



COUNTY COMMISSIONERS

Carolina Mejia-Barahona  
District One

Gary Edwards  
District Two

Tye Menser  
District Three

## HEARING EXAMINER

*Creating Solutions for Our Future*

### BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application of	)	
	)	
	)	SUP NO. 2018102524
<b>Joseph and Lisa Cinciripini</b>	)	
	)	<b>Friendly Grove Dog Spa</b>
	)	
	)	
For a Special Use Permit	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
	)	

### SUMMARY OF DECISION

The request for after-the-fact approval of a special use permit to amend and expand a permitted commercial kennel to board up to 50 dogs overnight and to serve up to 150 additional dogs for day care and/or grooming services, for a maximum of 200 dogs per day, and to authorize occasional special events for pet owners and professional dog handlers is **APPROVED** subject to conditions.

### SUMMARY OF RECORD

#### **Request:**

Joseph and Lisa Cinciripini of Friendly Grove Dog Spa (Applicants/Owners) requested approval of a special use permit to amend and expand the existing dog/cat kennel, previously approved via special use permit to board up to 50 dogs overnight and up to 150 additional dogs for day care and/or grooming services, for a maximum of 200 dogs, and to authorize occasional special events including CPR classes for pet owners and seasonal classes for professional dog handlers. The Friendly Grove Dog Spa is currently operating at 2901 Friendly Grove Road, Olympia, Washington.

#### **Hearing Date:**

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on December 14, 2021. The record was held open until December 16, 2021 to allow members of the public having difficulty joining the virtual hearing to submit written comments,

with time scheduled for responses from the parties. One comment was received on December 16, 2021 following the hearing. The record closed on December 20, 2021.

**Testimony:**

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

Richard Felsing, Associate Planner, County Community Planning and Economic Development  
Steve Petersen, Program Manager, Thurston County Environmental Health  
Arthur Saint, PE, Thurston County Public Works Development Review  
Gary Cooper, Local Planning Solutions, Applicant Representative  
Joseph Cinciripini, Applicant  
Mikel Young  
Dr. Joann Young  
Jeff Eberle

**Exhibits:**

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

1. Community Planning and Economic Development Department Staff Report to the Hearing Examiner, with the following attachments:
  - A. Notice of public hearing
  - B. Master and Special Use applications, dated May 3, 2018
  - C. Revised Site Plan, Septic Design, Kennel & Grooming Floor Plans
  - D. Project Narrative
  - E. Zoning and Vicinity Maps
  - F. Notice of Application, dated June 27, 2019
  - G. Mitigated Determination of Non-Significance, issued November 5, 2021
  - H. Hearing Examiner Decision, Gordon Special Use Permit, dated March 26, 2001
  - I. Comment letters from Nisqually Indian Tribe and Squaxin Island Tribe, dated June 27 and June 28, 2019, respectively
  - J. Mazama Pocket Gopher Survey Report, dated October 15, 2018
  - K. Clearance Letter, Mazama Pocket Gopher, dated October 18, 2018
  - L. Critical Areas Report and Wetland Delineation, dated May 6, 2019
  - M. Friendly Grove Dog Spa Wetland Survey
  - N. Maps of wells within 200 feet of subject property
  - O. Comment Letters from Department of Ecology, dated June 18, 2018 and November 19, 2021

- P. Letter to Gary Cooper from Brad VanCamp, Fire Chief, Thurston County Fire Protection District 8, dated June 28, 2019
- Q. Memorandum of approval from Steve Petersen, Thurston County Environmental Health Division, dated July 7, 2021
- R. Memorandum of approval from Arthur Saint, Thurston County Public Works Development Review Section, dated November 30, 2021
- S. Revised Traffic Analysis, dated July 28, 2019
- T. Wetland Report Review Information Request, Heather Tschaekofske, dated November 22, 2021
- U. Public Comment
  - a. Dennis Hamblet email, November 19, 2021
  - b. Lawrence and Sue Holt email, November 17, 2021
  - c. Eric Harting emails, November 28, 2021
  - d. Lorna and Jeff Eberle letter, November 28, 2021
  - e. Mikel L. Young email, November 28, 2021
  - f. Sharon Howdeshell email, November 26, 2021
  - g. Scott, Sara and Jack Snyder letter, July 15, 2019
  - h. Sandra Hall email, July 17, 2019
  - i. Callie and Nuri Mathieu email, August 31, 2019
  - j. Eric and Angela Harting email, July 17, 2019
  - k. JoAnne and Mike Young letter re: July 8, 2019 meeting
  - l. Donna Buxton email, July 15, 2019
- V. Leah Davis letters to Gary Cooper, dated May 3, 2019 and February 26, 2020 with attachments<sup>1</sup>
- W. [duplicate of Exhibit 1.S]<sup>2</sup>

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<sup>1</sup> Planning Staff testified that the instant application had expired twice and been “revived” by management; he offered Attachment V during testimony, which was admitted. The Applicant representative disputed this characterization of the procedural history and objected to the admission of the two letters at Attachment V. On the record, he offered the Applicant’s letter at Exhibit 4 as evidence refuting alleged application expiration, which letter was admitted. During the post-hearing comment period, he offered a different letter dated May 4, 2019, which he had sent to the Planning Department as a response to the second letter at Attachment V and which Mr. Cooper mentioned in his testimony but did not expressly offer on the record. Although the undersigned does not enter any conclusions about the accurate procedural posture of the application, it is treated as active and valid in these proceedings, and therefore the question of its accurate procedural posture is academic and irrelevant. However, to complete the record, Mr. Cooper’s May 4, 2019 letter is admitted as Exhibit 6.

