



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 Application of	)	NO. 2014101612
	)	<b>HORIZON MEDICAL TRANSPORT</b>
<b>Dirar Abobakkr</b>	)	
	)	
For a Special Use Permit	)	FINDINGS, CONCLUSIONS,
_____	)	AND DECISION

**SUMMARY OF DECISION**

The request for a special use permit to operate a medical transport and vehicle maintenance facility at 8318 Pacific Avenue SE is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request**

Dirar Abobakkr (Applicant) requested a special use permit to operate a medical transport and vehicle maintenance facility at 8318 Pacific Avenue SE (Tax Parcel Number 11823110200).

**Hearing Date**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on January 23, 2018.

**Testimony**

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

Tony Kantas, Associate Planner, Thurston County Community Planning and Economic Dev.

Dawn Peebles, Thurston County Environmental Health Division

Arthur Saint, Thurston County Public Works Department

Chris Aldrich, Hatton Godat Pantier, Applicant Representative

Dirar Abobakkr, Applicant and Property owner

Mohammed Elamin, Business Owner

**Exhibits**

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

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

Attachment a	Notice of Public Hearing
Attachment b	Master Application
Attachment c	Special Use Permit Application
Attachment d	Notice of Application (3 Pages), dated August 11, 2014
Attachment e	2015 Aerial Vicinity Map
Attachment f	Zoning Map
Attachment g	Site Plan
Attachment h	Landscape Plan
Attachment i	Narrative Summary
Attachment j	Trip Generation and Distribution
Attachment k	Memorandum from Sara Brallier, Environmental Health, July 3, 2014
Attachment l	Memorandum from Arthur Saint, Public Works Development Review Section, September 20, 2017
Attachment m	Pictures of Site (seven pictures)

EXHIBIT 2 Memorandum from Dawn Peebles, Environmental Health, January 23, 2018

Based upon the record developed at the open record hearing, the Hearing Examiner enters the following findings and conclusions:

**FINDINGS**

1. The Applicant requested an after-the-fact special use permit to operate a medical transport and vehicle maintenance facility at 8318 Pacific Avenue SE.<sup>1</sup> The application was complete on May 14, 2014.<sup>2</sup> *Exhibit 1; Exhibit 1, Attachments B, C, D, and I.*

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<sup>1</sup> The legal description of the subject property is a portion of Section 23, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Number 11823110200. *Exhibit 1.*

<sup>2</sup> At the time of application, Applicant Dirar Abobakkr owned both the subject property and the medical transport business. He has since sold the business to Mr. Mohammed Elamin, but is still the property owner. *Testimony of Chris Aldrich and Mohammed Elamin; Exhibit 1, Attachment B.*

