



COUNTY COMMISSIONERS

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HEARING EXAMINER

Creating Solutions for Our Future

BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application of)	NO. 2022102723
)	
Chris Kasiewicz)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For a Reasonable Use Exception)	
_____)	

SUMMARY OF DECISION

The request for a reasonable use exception to construct a single-family residence, driveway, and septic system within wetland, stream, geologic hazard, and shoreline buffers is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Chris Kasiewicz (Applicant) requested a reasonable use exception (RUE) to construct an 1,800 square foot single-family residence, 650 square foot driveway, and septic system within wetland, stream, geologic hazard, and shoreline buffers. A total of nine critical area buffers would be affected by the proposal. The subject property is located at 5710 Oyster Bay Road NW, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on June 27, 2023. The record was held open through June 29, 2023 to allow any members of the public who encountered technology difficulty joining the virtual hearing to submit written comments, with time scheduled for responses from the parties. No post-hearing public comment was submitted, and the record closed on June 29, 2023.

Testimony

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

Scott McCormick, Associate Planner, Thurston County

Dawn Peebles, Senior Environmental Health Specialist, Thurston County

Arthur Saint, Civil Engineer, Thurston County

Alex Callender, Land Services NW, Applicant Representative

Chris Kasiewicz, Applicant

Exhibits

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

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

- A. Notice of Public Hearing, dated June 2, 2023
- B. Zoning/Site Map
- C. Master Application, received June 3, 2022
- D. Reasonable Use Exception application, received June 3, 2022
- E. Revised site plan, dated February 15, 2023 (primary site plan to be used in decision)
- F. Previous Site plan, submitted June 3, 2022
- G. Notice of Application, dated October 12, 2022, with adjacent property owners list, dated October 11, 2022
- H. Approval memorandum from Amy Crass with Thurston County Environmental Health, dated October 4, 2022
- I. Letter from owner responding to County comments, dated May 27, 2022
- J. Communication Matrix, received March 10, 2023, with responses
- K. Slope consultation by Quality Geo NW, dated December 2, 2021
- L. Applicant's Exhibit List, received March 10, 2023
- M. Applicant's Exhibit A – Email from PJ Boughal with Mtn2Coast LLC, dated April 21, 2022, regarding landslide hazard areas on site.
- N. Applicant's Exhibit B, received June 3, 2022 – Steep slope map
- O. Applicant's Exhibit C, received June 3, 2022 – Revised Site Plan received March 10, 2023, and Septic design, received March 21, 2022
- P. Applicant's Exhibit D, received June 3, 2022 – Patrick Harron & Associates Project Summary, impervious surface information and soils information
- Q. Applicant's Exhibit E, received June 3, 2022, by Patrick Harron & Associates, Revised site plan, received March 10, 2023 – impervious surface and stormwater plans site plan
- R. Applicant's Exhibit F, received June 3, 2022 – SWPPP (stormwater pollution prevention plan)

- S. Applicant's Exhibit G, received June 3, 2022 – Earthwork calculations (revised) received March 10, 2023
- T. Applicant's Exhibit H, received June 3, 2022 – Response letter, dated March 18, 2022, to Heather Tschaecofske, Thurston County Associate Planner
- U. Applicant's Exhibit J – (Revised) Kasiewicz Single-Family Residence Critical Areas and Shoreland Analysis Report by Land Services Northwest, dated February 6, 2023, and received May 15, 2023
- V. Applicant's Exhibit K – (Revised) Kasiewicz Single-Family Residence RUE No Net Loss Wetland and Stream Buffer Enhancement Plan, dated February 1, 2023
- W. Packet of information to Heather Tschaecofske, Associate Planner with Thurston County including responses to comments and a number of site plans, received March 3, 2022, with Applicants Exhibits 1 – 9 and Exhibit 11 (see list of Exhibits on page 10).
- X. Comments from Shaun Dinubilo with the Squaxin Island Tribe, dated October 20, 2022
- Y. Comments from the Nisqually Indian Tribe, dated October 17, 2022
- Z. Site plan showing entire property by Jim Henry Design Services Inc., (revision), received March 3, 2022

Based on the record developed through the open record hearing process, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

