



## COUNTY COMMISSIONERS

Carolina Mejia-Barahona  
District One

Gary Edwards  
District Two

Tye Menser  
District Three

## HEARING EXAMINER

*Creating Solutions for Our Future*

### BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application of	)	NO. 2022100058
	)	
	)	
<b>Doug Heay, C&amp;H Construction Inc.</b>	)	<b>Whitten Stair Tower</b>
	)	
	)	
For Approval of a Shoreline Substantial	)	FINDINGS, CONCLUSIONS,
Development Permit	)	AND DECISION
	)	

### SUMMARY OF DECISION

The request for a shoreline substantial development permit to construct a stair tower at 3744 Gravelly Beach Loop NW is **GRANTED** subject to conditions.

### SUMMARY OF RECORD

#### **Request:**

Doug Heay of C&H Construction Inc. (Applicant), on behalf of property owner Richard Whitten, requested a shoreline substantial development permit (SSDP) to construct a stair tower from the top of a marine bluff to the beach of Puget Sound. The subject property is located at 3744 Gravelly Beach Loop NW, Olympia, Washington.

#### **Hearing Date:**

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on June 13, 2023. The record was held open through June 15, 2023, to allow any members of the public who had difficulty joining the virtual hearing to submit written comments, with time scheduled for responses from the parties. No post-hearing public comment was submitted, and the record closed on June 15, 2023.

#### **Testimony:**

At the hearing the following individuals presented testimony under oath:

Heather Tschaekofske, Associate Planner/Biologist, Thurston County

Doug Heay, C&H Construction, Applicant

**Exhibits:**

At the hearing the following exhibits were admitted in the record:

Exhibit 1 Development Services Department Report with the following attachments:

- A. Notice of Public Hearing, issued May 31, 2023
- B. Zoning Map
- C. Master Application, received January 5, 2022
- D. JARPA Application form, received January 5, 2022
- E. Notice of Application, dated February 18, 2022
- F. Environmental Checklist, received January 5, 2022
- G. SEPA Mitigated Determination of Non-Significance, dated April 5, 2023
- H. Site plans, submitted January 5, 2022 and December 7, 2022
- I. Engineering plans for stair tower, submitted February 28, 2023
- J. Geotechnical addendum, dated March 22, 2022 and original report, dated December 4, 2018
- K. Zero Rise Analysis information from FEMA, email dated April 13, 2022; and Applicant narrative responses, submitted March 23, 2023
- L. Habitat Assessment (Bi-Op), dated March 2023
- M. Approval memo from Lyndsey Smith, Thurston County Public Health and Social Services Department, dated January 9, 2023
- N. Comment email from Squaxin Island Tribe, dated January 20, 2022
- O. Comment letter from Washington Department of Ecology, dated February 2, 2022
- P. Comment letters from Nisqually Indian Tribe, dated January 21, 2022 and April 6, 2023
- Q. Department of Archaeology and Historic Preservation email, dated January 28, 2022
- R. Inadvertent Discovery Plan for Thurston County

Exhibit 2 Applicant response to Order Reopening Record, submitted June 30, 2023

Also included in the record is an Order Reopening Record (for clarification of proposal), issued June 28, 2023.

Based on the record developed through the open record hearing process, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

