

Staff Report

Administrative Appeal: (Avaroe, Gregory and Taylor)

Application Number: 895259
Service Request Case Number: 63803
Tax Parcel Number: 9760200941

Examiner's Hearing: December 6, 2018 at 9:00, at the Pierce County Public Services Building, South Entrance, Public Meeting Room 2401 South 35th Street, Tacoma, Washington 98409

Request: Appellant is appealing a Notice and Order to Correct, dated September 6, 2018, from the Pierce County Resource Management Section of the Planning and Public Works Department. (Exhibit 3B).

Project Location: The site is in a Rural Sensitive Resource zone classification, 5001 Fern Lane NW, Gig Harbor, WA, Section 18, Township 21 North, Range 2 East, WM., in Council District #7.

Report Summary: County staff has reviewed the Administrative Appeal and finds that the appeal should be denied.

State Environmental Policy Act (SEPA): The Administrative Appeal is exempt from environmental review under SEPA.

County Contact: Mary Van Haren, mary.vanharen@piercescounty.wa.gov

Pierce County Online Permit Information:

<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departmentsStatus?applPermitId=895259>



Application Data

Appeal Application Date: September 20, 2018

Staff Report Mailed: November 19, 2018

Appellant: Gregory and Taylor Avaroe
5001 Fern Lane NW
Gig Harbor, WA 98335
Assessor's Taxpayer Mailing address:
11712 – 136th Avenue East
Puyallup, WA 98374

Agent: Jane Koler, Land Use and Property Law, PLLC
6659 Kimball Drive, Suite B-201
Gig Harbor, WA 98335

Notice:

Notice of this request was advertised in accordance with Chapter 1.22 of the Pierce County Code. Notice of the date and time of hearing was published on November 21, 2018 in the official County newspaper (Tacoma News Tribune & Gateway).

Introduction:

This case involves clearing within 315 feet of wetland indicators (County Wetland Inventory, National Wetland Inventory, Hydric Soils, Flood, Hydro Surface Boundary) and within 165 feet of a fish and wildlife habitat conservation indicator (Hydro Surface Boundary) in violation of Title 18E.

Case History:

- Pierce County Assessor-Treasurer records show the Avaroes purchased the property on March 22, 2018, from Hesin, LLC
- On August 15, 2018, Pierce County Planning and Public Works (PPW) Code Enforcement received a public service request from Department of Ecology (ERTS# 683266) regarding a citizen concerned about a neighbor clearing wetland with a bobcat/tractor. (Exhibit 3E)
- On August 23, 2018, Mary Van Haren, called Gregory Avaroe at the phone number listed under Pierce County permit number 884746. Ms. Van Haren explained to Mr. Avaroe who she was and the complaint that was received. Ms. Van Haren provided information to Mr. Avaroe about Pierce County Critical Area regulations and permit requirements. There was a discussion of activity that occurred on the site and Mr. Avaroe explained that he cleared vegetation with a bobcat to expand the lawn area and provide a view of the water. Ms. Van Haren asked Mr. Avaroe if he would give permission to her to perform a site visit and explained he could refuse. Mr. Avaroe did not consent to a site visit but said he would consider sending some photos. Mr. Avaroe provided his email address to Ms. Van Haren and she sent Mr. Avaroe an email with links to information about PCC Title 18E and the Growth Management Act. (Exhibit3C)

- On August 27, 2018, Ms. Van Haren received several emails from the citizen caller listed on the Department of Ecology ERTS which provided photographs and a video of a Bobcat clearing vegetation near the edge of the water (Exhibit 3F) for the photos; the video can be viewed at:
<https://www.piercecountywa.gov/6027/Hearing-Examiner---Administrative-Appeal>
- On August 28, 2018, Ms. Van Haren spoke with the citizen caller listed on the Department of Ecology ERTS# 683266. The citizen caller indicated that the Bobcat work in the wetland may be ongoing. The ERTS had also been referred to the Department of Fish and Wildlife (DFW) so Ms. Van Haren contacted Officer Jeff Summit with the DFW and relayed the information from the citizen caller. Ms. Van Haren also sent an email to Officer Summit and Matthew Curtis (DFW habitat biologist) with the ERTS form attached. Officer Summit replied to the email indicating he went to the site, nobody was home and that he left his business card.
- On August 31, 2018, Ms. Van Haren investigated the complaint and observed the property from Fern Lane NW. Ms. Van Haren did not enter the property or take photographs. From Fern Lane NW, Ms. Van Haren observed an area north of the house where vegetation had been removed, bare dirt exposed, and vegetation pushed into a pile. This area is within 315 feet of wetland indicators (County Wetland Inventory, National Wetland Inventory, Hydric Soils, Flood, Hydro Surface Boundary) and 165 feet of a fish and wildlife conservation habitat indicator (Hydro Surface Boundary) which confirmed a violation of Title 18E, Development Regulations – Critical Areas.
- On September 6, 2018, based on the confirmed violation, Resource Management (RM) issued a Notice and Order to Correct (NOTC) to Gregory and Taylor Avaroe by regular and certified mail. The NOTC was sent to both the site address and the Assessor's Taxpayer address in Puyallup. The certified mail receipt has not been signed. The NOTC provided a description of the violation, the applicable code sections, permit requirements, compliance timeline, compliance actions and the appeal process. (Exhibit 3B)
- On September 6, 2018, based on the same activities, Jeff Sharp also sent a Notice and Order to Correct to Greg and Taylor Avaroe along with the NOTC from RM.
- On September 7, 2018, Kristina LeFae, Office Assistant, sent Mr. Avaroe a copy of the cover letter, NOTC's, and associated attachments via email to onision@gmail.com. (Exhibit 3D)
- On September 20, 2018, the applicant submitted an Appeal Decision-Administrative Official Application (application number 895259), which was filed in a timely manner. (Exhibit 3A)

Violation:

On August 31, 2018, Ms. Van Haren observed clearing within 315 feet of several wetland indicators (County Wetland Inventory, National Wetland Inventory, Hydric Soils, Flood, Hydro Surface Boundary) and within 165 feet of a fish and wildlife conservation habitat indicator (Hydro Surface Boundary) per Pierce County Code (PCC) 18E.30.020 C. and 18E.40.020 D.12.c. Per PCC 18E.30.030 A.2. and 18E.40.030 A.2. application for both wetland and fish and wildlife habitat conservation review is required.

PCC 18E.10.070 Administration.

- A. **Approvals Required.** An approval must be obtained from Pierce County when the Department determines that the site or project area may contain a critical area or its buffer, as set forth in each Chapter.

PCC 18.25.030, defines development to include clearing, filling, grading or any activity that results in the removal of vegetation or alteration of natural site characteristics.

PCC 18.25.030 defines clearing as the removal of stumps and vegetation to the extent that the removal has the potential to cause erosion or drainage impacts.

PCC 18E.20.020B6 states: “Altering the character of a regulated area by destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting” are activities that are regulated within wetlands and/or their buffers

PCC 18.140.030A states: “Pierce County regulations require acquisition of permits or approvals before certain activity may be performed. It shall be unlawful to conduct these regulated activities without first obtaining a written permit or approval.”

PCC 18E.10.110 Compliance.

- A. The regulations for compliance with the provisions of this Title are set forth in Chapter [18.140 PCC, Compliance](#).

- B. When a critical area or its required buffer has been altered in violation of this Title, the Department shall require the property owner to bring the site into compliance. The property owner shall be required to submit the appropriate critical area application and commence review, as applicable for each Chapter. In addition to any required site investigation, delineations, assessments, reports, etc., the property owner shall be required to submit a restoration plan that identifies the proposed mitigation to bring the subject property into compliance with the requirements of this Title.

Appeal Allegations

The appellant contends the following 6 items in italics. A response follows in standard text.

- A. *The Averoos were clearing off noxious weed – blackberry, devil’s club and nettles.*

County Response: Blackberry, devil’s club and nettles are not on the Pierce County Noxious Weed Control Board noxious weed list. Himalayan blackberry is considered a class C weed on the State Noxious Weed List. Devil’s club and nettles are native species that typically occur in wetland areas. PCC 18E.20.0300 does exempt removal by hand of noxious weeds on the State noxious weed list by clipping, pulling, over-shading with native tree and shrub species, or non-mechanized digging. Alternative methods such as mechanical excavation, barrier installation, or herbicide use may be allowed upon approval by the Department and acquisition of any necessary permits. The Avaroos did not obtain approval from the Department or acquire any permits to remove blackberry with a Bobcat/tractor.

B. Apparently, Pierce County officials sent Washington State Department of Fish and Wildlife to search Avaroes' property and see if their gardening activities had impaired fish and wildlife habitats.

County response: The Department of Ecology ERTS referred the case to several agencies, including the Department of Fish and Wildlife. Agencies will often coordinate and share information. When Ms. Van Haren spoke with the citizen caller on the ERTS, they indicated that the Bobcat activity may be ongoing. Ms. Van Haren called DFW Officer Summit and shared the information she received. Ms. Van Haren did not “send” anyone to the property, but rather performed her own investigation.

C. The Fish and Wildlife officers found no violation. But they passed-on information derived from their illegal search of the Avaroe property to County officials. Mr. Avaroe had denied County officials permission to search his property.

County response: The Fish and Wildlife officer determined there was no work completed in the water and therefore, no violation of the State Hydraulic Code (RCW 77.55) which does not mean there was no violation of Pierce County Code. Any information acquired by the Fish and Wildlife Officer was not used in the Pierce County investigation. Ms. Van Haren never searched Mr. Avaroe's property. As stated in the history section, Ms. Van Haren observed the Avaroe parcel from Fern Ln NW.

D. All of the evidence derived from WDFW's illegal search of Avaroes' property is tainted and must be suppressed. This tribunal should declare that Pierce County cannot use illegally-seized materials or information.

County response: Ms. Van Haren did not use any information obtained by the Washington Department of Fish and Wildlife to issue the Notice and Order to Correct. Ms. Van Haren obtained her information by observing the property from Fern Ln NW and information, photos, and videos provided by the Ecology ERTS citizen caller.

E. Contents of NOTC/Vagueness issue

County response: The NOTC sent on September 6, 2018, contains a description of the Avaroe's activities giving rise to the violation as well as all citation to pertinent laws. The NOTC also contains a detailed compliance process and appeal provisions.

F. Non-conforming use of existing landscaping/garden

County response: No rights were violated. The burden is on a property owner to assert nonconforming rights both before and during this appeal. There is no formal application or permit process for establishing non-conforming uses under PCC Title 18E.20.040 Nonconforming Uses and Structures. If a property owner wants to maintain an established use they will contact a Pierce County Environmental Biologist and the biologist, with the owner's consent, will review aerial photos and determine if a use, such as gardens or landscaping are consistently shown on the aerial photos back to 1998/99. If such use is shown, then it can continue. Review of available evidence of the Avaroe property shows the site vegetated with trees and shrubs until May of 2018 where vegetation clearing is evident.

PCC 18E.20.030Q exempts the maintenance of lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to mowing lawns, weeding, removal of noxious and invasive species as identified by Pierce County, harvesting and replanting of garden crops, pruning and planting of vegetation to maintain the condition and appearance of such areas as they existed on the effective date of this Title and planting indigenous native species. Title 18E was enacted on February 1, 1992. As stated above there is no evidence that the Avaroes had a lawfully established landscaping area or garden prior to the effective date of Title 18E.

G. Innocent purchasers

County response: This is a misleading claim as the work performed giving rise to the violation was performed after the Avaroe's purchase of the property.

Conclusion:

Based on the information provided above, a wetland permit for clearing within potential wetland (within 315 feet of multiple wetland indicators) and within possible fish and wildlife habitat conservation area (within 165 feet of hydro surface boundary) is required. The appellant is responsible for correcting the violation on their property. Staff recommends denial of this appeal and requests that the appellant be required to comply with the corrective measures cited in Part III of the Notice and Order to Correct. The applicant shall submit the necessary permit applications related to the unpermitted clearing.