2. The subject property is located within the Lacey Urban Growth Area and is zoned Low Density Residential (LD 3-6). Public and private transport/maintenance facilities are allowed in the LD 3-6 zone with approval of a special use permit. *Exhibit 1, page 2 and Attachment F; Thurston County Code (TCC) 21.66.020.*
3. The subject property is located on the north side of Pacific Avenue SE just east of its intersection with Marvin Road SE. Land uses to the north and east consist of single-family residences on lots averaging approximately one-third acre. The triangular parcel immediately west of the subject property (between the subject property and the Marvin Road SE intersection) is shown on the project plans as being under Washington State Department of Transportation ownership, but this land has since been purchased by the Applicant; it would not be incorporated into the proposal. The strip of property between the subject parcel and the Pacific Avenue SE right-of-way (depicted on the site plan as an empty strip between proposed landscaping and the right-of-way) was also under WSDOT ownership at the time of application and has since been purchased by the Applicant. This area would be incorporated into the instant proposal, with the proposed landscaping being moved adjacent to the right-of-way, to be depicted in the final landscaping plan. The land to the south of the subject property, on the opposite side of Pacific Avenue SE, is zoned Village Center, with an approved master plan designation of commercial. *Exhibit 1, page 2; Exhibit 1, Attachment E; Chris Aldridge Testimony.*
4. Pursuant to TCC 21.13.010, the intent of the LD 3-6 zone is to enhance the residential quality of the Lacey UGA; designate certain areas in which single-family structures on individual lots are the dominant type of dwelling unit; designate areas in which minimum and maximum densities apply; allow a range of density options; guide residential development to those areas where public sewers are available or can be extended at minimal cost, or where new technology makes residential development in unsewered areas environmentally acceptable; guide residential development so as to encourage and plan for the availability of public services and community facilities; and to provide protection between incompatible uses. *TCC 21.13.010.*
5. The subject property is 2.36 acres in area and is developed with a single-family residence and detached garage, which have been used for Horizon Medical Transport business purposes since 2012.<sup>3</sup> The use was established and the residence converted to office use without required land use and building permits. *Exhibit 1, page 2; Exhibit M.*
6. The Applicant proposes to use the existing residential structure for office and dispatch purposes, and to construct a new 2,000-square-foot shop building for maintenance of the business's medical transport vehicles. Because the existing detached garage does not satisfy the minimum 15-foot setback from the rear property line<sup>4</sup>, the County

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<sup>3</sup> These is also a mobile home on site, which will be removed. *Exhibit 1, Attachment G.*

<sup>4</sup>Currently in TCC 21.13.050, setbacks are expressed in terms of single-family residences in subdivisions, requiring a 20-foot rear setback for residences. However, in the version the of ordinance in effect at time of application in May 2014, (Supplement 42, 4/22/14), the required rear setback was 15 feet.

recommended as a condition of approval that the use of the garage be limited to storage purposes, to prevent impact to adjacent residential uses. *Exhibit 1, pages 2 and 10; Exhibit 1, Attachment C; Tony Kantas Testimony.*

7. The new shop building would be designed to conform to LD 3-6 zoning standards. The overall building coverage of the site, including both existing and proposed buildings, would be approximately 10%, whereas the LD 3-6 zone allows up to 60% building coverage.<sup>5</sup> *Exhibit 1, Attachment I.*
8. The project is subject to the landscaping standards of TCC 21.80, which require a 15-foot-wide Type 1 sight-obscuring landscape buffer to separate conflicting uses, which include commercial uses adjacent to residential uses or zones. For the subject property and proposed use, the requirement applies to the west, north, and east property lines. The Applicant has submitted a landscape plan depicting Type 1 landscaping along these property lines. *Exhibit 1, Attachments F and H; Exhibit 1, page 5.*
9. Additional landscaping requirements applicable to the use include Type II landscaping to provide a visual separation of uses from streets, and visual separation of compatible uses (used along site perimeters and adjacent to buildings), and Type IV landscaping within the parking lot comprised of at least 35 square feet per parking stall. The Applicant proposes an eight-foot-wide Type II landscape buffer along the Pacific Avenue SE street frontage.<sup>6</sup> County Staff recommended that the Applicant be required to also provide a five-foot width of Type II landscaping along the proposed and existing buildings and Type IV landscaping within the parking lot. *Exhibit 1, pages 5-6; Exhibit 1, Attachment H.* Of note, for the new building, the front elevation cannot have landscaping due to the presence of garage doors for vehicular access. The rear of the new building be immediately adjacent to a Type 1 landscape buffer. Similarly, the existing office has two sides adjacent to Type 1 landscape buffer, which includes a eight-foot fence. *Exhibit 1, Attachment G.*
10. For the new shop building, the Applicant proposes a 15-foot setback from the rear property line. The setback standards for the LD 3-6 zone are set forth in TCC 21.13.050, and are expressed in terms of single-family detached lots. The required minimum rear setback is 15 feet.<sup>7</sup> In this case, a commercial use is proposed for the new building. At TCC 21.66.050, the code allows certain development standards - including setbacks - to be modified for special uses when needed to protect adjacent properties. County Staff recommended that a minimum rear setback of 25 feet be required in order to mitigate conflict with the adjacent residential land use and to accommodate the required 15-foot landscaping buffer. *Exhibit 1, pages 3-4.*

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<sup>5</sup> Based on version of TCC 21.13.050 in effect at time of complete application (see Supplement 42). The current version of the ordinance limits building coverage to 50%.

