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**COMMUNITY PLANNING &  
ECONOMIC DEVELOPMENT DEPARTMENT**

*Creating Solutions for Our Future*

Joshua Cummings, Director

**THURSTON COUNTY COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT  
LAND USE & ENVIRONMENTAL REVIEW REPORT**

**HEARING EXAMINER HEARING**

**March 11, 2024**

**PROJECT NO:** 2020104385 Inspiring Kids Preserve  
Reasonable Use Exception, Special Use Permit, and Forest Land Conversion

**SEQUENCE NO:** 20-111034 XI, 20-111033 ZM, and 20-111036 XB

**APPLICANT:** Capitol Land Trust

**REQUEST:** The applicant requests Reasonable Use Exception, Special Use, and Forest Land Conversion permits to construct a nature preserve that is open to the public with ADA accessible trails, resting benches, natural play areas, learning spaces, wildlife viewing areas, driveway and parking lot with 24 standard vehicle spaces and 2 bus spaces, porta-potty, outdoor pavilion, and storage space. The nature preserve will be open from 8:00 am to dusk, seven days a week. Up to ten staff will be employed on-site. The subject property consists of eight parcels totaling 108 acres, and is mapped with 100 year flood zone, critical aquifer and landslide hazard areas, wetlands, streams, and Conservancy shoreline. The two parcels impacted by the proposed development are parcels 11928230100 and 11928230200. All the parcels are located in the Rural Residential Resource One Dwelling Unit per Five Acres zoning district, along Henderson Inlet (Puget Sound) in rural Thurston County.

**GENERAL INFORMATION**

- A. Owner Capitol Land Trust (CLT)  
PO Box 14065  
Tumwater, WA 98511
- B. Applicant: Laurence Reeves, Conservation Director  
PO Box 14065  
Tumwater, WA 98511
- C. Location: 4849 and 5323 Johnson Point Rd NE  
Olympia, WA 98516  
Tax Parcel Nos. 11929110500, 11928220800, 11928230100,  
11929140000, 11928230200, 11929440200, 11928320500,  
11928320000

- D. Legal Description: multiple legal descriptions- Section 28 and 29 Township 19 Range 1W
- E. Area: 108 acres on eight separate parcels.
- F. Zoning: Rural Residential/Resource, One Dwelling Unit per Five Acres

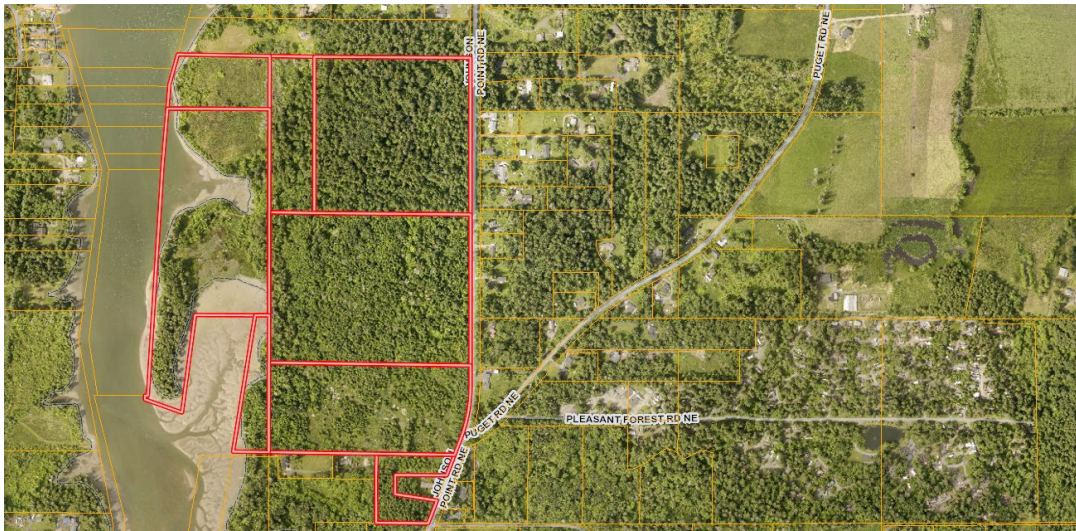
### **PROJECT DESCRIPTION**

The owner proposes to develop the Inspiring Kids Preserve (IKP), a 108 acre natural area, to provide schools and other interest groups opportunities for outdoor learning, as well as providing public access to trails. The owner's mission is to conserve land and provide environmental education opportunities to the public. The preserve protects many natural resources including small freshwater streams and the surrounding riparian hardwood forest, a large tract of saltmarsh, second and third-growth coniferous forest, freshwater wetlands, and over one mile of Puget Sound shoreline. With the current limited infrastructure, more than 700 youth from local schools have experienced outdoor learning on the site, and North Thurston Public Schools is partnering with Capitol Land Trust (CLT) to bring third graders from all 13 elementary schools (approximately 1200 students) to the property for outdoor classes. The proposed Special Use (SUP), Reasonable Use Exception (RUE), and Forest Land Conversion (FLC) permits are intended to provide safe access to the site for outdoor learning opportunities in line with the mission of CLT (Attachment c, d, f, and j).

