



COUNTY COMMISSIONERS

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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Applications of)	NO. 2021106455
)	
Ryan Deskins)	Grand Mound Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Preliminary Plat</u>)	AND DECISION

SUMMARY OF DECISION

The requested preliminary plat to subdivide 1.62 acres into seven single-family residential lots is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Ryan Deskins (Applicant) requested a preliminary plat to subdivide 1.62 acres into seven single-family residential lots. The subject property is addressed as 6411 198th Way SW, Rochester, Washington.

Hearing Date:

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the application on April 25, 2023. The record was held open through April 27, 2023 to allow 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 comments were submitted. The Hearing Examiner also left the record open for five business days to allow the parties to submit information on the procedure for varying the landscaping requirements of TCC 20.45.060. The responses were timely submitted, and the record closed on May 1, 2023.

On May 10, 2023, the plat application was remanded because the initially requested variance, upon which the plat design retaining the existing residence was designed, could not be approved. The May Remand Order held the record open for a revised configuration of the plat not based on the initially requested variance. The Applicant subsequently applied for an administrative variance to reduce the required 30-foot incompatible use buffer by 50% and proposed an alternate treatment of the existing residence that does not require variance from side setback to retain part of that structure. When the administrative variance application, revised site plans, and approval were complete, the materials were submitted to the Examiner and admitted as Exhibits 1.Z12, 1.Z13, 1.Z14, and 1.Z15. The hearing was not reconvened, and no further testimony was taken. The instant decision on the merits is issued on the full record consistent with the May 10, 2023 Findings, Conclusions, and Decision remanding the matter.

Testimony:

At the open record public hearing, the following individuals presented testimony under oath:

Lacy Garner, Associate Planner, Thurston County

Arthur Saint, Civil Engineer, Thurston County Public Works

Aaron Fuller, Fuller Designs, Project Engineer/Applicant Representative

Ryan Deskins, Applicant

Exhibits:

At the open record public hearing, the following exhibits were admitted into the record:

- Exhibit 1 Community Planning and Economic Development Department, Land Use & Environmental Review Section Staff Report including the following attachments:
- A. Notice of Public Hearing, issued April 6, 2023
 - B. Master and Division of Land Applications, submitted December 1, 2021
 - B1. Mazama Pocket Gopher & Prairie Report, drafted August 25, 2021
 - B2. Parcel Map Check Report
 - BB. Deskins Preliminary Plat Master Application, revised June 23, 2022
 - C. Preliminary Plat Notice of Application, mailed February 16, 2022
 - D. Bulk submittals cover sheet, submitted June 29, 2022
 - E. Latest Preliminary Plat Maps, submitted June 29, 2022
 - F. Drainage and Erosion Control Report, dated May 11, 2022
 - G. Integrated Pest Management Plan, dated August 6, 2021
 - G1. Soil Management Plan, submitted June 29, 2022
 - H. Geotechnical Report, dated June 23, 2022
 - I. Surrounding Wellhead Exhibit, submitted June 29, 2022

- J. Original Variance Application, submitted September 14, 2022
- JJ. Revised Variance Application with Plat Map, submitted October 20, 2022
- K. Landscape Plan, dated June 8, 2022
- L. Public Works Roads Variance Request, submitted June 28, 2022
- M. Nisqually Indian Tribe memo, dated December 16, 2021
- N. Squaxin Island Tribe email, dated December 17, 2021
- O. Nisqually Indian Tribe response memo, dated November 9, 2022
- P. Squaxin Island Tribe response email, dated March 21, 2023
- Q. Public Works Water Resources notes, dated March 8, 2022
- R. Public Works Water Resources confirmation, dated September 6, 2022
- S. Washington Department of Ecology comments, dated March 8, 2022
- T. Environmental Health memo, dated November 21, 2022
- U. Public Works Development Review memo, dated November 17, 2022
- V. Variance Notice of Application, mailed October 26, 2022
- W. [intentionally left blank]
- X. SEPA Determination of Non-Significance, issued March 24, 2023
- Y. Nisqually Indian Tribe Determination of Non-Significance comment memo, dated March 27, 2023
- Z. Thurston County Addressing Assignments with the attached Planning review documents:
 - 1. Comment Matrix 1, sent February 15, 2022
 - 2. Applicant Response to Comment Matrix 1, dated June 28, 2022
 - 3. Comment Matrix 2, sent March 9, 2022
 - 4. Comment Matrix 3, sent August 30, 2022
 - 5. Comment Matrix 3.1, sent August 31, 2022
 - 6. Communications with Applicant, dated August 30-31, 2022
 - 7. Applicant Response to Comment Matrix 3.1, dated September 1, 2022
 - 8. Comment Matrix 4, sent October 27, 2022
 - 9. Communications with Applicant, dated January – March 2023
 - 10. Comment Matrix 4 reminder email, sent April 3, 2023
 - 11. Pre-submission Conference Planning notes, sent July 29, 2021
 - 12. Application for administrative variance (from incompatible use buffer

requirement), dated received August 28, 2023

13. Revised/final preliminary plat map/plans (12 sheets), dated July 6, 2023

14. Revised/final Landscape plan, dated October 30, 2023 (approved by the County December 6, 2023)

15. Community Planning and Economic Development Department approval of administrative variance (from incompatible use buffer requirement), dated December 6, 2023