<sup>6</sup> As previously noted, while the project plans dated 2014 depict an irregular south property line (along the Pacific Avenue SE right-of-way), the Applicant has since purchased the property needed to create a consistent frontage. The final proposed Type II landscaping would follow the new property line and not the irregular line shown on the submitted plans. *Exhibit 1, Attachment H; Chris Aldrich Testimony.*

<sup>7</sup> Based on version of TCC 21.13.050 in effect at the time of complete application (see Supplement 42).

11. The project is subject to the design review standards of TCC Chapter 21.70. Design review occurs concurrently with the special use process. In this case, County Staff submitted that only compliance with the County's landscaping standards, along with an increase in the setback from the rear property line from 15 feet to 25 feet for the proposed shop building, is needed for consistency with the applicable design guidelines. *Tony Kantas Testimony.*
12. Horizon Medical Transport serves medical patients requiring non-emergency transportation services throughout Thurston, Pierce, Mason, and Lewis Counties. While the business employs 24 people, most work off site providing transportation services outside Thurston County. These off-site employees either take business vehicles home with them or use their personal vehicles for business purposes. They might visit the site once quarterly for staff meetings. Only five staff members work on site daily, including three transportation providers and two office/dispatch staff. Two of the transportation providers arrive on site in the morning, pick up a Horizon vehicle to provide transportation duties, and do not return to the site until early afternoon (assignments are communicated through the dispatch system). The third transportation provider arrives in the afternoon to take afternoon/evening assignments. Based on these use characteristics, the use is not expected to generate more than 20 vehicle trips to the site per day. This amount of traffic would be substantially less than what would be expected of a single-family residential subdivision of the subject property built to the density allowed in the LD 3-6 zone. *Exhibit I, Attachments I and J; Dirar Abobakker Testimony.*
13. Access to the subject property is from Pacific Avenue SE, which is under the jurisdiction of the Washington State Department of Transportation (WSDOT). The commercial use of the property would require a new WSDOT access connection permit. The conditions imposed by WSDOT might include eliminating one of the two access points along the property frontage. All road improvements would be governed by WSDOT standards and reviewed through WSDOT processes. *Arthur Saint Testimony.*
14. The County's parking standards do not specifically identify the proposed use; consequently, the parking requirement is set by the approval authority. In this case, parking is needed to accommodate the five on-site employees, as well as medical transport vehicles and occasional staff meetings attended by additional employees. The number of medical transport vehicles on site is not expected to exceed four at any one time. The Applicant proposes 14 parking spaces within a paved parking area, which exceeds the amount needed to serve the anticipated parking demand. *Exhibit I, page 6; Exhibit I, Attachment H.*
15. The subject property is located within the Henderson Watershed Protection Area (HWP). All on-site sewage systems within the HWP are required by the Thurston County Sanitary Code to have renewable Operational Certificates. Operational Certificate requirements include routine inspections and maintenance and submission of inspection reports to the Environmental Health Division. *Exhibit 2; Dawn Peebles Testimony.*