The proposal is for a new access driveway, parking, and associated ADA accessible trails, resting benches, natural play areas, learning spaces, wildlife viewing areas, porta-potty, outdoor pavilion, and storage space. The proposed development shall be confined to two parcels within the entire preserve area, parcels 11928230100 and 11928230200. New driveway access point meets minimum safety standards for sight-distance allowance on Johnson Point Rd, as well as bus entrance and turn-around needs for expected school usage of the nature preserve facilities. The proposed site development actions will directly impact 707 square feet of wetland, and 50,856 square feet of wetland buffers, with an additional 18,296 square feet of wetland buffer conversion. Total cut volume for the project is expected to be 3312 cubic yards, and fill volume is expected to be 463 cubic yards (Attachments c, g, i, l, and m). As mitigation for these impacts, the project will include 81,849 square feet of wetland mitigation and 100,393 square feet of wetland buffer mitigation (Attachment g). The proposed use requires Thurston County Hearings Examiner approval of a SUP, and RUE, with associated FLC permit. Applicant is also pursuing outside agency permitting approvals concurrently.

The applicant also applied for a Critical Area Review permit (2020104385, File No. 20-111035 XD) on September 18, 2020, which was approved on January 30, 2024 (Attachment u), which mitigates for impacts within the outer 25% of the wetland buffers, and impacts from the proposed trail system.

### 2022 Aerial Photo



### **BACKGROUND**

The subject property is located within the rural portion of Thurston County. The Comprehensive Plan designation is rural residential and the zoning district is the Rural Residential/Resource, One Dwelling Unit per Five Acres (RRR 1/5 zone). Primary permitted uses in the RRR 1/5 zone include single-family and two-family residential, agriculture, and home occupations. Surrounding land uses consist of neighboring lots within the RRR 1/5 zoning developed with single-family residences and undeveloped forest areas.

The subject property has variable topography, in general sloping down to the southwest towards Henderson Inlet. A large portion of the nature preserve is within undisturbed second and third growth forest, with numerous wetland features in and near the study area. The westernmost portion of the subject property is mapped within the Conservancy shoreline of Puget Sound and contains additional shoreline, wetland, and stream features which are not within the extent of the current proposal. The current proposal does not include any impacts within the shoreline jurisdiction, and thus does not require review under the Shoreline Master Program for Thurston County.

Per the applicant, “Capitol Land Trust and North Thurston Public Schools are in a growing partnership with the goal of having all 13 elementary schools (about 1200 third grade students) visit Inspiring Kids Preserve for outdoor learning. This field experience is part of a district wide initiative to provide every student, pre K-8<sup>th</sup> grade, with an outdoor learning experience.” Current usage of the site for outdoor educational opportunities is limited by a lack of safe bus entrance, exit, and parking. To date, schools visiting the preserve drop kids off at an existing entrance that is below the crest of a hill on Johnson Point Road where the speed limit is 50 mph. With the proposed development, the new entrance will meet County site distance safety standards, students will be able to safely offload and load the bus, and the bus will be able to remain on site. There will also be general public parking near the road. Alternative access points were evaluated, with the current proposal deemed the least impactful to critical areas while providing for optimal safe site access (Attachment d).

Revised Environmental Checklist (SEPA), SUP, and RUE applications were submitted to the Thurston County Community Planning and Economic Development Department (CPED) on October 9, 2023 (Attachments b, c, d, e, f, and i). FLC application was submitted September 18, 2020 (Attachments j and k).

## **NOTIFICATION**

Written notice of the public hearing was sent to all property owners within 500 feet of the site and notice was published in The Olympian on February 16, 2024, at least ten (10) days prior to the hearing (Attachment a).

## **ENVIRONMENTAL EVALUATION**

The Thurston County Community Planning and Economic Development Department (CPED) is the issuing authority for the State Environmental Policy Act (SEPA) threshold determination for the proposal.

The application was reviewed pursuant to SEPA requirements. A combined notice of application and Mitigated Determination of Non-Significance (MDNS) was mailed to all property owners within 500 feet of the site on March 25, 2022 (Attachment h). The MDNS was not appealed, and a final MDNS letter was mailed to all property owners within 500 feet of the site on December 7, 2023 (Attachment w).

## **DEPARTMENT ANALYSIS**

### **A. Zoning (TCC 20.09A):**

The eight subject parcels within the CLT preserve total 108 acres. The two subject parcels for the proposed development are parcels 11928230100 and 1192823020. The Thurston County Comprehensive Plan designation for the subject property Rural Resource and Residential, and the zoning district is RRR 1/5 (Attachment cc). The RRR 1/5 zoning district allows certain primary uses (TCC 20.09A.020). The closest special use for the proposed nature preserve appears to be Academic School (TCC 20.54.070(1)), which is permitted in the RRR 1/5 zone with Hearing Examiner approval.

The minimum property line setbacks for all structures larger than 200 square feet are: 20 feet from the front property line (or private road easement), 5 feet from the side property lines, and 5 feet from the rear property line. For this property, the majority of the property lines are within the wetland buffer and these setbacks would be determined by CAO regulations. Maximum hard surface coverage for new development on lots two and one half acres or greater is 10%. Parcel 11928230200 is 29.33 acres (per Assessor records), and the proposed impervious area is 43,340 square feet, or approximately 3% of the subject parcel.

