



COUNTY COMMISSIONERS

John Hutchings

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)	NO. 2019103185
)	
Lake Forest Home Association)	Lake Forest Community Park
)	
For Approval of a)	
Shoreline Substantial Development Permit)	FINDINGS, CONCLUSIONS,
)	AND DECISION
)	

SUMMARY OF DECISION

The requested shoreline substantial development permit to remove an existing bulkhead, concrete retaining walls, and concrete steps from the shoreline at the Lake Forest Home Association community park, to replace these features with rock retaining walls, and install access and landscaping improvements is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Kathleen Emmett on behalf of Lake Forest Home Association (Applicant) requested a shoreline substantial development permit (SSDP) for the following improvements at its community park on Long Lake:

- Remove existing concrete bulkhead, terraced concrete retaining walls, and concrete steps from the shoreline;
- Install a series of rock walls upland from the removed concrete features to provide more natural-appearing shoreline stabilization, with rock steps providing access between the tiers;
- Install pathways leading to the shoreline area, including a concrete path and a winding gravel path that would allow users to reach an existing dock from the upland area without having to use stairs;

- Install a gravel beach at the shoreline; and
- Install landscaping including lawn grass and native vegetation throughout the development area.

The subject property is located at 3900 Walthew Drive SE, Olympia, Washington.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the request on February 25, 2020.

Testimony:

At the hearing the following individuals presented testimony under oath:

Leah Davis, Associate Planner, Thurston County Community Planning & Economic Development Department
 Dawn Peebles, Thurston County Environmental Health Division
 Arthur Saint, Thurston County Public Works
 Jeff Heard, Applicant Representative
 Kathleen Emmett, Applicant Representative
 Kent Johnson

Exhibits:

At the hearing the following exhibits were admitted in the record:

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

Attachment A	Notice of Public Hearing
Attachment B	Master Application, submitted June 27, 2019
Attachment C	JARPA Application, submitted June 27, 2019
Attachment D	SEPA Application, submitted June 27, 2019
Attachment E	Site Plan, dated September 6, 2019
Attachment F	Topographic survey, received June 27, 2019
Attachment G	Site plan detail, submitted June 27, 2019
Attachment H	Notice of Application, dated October 21, 2019
Attachment I	Adjoining property owners mailing list and map

- Attachment J Mitigated Determination of Non-Significance, issued January 3, 2020
- Attachment K Comment memo from TC Environmental Health, dated October 21, 2019
- Attachment L Comment letter Department of Ecology, dated August 2, 2019
- Attachment M Analysis results for toxics test, dated December 11, 2019
- Attachment N Department of Ecology acceptance letter, dated December 17, 2019
- Attachment O Comment letter from Nisqually Indian Tribe, dated October 24, 2019
- Attachment P Comment from Squaxin Island Tribe, dated October 21, 2019
- Attachment Q Comment letter from neighbor Scott Engler, dated November 10, 2019
- Attachment R Photos (3) of existing conditions

EXHIBIT 2 Photos of posted notice

EXHIBIT 3 Enlarged site plan, color landscape plan, and sample photos (three 11x17 sheets)

Based on the record developed at hearing, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

FINDINGS

1. The Applicant requested a shoreline substantial development permit (SSDP) for the following improvements at its community park on Long Lake:
 - Remove existing concrete bulkhead, terraced concrete retaining walls, and concrete steps from the shoreline;
 - Install a series of rock walls upland from the removed concrete features to provide more natural-appearing shoreline stabilization, with rock steps providing access between the tiers;
 - Install pathways leading to the shoreline area, including a concrete path and a winding gravel path that would allow users to reach an existing dock from the upland area without having to use stairs;
 - Install a gravel beach at the shoreline, stabilized by a one-foot tall rock border; and

Install landscaping including lawn grass and native vegetation throughout the development area.

