



## COUNTY COMMISSIONERS

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District One

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District Two

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## HEARING EXAMINER

*Creating Solutions for Our Future*

### BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application of	)	NO. 2016101988
	)	
<b>Richard and Ellen Middleton</b>	)	<b>Middleton Dock</b>
	)	
For Approval of a	)	
Shoreline Substantial Development Permit	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION AS AMENDED
	)	ON RECONSIDERATION

### SUMMARY OF DECISION

The requested shoreline substantial development permit to construct a new pier, ramp, and float at 7529 Copper Point Road NW, Olympia, Washington is **GRANTED** subject to conditions.

### SUMMARY OF RECORD

#### **Request:**

Richard and Ellen Middleton (Applicants) requested a shoreline substantial development permit (SSDP) to construct a new pier, ramp, and float for recreational boating, with a total overwater length of 100 feet. The subject property is located on the west side of Cooper Point and the eastern shore in Eld Inlet, at 7529 Copper Point Road NW, Olympia, Washington.

#### **Hearing Date:**

The Thurston County Hearing Examiner conducted an open record hearing on the request on January 8, 2019. Following issuance of the decision on January 25, 2019, the Applicant requested reconsideration, which was granted resulting in the instant final decision by the County's Hearing Examiner.

#### **Testimony:**

At the hearing the following individuals presented testimony under oath:

Scott McCormick, Associate Planner, Resource Stewardship Department  
Dawn Peebles, Thurston County Environmental Health Division  
Arthur Saint, Thurston County Roads Department  
Amie Lietman, Marine Surveys & Assessments, Applicant representative

Attorney Heather L. Burgess represented the Applicant at the hearing.

**Exhibits:**

At the hearing the following exhibits were admitted in the record:

EXHIBIT 1	Community Planning and Economic Development Department Report including the following attachments:
Attachment a	Notice of Public Hearing, dated November 2, 2018
Attachment b	Zoning Map
Attachment c	Master Application, received May 5, 2016
Attachment d	JARPA Application, received May 5, 2016
Attachment e	Vicinity map and aerial photo site plan with dock elevations, received May 5, 2016
Attachment f	Notice of Application, dated June 30, 2016, with adjacent property owners list
Attachment g	SEPA Mitigated Determination of Non-Significance, dated August 2, 2018 and SEPA Environmental Checklist, received May 5, 2016
Attachment h	Compensatory Mitigation Plan, received December 14, 2017
Attachment i	Middleton Pier, Ramp and Float Project, Specific Project Information Form for Mooring Buoys (SPIF), dated April 13, 2016
Attachment j	Nisqually Indian Tribe comments, dated August 2, 2018
Attachment k	Response letter from Marine Survey & Assessments, dated July 10, 2018
Attachment l	Letter from Thurston County CPED to Marine Surveys & Assessments, dated June 25, 2018
Attachment m	Letter from Thurston County CPED to Marine Surveys & Assessments, dated January 30, 2018
Attachment n	Email from Meg Amos to Scott McCormick, dated October 11, 2017
Attachment o	Memorandum from Kyle Overton, Thurston County Environmental Health, dated February 21, 2017

Attachment p	Response to Memo from Kyle Overton, Thurston County Environmental Health from Marine Surveys & Assessments, dated December 20, 2016
Attachment q	Response to concerns from Squaxin Island Tribe from Marine Surveys & Assessments undated
Attachment r	Email from Scott Steltzner, Squaxin Island Tribe to Scott McCormick, CPED, dated June 22, 2016
Attachment s	Comment Letter from the Washington State Department of Ecology, dated July 20, 2016
Attachment t	Memorandum from Kevin Chambers, Thurston County Public Works, dated June 14, 2016
Attachment u	Letter from Thurston County CPED to Marine Surveys & Assessments, dated June 7, 2016
Attachment v	Memorandum from Kyle Overton, Thurston County Environmental Health, dated June 2, 2016
Attachment w	Comment Letter from the Washington State Department of Ecology, dated June 2, 2016
Attachment x	Letter from the Nisqually Tribe, dated May 23, 2016
Attachment y	Middleton Pier, Ramp and Float Interim Abbreviated Biological Evaluation for Overwater Structures from Marine Surveys & Assessments, dated April 4, 2016
Attachment z	Notice of Application and Likely Issuance of a Determination of Non-Significance, dated October 5, 2017 for the Little Fish Trap Restoration Project by the South Puget Sound Salmon Enhancement Group with attached SEPA Environmental Checklist, received August 9, 2017
Attachment a-1	Middleton Residence approved site plan for new home. Project no. 2010101712, approved with conditions on September 30, 2010.
Attachment b-1	2009 and 2015 aerial photos of subject property
Attachment c-1	Building permit application for new Middleton Residence, received June 10, 2010 with attached conditions of approval
Attachment d-1	Email from Scott McCormick (CPED) to Meg Amos (point of contact)

regarding impervious surface limits, dated September 24, 2018

Attachment e-1 Email chain regarding impervious surface limits between Scott McCormick (CPED), Meg Amos (point of contact) and Ellen Middleton (property owner), dated September 28, 2018