List of Exhibits Provided to Pierce County Hearing Examiner:

- 1 - STAFF REPORT
2. APPLICATION:
 - A. Appeal Application (#895259) and attached appeal documents, received September 20, 2018
3. STAFF CASE HISTORY DOCUMENTS:
 - A. SRS Complaint/Intake Form, dated August 31, 2018
 - B. Cover Letter and Notice and Order to Correct (NOTC) from Resource Management Section and Development Engineering, dated September 6, 2018
 - C. August 23, 2018 email from Ms. Van Haren to Gregory Avaroe
 - D. September 7, 2018 email from Kristina LaFae sending the NOTC's to Gregory Avaroe
 - E. Complaint from Washington State Department of Ecology, Environmental Report Tracking System (ERTS) # 683266
 - F. Citizen Caller Site Photographs
 - G. CountyView Site Map with Wetland and Fish/Wildlife Habitat Information
4. NOTICE AND ROUTING DOCUMENTS:
 - A. Hearing Examiner Agenda letter to Jane Koler, dated October 2, 2018 and reschedule date of Hearing e-mail, dated October 29, 2018
 - B. Hearing Agenda, and legal notice

Please note: A complete set of exhibits may be found at the following link:

<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/documents?applPermitId=895259>



Planning and Public Works
2401 South 35th Street, Suite 2
Tacoma, Washington 98409
www.piercecountywa.gov/pals

Information: (253) 798-3739

Application No: [895259](#)
Application Date: 09/20/2018
Approved Date:



Appeal Decision-Admin Official Application

This applicant is applying to: Appeal decision to/for appeal of Notice and Order to Correct for Avaroe, Gregory & Taylor
SRS Case No. 63803 (Wetland)

Site Address: 5001 Fern LN NW
Proj. Appl Name: Avaroe, Gregory & Taylor

Inspection Area: 2
RTSQQ: 02211833
Parcel No(s): 9760200941

Property Owner: AVAROE GREGORY & TAYLOR
5001 Fern LN NW
GIG HARBOR WA 98335

Phone No: --

Applicant: Land Use & Property Law, PLLC
6659 KIMBALL DRIVE, SUITE B201
GIG HARBOR WA 98335

Phone No: 253-853-1806

<u>Fee Amount</u>	<u>Fee Description</u>	<u>Quantity</u>	<u>Feet (Sq/Ln)</u>	<u>Valuation</u>
\$250.00	Appeal of Administrative/Environmental Official's			
\$250.00	Total Fees			
\$250.00	Total Paid			
\$0.00	Balance Due			



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Information: (253) 798-3739

Application No: [895259](#)
Application Date: 09/20/2018
Approved Date:



Appeal Decision-Admin Official Application

The following notes apply to applications under review by Planning and Public Works:

- This is a non-transferable application.
- After you have received an approval or request for additional information from each department reviewing your application, an expiration date will be displayed in the permit system. To check the expiration date, go to www.piercecountywa.gov/permit.
- This application will expire if you take more than 360 cumulative days to respond to requests for additional information. Each time we ask for additional information, the number of days from the request until a complete resubmittal is received is counted. Once you have used a combined total of 360 days this application expires.
- It is the responsibility of the applicant/property owner to obtain all necessary approvals/permits from state, federal, and other agencies that have regulatory authority.

The following note applies to permits issued by Planning and Public Works:

- It is the responsibility of the applicant/property owner to obtain all necessary approvals/permits from state, federal, and other agencies that have regulatory authority.

Note: Pierce County's approval (issuance) of this application/permit or decision pertains only to the County's regulatory jurisdiction and thus compliance with County regulations does not necessarily ensure compliance with other federal or state laws.

Upon further review additional fees may be required for revisions and or amendments. Applicants should check with all reviewing agencies for any applicable charges. Application filing fees may be refunded in accordance with P. C. C. 2.05.020.

This application will expire if you take more than 360 cumulative days to respond to requests for additional information. Each time you are asked for additional information, the number of days from the request until a complete resubmittal is received is counted.

Once you have used a combined total of 360 days, this application expires. After you have received an approval or request for additional information from each department reviewing your application, an expiration date will be displayed in the permit system. To check the expiration date, go to www.piercecountywa.gov/PALS.

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**PIERCE COUNTY HEARING EXAMINER
FOR THE STATE OF WASHINGTON**

GREGORY AND TAYLOR AVAROE,

Petitioners,

v.

**PIERCE COUNTY, a Washington Municipal
corporation,**

Respondent.

CASE NO. 63803

**APPEAL OF NOTICE AND ORDER TO
CORRECT – WETLAND VIOLATION**

1. FACTUAL BACKGROUND

1.1 This is an appeal of the Notice and Order to Correct issued to Gregory and Taylor Avaroe on (“Avaroe”) on September 6, 2018, (the “Order to Correct”), which is attached hereto as Exhibit A and incorporated herein by this reference.

1.2 Mr. and Mrs. Avaroe own property located at 5001 Fern Lane NW, Gig Harbor, WA; Pierce County Parcel No. 9760200941, that is located in unincorporated Pierce County.

1.3 Pierce County claimed that the Avaroes had cleared a wetland area with a bobcat. In actuality, the Avaroes were clearing-off noxious weeds – blackberry, devil’s club, and nettles in their garden.

1 1.4 A house and garden have been established on the Avaroe property since 1975.

2 1.5 Such noxious weeds endangered the safety and health of Mr. and Mrs. Avaroes'
3 children.

4 1.6 The overgrown blackberries and nettles covered areas of their garden. The
5 Avaroes were simply weeding-out such noxious species to expose the lawn and prevent their
6 toddler from experiencing injury in such areas.

7 1.7 Pierce County has issued an Order to Correct without having the slightest idea
8 about the area in which alleged wetlands are located – Avaroes' front, rear, or back yard.

9 1.8 The fact that the County maps show hydric soils within 315 feet of Avaroes'
10 property does not mean that wetlands are on their property.

11 1.9 The front, side, and back yard areas of the Avaroes' property have been planted
12 and covered with non-wetland species such as grass and bark ships; there is no wetland
13 vegetation within the front or back yard areas.

14 1.10 To have a wetland, as defined by Washington law and the Pierce County Code,
15 an area must possess three characteristics – have water within twelve inches of the surface,
16 wetland vegetation, and hydric soils. It would be impossible to classify Avaroes' front or back
17 yard as a wetland; it lacks the three crucial characteristics of a wetland.

18 1.11 The Avaroes and their predecessors have been maintaining non-wetland species
19 – lawn and bark – in their 1970s-era yard. They have an unequivocal right to maintain such
20 existing landscaping.

21 1.12 Apparently, Pierce County officials sent Washington State Department of Fish
22 and Wildlife to search Avaroes' property and see if their gardening activities had impaired fish
23 and wildlife habitats.

24 1.13 Without Mr. or Mrs. Avaroes' permission, two WDFW officers went to their home
25 and conducted a search of their front and back yards. The Fish and Wildlife officers found no

1 violation. But, they passed-on information derived from their illegal search of the Averoe
2 property to County officials. Mr. Avaroe had denied County officials permission to search his
3 property.

4 **2. ILLEGAL SEARCH**

5 2.1 This paragraph incorporates paragraphs 1.1 through 1.13 above as though fully
6 set forth herein.

7 2.2 All of the evidence derived from WDFW's illegal search of Avaroes' property is
8 tainted and must be suppressed.

9 2.3 This Tribunal should declare that Pierce County cannot use illegally-seized
10 materials or information.

11 **3. VAGUE AS APPLIED**

12 3.1 This paragraph incorporates paragraphs 1.1 through 2.3 above as though fully
13 set forth herein.

14 3.2 The Order to Correct is vague and fails to provide any indication how the
15 Avaroes might have violated Pierce County Code:

16 Title 18 Development Regulations General Provisions:
17 18.140.030 Permits, Approvals and Uses

18 Title 18E Development Regulations – Critical Areas General Provisions:
19 18E10.050 Applicability, 18E.10.070 Administration, 18E10.110 Compliance

20 Title 18E Development Regulations – Critical Areas Use and Activity
21 Regulations:
22 18E.20.020 Regulated Uses and Activities

23 Title 18E Development Regulations – Wetlands:
24 18E30.030 [sic] Wetland Review Procedures

25 Title 18E Development Regulations – Fish and Wildlife Species and Habitat
Conservation Areas:
18E.40.030 Fish and Wildlife Habitat Conservation Review Procedures

1 4.2 Washington law accords heavy protection to nonconforming rights.

2 4.3 Mr. and Mrs. Avaroe had a right to make use of their nonconforming front, side,
3 and rear yards.

4 4.4 Entirely missing from the County analysis is that allowing work on existing
5 landscape is an activity protected under critical area codes.

6 4.5 The Avaroes' front, side, and rear yards, and residential property, are classified
7 as a Rural Sensitive Resource Zone; but, their home and lot were developed long before
8 Pierce County regulated critical areas.

9 4.6 The Order to Correct violates Mr. and Mrs. Avaroes' nonconforming right to
10 maintain their front, side, and rear yards.

11 4.7 Pierce County cannot retroactively apply critical area regulations, promulgated
12 long after Avaroes' home and yards were established.

13 4.8 The County is taking the position that the Avaroes need to obtain a complex set
14 of permits to authorize the removal of noxious weeds from their yard.

15 4.9 Mr. and Mrs. Avaroe should not be obliged to spend thousands of dollars on
16 permits and studies to authorize them to weed their yard.

17 4.10 Washington law and the Pierce County Code protect nonconforming uses.

18 4.11 Owning a nonconforming yard associated with a home constructed in 1975, the
19 Avaroes had an unequivocal right to weed and maintain the existing yard, established in 1975.

20 4.12 The Pierce County Code recognizes such an exception to the Critical Area
21 regulations. See PCC 18E.20.030 – Exemptions – states:

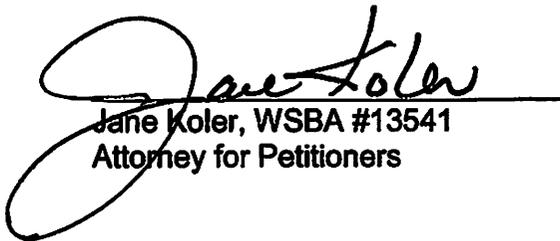
22 The following activities are exempt from the provisions of this Title:

23 Q. Maintenance of lawfully established landscaping and gardens within a
24 regulated critical area or its buffer, including but not limited to mowing lawns,
25 weeding, removal of noxious and invasive species as identified by Pierce County,
harvesting, and replanting of garden crops, pruning and planting of vegetation to
maintain the condition and appearance of such areas as they existed on the
effective date of this Title and planting of indigenous native species.

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DATED this 20th day of September, 2018.

LAND USE & PROPERTY LAW, PLLC



Jane Koler, WSBA #13541
Attorney for Petitioners



EXHIBIT A

SENT REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
9171 9690 0935 0155 5455 14

September 6, 2018

Gregory and Taylor Avaroe
11712 136th Ave E
Puyallup WA 98374

NOTICE AND ORDER TO CORRECT
Planning and Public Works Department, Resource Management Section
**Stop all activity within 315 feet of wetland indicators/
165 feet of fish and wildlife habitat conservation area indicator**
**Contact Mary Van Haren, Pierce County Environmental Biologist at
(253) 798-3181**
Effective Date: Upon receipt of this notice

Subj: Wetland/Fish and Wildlife Habitat Conservation Area Violation Located at 5001 Fern Lane NW, Pierce County, Washington, on Parcel No. 9760200941, Service Request Case No. 63803.

Dear Mr. and Mrs. Avaroe:

PART I –VIOLATION

Our records indicate that you are the current owner of the site. As the owner, you are responsible for activities that took place on the property. This is a notice to **STOP** all work.

Recently our office received a public service request from the Washington State Department of Ecology regarding a citizen complaint concerning clearing wetland with a bobcat on your property. On August 31, 2018, I observed the site from Fern Lane NW and confirmed that clearing (which means the removal of stumps and vegetation) activities had occurred within potential wetland and fish/wildlife habitat on the property. Initiation of these activities within 315 feet of a wetland indicator (County Wetland Inventory, National Wetland Inventory, Hydric Soil, Flood, Hydro Surface Boundary) or 165 feet of a fish and wildlife habitat conservation area indicator (Hydro Surface Boundary) without County review and approval violates Pierce County Code (Title 18E, Development Regulations - Critical Areas, more specifically 18E.10.050). Attached is a map of the site with wetland and fish/wildlife habitat information.

EXHIBIT A

Pierce County Code Sections: The unpermitted work is specifically in violation of:

- **Title 18 Development Regulations General Provisions:**
18.140.030 Permits, Approvals and Uses
- **Title 18E Development Regulations – Critical Areas General Provisions:**
18E10.050 Applicability, 18E.10.070 Administration, 18E10.110 Compliance
- **Title 18E Development Regulations – Critical Areas Use and Activity Regulations:**
18E.20.020 Regulated Uses and Activities
- **Title 18E Development Regulations – Wetlands:**
18E30.030 Wetland Review Procedures
- **Title 18E Development Regulations – Fish and Wildlife Species and Habitat Conservation Areas:**
18E.40.030 Fish and Wildlife Habitat Conservation Review Procedures

For a complete list of regulated activities see Pierce County Code, Chapter 18E.20 (see enclosed).

Before starting certain activities you must:

- Obtain a Wetland Approval if the activity is within 315 feet of a wetland indicator (Title 18E Development Regulations - Critical Areas).
- Obtain a Fish and Wildlife Habitat Conservation Area Approval if the activity is within 165 feet of critical habitat area indicator (Title 18E Development Regulations – Critical Areas).
- Obtain permits or approvals in accordance with Title 18E, or other Pierce County codes that may apply.

PART II - IMMEDIATE CORRECTIVE ACTIONS

- Stop all work on the property unless instructed otherwise, in writing, by Pierce County representatives.
- Within 14 days of this order, hire a Wetland Specialist to assist you with the compliance process.
 - All wetland specialists who submit work to the County must meet minimum qualifications (Title 18, Section 18.25.030).
 - Your specialist must notify us when you hire them.
 - A list containing the names of currently qualified specialists is enclosed.
 - You may choose a different wetland specialist, but they must submit their qualifications to Pierce County for review and possible approval.
 - Pierce County staff cannot make recommendations.
 - You are encouraged to discuss your concerns and questions with your specialist.

