



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)	
)	
)	SUP NO. 2014101503
Vicki Toft)	
)	Northwind Pet Care Center
)	
)	
For a Special Use Permit)	FINDINGS, CONCLUSIONS,
)	AND DECISION
)	

SUMMARY OF DECISION

The request for approval of a special use permit to amend an approved special use permit for a commercial kennel to house up to 40 dogs and 10 cats, to allow up to 200 dogs and cats at any one time, to add a future 4,800 square foot pet day care building, and to add a proposed overflow kennel space is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Vicki Toft requested approval of a special use permit to amend the existing dog/cat kennel, previously approved via special use permit for up to 40 dogs and 10 cats, to a capacity of up to 200 dogs and cats, with a future 4,800 square foot building and proposed kennel overflow space. The Northwind Pet Care Center is currently operating at 9902 Yelm Highway SE in Olympia, Washington.

Hearing Date:

The Thurston County Hearing Examiner conducted an open record public hearing on the request on June 12, 2018. The record was held open for additional items after adjournment of the public hearing. Both the County's and the Applicant's post-hearing responses were timely submitted and admitted in the record.

Testimony:

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

Tony Kantas, Associate Planner, County Community Planning and Economic Development
Dawn Peebles, Thurston County Environmental Health
Kevin Hughes, Thurston County Public Works
Chris Edmark, Thurston County Building Division
Chris Alrich, Hatton Godat Pantier, Applicant Representative
Jody McDonie, Applicant Witness
Michael Vanzwol
Tyler McWaid
Teresa Delany

Exhibits:

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

1. Community Planning and Economic Development Department Staff Report to the Hearing Examiner, with the following attachments:
 - A. Notice of public hearing
 - B. Master application
 - C. Special Use Permit application
 - D. Notice of application, mailed August 14, 2014
 - E. Site plan
 - F. 2015 aerial photograph
 - G. Applicant's area map description (2 pages)
 - H. Northwind Pet Care Center flyer (2 pages)
 - I. Noise control plan
 - J. Applicant's plan to terminate equine center
 - K. Pages from Northwind Pet Care Center website (9 pages)
 - L. Hearing Examiner Decision SUP-08-90, (7 pages)
 - M. Bonneville Power Administration Land Use Agreement, dated September 19, 2012 (7 pages)
 - N. Memo from Kevin Hughes, Thurston County Public Works Department, dated February 16, 2017
 - O. Comment letter from Dawn Peebles, Thurston County Health Department, dated June 1, 2018
 - P. US Fish and Wildlife Mazama Pocket Gopher review (3 pages), dated November 13, 2014
 - Q. Comments in response to the notice of application

- R. Conservation plan
2. Photos of the site
 3. Memo from Tony Kantas with additional proposed conditions, dated June 12, 2018
 4. Comments in response to notice of hearing (see Appendix A)
 5. Drainage plan, dated January 17, 2017
 6. Technical memorandum, dated August 24, 2015
 7. Noise plan, undated
 8. Preliminary fence plan
 9. Example of noise attenuating product: Acoustical Solutions Technical Data Sheet for ABBC-13EXT AudioSeal Exterior Sound Blanket
 10. Applicant summary of impervious surface
 11. Documents relating to County development approvals on-site, including:
 - a. Conditional site approval for Project No. 2007103332, dated August 31, 2007
 - b. Conditional Site Approval #0711596, issued September 27, 2007
 - c. Residential Permit #07110596, dated January 8, 2008
 - d. Certificate of Occupancy for the addition, dated October 22, 2008
 - e. Permit 90156, issued March 31, 2003, site plan for detached garage with inspection sheet, application, site plan, and Northwind Plan Map
 12. County post-hearing response, dated June 20, 2018, comprised of:
 - a. Tony Kantas Memorandum, dated June 20, 2018
 - b. Plat notes from Large Lot Subdivision LL-0630, dated May 6, 1991
 - c. 1996 Aerial photo of 9902 Yelm Hwy, annotated by Chris Edmark
 - d. 2000 Aerial photo of 9902 Yelm Hwy, annotated by Chris Edmark
 - e. Annotated aerial photo showing permitted pre-ordinance structures
 - f. 2015 aerial photo annotated by Chris Edmark identifying structures on legend
 - g. Spreadsheet of square footage of structures prepared by Chris Edmark
 13. Applicant post-hearing response memorandum, dated June 28, 2018, with attached:
 - a. Updated Applicant spreadsheet, June 28, 2018
 - b. Updated narrative summary for impervious surface additions over time per parcel
 - c. 56 pages of additional documentation relating to various projects, including copies of permit applications, permits, receipts for permits, plans, and other documents¹

¹ No explanation was offered why these additional records were not placed in the record at the time of the hearing.

d. Revised Site Plan, dated June 28, 2018

Also included in the record is the Post Hearing Order setting a submission schedule, issued June 13, 2018.

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. Vicki Toft of Northwind Pet Care Center (Applicant) requested approval of a special use permit to amend the existing dog/cat kennel, previously approved via special use permit for up to 40 dogs and 10 cats, to a capacity of up to 200 dogs and cats, with a future 4,800 square foot building and proposed kennel overflow space. Pet washing and grooming activities are proposed. The Northwind Pet Care Center is currently operating at 9902 Yelm Highway SE in Olympia, Washington.² Existing equestrian boarding and training facilities on-site include a six-stall barn, dressage and jumping arenas, a six-stall indoor arena, and several fenced pastures. The facility employs up to 20 people, with an average of 12 employees on-site at a given time. The kennel operates seven days per week and is open for customer drop off and pick up during typical business hours. *Exhibits 1, 1.B, and 1.C.*
2. The subject property is comprised of three legal lots totaling 15.29 acres: Parcel A (west-most), Parcel B (in the middle with the kennel on it), and Parcel C (east-most). Yelm Highway abuts the south property line, and the property has access from a driveway on the north side of Yelm Highway. Surrounding land uses include a church to the west and single-family residences and a mix of agricultural uses to the north, south, and east on lots averaging five acres. A Bonneville Power Administration (BPA) easement runs along the north property line extending into the site. The site is not considered to include resource lands of commercial significance. There are no on-site critical areas or critical area buffers. *Exhibits 1, 1.F, and 10.*
3. The previous special use permit (SUP 08-90) to operate a commercial kennel for 40 dogs and 10 cats at 9902 Yelm Highway was approved for Craig and Vicki Forster on September 4, 1990. *Exhibit 1.L.* Ms. Forster's last name subsequently changed to Toft. The kennel has been in operation since 1991. The Applicant lives on the subject property. *Exhibits 1, 1.C, and 1.L; Chris Aldrich Testimony.*
4. The property is located in the McAllister Geologically Sensitive Area - one dwelling unit per five acres zoning district (MGSA). The purpose of this zone is to provide for residential, commercial, and agricultural uses of a type and density that will minimize

² The legal description of the subject property is a portion of Lots 3, 4, and 5 of LL-0630, a portion of Section 6, Township 17, Range 1E; also known as Parcel No(s): 21706310300 (5.14 acres), 21706310400 (5.07 acres), and 21706310500 (5.08 acres). *Exhibit 1.*

the potential for contamination or significant loss in recharge capacity of a vulnerable groundwater aquifer and potable water source of great importance for the protection of public health, safety, and welfare. *Thurston County Code (TCC) 20.23.010*. Commercial kennels are permitted in the MGSA zone subject to special use permit approval. *TCC 20.54.070(19)*.