1. Chris Kasiewicz (Applicant) requested a reasonable use exception (RUE) to construct an 1,800 square foot single-family residence, 650 square foot driveway, and septic system within wetland, stream, geologic hazard, and shoreline buffers. A total of nine critical area buffers would be affected by the proposal. The subject property is located at 5710 Oyster Bay Road NW, Olympia, Washington.¹ *Exhibits I, I.C, I.D, and I.E.*
2. The RUE application was received on June 3, 2022 and determined to be complete for the purpose of commencing project review on July 5, 2022. *Exhibit I.G.*
3. The subject property is within the rural portion of the County and is zoned Rural Residential Resource One Dwelling Unit per Five Acres (RRR 1/5). *Exhibit I.* 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 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

¹ The legal description of the subject property is: [a portion of] Section 28 Township 19 Range 3W; PT LOT 3 NKA LOT 1 LL-0822 03060151; also known as tax parcel number 13928130500. *Exhibits I and I.C.*

in the RRR 1/5 zone include single-family and two-family residences, agriculture, accessory farm housing, and home occupations. *Exhibit 1; TCC 20.09A.020.*

4. The subject property, at 5.5 acres in area, conforms to the minimum parcel size of the RRR 1/5 zone. The subject property is undeveloped except for an existing private road/driveway that traverses the parcel and provides access to an adjacent parcel. The driveway was installed in 1996. Surrounding properties are developed with single-family residences. *Exhibits 1 and 1.E; Testimony of Chris Kasiewicz and Alex Callender.*
5. The subject property is on Totten Inlet of Puget Sound. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as a Conservancy shoreline environment. Single-family residential development is allowed in the Conservancy environment subject to the development standards contained in the SMPTR. In relevant part, these standards require a minimum 100-foot setback from the ordinary high water mark (OHWM) and a maximum impervious surface coverage of 30%. The proposed development would satisfy these SMPTR development standards. The building setback from the OHWM would be 157.8 feet. The total impervious surface coverage (including existing driveway) would be approximately six percent. *Exhibits 1 and 1.R.*
6. For marine shorelines with a Conservancy designation, the Thurston County critical areas ordinance (CAO) requires a marine riparian habitat area of 250 feet in width measured from the OHWM, or from the top of the bank if the OHWM cannot be identified. *TCC 24.25.050.* A marine riparian habitat area must be retained in its existing condition unless explicitly authorized by the CAO. *TCC 24.25.050.* In this case the marine riparian habitat area encompasses the entire northern portion of the parcel. *Exhibit 1.E.*
7. In addition to the marine riparian habitat area, the following critical areas have been delineated on or near the subject property:
 - An estuarine wetland associated with Totten Inlet. This wetland is a Category II wetland requiring a standard buffer width of 220 feet. *Exhibits 1.U and 1.E.*
 - Wetland A. Wetland A is a 1,359 square foot Category III wetland, which is located in the northern portion of the property and is adjacent to Stream X. Wetland A has a habitat score of 8, requiring a standard buffer width of 280 feet. *Exhibits 1.U and 1.E.*
 - Wetland B. Wetland B is a 1,518 square foot Category III wetland, which is located in the northeast portion of the property and is adjacent to Stream Y. Wetland B has a habitat score of 8, requiring a standard buffer width of 280 feet. *Exhibits 1.U and 1.E.*
 - Wetland C. Wetland C is a 31,671 square foot Category III wetland, which is centrally located on the parcel and is adjacent to Stream Z. Wetland C has a habitat score of 8, requiring a standard buffer width of 280 feet. *Exhibits 1.U and 1.E.*
 - Unnamed Stream X. Stream X is a non-fish bearing stream that is not more than two feet in width. Stream X is in the northern portion of the parcel. Because Stream X

drains directly into Puget Sound, the minimum buffer width is 150 feet. *Exhibits 1.U and 1.E.*