<sup>2</sup> Although an August 14, 2019 revised traffic study was mentioned in Arthur Saint’s testimony and requested for the record, it was later not found to be in the County’s files and was not submitted. The only revised traffic information available was the July 28, 2019 revised counts, already admitted at Exhibit 1.S.

- X. Photographs of Friendly Grove Dog Spa taken by Rich Felsing during a site visit
2. Comments received after publication of staff report
  - a. JoAnne Young email, received December 8, 2021
3. Follow Up Traffic Count, dated November 18, 2019
4. Gary Cooper memorandum to Steve Petersen and Leah Davis, dated November 27, 2018
5. Public Comment received after hearing<sup>3</sup>
  - a. Stefanie Randolph email, received December 16, 2021
6. Gary Cooper email, dated December 16, 2021, with attached letter to Leah David from Gary Cooper, dated May 4, 2019

After considering the testimony and exhibits submitted through the public hearing process, the Hearing Examiner enters the following findings and conclusions:

## **FINDINGS**

### *Site and Context*

1. Joseph and Lisa Cinciripini of Friendly Grove Dog Spa (Applicants/Owners) requested approval of a special use permit to expand the existing dog/cat kennel, previously approved via special use permit for up to 16 dogs and 10 cats, to board up to 50 dogs overnight and up to 150 additional dogs for day care and/or grooming services, for a maximum of 200 dogs, and to authorize occasional special events for pet owners and professional dog handlers. The Friendly Grove Dog Spa is currently operating at 2901 Friendly Grove Road in Olympia, Washington.<sup>4</sup> *Exhibits 1, 1.B, 1.C, and 1.D.*
2. The 27.76-acre subject property is located on the west side of Friendly Grove Road, on the segment bounded by 36th Avenue NE to the north and 26th Avenue NE to the south. This segment of Friendly Grove Road NE is a narrow rural road with two travel lanes, no shoulders, and no sidewalks. Pedestrians, bicycles, and motor vehicles share the road without separation. Surrounding land uses include low-density single-family residences on lots 1.33 to five acres in size, pastureland, forest land, and a blueberry farm. From the Google Maps site view, it appears there are a few other home occupation or agricultural uses operating on this road segment. Traffic from all uses accesses the surrounding transportation network exclusively via 26th, 33rd, and 36th Avenues. *Exhibit 1; Google Maps site view.*
3. The subject property is in the rural portion of the County and is zoned Rural Residential Resource One Dwelling Unit per Five Acres (RRR 1/5). *Exhibit 1.* The purpose of the RRR 1/5 zone is “to encourage residential development that maintains the county’s rural character; provides opportunities for compatible agricultural, forestry and other rural land

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<sup>3</sup> The record was held open for responses from Applicant and Staff; none were submitted.

<sup>4</sup> The legal description of the subject property is a portion of Section 1, Township 18, Range 2 West, W.M.; also known as Parcel No. 09930001000. *Exhibit 1.*

uses; is sensitive to the site's physical characteristics, provides greater opportunities for protecting sensitive environmental areas and creating open space corridors; enables efficient road and utility systems; and does not create demands for urban level services. *Thurston County Code (TCC) 20.09A.010*. Primary permitted uses in the RRR 1/5 zone include single-family and two-family residences, agriculture (including forest practices), home occupations, and accessory farm housing. *TCC 20.09A.020*. Kennels housing eleven or more dogs are an allowed use in the RRR 1/5 zoning district subject to special use permit review and approval of compliance with the use-specific standards established at *TCC 20.54.070(19)*; *TCC 20.09A.025*.

4. The subject property is located on a flat terrace that gently slopes to the east into an on-site wetland system including two Category II wetlands surrounded by mature Douglas fir uplands. These wetlands generally drain east into the Woodard Creek drainage. Vegetation on the property is comprised of mature Douglas fir, scattered hardwoods, and a well-established understory in the upland areas, with shrubs and emergent species in the wetland areas. *Exhibit 1.M*. Dense mature trees surround the kennel facilities within the site. *Google Maps site view*; *Gary Cooper Testimony*.
5. The subject property is underlain by four soil types, one of which is an indicator soil for the Mazama pocket gopher, which species has been listed an endangered pursuant to the federal Endangered Species Act. The Applicants' obtained a gopher screening survey of the property, which also sought target prairie plants and Prairie Habitat, all of which are regulated pursuant to the County's critical areas ordinance. Based on the report prepared by the Applicants' consultant, which was reviewed by the County and found to have been conducted consistent with County's gopher review protocol, the County concluded that no evidence of the endangered gopher, target prairie plants, or Prairie Habitat were found, and no findings of concern were noted. The required reviews for these species have been completed to the County's satisfaction. *Exhibits 1.J and 1.K*.
6. The primary residence was built on the subject property in 1991. In 1993 a permit for a kennel building was permitted. Both were constructed in the western portion of the subject property with a parking area for the kennel, the site access road from Friendly Grove Road, and general landscaped areas. In 2000 a special use permit (SUPT 001008) to operate a commercial kennel for 16 dogs, 10 cats, and daycare for an additional 10 dogs was granted to former owners Nels and Dana Gordon. Conditions of that approval set the limit for animals served to those proposed, restricted the location and numbers of dogs outdoors at one time, required installation of sound absorption materials in the kennel building, required collection and off-site disposal of all animal waste, and restricted the employees of the facility to the then-applicants only (among other conditions).<sup>5</sup> The instant Applicants purchased the property in 2005 and reside there still. In 2013, they applied for a new garage with a game room and bathrooms, which is now the dog grooming facility. *Exhibits 1.H and 1.M*.

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<sup>5</sup> The 2001 permit expressly says that any expansion of the kennel use requires land use review and approval. *Exhibit 1.H*.