5. In the years since the 1990 approval, the Applicant has intensified operations at the kennel beyond the limits established in the approved SUP. The instant requested special use permit is an after-the-fact remedy seeking to render the approval/permit consistent with the operation as it presently exists. In addition to providing care for up to 200 animals rather than the 40 dogs and 10 cats allowed at any one time by the previous permit, several buildings have been constructed on-site without permits. *Exhibit 1*.
6. The existing kennel use occurs entirely within fenced enclosures. All existing buildings and play areas in use by the kennel are situated farther than 50 feet from any of the property lines, consistent with TCC 20.07.030(d). The Applicant has built a solid six-foot high fence along the entire eastern site boundary and along the northern boundary of the main kennel building. There are some areas of existing landscaping that act as visual and auditory screens between the kennel and neighboring residential uses. *Exhibits 1 and 8*. The proposal seeks permission to add a new 4,800 square foot pet day care facility (impervious surface) and 10- by 38-foot overflow kennel space. Because the kennel is already exceeding the number of animals permitted, and has been for some time, these new developed areas and the addition of grooming/washing activities are the only intensification of the use currently proposed. No signs are proposed. No staffing increase is proposed. *Exhibits 1 and 1.C*.
7. The Applicant offered the following information discussing the history of construction with and without permits:

Parcel A (21706310300, west) contains the single-family residence and associated access and other residential improvements. No construction has been added on this parcel without permits.

Parcel B (21706310400, in the middle) has been developed with a single-family residence, a circular driveway, and two permitted outbuildings. A small addition to the kennel was added in 2000 and an 1,800 square foot garage was built in 2003 with County permits. In 2008, outdoor dog play areas comprised of concrete and synthetic turf surfaces were installed without permits. This area totals approximately 4,900 square feet. In 2009, an additional 3,000 square feet of dog play area with impervious surface was installed without permits. In 2012, a 625 square foot office was added without permits.

Parcel C (21706310500, east) was developed with a horse barn, a corral, riding area, and other smaller sheds prior to 1996. In 2000, a 12,000 square foot riding arena was added with permits. In 2003, a 3,400 square foot addition was installed on the north side of the riding arena without permits. In approximately 2008, a

small shed and modular home totaling 2,608 were added with permits. In 2012, a new outdoor riding area of 20,000 square feet was added without permits.

The Applicant asserted that unpermitted structures built total only 4,025 square feet. *Exhibit 6; Chris Aldrich Testimony.*

8. In addition to the requirement that buildings used for commercial purposes must have approved building permits that ensure the structures are safe for the proposed occupancy, the unpermitted structures on-site are an issue due to limits on impervious surface area allowed in the MGSA zone, discussed below. The delay between the application for the amended SUP and the instant hearing was to allow the Applicant to apply for and obtain building permits for on-site structures and additions that were constructed without permits. However, because not all needed information was submitted, certificates of occupancy have not been issued for all buildings constructed or altered without permits. *Exhibit 1; Tony Kantas Testimony; Chris Edmark Testimony.*
9. Coverage by impervious surfaces is strictly limited for properties in the MGSA zone. Pursuant to Thurston County Code (TCC) 20.23.030(5)(a), maximum lot coverage by hard surfaces in the MGSA zone for lots of five acres or greater is limited to 5%, provided that, for uses allowed via special use permit, the approval authority may grant additional lot coverage by hard surfaces of up to a maximum of 10% as long as conditions are imposed to mitigate potential contamination of groundwater and to ensure the maintenance of adequate stormwater infiltration rates. *TCC 20.23.030(5)(a)*. This ordinance went into effect on January 29, 1991, meaning it was implemented at approximately the same time or before the kennel commenced operation in 1991³ and before the three parcels of the subject property were created by subdivision on June 14, 1991. *Exhibit 12.*
10. At the time of hearing, according to the County, existing hard surfaces per lot were as follows:

Parcel A, 21706310300: 5%
Parcel B, 21706310400: 18%
Parcel C, 21706310500: 22%

To address the excess impervious surfaces, Planning Staff recommended a condition of approval requiring the Applicant to consolidate the three parcels into one lot and to demonstrate that impervious surface areas are limited to not more than 10% for the consolidated parcel. *Exhibit 1.*

11. At hearing, the Applicant representative disagreed with this recommended condition. Offering a spreadsheet that detailed all impervious surfaces (rather than the prior calculation of square footage of building footprints), the Applicant reported the following. On Parcel A, a total of 614 square feet of impervious surface area was

³ The Applicant's initial noise control plan states that the kennel has been in operation "since 1991". *Exhibit 1.I.*

installed without permit (and thus without review for compliance with lot coverage maximums) when part of the dog pool extended onto the parcel. On Parcel B, a total of 10,148 square feet of impervious surface area was installed without permits/review, comprised of the covered entry/courtyard of the office addition, the majority of the dog pool, and a gravel access to a loafing shed in the BPA power line easement. On Parcel C, a total of 13,224 square feet of impervious surface was added without permit/review, comprised of expansion of a covered horse arena, expansion of graveled area associated with an arena and with the kennel, and an additional loafing shed in the BPA easement. *Exhibit 10.*

12. The Applicant argued that that development expressly permitted by the County on Parcels B and C exceeded the 10% coverage maximum. On August 31, 2007, in response to submitted plans in support of an addition to the residence on Parcel B, the County issued a letter denying site plan approval as proposed because the proposal would cause the impervious surface area on-site to exceed 20%. The letter, written by a Planning Technician and entitled Conditional Site Approval Project #2007103332, required a revised site plan showing impervious surface coverage of the site totaling less than 20%, including the proposed addition. *Exhibit 11.a.* The site plan approval eventually issued was conditioned to require the removal of 2,280 square feet of impervious material. *Exhibit 11.b.* Another addition was subsequently approved on Parcel B in January 2008 without apparent focus on the percentage of site coverage by impervious surface. *Exhibits 11.c and 11.d.* The garage had already been approved and built in 2003. *Exhibit 11.e.*
13. Based on the County's repeated approvals for expansions in impervious surface area after the MGSA provisions restricting site coverage to 10% went into effect, the Applicant argued that the approvals were supported by County code provisions that allow expansions of nonconforming uses and structures by up to 15% (TCC Chapter 20.56). The Applicant submitted the following:

Parcel A: Current impervious surface coverage is 2.6%. With the proposed kennel building, it would be 5%.