- Unnamed Stream Y. Stream Y is a non-fish bearing stream that is not more than two feet in width. Stream Y is within the northeast portion of the parcel. Because Stream Y drains directly into Puget Sound, the minimum buffer width is 150 feet. *Exhibits 1.U and 1.E.*
- Unnamed Stream Z. Stream Z is a non-fish bearing stream that is not more than two feet in width. Stream Z is within the central portion of the parcel. Because Stream Z drains directly into Puget Sound, the minimum buffer width is 150 feet. *Exhibits 1.U and 1.E.*
- Geologic hazard area. Steep slopes exceeding 40% in gradient encompass most of the parcel, including the entire southern end of the parcel adjacent to Oyster Bay Road NW. The minimum geologic hazard buffer is 50 feet. *Exhibits 1.N and 1.K.*

The critical areas and buffers overlap on the subject property, such that the entire parcel is encumbered. Onsite water features eventually drain into Puget Sound. *Exhibits 1.E, 1.N, and 1.U.*

8. The Applicant proposes to place the residence in the northcentral portion of the site, within the only relatively flat area that does not contain wetlands or streams. The area is served by the existing driveway from Oyster Bay Road; the new driveway proposed would only fill the small area between the existing driveway and the residence. *Exhibits 1.E and 1.N; Chris Kasiewicz Testimony.* The residence would have a footprint of 1,800 square feet (including garage), the new driveway would have an area of approximately 650 square feet, and the total area to be cleared for development would be 6,700 square feet. *Exhibits 1 and 1.E.*
9. The development proposal would result in the following critical areas setbacks:
 - Conservancy Shoreline Marine Riparian Habitat: 157.8 feet
 - Estuarine Wetland: 157.8 feet
 - Wetland A: 72.4 feet
 - Wetland B: 161.9 feet
 - Wetland C: 45.4 feet
 - Stream X: 81.4 feet
 - Stream Y: 160.2 feet²

² Although more than 150 feet, this represents a slight buffer reduction because TCC 24.01.035.G requires a minimum 15-foot construction setback from critical area buffers. Thus, the distance between the residence and the stream would need to be 165 feet to be fully compliant. *Exhibit 1.*

- Stream Z: 73.2 feet³
- Geologic Hazard: 5 feet from slope to south and 10 feet from slope to north

Exhibits 1 and 1.E.

10. The proposed slope setbacks are consistent with the recommendations contained in the project's geotechnical evaluation (Exhibit 1.K). The geotechnical consultant submitted that the slopes in the project area do not constitute a landslide hazard but could present a potential erosion hazard. The geotechnical report contains several recommendations for controlling erosion during and after construction. *Exhibit 1.K.*
11. The area that would be cleared for residential development is currently forested, but it consists mainly of alders that were planted by a prior owner as mitigation for unlawful clearing in 2007 or 2008. The area lacks species diversity. *Chris Kasiewicz Testimony; Alex Callender Testimony.* As mitigation for the proposed buffer reductions, the Applicant proposes 6,700 square feet of vegetative enhancement (1:1 mitigation ratio), with trees and shrubs to be planted including Sitka spruce, mock orange, salmonberry, evergreen huckleberry, red flowering current, and kinnikinnick. The Applicant's biologist submitted that with the mitigation, there would be no net loss of buffer functions, and that certain functions (including screening, aesthetics, nutrient uptake, structure diversity, surface roughness, and temperature attenuation) would be improved as a result of the proposal. *Exhibit 1.V; Alex Callender Testimony.* Although the submitted site plan depicts that the mitigation area would surround the clearing limits (i.e., allowing for a 15-foot setback between the residence and the mitigation area), Planning Staff recommended as a condition of approval that low-growing shrubs be planted all the way to the building foundation, except for a two-foot path for maintenance, and that lawn be prohibited. The reason for the recommended conditions was that the area immediately surrounding the home is more disturbed and presents more opportunity for improvement, whereas farther from the home the buffer is in better condition. In addition, having shrubs in place of a lawn would reduce the likelihood that yard chemicals would be applied on site, possibly entering the streams and wetlands draining to Puget Sound. *Exhibit 1; Scott McCormick Testimony.* The Applicant was amenable to the additional conditions. *Chris Kasiewicz Testimony*⁴.
12. Priority habitats and species of wildlife potentially occurring in the project area, based on a database maintained by the Washington Department of Fish and Wildlife, include