### *Proposal*

7. The proposal requests authorization for current levels of kennel operations, which represent an increase over the limits established in the 2001 SUP but would not be an increase over current activities on site. Following receipt of a 2014 notice of violation, the Applicants retained a planning consultant and a pre-submission conference was conducted in 2017. Since that time, the application has been assigned to three different planners, which combined with the availability of various necessary contractors (including well driller and septic designer) contributed to the length of time before the public hearing. *Gary Cooper Testimony.*
8. The requested permit would authorize up to 50 dogs for overnight boarding and an additional 150 dogs during the business day, for a maximum of 200 dogs per day on site.<sup>6</sup> The day-only dogs would be at the site for daycare and/or grooming. The kennel currently operates seven days per week and is open for customer drop off and pick up between 7:00 am and 6:00 pm Monday through Friday. On Saturday, day care is limited to 20 dogs (plus however many are boarded), with drop off/pick up hours of 8:00 am to 5:00 pm. On Sunday, there is no client access, meaning no pick up or drop off of any boarded dogs. While these are maximum numbers for which permission is sought, the facility boards an average of 35 to 45 overnight dogs and an average of 75 dogs for day care on any given day. The facility employs up to 11 non-resident employees, and both owners may be onsite on any given day, for a maximum of 13 people working in the facility at a time. The proposal seeks permission for up to four special events per year, approximately one per quarter, including such offerings as pet first aid/CPR and disaster preparedness trainings, which would be attended by an average of 20 people with dogs. The Applicants also seek permission to include seasonal drop in classes for professional and junior dog handlers to practice for upcoming competitions. These classes would occur entirely within the existing enclosed indoor training room and would have an average of 10 participants and dogs. No additional development is proposed with the instant applications. *Exhibits I, I.B, and I.D; Testimony of Gary Cooper and Joseph Cinciripini.*
9. Minimum required setbacks for buildings housing animals are 50 feet from any right-of-way and 35 feet from the side and rear property lines. *TCC 20.07.030.* The kennel's grooming facility meets setback requirements at approximately 195 feet from the southern lot boundary and 135 feet from the western property line, while the attached enclosed dog exercise area on the south side of the grooming/office building is setback 90 and 118 feet from the same boundaries. The commercial structures are setback even farther from Friendly Grove Road. Planning Staff submitted that existing site improvements satisfy the RRR 1/5 zone's 10% impervious surface coverage limit and that existing signs comply with standards. No new signs are proposed. Commercial activities onsite are obscured from view from Friendly Grove Road by the forested perimeter of the site and by additional forested areas are on the offsite parcels between the subject property and Friendly Grove Road. No additional screening is needed to

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<sup>6</sup> These numbers were confirmed to be the accurate description of current and proposed operations; the numbers stated in the staff report and traffic counts are not accurate. *Gary Cooper Testimony.*

ensure that the kennel is not visible from the road. *Exhibits 1, 1.C, and 1.X; Google Maps site view.*

10. Noise is a primary consideration in all commercial kennels. In the existing kennel operations, both the boarding and the day care facilities include interior sound absorbing materials, such as sound barrier acoustic tiles. The Applicants stated that boarded dogs are not audible from outside when inside the building. All outside areas where dogs would be while in the Applicants' care are surrounded by a six-foot tall concrete fiber sound barrier fence. Staff has the ability to bring barking dogs indoors to control noise. The facilities provide indoor and outdoor waiting rooms for early arriving or late departing guests in an attempt to ensure dogs from the facility are not audible to neighbors after 6:00 pm or before 7:00 am. Programing includes mental and physical stimulation for dog guests to minimize barking and also screening dog guests to exclude those with behavioral problems including excessive barking, who are referred to other providers. Day care dogs are supervised at all times, at a ratio of one technician to 15 dogs. The Applicants advertise their kennel as a luxury dog hotel providing "5 star" amenities including radiant heat flooring and satellite TV/radio. The Applicants indicated that they have not received any noise complaints since they opened in 2009. *Exhibits 1.D and 4; Testimony of John Cinciripini and Gary Cooper.* Planning Staff indicated that the facility's enrichment programs provide stimulation that effectively minimizes barking, which was evident during staff site visit. Staff recommended a condition that would require dogs outside unleashed to be kept in a fenced enclosure setback at least 50-feet from all property lines. *Exhibit 1.*
11. There are 15 nearby drinking water wells serving surrounding residences, 13 of which are within 200 feet of the subject property. For the protection of these wells and groundwater generally, Thurston County Public Health and Social Services, Environmental Health Division (EHD) required the Applicants to submit a solid waste management plan to properly dispose of dog waste; no document containing a detailed solid waste plan was included in the record, but the Applicants' plan was approved by EHD. According to the project narrative, dog waste is picked up and placed in lined garbage cans with lids and is collected and removed from the site by a commercial solid waste service provider. Recommended conditions of approval require all dog waste to be collected a minimum of twice daily, double-bagged, and stored in containers that would not allow waste to leach into the ground if the containers are damaged; conditions require the waste to be stored in a commercial dumpster and collected on a weekly basis by LeMay Pacific Disposal Services. EHD's comments noted that the kennels are cleaned using a diluted bleach solution, and that this bleach is stored in original containers within a storage room that has no floor drains capable of allowing release to the environment. *Exhibits 1.D, 1.Q, and 4.*
12. The applicable County off-street parking standards do not establish minimum parking requirements for kennel uses. *TCC 20.44.030.* Pursuant to TCC 20.44.030(3), the approval authority shall determine the required number of parking spaces for uses not specifically mentioned. Regarding parking, the Applicants' representative indicated there are 26 parking stalls in the parking area serving the commercial buildings, but that dogs

are met at car side by a staff greeter, such that a majority of owners do not exit their vehicles and don't park. When asked for an average number of stalls used on a typical day, the answer was six. In review of parking, Planning Staff submitted that ample parking is provided following the unpermitted expansion of the previously smaller parking lot. Staff also noted that the parking area is completely obscured by existing vegetation and is not visible from Friendly Grove Road, indicating that no additional landscaping is required. Staff included recommended conditions of approval that would ensure lighting fixtures would be properly down shielded to prevent glare onto adjoining properties. *Exhibits 1, 1.C, 1.D, and 1.X; Gary Cooper Testimony; Google Maps site view.*

