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## COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

*Creating Solutions for Our Future*

Joshua Cummings, Director

### THURSTON COUNTY COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT HEARING EXAMINER HEARING

January 9, 2024

**PROJECT NO:** 2023103076 Walterscheidt Reasonable Use Exception

**SEQUENCE NO:** 23-1-7931 XI

**APPLICANT:** James Walterscheidt

**REQUEST:** The Applicant requests approval of a Reasonable Use Exception to construct a 400 sq ft driveway and a 2,500 sq ft detached garage/shop with no living quarters, bathroom or plumbing, on a 1.36 acre parcel that has prairie habitat. The parcel is located in the Rural Residential/Resource- One Dwelling Unit per 5 Acres (RRR 1/5) zone in rural Thurston County.

#### **GENERAL INFORMATION**

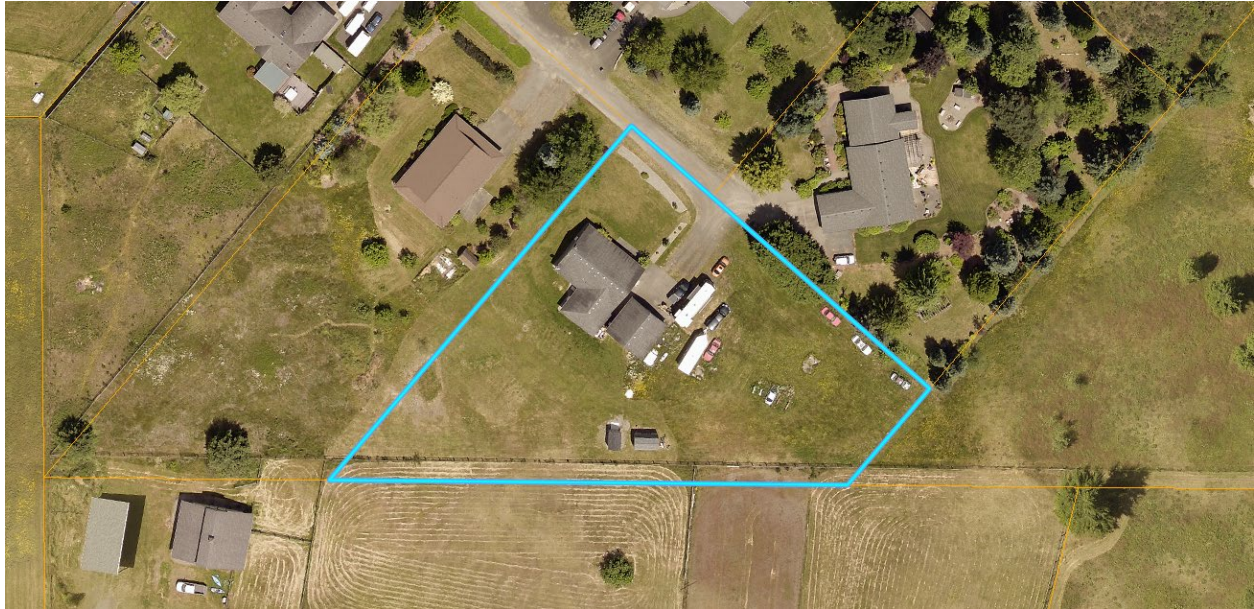
- A. Applicant/Owner: James Walterscheidt  
7505 Little Stone Ln SW, Olympia, WA 98512  
[starion@comcast.net](mailto:starion@comcast.net)
- B. Applicant Consultant: Heidy Barnett  
West Fork Environmental  
2350 Mottman Rd SW, Tumwater WA 98512
- C. Location: 7505 Little Stone Ln SW, Olympia, WA 98512  
Tax Parcel No. 13610130108
- D. Legal Description: Section 10 Township 16 Range 3W LT 4 SS-1727  
8211180012 SURVEY 012/148
- E. Area: 1.36 acre parcel
- F. Zoning: Rural Residential/Resource, One Dwelling Unit per  
5 Acres (RRR 1/5 zone)

#### **PROJECT DESCRIPTION**

The Applicant requests approval of a Reasonable Use Exception to construct a 400 sq ft driveway and a 2,500 sq ft detached garage/shop with no living quarters, bathroom or plumbing, on a 1.36 acre parcel that

has prairie habitat. The parcel is currently developed with a single family residence, a septic and driveway, detached garage, and two storage sheds.