Exhibit 2 Email from Aaron Fuller to Lacy Garner, dated April 25, 2023 re: Deskins developer position regarding staff report

Exhibit 3 Memo from Lacy Garner re: Follow-up questions/answers

Exhibit 4 Memo from Aaron Fuller, dated May 1, 2023 in response to Exhibit 3

Also included in the record is the May 10, 2023 Findings, Conclusions, and Decision of the Thurston County Hearing Examiner in the Deskins Ground Mound Plat, No. 2021106455.

No in-person site visit was conducted, but the Hearing Examiner viewed the subject property and its environs on Google Maps.

Based on the record developed through the open record hearing process, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

1. Ryan Deskins (Applicant) requested a preliminary plat to subdivide 1.62 acres into seven single-family residential lots. The subject property is addressed as 6411 198th Way SW, Rochester, Washington.¹ *Exhibits 1, 1.BB, and 1.JJ.*
2. At the time of the April 2023 public hearing in the above-captioned applications, the project included an application for variance to reduce the required setback between the existing single-family residence on the property, which was to be retained within proposed Lot 1, and the proposed private road to zero feet. However, at the conclusion of the hearing process, a Decision was issued May 10, 2023 that denied the variance application because the criteria for approval were not satisfied and remanded the preliminary for redesign consistent with the variance denial. The Decision allowed the Applicant to either appeal the variance denial or to redesign the proposal such that it was not needed. Revised materials were submitted in July, August, and October 2023, and an administrative variance was approved by Planning Staff on December 6, 2023, all of

¹ The legal description of the subject property is stated in the staff report as follows: Section 11 Township 15 Range 3W Quarter NE SE Plat GRAND VALLEY FRUIT & GARDEN TRACTS SS-2043 LT 1 Document 008/100. *Exhibit 1.*

which were submitted into the record of these proceedings and admitted as Exhibits 1.Z12, 1.Z13, 1.Z14, and 1.Z15. *Findings, Conclusions, and Decision of the Thurston County Hearing Examiner in the Grand Mound Plat, Project No. 2021106455, issued May 10, 2023; Exhibits 1.Z12, 1.Z13, 1.Z14, and 1.Z15.* The following findings address the final proposal.

3. The subject property is relatively long and narrow, with its frontage on 198th Way SW 115 feet wide, and its depth 615 feet. It is developed with a single-family residence, which was constructed in approximately 1986 and requires significant renovation. The residence is located at the north end of the parcel near 198th Way SW. With the property's current configuration, the residence meets required setbacks from the street and exterior property lines. The Applicant proposes to retain portions of the existing residence on site within the boundaries of proposed Lot 1. *Exhibits 1 and 1.Z13(Sheet C1.1); Ryan Deskins Testimony.*
4. Surrounding land uses are residential, with varying densities and zoning designations. While there is a residential subdivision immediately east of the subject property with lot sizes similar to those proposed, existing residential lots west of the subject property are substantially larger than the ones proposed; parcels to the west are one or more acres in area. The large parcel of well over one acre to the south appears to be developed with a manufactured home development. *Exhibits 1, 1.JJ, and 1.Z13; Google Maps site view.*
5. The subject property is within the Rochester Urban Growth Area and is zoned Residential Three to Six Dwelling Units per Acre (R 3-6/1). *Exhibit 1.* The permitted residential density is a minimum of three and a maximum of six residential units per acre, with densities in excess of five dwelling units per acre requiring the purchase of transfer of development rights. *Thurston County Code (TCC) 20.15.050.* The proposed density would be 4.3 dwelling units per acre. *Exhibits 1 and 1.E.*
6. Development standards applicable to the R 3-6/1 zone include a minimum lot size of 5,000 square feet and minimum lot widths of 75 feet for interior lots and 100 feet for corner lots. Minimum building setbacks are 20 feet from the right-of-way edge for collector and local roads, 10 feet from the right-of-way edge for private roads, and five feet from side and rear lot lines. Within proposed Lot 1, the front lot line along 198th Way SW would be subject to a 20-foot setback. The maximum hard surface coverage allowed per lot is 60%. *Exhibit 1; TCC 20.15.060; TCC 20.07.030.*
7. The proposed lots would be arranged in a linear configuration along the depth of the parcel, with access from a private road proposed to run along the eastern property line. Lot 1, containing the existing residence, would be 165 feet wide as measured from the proposed private road and 115 feet deep (18,975 square feet in area). The existing residence would be retained within Lot 1, but it would be modified (by removing the easterly section) to comply with the required setback from the proposed access road. Lots 2 through 7 would be 75 feet wide and 115 feet deep (8,625 square feet in area). *Exhibits 1.JJ, 1.Z13 (Sheet C2.1), and 2.*