## FINDINGS

1. Doug Heay of C&H Construction Inc. (Applicant), on behalf of property owner Richard Whitten, requested a shoreline substantial development permit (SSDP) to construct a stair tower from the top of a marine bluff to the beach of Puget Sound. The subject property is located at 3744 Gravelly Beach Loop NW, Olympia, Washington.<sup>1</sup> *Exhibits 1, 1.C, 1.D, and 1.H.*
2. The subject property is 0.29 acres in area and is located on Eld Inlet of Puget Sound. The property is developed with a single-family residence, which is located at the top of a 30-foot high marine bluff. The purpose of the proposed stair tower is to provide the owner with beach access. *Exhibits 1, 1.D, 1.H, and 1.J.*
3. The subject property is zoned Residential LAMIRD one dwelling unit per acre (RL 1/1). The existing single-family residential use is allowed in the LAMIRD zone, and the proposed stair tower is also considered an allowed use. *Exhibits 1 and 1.B.*
4. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as Rural. *Exhibit 1.* Residential development – including the development of accessory structures such as stair towers – is allowed in the Rural shoreline environment subject to the policies and regulations set forth in the SMPTR. The proposed stair tower requires an SSDP because the value exceeds the current permit threshold of \$8,504.00 and the project does not meet the statutory criteria for an exemption. *Exhibits 1 and 1.D; Washington Administrative Code (WAC) 173-27-040.*
5. The SMPTR requires stair towers that are 24 feet in height or greater to be designed by a licensed civil engineer. *SMPTR Section 3, Chapter XVI, Regulation C.11.* Based on the submitted engineered plans, the stair tower frame would be 12 feet wide (as viewed from the bluff), seven feet deep, and 32 feet high.<sup>2</sup> There would be seven landings total. Access to the tower, which would be set back approximately three feet from the face of the bluff, would be from a ramp extending from the top of the bluff. The frame would be anchored to four concrete footings, each nine square feet in area (three feet by three feet) and two feet deep. The footings would be buried such that the tops would be two to six inches below the substrate surface at the base of the bluff. Two, two-inch diameter pin piles would be embedded into each footing. *Exhibits 1.I, 1.L, and 1.K; Doug Heay Testimony.*

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<sup>1</sup> The legal description of the subject property is a portion of Section 29 Township 19 Range 2W .29 AC L 1 COM MC TO SECS 20 & 29 S 77 557.26F POB; also known as Tax Parcel Number 12929210600. *Exhibit 1.*

<sup>2</sup> This finding is based on Sheet S1.0 of the engineered plans, Exhibit 1.I, and the Communication Matrix, Exhibit 1.K (confirming that dimensions of 7 feet by 12 feet reflect the final project design). Planning Staff's testimony regarding dimensions of three feet by seven feet appear to correlate with the dimensions of each landing (see Sheet 5 of Exhibit 1.H – Typical Intermediate Landing), not the overall frame dimensions. An overall frame width of three feet would not be possible because the width must accommodate two parallel sets of stairs, each three feet wide. *Exhibits 1.I and 1.H; see also Exhibit 1, page 2 and Heather Tschaekofske Testimony.* Of note, the orientation of the tower with its long dimension parallel to the bluff depicted in Exhibit 1.H is correct; the apparently opposite orientation depicted in Exhibit 1.I is in error. The engineered plans would be corrected prior to construction permit issuance. *Exhibit 2.*

6. The SMPTR requires that all stair towers be designed to minimize obstructing the views enjoyed by adjoining residences. *Section 3, Chapter XVI, C.12*. The submitted plans depict that the stair tower would not obstruct views, as most of the structure would be below the grade of surrounding residences. It appears that only the handrails along the ramp and uppermost level would be above grade. *Exhibits 1.H and 1.I*.
7. The project area is within critical areas regulated by the Thurston County critical areas ordinance (CAO), including a marine bluff hazard area, the 100-year flood zone of Puget Sound, and a fish and wildlife habitat conservation area. The proposed stair tower is allowed in each of these critical areas, subject to compliance with applicable development standards. *Exhibit 1*.
8. With respect to marine bluff hazards, the standards applicable to stair towers require that they be consistent with the SMPTR and be designed and constructed to avoid adverse impacts to existing slope conditions. *Exhibit 1; Thurston County Code (TCC) 24.15.160*. Based on evaluation by a licensed engineering geologist, the proposed stair tower – which would be freestanding and not anchored to the bluff - would not negatively affect bluff stability. *Exhibit 1.J*.
9. With respect to flood hazard, the applicable standards require applications to contain sufficient information to evaluate impacts, require development to be designed to avoid habitat degradation and to not increase flood hazards, and prohibit projects that require structural flood hazard reduction measures. *Exhibit 1; TCC 24.20.080*. The Applicant submitted a professionally prepared floodplain habitat assessment in support of the application (described below), which contains a mitigation proposal to ensure that there is no habitat degradation. The project would be constructed consistent with the floodplain building standards set forth in TCC 14.38. The project does not require structural flood hazard reduction measures. *Exhibits 1 and 1.L*.
10. The submitted floodplain habitat assessment evaluated the project’s potential impacts to species listed under the Endangered Species Act and their associated critical habitat. Critical habitat for the threatened Chinook salmon and the endangered bocaccio rockfish and southern resident killer whale (SRKW) has been designated in the project area. The project area may be used as a migratory corridor for Chinook salmon during high tides and may provide food resources for juvenile Chinook salmon and Bocaccio rockfish. In addition, spawning habitat for surf smelt, a prey resource for salmonids, has been documented along the beach in the project vicinity. With respect to impacts to food resources, it is expected that the proposed structure would provide a surface where prey resources can live, replacing resources lost by the stair tower posts. With respect to spawning habitat for surf smelt, the Applicant proposes, based on input from the Washington Department of Fish and Wildlife, to mitigate the potential impact by providing 36 cubic feet of beach nourishment in the project area, consisting of appropriate substrate (coarse sand) for surf smelt spawning. With this mitigation, the project “may affect, not likely to adversely affect” ESA-listed species of wildlife. *Exhibit 1.L*.

