

**OFFICE OF THE HEARING EXAMINER**

**THURSTON COUNTY**

**REPORT AND DECISION**

**PROJECT NO.:** 2018101910 COLUMBUS PARK IN-WATER UPGRADES

**TAX PARCEL NOS.:** 42060100000 and 42060200000

**LOCATION ADDRESS:** 5700 Black Lake Boulevard S.W., Olympia

**APPLICANT:** Bracy & Thomas  
Kim Pawlawski  
1520 Irving Street S.W. #B  
Tumwater, WA 98512

**PROPERTY OWNER:** Columbus Park  
5700 Black Lake Boulevard S.W. #2  
Olympia, WA 98512

**PLANNER:** Leah Davis, Associate Planner

**SUMMARY OF REQUEST:**

Shoreline substantial development permit to allow improvements to a boat ramp, removal of pilings, and replacement of a dock on Black Lake at a RV park/campground on the western shoreline of Black Lake in Section 06 Township 17N Range 2W.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

**DATE OF DECISION:** August 29, 2018

**PUBLIC HEARING:**

After reviewing the Community Planning and Economic Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on August 14, 2018, at 10:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1"** - **Community Planning and Economic Development Department Staff Report**
- Attachment A** - **Notice of Hearing**
- Attachment B** - **Master Application**
- Attachment C** - **JARPA**
- Attachment D** - **SEPA**
- Attachment E** - **Site Plan**
- Attachment F** - **Project Narrative**
- Attachment G** - **Notice of Application**
- Attachment H** - **MDNS**
- Attachment I** - **Riparian Planting Plan**
- Attachment J** - **Nisqually Indian Tribe Comment Letter**
- Attachment K** - **Environmental Health Memo**
- Attachment L** - **Ecology Letters**
- EXHIBIT "2"** - **Photograph of Notice Sign**

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

LEAH DAVIS appeared, presented the Community Planning and Economic Development Staff Report, and introduced Exhibit 2, photographs of the public notice posting. She then reviewed the Staff Report and testified that the site is located within the Rural Shoreline Environment and that the applicant proposes to replace the northernmost dock. The location of the replaced dock was not approved, and approval of this application will remedy any violations. The County provided proper notice, the site was posted, and she received no comments from the public or the Tribes. The responsible official issued a MDNS following SEPA review and received no appeals. The appeal period expired on August 3.

KIM PAWLAWSKI appeared on behalf of the applicant and testified that she has reviewed the Staff Report, recommended conditions, and has no issues. She agrees with Ms. Davis' presentation.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 10:15 a.m.

**NOTE:** A complete record of this hearing is available in the office of the Thurston County Resource Stewardship Department.

## **FINDINGS, CONCLUSIONS, AND DECISION:**

### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The application was reviewed pursuant to State Environmental Policy Act (SEPA). A threshold Mitigated Determination of Non-Significance (MDNS) was issued on July 27, 2018. (Attachment h). This determination was not appealed and became final on August 3, 2018. The MDNS includes mitigating conditions regarding water quality protection and revegetation within the marine riparian habitat that abuts the boat ramp area.
3. Written notice of the public hearing was sent to all property owners within 500 feet of the site and notice was published in The Olympian on August 3, 2018, at least ten (10) days prior to the hearing (Attachment a). Public notice signage was also posted on August 2, 2018. The notice was also sent to all property owners that submitted comments throughout the review of the proposed shoreline permit. A notice of application (NoA) was mailed to all property owners within 500-feet of the site on June 22, 2018 (Attachment g). The NOA had a 20 day early comment period. Comments were received from Ecology and the Nisqually Tribe. No comments were received from the public.
4. The applicant, Columbus Park, is located at 5700 Black Lake Boulevard S.W. along the western shoreline of Black Lake in unincorporated Thurston County. Park improvements include five docks, a concrete boat ramp, and many permanently occupied cabins. The Park also provides significant camping and day use, recreational opportunities. The park is privately owned, privately managed, and open to the public.
5. The applicant requests a shoreline substantial development permit (SDP) to allow removal and replacement of 18, wooden pilings that support four docks, and removal of 19, unneeded/failing pilings. The applicant proposes to replace the wooden pilings with metal pilings ranging from four to 12 inches in diameter. The applicant also requests the SDP to allow installation of an "EZ dock" measuring 60 feet in length and 6.5 feet in width. Finally, the applicant requests the SDP to allow repair and expansion of the existing boat launching ramp to allow safe launching and recovery of boats. The applicant proposes to increase the length of the boat launch by 20 feet, using boulders and gravel.
6. As mitigation for the improvements the applicant proposes a "Riparian Planting Plan" prepared by the Thurston Conservation District to enhance a buffer between the boat launch and a stream. The plan calls for removal of thick, Himalayan