The intent of the project is to improve the safety and aesthetics of the park, and to provide a robust replacement for the aging existing structures. The subject property is located at

3900 Walthew Drive SE, Olympia, Washington.¹ *Exhibits 1, 1.B, 1.C, 1.G, 1.R, and 3; Jeff Heard Testimony.*

2. The SSDP application was submitted on June 27, 2019 and determined to be complete for commencing project review on September 6, 2019. *Exhibit 1.H.*
3. The subject property is a 4.4-acre tract of Lake Forest Division 2, which was platted in 1979. It is a private park providing recreational opportunities including picnicking, swimming, and fishing for 419 homes. Existing improvements include a dock, a vault toilet, a picnic shelter, a maintenance shed, and playground equipment in addition to the concrete bulkhead, retaining walls, and stairs proposed for removal. Much of the parcel is forested. Surrounding development is residential. *Exhibits 1, 1.R, and 3; Jeff Heard Testimony.*
4. The subject property is within the Lacey Urban Growth Area and is zoned Low Density Residential 0 to 4 Dwellings per Acre (LD 0-4). *Exhibit 1.*
5. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as Rural shoreline environment. *Exhibit 1.* Recreation facilities, including parks and playgrounds, are allowed in the Rural environment subject to the standards contained in the SMPTR. *Exhibit 1; SMPTR, Section 3, Chapter XIV(D).* The project requires an SSDP because its value exceeds the permit threshold of \$7,047.00. *Exhibit 1.C; WAC 173-27-040; WSR 17-17-007.*
6. The proposal is expected to improve shoreline functions by removing the concrete bulkhead from the water's edge and replacing it natural rock structures and vegetation to be located further landward. *Exhibit 1; Leah Davis Testimony.*
7. The tallest rock wall would be approximately four feet high. *Exhibit 3.*
8. The only fill proposed is the placement of 10 to 12 cubic yards of fish mix gravel on the beach area. No fill would be placed below the FEMA base flood elevation. No dredging would occur. *Exhibits 1 and 1.D.*
9. Proposed methods of controlling erosion include timing the construction to occur in the summer months, use of silt fencing, sandbags and berms, and planting native vegetation after soil disturbance activity is complete. The Applicant proposes to limit structure removal work to a maximum of five days to reduce the duration of disturbance and any resultant turbidity. *Exhibits 1.C and 1.D.*
10. The County's biologist made two site visits to review for the presence of the Mazama pocket gopher and did not detect any gopher mounds. In addition, no regulated prairie vegetation was observed on site. *Exhibit 1; Leah Davis Testimony.*

¹ The legal description of the subject property is: S 26 T 18 R 1W Plat LAKE FOREST DIV 2 Doc 021032 COMMUNITY PARK; also known as Tax Parcel Number 5812040000. *Exhibit 1.*

11. The Thurston County Environmental Health Division reviewed the proposal and submitted that it meets the requirements of the Thurston County Sanitary Code, and recommended approval of the application. *Exhibit 1.K.*
12. The subject property is located in an area identified by the Department of Ecology (DOE) as being potentially contaminated by heavy metals from emissions from the old Asarco smelter in Tacoma. As recommended by the DOE, the Applicant had the site soils tested for the presence of lead and arsenic. The DOE reviewed the results and concluded that the amounts detected were below the levels requiring remediation under state law. *Exhibit 1.N.*
13. The Nisqually Indian Tribe and the Squaxin Island Tribe commented that they did not have any issues of concern but requested to be informed if any archaeological or cultural resources are found during construction. *Exhibits 1.O and 1.P.*
14. Thurston County acted as lead agency for environmental review of the proposal under the State Environmental Policy Act (SEPA) and issued a mitigated determination of non-significance (MDNS) on January 3, 2020. The MDNS, which was not appealed, contains six mitigating measures requiring: protection of archaeological resources; erosion control; removal of construction debris; containment and removal of pollutants; restriction of construction hours (7:00 am to 7:00 pm); and compliance with the SMPTR. *Exhibit 1.J.*
15. Notice of the open record hearing was mailed to property owners within 300 feet of the subject property on February 7, 2020, published in *The Olympian* on February 14, 2020, and posted on site on February 13, 2020. *Exhibits 1, 1.A and 2.*
16. At the hearing, questions were raised as to time limitations for completing development activities authorized by an SSDP, as the Applicant has not yet put the project out for bid. *Testimony of Jeff Heard and Leah Davis.* The shoreline regulations contained in Section 173-27-090 of the Washington Administrative Code (WAC) require construction activities to *commence* within two years of the effective date of the SSDP, but allow local governments to grant a one-year extension based on reasonable factors if a request is submitted prior to the expiration date. The authorization to conduct development activities then terminates five years after the permit effective date unless a one-year extension is granted. *WAC 173-27-090 (emphasis added).*
17. Public comment on the application related to tree preservation. The property owner to the north requested that his fir tree located near the common property line be protected during construction. *Exhibit 1.Q.* At hearing, another neighboring property owner requested that special care be taken to preserve Madrona (Pacific madrone, *Arbutus menziesii*) trees located in or near the construction area. *Kent Johnson Testimony.*
18. County Staff addressed these concerns by recommending a condition of approval that the Applicant install a protective construction fence a minimum of five feet outside the