The RRR 1/5 zoning district has a minimum lot size of five acres or one-one hundred twenty-eighth of a section, (TCC 20.09A.050(2.a)). Parcel 11928230200 is described as resource parcel Lot 2, per short plat subdivision in 2000, Auditor File Number 3273901 (Attachment aa), and parcel 11928230100 was deeded in its current configuration per 1960 deed, Auditor File Number 627524. The parcel boundaries have not been adjusted since, and the lots appear to meet legal lot criteria per TCC 18.04.045. Per TCC 20.30A.040(3.a), permitted uses on the resource use parcel are passive recreation, and natural area preservation.

### **B. Critical Areas Ordinance (CAO, TCC 24)**

The property is within mapped wetlands, flood zones, critical aquifer recharge area (1, 2, and 3), landslide hazard areas, streams, and riparian habitat areas. Wetlands in proximity to the proposal were delineated by a professional consultant, DCG/Watershed. The final critical areas report, dated October 24, 2023, identified a total of 15 wetlands within the vicinity of the project area. Chapter 24.25 and 24.30 of the CAO lists standards and limitations for development of property containing streams and wetlands, including buffers. A small portion of the proposed parking hub and the proposed ADA access trail are



within the portion of the wetland buffers under administrative critical area review. The project includes an 11,499 square foot, six foot wide, crushed gravel, ADA-accessible trail located in wetland buffer. The proposal meets criteria for ADA accessible passive recreation per TCC 24.30.260 (Attachment v). Mitigation per the DCG/Watershed mitigation plan shall compensate for all administratively approved wetland buffer impacts at a 1:1 ratio per TCC 24.30.080, per Critical Area Review permit approval, dated January 30, 2024 (Attachment u).

The eastern portion of the subject property is nearly completely encumbered by wetlands and wetland buffers, thus the majority of the proposal will directly impact wetlands and the inner 75% of wetland buffers within the development footprint. A RUE is the procedure to propose development within wetlands and the inner 75% of wetland buffers (TCC 24.30). In total, the proposal shall directly impact 707 square feet of wetland, and 50,856 square feet of wetland buffers, with an additional 18,296 square feet of wetland buffer conversion. As mitigation for these impacts, the project will include 81,849 square feet of wetland mitigation and 100,393 square feet of wetland buffer mitigation, see table below for breakdown of mitigation ratios (Attachments f, and g).

### Project impacts summary from DCG/Watershed critical area report

Table 9. Project impacts and proposed mitigation.

Impact Type	Impact Area	Required Mitigation Ratio (Enhancement)	Mitigation Ratio Applied
Direct Wetland	707 SF	8:1 Wetland (5,656 SF)	8:1 Wetland (5,656 SF)
Indirect Wetland	20,163 SF	4:1 Wetland (80,652 SF)	4:1 Wetland (76,193 SF mitigates for 19,048 SF of indirect wetland impacts)
			28:1 Buffer (31,241 SF mitigates for remaining 1,115 SF of indirect impacts) <sup>1</sup>
Direct Buffer	50,856 SF	1:1 Buffer (50,856 SF)	1:1 (50,856 SF mitigates for all direct buffer impacts)
Buffer Conversion	18,296 SF	1:1 Buffer (18,296 SF)	1:1 (18,296 SF mitigates for all buffer conversion)
<b>Total</b>	<b>70,219</b>	<b>155,460 SF</b> <b>(86,308 wetland; 69,152 buffer)</b>	<b>182,424 SF</b> <b>(81,849 SF wetland; 100,393 SF buffer)</b>

<sup>1</sup> 31,241 SF of buffer enhancement will be applied as mitigation for 1,115 SF of indirect wetland impacts that cannot be mitigated through wetland enhancement due to a lack of sufficient degraded wetland area on-site. This represents a ratio of 28:1 for buffer enhancement to indirect wetland impacts.

### C. Reasonable Use Exception standards (TCC 24.45):

The Thurston County CAO sets out the process and criteria for any property owner to apply for a RUE to carry out a land use or activity that is prohibited by the Ordinance (TCC 24.45). The CAO includes eight review criteria that the hearing examiner must consider when determining whether to approve or deny the request (TCC 24.45.030). Those eight criteria, along with staff analysis of each, are as follows:

#### 1. No other reasonable use of the property as a whole is permitted by this title

**Staff comments:** Per the applicant, “The owner's mission is to conserve land and provide environmental education opportunities to the public. The north half of the property was purchased using public grants. A condition of the grant imposed by the funding agency was that CLT would forfeit previously existing development rights, thereby restricting development of the site to the conservation and education use declared by CLT in their grant application. CLT cannot develop the property for a use other than the one they are proposing. The proposed Site plan represents the minimal impact when compared to all other land uses that could be implemented for this site. There is no other reasonable use appropriate to the owner's mission that would have less impact on the site's critical areas or buffers (Attachment d).” Staff concurs the proposed use of the property meets this criteria.

2. **No reasonable use with less impact on the critical area or buffer is possible. At minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design.**

**Staff comments:** Per the applicant, “The applicant examined multiple site development options, balancing road/traffic safety for the driveway location with location of critical areas, mainly wetlands and buffers along Johnson Point Road (Attachment d). When CLT purchased the property, development rights were extinguished, thus eliminating possible residential development which would have much higher impacts. The location of entry and hub minimize impact to wetlands. Timing of activities is confined to the daylight hours, and no additional noise impacts are proposed, other than vehicles coming in and out of the entrance. Project design revisions have eliminated septic system, well and viewing platforms, thus further minimizing impacts.” Staff concurs the proposed use of the property meets this criteria.