³ There was some concern on the part of Staff whether the stream setbacks were appropriately measured, as they appeared to be measured from the stream centerlines rather than from ordinary high water marks. *Exhibit 1.* The Applicant's consultant addressed these concerns with testimony indicating the onsite streams were identified using a handheld GPS, resulting in accurate delineations. He noted the site's features include incised wetlands flowing towards the streams, that the streams meander, that none of the onsite streams on site are wider than two feet, and that if the streams were mapped by a surveyor, the margin for survey error would be two feet. The consultant is confident that the distances from the onsite streams are adequately accurate. *Alex Callender Testimony.* The undersigned notes that the streams are within wetlands, which have wider buffers, such that any minor error in stream setback measurement would be encompassed within the wider wetland buffer and no stream is at risk of accidentally being provided too narrow of a buffer.

⁴ His exact words were, "I would be happy to never mow a lawn again." *Chris Kasiewicz Testimony.*

oyster beds, little brown bats, and big brown bats. In addition, there is forage fish spawning in the area. *Exhibit 1.U.* Water quality best management practices would be implemented on site to prevent impacts to the oyster beds and forage fish spawning areas. No bat colonies have been identified in the area. There are no species of wildlife listed as threatened or endangered under the Endangered Species Act in the vicinity of the subject property. *1.U.*

13. Due to site soils, infiltration of stormwater runoff is not feasible. Roof runoff would be tightlined south towards Stream Z and discharged via a diffuser Tee upland of the stream. The proposed gravel driveway would be designed to direct runoff from its surface into vegetation retained or planted along its length to provide water quality treatment and dispersion functions. Flows would travel in a catch basin system and be released to the Tee diffuser, where the runoff would continue to provide hydrology to the critical areas on site. Under the Thurston County drainage manual, the 2,420 square feet of new and replacement impervious surface area and the 100 cubic yards of foundation excavation/grading would be managed through core requirements 1 through 5. County Public Works Staff testified that the proposed stormwater management method is capable of complying with County requirements. *Exhibits 1, 1.P, 1.Q, and 1.R; Arthur Sait Testimony.*
14. The residence would be served by an existing well, which is located in the northern portion of the property. Sanitary service would be provided by a proposed septic system, the drainfield for which would be located on a topographic bench at the south end of the subject property and extending onto the adjacent parcel to the east, just below Oyster Bay Road. There is an existing septic tightline between the building area and the proposed drainfield, which also crosses the adjacent parcel. The existing and proposed septic drainfield and tightline components are located in a recorded easement on the adjacent parcel. The septic drainfield would be within the outer buffer of Wetland C but outside the 250-foot marine riparian habitat buffer and all other wetland and stream buffers. The project geotechnical report supports the proposed septic location. Environmental Health Staff noted that the subject property is not located within an identified marine recovery area, and therefore the septic system would not require a renewable operation certificate. Staff submitted that the proposed system meets current design standards and is capable of operating without adverse impact to the marine environment. The Thurston County Environmental Health Division approved the septic design and recommended approval of the RUE as consistent with the Thurston County Sanitary Code. *Exhibits 1.E, 1.H, 1.K, 1.W, and 1.Z; Dawn Peebles Testimony.*
15. The construction of a single-family residence and accessory structures is exempt from review under the State Environmental Policy Act. *Exhibit 1; TCC 17.09.055; Washington Administrative Code (WAC)197-11-800.*
16. Notice of the open record hearing was mailed to property owners within 500 feet of the subject property on June 9, 2023 and was published in *The Olympian* on June 16, 2023. *Exhibits 1 and 1.A.* No public comment was submitted on the application. *Exhibit 1.*