PART III – COMPLIANCE PROCESS

Within 60 days of the date of this letter, you must make application for Wetland/Fish and Wildlife Approval. With help from your specialist, you will be required to submit the following:

1. Resource Management Application Checklist - Wetland or Critical Fish & Wildlife Habitat (enclosed).
2. Master Application (enclosed).
3. A to-scale site plan of the entire site, showing:

- Any existing and proposed activities (including restoration).
 - Wetlands.
 - Streams/drainages.
 - Buffers and critical areas within 315 feet of the site/project area.
4. A Fish and Wildlife Assessment Letter, Report or Study as appropriate.
 5. A wetland delineation and mitigation report or verification as appropriate.
 - Completed by a wetland specialist.
 - Submit one unbound copy.
 6. Appropriate review fee(s).
 7. See the attached Resource Management Application Checklist for number of copies.
 8. Submit to the Pierce County Development Center, located at 2401 South 35th Street, Suite 175, Tacoma, WA 98409.
 9. **You must follow the conditions within the timeline given in the issued approval.**

As part of the process towards resolution of the violation, Pierce County Resource Management must:

- Complete its review of all required studies.
- Issue a wetland/fish and wildlife approval, if necessary.
- Receive proof of recorded wetland/fish and wildlife approval on title.
- Receive financial guarantee(s), if required.

If you fail to comply with the terms of this Notice, we will take the following enforcement actions:

- Record a Notice of Non-Compliance on title. Non-Compliance notifies any interested parties or lenders of a violation on the property.
- Issue civil penalties in the amount of \$1,000, \$4,000, and \$10,000. We will turn over any unpaid civil penalties to a collection agency.

In addition, the following action may occur:

- Criminal misdemeanor charges punishable by 90 days in jail (PCC 18.140.050 – Penalties).

Each violation or each day of continued unlawful activity shall constitute a separate violation. Each day that a person fails to comply with the terms of a Notice and Order to Correct shall constitute a separate violation.

PART IV – INNOCENT PURCHASERS

Any work done when you owned the property does not meet the innocent purchaser requirements.

Relief from the compliance chapter (18.140) may be available to innocent purchasers per the following:

- A property owner who purchased real property.
- At the time of purchase had no knowledge the property contained unpermitted development.
- Burden of proof of innocence is on the property owner.

- Documents that can be used to demonstrate innocence:
 - Aerial photograph.
 - Property tax records.
 - Real estate deeds.
 - Real property transfer disclosure statements.
- Contact me if you feel you qualify as an innocent purchaser.

PART V – APPEAL

This notice may be appealed to the Pierce County Hearing Examiner under Chapter 1.22, Pierce County Code. To appeal:

- Submit an application for an Appeal of an Administrative Official’s Order or Decision within fourteen (14) days of the date of this decision. You may submit your appeal with the appropriate application fee to the Pierce County Development Center, located at the Pierce County Public Services Building (Annex), 2401 South 35th Street, Tacoma, Washington 98409. Our development center office hours are Monday through Friday, 9:00 am to 2:00 pm, except holidays.
- Obtain appeal forms from the Pierce County Development Center or online at <http://www.co.pierce.wa.us/DocumentCenter/View/4233>.
- Include an application fee of \$250.00.
- See Pierce County Hearing Examiner Code, Section 1.22.090 for regulations concerning appeals of an administrative official’s decision.
- We may waive the appeal fee if you qualify as an indigent appellant.

I look forward to working with you and your specialist. Resolving this violation within the time frames noted above will help to reduce impacts to the environment and costs associated with compliance. I can be contacted at 253-798-3181 or mary.vanharen@piercecountywa.gov

Sincerely,

 Mary Van Haren, PWS
 Enforcement Environmental Biologist

MVH:kgf
 9Avaroe_NOTC.docx

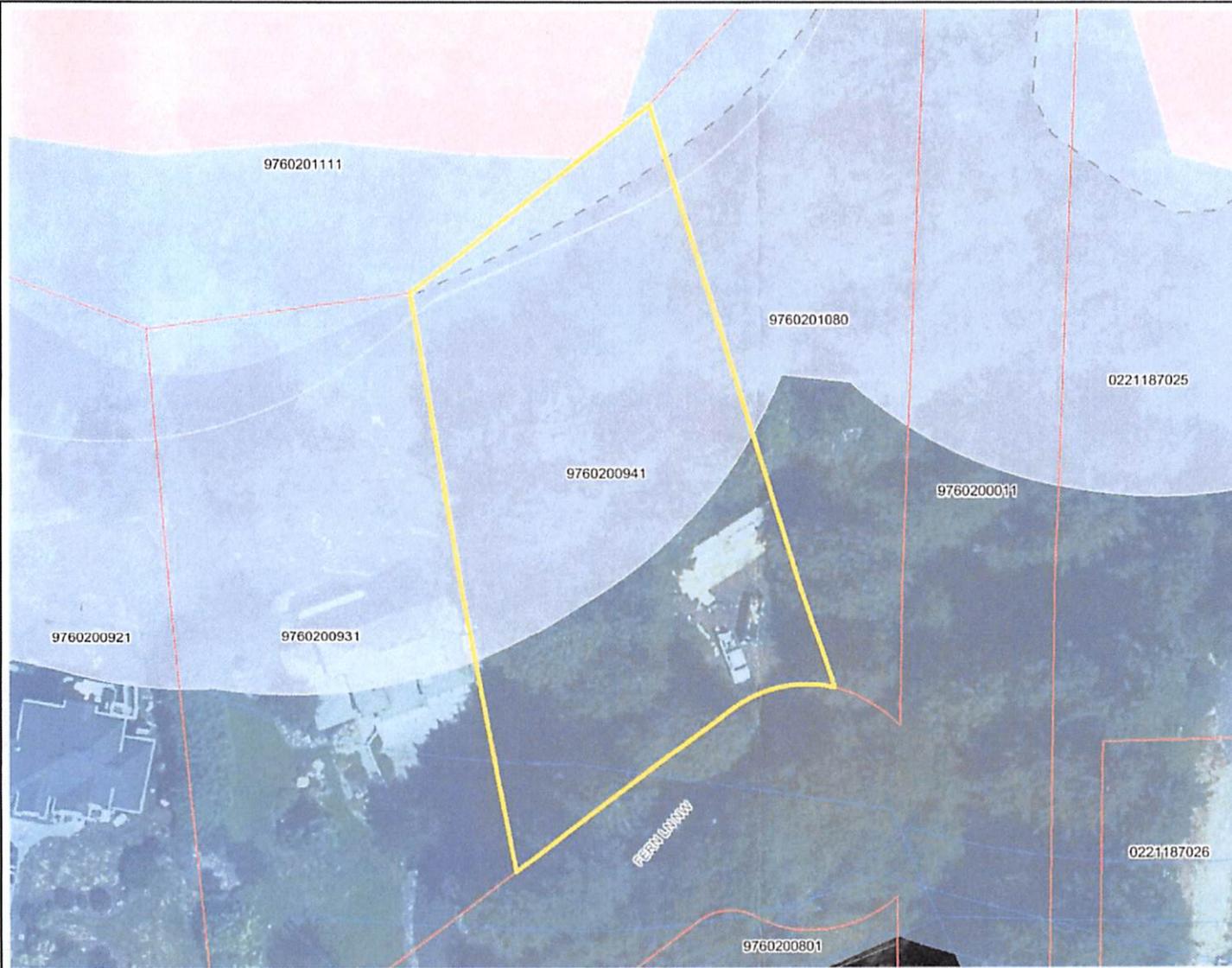
**Encl: Site Map with Wetland and Fish/Wildlife Habitat Information
 Wetland or Critical Fish and Wildlife Species and Habitat Conservation Area Applications
 – Resource Management Checklist
 Master Application
 Wetland Specialist List
 Use and Activity Regulations List**

**c: File
 Greg Avaroe at onision@gmail.com
 Greg and Taylor Avaroe at 5001 Fern Lane NW, Gig Harbor, WA 98335**

Avaroe

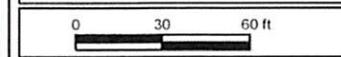
Wetland and Fish/Wildlife Habitat Info.

Case 63803



Map Legend

- Highlighted Tax Parcels
- Tax Parcels
- Base Parcel
- Condominium
- Other
- Possible FW Habitat Areas
- National Wetlands Inventory
- CWI Wetlands Delineation
 - Delineated
 - Verified
 - Unverified
- CWI Wetlands
 - Yes or Not Verified
 - No
- Possible Wetlands County - 2017 - Ortho
- Roads



Printed: 8/31/18 11:38 AM
Planning and Public Works
 Pierce County
Geographic Information Services

The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. Pierce County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. Pierce County makes no warranty of fitness for a particular purpose.



Wetland or Critical Fish and Wildlife Species & Habitat Conservation Areas

- Application information can be found in PCC Chapter 18E.
- **Instructions** are included on the next page of this form.

Parcel Number(s) _____

Application Checklist	Master Application	Required Findings	Site Plan ¹	Report ³	Received
Submittals must be electronic through our online portal (<u>PALS Online Permits</u>) or on a flash drive/CD at the Development Center.					
WETLAND APPLICATIONS					
Analysis Report	X		X	X	
Categorization & Delineation & Non Compensatory Mitigation Plan ²	X		X	X	
Wetland Delineation Report ²	X		X	X	
Compensatory Mitigation Plan Review	X		X	X	
Non-Compensatory Mitigation Plan	X		X	X	
Verification, Wetland or Water Type	X		X	X	
Variance - Wetlands	X	X	X		
Reasonable Use Exception - Wetlands	X	X	X		
Field Visit	X				
FISH & WILDLIFE APPLICATIONS					
Water Type Verification	X				
Habitat Assessment Review	X		X	X	
Habitat Assessment Letter Review	X		X	X	
Habitat Assessment Study Review	X		X	X	
Habitat Assessment Report Review	X		X	X	
Hazard Tree Report Review in Critical Area	X			X	
Variance - Fish & Wildlife and Habitat Conservation Areas	X	X	X		
Reasonable Use Exception - Fish & Wildlife and Habitat Conservation Areas	X	X	X		

For Office Use Only	
App Type	
Fee Code	
Checked by	

¹ May be included with report.

² Please note that when Pierce County Staff completes a wetland delineation for a single-family residence, it is not acceptable for submittal to the U.S. Army Corps of Engineers or the Washington State Department of Ecology as a delineation report.

³ Not required if the County is to create the report.

Instructions for the Application Checklist

Visit our Website to "[Find a Form or Handout](#)"

Master Application:

The Master Application must be **filled out completely and signed**. In the event the applicant is not the landowner, the landowner must provide authorization with a signature giving the agent/applicant authorization to act on his or her behalf.

Required Findings:

Review criteria specific to the application must be addressed by the applicant, a list of the required findings are available on the PALS website.

Site Plan:

Site plan must be drawn to scale and show all existing and proposed improvements, including: parking areas, landscaping, building footprints, porches, walks, decks, overhangs, location of easements, setback measurements, legal access, road approach locations, utilities, location of fire hydrants, drainage courses (if present), site contours at 5-foot maximum intervals, approved septic tank and drainfield locations including reserve areas, retaining walls and rockeries and other information as required by Appendix B of Title 18E. The site plan may be included separately or as part of a required report or plan.

Property Posting:

Per Title 18 Development Regulation – General Provision, Section 18.80.040 C. "Notice shall be posted by the applicant on the subject property in accordance with specifications provided by the Department. In accordance with Department property posting requirements, applicants shall submit declarations of posting to the Department within 28 days from the filing of a complete application." Find Declaration of Posting here:

[Declaration of Posting](#)

Parent Permit:

- Certain types of wetland or fish & wildlife review can't be completed without an accompanying "parent" application, such as: a building permit, septic design, or subdivision. If you intend to submit for review without an accompanying parent application, you are encouraged to first contact the Biologist of the Day (253-798-7005) to discuss your review needs.
- Also, wetland and fish & wildlife review does not provide vesting. Only those application types defined within [Chapter 18.160](#) provide vested rights.