### **2022 Aerial Photo**



### **BACKGROUND**

The subject property is located within the rural portion of Thurston County. The Comprehensive Plan designation is rural residential and the zoning district is the RRR 1/5 (Attachment b). Primary permitted uses in the RRR 1/5 zone include single-family and two-family residential, agriculture, and home occupations. The subject property is routinely mowed, and watered. Surrounding land uses consist of neighboring lots within the RRR 1/5 zoning developed with single-family residences, with mowed pasture/grassland as well as maintained lawns. The proposed shop is near the existing driveway in the flattest part of the property, in an area that has been used to park vehicles in the past. The subject lot is fairly level in topography. Mima mounds are present on neighboring parcels, per LiDAR imagery, but associated 50 foot buffer from existing mounds does not impact the subject parcel.

The Reasonable Use Exception application was submitted to the Thurston County Community Planning and Economic Development Department on July 3, 2023 (Attachments b, c, d, e, f, g, and h).

### **NOTIFICATION**

Written notice of the public hearing was sent to all property owners within 500 feet of the site and notice was published in The Olympian on December 29, 2023, at least ten (10) days prior to the hearing (Attachment a). A Notice of Application (NOA) was mailed to all property owners within 500-feet of the site on January 6, 2023 (Attachment i).

## **ENVIRONMENTAL EVALUATION**

The project was determined to be categorically exempt from SEPA per WAC 197-11-800(1)(a and b(i)), and per TCC 17.09.055(B).

## **DEPARTMENT ANALYSIS**

### **A. Underlying Property:**

The property is located at 7505 Little Stone Ln SW, Olympia, WA 98512. The underlying property is 1.36 acres. The Thurston County Comprehensive Plan designation for the subject property is Rural Residential and the zoning is Rural Residential/Resource – One dwelling unit per 5 acres (RRR 1/5). The RRR 1/5 zoning district allows certain primary uses per Thurston County Code (TCC) 20.09A.020. Single family is allowed as a primary use. Per TCC 20.09A.010 – Purpose “The purpose of this chapter 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.”

The minimum property line setbacks for all structures larger than 200 sq ft are: 20 ft from the front property line, 5 ft from the side property lines, and 5 ft from the rear property lines.

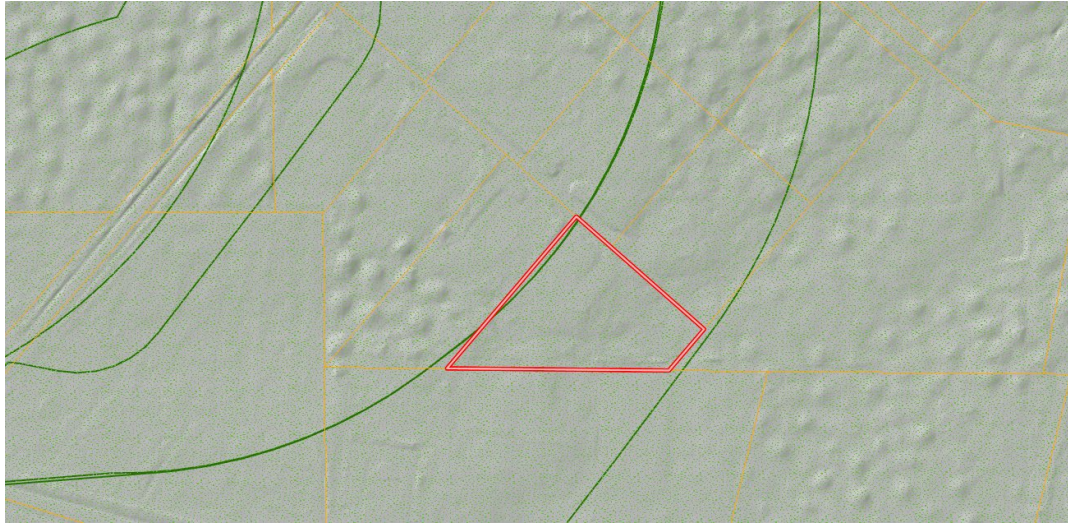
The RRR 1/5 zoning district has a minimum lot size of five acres or one-one hundred twenty-eighth of a section, (TCC 20.09A.050(2.a)). The subject property was subdivided in 1982, and described as lot 4 of short subdivision SS-1727, per Auditor File Number 8211180012.