8. In the finally proposed configuration, all lots would be accessed by a private road constructed within an easement encumbering the eastern 40 feet of all lots. Entering the property at its northeast corner from 198th Way SW, the internal road would have 20 feet of paved width that meanders slightly at its west end within the easement, with a five-foot wide sidewalk on the west side of the road. A minimum five-foot wide “clear zone” is proposed along the full length of the east edge of the paved width, and a 15-foot wide clear zone is proposed along the full length of its west edge, except that along the front of Lots 6 and 7, the paved width would move to the west and the wider clear zone would be provided on the east side of the road. *See Exhibit 1.Z.13, Sheet C1.1.* The Applicant obtained Thurston County Public Works Department approval of a variance from road standards to allow the proposed private road section, instead of a public road. At the southern end of the internal private road, the placement of the paved width farther west within the 40-foot easement would smooth out, and improve sight distance for, the turn to the east, where the road would connect to existing 200th Avenue (a public street), which in turn connects to existing Tamarack Drive SW (a public street). The proposed internal road would provide two vehicular access points for the plat, and all seven driveways would connect to the internal private road. *Exhibits 1.L and 1.Z13; Arthur Saint Testimony.* All abutting roads - 198th Way SW, 200th Avenue SW, and Tamarack Drive SW - are public roads. The Applicant would be required to dedicate additional right-of-way width along 198th Way SW if needed to bring the road up to current standard and to install frontage improvements, including a sidewalk, curb, and gutter. *Exhibits 1.E and 1.Z13 (Sheets C2.1 and C2.2); Arthur Saint Testimony.*
9. Although not explicitly depicted on the project plans, the Applicant submitted evidence demonstrating that the impervious surface limitation of 60% can be met on each lot. Lot 1 would be 18,975 square feet in area, allowing for a maximum impervious surface coverage of 11,385 square feet. The existing residence and driveway have a combined footprint of approximately 2,000 square feet, and the impervious surfaces added by the proposed roadway would be approximately 4,125 square feet (25 feet of combined roadway width and sidewalk multiplied by lot depth of 165 feet). Lots 2 through 7 would each be 8,625 square feet in area, allowing for a maximum impervious surface coverage of 5,175 square feet. The roadway would contribute 1,875 square feet of impervious surfaces per lot, leaving a balance of 3,300 square feet per lot for the residence, off-street parking, and driveway. These areas would be adequate to develop the necessary residence and infrastructure. The Applicant intends to sell the undeveloped lots for future residential development by the buyer. Without home designs, the Applicant does not have more detailed impervious surface calculations for each lot. *Exhibits 1.Z13 and 2; Aaron Fuller Testimony.*
10. Although not explicitly depicted on the project plans, the Applicant submitted evidence demonstrating that the off-street parking requirements of TCC 20.44, requiring two off-street parking spaces per lot, can be satisfied. As described previously, each of the smaller lots would have an impervious surface allowance of 3,300 square feet for the residence, off-street parking, and driveway. Each residence would have at least one

garage parking space, and each driveway would be 400 to 500 square feet in area and would be wide enough for one to two parked cars. *Exhibit 2; Aaron Fuller Testimony.*

11. In testimony, the Applicant submitted that rolled curbs are proposed to allow the driveways to be placed on either the north or south side of each lot. The revised plan set calls out rolled curbs along the lots except for the area closest to 198th Way SW, which would connect to the rolled curb via a 10-foot long transition section near the north end of the road within proposed Lot 1. *Exhibit 1.Z13 (Sheet C2.1).* However, at hearing Public Works Staff submitted that the administrative road variance approval (allowing for the private street section proposed) was based on providing a vertical curb, which is also required by the Grand Mound Development Guidelines. At the time of the April 2023 hearing, Public Works Staff called out the vertical curb as needed to serve as a safety feature to prevent cars from striking the existing residence, which was then proposed to be retained in its existing location less than two feet from the edge of pavement. In the current, revised proposal, the existing residence within proposed Lot 1 would be modified and the full setback from the internal road would be provided. Public Works Staff did not submit any comments in response to the final proposal, and it is not known whether vertical curb is still necessary for safety, but it is presumably necessary in order to comply with the Grand Mound Development Guidelines. As was noted at hearing, an administrative road variance approval could be sought for a rolled curb within the plat, which request would appropriately be reviewed and decided – assuming the instant plat obtains final approval – prior to construction permit issuance. *Testimony of Aaron Fuller and Arthur Saint.*
12. Pursuant to TCC 20.45.060(1)(b), a proposed residential subdivision lot that is less than 50% of the size of an existing contiguous residential lot is defined as an incompatible use. Incompatibility is required to be screened by a 30-foot wide vegetated buffer planted with predominantly native and drought tolerant species that provides a very dense sight barrier and physical buffer to significantly separate conflicting uses. A combination of trees, shrubs, berms, fences, and related design features may be selected, provided that the result is sight-obscuring from adjoining properties. *TCC 20.45.060(3).* The proposed lots would be less than half the size of the existing contiguous lots to the west and south. *Exhibits 1 and 1.Z13; Google Maps site view.*
13. Following issuance of the May 10, 2023 Decision denying the variance and remanding the plat for revision, the Applicant submitted an application for administrative variance from the 30-foot incompatible use buffer, seeking to reduce it by 50%.² Based on the relatively narrow width of the subject property, the need to construct an access road along its full depth within a 40-foot easement, and the separate minimum five-foot deep rear setback, application of the 30-foot incompatible use buffer would leave only 40 feet of developable depth on each of the seven lots, which is very narrow and would constitute