Parcel B: Current impervious surface coverage is 24%. With proposed mitigation (removal of gravel, primarily), it would be 20% coverage.

Parcel C: Current impervious surface coverage is 24%. With proposed mitigation (removal of gravel, primarily), it would be 20% coverage.

By the Applicant's calculations, the permitted impervious coverage for all three parcels (aggregate) is 15.7%. With the proposal's new impervious surfaces and proposed mitigation, the aggregate site coverage by impervious surface would be 15.2%. Based on this and on the previous approvals, the Applicant challenged recommended condition 4 and requested instead that, if boundary line adjustment to merge the three lots into one parcel is required, the maximum impervious surface coverage allowed should be 15.2%. *Exhibits 10 and 11; Chris Aldrich Testimony.* The Applicant agent testified that existing impervious surface to be removed are intended to be graveled or paved access ways that

would be removed and replaced with pervious pavement or other pervious surface area.
Chris Aldrich Testimony.

14. The County's post-hearing calculations of existing impervious surface coverage differ from those submitted by the Applicant at hearing. Because the kennel use, approved on Parcel B, has now expanded to occupy portions of all three parcels, Staff considered the total land area of the three parcels (15.29 acres) in its analysis of how much impervious surface area there is currently on-site. In square feet, 15.29 acres is 666,032. Planning Staff determined that there are 112,782 total square feet of existing permitted impervious surface area on-site, which they concluded equals 16.9% of the total property area. That amount increases to 136,839 square feet when including unpermitted impervious surface areas, or 20.5% of the total area. The proposed additional impervious surface area is 4,800 square feet for the new pet care building and 380 square feet of kennel overflow space. Planning Staff recommended that the Applicant be limited to the extent of site coverage previously permitted by the County and built, or the 112,782 square feet (16.9%) of existing permitted site coverage. Staff recommended conditions of approval that continue to require the merging of the three parcels through boundary line adjustment and mitigation of the existing unpermitted impervious surface area by removal and replacement with pervious surfaces or acquisition of additional property. In addition, Staff recommended that prior to construction of the proposed new pet care building and overflow kennel space, the Applicant be required to remove additional existing impervious surface areas and replace them with pervious surfaces as a prerequisite to approval of building permits for the proposed new impervious surface areas. *Exhibit 12.*
15. Planning Staff requested revisions to several recommended conditions of approval based on the evidence developed at the hearing. One revision in particular would extend the recommended timeline to obtain occupancy permits for all structures built on-site without permits from six months to twelve months from the date of special use permit approval. *Exhibit 12.*
16. The Applicant agreed that permits for all structures are required and noted that applications have been submitted and are in progress but took exception to the recommended requirement that permits be obtained within 12 months. The Applicant agent stated this objection was based on the fact that the Applicant cannot control how long it takes County staff to perform their work and issue permits. *Exhibit 13.*
17. With respect to allowed impervious surface area on-site, the Applicant responded in their post-hearing submittal, and the undersigned agrees, that it is unclear how Staff computed the 24,057 square feet of unpermitted hard surfaces. However, subject to some corrections and additional permitting information for buildings built on-site submitted with their post-hearing responses, the Applicant generally agreed with the Building Department in terms of correction items where unpermitted structures need compliance. The Applicant noted that multiple building permits have been submitted and are in the process of review. The Applicant submitted a revised, updated spreadsheet containing their calculation of impervious surface areas built with and without permits. According to the Applicant's analysis of their additional permitting records and information, both

Parcels B and C contained more than 5%, and actually greater than 10%, impervious surface coverage at the time the MGSA ordinance went into effect in 1991, with Parcel B at 19.9% and Parcel C at 12.8% coverage.⁴ The Applicant also asserts that after the County's adoption of the MGSA impervious coverage limitation, the County approved various permits that allowed coverage of 24% for Parcel B and 20% for Parcel C. However, because the current impervious surface coverage exceeds the coverage asserted by the Applicant to be "grandfathered" (existing at the time the ordinance went into effect), a proposed revised SUP site plan (dated June 28, 2018) shows an area of compacted gravels to be removed as mitigation. The site plan identifies the proposed mitigation as "scarification and limiting access to agricultural uses only".⁵ The proposed mitigation is intended to reduce the aggregate impervious/hard surfaces to 16.3% of the combined area of the three parcels, which is less than the grandfathered percentage asserted by the Applicant. *Exhibit 13*.

18. A total of 16.3% impervious surface area for the three parcels is also less than the 16.9% recommended by Planning Staff as approvable. *Exhibit 12*.
19. The Applicant concurred that lot consolidation through boundary line adjustment was the most reasonable means of dealing with the need to reduce impervious lot coverage between the three parcels. However, the Applicant took exception to the recommendation that the proposed additional coverage for the 4,800 square foot pet day care building and 380 square foot kennel overflow would require additional mitigation through their building permit process. These areas are already included in the Applicant's calculation arriving at a maximum of 16.3% coverage for the combined parcels. *Exhibit 13*.
20. Because some of the excess impervious surface area was unpermitted, and because the zoning code requires demonstration that drainage standards are met and that there is no harm to groundwater recharge, the Public Works Department required a drainage scoping report. The Applicant commissioned a professionally prepared drainage and erosion control report showing drainage management for all impervious surface areas. The report disclosed that all roofs are connected to downspouts routed to drywells, and runoff from other non-pollution generating surfaces is dispersed. The Applicant proposed to replace portions of existing gravel maintenance areas to offset the unpermitted additional impervious surfaces installed over time. *Exhibit 5; Chris Aldrich Testimony*.
21. At hearing, the Applicant submitted an updated, enhanced noise control plan. It included the following measures:
 1. Ensure surrounding property owners have the Applicant's cell phone number so they can call her directly with noise concerns;

⁴ The Applicant's spreadsheet didn't make it clear what information supports this assertion, and the finding merely intends to report the Applicant's assertion rather establish these figures as fact.

⁵ This specific language was offered in the Applicant's post-hearing submittal and the County did not have an opportunity to respond specifically to this proposed method of mitigating excess impervious surface coverage.