17. At the conclusion of the hearing, Planning Staff maintained their recommendation that if RUE approval is granted, it should be subject to the conditions listed in the staff report. Staff also recommended additional conditions requiring the Hearing Examiner decision to be recorded on the title to facilitate enforcement of the prohibition against lawn being installed on site and requiring vegetation to be installed and maintained along the length of the driveway to ensure stormwater treatment functions can be ensured, to be reviewed and approved by the County through a final engineered drainage plan at time of building permit. *Exhibit 1; Scott McCormick Testimony.*
18. Addressing Planning Staff's assertion that it would be difficult to achieve no net loss of ecological functions and values simply due to the large number of affected critical area buffers, the Applicant representative disagreed. He asserted that the primary concerns with reducing buffers are screening, hydrology, flooding, and wildlife impacts. Due to the proximity to marine water, the chances of flooding as a result of the proposed development are small, and an engineered drainage plan would ensure that the quality and quantity of runoff are controlled to prevent rilling or erosion issues. The septic system is located as far up site and far from buffers as possible, and would be consistent with the County's sanitary code; no discharge of septic to any critical area would result. The primary possible contaminant would be from vehicles. As proposed, the driveway is very small, and its runoff would be managed consistent with County standards. The residence itself was reduced to the minimum needed to shelter the Applicant's family. Addressing wildlife habitat and these other concerns, the proposed building envelope was already disturbed when it was cleared by a previous owner, who replanted solely with alders that now have an understory of only ferns. The proposed mitigation plan would introduce a lot of diversity, and opening the understory would allow lower story growth, which would provide a significant lift in functions and values, particularly screening, uptake, water quality, and habitat functions. The Applicant waived objection to the conditions in the staff report and the two additional conditions suggested in Staff's testimony. *Testimony of Alex Callender and Chris Kasiewicz.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for reasonable use exceptions pursuant to TCC 2.06.010(F) and TCC 24.45.030.

Criteria for Review

Pursuant to TCC 24.45.030, the Hearing Examiner shall grant the reasonable use exception if:

- A. No other reasonable use of the property as a whole is permitted by this title; and
- 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 pursuant to Titles 20, 21, 22, and 23 TCC; and

- 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; and
- D. The proposed reasonable use is limited to the minimum encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property; and
- 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; and
- 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; and
- G. The reasonable use shall not result in the unmitigated adverse impacts to species of concern; and
- 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.

Conclusions Based on Findings

1. Based on the uses allowed in the RRR 1/5 zone and the character of surrounding development, single-family residential use is the only reasonable use of the property. *Findings 3 and 4.*
2. No reasonable use with less impact on the critical area or buffer is possible. The subject property is highly constrained, such that it would not be possible to establish a residential use without intruding into a critical area or buffer. As proposed, the residence and driveway would be modest in scale and would be placed as far from the shoreline as possible while avoiding all wetlands, streams, and steep slopes. The septic system would be more than 250 feet from the shoreline, along Oyster Bay Road at the southern edge of the subject property. *Findings 6, 7, 8, 9, and 14.*
3. As conditioned, the requested residential development would not result in damage to other property and would not threaten the public health, safety, or welfare or increase public safety risks on or off the development site. The project has been evaluated by a geotechnical engineer, and the site plan is consistent with the recommended slope setbacks. The conditions of approval address erosion control requirements, including replanting disturbed areas following construction. The Environmental Health Division has approved the proposed septic design and location. No other issues of concern were identified during the review process. *Findings 10, 11, 13, 14, 17, and 18.*
4. The proposed reasonable use is limited to the minimum encroachment necessary to prevent denial of all reasonable use of the property. As described in Conclusion 2, it would not be possible to establish reasonable use of the property without encroachment

into a critical area or buffer. The proposed site design and building scale represent the minimum encroachment necessary for reasonable use. *Findings 6, 7, 8, 9, 14, and 18.*

