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HEARING EXAMINER

Creating Solutions for Our Future

OFFICE OF THE HEARING EXAMINER

THURSTON COUNTY

REPORT AND DECISION

PROJECT NAME.: STOKER SHOP CONVERSION - REASONABLE USE EXCEPTION

PROJECT NO.: 2021105593

SEQUENCE NO.: 21 112767 XI

APPLICANT: Chad and Heather Stoker
6916 Bayview Dr. NE
Olympia, WA 98506

LOCATION ADDRESS: 7022 Boston Harbor Ext Rd NE
Olympia, WA 98506

TAX PARCEL NO.: 35905800100

LEGAL DESCRIPTION Section 14 Township 19 range 2W Quarter SW NW & NW SW
Plat Boston harbor Blk 58 Lt 1-7 Document 008/031 & VAC
ALLEY ADJ ON W

REPRESENTATIVE: Alex Callender
Land Services NW
120 Stave Ave NE PMB 190
Olympia, WA 98501

PLANNER: Richard Felsing, Associate Planner

SUMMARY OF REQUEST: The Applicants request approval of a Reasonable Use Exception to install a septic line in a reduced wetland buffer to allow a conversion of an existing accessory agricultural structure to a single-family residence. The conversion would occur within the existing structure

footprint. The approximately 43-foot proposed septic tightline would link the converted structure to an existing septic tank and drainfield on an adjacent parcel and result in 304-square feet of temporary impact to the buffer. A mitigation planting totaling 2,071-square feet in buffer enhancements is proposed between Wetland A and the structure to be to-be-converted.

SUMMARY OF DECISION: Approved with Conditions.

DATE OF DECISION: September 8, 2022

PUBLIC HEARING:

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

The hearing was opened on August 16, 2022 at 11:00 a.m. Parties wishing to testify were sworn in by the Examiner.

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

- EXHIBIT 1 - Community Planning and Economic Development Report**
- Attachment A - Notice of Public Hearing; July 28, 2022**
- Attachment B - Master and Reasonable Use Exception Applications; October 15, 2021**
- Attachment C - Site Plan; October 15, 2022**
- Attachment D - Wetland Analysis Report and Reasonable Use Exception No Net Loss Mitigation Plan; October 7, 2021 and submitted October 15, 2021**
- Attachment E - Notice of Application; April 27, 2022**
- Attachment F - Memorandum; Amy Crass, Thurston County Public Health and Social Services Department; November 29, 2021**
- Attachment G - Comment letter; Brad Beach, Nisqually Indian Tribe; November 1, 2021**
- Attachment H - Comment email; Shaun Dinubilo, Squaxin Island Tribe; May 3, 2022**
- Attachment I - Comment memo; Shannon Peterson (Utilities), Thurston County Public Works; November 5, 2021**
- Attachment J - Building Permit for Shop/Garage/Ag Structure; 8/18/2000**
- Attachment K - Septic Line Easement, AFN 9005220043. Note: One Assessor's File Number for an easement recorded twice, against Parcel Nos. 35905801700 and 35905800800**
- Attachment L - Priority Habitats & Species (PHS) Report**
- Attachment M - 1907 Boston Harbor Plat**
- Attachment N - Wetland Analysis & Non-Compensatory Mitigation Plan
(Available upon request)**
- Attachment O - Figure 4; Site Plan with 105-foot Reduced Buffer and Mitigation Planting**
- Exhibit 2 - Post Hearing Note From Staff; August 18, 2022**

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

RICHARD FELSING, Associate Planner, appeared and initially noted for the record that incorrect texts had been incorporated on pages 7 and 8 of the Staff Report reviewing criteria numbers 4 and 5 of Thurston County Code (TCC) 24.45.030 and that he would provide the appropriate language within 24-hours. (Ex. 2) Mr. Felsing then testified that the accessory structure to store agricultural products was permitted in 2000 and is now considered legally non-conforming as the County Critical Area Ordinance (CAO) has been revised. A Reasonable Use Exception is required to install a new septic line in a reduced wetland buffer to allow the conversion of an existing accessory agricultural structure to a single-family residence as it is considered "different in kind from the legally existing nonconforming uses." (TCC 24.50.035B) In addition, the system is considered a new residential use within the inner 75% of a wetland buffer which is prohibited. (TCC 24.30) This proposal is straightforward as a majority of the septic line is being routed around the buffer area. The 304-square feet of temporary impact to the buffer to connect the septic tightline to the existing septic drainfield is the only impact that would occur within the 105-feet of reduced wetland buffer and the approximate 43-foot long proposed septic line is the minimum alteration of the buffer. Any impact to the wetland buffer will be mitigated by 2,071-square feet of mitigation plantings.