11. With respect to the fish and wildlife conservation area, the applicable standards require that stair towers not be placed where they would ground on surf smelt, Pacific sand lance or herring spawning beds, or on eelgrass beds; limit treated wood in stair towers to those types that pose only a negligible risk to water quality; prohibit riprap or other armoring to protect stair towers; and require the footprint to be the minimum necessary to accommodate the use. *Exhibit 1; TCC 24.25.310*. The proposed stair tower would not be grounded on forage fish spawning or eelgrass beds; although the Applicant proposes mitigation to address surf smelt spawning, this was based on a conservative assumption that surf smelt spawning might occur. The nearest documented spawning bed is approximately 0.1 mile away, no forage fish were observed during the site visit, and visual assessment of the substrate on the subject property found that it was not ideal for surf smelt spawning. *Exhibits 1, 1.K and 1.L*. The materials of which the tower would be built had not been finalized at time of hearing, but in testimony the Applicant representative acknowledged the requirement to use only approved materials should any portion of the tower be made of wood. No armoring is proposed. The stair tower footprint would be the minimum needed to support the structure without anchoring it to the bluff. *Exhibits 1 and 1.K*.
12. The Applicant would be required to obtain hydraulic project approval (HPA) from the Washington State Department of Fish and Wildlife, a process which would result in conditions addressing construction methods and timing to protect aquatic resources. The Applicant intends to apply for the HPA subsequent to SSDP approval, if obtained. *Heather Tschaekofske and Doug Heay Testimony*.
13. The project would not result in additional stormwater runoff because the stairs would be grated, and the footings would be buried. *Exhibit 1.L*.
14. Materials used during construction would be stored in the residential driveway and hand-carried to the beach. No heavy equipment would be used. *Exhibit 1.M; Doug Heay Testimony*.
15. There is no vegetation on the beach within the project area. Only a small amount of vegetation – approximately three plants – would need to be removed from the bluff to install the ramp to the stair tower. *Exhibit 1.L; Doug Heay Testimony*.
16. Consistent with comments submitted by the Washington Department of Archaeology and Historic Preservation (DAHP), the Nisqually Indian Tribe, and the Squaxin Island Tribe, Planning Staff recommended as a condition of approval that the Applicant keep an inadvertent discovery plan on site during construction, which would identify the procedure to follow if cultural resources are detected during earth disturbing work. *Exhibits 1, 1.N, 1.P, 1.Q, and 1.R*.
17. The Thurston County Environmental Health Division reviewed the application against the requirements of the Thurston County Sanitary Code and did not identify any issues of concern. Environmental Health recommended approval of the application. *Exhibit 1.M*.