**Staff comments:** As proposed and conditioned, the application for the proposed development is consistent with the Thurston County Comprehensive Plan and zoning code.

### **B. Critical Areas Ordinance (CAO, TCC 24)**

The subject property is mapped within prairie soils (Spanaway-Nisqually complex, 2-10% slopes, USDA Soil mapping), and is also mapped within the DNR Natural Heritage program for rare plant species (White-top aster), see image below:





The Thurston County CPED Prairie Field Screening methodology outlines the prairie field screening process, and the criteria required in order for a property to meet designated prairie habitat (Attachment l). Sites with mapped prairie soils are reviewed for prairie habitat during the approved survey window from April through early September, when plants are readily identifiable.

Thurston County staff completed an initial site check June 22, 2023 for prairie review for the building permit, during which it was determined that early site development had already occurred within the required 50 foot buffer from the edge of observed prairie habitat. County staff documented 8 prairie plant species on site, enough of which were located in close enough proximity to meet designated prairie habitat (Attachment m). TCC 24.25 lists standards and limitations for development of property containing prairie.

Prairie habitat is defined in TCC 24.03.010 as:

*"Prairie" or "westside prairie," means herbaceous, non forested (forested means greater than or equal to sixty percent forest canopy cover) plant communities that can either take the form of a dry prairie where soils are well -drained or a wet prairie. In parts of the Puget Trough, prairies can sometimes be recognized by mounded topography commonly referred to as Mima Mounds. Mima Mounds are a unique geologic feature of prairie habitat in Thurston County.*

*"Prairie, dry" means prairies located in areas containing prairie vegetation. Although dry prairie can occur on other soils, typically it occurs on any one of the soils known to be associated with prairie (Table 24. 25- 6). Locations occurring on mapped prairie soils where the surface is impervious is not considered dry prairie. Certain vegetation characteristics typify dry prairie. These include the occurrence of diagnostic grasses, sedges, and forbs. Mosses, lichens, and bare ground may also be found in the spaces between grass and forbs cover.*

Per TCC 24.25.075(D), when prairie habitat is identified, a buffer of 50 feet will be applied:

*Prairie Habitat. The approval authority, in consultation with the WDFW and DNR Natural Heritage Program, shall establish buffers for prairie habitat that extend outward from the outer boundary of the habitat the greater of fifty feet, measured on the horizontal plane, or the minimum distance recommended in the critical area report, whichever is greater.*

Per Table 24.25-3, development of single family structures on existing lots defaults to TCC 24.50 criteria. For existing lots where the standards of the CAO would not allow development, the Existing

Nonconforming Uses, Structures and Lots chapter applies (TCC 24.50). Chapter 24.50.060 would allow a development area of 3500 square feet in the outer 50% of the standard buffer through a Critical Area Review Permit and applicable standards. The property does not meet the above standard, thus a RUE is the procedure to propose development within the designated prairie buffer.