Attachment f-1 Comments from the Thurston County Environmental Health Division on the JARPA and SEPA checklist, dated February 21, 2017

EXHIBIT 2 Letter to Hearing Examiner re: Applicants' response to Staff Report, dated December 10, 2018

Attachment a Impervious Surface Calculations, prepared by KPFF, dated November 5, 2018

Attachment b Marine Surveys & Assessments comments to Staff Report, dated December 4, 2018

Attachment c Hydraulic Project Approval (HPA), Washington Department of Fish & Wildlife, dated November 26, 2018

EXHIBIT 3 Applicants' supplemental response to Staff Report, dated December 28, 2018, including letter from Mark Steepy, KPFF, dated December 27, 2018, with four photos

EXHIBIT 4 Photo of posted notice of hearing

EXHIBIT 5 Reconsideration request, dated February 1, 2019, with attached letter from Mark Steepy of KPFF of the same date

Also included in the record are the following Record Documents:

- 1) Request for reconsideration, dated February 1, 2019
- 2) Decision on reconsideration request, issued February 7, 2019

Based on the record developed at hearing and supplemented on reconsideration, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

### **FINDINGS**

1. The Applicants requested approval of a shoreline substantial development permit (SSDP) to construct a new 100-foot pier, ramp, and float for recreational boating. The subject property is located on the west side of Cooper Point on the eastern shore of Eld Inlet at 7529 Copper Point Road NW, Olympia, Washington.<sup>1</sup> *Exhibits 1, 1.b, 1.c, 1.d, and 1.e.*

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<sup>1</sup> The legal description of the subject property is a portion of Section 16, Township 19, Range 2W, W.M.; also

2. The subject property is zoned Rural Residential Resource One Dwelling Unit Per Five Acres [RRR 1/5] and has a Comprehensive Plan land use designation of Rural Residential. The Thurston County Assessor's Office identifies the property area as 2.18 acres including approximately 22,000 square feet of tidelands.<sup>2</sup> The property is developed with a single-family residence with attached garage, a concrete bulkhead, concrete stairs to the beach, and a permitted accessory structure used as a game room.<sup>3</sup> The existing bulkhead that spans the width of the Applicants' property is part of a contiguous bulkhead system across neighboring properties for some distance in both directions. *Exhibit 1.h (see photos)*. The residence, built in 2011, is setback approximately 72 feet from the bulkhead. The parcels adjacent on either side are also developed with single-family residences. *Exhibits 1, 1.b, and 1.e*.
3. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as Rural shoreline environment. *Exhibit 1*. Boating facilities including docks, piers, and floats are allowed in the Rural environment subject to the standards contained in the SMPTR. *Exhibit 1; SMPTR, Section 3, Chapter IV(D)*. The project requires an SSDP because the projected costs of construction exceed the permit threshold of \$6416.00.<sup>4</sup> *Exhibit 1.d; WAC 173-27-040; WSR 12-16-035*.
4. The proposal would install a private recreational dock extending a total 100 feet waterward from the bulkhead, including the pier, ramp, and float. Components would include a six- by 46-foot pier, a three- by 40-foot aluminum ramp, and an eight- by 24-foot float, all with grated surfaces. The pier would be supported by two eight-inch diameter galvanized steel pilings, and the float would be secured in place with four 10-inch galvanized steel pilings. The span between pilings is proposed to be in excess of eight feet. While the structure height is not called out in the provided elevations, it is clear from the plans that no part of the structure would be 35 feet or taller. At the end of the 100-foot dock, water depths would not exceed minus three (-3) feet. Float stops are proposed to prevent float from grounding out at low tides. The dock would not be provided with electrical utilities; there would be no lighting. The proposal calls for piles to be driven to refusal with an air-driven double acting impact hammer and a bubble curtain would attenuate pile driving sound volumes. Also proposed is off-site mitigation in the form of financial support of a project removing an existing bulkhead at Little Fish

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known as tax parcel number 36010007402. *Exhibit 1*.