Table 2.05.040-11A. SF/AG Critical Areas – Environmental Constraints
Wetlands, Fish and Wildlife Species, and Habitat Conservation Areas

SF-Single Family, AG-Agricultural ³	County			Private Consultant			
	Application Type	Fee Code	Base Fee (up to 1 acre)	Per Acre Fee (more than 1 acre)	Fee Code	Base Fee	Resub Fee ⁵
	Categorization/Delineation/Non-Compensatory Mitigation Plan	LXSM	\$1,520	\$160	LXDN	\$1,600	\$110
	Wetland Delineation Report	LXSD	\$1,120	\$150	LXDR	\$1,020	\$80
	Compensatory Mitigation Plan Review ¹				LXRC	\$1,540	\$165
	Non-Compensatory Mitigation Plan ²	LXSN	\$1,320	\$95	LXRN	\$1,100	\$90
	Single-Family Wetland Certification				LXCT	\$340	
	Monitoring Report Review					\$500	
	Habitat Assessment Field Review	LESA	\$830	\$45			
	Habitat Assessment Letter Review				LESA	\$690	\$80
	Habitat Assessment Study Review				LESA	\$930	\$80
	Habitat Assessment Report Review				LESA	\$1,250	\$90
	Hazard Tree Report Review in Critical Area				LESA	\$635	\$80
	Verification, Wetland or Water Type ⁴	LXSV	\$770	\$110	LXSR	\$680	\$80
	Variance	LXWV	\$2,400				
	Reasonable Use Exception	LXRE	\$2,400				
	Field Visit ⁶	LXAS	\$330				

Qualification Review for Fish & Wildlife and Wetland Specialists	\$85
--	------

**Table 2.05.040-11B. General Critical Areas – Environmental Constraints
Wetlands, Fish and Wildlife Species, and Habitat Conservation Areas**

Type	County Biologist			Private Consultant		
	General-Plats and Commercial ³	Fee Code	Base Fee (up to 1 acre)	Per Acre Fee (more than 1 acre)	Fee Code	Base Fee
Analysis Report				LGWR	\$1,660	\$355
Compensatory Mitigation Plan Review ¹				LGCM	\$2,060	\$460
Non-Compensatory Mitigation Plan ²				LGNM	\$1,170	\$220
Monitoring Report Review					\$500	\$80
Habitat Assessment Letter Review				LESA	\$730	\$80
Habitat Assessment Study Review				LESA	\$1,050	\$210
Habitat Assessment Report Review				LESA	\$1,275	\$265
Hazard Tree Report Review in Critical Area				LESA	\$635	\$80
Verification, Wetland or Water Type ⁴	LGSV	\$770	\$110	LGWV	\$690	\$165
Variance	LGWV	\$2,640				
Reasonable Use Exception	LGRE	\$2,640				
Field Visit ⁶	LGAS	\$330				

¹ Compensatory mitigation plan includes conceptual and detailed phases of the mitigation plan, as described in PCC 18E.30.070 – Appendix D, which are required for regulated activities within wetlands.

² Non-compensatory mitigation plan refers to the information, as described in PCC 18E.30.070 C., which is required for regulated activities in buffers.

³ When an application requires both Critical Fish and Wildlife Review and Wetland Review, just one combined review fee equal to the full amount of the larger fee, plus one-half the amount of the smaller fee shall be charged.

⁴ When an application is made for the department to “Verify the Absence of a Wetland” on a property and wetlands are found, the applicant must re-apply for a wetland delineation, and if there are impacts to a wetland or buffer, a mitigation plan.

⁵ The Resubmittal Fee must be paid prior to the third review (second resubmittal), and for each review (resubmittal) thereafter.

⁶ This fee is for sites of less than 5 acres that do not have a parent permit. There are no approval documents issued.



MASTER APPLICATION

Check all that apply:

- | | | | |
|--------------------------|--|--------------------------|---|
| <input type="checkbox"/> | Administrative Use Permit | <input type="checkbox"/> | Plat Alteration |
| <input type="checkbox"/> | Administrative Variance | <input type="checkbox"/> | Preliminary Plat |
| <input type="checkbox"/> | Boundary Line Adjustment | <input type="checkbox"/> | Public Facility Permit |
| <input type="checkbox"/> | Binding Site Plan | <input type="checkbox"/> | Short Plat / Large Lot Alteration |
| <input type="checkbox"/> | Commercial Building Permit | <input type="checkbox"/> | Short Plat / Large Lot Final |
| <input type="checkbox"/> | Conditional Use Permit | <input type="checkbox"/> | Short Plat / Large Lot Preliminary |
| <input type="checkbox"/> | Final Plat | <input type="checkbox"/> | Site Development Permit |
| <input type="checkbox"/> | Fish and Wildlife Review | <input type="checkbox"/> | Site Development Variance - Storm Water |
| <input type="checkbox"/> | Fish and Wildlife Reasonable Use Exception | <input type="checkbox"/> | Site Plan Review |
| <input type="checkbox"/> | Fish and Wildlife Variance | <input type="checkbox"/> | Variance - Land Use |
| <input type="checkbox"/> | Nonconforming Use Permit | <input type="checkbox"/> | Wetland Reasonable Use Exception |
| <input type="checkbox"/> | Planned Development District | <input type="checkbox"/> | Wetland Review |
| <input type="checkbox"/> | Minor Amendment to _____ | <input type="checkbox"/> | Wetland Variance |
| <input type="checkbox"/> | Major Amendment to _____ | <input type="checkbox"/> | Zone Change - Community Plan Areas Only |
| | | <input type="checkbox"/> | Other _____ |

NOTE: Applications subject to property posting must be posted within 14 days of the application filing date. A posting sign will be mailed to the applicant with the Notice of Application (NOA) and must remain posted until the comment period has expired. A declaration of posting must be submitted once the site has been properly posted.

Project Name: _____

Property Owner Information:

Project Contact

Name: _____ Phone: _____

Address: _____

City/State: _____ Zip: _____

E-mail: _____

Property Owner Signature: (required)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work ONLY after I have received all necessary permits.

I hereby grant to Pierce County or its agents to which this application is made or forwarded, the right to enter the above-described location to inspect the proposed, in-progress, or completed work. I agree to start work only after all necessary permits and approvals have been received.

I hereby authorize the Applicant and / or Agent to act on my behalf in matters related to this application. (Check if Applicable)

Property Owner Signature

Date

Applicant Information: (If not the Property Owner) **Project Contact**

Name: _____ Phone: _____

Address: _____

City/State: _____ Zip: _____

E-mail: _____

Agent Information: **Project Contact**

Name: _____ Phone: _____

Address: _____

City/State: _____ Zip: _____

E-mail: _____

Authorized Applicant / Agent Signatures: (required if the Applicant/Agent is not the property owner)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work ONLY after I have received all necessary permits.

Authorized Applicant Signature *Date*

Authorized Agent Signature *Date*

Please identify additional parties that you want to receive email regarding this project.

Name: _____ Email: _____

Name: _____ Email: _____

Project / Site Information:

Site Address: _____

Tax Parcel Number(s):

Current use of property:

DETAILED DESCRIPTION OF REQUEST: (A very detailed and specific explanation of the request is required. Attach additional sheets if needed.)

Source of water (well or name of public/private Company): _____

Electric company/PUD: _____

Sanitary sewer provider: _____

If septic system, Health Dept. approval date _____ by (person) _____

Describe the current use on the surrounding properties to the:

North: _____

East: _____

South: _____

West: _____

Has site preparation been started? If so, explain to what extent.

If the proposal is commercial or industrial, what are the proposed days and hours of operation?

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?

Proposed timing for completion of the proposal (include phasing if applicable):

Are there any other applications pending for governmental approvals for this or other proposals directly affecting the property covered by the proposal? _____ if yes, please list.

DETAILED DIRECTIONS TO THE SITE: (Include for remote or difficult to find locations.)

Gate Code: _____

Provide the following information based on what you feel applies to your proposal.

SITE STATISTICS	EXISTING	PROPOSED
SITE AREA		
Total Acreage or Square Feet		
Net Developable Acreage ¹		
Area in Right of Way or Easements		
Area to be Cleared/Logged		
Designated Open Space		
Designated Recreation Space		
Area left in Natural Vegetation		
SITE DEVELOPMENT (square feet)		
Building Foundation Site Coverage		
Hard Surface Coverage (impervious/pervious)		
Amount of material to be exported / cut		
Amount of material to be imported / fill		
PROPOSED BUILDINGS		
Per Floor Building Area (1 st , 2 nd , 3 rd)		
Number of Buildings		
Total Building Area		
Height of Tallest Building		
Front Yard Setback from Property Line		
Side Yard Setback from Property Line		
Rear Yard Setback from Property Line		
Minimum Distance between Structures		
PROPOSED LOTS		
Number of Single Family Lots		
Number of Multi-family Lots		
Number of Commercial Lots		
Smallest Lot Area		
Average Lot Area		
PROPOSED DWELLING UNITS		
1 Bedroom		
2 Bedroom		
3 + Bedroom		
Total Number of Dwelling Units		
PARKING AND CIRCULATION		
Total Number of Parking Stalls		
Number of Compact Parking Stalls		
Average Daily Vehicle Trips		
LINEAR DIMENSIONS		
On-site Roads (public or private)		
Off-site Roads (public)		
1. The gross site acreage minus any public or private street rights-of-way and environmentally constrained lands.		

EXHIBITS # 3A – 3G

3. STAFF CASE HISTORY DOCUMENTS:

- A. SRS Complaint/Intake Form, dated August 31, 2018
- B. Cover Letter and Notice and Order to Correct (NOTC) from Resource Management Section and Development Engineering, dated September 6, 2018
- C. August 23, 2018 email from Ms. Van Haren to Gregory Avaroe
- D. September 7, 2018 email from Kristina LaFae sending the NOTC's to Gregory Avaroe
- E. Complaint from Washington State Department of Ecology, Environmental Report Tracking System (ERTS) # 683266
- F. Citizen Caller Site Photographs
- G. CountyView Site Map with Wetland and Fish/Wildlife Habitat Information

Case Search: Case Id: 63803 - Case Type: Wetland/Stream/Flood Issue

List/Search	Case	Location	Participant	Activity	Assigned Empl	Docum
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Type: Wetland/Stream/Flood Issue Status: Active

Received Date: 08/15/2018 Confirmed Date: 08/31/2018

Active Date: 08/15/2018 Closed Date: MMDDYYYY

Resolved Date: MMDDYYYY

Case Description: Citizen reported neighbor clearing wetland with bobcat/tractor. Citizen is also an employee of Fish & Wildlife. He is aware that Jeff Summit is the biologist for that location. He said this location is a category 2 and a 100' buffer. Suspects neighbor does not have the permits to be working in wetland. Reporting party informed he has just underwent

Comments (canned)

Confidential Comment: Ecology referral.

Case Search: Case Id: 63803 - Case Type: Wetland/Stream/Flood Issue

List/Search	Case	Location	Participant	Activity	Assigned Empl	Docu
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Add

Parcel	Site Address
9760200941	5001 Fern LN NW

Requester

Add

Name: Department of Ecology
 Mailing Address: 300 Desmond DR SE
 City, State: LACEY, WA 98503
 Confidential

Add

Type	Area Cd	Prefix	Number	Ext	Email Address	Modified By	Modified Date
WORK PRIMARY	360	407	6000			ryoung1	06/13/2018 9:51 am

Property Owner

Name: AVAROE GREGORY & TAYLOR Parcel #:
 Mailing Address: 11712 136TH AVE E
 City, State: PUYALLUP, WA 98374



REGULAR and CERTIFIED MAIL
RETURN RECEIPT REQUESTED
9171 9690 0935 0155 5455 14

September 6, 2018

Gregory and Taylor Avaroe
11712 136th Ave E
Puyallup WA 98374

RE: Site Development and Wetland and/or Fish and Wildlife Habitat Area Violations
Located at 5001 Fern Ln NW, Parcel No. 9760200941, Case numbers 63802
and 63803

Dear Gregory and Taylor Avaroe:

Recently our office received a public request (complaint) concerning site development activity in a wetland and/or fish and wildlife habitat area. An inspection was conducted by one of our staff verifying the activity. At this time, Notice and Orders to Correct for both Development Engineering and Resource Management are being issued (enclosed). In order to begin addressing the violations on your parcel, please contact the following:

- Resource Management for Wetland/Fish and Wildlife Habitat Area: Contact Mary Van Haren, Enforcement Environmental Biologist, at 253-798-3181 or mary.vanharen@piercecountywa.gov.
- Development Engineering: Contact Jeff Sharp, Development Engineer, at 253-798-7135 or jeff.sharp@piercecountywa.gov.

Please contact both Mary Van Haren and Jeff Sharp within the timeframes noted in the enclosed Notices to avoid further enforcement action(s).

Sincerely,
Pierce County Planning and Public Works

Encl: Resource Management Notice and Order to Correct dated September 6, 2018
Development Engineering Notice and Order to Correct dated September 6, 2018
c: File



SENT REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
9171 9690 0935 0155 5455 14

September 6, 2018

Gregory and Taylor Avaroe
11712 136th Ave E
Puyallup WA 98374

NOTICE AND ORDER TO CORRECT
Planning and Public Works Department, Resource Management Section
**Stop all activity within 315 feet of wetland indicators/
165 feet of fish and wildlife habitat conservation area indicator**
**Contact Mary Van Haren, Pierce County Environmental Biologist at
(253) 798-3181**
Effective Date: Upon receipt of this notice

Subj: Wetland/Fish and Wildlife Habitat Conservation Area Violation Located at 5001 Fern Lane NW, Pierce County, Washington, on Parcel No. 9760200941, Service Request Case No. 63803.

Dear Mr. and Mrs. Avaroe:

PART I—VIOLATION

Our records indicate that you are the current owner of the site. As the owner, you are responsible for activities that took place on the property. This is a notice to **STOP** all work.

