping to the east, and 30,056 square feet in size (0.69 acres).
- One seasonal Type N2 Water (identified as Stream Z) runs near the southern property line along the southern property boundary.
- The 65-foot buffer and 15-foot building setback encumbers an estimated 90 percent of this parcel.
- The maximum the buffer can be reduced is 25% per 18E.40.060 D.2.c. (2).
- The proposed project avoids direct impacts to Stream Z, minimizes impacts to the Stream Z buffer to the greatest extent practical, and enhances the remaining buffer area. The encumbrance of the critical area buffers and the desire of the Applicant to achieve reasonable use of the subject property for a single-family residence necessitates a reduction in the stream buffer beyond the maximum 25 percent as allowed per code.

Surrounding Land Use and Zoning Designation

	LAND USE	ZONING
North	Single Family Residence (SFR)	Rural Residential 10 (R10)
South	Single Family Residence (SFR)	Rural Residential 10 (R10)
West	Single Family Residence (SFR)	Rural Residential 10 (R10)
East	Single Family Residence (SFR)	Rural Residential 10 (R10)

Review Responsibility

The following list includes jurisdictional areas for County departments and divisions 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, Gig Harbor Community Plan, and development regulations including zoning, critical areas, design review and potential environmental impacts.
 - Wetland and Fish & Wildlife Section reviews for site constraints for wetlands or fish and wildlife.
 - Development Engineering reviews for drainage, erosion control, site development, flood, survey, landslide and erosion hazard, lot dimensions and road standards.
- B. Tacoma-Pierce County Health Department reviews for wastewater disposal and potable water.

Review Criteria

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

- A. Pierce County Development Regulations.
- B. Pierce County Comprehensive Plan and Graham Community Plan.
- C. Applicable state statutes.
- D. All applicable notes on related previously recorded County documents.

Agency and Staff Review Comments

The proposed project has been routed to interested departments and agencies for review. Additional comments may be forthcoming. To date, one comment has been received from a neighbor, and two comment from other departments or agencies.

PPW Staff Review for Consistency with Applicable Land Use Policies and Regulations

The proposal is subject to review for conformance with Pierce County plans, codes, and regulations.

Governing Regulations:

Title 18E Development Regulations – Critical Areas Revised 6-19 Amended Ord. 2019-59

18E.20.020 Regulated Uses and Activities

A. Unless the requirements of the Title are met, Pierce County shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permits; short subdivision; large lots; use permits; subdivision; utility permits; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.

18E.40.060 Buffer Requirements

D. Modification to Buffer or Setback Width Requirements.

1. Setbacks. An applicant wishing to reduce a setback shall pursue a variance pursuant to PCC 18E.20.060, except that reductions to the standard shoreline buffers of Table 18S.30.030-2 shall be reviewed pursuant to Title 18S PCC, Development Policies and Regulations – Shorelines.

18E.40.040 Fish and Wildlife Species and Habitat Conservation Areas Standards

A.1.b. If neither the buffer modification allowances nor standards are applicable or feasible, then an applicant may need to pursue a fish and wildlife variance or reasonable use exception as outlined in Chapter 18E.20 PCC.

18E.20.060 Variances

A. General. An applicant who seeks to reduce a wetland buffer below the provisions of PCC 18E.30.060 or the Wetland Standards of PCC 18E.30.040, or a critical fish and wildlife habitat buffer below the provisions of PCC 18E.40.060, or the Fish and Wildlife Habitat Conservation Area Standards of PCC 18E.40.040 may pursue a variance.

18E.20.060 D.3.a.

The Hearing Examiner shall have the authority to grant a wetland and **fish and wildlife variance** from the requirements of Section 18E.30.060 and **18E.40.060** when, in the opinion of the Examiner, all the following criteria have been met:

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 other properties or that make it impossible to redesign the project to preclude the need for a variance;

Staff Comments: The seasonal drainage (Type N2 Water) and associated 65-foot standard buffer area cover over 90 percent of the parcel. This old parcel of record is only 30,056 square feet in size (0.69 acres). Other parcels in the area do not appear to have the same limiting regulating critical areas. The applicant is proposing a single-family residence (SFR) that is very comparable to other parcel in the area. To accommodate the site with a small SFR,

driveway, septic and utilities and associated infrastructure including storm water dispersal, the applicant needs to reduce the required 65-foot Type N2 Water buffer beyond what is allowed in code. 18E.40.040 A.1.b. states: "If neither the buffer modification allowances nor standards are applicable or feasible, then an applicant may need to pursue a fish and wildlife variance or reasonable use exception as outlined in Chapter 18E.20 PCC."

To accommodate a modest SFR, the applicant needs to reduce the buffer of the seasonal drainage course to a minimum of 7-feet with a 5-foot building setback. It is not possible to redesign the project to preclude the need for a variance.

It should be noted that this seasonal drainage does not provide direct fish habitat.

2. That the applicant has avoided impacts and provided mitigation to the maximum practical extent;

Staff Comments: The applicant has gone through mitigation sequencing of avoidance, minimization, and mitigation. The applicant cannot avoid impacts since the drainage buffer extends over nearly the entire parcel.

The applicant is minimizing impacts by building a modest sized SFR in the northwestern portion of the parcel as far away as possible from the critical areas and limiting the size of the developed area.

A mitigation plan is being required that proposes to remove invasive vegetation (mainly English Ivy) from the entire Type N2 Water buffer and enhancing with native vegetation. The Applicant is proposing a total of 10,740 square feet of buffer reduction with 16,596 square feet of buffer mitigation. The proposed plantings will increase species diversity and in turn improve habitat adjacent to the drainage. The increased plantings will increase filtration for any surface runoff to achieve no net loss of stream buffer functions on-site.

3. That the buffer reduction proposed through the variance is limited to that necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question; and

Staff Comments: This parcel is in an area zoned Rural Residential (R10), that allows for SFR. Surrounding properties in the vicinity are all developed with SFR and associated infrastructure. Without the granting of this variance this parcel could not be developed and would be denied reasonable use that other properties possess.

4. Granting the wetland variance will not be materially detrimental to the public welfare or injurious to the property or improvement.

Staff Comments: A buffer reduction allowed on one parcel may not be immediately materially detrimental to the public welfare or injurious to the property. However, small cumulative effects add up to eventually create significant negative impacts downstream. The functions of the buffer, such as increasing the quality of, and mitigating the amount of runoff received by a drainage, are reduced as the buffer is decreased in size. The habitat function of a buffer also declines as the width is reduced.

However, in this case, unless this variance is granted, the property owner will have no reasonable use of the old parcel of record created prior to the first critical area ordinance adopted in Pierce County.

Water quality and quantity will be required to meet Pierce County Development Engineering requirements to offset increased runoff associated with the proposed development to prevent flooding problems downgradient.

Mitigation will be required to enhance the remaining buffer by the removal of invasive vegetation and the planting of native vegetation will not only increase habitat value, but it will aid in flood flow attenuation and water quality protection before the stream infiltrates.

The TPCHD will require that the on-site septic system meet local and state regulations.

Questions

Does the PAC believe that the applicant is meeting the Fish & Wildlife Variance Permit Requirements or have any comments of recommendations?