dripline of the neighbor's fir tree, and during the hearing, recommending an additional condition requiring Madrona trees to be protected during construction. *Exhibit 1; Leah Davis Testimony*. The Applicant representative testified that the HOA knows the neighbor who has the fir tree in question and enjoys a productive, freely-communicating relationship with that individual, and that the Applicant would take all required precautions to preserve the fir tree in question. Regarding Madrona trees, the Applicant representative testified that to his knowledge, no Madrona trees would be in harm's way, and that no mature trees are being removed. The representative indicated a high degree of regard for maintenance of native vegetation in the park and waived objection to the two tree protection conditions recommended by Staff. *Jeff Heard Testimony*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to RCW Chapter 36.70, WAC 173-27, Thurston County Code 2.06.020.C, and Section One, Part V of the Shoreline Master Program for the Thurston Region.

Criteria for Review

Shoreline Substantial Development Permit (WAC 173-27-150)

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

A. Shoreline Management Act

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster "all reasonable and appropriate uses" and to protect against adverse effects to the public health, the land, and its vegetation and wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the

overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

B. Applicable regulations from the Washington Administrative Code

WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

WAC 173-27-090 Time requirements of permit.

- (1) The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and this chapter, local government may adopt different time limits from those set forth in subsections (2) and (3) of this section as a part of action on a substantial development permit.
- (2) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.
- (3) Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.
- (4) The effective date of a substantial development permit shall be the date of filing as

provided in RCW 90.58.140(6). The permit time periods in subsections (2) and (3) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

- (5) Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired: Provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
- (6) Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

C. Shoreline Master Program for the Thurston Region

The Shoreline Master Program for the Thurston Region (SMPTR) designates the shoreline jurisdiction on the subject property as Rural. The proposed development activities are subject to the “Recreation” policies and regulations of the SMPTR (Section Three, Chapter XIV).

SMPTR Section Three, Chapter XIV, Part B. Policies

1. Priorities for recreational development of shorelines should relate directly to densities and unique characteristics of the population served. Priorities for acquisition should consider need and special opportunities as well as access by public transit.
2. All recreational development projects should be considered on the basis of their compatibility with the environment.
3. Access to recreational locations such as fishing streams and hunting areas should be planned to prevent concentration of use pressures.
4. The linkage of shoreline parks and public access points through provisions for linear open spaces should be encouraged. Such open space could include hiking paths, bicycle paths and/or scenic drives located as close to the water’s edge as feasible.
5. Recreational developments should be designed to preserve, enhance, or create scenic views and vistas. Favorable consideration should be given to those projects that complement their environment.
6. Where possible, parking areas should be located inland, away from the immediate edge of the water, and recreational beaches, and should be linked with the shoreline by walkways.
7. Recreational development should comply with all applicable city, county, state, and federal regulations.
8. Facilities for intensive recreational activities should be permitted only where sewage disposal and pest control can be accomplished to meet public health standards without altering the environment adversely.

9. Development of public fishing piers, underwater fishing reefs, and access to public waters and tidelands should be encouraged as part of an overall recreation plan or development.
10. Where appropriate, non-intensive, recreational use should be encouraged in flood plains that are subject to recurring flooding.
11. Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity.

SMPTR Section Three, Chapter XIV, Part C. General Regulations

1. Public access points on lakes must provide parking space appropriate for the intended use.
2. Recreation facilities or structures which are not compatible with the environmental designation in which they are proposed are prohibited.
3. Events and temporary uses in the public interest may be approved by the Administrator in any environment, provided that such uses will not damage the wetland environment.
4. Recreational developments must provide facilities for non-motorized access, such as pedestrian, bicycle, and/or equestrian path links to the shoreline.
5. Sewage disposal and pest control must meet public health standards; waste must not be allowed to enter the water.
6. The following regulations shall apply to artificial aquatic life habitats ... [N/A]
7. Public or private recreation areas which cater to the use of all-terrain or offroad vehicles as the primary recreational activity shall not be allowed in the shoreline areas.
8. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer ... [N/A]
9. Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.