18. The Thurston County Community Planning and Economic Development Department reviewed the project under the State Environmental Policy Act (SEPA) and issued a mitigated determination of non-significance (MDNS) on April 5, 2023. The MDNS contains conditions addressing cultural resource protection, spill cleanup, beach enhancement (surf smelt spawning mitigation), debris disposal, stormwater and erosion control, construction hours and noise, and compliance with the SMPTR, among other items. The MDNS was not appealed and became final on April 26, 2023. *Exhibits 1 and 1.G.*
19. Notice of the public hearing was mailed to all property owners within 500 feet of the site on May 31, 2023 and published in The Olympian on June 2, 2023. *Exhibits 1 and 1.A.* There was no public comment on the application.
20. Having heard all testimony, Planning Staff maintained their recommendation that the conditions listed in the staff report be imposed on approval if granted. Exhibit 1; *Heather Tschaekofske Testimony*. The Applicant representative waived objection to the recommended conditions. *Doug Heay Testimony*.

## **CONCLUSIONS**

### **Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to RCW Chapter 36.70, WAC 173-27, and Section One, Part V of the Shoreline Master Program for the Thurston Region.

### **Criteria for Review**

#### **Shoreline Substantial Development Permit (WAC 173-27-150)**

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

#### ***A. Shoreline Management Act***

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and

wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

*B. Applicable regulations from the Washington Administrative Code*

WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

*C. Shoreline Master Program for the Thurston Region*

The Shoreline Master Program for the Thurston Region designates the shoreline jurisdiction on the subject property as Rural. The proposed stair tower is subject to the policies and regulations contained in the "Residential Development" chapter of the SMPTR (Section Three, Chapter XVI). The applicable policies and regulations are set forth below.

SMPTR Section Three, Chapter XVI, Part B. Policies

7. Removal of vegetation should be minimized and any areas disturbed should be restored to prevent erosion and other environmental impacts.
8. Waste materials from construction should not be left on shorelines or beaches but stored upland.

SMPTR Section Three, Chapter XVI, Part C. General Regulations

11. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer:
  - a. The location proposed is mapped as “unstable” or “Intermediate Stability” in the Washington Coastal Zone Atlas prepared by the State Department of Ecology.
  - b. All stair towers 24 feet in height or greater.
  - c. Other instances where the building official determines that site conditions dictate the preparation of plans by a licensed civil engineer.
12. Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.
- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.



- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

### **Conclusions Based on Findings**

1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. The use would provide safe access to the shoreline and would do so in a manner that is protective of the natural environment. Mitigation in the form of beach nourishment would be provided to address any potential impact to surf smelt spawning habitat. The conditions of the MDNS are incorporated into this approval. Prior to construction, the project would undergo review by the Washington State Department of Fish and Wildlife, and additional environmentally protective conditions would be imposed as appropriate through the required HPA approval. *Findings 2, 4, 5, 8, 9, 10, 11, 12 13, 15, 18, and 21.*
2. As conditioned, the proposal complies with applicable regulations in the Washington Administrative Code. The stair tower would not be more than 35 feet above average grade and would not obstruct views of any upland property. *Findings 5 and 6.*
3. As conditioned, the proposal is consistent with the applicable Residential Development policies and regulations of the Shoreline Master Program for the Thurston Region. Vegetation removal would be minimized, and erosion control measures would be implemented on the site. The stair tower was designed by a licensed civil engineer. The location and design minimize obstructing the views of adjoining residences. The conditions of approval require debris to be disposed of at an upland location. In order to ensure that obstruction for potential beach walkers is reduced to the maximum extent possible, a condition is added that requires the long dimension (12 feet) of the tower footprint to be built parallel to the bluff face and the shorter dimension of the footprint (seven feet) built perpendicular to the bluff face. *Findings 5, 6, 15, 18, and 21.*
4. As conditioned, the proposal is consistent with the applicable regional criteria. The proposal has been reviewed for impacts to the aquatic environment, and beach nourishment is proposed to ensure that there is no impact on surf smelt spawning habitat. The MDNS contains other measures designed to protect water quality and the aquatic environment, including conditions relating to spill cleanup, debris disposal, and erosion control. Aquatic impacts will also be considered during the future HPA process. No impacts to public health were identified during the project review process. *Findings 10, 11, 12, 17, 18, and 21.*

## DECISION

Based upon the preceding findings and conclusions, the requested shoreline substantial development permit to construct a stair tower at 3744 Gravelly Beach Loop NW is **GRANTED** subject to the following conditions:

1. The Applicant and subsequent property owners must comply with all requirements of state and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on site during development. In the event of inadvertent disturbance or alteration, the Applicant must immediately stop work and contact the Tribe and the State Department of Archaeology and Historic Preservation.
2. The inadvertent discovery plan must be posted on site prior to and during all construction (Exhibit 1.R).
3. All activities shall be in substantial compliance with the submitted plans, and the SEPA mitigated determination of non-significance (22-100128 XA) issued on April 5, 2023 (Exhibit 1.G).
4. Prior to or in conjunction with the issuance of any building permit, all regulations and requirements of the Thurston County Environmental Health Department, Thurston County Public Works Department, and the Thurston County Community Planning and Economic Development Department shall be met.
5. The proposed project must be consistent with all applicable policies and other provisions of the Shoreline Management Act, its rules, and the Shoreline Master Program for the Thurston Region.
6. The Applicant must obtain a building permit from the Thurston County Community Planning and Economic Development Department for the stair tower structure. Engineered plans must be submitted with the building permit application.
7. No discharge of sediments into Puget Sound shall be permitted at any time.
8. During construction, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.
9. Restoration and Enhancement of the site shall occur in accordance with the revised Floodplain Habitat Assessment dated March, 2023 by Confluence Environmental Company.
10. All demolition debris shall be taken to an approved upland location for disposal.
11. All work below the ordinary high water line shall be completed at low tide, during

approved in-water work windows.

12. This project will comply with the Stormwater Management Manual for Western Washington, developed by the Washington Department of Ecology. Erosion control shall be in place during all site disturbance.
13. Construction activity shall be limited to the hours of 7:00 am to 7:00 pm to minimize associated noise. All activities onsite shall fully comply with noise limitations outlined in WAC 173-60.
14. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant.
15. All development shall be in substantial compliance with the drawings and site plan submitted and made part of this staff report, except to the extent that Exhibit 1.I appears to show the ramp from the bluff connecting to the narrow dimension of the tower. The approval is expressly based on the design reflected in Exhibit 1.H with the 12-foot dimension of the tower footprint parallel to the bluff face and not perpendicular to the bluff face. The engineered drawings at Exhibit 1.I shall be corrected prior to construction permit issuance.
16. Any expansion or alteration of this use will require approval of a new or amended Shoreline Substantial Development Permit. The Development Services Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

Decided June 30, 2023.



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Sharon A. Rice  
Thurston County Hearing Examiner



**THURSTON COUNTY**  
**PROCEDURE FOR RECONSIDERATION AND APPEAL**  
**OF HEARING EXAMINER DECISION TO THE BOARD**

<b>NOTE:</b> THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).
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If you do not agree with the decision of the Hearing Examiner, there are two (2) ways to seek review of the decision. They are described in A and B below. Unless reconsidered or appealed, decisions of the Hearing Examiner become final on the 15th day after the date of the decision.\* The Hearing Examiner renders decisions within five (5) working days following a Request for Reconsideration unless a longer period is mutually agreed to by the Hearing Examiner, applicant, and requester.

**The decision of the Hearing Examiner on an appeal of a SEPA threshold determination for a project action is final. The Hearing Examiner shall not entertain motions for reconsideration for such decisions. The decision of the Hearing Examiner regarding a SEPA threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075 and TCC 17.09.160. TCC 17.09.160(K).**

**A. RECONSIDERATION BY THE HEARING EXAMINER (Not permitted for a decision on a SEPA threshold determination)**

1. Any aggrieved person or agency that disagrees with the decision of the Examiner may request Reconsideration. All Reconsideration requests must include a legal citation and reason for the request. The Examiner shall have the discretion to either deny the motion without comment or to provide additional Findings and Conclusions based on the record.
2. Written Request for Reconsideration and the appropriate fee must be filed with the Resource Stewardship Department **within ten (10) days of the written decision**. The form is provided for this purpose on the opposite side of this notification.