5. With conditions of approval, the proposed reasonable use would result in minimal alteration of the critical area. The proposed residential building site avoids direct impacts to steep slopes, wetlands, and streams. The conditions of approval require the building area to be revegetated up to the building foundation (except for a maintenance pathway) to maximize mitigation opportunities and prohibits the establishment of lawn on site to eliminate the need for application of chemicals within the reduced buffers. This is especially important because the wetlands/streams discharge directly to Puget Sound. An additional condition requires appropriate vegetation or other stormwater runoff treatment/management methods identified in a final engineered drainage plan to be implemented for the full length of the driveway to ensure no untreated road runoff sheet flows into critical areas. *Findings 7, 8, 9, 11, 13, 17, and 18.*
6. Based on the record and as conditioned, the proposal would ensure no net loss of critical area functions and values. The conditions of approval require the building area to be revegetated up to the building foundation (except for a maintenance pathway) to maximize mitigation opportunities and prohibits the establishment of lawn on site to eliminate need for application of chemicals within the reduced buffers. The clearing for the building envelope would provide a better condition for adding diversity to the understory surrounding the building site, which would improve screening, uptake, and habitat, among other functions. The septic system can be installed and operated such that there would be no discharge of effluent to any critical area on site, and consistent with a final engineered drainage plan required by conditions, the driveway would be designed and/or managed such that its runoff would flow towards vegetation along its full length that would provide water quality treatment and quantity management, and no driveway runoff would reach the critical areas without being adequately treated. *Findings 11, 14, and 18.*
7. The use would not result in unmitigated adverse impacts to known species of concern. *Finding 12.*
8. The location and scale of existing development on surrounding properties is not the sole basis for granting the reasonable use exception. The RUE is necessary, and is granted, because critical areas encumber the entire parcel, preventing reasonable residential use of the parcel. *Finding 7.*

DECISION

Based on the preceding findings and conclusions, the request for a reasonable use exception is **GRANTED** subject to the following conditions:


1. The Applicant shall remove all construction related debris to an approved site (landfill or recycling center) outside of critical areas and their buffers.
2. The Applicant's habitat biologist shall verify all reduced buffers in the field prior to any

earth disturbing activity to ensure any approved reduced buffers are accurately measured and adhered to. The proposed clearing limits shall be clearly staked and marked in the field with orange construction fencing prior to building permit issuance.

3. Clearing and grading associated with the project shall be done during dry weather to reduce the risk of erosion and water quality issues.
4. Erosion control shall be installed prior to building permit issuance in accordance with the project storm drainage and erosion control plans. Construction fencing and erosion control fencing shall be installed no more than 15 feet from the foundation of the home. This area shall be replanted with native vegetation following construction with the exception of an allowed two-foot path around the home for maintenance.
5. Site development shall be in compliance with the Kasiewicz Single-Family Residence RUE No Net Loss Wetland and Stream Buffer Enhancement Plan (Exhibit 1.V) except as otherwise approved and conditioned by Thurston County Community Planning and Economic Development (CPED).
6. A two-foot wide, unpaved pathway is permitted between the home and critical area buffer fencing with the remainder of the buffer to be densely planted with native vegetation from the stream to within two feet of the foundation of the residence.
7. Mitigation plantings shall be installed prior to final occupancy approval of future building permits per the No Net Loss Wetland and Stream Buffer Enhancement Plan (Exhibit 1.V) and as otherwise approved and conditioned by Thurston County CPED.
8. A financial instrument such as bond or irrevocable assignment of savings shall be in place prior to final occupancy approval for mitigation monitoring costs at 125% of fair market value for the period of time recommended in the project No Net Loss Wetland and Stream Buffer Enhancement Plan (Exhibit 1.V).
9. In order to eliminate the need for herbicides, fertilizers, and other lawn chemicals within the reduced wetland and stream buffers, no lawn or maintained grass shall be permitted anywhere on the subject property and all landscaping shall be native species.
10. A final engineered drainage plan is required to be submitted and to receive County approval prior to construction permit issuance that shall, among all other appropriate provisions, include vegetation and/or other appropriate runoff management methods sufficient to ensure untreated driveway runoff is not allowed to sheetflow to any critical area or buffer.
11. All development shall be in substantial compliance with drawings and site plan submitted and made part of this record. Any expansion or alteration of this use would require approval of a new or amended approval. The Development Services Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

12. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit if required.
13. The Hearing Examiner Decision for this project shall be recorded on the property title with the Thurston County Auditor prior to building permit issuance.

DECIDED July 13, 2023.



Sharon A. Rice
Thurston County Hearing Examiner

NOTE: Pursuant to TCC 22.62.020(C)10, affected property owners may request a change in valuation for property tax purposes.

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 **\$821.00** for a Request for Reconsideration or **\$1,112.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development Center at 3000 Pacific Ave SE, Suite 100 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 ☐ \$821.00 for Reconsideration or \$1,112.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20____.