2. Nest camera use in each boarding area to allow managers and pet managers to access the boarding area at any time to observe noise conditions;
3. Employ two night managers per shift, on site till 10:00 pm, to ensure barking dogs are dealt with;
4. Employ a pet manager every day shift whose job includes keeping dogs quiet by addressing dog needs and anxiety;
5. A five step plan for barking dogs, including: treats/toys for distraction; potty breaks; employee one on one time in the kennel; quiet commands (“knock it off” and “quiet”); locking barking dogs inside kennel until they calm down; and citronella or bark collars;
6. Move barking dogs to indoor kennels if they can’t stop barking;
7. Managing barking during playtime out of doors using verbal commands and time outs; and
8. Landscaping the area to absorb as much noise as possible.

Exhibit 7.

22. The County received comments on the proposal expressing concerns about noise from the site. To the extent that the noise-related comments expressed concern about future increases, Planning Staff noted that the kennel is already operating at the number of dogs it has requested permission to serve; there would not be an increase in dogs. Still, noise is a common concern in the vicinity of a kennel. To mitigate the noise impacts of the kennel, Planning Staff recommended that the Applicant be required to implement the following noise control measures as a condition of permit approval:
 1. Implement the proposed noise control plan and remain in compliance with WAC 173-60;
 2. Construct a minimum solid six-foot tall wood fence between the kennel and the adjacent neighboring properties to the west, east, and north. The new fencing would be constructed in locations where there are not existing on-site non-kennel buildings that separate the kennel from the adjacent neighboring properties; and
 3. Install a 15-foot wide Type I landscape buffer at the required fence locations.

Exhibit 1.

23. The County’s zoning code requires commercial uses to provide a minimum five-foot landscaped buffer along public rights-of-way and adjacent to residential uses. When adjacent to a residential zone or use, the buffer must be densely planted with site-obscuring trees and shrubs. Aesthetically pleasing six-foot high solid wood fences may be substituted for landscaping. *TCC 20.45.040*. Due to the intensity of the kennel use and its potential for noise and other impacts to surrounding residential parcels, Planning Staff recommended that the kennel be required to provide minimum 15-foot landscaped

buffers in locations where there are no preexisting non-kennel buildings between adjacent land uses and the kennel, as well as the installation of solid wood fencing to ensure adequate screening in conformance with TCC 20.54.070(19)(c). Staff recommended that the landscaping meet the Type I landscaping standards established at TCC 21.80.050(B). *Exhibit 1.*

24. The Applicant proposed the addition of solid wood fencing adjacent to certain portions of the kennel facility and Type 1 landscaping along the new wood fencing as well as along existing wood fencing in strategic locations intended to meet the above Staff recommendation. *Exhibit 8.* The Applicant also submitted information about additional noise mitigation measures that could be implemented in the form of acoustic absorbing mats that can be placed inside the fencing to diminish the volume of barking as heard from off-site. The Applicant provided the Technical Data Sheet about one such product by Acoustical Solutions: the ABBC-13EXT AudioSeal Exterior Sound Blanket. *Exhibit 9.*
25. Unenclosed kennels are setback 190 feet from the eastern property boundary, 100 feet from the north property boundary, and 340 feet from the west property boundary. *Exhibit 1.O.* Planning Staff submitted that, with the recommended conditions, all dogs outside would be kept in fenced enclosures setback at least 50 feet from all property lines, the noise control plan would be implemented, and the additional fencing and landscape screening should mitigate noise. In post-hearing comments, Planning Staff requested a revised recommended condition of approval that would require the Applicant to install the exterior sound blankets along all existing perimeter kennel fencing to the north, west, and east of the kennel within 60 days of SUP approval. *Exhibits 1 and 12.*
26. The Applicant objected to this recommended condition, arguing that the kennel has already undertaken, and continues to employ, various measures at the site to reduce noise from kennel areas, including the revised noise plan and proposed additional fencing and landscaping. The Applicant noted that the use of the specific product suggested as an example would cost nearly \$57,000 along all internal fencing, as each four foot mat costs \$400. The Applicant requested that noise mats, or other similar sound attenuation technologies, be implemented at the Applicant's discretion on the kennel perimeters described, where other methods are less easily employed or in locations that require more noise abatement. *Exhibit 13.*
27. The existing use includes horse boarding for up to twelve horses. As of the date of hearing, the Applicant owns three horses, kept on-site, and rents stable space to the owners of seven other horses. Horse boarding is the rental of living quarters for horses that are owned by individuals who need space for their horses. It does not include rental of those horses to third parties. *Jody McDonie Testimony.* Before the hearing and in the staff report, Planning Staff was under the impression that the horse boarding activities on-site rendered the horse-related use of the property consistent with the definition of "riding stable, arena, academy." Riding stable/arena/academy is defined in the code as "premises where six or more horses are kept for rental purposes, or where six or more horses are used at any one time for prearranged events, such as training classes,

exhibitions or shows, five or more times per year. This shall not include stable facilities used solely for boarding or breeding of horses.” TCC 20.03.040(115). Staff required the use to cease or to be restricted to no more than five horses at a time (recommended condition 9). *Exhibit 1*. The Applicant submitted a statement entitled, “Plan to Terminate Equine Center,” in which the Applicant agreed to remove signage, to cease advertising, and to conduct on-site activities such that they do not conflict with TCC 20.03.040(115) or TCC 20.54.070(35). *Exhibit 1.J*. However, testimony offered at hearing clarified that the horse-related activities on-site are limited to horse boarding, which Staff asserted is allowed outright in the zone pursuant to TCC 20.23.020(2). No increase or change in nature of horse activities is proposed. In their post-hearing submittal, Staff requested that recommended condition 9 be stricken. *Jody McDonie Testimony; Tony Kantas Testimony; Exhibit 12*.

28. The Applicant currently stockpiles horse manure under a structure immediately adjacent to the east property line. *Exhibit 1.E*. Pursuant to TCC 20.07.030(1)(d), structures housing animals must maintain a minimum setback of 35 feet from the side and rear property lines and 50 feet from rights-of-way. Because the manure storage structure is associated with animals kept on-site, and because the County has received comments expressing concern about smells from the use, Planning Staff recommended a condition of approval requiring the manure storage structure to be moved to meet the setback requirements of TCC 20.07.030(1)(d). *Exhibit 1*. The Applicant’s revised site plan shows both a 35-foot setback for structures housing animals and also “relocated compost bunkers” southeast of the round horse corral in the northeast quadrant of the overall site, which are well more than 35 feet from any site boundary. *Exhibit 13.d*.
29. Thurston County Public Works Department Development Review Section Staff member Kevin Hughes spoke to the amount of traffic anticipated from the proposal. The determination whether a traffic study is required for a given proposal is based on the number of PM peak hour trips the use would generate. Dog kennel/commercial kennel is not a land use identified in the traffic engineers’ manual, so the number of trips projected for the use was based on traffic patterns from other kennels in the County. Based on the low number of PM peak hour trips, and the fact that there are no intersections in the vicinity with known operational problems, Public Works determined that a traffic study was not required and that the proposed use would not create enough traffic to cause congestion on Yelm Highway SE. Public Works Staff reviewed the project for compliance with access, traffic, and stormwater control requirements. All impervious surfaces on-site were reviewed for compliance with the Thurston County Drainage Design & Erosion Control Manual, and the existing access point was reviewed for compliance with the Thurston County Road Standards. Public Works Staff found the proposal in compliance with all applicable standards and recommended no conditions. *Exhibits 1, 1.N, and 5; Kevin Hughes Testimony*.
30. The County’s off-street parking standards do not establish the minimum parking requirements for a kennel use. TCC 20.44.030. Pursuant to TCC 20.44.030(3), the approval authority shall determine the required number of parking spaces for uses not specifically mentioned. There are 22 existing parking stalls on-site, including one stall