16. There are two on-site sewage systems on the subject property; the Operational Certificates for both have expired. One of the systems serves a mobile home that the Applicant intends to remove from the site. The Applicant proposes to abandon its sewage system in accordance with Department of Ecology requirements. The sewage system serving the office, which the Applicant proposes to continue to use as public sewer is not available to the subject property, is deficient and requires minor repairs. The Environmental Health Division recommended as conditions of approval that the Applicant address sewage system deficiencies within 30 days and obtain certification from an on-site sewage system professional and to get its Operational Certificate reinstated within 60 days. Reviewing Staff for Environmental Health is of the understanding that required repairs are minor and can be completed by the applicants. If these recommended deadlines can't be met due to weather or other conditions, the Applicant and operator need to be in communication with Environmental Health and to be working towards obtaining reinstatement. The Applicant agreed with the recommended timelines. *Exhibit 2; Exhibit 1, Attachments I and K; Chris Aldrich Testimony; Dawn Peebles Testimony; Dirar Abobakker Testimony.*
17. Potable water is provided to the site from the Rolling Firs Evergreen Terrace Group A public water system. *Exhibit 1, Attachments I and K.*
18. The Thurston County Environmental Health Division reviewed the project for compliance with the County's health requirements and recommended approval subject to the following conditions: ensure that any irrigation water lines are set back a sufficient distance from septic drainfields and tanks; record an approved Integrated Pest Management Plan with the Thurston County Auditor; abandon the on-site sewage system serving the mobile home upon its removal; and correct the sewage system deficiencies and obtain reinstatement of the Operational Certificate for the office. *Exhibit 1, Attachment K; Exhibit 2; Dawn Peebles Testimony.*
19. The Thurston County Public Works Department reviewed the proposal for compliance with Thurston County Road Standards, the Drainage Design and Erosion Control Manual, and City of Lacey Development Guidelines, and determined that the preliminary requirements have been satisfied. The Department recommended approval, subject to conditions. The conditions have been incorporated into the recommended conditions of SUP approval. *Exhibit 1, Attachment L; Arthur Saint Testimony.*
20. The project is categorically exempt from review under the State Environmental Policy Act. *Exhibit 1, page 3 and Attachment I.*
21. Notice of the open record hearing was mailed to property owners within 300 feet of the site on January 8, 2018, published in *The Olympian* on January 12, 2018, and posted on site on January 12, 2018. There was no public comment on the application. *Exhibit 1, pages 3 and 7; Exhibit 1, Attachment A; Tony Kantas Testimony.*

## **CONCLUSIONS**

### **Jurisdiction**

The Hearing Examiner has jurisdiction to decide this special use permit application under Sections 2.06.010 and 23.48.020 of the Thurston County Code.

### **Criteria for Review**

The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 23.48.030 are satisfied:

- A. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Olympia Joint Plan, and all applicable federal, state, regional, and Thurston County laws or plans.
- B. 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.
- C. 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:
  - 1. 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 said adverse effects may occur.
  - 2. 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.

### **Conclusions Based on Findings**

- 1. With conditions of approval, the proposed use at the proposed location would comply with applicable laws and plans, including the Lacey Urban Growth Area design guidelines and landscaping requirements, WSDOT access requirements, the Thurston County Drainage Design and Erosion Control Manual, and the Thurston County Sanitary Code. Conditions of approval would ensure that current deficiencies with respect to the on-site sewage system are remedied, and that an Operational Certificate is obtained. The tight timelines recommended are reasonable given that the use is currently operational on

the site. The project is exempt from review under the State Environmental Policy Act. *Findings 5, 8, 9, 11, 13, 15, 16, 18, 19, and 20.*

2. As conditioned, the use would comply with the general purposes and intent of the LD 3-6 zone, and with applicable open space, lot, setback and bulk standards. One of the purposes of the LD 3-6 zone is to provide protection between incompatible uses. County Staff's recommended increased setback from the rear property line for the new shop building, restriction of use of the existing detached garage, and landscaping would provide protection for adjoining residential areas. *Findings 3, 4, 5, 6, 7 and 10.*
3. The proposed use is appropriate in the location for which it is proposed.
  - a. With conditions, the use would 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. There is potential for adverse impact to adjacent residential uses if vehicle maintenance activities occur too close to the property line. The instant SUP approval is conditioned on a 25-foot setback from the rear property line for the new shop building and on restriction of the use of the nonconforming existing garage in order to prevent such adverse impacts. These conditions, along with compliance with the County's landscaping requirements, would ensure that adjacent property and neighborhood character is protected. With respect to other matters affecting the public health, safety, and welfare, the traffic generated by the use is compatible with residential development, adequate parking is proposed on site, and compliance with WSDOT requirements for access would ensure no impacts to public safety. *Findings 3, 6, 8, 9, 10, 11, 12, 13, 14, and 19.*
  - b. With the conditions identified by the Public Works and Public Health departments, the use would be adequately served by and would not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area. *Findings 15, 16, 17, 18, and 19.*