Recently our office received a public service request from the Washington State Department of Ecology regarding a citizen complaint concerning clearing wetland with a bobcat on your property. On August 31, 2018, I observed the site from Fern Lane NW and confirmed that clearing (which means the removal of stumps and vegetation) activities had occurred within potential wetland and fish/wildlife habitat on the property. Initiation of these activities within 315 feet of a wetland indicator (County Wetland Inventory, National Wetland Inventory, Hydric Soil, Flood, Hydro Surface Boundary) or 165 feet of a fish and wildlife habitat conservation area indicator (Hydro Surface Boundary) without County review and approval violates Pierce County Code (Title 18E, Development Regulations - Critical Areas, more specifically 18E.10.050). Attached is a map of the site with wetland and fish/wildlife habitat information.

Pierce County Code Sections: The unpermitted work is specifically in violation of:

- **Title 18 Development Regulations General Provisions:**
18.140.030 Permits, Approvals and Uses
- **Title 18E Development Regulations – Critical Areas General Provisions:**
18E10.050 Applicability, 18E.10.070 Administration, 18E10.110 Compliance
- **Title 18E Development Regulations – Critical Areas Use and Activity Regulations:**
18E.20.020 Regulated Uses and Activities
- **Title 18E Development Regulations – Wetlands:**
18E30.030 Wetland Review Procedures
- **Title 18E Development Regulations – Fish and Wildlife Species and Habitat Conservation Areas:**
18E.40.030 Fish and Wildlife Habitat Conservation Review Procedures

For a complete list of regulated activities see Pierce County Code, Chapter 18E.20 (see enclosed).

Before starting certain activities you must:

- Obtain a Wetland Approval if the activity is within 315 feet of a wetland indicator (Title 18E Development Regulations - Critical Areas).
- Obtain a Fish and Wildlife Habitat Conservation Area Approval if the activity is within 165 feet of critical habitat area indicator (Title 18E Development Regulations – Critical Areas).
- Obtain permits or approvals in accordance with Title 18E, or other Pierce County codes that may apply.

PART II - IMMEDIATE CORRECTIVE ACTIONS

- Stop all work on the property unless instructed otherwise, in writing, by Pierce County representatives.
- Within 14 days of this order, hire a Wetland Specialist to assist you with the compliance process.
 - All wetland specialists who submit work to the County must meet minimum qualifications (Title 18, Section 18.25.030).
 - Your specialist must notify us when you hire them.
 - A list containing the names of currently qualified specialists is enclosed.
 - You may choose a different wetland specialist, but they must submit their qualifications to Pierce County for review and possible approval.
 - Pierce County staff cannot make recommendations.
 - You are encouraged to discuss your concerns and questions with your specialist.

PART III – COMPLIANCE PROCESS

Within 60 days of the date of this letter, you must make application for Wetland/Fish and Wildlife Approval. With help from your specialist, you will be required to submit the following:

1. Resource Management Application Checklist - Wetland or Critical Fish & Wildlife Habitat (enclosed).
2. Master Application (enclosed).
3. A to-scale site plan of the entire site, showing:

- Any existing and proposed activities (including restoration).
 - Wetlands.
 - Streams/drainages.
 - Buffers and critical areas within 315 feet of the site/project area.
4. A Fish and Wildlife Assessment Letter, Report or Study as appropriate.
 5. A wetland delineation and mitigation report or verification as appropriate.
 - Completed by a wetland specialist.
 - Submit one unbound copy.
 6. Appropriate review fee(s).
 7. See the attached Resource Management Application Checklist for number of copies.
 8. Submit to the Pierce County Development Center, located at 2401 South 35th Street, Suite 175, Tacoma, WA 98409.
 9. **You must follow the conditions within the timeline given in the issued approval.**

As part of the process towards resolution of the violation, Pierce County Resource Management must:

- Complete its review of all required studies.
- Issue a wetland/fish and wildlife approval, if necessary.
- Receive proof of recorded wetland/fish and wildlife approval on title.
- Receive financial guarantee(s), if required.

If you fail to comply with the terms of this Notice, we will take the following enforcement actions:

- Record a Notice of Non-Compliance on title. Non-Compliance notifies any interested parties or lenders of a violation on the property.
- Issue civil penalties in the amount of \$1,000, \$4,000, and \$10,000. We will turn over any unpaid civil penalties to a collection agency.

In addition, the following action may occur:

- Criminal misdemeanor charges punishable by 90 days in jail (PCC 18.140.050 – Penalties).

Each violation or each day of continued unlawful activity shall constitute a separate violation. Each day that a person fails to comply with the terms of a Notice and Order to Correct shall constitute a separate violation.

PART IV – INNOCENT PURCHASERS

Any work done when you owned the property does not meet the innocent purchaser requirements.

Relief from the compliance chapter (18.140) may be available to innocent purchasers per the following:

- A property owner who purchased real property.
- At the time of purchase had no knowledge the property contained unpermitted development.
- Burden of proof of innocence is on the property owner.

- Documents that can be used to demonstrate innocence:
 - Aerial photograph.
 - Property tax records.
 - Real estate deeds.
 - Real property transfer disclosure statements.
- Contact me if you feel you qualify as an innocent purchaser.

PART V – APPEAL

This notice may be appealed to the Pierce County Hearing Examiner under Chapter 1.22, Pierce County Code. To appeal:

- Submit an application for an Appeal of an Administrative Official’s Order or Decision within fourteen (14) days of the date of this decision. You may submit your appeal with the appropriate application fee to the Pierce County Development Center, located at the Pierce County Public Services Building (Annex), 2401 South 35th Street, Tacoma, Washington 98409. Our development center office hours are Monday through Friday, 9:00 am to 2:00 pm, except holidays.
- Obtain appeal forms from the Pierce County Development Center or online at <http://www.co.pierce.wa.us/DocumentCenter/View/4233>.
- Include an application fee of \$250.00.
- See Pierce County Hearing Examiner Code, Section 1.22.090 for regulations concerning appeals of an administrative official’s decision.
- We may waive the appeal fee if you qualify as an indigent appellant.

I look forward to working with you and your specialist. Resolving this violation within the time frames noted above will help to reduce impacts to the environment and costs associated with compliance. I can be contacted at 253-798-3181 or mary.vanharen@piercecountywa.gov

Sincerely,


 Mary Van Haren, PWS
 Enforcement Environmental Biologist

MVH:kgf
 9Avaroe_NOTC.docx

Encl: Site Map with Wetland and Fish/Wildlife Habitat Information
 Wetland or Critical Fish and Wildlife Species and Habitat Conservation Area Applications
 – Resource Management Checklist
 Master Application
 Wetland Specialist List
 Use and Activity Regulations List

c: File
 Greg Avaroe at onision@gmail.com
 Greg and Taylor Avaroe at 5001 Fern Lane NW, Gig Harbor, WA 98335



REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
9171 9690 0935 0155 5455 14

September 6, 2018

Gregory and Taylor Avaroe
11712 136th Ave E
Puyallup WA 98374

**NOTICE AND ORDER TO CORRECT
FINAL WRITTEN ORDER**
**From the Pierce County Development Engineering Section of the
Planning and Public Works Department**

RE: Unauthorized Site Development on Parcel No. 9760200941, Site Address: 5001
Fern Ln NW, Gig Harbor, Washington, Pierce County, Case No. 63802

Dear Gregory and Taylor Avaroe:

PART I – Violation Codes and Description

This Notice and Order to Correct follows a site visit on August 31, 2018, and Pierce County violation confirmation. This is a notice to **STOP** all work unless directed otherwise by the Development Engineer. Our records indicate you are the current owner of the parcel, and as such, are responsible for any activity of this nature taking place on your property. Development means any man-made change to property such as dredging, clearing, filling, grading, paving, excavation or any activity that results in the removal of vegetation. A description of the development follows.

Development without County approval is a violation of Pierce County Code Section(s):

- Title 17A Pierce County Stormwater Management and Site Development Manual, Section 17A.10.040 and 17A.10.070.
- Title 18E.30 – Wetland, Title 18E.10.050, 18E.10.070, 18E.10.110, 18E.30.020 and 18E.30.030.

Description of the Unauthorized Development Violation(s):

1. Approximately 4,000 square feet of clearing. Clearing is the destruction and/or removal of vegetation by manual, mechanical, or chemical methods (Title 17A).

Clearing means the removal of stumps and vegetation to the extent that the removal has the potential to cause erosion or drainage impacts (Title 18). Logging is the harvesting or removal of timber. Logging does not include the removal of stumps or under story vegetation (Title 17A).

We estimate the clearing occurred on or around August of 2018.

Location of the Unauthorized Development Violation(s):

The location of the above described development occurred in the central portion of the parcel.

Unless fully exempt from Title 17A of the Pierce County Code, no person, party, firm, corporation, or entity shall perform any grading, clearing, ditching, storm drainage system construction or alteration, drainage course alteration, hard surface creation, or any development/redevelopment activity unless the work is in accordance with a valid site development permit from the County.

PART II - How to Resolve Your Violation

Submit the following for review with a Site Development Permit application:

1. Submit an Advanced Abbreviated Plan. Any work in a critical area must be prepared by a professional engineer licensed in the state of Washington. The plan must address the requirements noted in Volume I, Section 3.2 (Abbreviated Plan), Title 17A, *Pierce County 2015 Stormwater Management and Site Development Manual* (Ordinance 2015-48s). The plan must demonstrate that Chapter 2.4 Minimum Requirements #1 through #5 are being met. See <http://www.co.pierce.wa.us/index.aspx?nid=2969> to view the storm manual. Include the \$2,212.50 application fee with your Advanced Abbreviated Plan.

Note: Fees indicated are current as of the date of this letter, and are subject to increases as adopted by the County Council.

Additional Permits or Approvals: The unauthorized development on your parcel(s) may require permits or approval from other County sections such as Building, Resource Management and Planning. Additional permits or approvals must be obtained in addition to the required Site Development permit(s) noted above.

Submittals: Submit required plans and reports with the appropriate permit application fees to the Pierce County Planning and Public Works Department, Development Center, located at the Pierce County Public Services Building (Annex), 2401 South 35th Street, Tacoma, Washington 98409. Our development center office hours are Monday through Friday, 9:00 am to 2:00 pm, except holidays.

Submittals shall include:

- One electronic (PDF) copy of all required application materials.
Electronic submittal materials accepted by flash drive (flash drives will be returned), or CD disc (CDs will not be returned).

Applications can also be made through our Planning and Land Services Online Permits website at <https://www.co.pierce.wa.us/117/Planning-Land-Services> under Show Me How To/Apply for a Permit.

Submittal requirements for application checklists are on the Planning and Public Works website <https://www.co.pierce.wa.us/4999/Planning-Public-Works> under PALS Forms & Handouts.

Compliance Date: This Notice and Order to Correct becomes effective immediately upon receipt. You must submit the above listed application(s) by **November 5, 2018**.

Completion of Construction/Mitigation: The work shown on the approved plan(s) must be completed by the date noted on the issued permit and approval letter.

Restoration Option: Development Engineering may waive or modify some of the Corrective Actions if you chose to restore the unauthorized development. Please contact me for more information regarding this option.

PART III – Notice of Enforcement Actions

If you fail to comply with the terms of this Notice, Pierce County will take the following enforcement actions:

- Record a Notice of Non-Compliance on title.
 - Non-Compliance notifies any interested parties or lenders of a violation on the property.
 - Recording fees need to be paid by the owner.
- Issue civil penalties in the amount of \$1,000, \$4,000, and \$10,000.
 - Pierce County will turn over any unpaid civil penalties to a collection agency.
- Criminal misdemeanor charges punishable by 90 days in jail (PCC 18.140.050 – Penalties).

Each violation or each day of continued unlawful activity shall constitute a separate violation. Each day that a person fails to comply with the terms of a Notice and Order to Correct shall constitute a separate violation.

PART IV – Innocent Purchasers

Relief from the compliance Chapter (18.140) may be available to innocent purchasers per the following:

- The current property owner purchased real property for fair market value.
- At the time of purchase had no knowledge the property contained unpermitted development.
- Burden of proof of innocence is on the property owner.
- Documents that can be used to demonstrate innocence:
 - Aerial photography
 - Property tax records
 - Real estate deeds

- Real property transfer disclosure statements
- Contact me if you feel you qualify as an innocent purchaser.

Any work done when you owned the property does not meet the innocent purchaser requirements.

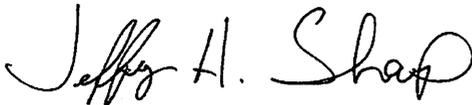
PART V – Appeal

This decision may be appealed to the Pierce County Hearing Examiner under Chapter 1.22 Pierce County Code as an appeal of an administrative order or decision. To appeal:

- Submit an application for an Appeal of an Administrative Official's Order or Decision within fourteen (14) days of the date of this Order. You may submit your appeal with the appropriate application fee to the Pierce County Development Center, located at the Pierce County Public Services Building (Annex), 2401, South 35th Street, Tacoma, Washington 98409. Our development center office hours are Monday through Friday, 9:00 am to 2:00 pm, except holidays.
- Obtain appeal forms from the Pierce County Development Center or online at <http://www.co.pierce.wa.us/DocumentCenter/View/4233>.
- Include an application fee of \$250.00.
- See Pierce County Hearing Examiner Code, Section 1.22.090 for regulations concerning appeals of an administrative official's decision.
- If you cannot afford to pay the appeal fee, it may be waived. Inquire at the Pierce County Development Center for more information about waivers of appeal fees for indigent citizens.