3. **The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the development proposal site or increase public safety risks on or off the subject property.**

**Staff comments:** Per the applicant, “No damage will be caused to nearby properties by the proposed use. Except for the facility entrance and lower parking area, visibility of the proposed infrastructure will be minimal. Construction will not intrude on other properties. Views will not be modified or degraded. The project poses no threats to public health, safety or welfare. The project proposal meets the road sight distance requirements for the driveway location and trails and other amenities are designed with safety in mind.” Staff concurs the proposed use of the property meets this criteria. As proposed and conditioned, staff does not believe the activity will result in damage to other properties and should not threaten the health, safety, or welfare on or off the site. The development is proposed consistent with regulations intended to protect the environment and public health.

4. **The proposed reasonable use is limited to the minimum encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property.**

**Staff comments:** Per the applicant, “Alternative locations for the site entrance were analyzed to meet the Thurston County minimum site distance requirements on Johnson Point Road NE, and the design of driveway and hub area in order to impact the least square footage of wetlands and buffers. The proposed Site plan represents the optimal driveway entrance location to meet code safety requirements and to result in minimal impact to wetlands and buffers when compared to all other land uses that could be implemented for this site.” Staff concurs the proposed use of the property meets this criteria.

5. **The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions.**

**Staff comments:** Per the applicant, “This project is to create a natural preserve that can be safely accessed by youth and the public to enhance education and understanding of natural ecosystems. Emphasis in design has been placed on minimizing alteration and impacts to the environment, including vegetation, fish and wildlife resources, hydrology, and geology, while providing safe ingress/egress to the site. Only 707 sq. ft. of direct wetland and 50,856 sq. ft. of direct wetland buffers, with an additional 18,296 square feet of buffer conversion area will be disturbed. Mitigation that meets or exceeds Thurston County standards is planned for both direct impacts. Mitigation is also proposed for indirect wetland and indirect wetland buffer impacts. Multiple design alternatives were considered when determining which site entry point was the least impactful, while still providing safe access.” Staff concurs the proposed use of the property meets this criteria.

6. **A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site.**

**Staff comments:** Per the applicant, “The project has been designed to avoid, minimize and mitigate on-site for impacts to critical areas, namely wetlands and wetland buffers. No activities will impact groundwater. Restoration/mitigation planting is already underway on the property. A mitigation plan is provided in the Critical Areas Report. All mitigation planting areas are on-site.” Staff concurs the proposed use of the property meets this criteria. The submitted invasive removal and enhancement mitigation planting plan will result in no net loss of critical area functions and values of the wetland (Attachment g). The applicant provided a maintenance and monitoring plan for woody and herbaceous vegetation that will assure success over a ten-year period as required.

7. **The reasonable use shall not result in the unmitigated adverse impacts to species of concern.**

**Staff comments:** Per the applicant, “No species of state or federal concern have been identified on the site.” Staff concurs the proposed use of the property meets this criteria.

8. **The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception.**

**Staff comments:** Per the applicant, “The proposal is much less in scale and impacts than the surrounding properties. Surrounding properties are residential and in continuous use. This project is to be used in daytime only, not every day, and with minimal noise.” Staff concurs the proposed use of the property meets this criteria.

#### **D. Special Use Permit**

Special Use Permits are subject to review and approval by the Hearing Examiner (TCC 20.54.015). In order to approve an application, the Hearing Examiner must find that the proposal complies with the following general conditions (TCC 20.54.040):

### **Special Use Permit Approval Criteria (TCC 20.54.040):**

**General standards.** All uses authorized as special uses shall meet the following standards:

1. **Plans, Regulations, Laws.** The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.

**Staff Comment:** As previously stated, primary permitted uses in the RRR 1/5 zone include single-family and two-family residential, agriculture, and home occupations. The RRR 1/5 zoning district allows certain primary uses (TCC 20.09A.020). Per TCC 20.30A.040(3.a), permitted uses on the subject lot resource use parcel are passive recreation, and natural area preservation. The most similar special use for the proposed nature preserve appears to be Academic School (TCC 20.54.070(1)), which is allowed in the RRR 1/5 zone with Hearing Examiner approval.

Page 2-18 of the Thurston County Comprehensive Plan states that the definition and characteristics of the RRR 1/5 zone as follows: “Primary land uses in the one unit per five acre areas are resource-oriented (farming, forestry, mineral extraction), open space, and low density residential. Residential use may be limited due to physical land capability constraints, including the presence of critical areas. Innovative techniques are used by the County to provide a variety of rural densities within this designation.”

Chapter 9 of the Comprehensive Plan, “Environment, Recreation, and Open Space”, lists the following Planning Policies:

- 10.6 Protect and restore natural ecosystems, such as, forests, prairies, wetlands, surface and groundwater resources, that provide habitat for aquatic and terrestrial plants and animals.
- 10.7 Provide for public access to natural resource lands, while ensuring that uses and economic activity which are allowed within those lands are sustainable.
- 10.8 Provide for parks and open space and maintain significant wildlife habitat and corridors

As proposed and conditioned, staff believes the proposal complies with all known applicable laws and plans.

2. **Underlying Zoning District.** The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.