### **DECISION**

Based on the preceding findings and conclusions, the request for a special use permit to operate a medical transport and vehicle maintenance facility at 8318 Pacific Avenue SE is **GRANTED** subject to the following conditions:

#### Public Works Conditions:

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



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 nonconformance by the Applicant shall be transferred to the Applicant.
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.
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 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 0.20 feet of asphalt concrete pavement.
10. Per Thurston County Resolution 14820, traffic impact fees shall be paid prior to issuing any building permits associated with this project.
11. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.

12. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the corresponding city jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.
13. 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.
14. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 786-5214 for a final inspection.
15. 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.
16. Once the planning department has issued the official approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
17. Prior to starting construction a new access connection permit for the commercial use shall be attained from the Washington State Department of Transportation.
18. 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/docs/Roads-Development-Review-Fees-20090301.pdf> or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at 754-3355, ext. 6595, or by email at [padillr@co.thurston.wa.us](mailto:padillr@co.thurston.wa.us).
19. 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 IC, 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.
- g. Completion of required signing and striping.
- h. Payment of any required permitting fees.
- i. Payment of any required mitigation fees.

Environmental Health Division Conditions:

- 20. Prior to approval and release of any building permits, documentation must be submitted to this office confirming any waterlines proposed to serve an irrigation system are located a minimum of 10 feet from the edge of any on-site sewage system drainfield or septic tank per Article IV of the Thurston County Sanitary Code and the appropriate backflow prevention assembly has been installed as deemed necessary by the water system manager to protect the drinking water supply from potential cross connection hazards.
- 21. Prior to final building occupancy approval for any of the new facilities, documentation must be submitted to this office confirming the approved IPMP has been recorded with the Thurston County Auditor's Office.
- 22. Prior to final building occupancy approval for any of the new facilities, documentation must be submitted to this office confirming the on-site sewage system serving the mobile home has been properly abandoned per Article IV of the Thurston County Sanitary Code. An abandonment permit application is required and all septic pumper and other abandonment documentation must be provided as confirmation the on-site sewage system has been properly abandoned.
- 23. All on-site sewage system deficiencies must be addressed within 30 days and certified by an on-site sewage system professional, consistent with Exhibit 2.
- 24. The required Operational Certificate for the retained septic system must be reinstated per Article IV, Section 16.7 within 60 days.

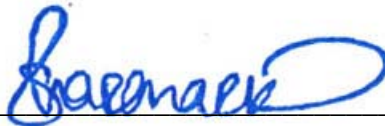
Planning Conditions:

- 25. The existing on-site garage shall only be used for storage.
- 26. The proposed 2,000 square foot shop shall be setback a minimum of 25 feet from the rear property line.
- 27. The attached landscape plan is approved with the following amendments and conditions:
  - A. All landscaping must be irrigated in accordance with TCC 21.80.080.

