



COUNTY COMMISSIONERS

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**COMMUNITY PLANNING &  
ECONOMIC DEVELOPMENT DEPARTMENT**

*Creating Solutions for Our Future*

Joshua Cummings, Director

**MEMORANDUM**

TO: Parties of Record

FROM: Cami Petersen  
Land Use Clerk

DATE: April 16, 2018

SUBJECT: **Project No. 2014101488, Sequence No. 18-102103 VE, Jim Hayes**

Attached is a copy of the Decision of the Board of Thurston County Commissioners relating to the above-mentioned case.

Please contact me at (360) 867-2117 if you have questions regarding this Decision.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
THURSTON COUNTY, WASHINGTON

In Re the Matter of,

Jim Hayes' Appeal

Of an administrative denial of a requested time extension to submit additional information related to an administrative SUP to produce and process marijuana in Thurston County, WA

Project No. 2014101488

Appeal No. 17-114934-VE

DECISION

THIS MATTER came before the Board of County Commissioners (Board) on April 4, 2018, due to an appeal filed by Jim Hayes of the hearing examiner's decision dated February 20, 2018.

On November 3, 2017, Jim Hayes appealed an October 20, 2017 administrative decision by the Community Planning and Economic Development Department ("Department"), which denied his request for an extension of time to submit additional information in support of his application for administrative special use permit to operate a marijuana producing and processing business.

In a letter dated April 12, 2017, the Department requested Mr. Hayes to submit a drainage design and erosion control plan within 180 days of the date of the letter. This letter contained the statement: "All requested information must be submitted within 180 days of the date of this letter or your application will lapse." The deadline for submittal of the requested drainage design and erosion control plan was October 9, 2017. The Department sent Mr. Hayes another letter on August 8, 2017, (1) clarifying that a previously discussed forest conversion permit was *not* needed for his project; (2) reminding Mr. Hayes that the (a) drainage design and

erosion control plan requested in the April 12<sup>th</sup> letter still needed to be submitted by the October 9<sup>th</sup> deadline, or his application would lapse; and (b) the health information requested in the July 11, 2017 memo needed to be submitted within 180 days of the date of the memo, or the application will lapse. The letter also contained the statement, "An extension may be requested prior to the lapse date, but it is the applicant's responsibility to know the lapse date."

This letter also advised Mr. Hayes that if "you wish to appeal this determination (October 9<sup>th</sup> deadline)", you will need to submit an appeal "no later than 4:00 p.m. on August 22, 2017."

Shortly after the August 8<sup>th</sup> letter was mailed to Mr. Hayes, to his only mailing address on file, Mr. Hayes came into the Department and spoke to staff. At this in-person meeting staff gave Mr. Hayes a copy of the August 8<sup>th</sup> letter. In a hearing before the hearing examiner, Mr. Hayes admitted to having the August 8<sup>th</sup> letter no later than September 11, 2017. In addition he admitted that as a result of his face to face meeting with staff in early August, he knew then that an important deadline was looming. By his testimony, that face to face meeting occurred 28 days before the October 9<sup>th</sup> deadline.

On October 13, 2017, Mr. Hayes submitted a written request to extend the time to submit his drainage design and erosion control plan. The Department denied the requested extension. The Applicant timely appealed to the hearing examiner, and the hearing examiner's February 20, 2018 denied Mr. Hayes' Appeal.

In his appeal to the Board of County Commissioners, Mr. Hayes argues that "in fairness . . . my 180 days to submit the required information should have started" on August 8<sup>th</sup> instead of April 12<sup>th</sup> as a result of the confusion related to the forest conversion permit.

The single issue before the BOCC is whether the Department's October 20, 2017 denial of a time extension to submit additional information was in error. The relevant county code provision provides:

... if additional information is required, the applicant shall have one hundred eighty calendar days to submit the required information to the department. ... ***Prior to the expiration date***, the applicant may request in writing an extension of time. . .

TCC 20.60.030.

The record clearly reflects that Mr. Hayes did not submit the requested drainage design and erosion control plan, nor did he request an extension of time to submit this information, prior to the October 9<sup>th</sup> deadline. In addition, Mr. Hayes did not file an appeal of the Department's determination that the 180 days to submit the drainage design and erosion control plan started on April 12, 2017.

We agree with the hearing examiner's conclusion that the record submitted "fails to demonstrate that the October 20, 2017 denial of a time extension to submit additional information was in error pursuant to TCC 20.60.030.

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**IT IS HEREBY ORDERED AS FOLLOWS:**

For the reasons discussed above and the findings and conclusions in the hearing examiner's decision, the hearing examiner's decision is affirmed and Mr. Hayes' appeal is denied.

DATE:

4-13-18

ATTEST:

Camie Petersen

Clerk of the Board

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