DAWN PEEPLES, Senior Environmental Health Specialist, appeared and testified that Environmental Health has reviewed the application and has no objections. The project site plan meets plans on file with the existing septic system which received final construction approval on November 19, 2021, with the exception of the 43-foot line from the structure to the drainfield. (Att. F)

CHAD STOKER, Applicant, appeared and testified that the prior owner had built the accessory building and installed the septic system lines that were permitted by the County but had not been able to complete the connection sewer line to the drainfield. Mr. Stoker has been able to obtain easements on two adjacent parcels to enable the connection to be completed. He noted that the County has agreed to provide water hookups which have been approved.

ALEX CALLENDER, Wetland Biologist, Land Services NW, appeared on behalf of the Applicant and testified that this project is a continuation of a previous project to construct and replace the Applicants' primary residence. Wetland mitigation for that project encompasses much of the area to be mitigated herein so the proposed mitigation will enhance and complete the wetland buffer mitigation. The main impacts in this project are considered to be temporary and will be quickly resolved. The system is designed to Thurston County standards so there should be no seepage.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 11:25 a.m.

The Examiner held the record open through August 18, 2022, for public comment from members of the public who tried to join the virtual hearing but were unable to join/make comment during the meeting due to technology or access problems. If there is no timely post hearing public comment, the record would close for public comment on August 18, 2022, and the 10-business day decision deadline would be September 1, 2022. If there is public post-hearing comment, Staff and Applicant may respond by August 22, 2022, and the record would close on August 22, 2022, and the 10-business day decision deadline would be September 6, 2022.

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

FINDINGS:

1. The Applicants filed the Master Application (Att. B), the Supplemental Application Reasonable Use Exception (Att. B) and Site Plan (Att. C) on October 15, 2021, in Project No. 2021105593 to install a septic line in a reduced wetland buffer.
2. The construction of single-family residences, driveways and septic systems are categorically exempt from the requirements of the State Environmental Policy Act (SEPA) (WAC 197-11-800(1)(a) and b(i)), and per TCC 17.09.055(B).
3. The Notice of Land Use Application was issued on April 27, 2022, with a comment period ending on May 17, 2022.
4. In a letter dated November 1, 2021, Brad Beach on behalf of the Nisqually Indian Tribe noted no special comments or concerns but did request to be informed if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials. (Att. G)
5. In an email dated May 3, 2022, Shaun Dinubilo on behalf of the Squaxin Island Tribe Cultural Resources states that the project area has a high potential for the location of cultural resources but due to the nature of the project they had no specific cultural resource concerns, but would concur if DAHP recommended cultural resources surveys, At a minimum, he requested to be informed if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials condition. (Att. H)
6. In a memorandum dated November 29, 2021, and as testified to by Dawn Peebles, Senior Environmental Health Specialist, Amy Crass commented that the Thurston County Environmental Health Division had reviewed the request and had no objections and noted that "the proposed residence will be served by an existing on-site septic system and the Boston Harbor Group A Water System. (Att. F)
7. The Thurston County Public Works Department closed their review with no comments. The Thurston County Floodplain Manager has no objection to the proposal.
8. In a memorandum dated November 5, 2021, Shannon Peterson of the Thurston County Public Works Utilities group had reviewed the application and recommended conditions of approval related to the Thurston County Water and Sewer Development Standards and general charges and fees. (Att. I)