- B. All landscaping and irrigation must be installed within 90-days of special use permit approval. In the event that weather conditions prevent installation of all landscaping, a performance assurance may be submitted to Thurston County in accordance with TCC 21.80.090. In no case may the Applicant delay performance for more than 180-days after special use approval.
  - C. Prior to final landscape approval, a maintenance assurance device for a period of one year shall be submitted to the County. The maintenance assurance device must equal at least 20% of the replacement cost of the landscape materials (TCC 21.80.080(C)).
  - D. The Type I landscaping shall be a minimum of fifteen feet in width and shall provide a very dense sight barrier and physical buffer to significantly separate the adjacent properties. All required Type I landscaping along the rear and side property lines shall incorporate an eight-foot high solid wood fence along the property lines.
  - E. All plant materials and living ground cover shall be maintained so that the entire landscape area will be covered within three years. Trees shall be a minimum two inches in caliper measured six inches above the base at the time of planting and shrubs must be capable of growing to a minimum of five feet in height, within three years.
  - F. The landscape plan shall include Type II landscaping a minimum of five feet in width adjacent to both side elevations of the proposed shop building (not along front elevation with garage doors or rear elevation adjacent to Type I landscaping) and along two sides of the existing office building (the elevations facing Pacific Avenue SE and the parking area, not the two elevations facing the Type I landscaping). The resultant effect must be to soften the appearance of the structures in accordance with TCC 21.80.050(C).
  - G. The landscape plan must be amended to include Type IV Landscaping within the parking lot to provide visual relief and shade in parking areas consistent with TCC 21.80.050(E). Each area of landscaping must contain at least 100 square feet of area and must measure at least eight feet in any direction. Each planting area must contain at least one tree. Deciduous trees shall have a minimum size of two inches in caliper measured six inches above the base. TCC 21.80.050(E) requires Type IV landscaping within the parking lot to be a minimum of at least 35 square feet of landscape area per each parking stall.
28. The on-site inhabitable mobile home shall be moved to an approved off site location within 90-days of special use permit approval.
29. Lighting shall be designed and shall function in a manner that shields direct light onto adjoining streets and properties.

30. The Applicant shall be responsible for maintaining an orderly appearance of the property and shall be responsible for the care and maintenance of all installed landscaped areas. All required yards, parking areas, storage areas, operation yards, and other open uses on the site shall be maintained at all times in a neat and orderly manner.
31. Construction activity shall be limited to the hours of 7:00 am to 7:00 pm to minimize associated noise. All activities onsite shall fully comply with noise limitations outlined in WAC 173-60.
32. All development on the site shall be in substantial compliance with the approved site plan, approved landscape amendments, and conditions. Any expansion or alteration of this use will require review and approval. The Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require a new permit.
33. The proposed use must comply with the noise standards of the TCC Chapter 10.36 and Washington Administrative Code (WAC) Chapter 173-58.
34. Structures that are converted from residential to commercial must be approved through a change of occupancy in compliance with the Thurston County Building Code. Building permits for the converted use must be submitted to Thurston County within 90 days of special use permit approval.

**DECIDED** February 5, 2018.



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Sharon A. Rice  
Thurston County Hearing Examiner



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

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

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

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

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

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

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

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

**D. FILING FEES AND DEADLINE** If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$688.00** for a Request for Reconsideration or **\$921.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Permit Assistance Center on the second floor of Building #1 in the Thurston County Courthouse complex no later than 4:00 p.m. per the requirements specified in A2 and B2 above. **Postmarks are not acceptable.** If your application fee and completed application form is not timely filed, you will be unable to request Reconsideration or Appeal this determination. The deadline will not be extended.

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



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

☐ Check here for: RECONSIDERATION OF HEARING EXAMINER DECISION

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

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

☐ Check here for: APPEAL OF HEARING EXAMINER DECISION

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

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

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

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

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

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

### STANDING

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

Signature required for both Reconsideration and Appeal Requests

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

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

Address \_\_\_\_\_

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

Please do not write below - for Staff Use Only:

Fee of ☐ \$688.00 for Reconsideration or \$921.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_

Filed with the Resource Stewardship Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\\Apollo\\Apps\\Track\\Planning\\Forms\\Current Appeal Forms\\2018.Appeal-Recon-form.he.doc