



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. 2022105744
)	
Washington State Parks & Recreation Commission)	
)	
For Approval of a)	FINDINGS,
)	CONCLUSIONS,
Shoreline Substantial Development Permit)	AND DECISION
)	

SUMMARY OF DECISION

The request for a shoreline substantial development permit for improvements to the existing sewer lift station at Tolmie State Park is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

The Washington State Parks & Recreation Commission requested a shoreline substantial development permit to construct the following improvements to the existing sewer lift station at Tolmie State Park:

- Install a new eight-foot by eight-foot by eight-foot precast underground mechanical vault to house the valves and fittings associated with operation of the lift station;
- Retrofit the existing wet well with submersible pumps and relocate mechanical components to the underground vault;
- Convert the existing dry well to an emergency overflow wet well to increase storage capacity;
- Install 31 feet of sewer line from the underground vault to the existing force main line; and
- Replace the existing park kiosk/bulletin board with a new one that would house the electrical control panel.

The subject property is located at 7730 61st Avenue NE, Olympia, Washington.

Hearing Date:

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on October 24, 2023. The record was held open through October 26, 2023 to allow any members of the public having 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 as to comment on October 26, 2023. However, on October 25, 2023, Planning Staff requested clarification of the post-hearing schedule and that the record be reopened to allow submission of a revised site plan from the Applicant. A revised post-hearing schedule issued October 25, 2023 held the record open through November 7, 2023 for two items: 1) an additional recommended condition of approval from Planning Staff requiring the Applicant to obtain administrative critical area permit review and approval prior to commencement of work, and 2) a revised site plan showing the critical areas and buffers within proximity to the work site and the distances from critical area edges and the marine shoreline for the proposed work. The record closed on November 7, 2023, and the decision deadline became November 21, 2023.

Testimony:

At the hearing the following individuals presented testimony under oath:

Lacy Garner, Associate Planner, Thurston County

Dawn Peebles, Environmental Health Program Manager, Thurston County

Chelsea Hamer, Environmental Planner, Washington State Parks Department (Applicant)

Exhibits:

Through the virtual open record hearing process, the following exhibits were admitted in the record:

- Exhibit 1 Community Planning & Economic Development Department Staff Report (revision dated October 24, 2023), including the following attachments:
- A. Notice of Public Hearing, dated October 13, 2023
 - B. Master and JARPA SSDP Applications, received November 15, 2022
 - C. Site Plans and Aerials, received November 15, 2022
 - D. SEPA Categorical Exemption, received November 15, 2022
 - E. Notice of Application, dated February 10, 2022
 - F. Comment Memorandum from Nisqually Indian Tribe, dated February 14, 2023
 - G. Comment email from Washington Department of Ecology, dated February 13, 2023
 - H. Communication Matrix #1, dated April 28, 2023
 - I. Updated Site Plans and Mechanical Drawings, emailed July 6, 2023
 - J. Updated JARPA Cover Sheet, emailed July 6, 2023
 - K. Updated JARPA form, emailed July 6, 2023

- L. Email from Applicant to Washington Department of Ecology, emailed May 8, 2023
 - M. Comment Memorandum from Environmental Health, dated May 4, 2023
 - N. Comment Memorandum from Public Works, dated March 30, 2023
 - O. JARPA Exemption site plan (Folder #93-030071-540 XL), dated July 16, 1993
 - P. Final Wetland, Stream & Shoreline Delineation Study, dated February 2018 (prepared for different project)
 - Q. Tolmie State Park Delineation Map
 - R. Existing Lift Station Record Drawings (1973)
- Exhibit 2 Email from Lacy Garner, dated October 25, 2023, containing additional recommended condition
- Exhibit 3 Revised site plan, submitted by the Applicant, dated June 15, 2023 but submitted after the hearing at the request of the undersigned

FINDINGS

1. The Washington State Parks & Recreation Commission (Applicant) requested a shoreline substantial development permit (SSDP) to construct the following improvements to the existing sewer lift station at Tolmie State Park:
 - Install a new eight-foot by eight-foot by eight-foot precast underground mechanical vault to house the valves and fittings associated with operation of the lift station;
 - Retrofit the existing wet well with submersible pumps and relocate mechanical components to the underground vault;
 - Convert the existing dry well to an emergency overflow wet well to increase storage capacity;
 - Install 31 feet of sewer line from the underground vault to the existing force main line; and
 - Replace the existing park kiosk/bulletin board with a new one that would house the electrical control panel.