² At the April 2023 hearing, the Applicant argued on various grounds that the incompatible use buffer didn't apply to the proposed lots, noting that its application would render too much of each lot unbuildable and render the plat infeasible. See *Exhibits 2, 3, and 4.* The May, 10 2023 Decision concluded that the incompatible use buffer does apply to the proposed Lots.

an unnecessary hardship for the Applicant. Staff noted that two immediately adjacent plats were developed before the incompatible use buffer standard was adopted in 2010, meaning the smaller lots within those plats do not provide a 30-foot buffer to their adjacent larger residential lots (including the subject property). Planning Staff determined that these circumstances inherent in the land merit consideration of administrative variance approval. Staff concluded that the proposed six-foot solid sight obscuring fence along the rear lot line of each lot, together with 15 feet of landscaped buffer, would adequately protect the adjacent large lots from the proposed higher density within the plat. The administrative variance reducing the incompatible use buffer width to 15 feet was approved subject to conditions requiring the following: the 15 rear feet of each lot be landscaped and used only for incompatible use buffer; that the eaves of houses extend not more than 33% into the buffer; and that the landscape plan be amended to include all proposed trees within the plant schedule and to include shrubs capable of growing to a height of five feet within three years. *Exhibit 1.Z15*. The variance approval did not contain a condition requiring the proposed six-foot solid sight-obscuring fence to be provided.

14. Pursuant to TCC 20.45.020(1), “a plan of the proposed landscaping and screening shall be provided, which may be incorporated into plans for submitted for preliminary plat, site plan review or building permit review.” *TCC 20.45.020(1)*. Other than the requirements for the incompatible use buffer, TCC 20.45 does not specify any minimum quantity of subdivision landscaping but references the Ground Mound Development Guidelines as applicable within the Ground Mound urban growth area. Planning Staff determined that these guidelines do not apply to the proposal. Based on the 1998 version of the guidelines that is published online, the guidelines do not apply to properties within the R 3-6/1 zone (see Section 1.B on page 1). *Exhibit 1.Z6*.
15. At the time of the April 2023 hearing, the proposal’s landscape plan, referencing the Ground Mound Development Guidelines, provided for a landscape strip with street trees along 198th Way SW and a five-foot width of landscaping consisting mainly of shrubs along the western and eastern property lines. *Exhibit 1.K; Aaron Fuller Testimony*. At the April 2023 hearing Planning Staff submitted that the landscaping plan was inadequate because it did not demonstrate compliance with the incompatible use buffer requirement of TCC 20.45.060 or with TCC 20.07.070(1), which restricts landscaping within the vision clearance triangle of corner lots. The concern about the incompatible use buffer has been resolved by approval of the administrative variance. The recommended conditions of approval in the staff report would require landscaping to be installed prior to final plat approval. At hearing, the Applicant objected to this condition with respect to Lots 2 through 7, because the lots are proposed to be sold before buildings are constructed. Staff indicated that their concern regarding the timing of landscaping was alleviated after considering the hearing testimony, meaning recommended condition 45 could be stricken. *Exhibits 1 and 2; Lacy Garner Testimony*. A revised landscape plan dated October 30, 2023 was approved by Planning on December 6, 2023. It shows 15 feet of planted, irrigated landscaping width along the western site boundary. In this case Lot 1, located at the corner of 198th Way SW and the proposed private road, would be a

corner lot. The revised landscape plan shows no trees or shrubs within the vision clearance triangles at the plat entrance adjacent to Lot 1. *Exhibit 1.Z14*.