that is accessible to persons with disabilities. No complaints about parking have been submitted to the County. According to the application, the average number of vehicles to the site per day is 20. Planning Staff submitted that the existing parking is adequate for kennel staff and customers picking up and dropping off their pets. *Exhibits 1, 1.C, and 1.E.*

31. Addressing the McAllister Geologically Sensitive Area (MGSA) zoning of the site, the Applicant submitted a waste management plan within an overall Conservation Plan. Exhibit 1.R. Solid waste generated by dogs and cats is collected daily, bagged, and placed in a dumpster for off-site disposal. Outdoor kennel areas are swept and blown clean daily. Horse manure is collected and stored in a structure on-site, which is emptied when full by a truck removing the manure from the site. The prepared conservation/waste management plan includes best management practices regarding nutrient management (for soils) and waste storage. The Thurston Conservation District has reviewed and approved the conservation plan. *Exhibits 1 and 1.O.*
32. Water and sanitation facilities were reviewed by the Thurston County Public Health and Social Services Department, Environmental Health Division (EHD). That department's review noted that there are currently four existing septic systems on site and that the uses on-site are served by Pattison Public Water. One septic system located on Parcel A was approved for a three-bedroom residence; it is not currently in use. The proposal seeks to use this system to serve the new 4,800 square foot pet care building. There are two approved septic systems on Parcel B; one serves the primary four-bedroom residence and one serves the existing pet care center, including public and private restrooms and a laundry. The Applicant submitted an evaluation of this system prepared by a licensed sewage system designer to address the proposed addition of pet grooming and washing activities. Staff from EHD reviewed and accepted this evaluation and concluded that the septic system has capacity to add pet washing/grooming activities. The final septic system was installed on Parcel C to serve a residence that has since been removed. The proposal would abandon this fourth septic system. EHD Staff reviewed the project for compliance with health related codes and recommended approval with conditions. *Dawn Peebles Testimony; Exhibit 1.O.*
33. The subject parcels are underlain by an indicator soil type for Mazama pocket gopher habitat. The subject parcels were reviewed by the US Fish & Wildlife Service (USFWS) for the potential presence of the Mazama pocket gopher, a species listed as threatened under the Endangered Species Act. The USFWS found that the proposed amended kennel would not impact the gopher; however, this determination had an expire date of October 31, 2015. Planning Staff submitted that the proposed amended SUP would not impact any type of wildlife. *Exhibits 1 and 1.P.* The burden of complying with applicable Federal regulations is on the Applicant.
34. The proposal is exempt from State Environmental Policy Act review pursuant to Thurston County Code Chapter 17.09 as minor new construction. *Exhibit 1; Tony Kantas Testimony.*

35. Written notice of the public hearing was mailed to owners of property within 500 feet of the site on May 29, 2018. Notice was also published in The Olympian and posted on-site on June 1, 2018. *Exhibits 1 and 1.A.*
36. The County received several written public comments during the comment period, the majority of which were in support of the proposed kennel expansion. Many who commented identified themselves as long-time customers of Northwind Pet Care Center and expressed a variety of positive feedback about the facility and its services, owner, and staff. The facility was repeatedly described as clean and well maintained, and the grounds were described as being orderly, apparently sanitary, upscale in design, and aesthetically attractive. The dog/cat facilities were described as odorless and quiet by many, or as having minimal odor and noise by others. Customers of Northwind's equine services were equally complimentary, expressing satisfaction with the quality of care and facilities for their horses as well as ease of access to the property for vehicles with horse trailers. The owner was described as a hardworking and responsible businessperson, employing dedicated, long-term staff whose care for the animals is thorough, professional, friendly, and considerate. Comments in support of the application discussed the high demand for additional capacity at Northwind, stating that it is difficult even for regular, local, longstanding customers to get a reservation when needed, and that there are few additional facilities in the area. Northwind's services were described as being of particular benefit to local elderly residents, working families, and those in the military. Northwind was described as an asset to the community, contributing to the County's tax revenue, creating local jobs, being an example of a robust small business in the area, and as an amenity for current and prospective local homeowners. *Exhibits 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.14, 4.15, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, and 4.27.*
37. There were also comments submitted in opposition to the proposal. Concerns expressed in these comments included complaints or questions regarding odors, noise, environmental concerns, traffic concerns, compliance with existing land use requirements, and impacts to property values and neighborhood character. Neighbors on adjacent parcels complained of the smell of canine waste and horse manure; one individual stated that he has requested that Northwind set back the horse manure storage further from the subject property's perimeter. Multiple neighbors also reported that the kennel generates a great deal of noise, including dogs barking, dogs howling, tractors, and other site maintenance equipment in operation, all occurring seven days a week "at all hours". One comment requested that the kennel be required to keep fewer dogs in each enclosure during the day and bring all dogs inside by 5:00 pm each day to reduce the noise of dogs barking that is audible on neighboring properties. Some expressed concerns about the environmental impact of the animal waste generated by the kennel on the water supply in the area and asked for information on how that waste is being disposed. Concern regarding traffic heading to the kennel was expressed in a comment that stated that the approach to the entrance is situated so that it cannot be seen well from either direction, which may result in increased traffic danger for residents driving near the kennel when customers are trying to find the entrance. Multiple individuals expressed the opinion that a new permit should not be granted until the facility is brought into

compliance with the existing, approved permit. These comments argued that other kennels have been closed due to noncompliance, that other construction in the area is required to comply with the rules imposed on those projects, and that the Applicant's request to have its noncompliant operations permitted after the fact should be denied. Some neighboring residents asked for specific boundary improvements to be put in place (fencing, landscaping) between their properties and the subject property. Several comments asserted that neighbors understood that they were choosing to live near a 40-animal capacity facility and that living next to a 200-animal capacity kennel is not what they signed up for. Some expressed concern that the proposed expansion would lower their property values, scare away the wildlife, and adversely affect neighborhood character. One comment suggested that neighboring property owners should receive a reduced property tax assessment if this permit is approved. *Exhibits 1.Q (pages 75-80), 4.13, 4.16, and 4.26.*