SMPTR Section Three, Chapter XIV, Part D. Environmental Designations and Regulations

...

2. Rural Environment. Low to medium intensity recreational uses shall be permitted on Rural Environment shorelines, subject to the general regulations and following specific regulations.
 - a. A recreational facility or structure which changes or detracts from the character of the Rural Environment (by building design or intensity of use) shall be prohibited.
 - b. Roads, parking and vehicular camping facilities, including restrooms, shall not be located within fifty (50) feet of the ordinary high-water mark of any shoreline with the exception of access to boat launching facilities. Parking facilities and roadways may be within fifty (50) feet only if they provide access for handicap or for scenic viewpoints. Maintenance or upgrading of existing roads, parking and/or vehicle camping facilities including restrooms is permitted provided the

area devoted to these facilities is not enlarged. Pedestrian and hiking trail access shall be provided to link upland facilities with the shoreline.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.
- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.
- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

Conclusions Based on Findings

- 1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. The project would result in more natural shoreline features compared to existing conditions, would improve the aesthetics of the shoreline, and would improve shoreline access for the hundreds of residents within the Lake Forest

community. Conditions are needed to ensure that the fir tree to the north of the subject property is protected during construction and that the Madrona trees adjacent to (or within) the project envelope are protected during construction sufficiently to ensure their preservation. Erosion control measures would be implemented on the site. *Findings 1, 3, 6, 9, 17, and 18.*

2. As conditioned, the proposal complies with applicable regulations in the Washington Administrative Code. The project is being reviewed for compliance with the SMPTR. The rock walls would not be more than 35 feet over average grade. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. The permit limitations contained in WAC 173-27-090 need not be addressed in this decision; the Applicant may seek a one-year extension from the County prior to the two-year permit anniversary and another one-year extension prior to the five-year construction end date, if conditions warrant. *Findings 7 and 16.*
3. As conditioned, the proposal is consistent with the applicable Recreation policies and regulations of the SMPTR. The project would: improve shoreline access with walking paths; improve scenic views, particularly from the water; comply with state toxic substance requirements, federal floodplain requirements, and County critical areas requirements; and comply with public health standards. The park is a long-established use for which no additional parking is proposed or required by this decision. *Findings 1, 3, 8, 10, 11, 12, 14, 17, and 18.*
4. As conditioned, the proposal is consistent with the applicable regional criteria. The project would include erosion control measures to protect water quality, would eliminate poor-quality development from the shoreline, and would be protective of public health. *Findings 1, 9, 11, and 12.*

DECISION

Based on the preceding findings and conclusions, the requested shoreline substantial development permit for redevelopment of the existing waterfront park on Long Lake is **GRANTED** subject to the following conditions:

1. Development of the 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. The six conditions outlined in the January 3, 2020 mitigated determination of non-significance shall be satisfied during development of the proposal.
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 readily apparent, or is revealed by testing, the Washington State Department of Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the southwest Regional Office at (360) 407-6300.

4. Erosion control measures shall 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 storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.
5. Prior to the onset of any construction or staging of equipment, a protective construction fence shall be installed a minimum of five feet outside the dripline of the fir tree on the Engler property to the north. All Madrona trees within or adjacent to the project area shall be identified and protected with similar construction fencing during construction such that they are permanently preserved.
6. The Applicant or contract shall remove all construction debris including concrete, soil, and other debris to an appropriate/approved upland site for recycling or landfill.
7. The Applicant and all contractors shall immediately cease work and inform the Department of Archaeology and Historic Preservation (360-586-3065) if there are inadvertent discoveries of archaeological resources and/or human burials.
8. The Applicant is responsible for obtaining all required permits from local, state, and federal agencies.
9. Construction pursuant to this permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

Decided March 10, 2020.



Sharon A. Rice
Thurston County Hearing Examiner

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

NOTE: 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).

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 **\$750.00** for a Request for Reconsideration or **\$1,051.00** 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 ☐ \$750.00 for Reconsideration or \$1,020.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____ 20____.