blackberries from an area that measures ten feet by 30 feet (300 square feet) and replanting of said area with western red cedar, Douglas fir, and other native plants.

7. Columbus Park is located within the Rural Shoreline Environment of the Thurston County Shoreline Master Program (SMP). The Boating Facilities chapter of the SMP allows boat ramps and docks within the Rural Shoreline Environment subject to acquisition of a SDP.
8. The scope and definition of "Boating Facilities" provides that boat ramps are constructed of concrete or other material, and that such facilities extend into the water. In the present case the applicant proposes to expand the existing, concrete, boat ramp farther into the lake utilizing boulders and gravel. While the SMP addresses construction of new boat ramps, it does not address expansion of existing boat ramps. However, the additional 20 feet of length will provide safer boating access to Black Lake.
9. The boat ramp expansion is consistent with applicable policies of the SMP that address marinas and launching ramps as set forth in the General Regulations. Staff has identified all such regulations on pages 5-8 of the Staff Report and finds that the request satisfies all such criteria. The Examiner agrees with staff's analysis and incorporates said analysis herein as if set forth in full.
10. The proposed dock satisfies SMP policies as the new dock will replace a previous dock at the same location. No evidence shows that the previous dock obstructed scenic views, nor that it conflicted with recreational boaters and fishermen. Furthermore, five docks already exist along the Columbus Park shoreline. Finally, removal and replacement of the wooden pilings will provide greater safety for both swimmers and boaters in the vicinity of the park.

#### **CONCLUSIONS:**

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a shoreline substantial development permit satisfies all applicable criteria of the SMP and therefore should be approved subject to the following conditions:
  1. The proposed project must be consistent with all applicable policies and other provisions of the Shoreline Management Act, its rules, and the Shoreline Master Program for the Thurston Region.
  2. 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 at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Mohsen Kourehdar.


3. Erosion control measures must be in place prior to any clearing, grading, or construction. 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. Remove all construction debris including concrete, pilings, and dock materials to an appropriate/approved upland site for recycling or landfill.
5. The marine riparian habitat along the unnamed stream that abuts the boat ramp shall provide mitigation for the added impacts to Black Lake. The mitigation shall include removing invasive species (Himalayan blackberry) and revegetating the area with native vegetation as recommended by Thurston Conservation District (Attachment i).
6. The "Cabin 11 dock" shall meet the size regulations of private residential docks as outlined in the SMP: maximum length is 50 feet; maximum width is 8 feet.
7. No treated lumber, except that which is approved for in-water use, shall be used for any structure in the water.
8. The dock shall be fitted with reflectors so as to prevent hazardous conditions for water surface users day or night.
9. The applicant is responsible for obtaining required permits from other agencies prior to construction.
10. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
11. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals

granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for a shoreline substantial development permit to allow construction of a 60 foot long, 6.5 foot wide dock shown as the "Cabin 11 Dock" on the site plan; removal and replacement of pilings; and expansion of the existing boat ramp is hereby granted for the Columbus Park located at 5700 Black Lake Boulevard S.W., Olympia, subject to the conditions contained in the conclusions above.

**ORDERED** this 29th day of August, 2018.

  
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**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

**TRANSMITTED** this    day of August, 2018, to the following:

**APPLICANT:**

Bracy & Thomas  
Kim Pawlawski  
1520 Irving Street S.W. #B  
Tumwater, WA 98512

**PROPERTY OWNER:**

Columbus Park  
5700 Black Lake Boulevard S.W. #2  
Olympia, WA 98512

**OTHERS:**

THURSTON COUNTY