13. Access to the site is via an all-weather gravel surface road extending west from Friendly Grove Road NE. Dog kennels/dog day care facilities are not a use that is studied in the Institute of Transportation Engineers (ITE) manual, which is the industry standard volume regarding trip generation and impacts. The Applicants' consultant conducted a mid-week traffic count at the property on the dates of July 23, 24, and 25, 2019 during the peak hours of 4:00 to 6:00 pm, which resulted in a count of an average of 45 peak hour trips per day, with an average total of 105 dogs per day. Following a County request for more information, the Applicants further refined their trip generation estimate using a traffic study prepared for another kennel (Northwind Pet Center), which showed that the trip rates calculated by the Applicants' consultant were inflated because they failed to include the fact that many repeat customers are multi-dog families, meaning one trip brings more than one dog, and that boarded dogs stay for more than one day. Having heard the neighbors' concerns regarding traffic impacts, the Applicants have since posted signage in the parking lot and inside advising customers to obey speed limits and be courteous to the community. Thurston County Public Works Development Review Staff accepted the Applicants' combined trip generation information as adequate evidence of traffic impacts forecasted by the proposal (which has been operating at the proposed customer volumes for years) and determined that no further traffic impact analysis was required because the use generates fewer than 50 PM peak hour trips. Traffic impact fees would be required through the change of use (Building Code occupancy) permit to mitigate system-wide impacts from the traffic generated by the facility. County Public Works Staff testified that the trip volumes of the project do not exceed the capacity of Friendly Grove Road. *Exhibits 1.D, 1.L, 1.R, 1.S, 3, and 4; Testimony of Gary Cooper and Arthur Saint.*<sup>7</sup>
14. Despite the fact that there is no conflict with County Road Standards, Planning Staff remained concerned about the project's traffic impacts to the rural character of the area, stating as follows:

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<sup>7</sup> The exhibits cited in this finding and the testimony of Mr. Cooper and Mr. Saint both referenced other information than was provided in the record, including specific dates and content of documents the parties had seen. The exhibits submitted do not contain all the trip generation information that testimony and narrative stated was conducted; however, the information actually submitted is adequate for the purposes of the instant decision. If the parties wish to supplement the record with the missing trip generation information, they may make a motion to do so, which will be decided on the merits.



Rural or neighborhood character consists of two factor, 1) the density, land use, design, and cultural practices of the land itself; and 2) the civic space that exists in every road or street between the vehicle travel lane and the street wall bordering any sidewalk. In rural areas this customarily runs from the white stripe to include the shoulder of the road and may include bike paths but not extend onto private property. Here, there is no shoulder to walk on, no excess pavement, no sidewalk or walking route on abutting private property. To travel within the neighborhood for any purpose requires walking in vehicle travel lanes—a pleasant country lane when characterized by traffic generated by residential uses.

*Exhibit 1.*

15. The County's zoning ordinance requires landscaping and/or screening between commercial uses and residential lots two acres or smaller in area to protect privacy and community aesthetics. *TCC 20.45.060*. Specifically, the code requires a minimum five-foot landscaped buffer along public rights-of-way and, between commercial and residential uses, the buffer must be densely planted with sight-obscuring trees and shrubs. *TCC 20.45.040*. The kennel, grooming facility, and residence are situated centrally in the southwest portion of the parcel on a large lawn surrounded by naturally-occurring forest or forested wetlands. With a minimum setback of 90 feet from any property line and the evergreen forest around the perimeter of the entire property, the required sight-obscuring vegetation is already in place. The thinnest areas of perimeter vegetation are between the dog grooming facility / attached exercise yard and abutting residences to the south measure roughly 45 feet in depth. Planning Staff determined that no additional landscaping or buffer is required to meet the Code's screening purpose. *Exhibits 1 and 1.X; Google Maps site view.*
16. Addressing the unpermitted expansion of the commercial use on site without benefit of critical areas review, the Applicants were required to obtain a critical area study assessing the wetlands and determining the regulated width and location on the ground of the required buffer. Two wetland areas (Wetland A, south and Wetland B, to the north) were delineated and evaluated. Both depressional wetlands located in natural depressions in the center of the east portion of the site, they were determined to likely have been connected before the site access road was constructed and continue to be hydrologically connected via a culvert beneath the access road. Both have high functions for improving water quality (9), moderate functions for hydrologic (6), and moderate functions for habitat (6), with an overall score of 21 resulting in a Category II rating and requiring a 200-foot buffer. *TCC 24.30.045, Table 24.30-1* The critical areas study reported that buffer areas at the subject site are relatively undisturbed except for the site access road and some areas of maintained landscaping including grass lawn and scattered landscaping plantings. Based on a review of historic aerial photographs of the area, the site access road was built in or before 1990, while structures were built during or before 1996 but after 1990. The critical areas consultant concluded that existing site conditions fall under allowed existing uses per *TCC 24.30.180* and isolated buffer provisions per *TCC 24.30.050.B*, and submitted the position that  
  
...present and future use of the site access road is allowed and proposed land uses located west of the existing site access road should be allowed because this area is considered isolated by the existing site access road, which was legally constructed sometime before

1990 and has been in continuous use since that time. Proposed land uses located east of the site access road will require prior approval from Thurston County and will likely require mitigation if approved.