Resolving this violation in a timely manner will help reduce impacts to the environment and costs associated with compliance. If you have any questions or comments, please contact me by phone at 253 798-7135 or by email at jeff.sharp@piercecounitywa.gov.

Sincerely,



Jeffrey H. Sharp
Development Engineer

JS:kgf

c: File
Mary Van Haren, Environmental Enforcement Biologist, Resource Management, PPW

Mary Van Haren

From: Mary Van Haren
Sent: Thursday, August 23, 2018 3:07 PM
To: 'onision@gmail.com'
Cc: Jeff Sharp
Subject: Pierce County contact, wetland and fish/wildlife habitat info.
Attachments: 9760200941.pdf

Hi Greg – as a follow up to our phone conversation about the citizen complaint regarding vegetation clearing with a bobcat on parcel 9760200941; below is my contact information. Couple links for you – one is Pierce County Code Title 18E which we discussed. I also found one on the Growth Management Act. Attached is a map of the parcel showing wetland and fish/wildlife habitat information. You are considering sending me some photos showing the area where blackberry was cleared to expand your lawn which may require permits.

<https://www.codepublishing.com/WA/PierceCounty/#!/html/PierceCounty18E/PierceCounty18E.html>

https://en.wikipedia.org/wiki/Washington_State_Growth_Management_Act

I cc'd Jeff Sharp on this email because clearing vegetation within critical areas (ie. wetlands and fish/wildlife habitat) may also require a Site Development permit. Jeff your case ID is 63802.

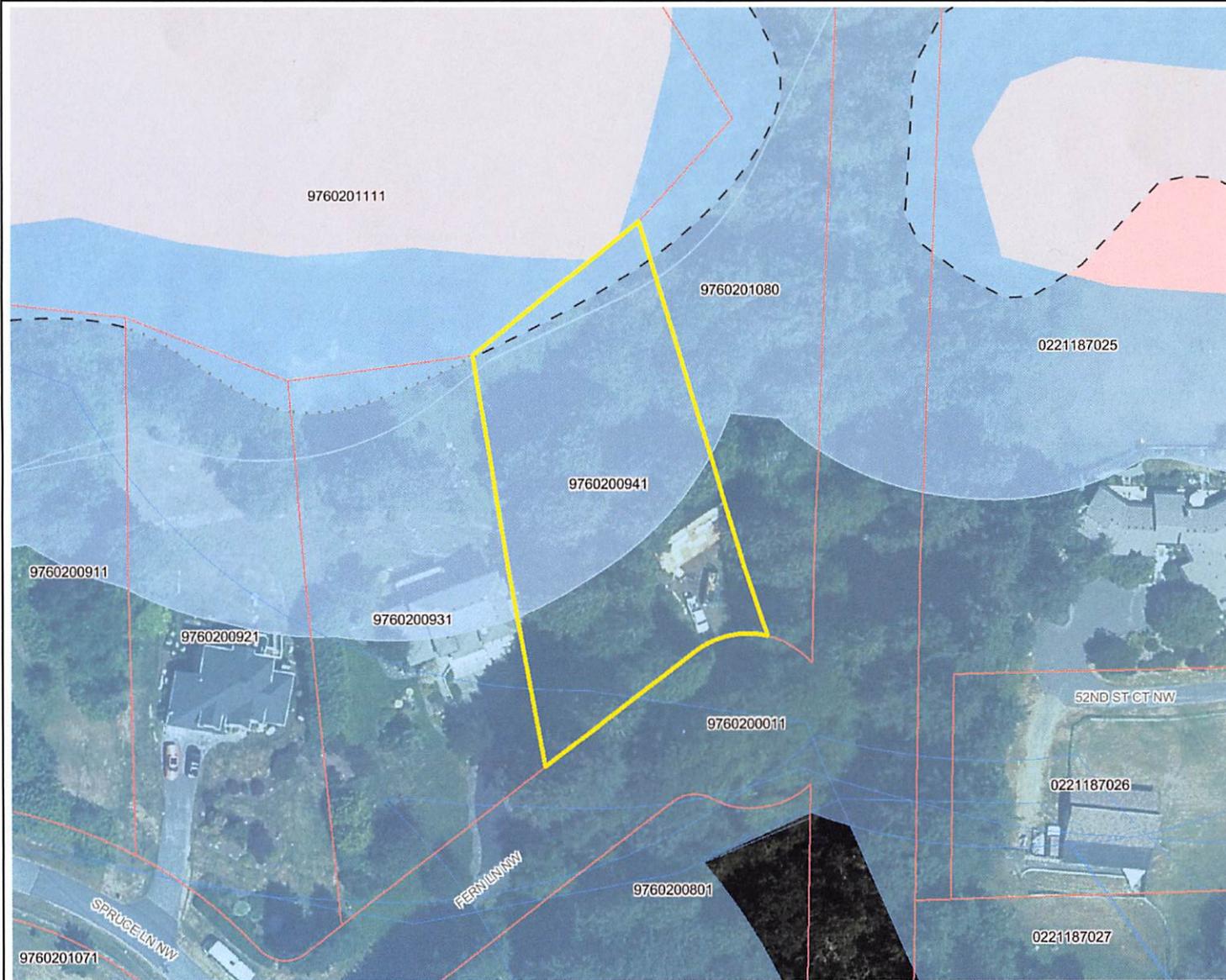
Mary Van Haren, PWS

Enforcement Environmental Biologist
Pierce County Planning and Public Works
(253)798-3181 | mary.vanharen@piercecountywa.gov

TPN 9760200941

Wetland and Fish/Wildlife Habitat Info.

Case 63803



Map Legend

- Highlighted Tax Parcels**
- Tax Parcels**
- Base Parcel**
- Condominium**
- Other**

CWI Wetlands Delineation

- Delineated**
- Verified**
- Unverified**

CWI Wetlands

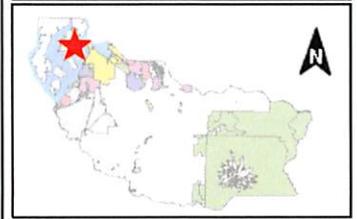
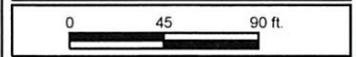
- Yes or Not Verified**
- No**
- National Wetlands Inventory**

Possible Wetlands

- Possible Wetlands**
- Possible FW Habitat Areas**

County - 2017 - Ortho

Roads



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Planning and Public Works

Pierce County
Geographic Information Services

The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. Pierce County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. Pierce County makes no warranty of fitness for a particular purpose.

Kristina LeFae

From: Kristina LeFae
Sent: Friday, September 7, 2018 3:24 PM
To: onision@gmail.com
Subject: Notice and Order to Correct from Pierce County
Attachments: Avaroe Combo Cover Letter.pdf; 9Avaroe_NOTC.pdf; Avaroe NOTC.pdf; wtInd atchmnts_20180730140923.pdf; site map.pdf

See the following attached documents from Pierce County Planning and Public Works:

Cover Letter

Notice and Order to Correct from Wetland Biologist Mary Van Haren

Notice and Order to Correct from Development Engineer Jeff Sharp

Attachments regarding wetland information

Site Map of your parcel showing wetland and fish/wildlife information

Contact information for the Biologist and the Engineer are included in the letters.

Kristina LeFae (for Mary Van Haren and Jeff Sharp)

Office Assistant III | Resource Management
Pierce County Planning and Public Works
(253)798-4649 | kristina.lefae@piercecountywa.gov

ERTS # 683266

Followup

Inspector Information		Where did it happen		Followup #1
Referral # 243401		Berth	Anchorage	
<input checked="" type="checkbox"/> Lead Inspector ARMSTRONG, KATHY		Location Name	5001 Fern Lane NW	
Program/Organization SPILLS, PREVENTION, PREPAREDNESS AND RESPONSE		Street Address	5001 Fern Ln NW	
* Region/Location SWRO		Other Address		
# of Ecology Staff	Overtime <input type="checkbox"/>	City/Place	GIG HARBOR	State WA Zip 98335-
Action	Start Date	End Date	County PIERCE	Region SWRO FS ID
E-MAIL	8/11/2018		Waterway	Type
			WRIA #	
What happened	Spills Program Oil Spill? N	Latitude	47.30484	Longitude -122.60653
Incident Date	8/11/2018	Topo Quad 1:24,000	GIG HARBOR	
Medium		Direction/Landmark (mile post, cross roads, township/range)		
OTHER				
Material				
OTHER - SEE NOTE				
Quantity	Unit	Est.		
		<input type="checkbox"/>		
Source	Regulated? <input type="checkbox"/>	Potentially Responsible Party Information		
OTHER		Check if the primary PRP provided notice to Ecology <input type="checkbox"/>		
Cause				
UNKNOWN				
Activity				
OTHER				
Impact				
NATURAL RESOURCE DAMAGE				
Vessel				
Narrative				
Incident Summary: Citizen reported neighbor clearing wetland with bobcat/tractor. Citizen is also an employee of WDFW. He is aware that Jeff Summit is the biologist for that location. He said this location is a category 2 and a 100' buffer. Suspects neighbor does not have the permits to be working in wetland. Reporting party informed he has just underwent surgery so he can not walk to the wetland where the construction is occurring. Ecology looked up WDFW dispatch but could not locate a dispatch number for this type of incident. This will need to be referred to WDFW the following Monday.				
Vessel Emergency <input type="checkbox"/>		Entry Person: Andrews, Brian		Entry Date 8/13/2018

Department of Ecology - Environmental Report Tracking System

ERTS # 683266

Referral # 243452

Referral Method

- E-mail ERTS number
- E-mail attachment
- Print
- Telephone

Person Referred to US Army Corps of Engineers, halie

Primary

Phone (206) 764-6848 Fax

E-mail halie.endicott@usace.army.mil

Program/Organization US Army Corps of Engineers

Address

City WA

Region/Location SWRO

Referral Date 8/13/2018

Department of Ecology - Environmental Report Tracking System

ERTS # 683266

Referral

<p>Referral Method</p> <p><input type="radio"/> E-mail ERTS number</p> <p><input type="radio"/> E-mail attachment</p> <p><input type="radio"/> Print</p> <p><input checked="" type="radio"/> Telephone</p>	<p>Person Referred to ARMSTRONG, KATHY</p> <p>Phone (360) 407-6376 Fax</p> <p>E-mail karm461@ecy.wa.gov</p> <p>Program/Organization SPILLS, PREVENTION, PREPAREDNESS AND RESPONSE</p> <p>Address</p> <p>City WA</p> <p>Region/Location SWRO</p> <p>Referral Date 8/11/2018</p>	<p>Referral # 243401</p> <p>Primary <input checked="" type="checkbox"/></p>
<p>Referral Method</p> <p><input type="radio"/> E-mail ERTS number</p> <p><input checked="" type="radio"/> E-mail attachment</p> <p><input type="radio"/> Print</p> <p><input type="radio"/> Telephone</p>	<p>Person Referred to Pierce County Responds- ALL ERTS,</p> <p>Phone Fax</p> <p>E-mail PCResponds@co.pierce.wa.us</p> <p>Program/Organization ENFORCEMENT CONTACT FOR PIERCE COUNTY</p> <p>Address</p> <p>City WA</p> <p>Region/Location SWR-</p> <p>Referral Date 8/13/2018</p>	<p>Referral # 243447</p> <p>Primary <input type="checkbox"/></p>
<p>Referral Method</p> <p><input type="radio"/> E-mail ERTS number</p> <p><input checked="" type="radio"/> E-mail attachment</p> <p><input type="radio"/> Print</p> <p><input type="radio"/> Telephone</p>	<p>Person Referred to DEPARTMENT OF FISH AND WILDLIFE, REGION 6</p> <p>Phone (360) 249-4628 Fax (360) 664-0689</p> <p>E-mail TeamMontesano@dfw.wa.gov</p> <p>Program/Organization DEPARTMENT OF FISH AND WILDLIFE</p> <p>Address</p> <p>City WA</p> <p>Region/Location REGION 6</p> <p>Referral Date 8/13/2018</p>	<p>Referral # 243448</p> <p>Primary <input type="checkbox"/></p>
<p>Referral Method</p> <p><input type="radio"/> E-mail ERTS number</p> <p><input checked="" type="radio"/> E-mail attachment</p> <p><input type="radio"/> Print</p> <p><input type="radio"/> Telephone</p>	<p>Person Referred to Meyer, Zachary</p> <p>Phone (360) 407-6167 Fax</p> <p>E-mail Zmey461@ecy.wa.gov</p> <p>Program/Organization SHORELANDS AND ENVIRONMENTAL ASSISTANCE</p> <p>Address 300 Desmond Dr</p> <p>City Lacey WA 98504-7775</p> <p>Region/Location SWRO</p> <p>Referral Date 8/13/2018</p>	<p>Referral # 243450</p> <p>Primary <input type="checkbox"/></p>

Department of Ecology - Environmental Report Tracking System

ERTS # 683266

Initial Report

External Reference #

Caller Information

First Name: Ken
 Last Name: Behen
 Business Name: Citizen
 Street Address:
 Other Address:
 City: State 0 Zip:
 E-mail:
 Phone: (360) 801-6509
 Ext:
 Type: Business
 Confidential_FL

Where did it happen

Berth: Anchorage
 Location Name: 5001 Fern Lane NW
 Street Address: 5001 Fern Ln NW
 Other Address:
 City/Place: GIG HARBOR State: WA Zip: 98335
 County - Region: PIERCE SWRO FS ID:
 WIRA #:
 Waterway: Type: WETLAND
 Latitude: 47.30484 Longitude: -122.60653
 Topo Quad 1:24:000: GIG HARBOR
 Direction/Landmark (mile post, cross roads, township/range):

What happened

Spills Program Oil Spill? N

Incident Date: 8/11/2018 Received Date: 8/11/2018 14:31

Medium: OTHER

Material: OTHER - SEE NOTE

Quantity Unit

Source: OTHER

Cause: UNKNOWN

Activity: OTHER

Impact: NATURAL RESOURCE DAMAGE

Vessel Name:

Hull Number:

Primary Potentially Responsible Party Information

First Name: Last Name: Unknown
 Business Name:
 Street Address:
 Other Address:
 City: State: Zip:
 Phone: Ext: Type:
 E-mail:

Additional Contact Information

Name Phone Ext Type

More Information

Citizen reported neighbor clearing wetland with bobcat/tractor. Citizen is also an employee of Fish & Wildlife. He is aware that Jeff Summit is the biologist for that location. He said this location is a category 2 and a 100' buffer.