9. Written notice of the public hearing was mailed to all property owners within 500-feet of the site on July 28, 2022, and was published in The Olympian on August 5, 2022, at least ten (10) days prior to the hearing. (Att. A)
10. The Applicants, Chad and Heather Stoker, have a possessory interest in three contiguous parcels. The Applicants' single-family residence is located on the southwest parcel, no. 35905801700. An existing accessory structure known as the "Ag Building" which is proposed to be converted to a single-family residence is located on the subject eastern parcel, no. 35905800100. The septic drainfield that serves the Applicants' residence is located on the northwest parcel, no. 35905800800, and is proposed to serve the new converted residence. (Att. O) The subject parcel is located at 7022 Boston Harbor Ext Rd NE, Olympia, WA 98506 and was formed through the consolidation of Lots 1-7 of Block 58 of the original 1907 Boston Harbor Plat along with half-width street vacations. (Att. M) A building permit was issued for the "Ag Building" on August 18, 2000 (Att. J) under then-applicable RR1/2 zoning designation. Subsequent updates to the Thurston County zoning code and the adoption of the Critical Areas Ordinance (CAO) re-affirmed its status as a legal nonconforming parcel in relation to its current RRR1/5 zoning and to the CAO.
11. The .55-acre subject property is relatively flat but has a slope to the west. A relatively small seasonally flooded depressional wetland located just off-site to the east dries up during the dry season and has been disturbed in some off-site portions. Himalayan blackberry and reed canary grass are found in and around the wetland. The property to the south has some historic fill and there are remnants of wetland vegetation along the property line where the adjacent neighbor contoured the property. Since the topography slopes more steeply to the west, several French drains were constructed that gather overland flow from the lawn and carry it around the "Ag Building" along the southern property line to a stormwater grate to the west. The property has two driveway access points in addition to the accessory building with little tree canopy or original wetland vegetation or habitat remaining. (Att. D)
12. The Applicants' Wetland Consultant has submitted the "Wetland Analysis Report and Reasonable Use Exception No Net Loss Mitigation Plan" that identified a wetland within 315 feet of the subject property. The off-site wetland was investigated and a 105-foot buffer was determined after applying mitigating measures. The wetland analysis determined that the project will not impact the wetland nor its nor buffer. This project will use best management practices in order to limit stormwater impacts. The total 304-square feet in temporary buffer impacted by the septic tightline installation would be offset by 2,071-square feet of mitigation plantings which is an 8:1 buffer mitigation ratio that exceeds the required 1:1 ratio. Aerial photos indicate that subject areas are not currently covered with naturally-occurring wetland-adjacent vegetation or habitat; therefore, the plantings will enhance the wetland buffer habitat above and beyond existing conditions. The proposed native species will be planted on the north perimeter of the subject parcel between the proposed accessory structure conversion and wetland area to protect and enhance the wetland itself by screening it from residential activities. The mitigation plan proposes improved erosion control and provides a monitoring program and the required performance surety. In sum, all of the impacts to the wetland buffer are proposed to be mitigated on-site. (Att. D)
13. The Thurston County Comprehensive Plan designation for the subject property is Rural Residential Resource - One Unit Per Five Acres (RRR1/5)). The purposes of the RRR

designation are to maintain the rural character of the county; to buffer environmentally sensitive areas and resource management areas from incompatible activities; and to maintain a balance between human uses and the natural environment. As proposed and conditioned, the application to install a septic line in a reduced wetland buffer to allow the conversion of an existing accessory agricultural structure to a single family residence and the associated mitigation plans are consistent with the Thurston County Comprehensive Plan. The property is not within the jurisdiction of the Shoreline Master Plan

14. The zoning classification for the subject property is RRR1/5. Pursuant to TCC 20.09A.020(2), single-family residences are permitted as a primary use with the limitation of one primary residential structure per lot and, pursuant to TCC 20.09A.050 (20(a), the minimum lot size is five-acres. The proposed installation of a septic line, as conditioned, is consistent with the Zoning Code as it is an appurtenance to a current legally non-conforming use for storage of agricultural product that has been approved for conversion to a single-family residence that is a primary use in the zone.

15. TCC 24.30 prohibits new residential uses within the inner 75% of a wetland buffer. TCC 24.50.035.B prohibits the sewer installation to convert the legally non-conforming accessory storage building as the single-family use is "different in kind from the legally existing nonconforming use" and "it would cause increased harm to the critical area, or increase the risk associated with the hazard." Consequently, the Applicants have requested the Reasonable Use Exception.

16. The authority for a RUE is expressed in TCC 24.45.010:

A reasonable use exception is required when adherence to the provisions of this title would deny all reasonable use of the subject property as a whole, due to the property's size, topography, or location relative to the critical area and any associated buffer. A reasonable use exception shall only be granted if no other reasonable alternative method of development is provided under this title and the Thurston County Code.

17. TCC 24.45.030, Review criteria, provides that the Hearing Examiner shall approve, or approve with conditions, the reasonable use exception if the following eight (8) criteria are met:

A. No other reasonable use of the property as a whole is permitted by this title.

The proposed residential use is consistent with RRR1/5 zoning. Other primary land uses under RRR1/5 zoning include agriculture and forestry practices which are not economically viable given the 0.55-acre parcel size, soils, and lack of standing timber. No other reasonable use is permitted under the zoning designation.