16. Thurston County soil mapping indicates that the subject property has potential to provide habitat for the Mazama pocket gopher, a species listed as threatened pursuant to the federal Endangered Species Act. However, a site-specific study did not detect any Mazama pocket gopher mounds, prairie habitat, Mima mounds, or Oregon white oak trees. *Exhibit 1.B1*.
17. The subject property is within a Category 1 aquifer recharge area, a critical areas designation which does not prohibit residential development, but which requires the project to include best management practices designed to protect groundwater. *TCC 24.10.020; TCC 24.10.030; Exhibits and 1.T*. The Applicant has prepared an integrated pest management plan that provides a process for pest management that would minimize the application of chemicals within the subdivision. Groundwater would also be protected through the connection of the lots to public water and sewer systems. *Exhibits 1.G and 1.T*.
18. All lots would be served by the Ground Mound public water and sewer system. Based on comments submitted by the Thurston County Public Works Department, the provision of water and sewer would require paying applicable fees, completing infrastructure improvements, submitting engineered plans, decommissioning the existing water well on site, and granting Thurston County utility easements along the private road. These requirements were incorporated into the recommended conditions of preliminary plat approval. Existing septic components would be properly abandoned. *Exhibits 1, 1.Q and 1.Z13 (Sheet C1.1)*.
19. The soils underlying the subject property have high infiltration rates. The Applicant proposes to infiltrate all stormwater onsite within two infiltration trenches. One infiltration trench would be installed beneath the private road, and one would be within Lot 1, along the 198th Way SW right-of-way. Runoff from pollution-generating surfaces would be treated in Contech Stormfilter catch basins prior to infiltration. Thurston County Public Works Staff have reviewed the proposed stormwater plan and have not identified any issues of concern. *Exhibits 1.E, 1.F, 1.U, and 1.Z13 (Sheet C2.3); Arthur Saint Testimony*.
20. The Washington Department of Ecology submitted comments identifying various solid waste management, toxic cleanup, and water quality requirements that apply or might apply to the project. The comment letter notes that clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State requires coverage under the Construction Stormwater General Permit. *Exhibit 1.S*. While the proposed subdivision would disturb more than one acre, stormwater would be infiltrated on site and would not discharge to surface waters. Consequently, the Applicant submitted that the Construction Stormwater General Permit would not be required. *Aaron Fuller Testimony*. The determination of whether one is

required ultimately is within the purview of the Washington State Department of Ecology.

21. The Thurston County Public Works Department reviewed the project for compliance with the Thurston County Road Standards and the Drainage Design and Erosion Control Manual and determined that the preliminary requirements have been satisfied. Public Works Staff recommended approval of the project, subject to conditions as outlined in the County's Staff Report. *Exhibits 1.U and 1.Z13 (Sheets C1.2, 2.1, 2.2, and 2.3).*
22. The Thurston County Environmental Health Division reviewed the project for compliance with the Thurston County Sanitary Code and recommended approval subject to conditions as outlined in the County's Staff Report. The requested environmental health conditions of approval include requirements to decommission the existing well on site, abandon the existing septic system on site consistent with Sanitary Code requirements, finalize the integrated pest management plan including identifying a method of distribution to homeowners, and extend Grand Mound utilities through the subdivision. *Exhibit 1.T.*
23. The subject property is located within the Rochester School District. The nearest schools are Grand Mound Elementary, Rochester Primary Elementary, Rochester Middle, and Rochester High Schools. Impacts to schools would be mitigated through payment of impact fees pursuant to TCC Title 25. There is a school bus route in the area and students would likely be bussed to school. Public transit service is also available in the near vicinity. *Exhibit 1; Lacy Garner Testimony.*
24. In response to comments submitted by the Nisqually Indian Tribe and Squaxin Island Tribe, the Applicant had a cultural resources survey prepared for the subject property. The Tribes concurred with the conclusions of the survey, but requested to be notified if there are any inadvertent discoveries of archaeological resources or human burials. *Exhibits 1, 1.M, 1.N, 1.O, and 1.P.*
25. Thurston County acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act (SEPA). Having reviewed the preliminary plat plans, technical reports, environmental checklist, agency comments, and other documents, the County's SEPA responsible official issued a determination of non-significance (DNS) on March 24, 2023. The DNS was not appealed and became final on April 15, 2023. *Exhibits 1 and 1.X.*
26. Notice of the open record hearing was mailed to surrounding property owners on April 6, 2023 and published in *The Olympian* on April 14, 2023. *Exhibit 1.A.* There was no public comment on the proposal.

CONCLUSIONS

Jurisdiction:

The Thurston County Hearing Examiner is granted jurisdiction to hear and decide applications for variances pursuant to TCC 2.06.010.B, 20.52.010, and TCC 20.60.020. The Examiner is granted jurisdiction to hear and decide preliminary plats of lands within unincorporated Thurston County pursuant to TCC 2.06.010.A and TCC 18.10.030.