Entry Person: Armstrong, Kathy

Entry Date: 8/11/2018

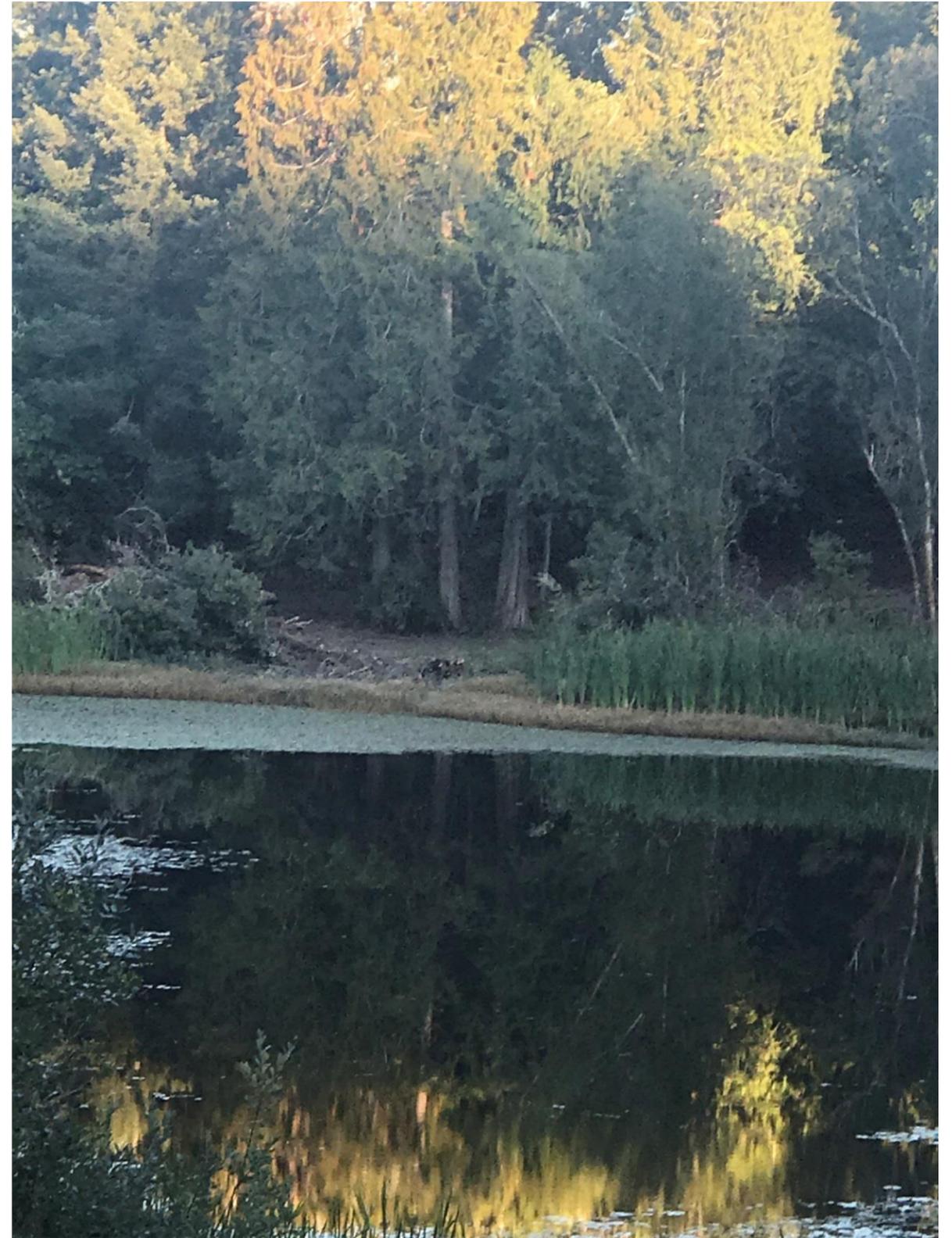
Ecology ERTS Citizen Caller Photos
February 2018



August 2018



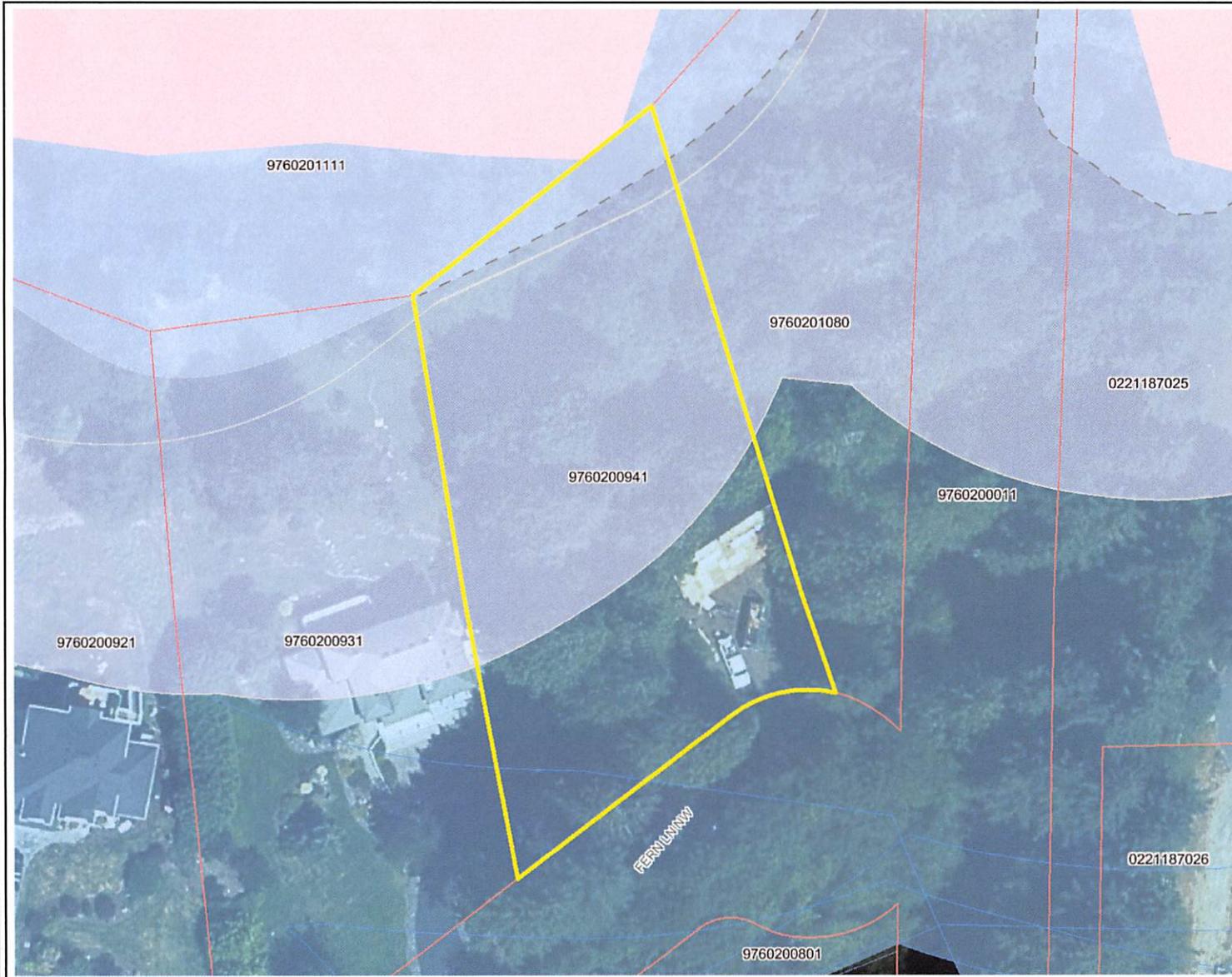
September 2018



Avaroe

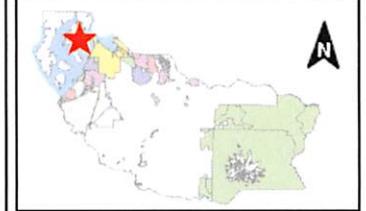
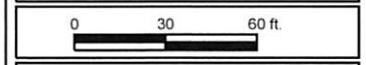
Wetland and Fish/Wildlife Habitat Info.

Case 63803



Map Legend

- Highlighted Tax Parcels**
- Tax Parcels**
- Base Parcel**
- Condominium**
- Other**
- Possible FW Habitat Areas**
- National Wetlands Inventory**
- CWI Wetlands Delineation**
- Delineated**
- Verified**
- Unverified**
- CWI Wetlands**
- Yes or Not Verified**
- No**
- Possible Wetlands County - 2017 - Ortho**
- Roads**



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Planning and Public Works

Pierce County
Geographic Information Services

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EXHIBITS # 4A – 4B

4. NOTICE AND ROUTING DOCUMENTS:

- A. Hearing Examiner Agenda letter to Jane Koler, dated October 2, 2018 and reschedule date of Hearing e-mail, dated October 29, 2018
- B. Hearing Agenda and legal notice



Pierce County
Planning & Public Works

2401 South 35th Street, Room 2
Tacoma, Washington 98409-7460
piercecountywa.org/ppw

Dennis Hanberg—Director
dhanber@co.pierce.wa.us

October 2, 2018

Jane Koler, Attorney at Law
Land Use & Property Law, PLLC
6659 Kimball Drive, Suite B-201
Gig Harbor, WA 98335
jane@jkolerlaw.com

RE: Administrative Appeals: Gregory and Taylor Avaroe, #895257 and 895259

The Pierce County Planning and Public Works Department received your appeal materials for the above-referenced cases on **September 20, 2018**.

These matters are scheduled for the **Wednesday, November 28, 2018**, Hearing Examiner Agenda at **9:00 a.m.**, at the Pierce County Public Services Building, Public Meeting Room, 2401 S. 35th Street, Tacoma, WA 98409.

For your information and future reference, questions concerning these appeals should be referred to:

- #895257 - Jeff Sharp, Development Engineer jeff.sharp@piercecountywa.gov, 253-798-7135; or
- #895259 - Mary Van Haren, Enforcement Environmental Biologist, mary.vanharen@piercecountywa.gov, 253-798-3181

Pierce County Code, Chapter 2.05.040.C.9.c, states in part, if the applicant/agent requests a hearing date to be rescheduled, and the County has already provided notice for the hearing, there shall be a fee of 20 percent of the original land use or appeal application fee to accommodate the required re-advertising. In no case shall the fee be less than \$200.00 or more than \$1,000.00.

JS/MVH:sl

c: Gregory and Taylor Avaroe, onision@gmail.com
Jeff Sharp, Development Engineer, Planning and Public Works (PPW)
Mary Van Haren, Enforcement Environmental Biologist, PPW
David Owen, Pierce County Deputy Prosecuting Attorney

Sue Larson

From: Sue Larson
Sent: Monday, October 29, 2018 9:13 AM
To: Jeff Sharp; Mary Van Haren; David Owen; j.pelesky (j.pelesky@mchlawoffices.com)
Cc: jane@jkolerlaw.com
Subject: RE: Avaroe Appeals #895257 and 895259

Good Morning:

The above appeal is rescheduled to December 6, 2018, from 9-12. I will need to do some clerical changes to make it happen, but it is a go for the 6th.