*Exhibit 1.L.*

17. The Applicants' critical areas study was reviewed by a County biologist, who requested clarification and/or additional information on four points. One of these (a possible clerical error), if changed on clarification, could increase the required size of the wetland buffer, which could mean that the unpermitted expansions have encroached within the standard buffer. This clarifying information was not provided by the Applicants prior to or at hearing. County Staff submitted that if the improvements have encroached within the outer portion of the buffer, the encroachment would be allowed to remain with mitigation plantings. Staff recommended a condition of approval requiring the study to be clarified and the additional information provided, and, if required, mitigation to be proposed, reviewed, approved, and installed. *Exhibits 1 and 1.T.*
18. Water and sanitation facilities were reviewed by the Thurston County Public Health and Social Services Department, Environmental Health Division (EHD). Although the subject property is served currently by an existing single-family well, EHD Staff noted that a public water supply is required because the facility engages off-site employees. The proposal includes converting the existing well into a public water supply to serve the facility. The proposed new well site has been inspected and approved. A Group B public water system design was also approved under Permit 18-106175 HE to serve one residential connection and two non-residential connections (the kennel building and the grooming building). The well would also supply a fire flow reservoir separated from the system by air gap. The new well would be (or already is) designed, engineered, and installed to satisfy Group B requirements; the Group B water system would be managed by a third-party management agency. Similarly, the property is served by an existing on-site septic system, which was originally permitted and approved to serve a two bedroom residence. EHD Staff indicated that tank placement permits were issued in 2001 and 2013 to connect the two buildings to the existing septic system with specific uses and limitations that have since expanded. To meet sanitary code requirements, a new septic system is required to serve the dog spa and kennel facility. An on-site septic system design has been reviewed and approved under Permit 19-107706 HD to serve the two buildings with no more than 11 employees working on the site at any given time. The septic system is required to maintain an annual Operational Certificate with ongoing water use and waste strength monitoring. EHD Staff recommended approval of the proposal subject to seven recommended conditions, which Planning Staff incorporated into the staff report's conditions. *Testimony of Gary Cooper and Steve Petersen; Exhibits 1 and 1.O.*
19. Thurston County Public Works Development Review Section Staff reviewed the submitted trip generation information, the preliminary site plan, and other application materials. Having reviewed the project for access, traffic, and storm water control requirements, Staff recommended approval subject to conditions that were incorporated

into those recommended in the staff report. *Exhibits 1, 1.R, and 5; Arthur Saint Testimony.*

20. The Squaxin Island Tribe and the Nisqually Indian Tribe each provided comments indicating that they had no cultural resource concerns or informational needs. Both requested to be notified in the event of inadvertent discoveries. *Exhibit 1.I.*
21. The Washington State Department of Ecology provided general comments relating to toxics cleanup, water usage and water rights permit threshold, water quality requirements, and erosion control measures. One specific request was for a revised, clarified site plan identifying the accurate limits of the on-site wetland and their buffers. Planning Staff submitted that this revised map was provided to the Shorelines & Environmental Assistance desk. *Exhibits 1 and 1.O.*
22. Thurston County Fire Protection District 8 conducted a site visit to inspect the improvements for emergency access, which requires a 20-foot wide all weather surface traveling to within 150 feet of all points of the structure intended for public occupancy. Inspection also sought to verify the location for the fire department connection to the building automatic fire sprinkler system and the building fire alarm panel and annunciator. The inspection revealed that the driveway and parking areas are suitable for the transport and stationing of fire department apparatus in the event of a fire. Based on the inspection, the Fire District recommended that the Applicants install a sign, of suitable construction, color and size, clearly visible from the east side of the main building (near the parking lot), that identifies the location of the fire department connection to the building, and, the location of the fire alarm and sprinkler controls stations within the building. The District requested a post-occupancy certificate issuance inspection of these additional improvements. *Exhibit 1.P.* Planning Staff incorporated these requests into the recommended conditions of approval. *Exhibit 1.*
23. Thurston County Community Planning & Economic Development Department acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act (SEPA). Following review of the application materials, a Mazama pocket gopher survey and clearance letter, critical areas report and a wetland survey, revised traffic impact analysis, a map of wells within 200 feet, and comments by local, state, and tribal review agencies, the SEPA responsible official issued a mitigated determination of non-significance (MDNS) on November 5, 2021. The MDNS imposed mitigation measures addressing: traffic impact mitigation through fee payment; signage related to fire controls; final inspection and sign off by the Fire Chief after certificate of occupancy issuance; final approvals for the Group B water system; installation and final construction inspection approval of the new on-site septic system and annual operational certification of the system by Thurston County Public Health Department; management of dog solid waste in accordance with the approved solid waste plan; noise control consistent with the County noise ordinance; a requirement that any further expansion receive required Environmental Health review and approvals; preventing glare of light onto adjoining properties; implementation of inadvertent discovery procedures during

any earth work; and various other measures. No appeal was filed and the determination was final on December 3, 2021. *Exhibits 1 and 1.G.*