The intent of the project is to increase sewage system capacity to prevent overflow. The subject property is located at 7730 61st Avenue NE, Olympia, Washington.¹ *Exhibits 1, 1.B, 1.I, and 1.K.*

¹ The legal description of the subject property was stated as follows in the staff report: "Section 23 Township 19 Range 1W ALL TOLMIE PK WITHIN SECTION ASSESSED HERE"; also known as Tax Parcel Number 11923230000. *Exhibit 1.*

2. The application was received on November 15, 2022 and deemed complete on December 13, 2022. *Exhibits 1.B and 1.E.*
3. The subject property is 99.56 acres in area and is zoned Public Parks, Trails, and Preserves (PP). The existing lift station is located in the “lower” portion of the park, in a lawn area just west of the lower parking lot and east of Woodland Creek. The existing lift stations’ underground precast mechanical vault is approximately 52.5 feet to the south/southwest of the Nisqually Reach shoreline, and its existing underground wet vault is approximately 30.6 feet east of the estuary where Woodland Creek enters the marine waters. There are picnic tables in the vicinity and a restroom and kitchen building on the west side of the creek. *Exhibits 1, 1.I, 1.Q, and 3; Chelsea Hamer Testimony.*
4. The subject property is on the Nisqually Reach of Puget Sound. *Exhibits 1, 1.C, and 1.Q.* The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject property shoreline as Rural. Utilities are allowed in the Rural shoreline environment subject to the applicable policies and regulations of the SMPTR. *Exhibit 1; SMPTR Section Three, Chapter XX.*
5. An SSDP is required for the development because it is within the regulated shoreline (which includes all upland areas within 200 feet from the ordinary high water mark) and the value exceeds the permit threshold of \$8,504.00.² No in-water work is proposed. *Exhibits 1, 1.K, and 1.Q; Washington Administrative Code (WAC) 173-27-040; SMPTR Section Three, Chapters XII and XIV(D).*
6. There are critical areas regulated under the Thurston County critical areas ordinance (CAO) (Title 24 Thurston County Code, or TCC) within the project vicinity, including Category III and IV wetlands and Woodland Creek. Although the project would be outside the delineated boundaries of the wetlands and stream, it would occur within regulated wetland and stream buffers. *Exhibits 1.P and 1.Q.* The lift station predates the CAO and is considered a legally established nonconforming structure. *Exhibits 1, 1.O, and 1.R.* TCC 24.50.020 allows maintenance, alteration, and vertical expansion of legally established nonconforming structures, and TCC Table 24.25-3 allows maintenance, repair, or replacement of utilities without obtaining a critical area review permit. Although Planning Staff considers the project to constitute allowed maintenance, to the extent the utility replacement project constitutes new construction, the undersigned notes that the CAO allows new utilities within critical areas buffers, subject to approval of a critical area permit. *Lacy Garner Testimony; TCC 24.25.080, Table 24.25-3.* Staff recommended that the Applicant obtain approval of a critical area permit prior to construction. *Exhibit 2.*
7. At present, only the dry well access shaft and lid extend above the ground surface, and their maximum height is less than two feet. The completed project components (including the updated dry well) would be below or flush with the ground, except for a

² Although the Applicant did not disclose a dollar amount in the JARPA, it is assumed that the value exceeds \$8,504 based on the nature of the work and the fact that a permit exemption was not sought.

small wet well vent, which would also be less than two feet in height. The replacement kiosk containing the electrical control panel would be approximately eight feet in height. *Exhibits 1.I and 1.L (photos); Chelsea Hamer Testimony.*

8. The underground vault would be installed through use of an excavator. The connection between the new underground vault and the existing sewer force main would be installed through trenching, using an excavator or vactor trailer. *Exhibit 1.K.*
9. The Applicant proposes to implement best management practices for sediment and erosion control during construction, including placing straw wattles and silt fencing between the construction area and Puget Sound and other critical areas on-site. In addition, construction activities would be conducted during the dry season to the greatest extent practicable. After construction is complete, the Applicant proposes to reseed the area with grass to match existing conditions. The purpose for restoring the area with grass is to maintain the area for recreational use and to ensure accessibility of the lift station. The temporary erosion and sediment control measures would be retained until the grass is established. *Exhibits 1.K and 1.I.*
10. The new sewer line connection between the vault and the existing sewer force main would follow existing utility line routes. At its closest points, the proposed work would be located 14.4 feet from the marine ordinary high water mark to the north and 17 feet from the ordinary high water mark of the Woodland Creek estuary to the west. *Exhibits 1.I and 3.*
11. There would be no discharge of waste material from the facility. *Exhibit 1.*
12. Consistent with comments submitted by the Nisqually Indian Tribe, Planning Staff recommended as conditions of permit approval that the Applicant implement an inadvertent discovery plan during construction and contact the Tribe and the State Department of Archaeology and Historic Preservation if cultural resources are discovered during earth disturbing work. *Exhibits 1 and 1.F.*
13. The subject property is within an area identified by the Washington Department of Ecology (DOE) as potentially contaminated with arsenic and lead from air emissions originating from the old Asarco smelter in Tacoma. The DOE recommended that the County require soil sampling and remediation, if necessary, as a condition of permit approval. *Exhibit 1.G.* In this case, the Applicant conducted the recommended soil sampling and analysis in conjunction with a different project associated with a bridge just west of the lift station. None of the soil samples from 10 sampling locations (including two in close proximity to the lift station) exceeded the maximum allowable concentration of arsenic and lead, and the average concentration was below cleanup levels. No soil remediation was required for that project. *Exhibit 1.L.*
14. The subject property contains kitchen and restroom facilities that are served by a water system and on-site sewage system. The Thurston County Environmental Health Division reviewed the application for compliance with the Sanitary Code and recommended