38. Both Staff and the Applicant were requested to submit additional comments after the hearing. Planning Staff was asked whether the information submitted by the Applicant or members of the public caused revision to the conditions of approval recommended in the staff report. Staff did submit revised conditions of approval. One group of recommended revised conditions (conditions 14, 15, and 16 from Exhibit 12) would require re-review of the special use through the "Other Administrative Action - Minor" process at 18 months post-approval in order to determine whether the impacts complained of in public comment (particularly noise and odor) have been adequately addressed. The main action item in these conditions was to require the Applicant to conduct a sound study 18 months after SUP approval, presumably to place the burden of the demonstration of the kennel's compliance with noise standards on the Applicant, rather than on neighbors or on the Department. These recommended revised conditions included potential future additional noise mitigation in the event that the Applicant's sound study fails to show compliance, and leaves the door open for subsequent additional re-review. *Exhibit 12.*
39. Planning Staff submitted that the recommended revised conditions would adequately address the concerns raised by neighbors, especially about noise and construction without permits, and submitted that there none of the comments required substantial amendment of the project as proposed. Staff noted that conditions of approval would require the Applicant to implement the noise control plan, including moving any of the dogs barking excessively they inside a sound proof portion of the kennel until the barking has stopped, and also installation of additional six-foot fencing and 15-foot deep landscaped buffers in areas lacking such screening currently. Also the manure storage structure is proposed to be moved. Planning Staff submitted that as proposed and conditioned, the project would consistent with the Thurston County Comprehensive Plan, the Thurston County Zoning Ordinance, and all other applicable policies and ordinances and that there would be no impacts to existing public improvements or services are expected. *Exhibits 1 and 12; Tony Kantas Testimony.*
40. The Applicant indicated that additional fencing and landscaping is proposed to address noise and aesthetic concerns and noted that the manure storage facility is moving farther to the interior of the site to reduce impacts. The Applicant requested some revisions to

Planning Staff's post-hearing revised conditions of approval and specifically objected to the recommended 18-month re-review of the proposal in revised conditions 14, 15, and 16. *Chris Aldrich Testimony; Exhibit 13.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner has jurisdiction to decide this special use permit application under Sections 2.06.010 and 20.54.015 of the Thurston County Code, and Section 36.70.970 of the Revised Code of Washington.

Special Use Permit Criteria for Review:

The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 20.54.040 are satisfied:

- A. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan, and all applicable federal, state, regional, and Thurston County laws or plans.
- B. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.
- C. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
 - 1. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though said adverse effects may occur.
 - 2. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

Use-Specific SUP Criteria for Kennel Uses (Chapter 20.54.070(19)):

Pursuant to TCC 20.54.070(19), the following use-specific standards apply to kennels housing eleven or more dogs:

- a. If dogs are kept or let outside unleashed, they shall be kept in a fenced enclosure.
- b. The setback standards in Section 20.07.030 for animals housed inside a structure shall apply.

- c. Visual screening, increased setback, increased lot size and other conditions may be required by the approval authority taking into account safety, noise and odor factors.
- d. Kennels within the McAllister Geologically Sensitive Area (MGSA) and R 1/10 districts shall be subject to a waste management plan approved by the hearing examiner which minimizes the risk of groundwater contamination.

Conclusions Based on Findings:

1. An expanded kennel use, including the specific activities proposed, is allowed in the MGSA zone with SUP approval. Conditions of approval would ensure that the project complies with all applicable County, state, and federal regulations. *Findings 3, 4, 6, and 39.*
2. The purpose of the MGSA zone includes providing for commercial and agricultural uses that will minimize the potential for contamination or significant loss in recharge capacity of a vulnerable groundwater aquifer and potable water source. The Applicant has submitted a conservation plan addressing animal wastes which has been reviewed and accepted by the Thurston Conservation District, Environmental Health Division, and the Community Planning and Economic Development departments. The proposed new kennel structures would comply with MGSA zoning setbacks, height, and other bulk dimensional standards. The proposal would relocate the existing horse manure storage facility to a location well over 50 feet from any site boundary, bringing that portion of the existing use into compliance with the setback requirement of TCC 20.07.030(1)(d). With respect to required open space, in the MGSA zone this includes maximum site coverage by impervious surfaces. Due to the apparent fact that prior to adoption of the MGSA standards, permitted development on subject Parcels B and C already exceeded 10% (which would make excess site coverage by hard surfaces as of that date legally nonconforming) and due to the complicated history of the County's permitting of additional development on the Applicant's three parcels since adoption of the ordinance, some exceedance of the 10% maximum site coverage by impervious surfaces appears to be warranted; however, to be in conformance with the purpose and specific provisions of the ordinance, the site's impervious surface coverage must be minimized to the maximum extent feasible. Therefore, although the County recommended 16.9% based on its calculations, the Applicant recommended 16.3%, and the lower site coverage maximum is adopted. The instant approval sets a hard, permanent limit of 16.3% site coverage by impervious surface provided that the three parcels are merged through boundary line adjustment as required in conditions of approval. So long as the current regulation applies, any addition of impervious surface beyond 16.3% of the total 15.29-acre site will require removal of existing impervious surface area. *Findings 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, and 25.*
3. The use is allowed in the zone; neither the special use permit kennel-specific criteria nor the MGSA provisions limit the capacity of the kennel. So long as the site is large enough to allow adequate mitigation for the impacts of the use, it can be approved on the subject property. At 15.29-acres, the site is large enough to accommodate a kennel of up to 200 dogs and cats and the boarding facilities for up to 12 horses that are in use (and are outside the scope of the permit). The kennel has been in operation on-site since the early

1990s, or nearly 30 years; it has become an established part of the neighborhood character. Adequate parking is provided on-site. Of note, the kennel is already operating at the proposed capacity. The instant decision would not increase impacts beyond those already experienced by neighbors. Conditions of approval would address these impacts, which are primarily noise from dogs, and odors from dogs and horses. Individual areas of impact and/or disputes between County and Applicant are addressed as follows:

- a. Although traffic was listed as a concern in some comments, that concern was not substantially demonstrated in the record and no traffic mitigation is required at this time based on the instant record.
- b. As noted previously, the horse manure storage facility would be moved significantly towards the interior of the site. The dumpster in which dog and cats solid wastes are stored would also be required to be stored a significant distance from any site boundary.
- c. Regarding noise and recommended revised condition 9, the instant approval adopts the Applicant's request to only require the present installation of noise attenuating mats (or similar devices to those in Exhibit 9) at the locations where Type 1 landscaping cannot be planted immediately adjacent to the required perimeter fencing.
- d. Implementation of the Applicant's approved conservation plan would address impacts to groundwater quality, while the strict limit established for impervious surface area would protect groundwater recharge quantity. Conditions would ensure that the septic system on what is currently Parcel C is properly abandoned and that the septic systems on current Parcels A and B have capacity to handle operations. All on-site septic systems should operate under renewable operational certificates for protection of the sensitive aquifer below. No other argument for impacts to the natural environment was credibly raised in the record.
- e. Given the facts that the intensity of the use - both in the number of animals served by the kennel and also in terms of buildings/impervious surfaces installed - was increased without the benefit of review, that the Applicant was aware of the capacity limit set by the previous SUP approval and that permits were needed, and that building permit applications have already been submitted to obtain approval of occupancy for structures built without permits, the County's recommendation for a period of 12 months to obtain occupancy certificates for all structures will be adopted. Any structure lacking a certificate of occupancy by the deadline will need to be vacated until such time as occupancy is approved.
- f. Regarding Planning Staff's recommended re-review in 18 months to ensure that the noise mitigation measures are effective, such a requirement would allow the burden of demonstrating whether the use complies with noise standards to be placed on the Applicant, where it belongs. Considering that the Applicant is in the position of seeking after-the-fact authorization for a dramatic increase (five times) in a commercial operation that was approved by special use permit once before and has conducted relatively extensive construction on-site without the benefit of review and permitting, the undersigned is not persuaded that Staff's conditions requiring future re-review are excessive. The outcome of these conditions would allow the Applicant

to demonstrate beyond any doubt whether the kennel conforms to noise standards, which, if the answer is yes, would be to the Applicant's long term benefit. Similar re-review has been required of other kennel special uses in the past. Given the number of noise complaints, this re-review is necessary to demonstrate compliance with special use criteria permit standards.

As conditioned, all known and anticipated impacts would be addressed sufficiently to satisfy special use permit criteria. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, and 39.*

4. There is no evidence in the record of impacts to public infrastructure, such as roadways, or to public services, such as emergency response or public water and sewer. *Findings 1, 6, 29, 30, and 32.*
5. As proposed and conditioned, all dogs would be kept inside fenced enclosures at all times. The revised site plan dated June 28, 2018 shows compliance with the required setback for structures housing animals established TCC 20.07.030, and conditions would ensure compliance. All kennel structures and outdoor kennels would be set back at least 50 feet from the perimeter of the site. Conditions of approval would ensure that screening both visually and for sound would be accomplished with landscaping and fencing. The Applicant's waste management plan has been prepared, accepted by Thurston Conservation District and the Environmental Health Division, and appears to address all requirements established in the MGSA zone. *Finding 1, 4, 6, 9, 23, 24, 25, 31, and 39.*

DECISION

Based on the preceding findings and conclusions, the request for approval of an amended special use permit to authorize up to 200 dogs and cats at any one time, and to add a future 4,800 square foot pet day care building and a proposed overflow kennel space of 380 square feet, and to allow pet grooming and washing is **GRANTED** subject to the following conditions:

Planning-Related Conditions

1. Outdoor lighting shall be designed and function in a manner which does not direct light onto adjoining streets and properties.
2. The number of dogs and cats at the facility at any one time shall not exceed 200.
3. If dogs are kept or let outside unleashed, they shall be kept in a fenced enclosure setback at least 50 feet from all property lines.
4. The Applicant must submit a boundary line adjustment (BLA) application to the Thurston County Community Planning and Economic Development Department for the subject parcels within 90 days of special use permit approval to consolidate Parcels A, B, and C into one 15.29-acre parcel. The BLA must demonstrate a maximum impervious surface area of 16.3% of the entire consolidated parcel. In order to reach that percentage of site

coverage by impervious surfaces, the Applicant shall mitigate the existing excess impervious surface area by means of replacing impervious surfaces with pervious surfaces, building removal, or by acquiring more land to be added to the site.

5. Prior to building permit approval of the 4,800 square foot pet day care building and/or the 380 square foot overflow kennel space, the Applicant must demonstrate that construction would not cause the site's coverage by impervious surfaces to exceed the allowed 16.3%.
6. The Applicant must implement the noise control plan in the record at Exhibit 7. Dogs that bark excessively must be moved inside a soundproof portion of the kennel until the barking has stopped. Noise levels at the site perimeter shall remain in compliance with WAC 173-60.
7. The Applicant shall submit a landscape plan to the Thurston County Community Planning and Economic Development Department for review and approval within 30 days of SUP approval. The landscape plan shall incorporate a 15-foot wide landscape buffer in accordance with the Type I landscape requirements of TCC 21.80.050(B). The landscape plan must include Type I landscaping between the kennel and the neighboring property to the east. At a minimum, the landscaping must be installed where there are not existing on-site non-kennel buildings that separate the kennel from adjacent properties. These required areas of landscaping are not maximums; the Applicant may plant more landscaping for sound and visual screening.
8. The required landscaping must be installed within 60 days of the date the landscape plan is approved. If the time of year prevents the installation of the landscaping, the Applicant shall submit a performance assurance guarantee in the amount of 150% of all plant and installation costs. In no case may the Applicant delay performance for more than six months from the date of SUP approval.
9. Within 60-days of SUP approval, the Applicant shall install noise attenuation materials similar to those depicted in Exhibit 9 along all existing perimeter kennel fencing to the north, west, and east of the kennel where Type 1 landscaping cannot be installed immediately outside the fence. Additional noise abatement measures shall be installed on those same kennel perimeters including Type 1 landscape buffers, the addition of fence slats, and/or curtains/screens within 60-days of SUP approval. The applicant shall meet with Staff to review improvements prior to installation to ensure Building code compliance where applicable. For the purposes of this condition, perimeter kennel fencing is defined as existing and proposed fencing shown in Exhibit 8 that is used to keep the dogs confined to the kennel while they are outside.
10. If a building permit has not been issued for the 4,800 square foot pet day care building or the 10- by 38-foot overflow kennel space within three years from the date of SUP approval, the approval of these additions to the SUP shall expire pursuant to TCC 20.54.040(4). The Applicant may request a one-year extension to the SUP. Knowledge of the expiration date and initiation of a request for extension of approval time is the responsibility of the Applicant. The County is not responsible for providing notification

prior to expiration. All requests for an extension of time must be submitted to the Department prior to the expiration of the SUP.