The requested Reasonable Use Exception is to allow for construction of a new 2,500 sq ft detached garage/shop and 400 sq ft driveway within the already disturbed area of the site, adjacent to areas of designated prairie habitat. The applicant restores vintage cars and the proposed shop is necessary to hold his tools and to properly maintain an RV. A prairie mitigation report was submitted for the RUE by a professional biologist (Heidy Barnett, West Fork Environmental, October 2, 2023) (Attachment g).

The property is also mapped within a critical aquifer recharge area Category 1, which is characterized by extreme aquifer sensitivity.

### **C. Reasonable Use Exception standards:**

The CAO sets out the process and criteria for any property owner to apply for a Reasonable Use Exception to carry out a land use or activity that is prohibited by the Ordinance (TCC 24.45). The CAO states that, “along with a recommendation made by the department, the application shall be heard by the hearing examiner.” Chapter 24.45.030 provides eight criteria that must be met in order to approve a use within a critical area or its buffer. The eight criteria are listed below along with a staff analysis of each:

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

**Staff comments:** The applicant is proposing to construct a new 2,500 sq ft detached garage/shop and 400 sq ft driveway on a parcel that contains designated prairie habitat. The property is zoned for residential use. A garage/shop and driveway are a reasonable appurtenance for a single-family residence. Per the applicant’s consultant, “The property is 1.36-acres within a neighborhood of similarly sized parcels. The existing single-family residential use is the only reasonable use of the property. A shop is a typical accessory to a residence.” Staff believes this criteria is met.

#### **2. No reasonable use with less impact on the critical area or buffer is possible. At 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.**

**Staff comments:** Per the applicant’s consultant, “The applicant considered revisions to the proposed location to minimize encroachment on CAO prairie habitat. He determined that unavoidable impacts to presumed prairie habitat are necessary given the configuration of the property, location of septic system in western portion of the yard, and driveway access. The original planned location was shifted west towards the existing driveway to minimize impact on prairie habitat. The impacts will be mitigated through a prairie enhancement project at a 1: 1 ratio to ensure no net loss of function and value (Attachment g).” Staff believes this criteria is met.

#### **3. 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.**

**Staff comments:** As proposed and conditioned, staff does not believe the activity will result in damage to other properties and should not threaten the health, safety, or welfare on or off the site. The project shall conform to the conditions of approval in order to protect other properties as well

as public health, safety or welfare. The development will use stormwater Best Management Practices such as silt fences, splash blocks on downspouts. Per the applicant's consultant, "The proposed shop will not damage the property and will enhance the life of the applicant through allowing adequate facility to pursue his passion for old car restoration. The shop is proposed off the end of a cul-de-sac and will not create any public safety risks in the area." Staff believes this criteria is met.

**4. 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.**

**Staff comments:** Per the applicant's consultant, "The applicant determined this is the only potential shop location given the needed use of the structure to support his car restoration activities. The shop location was chosen near the existing driveway to minimize impact on the overall property. The applicant adjusted the building footprint closer to the existing driveway where cars have been parked over the years to minimize encroachment on presumed prairie habitat." Staff believes this criteria is met.

**5. 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.**

**Staff comments:** Per the applicant's consultant, "The proposed shop footprint is off the existing driveway and in an area where cars have been parked. It is located on a flat spot on the subject property. Impacts will be mitigated through implementation of a mitigation plan. The applicant has shifted the shop building closer to the existing driveway to minimize impact on presumed prairie habitat." Staff believes this criteria is met.

**6. 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.**

**Staff comments:** The applicant submitted a prairie mitigation plan (Attachment g). Per the applicant's consultant, "The mitigation plan was developed to meet the requirement of no-net-loss of habitat function and value. Thurston County stated that a ratio of 1:1 was required for impacts to prairie habitat. On-site mitigation is proposed to create CAO prairie habitat in the eastern end of the property while still allowing residential use of the property." Staff believes this criteria is met.