approval of the application, subject to a condition requiring the Applicant obtain an on-site sewage system modification permit from Environmental Health prior to conducting any work that would impact the on-site sewage system. *Exhibit I.M.*

15. The Thurston County Public Works Department reviewed the application and determined that the preliminary requirements set forth in Thurston County Road Standards and the Drainage Design and Erosion Control Manual have been satisfied. Public Works recommended approval, subject to a condition notifying the Applicant that a Construction Stormwater Permit from the Washington State Department of Ecology might be required. *Exhibit I.N.*
16. The Washington State Parks & Recreation Commission acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act (SEPA) and on August 25, 2022 determined that the project is categorically exempt pursuant to Washington Administrative Code (WAC) 197-11-800(3) (repair, remodeling, and maintenance activities) and WAC 197-11-800(23)(b), (c), and (e) (utilities). *Exhibit I.D.*
17. Notice of the public hearing was mailed to all property owners within 500 feet of the site on October 11, 2023 and published in The Olympian on October 13, 2023. *Exhibit I.A.* There was no public comment on the application. *Lacy Garner Testimony.*
18. Having heard all testimony, Planning Staff maintained their recommendation that, if SSDP approval is granted, the conditions in the staff report be imposed, and Planning Staff submitted one additional recommended condition through the post-hearing submission process established at hearing. *Exhibits 1 and 2; Lacy Garner Testimony.* On the record, Applicant representatives waived objection to the recommended conditions and declined the opportunity to respond to Staff's post-hearing additional condition. *Chelsea Hamer Testimony.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline permits pursuant to RCW Chapter 36.70, WAC 173-27, TCC 19.04.010, and Section One, Part V of the Shoreline Master Program for the Thurston region.

Criteria for Review:

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.

- a. 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.
- b. 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 proposal is governed by the policies and regulations contained in the “Utilities” chapter of the SMPTR.

SMPTR Section Three, Chapter XX, Part B. Utilities Policies

1. Wherever utilities must be placed in a shoreline area, the locations should be chosen so as not to obstruct or destroy scenic views. Utilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.
2. Where construction connected with utility placement occurs on shorelines, banks should be restored to their pre-project configuration, replanted with native species and maintained until the new vegetation is established.
3. Sewage treatment, water reclamation, desalinization and power plants should be designed and located so as not to interfere with, and to be compatible with recreational, residential or other public uses of the water and shorelands.
4. Sewage outfalls to waterbodies should be avoided in preference to recycling or land disposal of sewage wastes. Where no alternative to outfalls into water exist, location of such outfalls should be part of the appropriate regional plan for solutions to sewage management problems.
5. Utility rights-of-way should be used for public access to and along waterbodies where feasible.
6. If utilities must be located over the water, they should be placed on bridge-like structures rather than fill, and said structures should provide clearance for all marine vessels normally using the area.
7. New major transmission facilities should follow existing utility corridors unless prohibited by the environmental designation and regulations.

SMPTR Section Three, Chapter XX, Part C. Utilities Regulations

1. Applicants for permits to locate utility lines in the shoreline jurisdictional area shall submit a location plan with their application which shows existing utility routes in the vicinity of the proposed utility line. The proposed utility lines shall follow existing utility, natural drainage or transportation routes where feasible.
2. All utility facilities shall be located on lots or routes no larger than necessary.
3. The approved projects shall identify a method of reclamation which provides for revegetation and protection of wetland areas from erosion. As a minimum, this shall include the restoration of the affected area to pre-development elevation, replanted with native or pre-existing species and provisions for maintenance care for the newly planted or seeded vegetation until it is established.
4. Utility services accessory to individual projects shall be regulated by the specific use regulations for the activity in addition to the standards of this section and shall not require separate Substantial Development Permits for utility service installations.
5. Where feasible, utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive or significantly detrimental to the environment.

6. Utility facilities shall be designed for minimal environmental and aesthetic impact and shall be coordinated with local comprehensive plans.
7. Underwater utilities shall be located at a depth sufficient to prevent interference between the utility and other shoreline use activities.
8. All utility facilities must provide safeguards to ensure that no long-term damage will be caused to the adjacent or downstream environment should an accident occur involving the utility.