11. The manure storage structure along the east property line shall be relocated to meet the setback requirements of TCC 20.07.030(1)(d) within 90 days of SUP approval. The dumpster (or other container) in which dog and cat solid waste is stored pending removal for off-site disposal shall also be setback from site boundaries no less than the 50 feet required in TCC 20.07.030(1)(d).
12. The Applicant must receive a certificate of occupancy from the Thurston County Building Section of the Community Planning and Economic Development Department for all building permits for all unpermitted structures within 12 months of Hearing Examiner approval of the SUP. If at the time of the 12-month deadline any building lacks a certificate of occupancy, it must be vacated until such time as certificate of occupancy is issued for that structure. Should there be substantial delay in obtaining occupancy approvals for structures built on-site, the Community Planning and Economic Development Department shall refer the use for code enforcement and/or for special use permit revocation proceedings.
13. The subject parcels contain a soil type that is a potential Mazama pocket gopher habitat. The Mazama pocket gopher is listed under the federal Endangered Species Act. It is the responsibility of the landowner to be aware of any gopher listing under the federal Endangered Species Act and comply with applicable federal regulations. Land use approval and other County permits may be superseded by federal law. Endangered species cannot be harmed at any time, even after permit issuance. If any are found during construction, the Applicant must contact the U S Fish and Wildlife Service. Future development activities on the site may require review of these conditions.
14. Within 18 months of final SUP approval (including any appeals), the Applicant shall apply to the Thurston County Community Planning and Economic Development Department (CPED) for administrative review of the project for compliance with permit conditions using the "Other Administrative Action - Minor" process. The application will be reviewed by CPED and Environmental Health for consistency with project conditions. Based upon the findings of the first review at eighteen months, CPED will determine whether a subsequent re-review will be necessary and whether a bond or irrevocable assignment of savings based upon the fair market value of the landscaping is required to ensure trees and plants achieve 75% survival within three years. Complaints received regarding barking or other kennel- or training-related activities will be considered during the 18-month review. At any time, complaints about site operations may trigger independent investigations apart from the 18-month review which may result in compliance actions if project conditions are not met.
15. As part of the initial 18-month review, the Applicant shall, at the Applicant's expense, obtain and submit a sound study to determine the actual noise resulting from kennel operations at the site perimeter when the kennel is at capacity and after noise mitigation fencing and landscaping has been installed. The Applicant's kennel is not allowed to

exceed the sound requirements for residential uses and residential receivers, a daytime maximum of 55 decibels and a nighttime maximum of 45 decibels. If a sound study at the property boundaries determines that the kennel exceeds these limits, the Applicant shall be required to install additional noise buffering fencing or equivalent noise buffering technology behind the vegetative screen around the facility within 90 days of the study. A follow up study shall be conducted within 30 days after the additional noise buffering improvements are installed. If the follow up study does not demonstrate compliance, the Applicant shall be required to repeat the noise management and study process until a sound study showing compliance with the noise standards is obtained. Future required mitigation may include such things as construction of an eight-foot high solid wood fence between the kennel use and the property lines at locations where there are no existing non-kennel buildings between the kennel and the site perimeter, additional landscape plantings, and/or the use of noise attenuating devices such as those in Exhibit 9.

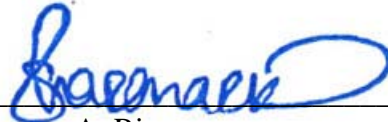
16. All development on the site shall be in substantial compliance with the approved site plan in the record at Exhibit 1.E, except to the extent that the revisions on the site plan at Exhibit 13.d are accepted by the Community Planning and Economic Development Department. Any expansion or alteration of this use beyond that approved herein will require approval of a new or amended SUP.

Health-Related Conditions

17. All animal waste shall be handled per the approved conservation plan and the Thurston County Nonpoint Source Pollution Ordinance, Article VI.
18. The facility must comply with the noise standards of the Washington Administrative Code Chapter 173-60.
19. An Integrated Pest Management Plan (IPMP) must be submitted with the landscape plan. The goal of the IPMP is to manage landscapes using best management practices that limit the use of pesticides in order to reduce ground and surface water contamination and reduce human exposure to pesticides.
20. Prior to release of the building permits, the on-site sewage system that previously served the residence on Tax Parcel 21706310500 must be properly abandoned per Article IV of the Thurston County Sanitary Code.
21. Prior to release of the building permit for the proposed pet day care building, the existing on-site sewage system must be evaluated by an on-site sewage system designer or professional engineer. The evaluation must include an inventory of the projected wastewater flows and wastewater strength from all proposed activities.
22. Prior to release of the building permit for the kennel addition, a renewable Operational Certificate must be obtained for the on-site sewage system. Annual effluent sampling taken by a Certified Monitoring Specialist demonstrating residential waste strength (BOD5, TSS, and FOG) and annual water use figures will be required as a condition of

the Operational Certificate renewal. Elevated sample results above residential waste strength may result in the requirement of pre-treatment or a change in practices within the facility.

DECIDED July 23, 2018.



Sharon A. Rice
Thurston County Hearing Examiner

Appendix A

Project No. 2014101503, Northwind Pet Care Center - Comment letters and emails in response to the notice of public hearing from the following individuals:

1. Amber Fagan, dated June 3, 2018
2. June M. Deveneau, dated June 3, 2018
3. Pete and Patricia Van Lierop, dated June 3, 2018
4. Pat Martin, dated June 4, 2018
5. Linda Becker, dated June 5, 2018
6. Patricia Scott Martin, dated June 6, 2018
7. Kathleen Evans, dated June 7, 2018
8. Pierre Clement, dated June 7, 2018
9. Raymond Bowens, dated June 7, 2018
10. Julia Koch, dated June 8, 2018
11. Kathy Hermick, dated June 8, 2018
12. Shirley Topham, dated June 8, 2018
13. Frank and Janice Van Hulle, dated June 8, 2018
14. Barb Leon and Bella, dated June 9, 2018
15. Nancy Osmundson, dated June 9, 2018
16. Sheila Shiozaki, dated June 10, 2018
17. Bill and Regina Hubler, dated June 10, 2018
18. Alina French, dated June 11, 2018
19. Larry Lufkin, dated June 11, 2018
20. John Morrison, dated June 11, 2018

21. Sherre Copeland, dated June 11, 2018
22. Paula and Roger Hahn, dated June 11, 2018
23. Margaret Eby, dated June 11, 2018
24. Anna Stickney, dated June 11, 2018
25. Merv and Char Ward, dated June 11, 2018
26. Shannon Vernon, dated June 11, 2018
27. Leslie Panowicz, dated June 11, 2018

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 **\$688.00** for a Request for Reconsideration or **\$921.00** 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 ☐ \$688.00 for Reconsideration or \$921.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20____.