**Staff Comment:** The use will comply with the general purposes and intent of the RRR 1/5 zoning district, specifically setbacks and bulk requirements. The purpose of the RRR 1/5 zoning district is to “encourage residential development that maintains the county's rural character; provides opportunities for compatible agricultural, forestry and other rural land uses; is sensitive to the site's physical characteristics; provides greater opportunities for protecting sensitive environmental areas and creating open space corridors; enables efficient road and utility systems; and does not create demands for urban level services.” As proposed and



conditioned, staff believes the proposal complies with underlying zoning district intent and design standards and shall not create new demand for urban level services.

3. **Location.** No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- a. **Impact.** The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though the adverse effects may occur.

**Staff Comment:** The location is appropriate for the use. The proposal should have no significant negative impacts on public health, safety, or welfare as the project is designed and conditioned. Completed project will generate 15-25 vehicular trips per day on average. Construction BMP's and standard work hour time periods will limit off site disturbance during hub and driveway construction. Visitor noise will be limited to day time hours. Activities on-site are largely buffered by surrounding forest, as the proposed parking hub is centrally located away from neighboring residences. No hazardous materials are proposed for storage on site, no proposed public restroom, and the porta-potty shall be regularly maintained. No trash or solid waste storage will occur on site, and litter on site will be properly removed and disposed off in approved off site facilities (Attachments c, d, f, g, i, l, m, and n).

- b. **Services.** The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

**Staff Comment:** No impacts to existing improvements or facilities are expected. Existing power and communication lines are at the right-of-way of Johnson Point Road NE. Thurston County Environmental Health has reviewed and approved the proposal and provided conditions of approval (Attachment t) based on water supply, wastewater treatment and disposal, and solid waste management. Development Review has reviewed the proposal and provided conditions of approval (Attachment s).

4. **Time Limits.**

- a. **Expiration of Approval.** If a building permit has not been issued, or if construction activity or operation has not commenced within three years from the date of final approval, the special use permit shall expire. The special use permit shall also expire when the use or activity for which the permit was granted is vacated for a period of three years.
- b. Upon the application of the owner or representative, the approval authority may grant a one year extension. In no case shall the approval authority grant an extension for more than one year at a time. If an extension of time is approved, the special use permit will be

subject to all new and amended regulations, requirements, policies or standards which are adopted after the original date of approval.

- c. Knowledge of the expiration date and initiation of a request for extension approval time is the responsibility of the applicant. The county is not responsible for providing notification prior to expiration. All requests for an extension of time must be submitted to the department prior to expiration of the special use permit.
- d. Time Limit and Re- Review. Where the approval authority is the hearing examiner, there may be a condition to provide time limits for the use. If it is determined after review that the special use no longer meets the conditions set by the hearing examiner at the time of the initial approval, the use may be terminated, or such standards

**Staff Comment:** These conditions are noted.

**5. Signs. In addition to the requirements of Chapter 20.40, the following provisions apply to uses approved by this chapter (20.54.040):**

- c. For other uses consisting of a single business or use on a site in residential zoning district, there shall be no more than one two-faced sign not to exceed thirty-two square feet per side; or alternatively, two signs attached to the building below the roof line, or placed close to the building, with a combined square footage not to exceed thirty-two square feet.

**Staff Comment:** The SUP application states that a monument identification sign of 30 square feet is proposed at the main entrance on Johnson Point Rd (Attachments c, and e). There will also be numerous smaller, directional signs and interpretive educational signs. Proposed signs must comply with the provisions within TCC 20.40, and any non-exempt sign, such as the 30 square foot monument sign, shall require a building permit.

**TCC 20.54.070.1 Academic Schools—Specific standards.**

**1. Academic Schools.**

**a. Minimum Site Size.**

- i. For Public Schools. Minimum site size shall be as required by the Superintendent of Public Instruction.
- ii. For Private Schools. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area of a private school in excess of four students, shall be determined by the approval authority.

The density shall not exceed one hundred students per one acre of ground nor shall there be more than one square foot of floor area to two square feet of ground area.

- b. Any portion of the site which abuts upon a residential use shall be screened in such a manner as to reduce the noise generated by activities on the school grounds.

**Staff Comment:** As proposed and conditioned, staff believes the proposal complies with the above specific school standards, in an outdoor school learning environment. The nature preserve will be visited on a periodic, limited school group schedule. The total acreage of the subject property, plus ample forest screening satisfies the above criteria for minimal off-site disturbance. The current proposal encompasses a use area of approximately 1 acre, within two subject parcels totaling 52.85 acres.

#### **E. Signs and Lighting (TCC 20.40)**

Any non-exempt sign per TCC 20.40 shall require a building permit.

##### **TCC 20.40.060**

Lighting shall be designed and shall function in a manner which shields direct light from adjoining streets and properties. Shielding, location, height, type of illumination and landscape buffers shall be evaluated in lighting design to meet this standard.

**Staff comments:** These conditions are noted. The project proposes minimal lighting near the porta-potty and pavilion hub area. Proposed 30 square foot monument sign shall require building permit.

#### **F. Landscaping and Screening (TCC 20.45)**

Chapter 20.45.040 establishes minimum requirements for landscaping and screening to safeguard privacy and protect the aesthetic assets of the community.

**Staff comments:** The nature preserve does not appear to be subject to landscape standards for the current proposal. The proposed development site configuration and existing forest buffer provide ample landscape screening for adjacent properties and uses.