SMPTR Section Three, Chapter XX, Part D. Environmental Designations and Regulations...

6. Urban and Rural Environments. The following utility facilities are allowed in the Urban and Rural Environments:
 - a. Utility lines.
 - b. Control, collection or distribution facilities including, but not limited to, telephone exchanges, sewage treatment plants, water reservoirs, electrical substations and gas metering stations.
 - c. Power generating facilities except on the Nisqually River and transmission lines.

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 proposal is a “reasonable and appropriate use” that would provide the long-term benefit of increased sewage system capacity in a manner that is protective of shoreline ecology. There would be no effect on the character of the shoreline. Disturbed areas would be restored so as to allow continued recreational use of the area. Conditions of approval address stormwater management, erosion control, critical areas review, and protection of cultural resources. *Findings 1, 3, 6, 7, 9, 12, 15, and 18.*
- 2. The proposal complies with applicable regulations in the Washington Administrative Code. No structures exceeding 35 feet above average grade are proposed. A condition has been added to ensure WAC construction timing requirements are honored. *Findings 1 and 7.*
- 3. As conditioned, the proposal is consistent with the applicable policies and regulations of the Shoreline Master Program for the Thurston Region.
 - A. With respect to the utilities policies, the proposal would not obstruct any scenic views. The improvements would be placed underground and within existing utility corridors. There would be no sewage outfall to Puget Sound. Disturbed areas would be reseeded to match existing conditions. *Findings 7, 9, 10, and 11.*
 - B. With respect to the utilities regulations, the new sewer line would follow an existing utility corridor, on a route no longer than necessary. The Applicant has identified a method of reclamation, which would include restoration of the area to the pre-development elevation and reseeding with grass. The improvements would all be underground. By providing additional capacity, the lift station improvements would potentially prevent an accident (i.e., sewage overflow) that would damage the downstream environment. A sewage system modification permit would be required for any work impacting the existing septic system. Compliance with the CAO would

be evaluated through the critical area review permit process, to be administratively addressed following SSDP issuance. *Findings 6, 7, 8, 9, and 14.*

- D. With respect to the applicable regional criteria, the completed project would not affect shoreline access. Water quality would be protected through erosion control measures and through compliance with the stormwater and septic requirements identified by Public Works and Environmental Health Staff. Compliance with the CAO would be evaluated through the critical area review permit process. The project would not affect the aesthetics of the shoreline. Public health would be protected through the condition recommended by Environmental Health. The soils in the project vicinity have already been evaluated for arsenic and lead contamination and have been found to comply with applicable standards. *Findings 3, 6, 7, 9, 13, 14, 15, and 18.*

DECISION

Based on the preceding findings and conclusions, the requested shoreline substantial development permit is **GRANTED** subject to the following conditions:

1. No physical work shall be initiated until the Applicant obtains all required State and Federal permits and approvals.
2. All construction shall be in substantial compliance with the plans included in the project JARPA application and shall comply with all applicable general policies and use regulations of the Shoreline Master Program for the Thurston Region (SMPTR).
3. Land disturbance and site preparation shall be limited to the project area, and adequate provisions for erosion control shall be implemented throughout the life of the project and until the work area has been revegetated. Best management practices shall be employed, and there shall be no additional disturbance of vegetation or trees within the critical area without approval from Thurston County Community Planning and Economic Development Department.
4. The Applicant shall remove construction debris and any other debris related to the project to an approved site (landfill or recycling center) outside of the shoreline area to avoid degradation of state waters.
5. During construction, all releases of oils, hydraulic fluids, fuels, 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 shall take precedence over all other work at the site. Spill prevention and response material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.
6. The Applicant must comply with all requirements of state and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources found on-site during development. In the event of inadvertent disturbance or alteration, the Applicant

must immediately stop work and contact the Tribes and the State Department of Archaeology and Historic Preservation.

7. An appropriate inadvertent discovery plan shall be implemented during all phases of project construction.
8. No physical work shall be initiated until the Applicant applies for and is granted approval of a critical area review permit (CARP) from the Thurston County Community Planning and Economic Development Department.
9. Construction pursuant to the permit shall not begin and is not authorized until 21 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 21 days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

Conditions of Approval Specific to Thurston County Public Works Department:

10. A construction stormwater permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit if required.

Conditions of Approval Specific to Thurston County Environmental Health Department:

11. An on-site sewage system modification permit issued by Thurston County Environmental Health must be obtained prior to conducting any work which would impact the existing on-site sewage system to include the installation of the mechanical component vault, modification of the drywell, and installation of submersible pumps.

Decided November 16, 2023 by



Sharon A. Rice
Thurston County Hearing Examiner

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

NOTE: 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).

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____.