**B. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS (Not permitted for a decision on a SEPA threshold determination for a project action)**

1. Appeals may be filed by any aggrieved person or agency directly affected by the Examiner's decision. The form is provided for this purpose on the opposite side of this notification.
2. Written notice of Appeal and the appropriate fee must be filed with the Community Planning & Economic Development Department **within fourteen (14) days of the date of the Examiner's written decision**. The form is provided for this purpose on the opposite side of this notification.
3. An Appeal filed within the specified time period will stay the effective date of the Examiner's decision until it is adjudicated by the Board of Thurston County Commissioners or is withdrawn.
4. The notice of Appeal shall concisely specify the error or issue which the Board is asked to consider on Appeal, and shall cite by reference to section, paragraph and page, the provisions of law which are alleged to have been violated. The Board need not consider issues, which are not so identified. A written memorandum that the appellant may wish considered by the Board may accompany the notice. The memorandum shall not include the presentation of new evidence and shall be based only upon facts presented to the Examiner.
5. Notices of the Appeal hearing will be mailed to all parties of record who legibly provided a mailing address. This would include all persons who (a) gave oral or written comments to the Examiner or (b) listed their name as a person wishing to receive a copy of the decision on a sign-up sheet made available during the Examiner's hearing.
6. Unless all parties of record are given notice of a trip by the Board of Thurston County Commissioners to view the subject site, no one other than County staff may accompany the Board members during the site visit.

**C. STANDING** All Reconsideration and Appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the Reconsideration or Appeal should be granted.

**D. FILING FEES AND DEADLINE** If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$821.00** for a Request for Reconsideration or **\$1,112.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development Center at 3000 Pacific Ave SE, Suite 100 no later than 4:00 p.m. per the requirements specified in A2 and B2 above. **Postmarks are not acceptable**. If your application fee and completed application form is not timely filed, you will be unable to request Reconsideration or Appeal this determination. The deadline will not be extended.

\* Shoreline Permit decisions are not final until a 21-day appeal period to the state has elapsed following the date the County decision becomes final.



Project No. \_\_\_\_\_  
Appeal Sequence No.: \_\_\_\_\_

☐ Check here for: **RECONSIDERATION OF HEARING EXAMINER DECISION**

THE APPELLANT, after review of the terms and conditions of the Hearing Examiner's decision hereby requests that the Hearing Examiner take the following information into consideration and further review under the provisions of Chapter 2.06.060 of the Thurston County Code:

(If more space is required, please attach additional sheet.)

☐ Check here for: **APPEAL OF HEARING EXAMINER DECISION**

TO THE BOARD OF THURSTON COUNTY COMMISSIONERS COMES NOW \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as an APPELLANT in the matter of a Hearing Examiner's decision  
rendered on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ relating to \_\_\_\_\_

THE APPELLANT, after review and consideration of the reasons given by the Hearing Examiner for his decision, does now, under the provisions of Chapter 2.06.070 of the Thurston County Code, give written notice of APPEAL to the Board of Thurston County Commissioners of said decision and alleges the following errors in said Hearing Examiner decision:

Specific section, paragraph and page of regulation allegedly interpreted erroneously by Hearing Examiner:

1. Zoning Ordinance \_\_\_\_\_
2. Platting and Subdivision Ordinance \_\_\_\_\_
3. Comprehensive Plan \_\_\_\_\_
4. Critical Areas Ordinance \_\_\_\_\_
5. Shoreline Master Program \_\_\_\_\_
6. Other: \_\_\_\_\_

(If more space is required, please attach additional sheet.)

AND FURTHERMORE, requests that the Board of Thurston County Commissioners, having responsibility for final review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the Hearing Examiner decision.

### **STANDING**

On a separate sheet, explain why the appellant should be considered an aggrieved party and why standing should be granted to the appellant. This is required for both Reconsiderations and Appeals.

Signature required for both Reconsideration and Appeal Requests

\_\_\_\_\_  
APPELLANT NAME PRINTED

\_\_\_\_\_  
SIGNATURE OF APPELLANT

Address \_\_\_\_\_

\_\_\_\_\_  
Phone \_\_\_\_\_

**Please do not write below - for Staff Use Only:**

Fee of ☐ \$821.00 for Reconsideration or \$1,112.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Filed with the Community Planning & Economic Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.