24. Notice of application was issued June 27, 2019. The significant delay between that notice and the public hearing resulted from Applicants' delays in obtaining qualified professional services, Planning Staff turnover, and covid-related issues. *Exhibits 1 and 1.F; Testimony of Rich Felsing and Gary Cooper.* Written notice of the public hearing was mailed to owners of property within 500 feet of the site on November 24, 2021. Notice was published in The Olympian on December 3, 2021 and posted on-site on November 22, 2021. Notice of the hearing was re-posted December 9, 2021. *Exhibits 1 and 1.A, Rich Felsing Testimony.*
25. The County received several written public comments from neighbors during the comment period objecting to approval of the unpermitted expansion and expressing concerns regarding safety impacts of increased commercial traffic volumes on the rural frontage road, water consumption, septic and dog waste effects on surrounding water supplies, noise and dust from the gravel road, potential impacts to the wetlands, and concern about the Applicants' history of non-compliance with the previous permit. Neighbors expressed dissatisfaction with the existing level of traffic, which is enough to make them feel unsafe walking to nearby Friendly Grove Park because the road lacks shoulders and has drainage ditches on both sides along significant stretches and only one speed limit sign close to the 26th Avenue intersection. Several comments expressed the opinion that the Applicants should bear the costs of improving safety for the residential users of the road, including frontage improvements or at least speed decreasing measures. *Exhibits 1.U, 2, and 5.*
26. At hearing, most public comment testimony focused on the issue of safety for the pedestrian and cycling residential users of Friendly Grove Road. Others expressed concern about impacts to the aquifer from dog waste, from excess septic effluent from dog washing, and from products used to manage dust on the gravel access road. Comment questioned the assertion that no further traffic impact analysis is required, given the percentage of total trips on the road generated by this commercial use. One person testified that they regularly can see six or seven cars lined up waiting to drop off or pick up, and that customers do come to the kennel on Sundays. Those who testified at hearing did not express concern about noise from barking dogs, but they opposed being required to deal with unmitigated commercial traffic on their otherwise rural residential road. *Testimony of Mikel Young, Dr. Joann Young, and Jeff Eberle.*
27. Having reviewed the Applicants' materials and pre-hearing public comment, Planning Staff submitted that the proposal would be expected to generate some level of adverse impacts in the form of non-local traffic generated by the proposed facility, impacting the rural character of the area. Staff also called out the proposal as potentially causing sanitation issues with regard to groundwater quality and noise, the latter of which Staff asserted would be unavoidable. However, Planning Staff submitted that the facility would be adequately served by fire, police, and other public services and would not be expected to impose an undue burden on any improvements, facilities, utilities existing or

planned. The staff report contains no ultimate recommendation for or against approval, but did recommend conditions that should be imposed if approval is granted. *Exhibit 1.* In response to public comment, Planning Staff clarified that the numbers of dogs proposed are a maximum and that any further expansion would require land use review. Staff also clarified that there is no question that available parking is adequate for the proposed full use of the site. *Rich Felsing Testimony.*

28. Addressing water questions, EHD Staff clarified that dog grooming water would go into the new septic system, which was designed by licensed designer who evaluated existing flows and wastewater strength (because there is no actual increase in numbers of dogs proposed). EHD Staff noted that the approved septic system includes a component known as a Glendon Biofilter, which is a proprietary system that provides the highest level of treatment available and was sized to include a safety factor consistent with the Sanitary Code. The conditions of approval recommended by EHD require an annual operational certificate to ensure facility is operating within parameters, and would require samples every six months in addition to monthly water use readings, all reviewed at annual renewal. Regarding dog urine, the Sanitary Code doesn't address animal urine and doesn't consider dog urine different from that resulting from livestock activity on hobby farms; however, Staff reached out to the Water Quality Division and found that the County has no data concerning kennel use impacts to groundwater supplies. He noted that the subject property is not mapped in a high nitrate area. Solid dog waste is the bigger concern. Per the Applicants and the recommended conditions of approval, dog waste on site would be collected twice daily and disposed of offsite at a solid waste facility, similarly to the way public dog parks are managed. *Steve Petersen Testimony.*
29. Addressing traffic concerns, Public Works Staff reiterated that the County accepted the Applicants' traffic counts as adequate study of the actual use, and found that they compared closely to the trip generation information from a professionally prepared traffic study for another kennel use. Members of the public with concerns about speeding traffic and posted speed limit signs are encouraged to contact the Public Works Traffic Division. For the instant project, Staff maintained their recommendation of approval subject to conditions that were incorporated into those in the staff report. *Arthur Saint Testimony.*
30. Addressing water quality impact concerns, the Applicants' representative clarified that the outdoor play area is impervious and submitted that dogs at the facility rarely contact unprotected soil. The representative personally counted vehicles for the three day trip count, following methods stated in the ITE Manual between 4:00 and 6:00 pm and averaged to reach the highest projected peak hour total which was 45 trips in and out. He clarified that 200 dog days, when the kennel is completely full, are rare, and even on highest county days, 50 dogs are boarded overnight, not generating daily trips. The representative stated that the Applicants are sympathetic to the neighbors' concerns about the safety of roadway. Noting it is a two lane road with no shoulders, he submitted it should not be used for walking. Regarding concerns that a commercial use would generate the proposed amount of traffic, he noted it is a public road and the kennel use is expressly allowed in the zone. If this land use approval is granted, the Applicants will have or be able to acquire and abide by all required County permits and to operate in

accordance with all applicable County standards. The Applicant testified that the kennel is closed on Sundays and that he personally requires one day a week with no business traffic on his driveway. He agreed that speeding is a concern, and submitted that it is not just his customers who speed. *Testimony of Gary Cooper and John Cinciripini.*

## CONCLUSIONS

### **Jurisdiction:**

The Hearing Examiner has jurisdiction to decide this special use permit application under Sections 2.06.010 and 20.54.015 of the Thurston County Code, and Section 36.70.970 of the Revised Code of Washington.