B. No reasonable use with less impact on the critical area or buffer is possible. At a minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design. This may include a variance for yard and setback standards required.

The 304-square feet of temporary impact to install the approximately 43-foot long proposed septic line is the only impact that would occur within the 105-foot reduced wetland buffer. Conversion of the accessory building will be within the existing footprint of the shop/garage and would, therefore, incur no new impact to the critical area. New single-family homes have been determined to be a reasonable use. The project proposes the least possible impact to the wetland buffer. Given the minimal area impacted, no other reasonable use would have less impact.

- C. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the development proposal site, or increase public safety risks on or off the subject property;

The proposed septic system to enable the conversion of the accessory building to a single-family residence is required to protect the public health. The septic line connects the proposed shop conversion to a septic drainfield on an abutting parcel under the same ownership. An easement has been recorded to ensure the continued functioning of the septic line and septic system in the event of sale of one or more parcels. The requested use and the conditions of approval would not result in any damage to other property nor threaten the public health, safety, or welfare on or off the Applicants' property.

- D. The proposed reasonable use is limited to the minimal encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property;

The Applicants have taken steps to minimize encroachment into the wetland buffer to enable the reasonable use of their property. The proposed route of the septic line skirts the outside of the 105-foot reduced wetland buffer and runs through a third parcel under the Applicants' ownership before entering the reduced buffer. This route would have the least impact on the wetland buffer by following the shortest route between the converted accessory agricultural building and the drainfield. In addition, the approximately 43-foot long proposed septic line is the minimum alteration of the wetland buffer necessary to allow conversion of the shop/garage to a dwelling unit and such conversion will occur wholly within the footprint of the accessory building.

- E. The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions;

As proposed, the reasonable use of the property to enable the accessory building to be converted to the residence represents minimal alteration of the critical area wetland buffer. The septic tightline route is the shortest possible and the proposed residence would remain within the structure's existing footprint. The project impacts include the temporary impact to 304-square feet in the wetland buffer to enable only 43-feet of intrusion by the sewer line. However, the project impacts also include improved hydrology, expanded natural habitat, and increased functional habitat in the buffer to protect the wetland by the implementation of

the “no net loss” mitigation plan. Therefore, no adverse impacts to critical areas are expected.

- F. A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site;

The Wetland Consultant has investigated the off-site wetland and has recommended mitigating measures to ensure the project will not impact the wetland or its buffer. This project will use best management practices in order to limit stormwater impacts. The total 304-square feet temporarily impacted would be offset by 2,071-square feet of mitigation plantings which is an 8:1 buffer mitigation ratio that exceeds the required 1:1 ratio. The impacted areas on the north perimeter of the subject parcel are not covered with naturally-occurring wetland-adjacent vegetation nor habitat so the plantings of the native species will improve the wetland buffer and habitat and screen the wetland itself by from residential activities. The conversion to a dwelling unit would occur within the footprint of the existing accessory structure and the project would not otherwise impact the reduced wetland buffer. Finally, a performance surety is a condition of approval.

- G. The reasonable use shall not result in the unmitigated adverse impacts to species of concern;

The Wetland Analysis Report states: “[n]o evidence of State-listed, Federally-listed, or priority species was observed on the subject property or in the vicinity of the site;” “During the limited duration of the site reconnaissance and delineation, no evidence of the Federally-listed Bald Eagle, Marbled Murrelet, or Spotted Owl as observed on-site;” “No Federally-listed salmonid species are known to occur off-site, based on the WEDFW SalmonScape database, the WDFW PHS database, and site reconnaissance.” (Att. D) In addition, searches of Thurston County Geodata mapping system turned up no occurrences of species of concern on or near the subject parcel. Though the Washington State Priority Habitats and species (PHS) database and mapping system yielded citations for *Eptesicus fuscus* and *Myotis lucifugus* or, big brown bat and little brown bat, respectively, as occurring in the general area, protection of maternity roosts is the key conservation objective and none are known to exist on the parcel or in the vicinity. Therefore, the installation of the proposed septic tightline is not likely to adversely affect species of concern.

- H. The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception

The location and scale of existing development on surrounding properties is not being listed by the Applicant nor being considered by Staff as the sole basis in reviewing the proposed RUE application.