Best regards!

Sue Larson
(253) 798-3241 | sue.larson@piercecounitywa.gov

From: Jeff Sharp
Sent: Monday, October 22, 2018 1:20 PM
To: Mary Van Haren <mary.vanharen@piercecounitywa.gov>; David Owen <david.owen@piercecounitywa.gov>; j.pelesky (j.pelesky@mchlawoffices.com) <j.pelesky@mchlawoffices.com>
Cc: jane@jkolerlaw.com; Sue Larson <sue.larson@piercecounitywa.gov>
Subject: RE: Avaroe Appeals #895257 and 895259

6th is OK for me.

Jeffrey H. Sharp
Development Engineer
Pierce County Planning & Public Works
(253) 798-7135 | jsharp@co.pierce.wa.us

From: Mary Van Haren
Sent: Monday, October 22, 2018 12:14 PM
To: David Owen <david.owen@piercecounitywa.gov>; j.pelesky (j.pelesky@mchlawoffices.com) <j.pelesky@mchlawoffices.com>
Cc: Jeff Sharp <jeff.sharp@piercecounitywa.gov>; jane@jkolerlaw.com; Sue Larson <sue.larson@piercecounitywa.gov>
Subject: RE: Avaroe Appeals #895257 and 895259

Just confirming we are looking at Dec. 6th rather than the 5th. Works for me, Jeff?

From: David Owen
Sent: Monday, October 22, 2018 11:31 AM
To: j.pelesky (j.pelesky@mchlawoffices.com) <j.pelesky@mchlawoffices.com>
Cc: Mary Van Haren <mary.vanharen@piercecounitywa.gov>; Jeff Sharp <jeff.sharp@piercecounitywa.gov>; jane@jkolerlaw.com; Sue Larson <sue.larson@piercecounitywa.gov>
Subject: RE: Avaroe Appeals #895257 and 895259

I am having some scheduling difficulty and am hoping to reschedule this appeal from 11/28 to 12/6. The schedule *seems* to be open for the County, but I can only confirm that when Sue Larson is back. Ms. Koler has agreed to the date. Would this tentatively work for the examiner?

Regards,
Dave Owen

From: Sue Larson

Sent: Tuesday, October 2, 2018 12:46 PM

To: jane@jkolerlaw.com; onision@gmail.com

Cc: Mary Van Haren <mary.vanharen@piercecountywa.gov>; Jeff Sharp <jeff.sharp@piercecountywa.gov>; David Owen <david.owen@piercecountywa.gov>

Subject: Avaroe Appeals #895257 and 895259

Attached you will find a letter referencing the hearing date and time for the above appeals.

Best regards!

Susan Larson

Office Assistant III

Pierce County Planning & Public Works

(253) 798-3241 | sue.larson@piercecountywa.gov



AGENDA

PUBLIC HEARINGS BY THE PIERCE COUNTY HEARING EXAMINER

Pierce County Public Services Building (Annex), Public Meeting Room, 2401 S. 35th St., Tacoma, WA 98409

THURSDAY, DECEMBER 6, 2018

HEARING TIME: 9:00 A.M:

The following appeals will be heard at the same time

Project: Administrative Appeal: Avaroe
Application: 895257
Online Address: <https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=895257>
Appellants: Gregory and Taylor Avaroe
County Staff: Jeff Sharp, jeff.sharp@piercecountywa.gov
Request: Appeal a Notice and Order to Correct – Final Written Order, dated September 6, 2018, by a Pierce County Development Engineering Administrative Official. The site is within the Gig Harbor Community Plan area and Rural Sensitive Resource (RSR) zone classification, located at 5001 Fern Lane NW, Gig Harbor, WA, in Council District #7.

Project: Administrative Appeal: Avaroe
Application: 895259
Online Address: <https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/departmentStatus?applPermitId=895259>
Appellants: Gregory and Taylor Avaroe
County Staff: Mary Van Haren, mary.vanharen@piercecountywa.gov
Request: Appeal a Notice and Order to Correct, dated September 6, 2018, by a Pierce County Resource Management Administrative Official. The site is within the Gig Harbor Community Plan area and Rural Sensitive Resource (RSR) zone classification, located at 5001 Fern Lane NW, Gig Harbor, WA, in Council District #7.

Note: The Hearing Examiner's decision is final unless appealed. Please call (253) 798-7210 for further information.

Order Confirmation

Customer

PIERCE COUNTY

Customer Account

256318

Customer Address

2401 S 35TH ST RM 2
TACOMA WA 984097960 USA

Customer Phone

253-798-7200

Customer Fax

Sales Rep

lbastin@thenewstribune.com

Payor Customer

PIERCE COUNTY

Payor Account

256318

Payor Address

2401 S 35TH ST RM 2
TACOMA WA 984097960 USA

Payor Phone

253-798-7200

Customer EMail

Order Taker

mлаufer@mcclatchy.com

<u>PO Number</u>	<u>Payment Method</u>	<u>Blind Box</u>	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>
	Invoice		1	0	1

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$133.69	\$0.00	\$133.69	\$0.00	\$133.69

<u>Ad Order Number</u>	<u>Order Source</u>	<u>Ordered By</u>	<u>Special Pricing</u>
0003960638			
<u>Invoice Text</u>			<u>Promo Type</u>
<u>Package Buy</u>			<u>Materials</u>

Ad Order Information

<u>Ad Number</u>	<u>Ad Type</u>	<u>Production Method</u>	<u>Production Notes</u>
0003960638-01	TAC-Legal Liner	AdBooker	

<u>External Ad Number</u>	<u>Ad Attributes</u>	<u>Ad Released</u>	<u>Pick Up</u>
		No	

<u>Ad Size</u>	<u>Color</u>
1 X 86 li	

<u>Product</u>	<u>Placement</u>	<u>Times Run</u>	<u>Schedule Cost</u>
TAC-NT-News Tribune	0300 - Legals Classified	1	\$133.69

<u>Run Schedule Invoice Text</u>	<u>Position</u>
PUBLIC NOTICE PIERCE COUNTY HEARING EX/	0301 - Legals & Public Notices

Run Dates
11/21/2018

PUBLIC NOTICE

PIERCE COUNTY HEARING EXAMINER PUBLIC HEARING

Pierce County Public Services Building (Annex),
South Entrance, Public Meeting Room, 2401 S.
35th St., Tacoma WA

**Shoreline Conditional Use Permit: Pierce County
Public Works - Surface Water Management**

Date/Time: December 5, 2018, at 1:00 pm

Applications: 890970, 890971

Applicant: Erick Thompson, Pierce County
Planning and Public Works - Surface Water
Management

Planner: Andrew Van Gordon,
andrew.vangordon@piercecounitywa.gov

Request: Applicant proposes the following
along the Puyallup River between river miles 27.2
to 28.6: Remove a section (2,500 linear feet) of
existing levee; remove existing levee facing and
toe rock where feasible; place Engineered Log
Jams (ELJ) to control water flow, provide shore
bank erosion control and provide fish habitat
enhancement; and provide additional flood
protection of Orville Road using material taken
from the removed section of levee. The site is in
the Conservancy Shoreline Environment, and Rural
20 (R20) and Designated Forest Land (FL) zone
classifications, located at 26927, 27005, 27110
& xxx 169th Ave. E. and 28215 & xxx Orville Rd.
E., Orting, WA, in Council Districts #1 and #3.

**Preliminary Plat / Administrative Design Review:
Lincoln Court**

Date/Time: December 5, 2018, at 2:00 pm

Applications: 864865, 864873

Applicant: Terry Folden, Presidential Homes
Planner: Robert Jenkins,
robert.jenkins@piercecounitywa.gov

Request: Divide a 3.08 acre one-parcel site
into 14 single-family lots, with a minimum lot size
of 5,023 sq. ft. and an average lot size of 7,114
sq. ft. The plat includes a 11,871 sq. ft. tract
along the north edge including a private road
serving three single-family lots to the west and
landscape buffer tracts along "B" St. E. The plat
will be served by public water, sanitary sewers, and
public road, and accessed from "B" St. E. The site
is in the Parkland-Spanaway-Midland Community
Plan area and Moderate Density Single Family
(MSF) zone classification, located at 18914 "B"
St. E., Spanaway, WA, in Council District #3.

Variance: Hyada Park L3 & 4 B10

Date/Time: December 5, 2018, at 3:00 pm

Application: 890715

Applicants: Brandy A. and Cameron J. Swift
Planner: Andrew Van Gordon,
andrew.vangordon@piercecounitywa.gov

Request: Reduce the required side yard
setback from 10 ft. to 3 ft. for siting a new two-
story garage. The proposed footprint of the garage
is 22 ft. by 40 ft. The site is in the Browns
Point/Dash Point Community Plan area and Single
Family (SF) zone classification, located at 5025
Hyada Blvd. E., Tacoma, WA, in Council District #2.

Administrative Appeal: Avaroe

**Date/Time: December 6, 2018, at 9:00 am (both
appeals will be at the same time)**

Application: 895257

Appellants: Gregory and Taylor Avaroe
County Staff: Jeff Sharp,
jeff.sharp@piercecounitywa.gov

Request: Appeal a Notice and Order to
Correct - Final Written Order, dated September 6,
2018, by a Pierce County Development Engineering
Administrative Official. The site is within the Gig
Harbor Community Plan area and Rural Sensitive
Resource (RSR) zone classification, located at
5001 Fern Lane NW, Gig Harbor, WA, in Council
District #7.

Administrative Appeal: Avaroe

Application: 895259

Appellants: Gregory and Taylor Avaroe
County Staff: Mary Van Haren,
mary.vanharen@piercecounitywa.gov

Request: Appeal a Notice and Order to
Correct, dated September 6, 2018, by a Pierce
County Resource Management Administrative
Official. The site is within the Gig Harbor
Community Plan area and Rural Sensitive Resource
(RSR) zone classification, located at 5001 Fern
Lane NW, Gig Harbor, WA, in Council District #7.

Order Confirmation

Customer

PIERCE COUNTY

Customer Account

256318

Customer Address

2401 S 35TH ST RM 2
TACOMA WA 984097960 USA

Customer Phone

253-798-7200

Customer Fax

Sales Rep

lbastin@thenewstribune.com

Payor Customer

PIERCE COUNTY

Payor Account

256318

Payor Address

2401 S 35TH ST RM 2
TACOMA WA 984097960 USA

Payor Phone

253-798-7200

Customer EMail

Order Taker

mлаufer@mcclatchy.com

<u>PO Number</u>	<u>Payment Method</u>	<u>Blind Box</u>	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>
	Invoice		1	0	1

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$55.89	\$0.00	\$55.89	\$0.00	\$55.89

<u>Ad Order Number</u>	<u>Order Source</u>	<u>Ordered By</u>	<u>Special Pricing</u>
0003960671			
<u>Invoice Text</u>			<u>Promo Type</u>
<u>Package Buy</u>			<u>Materials</u>

Ad Order Information

Ad Number **Ad Type** **Production Method** **Production Notes**
0003960671-01 TAC-Legal Liner AdBooker

External Ad Number **Ad Attributes** **Ad Released** **Pick Up**
No

Ad Size **Color**
1 X 31 li

Product **Placement** **Times Run** **Schedule Cost**
TAC-GW-Gateway 0300 - Legals Classified 1 \$55.89

Run Schedule Invoice Text **Position**
PUBLIC NOTICE PIERCE COUNTY HEARING EX/ 0301 - Legals & Public Notices

Run Dates
11/22/2018

**PUBLIC NOTICE
PIERCE COUNTY HEARING EXAMINER PUBLIC
HEARING**

Date/Time: December 6, 2018, at 9:00 am (both
appeals will be at the same time)
Pierce County Public Services Building (Annex),
South Entrance, Public Meeting Room, 2401 S.
35th St., Tacoma WA

Administrative Appeal: Avaroe

Application: 895257
Appellants: Gregory and Taylor Avaroe
County Staff: Jeff Sharp,
jeff.sharp@piercecounitywa.gov

Request: Appeal a Notice and Order to
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District #7.

Administrative Appeal: Avaroe

Application: 895259
Appellants: Gregory and Taylor Avaroe
County Staff: Mary Van Haren,
mary.vanharen@piercecounitywa.gov

Request: Appeal a Notice and Order to
Correct, dated September 6, 2018, by a Pierce
County Resource Management Administrative
Official. The site is within the Gig Harbor
Community Plan area and Rural Sensitive Resource
(RSR) zone classification, located at 5001 Fern
Lane NW, Gig Harbor, WA, in Council District #7.

Sue Larson

From: Sue Larson
Sent: Friday, November 16, 2018 2:33 PM
To: 'jane@jkolerlaw.com'; 'Onision'
Cc: Jeff Sharp; Mary Van Haren; David Owen
Subject: Avaroe Appeals Hearing Agenda
Attachments: 12 06 18 AGE .pdf

Attached you will find an Agenda for the Examiner's Hearing taking place December 6, 2018, at 9:00 a.m.

Best regards!

Susan Larson

Office Assistant III

Pierce County Planning & Public Works

(253) 798-3241 | sue.larson@piercecountywa.gov