Criteria for Review:

Preliminary Plat Criteria

Pursuant to TCC 18.12.090.B, preliminary plat approval may be granted if the following criteria are shown to be satisfied:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication. If the hearing examiner finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the hearing examiner shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. The county shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

Conclusions Based on Findings:

1. As proposed and conditioned, the subdivision would make appropriate provision for the public health by properly decommissioning the existing septic and properly abandoning any existing well(s) and by connecting all seven lots to municipal water and sewer service consistent with applicable standards and any site-specific requirements imposed by the Environmental Health Division. Transportation impacts and needs of the proposed lots would be adequately addressed through dedication of right-of-way to 198th Way SW and construction of frontage improvements consistent with applicable standards, including but not limited to additional paved width, sidewalk, street trees, curb, gutter, utilities, and all other required frontage components, together with construction of the private internal roadway, which would connect at the south end of the plat to provide two vehicular access points to facilitate passenger vehicle, delivery and garbage service vehicle, and emergency services access. Each lot would contain adequate area to provide a sufficient building envelope for residence, driveway, and private access easement improvements, while preserving not less than 40% of the parcel in impervious surface area. The western 15 feet of each lot would be permanently preserved in an irrigated landscaped buffer that, together with a six-foot tall solid sight obscuring fence, would

screen the residences from the larger lots to the west. Conditions of approval would ensure that the landscape plan is updated to reflect correct species and plant counts and that the installed plants satisfy Code requirements for size, spacing, and density. Stormwater runoff from impervious surfaces would be gathered and conveyed to infiltration trenches under the proposed internal private road and within Lot 1, with runoff from pollution generating surfaces being treated by filter systems. The application materials include the required integrated pest management plan, which together with stormwater management as proposed would ensure that the underlying critical aquifer recharge area is protected from contamination. Each lot would provide at least two off-street parking stalls. The proposed sidewalks along 198th Way SW and the internal private road would ensure pedestrian connectivity to existing nearby public transit and school bus stop locations, ensuring safe passage for all pedestrian residents and guests of the plat. All appropriate park, school, and traffic impact fees would be required to be paid not later than the time of building permit for each lot. *Findings 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26.*

2. As proposed and conditioned, the public use and interest would be served by the creation of the proposed lots. With administrative approval of the variance related to the incompatible use buffer, the project successfully demonstrates compliance with screening requirements intended to protect off site larger lot development from any impacts resulting from the proposed higher density development. A condition of approval has been added to ensure that the proposed six-foot solid sight-obscuring fence is in fact provided by the Applicant along the west and south site boundaries. Right-of-way dedication along 198th Way SW would enable the site's frontage to be fully improved to current standard, which would enhance vehicle and pedestrian safety in the neighborhood. Creation of additional lots at the proposed density would address the current high demand for additional housing units in the County. The proposed subdivision was reviewed for compliance with the requirements of the State Environmental Policy Act, and a determination of non-significance was issued. *Findings 3, 4, 5, 6, 7, 12, 13, 16, 17, 18, 19, 21, 22, 24, 25, and 26.*

DECISION

Based on the preceding findings and conclusions, the requested preliminary plat to subdivide 1.62 acres into seven single-family residential lots is **APPROVED** subject to the following conditions:

Washington State Department of Ecology related conditions:

1. Solid Waste Management: Derek Rockett (360) 407-6287
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 prior to filling. All removed debris resulting from this project must be disposed of at an approved site. Contact the local jurisdictional health department for proper management of these materials.

2. Toxics Cleanup: Thomas Middleton (360) 407-7263:
If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Thomas Middleton with the SWRO, Toxics Cleanup Program at (360) 407-7263.
3. Water Quality/Watershed Resources Unit: Evan Wood (360) 407-7320:
Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or stormdrains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington and is subject to enforcement action.
4. Construction Stormwater General Permit:
The following construction activities require coverage under the Construction Stormwater General Permit:
 1. Clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State; and
 2. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more and discharge stormwater to surface waters of the State.
 - a) This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, and discharge to surface waters of the State; and
 3. Any size construction activity discharging stormwater to waters of the State that Ecology:
 - a) Determines to be a significant contributor of pollutants to waters of the State of Washington.
 - b) Reasonably expects to cause a violation of any water quality standard.

If there are known soil/ground water contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted. For additional information

on contaminated construction sites, please contact Carol Serdar at: Carol.Serdar@ecy.wa.gov, or by phone at (360) 742-9751.

Additionally, sites that discharge to segments of waterbodies listed as impaired by the State of Washington under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, or phosphorous, or to waterbodies covered by a TMDL may need to meet additional sampling and record keeping requirements. See condition S8 of the Construction Stormwater General Permit for a description of these requirements. To see if your site discharges to a TMDL or 303(d)-listed waterbody, use Ecology's Water Quality Atlas at: <https://fortress.wa.gov/ecy/waterqualityatlas/StartPage.aspx>.

The Applicant may apply online or obtain an application from Ecology's website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> - Application.

Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

Public Works Department – Development Review related conditions:

Roads

5. The proposed roadway in concept and design shall conform to the Road Standards.
6. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.
7. Frontage improvements meeting the Thurston County Road Standards shall be installed across the entire frontage of the parcel along 198th Way SW prior to final. The frontage improvements shall include but are not limited to pavement widening, grind and overlay to centerline, curb and gutter, planter strip, illumination, and sidewalk.