- 18. TCC 24.45.020 entitled “Reasonable use exception-Certain properties not eligible” prohibits a RUE if the inability to derive reasonable use is the result of a self-created hardship such as subdividing the property, adjusting a boundary line, or other actions thereby creating the

property undevelopable. Herein, the property is not “undevelopable and the sole basis for the RUE is not from any “self-created” hardship created by the Applicants but, simply, a decision to change the use of the property from one legally non-conforming use, storage building, to a primary use, residential.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The Applicants have demonstrated that the proposal will be consistent with all applicable codes; therefore, the Reasonable Use Exception should be approved subject to the following conditions:
 1. Prior to or in conjunction with the issuance of any building permit, all applicable regulations and requirements of the Thurston County Public Health and Social Services Department, Public Works Department, Fire Marshal and Thurston County Community Planning and Economic Development Department shall be met.
 2. Inadvertent Discovery. If archaeological artifacts are observed during any phase of the project, all work shall be immediately halted. The State Department of Archaeology and Historic Preservation, the Thurston County Community Planning & Economic Development Department (CPED) and affected Tribes shall be contacted to assess the situation prior to resumption of work.
 3. ‘Built Prior-to-Permit’ Process. Prior to issuance of building permit, the Applicant shall undergo the built-prior-to-permit process in order to convert the exempt agriculture structure to a dwelling unit.
 4. Erosion Control. Prior to building permit issuance, erosion control shall be installed and inspected by Thurston CPED staff. Photos may substitute for inspection. Erosion and stormwater controls, (i.e.; silt fencing and / or straw waddles) must be installed landward of the reduced buffer such that uncontrolled storm water cannot reach the adjacent wetland.
 5. Mitigation Plantings. The Applicants shall complete all buffer mitigation, monitoring, and reporting, as proposed in Wetland Delineation Report and Buffer Mitigation Report (Att. D).
 6. Surety Bond / Letter of Irrevocable Savings. Prior to building permit issuance, the Applicant shall provide a surety agreement and bond, in compliance with TCC 24.70, to ensure the proposed monitoring and maintenance portion of the mitigation report is completed successfully. The amount of the bond is to be \$4,375.00, which is 125% of the \$3,500 cost of mitigation and monitoring (Att. D).
 7. Prior to building permit issuance, all wetland buffer enhancement work proposed in the plan shall be installed, subject to standards of TCC 24.60.

8. Prior to building permit issuance, the Applicant shall record with the Thurston County Auditor a Critical Area and Buffer Notice and a site plan showing the wetlands and associated buffers, setting forth the mitigating conditions imposed here.
9. Applicants shall show on construction plans detail for providing new water service connection to the existing water main. (Att. I-detail schematic for "Single Service Connection 1" Diameter to ¾".
10. This project is subject to water general facilities charges, plan review fees, inspection fees, and a meter fee. All applicable fees must be paid prior to receiving building permit.
11. Water service connection shall be installed by a contractor licensed, insured, and bonded in the State of Washington.
12. All proposed plans, construction methods, and construction materials shall conform to the Thurston County Water and Sewer Development Standards. A copy of the current Water and Sewer Development Standards can be found on the Public Works' Website: <https://www.co.thurston.wa.us/publicworks/watersewerutilitychanges.html>
13. All development on site shall be in substantial compliance with the approved Reasonable Use Exception application, as conditioned. Any alteration to the proposal will require approval of a new or amended Reasonable Use Exception. The Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
14. The Applicants shall remove all construction related debris to an approved site (landfill or recycling center) outside of critical areas and their buffers.
15. The proposed project is subject to compliance with the following policies and regulations, including any applicable mitigation requirements: Thurston County Comprehensive Plan, Zoning Ordinance (TCC 20), Critical Areas Ordinance (TCC 24), Stormwater Drainage Design and Erosion Control Manual (TCC 15.05), Uniform Building Code (TCC 14), State Environmental Policy Act (SEPA) Ordinance (TCC 17.09.)

DECISION: The request for Reasonable Use Exception No. 20221105593 is approved with the conditions noted above.

ORDERED this 8th day of September, 2022.



STEPHEN R. SHELTON
Pro Tem Hearing Examiner

TRANSMITTED this 8th day of September, 2022, to the following:

APPLICANT:

Chad & Heather Stoker
6916 Bayview Dr. NE
Olympia, WA 98506

REPRESENTATIVE:

Alex Callender
Land Services NW
120 Stave Ave NE PMB 190
Olympia, WA 98501

OTHERS:

THURSTON COUNTY

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 **\$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___.