**7. The reasonable use shall not result in the unmitigated adverse impacts to species of concern.**

**Staff comments:** There will be no known impacts to any species of concern. Any disturbed vegetation will be mitigated in a different location on-site. Staff believes this criteria is met.

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

**Staff comments:** Per the applicant's consultant, "The location and scale of existing development was not considered in development of this proposed project. This RUE application is a result of

the applicant' s need to reasonably use his property for residential purposes and inadvertent disturbance of CAO protected prairie habitat.” Staff believes this criteria is met.

E. Review Agency Comments:

Staff from Thurston County Public Health and Social Services Department has no objections to this Reasonable Use Exception request (Attachment k).

Staff from the Public Works Department closed their review with no comments.

The Nisqually Indian Tribe submitted a comment email stating they have no concerns with the proposal (Attachment j).

F. Thurston County Comprehensive Land Use Plan:

The Thurston County Comprehensive Plan designation for the subject property is Rural Residential Resource and the zoning is RRR 1/5. This designation was created 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 for a shop, and associated mitigation plan, is consistent with the Thurston County Comprehensive Plan.

G. Public Comments:

No public comment was received in response to the Notice of Application or Hearing notice mailed for this project.

**DEPARTMENT CONCLUSION**

If the Hearing Examiner grants **approval** of the Reasonable Use Exception Permit, then based on the above analysis, the Community Planning and Economic Development Department recommends the following conditions:

1. The Applicant shall complete mitigation prior to final building permit inspection. A surety will be required in place of mitigation completion prior to final building permit inspection, per TCC 24.70. Monitoring shall be completed per the approved mitigation plan by West Fork Environmental, dated October 2, 2023.
2. A critical area affidavit shall be signed and recorded with the Thurston County Auditor's office, prior to final building inspection for the proposed garage.
3. Erosion and storm water control Best Management Practices (BMPs) meeting Thurston County standards; Chapter 15.05 shall be employed during all phases of the project. Proper erosion and sediment control practices shall be used on the construction site and adjacent areas to prevent upland sediments from entering waters of the state. All areas disturbed or newly created by construction activities shall be seeded, vegetated, or given some other equivalent type of protection against erosion.

4. 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.
5. All development on the site shall be in substantial compliance with the approved Reasonable Use Exception, 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.
6. The applicant shall remove all construction related debris to an approved site (landfill or recycling center) outside of critical areas and their buffers.
7. The Applicant must comply with all requirements of state and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on site during development. In the event of inadvertent disturbance or alteration, the Applicant must immediately stop work and contact the Tribe and the State Department of Archaeology and Historic Preservation.
8. 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.
9. 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.).
10. Best management practices (BMPs) such as completing work during the dry season and maintaining proper working order of equipment, as well as temporary erosion and sediment control (TESC) methods including silt fencing and/or coir logs shall be implemented. All disturbed areas will be promptly reseeded following installation, and TESC measures will remain in place until site conditions are restored.

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Heather Tschaekofske, MES  
Associate Planner/Biologist



**LIST OF EXHIBITS**

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

Attachment a	Notice of Public Hearing, dated December 29, 2023
Attachment b	Master Application, dated July 3, 2023
Attachment c	Reasonable Use Application, dated July 3, 2023
Attachment d	Project Narrative, dated October 10, 2023
Attachment e	site plan, revised October 10, 2023
Attachment f	Site photos dated July 3, 2023
Attachment g	Prairie Mitigation Plan, submitted October 10, 2023
Attachment h	Plant List, submitted October 10, 2023
Attachment i	Notice of Application for Reasonable Use Exception dated January 6, 2023
Attachment j	Comment letter from the Nisqually Tribe, January 10, 2023
Attachment k	TC Environmental Health approval memo, dated October 17, 2023
Attachment l	CPED Prairie plant inspection fact sheet and guidelines for prairie inspections, 2023 and 2022
Attachment m	CPED Prairie survey data sheet, June 22, 2023