Traffic Control Devices

8. 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.
9. 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

10. The stormwater management system shall conform to the Drainage Design & Erosion Control Manual.
11. 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.
12. Stormwater 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.
13. Because proper landscaping is vital to the performance of the stormwater system, the Landscape Plan (if required) shall be signed/sealed by a Washington licensed civil engineer (preferably the engineer who designed the stormwater system).

Utilities

14. 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.
15. 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 city 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 0.17 feet of asphalt concrete pavement.

Right-of-Way & Survey

16. Permanent survey control needs to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
17. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 360-867-2378.

General Conditions

18. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.

19. 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.
20. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.
21. 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

22. Once the Planning Department has issued the official preliminary 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.
23. Prior to construction, the Applicant shall:
 - a. Pay outstanding construction review and inspection fees*;
 - b. Receive an erosion and sediment control permit;
 - c. Have the erosion and sediment control inspected and accepted;
 - d. Receive a construction permit; and
 - e. Schedule a pre-construction conference with County Staff.

* The current fee schedule can be found online at Thurston County Permit Assistance Center webpage or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at (360) 867-2046 or by e-mail at padillr@co.thurston.wa.us.

General Information

Final Review

24. 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 the 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 right-of-way improvements in accordance with Thurston County Code 18.24.010.
 - g. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
 - h. Approve the Final Plat Map.
 - i. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
 - j. Completion of required frontage improvements.
 - k. Completion of required signing and striping.
 - l. Payment of any required permitting fees.
25. The final plat map shall note or delineate the following:

Required Plat Notes

- a. “ATTENTION”: Thurston County has no responsibility to build, improve, maintain, or otherwise service private roads, alleys, or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation, or servicing of the storm water facilities outside the county rights-of-way are the responsibility of the property owner(s).
- b. Increased stormwater runoff from the road(s), building, driveway, and parking areas shall be retained on site and shall not be directed to roadway ditches adjacent to 198th Way SW.
- c. Thurston County has no responsibility to control road runoff that flows down driveways that are constructed below road grade. Homeowners are responsible for grading their access point and adjacent property to manage any runoff from the roadway.
- d. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
- e. Private roads are required to remain open at all times for emergency and public service vehicle use. Any future improvements (gates, fencing, etc.) that would not allow for “open” access will need to be approved by all applicable departments of Thurston County.
- f. The owner and/or Homeowners Association shall be responsible to operate and maintain the streetlights until such time the property is annexed to the city.
- g. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any

building permits associated with this project.

- h. This plat is subject to the RESIDENTIAL AGREEMENT TO MAINTAIN STORMWATER FACILITIES AND TO IMPLEMENT A POLLUTION CONTROL PLAN, as recorded under Auditor's File No. _____.
- i. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision _____ including unrestricted access for Thurston County staff to any and all stormwater system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners' Association as established by covenant recorded under Auditor's file number _____.
- j. The property described herein is required to accommodate storm water runoff from frontage improvements to 198th Way SW and all natural tributary areas abutting said property.
- k. Maintenance of the landscaping, trees, sidewalk, planter strips and roadside drainage and stormwater facilities such as ditches, swales and ponds within the public right-of-way is the sole responsibility of the (property owners) or (homeowners association) within this subdivision. Thurston County has no responsibility to maintain or service said landscaping, trees, sidewalk, planter strips or roadside stormwater facilities and the property owner(s) adjacent to the right-of-way shall be responsible for maintaining the planter strip and street trees (weeding, pruning, irrigating, mowing, etc.) in a healthy and growing manner in perpetuity.

Delineate on the Plat

- l. Provide language on the plat describing the drainage design requirements for all projected hard surfaces and lawn/landscape areas within individual building lots (drywell design/sizing, storm drain connection points, incorporated into pond design, etc.).
- m. Please clearly label all public and private roads.

Public Works Department – Water Resources related conditions:

- 26. This project is subject to general facilities charges (GFCs), plan review fees, and inspection fees. All applicable fees must be paid prior to receiving services. See attached fee estimate for itemized costs. Actual fees will be determined at the time the permit application is made.
- 27. The GFCs will be assessed based on the scheduled rate for eight single family residences. Each lot will be assessed one equivalent residential unit (ERU).