#### **G. Parking (TCC 20. 44)**

TCC 20.44.030 contains requirements for off-street parking for different land uses. The applicant has submitted a parking plan on their site plan (Attachment e), which shows 24 angled/perpendicular vehicle parking spaces, including 3 ADA parking spaces; plus 2 bus parking spots.

**Staff comment:** The code does not establish use-specific parking standards for an outdoor learning nature preserve, which means parking shall be provided at a rate consistent with the most similar use in the code. In facilities without fixed seating, TCC 20.44.030(1)(b)(i) requires one parking space for every 4 occupants permitted or 1 parking space for every 170 sq feet of gross floor area. Per applicant narrative, expected group size is up to 30 adults/children, and staff may range from 1- 10 depending on the daily use. If two buses are expected on site at one time, using the  $60 \text{ total visitors} / 4 = 15$ , plus up to 10 staff vehicles, totals 25 expected parking spots. This will be variable, as outside public visitors are also expected to use the site.

##### **TCC 20.44.050 - Design requirements for off-street parking.**

When off-street parking is required, the parking area and space shall be designed, constructed and maintained in accordance with the following minimum provisions and standards per TCC 20.44.050.

At minimum, hard surface parking areas shall use paint, paving bricks, or similar devices to delineate parking spaces. Areas paved with lattice block pavement, gravel, or grass parking areas shall use wood or concrete wheel guards or wheel stops at the end of parking spaces or paving bricks, concrete strips or similar devices on the sides of spaces to delineate parking spaces.

All parking spaces shall be designed to prevent egress by backing out onto any state highway, collector or arterial street.

Bumper stops, curbing or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any sidewalk or upon any building adjacent to the parking area. Curbing shall be designed to allow drainage into landscaped areas and stormwater facilities.

All parking spaces shall be nine feet in width and eighteen feet in length.

**Staff comment:** The applicant's site plan shows the parking plan (Attachment e). Individual spaces are required to be at least nine feet by 18 feet in dimension. As proposed and conditioned, the proposal meets the parking design requirements of 20.44.

#### **H. Lighting (TCC 20.40.060).**

Lighting shall be designed and shall function in a manner which shields direct light from adjoining streets and properties. Shielding, location, height, type of illumination and landscape buffers shall be evaluated in lighting design to meet this standard.

**Staff comments:** This is noted and conditioned accordingly.

#### **I. Forestland Conversion (TCC 17.25)**

The application includes a Class IV – FLC Application (Attachment j). The FLC, SUP and RUE applications were reviewed jointly with one SEPA determination issued for the project (Attachments h and w).

Per the Forest Lands Conversion Ordinance, all forest lands conversions, other than those located within the north county urban growth area, shall comply with all of the applicable provisions of the following:

1. Thurston County Critical Areas Ordinance (Title 24 TCC) and Chapter 17.15 TCC, otherwise known as the Thurston County Agricultural Activities Critical Areas Ordinance;
2. Chapter 19.04 of the Thurston County Code, otherwise known as the Thurston County Shoreline Master Program;
3. Chapter 15.05 of the Thurston County Code, otherwise known as the Drainage Design and Erosion Control Manual for Thurston County;
4. Chapter 15.04 of the Thurston County Code, otherwise known as the Minimum Design Standards for Urban and Rural Street Construction in New Developments.

**Staff comments:** As proposed and conditioned the proposed SUP and RUE will be in compliance with the standards of the Forest Lands Conversion Ordinance (TCC 17.25). All critical area impacts have been addressed and mitigated, stormwater and construction plans were reviewed and approved by Public Works, and the project is not within the shoreline jurisdiction (Attachments e, f, g, h, i, j, k, n, u, and w). Applicant proposes to remove 1.7 acres of forest by shovel harvest method, estimating 31 thousand board feet of timber harvest total (Attachments j and k).

## **J. Commenting Agencies**

The Public Health and Social Services Department approved the application with conditions (Attachment t).

Staff from the Public Works Department approved the application with conditions (Attachment s).

The Department of Ecology submitted comment letters on October 20, 2020, and April 14, 2022 (Attachment o). Ecology recommendations and conditions are included within this report as well as the MDNS determination.

The Nisqually Indian Tribe submitted a comment letter stating they have no concerns with the proposal dated October 15, 2020 and concurrence letter dated February 8, 2023 (Attachment q).

The Squaxin Island Tribe submitted a comment letter requesting cultural resource survey, dated October 8, 2020, December 20, 2021, March 30, 2022, and concurrence email dated January 2, 2024 (Attachment r).

The Department of Archaeology and Historic Preservation submitted a comment letters requesting cultural resource survey, dated October 16, 2020, December 15, 2023, and concurrence letter dated December 19, 2023, requesting Inadvertent Discovery Plan for project (Attachments bb and p).

## **K. Comprehensive Plan**

The Thurston County Comprehensive Plan designation for the subject property is Rural Resource and Residential. This designation was created to maintain the rural character of the county; to buffer environmentally sensitive areas and resource management areas from incompatible activities; and to maintain a balance between human uses and the natural environment. Placement of an Inadvertent Discovery Plan on-site is a condition of protection for any on-site cultural resources. As proposed and conditioned, the application for an outdoor educational nature preserve, is consistent with the Thurston County Comprehensive Plan

## **L. Public Comments:**

Two public comments were submitted in response to the application and noticing. The applicant submitted responses providing additional details specific to the project, security, and timelines (Attachments x, y, and z).