### **Special Use Permit 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 20.54.040 are satisfied:

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

### **Use-Specific SUP Criteria for Kennel Uses (Chapter 20.54.070(19)):**

Pursuant to TCC 20.54.070(19), the following use-specific standards apply to kennels housing eleven or more dogs:

- a. If dogs are kept or let outside unleashed, they shall be kept in a fenced enclosure.

- b. The setback standards in Section 20.07.030 for animals housed inside a structure shall apply.
- c. Visual screening, increased setback, increased lot size and other conditions may be required by the approval authority taking into account safety, noise and odor factors.
- d. Kennels within the McAllister Geologically Sensitive Area (MGSA) and R 1/10 districts shall be subject to a waste management plan approved by the hearing examiner which minimizes the risk of groundwater contamination.

### **Conclusions Based on Findings:**

1. An expanded kennel use, including the specific activities proposed and the 50 dog limit for overnight boarding, with 150 maximum additional dogs for day only services, is allowed in the RRR 1/5 zone with SUP approval. Conditions of approval would ensure that the project complies with all applicable County, state, and federal regulations. *Findings 1, 3, 6, 7, 8, 19, 20, 21, 22, and 23.*
2. The purpose of the RRR 1/5 zone includes providing for opportunities for compatible “other rural land uses” that are conducted in a manner that; is sensitive to the site’s physical characteristics. Because the kennel use is expressly allowed in the zone per TCC 20.54.070(19), it is considered by the zoning ordinance to be a “rural land use.” Despite having been constructed without benefit of land use review and approval, the commercial structures and parking area are located on the 27.76- acre parcel such that minimum setbacks required by the zone and required for animal-containing structures are greatly exceeded. The improvements also satisfy the maximum 10% impervious surfaces limit of the zone. All bulk dimensional requirements are satisfied with the possible exception of some intrusion into wetland buffers, if the critical area report contains the typo County biologists suspect it contains. However, if clarification of that uncertainty reveals the improvements are encroaching into the standard wetland buffer, the County biologists recommended that the encroachments be allowed to remain so long as mitigation plantings are provided. Conditions of approval would ensure this question is resolved. *Findings 3, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, and 19.*
3. The use is allowed in the zone; neither the special use permit kennel-specific criteria nor the RRR 1/5 provisions limit the capacity of the kennel. So long as the site is large enough to allow adequate mitigation for the impacts of the use, it can be approved on the subject property. At 27.76 acres, the site is adequate to accommodate the proposed volume of up to a maximum of 200 dogs. The property has been in use as a commercial kennel for nearly 20 years and has been operating at its proposed volumes for several years; it has become an established part of the neighborhood character. Adequate parking is provided on-site. Of note, the kennel is already operating at the proposed capacity. The instant decision would not increase impacts beyond those already experienced by neighbors. Conditions of approval would address these impacts, which are primarily traffic and solid waste. Although trip volumes from the commercial use was identified as a concern in most comments and in the opinion of Planning Staff, the record demonstrates that the project’s traffic does not exceed the capacity of Friendly Grove Road nor cause the use to be inconsistent with applicable County road standards. The

Environmental health Division accepted the Applicants' solid waste plan and conditions would ensure that it is implemented in a manner that adequately protects drinking water quality in surrounding wells and in groundwater generally. Noise from dog barking has been addressed by the Applicants through extensive mitigation and programming choices; the record reflects that dog barking is not a primary concern among neighbors. Conditions of approval for the instant SUP would necessarily result in improvements to the safety of domestic water supply on site and septic management on site, improving operations over current and past conditions to the benefit of public health, bringing the use into full compliance with the Sanitary Code. The final fire inspection required by conditions would ensure that emergency services access/provision would meet current Fire Code, to the benefit of public safety. Specifically addressing the Applicants' use of the road, the use is permitted in the zone, the project's trip volumes do not even rise to the level of requiring full traffic impact analysis, and the road has capacity for project trips. The Applicants' use did not cause the existing condition of the road's lacking safe pedestrian facilities. On the record submitted, the undersigned is persuaded that there are no regulations in place that require the Applicants to provide off-site frontage improvements to bring the existing rural road up to a higher level of service prior to being allowed to use the public road for their commercial use. Considering the evidence as a whole, the use as conditioned would not result in undue adverse impact to adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. *Findings 3, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, and 30.*

4. The record demonstrates compliance with the use-specific standards applicable to kennels established at TCC 20.54.070(19). When dogs at the facility are outside unleashed, they would be within a fenced enclosure setback more than 50 feet from any property boundary. Existing dense mature vegetation surrounding the facility's location on the subject property and the lot is more than five times the size of the minimum lot size in the underlying zone, which features together address safety, noise, and odor concerns. *Findings 2, 3, 8, 9, 10, 11, 12, 25, 26, 27, 28, 29, and 30.*

### **DECISION**

Based on the preceding findings and conclusions, the request for after-the-fact approval of an amended special use permit to authorize a commercial kennel to board up to 50 dogs overnight and up to 150 additional dogs for day care and/or grooming services, for a maximum of 200 dogs, and to authorize occasional special events for pet owners and professional dog handlers is **GRANTED** subject to the following conditions:

#### Inadvertent Discovery

1. In the event that ground-disturbing activities or project related work encounters protected cultural material or archaeological artifacts, all work shall be immediately halted and the area secured. The contractor/applicant/project representative shall contact the Washington State Department of Archaeology and Historic Preservation (DAHP, (360)



628-2755 or (360) 586-3065), the appropriate tribal contacts (THPO), and the Thurston County Community Planning & Economic Development Department (CPED). Work shall not resume without the express approval of the Thurston County CPED Planning Manager. If human remains or evidence of burial are discovered, all work shall stop immediately, the area shall be secured, and the contractor/applicant/project representative shall contact the DAHP, the Thurston County Sheriff's Department (360-754-3800), and the Thurston County Coroner (360-867-2140) to determine if the remains are forensic in nature. No work shall be conducted without the express approval of the Thurston County CPED Planning Manager.