28. There is an eight-inch watermain along the northern boundary of the current parcel. There is also a vacuum sewer collection line along the northern boundary of the current parcel. Any existing infrastructure on the property must be brought up to current standards.
29. An eight-inch watermain extends south from 198th Way SW and down Tamarack Drive SW, before turning to the west along 200th Avenue SW. The proposal to loop this eight-inch watermain along the private road, before connecting to the watermain along 198th Way SW, is acceptable.
30. The Applicant must submit an application for utilities service with the building permit application for each of the seven lots.
31. The Applicant must submit an application to establish a utilities account with their building permit application for each of the single-family residences before service begins.
32. The Applicant must submit an engineered water and sewer plan that includes all items listed in the Engineered Plan Standard Items Checklist.
33. All proposed plans, construction methods, and construction materials must conform to the Thurston County Water and Sewer Development Standards. A copy of the current Water and Sewer Development Standards can be found on the Public Works' website (<https://www.co.thurston.wa.us/publicworks/delectus.html>). Please update all water and sewer details in the site plans to be consistent with the current Development Standards.
34. A cleanout shall be installed on all side sewers at the property line and near each of the residences.
35. The existing well must be decommissioned following the standards established by the Washington State Department of Ecology.
36. A Bill of Sale must be submitted and accepted by the Public Works Director for any improvements to be owned and maintained by Thurston County. These improvements include meter boxes, buffer tanks, water mains, and sewer mains.
37. Utility easements must be granted to Thurston County for the water and sewer mains extending along the proposed private road. Easements shall be granted to Thurston County in accordance with Section 2.130 of the Development Standards for Water and Sewer Systems.

Public Health and Social Services Department related conditions:

38. The existing well located on the project site must be decommissioned by a licensed well driller per Washington State Department of Ecology standards prior to final plat approval. A copy of the decommissioning report (well log) must be submitted to Environmental Health.

39. The existing on-site septic system must be properly abandoned per Article IV of the Thurston County Sanitary Code prior to final plat approval. An abandonment permit is required and copies of all abandonment documentation from a certified septic system pumper must be provided.
40. A finalized version of the integrated pest management plan (IPMP) with the requested revisions and current project description and map must be submitted to Environmental Health with the method of distribution to future homeowners identified. This is typically done by incorporating a copy of the accepted IPMP into the subdivision CC&Rs. Other methods may be allowed provided they assure future property owners will receive a copy of the IPMP at the time of sale.
41. Grand Mound water and sewer utilities must be extended through the subdivision prior to final plat approval.

Planning/Development Services related conditions:

42. Provide impervious surface calculations and minimum driveway coverage per lot to ensure project meets parking requirements and impervious surface limits per TCC 20.15.060, 20.07.090, and 20.44 for review and approval prior to preliminary plat approval by the hearing examiner.
43. Street addresses, lot size, and dimensions for each lot shall be shown on the final map with approved plat name verified with Thurston County Assessor's office.
44. The final design of this subdivision and future development of lots shall conform with all minimum standards of the zoning ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the platting and subdivision ordinance in conjunction with any conditions set by the hearing examiner as part of the determination on the variance application, except that the instant approval expressly adopts the administratively approved incompatible use buffer variance, which reduced the incompatible use buffer to 15 feet.
45. Prior to preliminary plat approval, the Applicant shall provide required driveway/parking areas on the map and impervious surface calculations for each lot per Thurston County zoning ordinance (Title 20). This information shall be submitted to Thurston County Community Planning and Economic Development Department for review and approval prior to preliminary plat approval by the hearing examiner.
46. Prior to preliminary plat approval, the Applicant shall submit a final landscape plan to Thurston County Community Planning and Economic Development Department for review and approval. The final plan shall be consistent with the conditions of approval imposed in the administrative variance reducing the incompatible use buffer to 15 feet, issued December 6, 2023. In the final plan, all landscaping shall be in compliance with the Thurston County zoning ordinance (Title 20) and the Thurston County subdivision ordinance (Title 18). Any conditions, improvements, or maintenance requirements associated with the landscaping plan shall be shown on the final plat map.

47. Prior to submitting a final plat application, all required on-site and off-site road and utility construction, and all landscaping for Lot 1, shall be completed and approved (only minor improvements remaining to be installed may be bonded as provided for in TCC 18.24). Installation of landscaping along the eastern site boundary shall be installed prior to final plat application. The installation of landscaping for Lots 2 through 7, including the plants and irrigation facilities required in the incompatible use buffer (see Exhibit 1.Z14), shall be installed not later than the time of the building permit application process for those six lots.
48. The instant preliminary plat approval is expressly conditioned upon the Applicant's installation of a six-foot tall, solid sight-obscuring fence along the west and south boundaries of the parent parcel prior to final plat application.
49. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require hearing examiner approval.
50. The final plat map shall note or delineate the following Development Services notes:
 - A. This subdivision was reviewed and approved through provisions of the Residential – Three to Six Dwelling Units Per Acre (R3-6/1) District within the Grand Mound UGA (TCC 20.15).
 - B. This plat was reviewed through Thurston County Project Number 2021106455, Folder numbers 21-114883, 21-114884 and 21-112339.
 - C. 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 Nisqually and Squaxin Island Tribes and the Washington State Department of Archaeology and Historic Preservation.
 - D. Future development shall be subject to impact fees pursuant to Title 25 and the most current impact fee schedule prior to building permit issuance.

Decided December 11, 2023 by



Sharon A. Rice
Thurston County Hearing Examiner