## **DEPARTMENT RECOMMENDATION**

If the Hearing Examiner grants **approval** of the Reasonable Use Exception, Special Use, and Forest Conversion permit, then based on the above analysis, the Community Planning and Economic Development Department recommends the following conditions:



**Community Planning and Economic Development Conditions:**

1. The project must comply with all other Local, State, and Federal regulations and acquire all applicable permits prior to any work. The property owner is responsible for obtaining permits and approvals from other agencies, as they apply.
2. The project shall be implemented in substantial conformance with the plans as submitted.
3. Land disturbance and site preparation shall be limited to the project area, and adequate provisions for erosion control shall be implemented. 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. Construction fencing and erosion control shall be placed outside the buffer alongside proposed development areas. This fencing and erosion control shall be inspected prior to building or construction permit issuance.
4. The Applicant shall complete all buffer restoration, and mitigation enhancement and monitoring as proposed within the DCG/Watershed critical area report dated October 24, 2023 prior to final building permit or construction permit inspection. A surety will be required in place of mitigation completion prior to final building permit inspection, per TCC 24.70.
5. Mitigation/enhancement shall be maintained and monitored for ten years per TCC 24.35.017(B.6.).
6. Critical Area signs shall be installed along the buffer edge, subject to standards of TCC 24.60. Sign locations shall be installed prior to final building permit inspection. Alternative signage can be proposed by the applicant that aligns with the nature preserve educational usage.
7. 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.
8. Project shall require posting, and adherence to, an Inadvertent Discovery Plan prior to and during all ground disturbing activities on site (Attachment bb). Applicant is responsible for compliance with any other requirements that may result from outside agency and tribal reviews regarding cultural resources on site.
9. Non exempt signs per TCC 20.40 shall require permit. Proposed 30 square foot monument sign requires a sign building permit.
10. Outdoor lighting shall be designed and shall function in a manner that shields direct light from adjoining streets and properties.
11. All activities shall be in substantial compliance with the submitted plans, and the SEPA Mitigated Determination of Non-Significance (20- 111037 XA) findings and conditions issued on March 25, 2022 (Attachments h and w).

12. 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.
13. Solid Waste Management. All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from the local jurisdictional health department. All debris must be disposed of at an approved site. Contact the local jurisdictional health department for proper management guidance. Derek Rockett (360) 407-6287.
14. Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. to minimize associated noise. All activities on-site shall fully comply with noise limitations outlined in WAC 173-60.
15. Provisions shall be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.
16. Applicant is responsible for compliance with the Department of Ecology soil sampling testing and reporting requirements, as stated within the Ecology letter dated October 20, 2020 (Attachment o). Soil testing results and concurrence from Ecology are required prior to construction/building permit issuance. See specifics below:  
Tacoma Smelter Plume / Toxics Cleanup. This proposed project is located in an area that may have been contaminated with heavy metals due to the air emissions originating from the old Asarco smelter in north Tacoma (visit Ecology's Tacoma Smelter Plume map search tool: <https://fortress.wa.gov/ecy/smeltersearch/>).  
Soil contamination from the former Asarco smelter poses a risk to human health and the environment. Children are at especially high risk from direct exposure to contaminated soil. Construction workers, landscapers, gardeners, and others who work in the soils are also at risk. Ecology recommends that the lead agency include the following as conditions of approval, prior to the issuance of any site development permits or the initiation of grading, filling, or clearing:
  - Sample the soil and analyze for arsenic and lead following the 2012 Tacoma Smelter Plume Guidance. The soil sampling results shall be sent to Ecology for review. If the project includes open space areas, contact the Technical Assistance Coordinator, Eva Barber, for assistance in soil sampling methodology within the open space area.
  - If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (Chapter 173-340 WAC); the owners, potential buyers, construction workers, and others shall be notified of their occurrence. The MTCA cleanup level for arsenic is 20 parts per million (ppm) and lead is 250 ppm.
  - If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, the applicant shall:
    - 1) Develop soil remediation plan and enter into the Voluntary Cleanup Program with Ecology. For more information on the Voluntary Cleanup Program, visit Ecology's website at: <http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm>.
    - 2) Obtain an opinion letter from Ecology stating that the proposed soil remediation plan will likely result in no further action under MTCA. The applicant shall provide to the local land use permitting agency the opinion letter from Ecology.
    - 3) Prior to finalizing site development permits, provide to the local land use permitting agency "No Further Action" determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.

- If soils are found to be contaminated with arsenic, lead, or other contaminants, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from public spaces, yards, and children's play areas. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (Chapter 173-350 WAC). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.

The link below provides a fact sheet that explains more how the arsenic and lead clean-up levels were set and why Ecology sees that they are protective for human health: <https://fortress.wa.gov/ecy/publications/SummaryPages/1109095.html>. For assistance and information about Tacoma Smelter Plume and soils contamination, the applicant shall contact, Eva Barber with the Toxics Cleanup Program at (360) 407-7094 or via email at [Eva.Barber@ecy.wa.gov](mailto:Eva.Barber@ecy.wa.gov)

#### **Public Health Conditions:**

1. Environmental Health strongly recommends a drainfield easement be filed with the Thurston County Auditor's Office for the drainfield encroaching on Tax Parcel 11928320000.