### ***State of Washington Department of Ecology (Exhibit 1.O)***

#### **Water Rights Permit**

2. The Applicants shall obtain a Water Rights Permit for the irrigation of more than one-half acre of lawn or noncommercial garden, or for groundwater withdrawals in excess of 5,000 gallons per day. Water Resources – Vicki Cline (360) 407-0278.

#### **Smelter Plume/ Toxics Cleanup**

3. 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 apparent or revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator at (360) 407-6300 (SWRO). Toxics Cleanup – Thomas Middleton (360) 407-7263.

#### **Water Quality / Erosion Control**

4. 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. Water Quality/Watershed Resources – Greg Bengé (360) 690-4787.

### ***Building Department***

#### **Change of Use Occupancy Permit**

5. Prior to issuance of this Special Use Permit, and prior to operation, the Applicants shall obtain a Change of Use Occupancy Permit from the Thurston County Building Department.

### ***Critical Area Review and Mitigation***

#### **Wetland Report Review / Mitigation Measures**

6. Prior to issuance of the Change of Use Occupancy Permit (condition #5), the Applicants shall provide the information requested to fully review the critical area report (Exhibit 1.L). If this additional information results in a higher wetland rating and increased wetland buffer, such that the unpermitted expansions of the dog grooming structure, parking lot, and attached exercise yard occurred within that larger wetland buffer, a mitigation proposal shall be submitted to the Community Planning and Economic Development Department, which must receive approval, and the Applicants shall install

mitigation plantings within the standard critical area buffer and receive final inspection approval prior to certificate of occupancy issuance.

***Fire Department***

7. Prior to permit issuance, the Applicants shall install a sign, of suitable construction, color and size, clearly visible from the east side of the main building (near parking lot), that identifies the location of the fire department connection and the fire alarm and sprinkler controls within the building (Exhibit 1.P).

***Fire Protection Site Visit***

8. The owner shall coordinate with Fire Chief Brian VanCamp, South Bay Fire Protection District 8, after certificate of occupancy, so that the Fire Chief can schedule an on-site visit by District staff in order to include the facility in the Fire Departments' pre-incident operations plans.

***Environmental Health Department Recommended Conditions***

9. The Group B public water system must receive final approval within 30 days from the date the instant special use permit approval becomes final. In the event the water system does not receive final approval, the facility will be subject to enforcement, including penalties pursuant to Article I of the Thurston County Sanitary Code.
10. The new on-site septic system must be installed within six weeks from the date the instant special use permit approval becomes final. The record drawing must be submitted no later than 30 days after installation. In the event the new septic system is not installed or does not receive final construction approval, the facility will be subject to enforcement, including penalties pursuant to Article I of the Thurston County Sanitary Code.
11. An annual Operational Certificate is required for the new on-site septic system proposed to serve the facility. Semi-annual waste strength samples must be taken by a monitoring specialist certified by Thurston County Environmental Health, and monthly water use figures must be collected and submitted during annual renewal of the Operational Certificate.
12. All dog waste shall be collected as outlined in the solid waste handling plan or more often if needed. The dog waste shall be properly stored in such a manner and location that if the container is ruptured, the contents will not be released to the environment.
13. The facility must comply with the noise standards of Thurston County Code Title 10, Chapter 10.36, and Washington Administrative Code ( WAC), Chapter 173-60.
14. Any potentially hazardous materials shall be stored and handled in such a way that any spilled or released materials are contained inside a secondary container (which may include a structure) and are not allowed to release to the environment.

15. Any expansion of the operations will require additional review and approval by Environmental Health.

### ***Public Works Recommended Conditions***

#### **Roads**

16. The proposed roadway in concept and design shall conform to the Road Standards
17. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction in the right-of-way.

#### **Traffic Control Devices**

18. Traffic control devices, if any, 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.
19. 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 Applicants shall be transferred to the Applicants.

#### **Drainage**

20. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
21. 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.
22. 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.

#### **Traffic**

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

#### **General Conditions**

24. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
25. 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.

26. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 360-867-2051 for a final inspection.
27. 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 Applicants. 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 Applicants.

### ***Planning Recommended Conditions***

#### **Lighting**

28. Adequate lighting shall be provided and shall function in a manner which shields direct light from adjoining streets and properties (TCC 20.40.060 - Lighting).
29. 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.
30. All development on the site shall be in substantial compliance with the approved site plans, landscape plans, and conditions of approval. Any expansion or alteration of this use will require review and approval. Community Planning & Economic Development will determine if any proposed amendment is substantial enough to require a new permit.
31. The proposed use must comply with the noise standards of the Thurston County Ordinance, Title 10, Chapter 10.36 and Washington Administrative Code (WAC), Chapters 173-58.

#### **Business Operations**

32. The kennel shall be operated in substantial conformance with the submitted business plan and conditions of approval. The approved special use permit is limited to 50 overnight dogs and not more than 150 day care/grooming dogs, for a maximum of 200 dogs on site at once. Any further expansion of structures, paved areas, or numbers of dogs served shall require advance Building and/or land use reviews and approvals.

33. The owner 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.

DECIDED January 18, 2022.



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

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

**D. FILING FEES AND DEADLINE** If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$804.00** for a Request for Reconsideration or **\$1,093.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development 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 ☐ \$804.00 for Reconsideration or \$1,093.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Filed with the Community Planning & Economic Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.