#### **Public Works Conditions:**

##### **ROADS**

1. The proposed roadway in concept and design shall conform to the Road Standards.
2. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.

##### **TRAFFIC CONTROL DEVICES**

3. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
4. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.

##### **DRAINAGE**

5. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
6. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.

7. Storm water runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.

#### UTILITIES

8. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
9. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific utility design requirements but rather only items such as restoration of the County right of way and traffic control.
  - a. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
  - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.20' of asphalt concrete pavement.

#### TRAFFIC

10. Per Thurston County Resolution 14820, traffic impact fees shall be paid prior to issuing any building permits associated with this project.

#### **GENERAL CONDITIONS**

11. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
12. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
13. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 360-867-2051 for a final inspection.
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. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is required and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. Any additional permits and/or approvals shall be the responsibility of the Applicant.

## PROJECT SPECIFIC CONDITIONS

15. Once the planning department has issued the official approval, submit two complete full size sets of construction drawings, the final drainage and erosion control report and all applicable checklists along with an electronic copy to Thurston County Public Works – Development Review Section for review and acceptance. The Final Drainage Report shall address all comment in the Stormwater Scoping Report Response dated 11-24-20 which can be found at: <https://weblink.co.thurston.wa.us/dspublic/0/doc/14040747/Page1.aspx>
16. PRIOR to construction, the applicant shall:
  - a. Pay outstanding construction review and inspection fees\*
  - b. Receive erosion and sediment control permit
  - c. Have the erosion and sediment control inspected and accepted
  - d. Receive a construction permit
  - e. Schedule a pre-construction conference with county staff.

\* The current fee schedule can be found online at <http://www.co.thurston.wa.us/permitting/fees/fees-home.html> or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at 360-867-2050, or by e-mail at [ruthie.moyer@co.thurston.wa.us](mailto:ruthie.moyer@co.thurston.wa.us).

## GENERAL INFORMATION

### FINAL REVIEW

17. Prior to receiving final approval from this department, the following items shall be required:
  - a. Completion of all roads and drainage facilities.
  - b. Final inspection and completion of all punch list items.
  - c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
  - d. Receive and accept Engineer's Construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion Control Manual).
  - e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
  - f. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040 if required.
  - g. Completion of required signing and striping.
  - h. Payment of any required permitting fees.

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Heather Tschaekofske, MES  
Associate Planner/Biologist



### **LIST OF EXHIBITS**

EXHIBIT 1            Community Planning and Economic Development Report including the following attachments:

Attachment a	Notice of Public Hearing, February 16, 2024
Attachment b	Master Application, revised and submitted October 9, 2023
Attachment c	Special Use Application and narrative, revised and submitted October 9, 2023
Attachment d	Reasonable Use Exception application and narrative, and site development options, revised and submitted October 9, 2023
Attachment e	Site Plans, submitted October 9, 2023
Attachment f	Project Narrative, submitted October 9, 2023
Attachment g	Critical Areas Report; revised and submitted October 24, 2023
Attachment h	Notice of Application and Mitigated Determination of Non-Significance, dated March 25, 2022
Attachment i	SEPA Environmental Checklist, revised and submitted October 9, 2023.
Attachment j	Master Application and Forest Land Conversion, submitted September 18, 2020
Attachment k	Logging Site plan, submitted September 18, 2020
Attachment l	Earthwork Services, Technical Letter, dated July 22, 2020
Attachment m	Geotechnical Engineering Services Technical Memorandum from Landau Associates; dated July 28, 2020
Attachment n	Drainage & Erosion Control Plans, dated June 3, 2020
Attachment o	Ecology Comment letters, dated October 20, 2020, and April 14, 2022
Attachment p	Dept. of Archaeology & Historic Preservation (DAHP) comment letter, dated October 16, 2020, email and concurrence letter dated December 19, 2023
Attachment q	Comment Letter from Nisqually tribe, dated October 15, 2020, email March 30, 2022, and concurrence letter dated February 8, 2023
Attachment r	Comment emails from Squaxin tribe, dated October 8, 2020, December 20, 2021, March 30, 2022, and concurrence email dated January 2, 2024
Attachment s	Comment Memorandum from Arthur Saint, Thurston County Public Works, November 24, 2020, with associated Stormwater Scoping Report dated

November 24, 2020

Attachment t	Comment Memorandum from Dawn Peebles, Thurston County Public Health and Social Services Department, dated January 5, 2024
Attachment u	Critical Area Review Permit approval letter dated January 30, 2024
Attachment v	Communications Matrix Applicant responses, submitted October 9, 2023
Attachment w	Final MDNS letter, dated December 7, 2023
Attachment x	Public comment from Sandra Bahr, dated January 2, 2024, and County response to Bahr public comment, dated January 3, 2024
Attachment y	Applicant response to Bahr public comment, dated January 12, 2024
Attachment z	Public comment from Ross Calvert, dated April 9, 2022, and applicant response to Calvert comment, dated December 6, 2023
Attachment aa	Short plat/PRRD recorded map, dated January 10, 2000
Attachment bb	Inadvertent Discovery Plan for IKP
Attachment cc	Zoning map
Attachment dd	Revised Notice Rescheduling the Public Hearing, February 21, 2024