<sup>2</sup> The subject property is legally nonconforming with respect to minimum lot size in the RRR 1/5 zone. *Exhibit 1*.

<sup>3</sup> The Staff Report notes that the County Assessor's office identifies the accessory structure as a second residence on the property built in 2013. Staff notes that the building is not permitted as an accessory dwelling unit (ADU), that ADUs are currently prohibited in rural Thurston County, and that if it were used as a dwelling, septic system upgrades would likely be required. *Exhibit 1*. Applicant representatives asserted that the structure is used as a game room and not as a dwelling. *Exhibit 2*. Resolution of this question - if it is a question - is outside the scope of the instant proceedings; however, the Applicant is on notice that use of the space as a dwelling unit is prohibited.

<sup>4</sup> The application was deemed complete on June 4, 2016 (Exhibit 1.F), on which date the threshold for SSDP exemption was \$6,416.00. As of September 2017, the threshold was raised by the state to \$7,047.00. Total costs are projected to exceed \$70,000 (Exhibit 1.D) and the undersigned notes that the Applicants are required to obtain an SSDP under either exemption threshold.

Trap on Dana Passage, to compensate for on-site impacts from the dock. *Exhibits 1, 1.d, and 1.h.*

5. The application materials indicate that there are two existing buoys serving the subject property: a boat lift buoy and a jet ski buoy. The Applicants have applied with the US Army Corps of Engineers to permit one buoy. The proposal states that a boat moored at the end of the pier would ground out in low tides during part of the year. The Applicants propose to move the boat to a mooring buoy at low tides. *Exhibits 1 and 1.i.* The latest-dated written information about the buoys provided by the Applicants indicates that both existing buoys had been removed prior to hearing. *Exhibit 2.b.* An Applicant agent indicated at hearing that the Army Corps requires a buoy where a proposed pier, ramp, and float would end at a depth at which a boat cannot float year round. Because the maximum 100-foot length of the dock would end at minus three mean lower low water (-3 MLLW), a boat on the Applicants' dock would ground in low tides, which means obtaining approval of a buoy is a necessary part of the dock permitting process. At the time of hearing, the Applicants were anticipating ACOE approval of the mooring buoy on January 14, 2019. *Amy Lietman Testimony.*
6. The SMPTR restricts boating facilities to include no more than one buoy per property. *SMPTR Section Three, page 53, number 28.* Planning Staff recommended a condition of approval requiring one of the two existing buoys be removed prior to construction of the proposed pier, ramp and float. *Exhibit 1.*
7. The proposed pier is placed near the middle of the subject shoreline at an angle that is perpendicular to the shoreline rather than to the property boundaries. Distances to the side property boundaries from the project are not clearly identified in the record except that Planning Staff submitted that the distance to side boundaries is greater than 20 feet. The nearest recreational dock is approximately 5,000 feet to the south. In the location of the proposed dock, the distance to the opposite shore is more than three thousand feet. *Exhibits 1 and 1.h; see also Exhibit 1.e.*
8. According to the Applicants' abbreviated biological evaluation and mitigation plan, the subject shoreline is marine critical habitat for Puget Sound Chinook Salmon and is proposed critical habitat for Puget Sound Steelhead Trout. The project, which includes pile driving noise, is proposed within designated critical habitat for Southern Resident Killer Whales. The project site is near the end of a drift cell with net sediment transport in a northerly direction. According to the Department of Ecology, Puget Sound in this location experiences high temperatures and low dissolved oxygen. A dive survey completed by the Applicants' marine consultants identified no eelgrass or macroalgae in the proposed dock location, which was observed to be barren substrate. As proposed, construction would not remove any native vegetation, conduct any channel straightening or bank armoring, isolate any habitat, or reduce flood storage; however, it would result in 478 square feet of permanent shading impacts over waters of the United States. Other effects to protected species include pile driving noise, expected to affect juvenile salmonids and killer whales, and increased turbidity during pile driving, expected to affect salmon and bull trout for a distance of 25 feet around each piling. The presence of

the dock (both an overwater and underwater structure) may also indirectly affect migratory patterns of fish species. Spaced 10 to 20 feet apart, with closer spacing in deeper water, the marine pilings are not anticipated to impact water flow sufficiently to alter bathymetry. The proposal would facilitate boating activity in the location, and boating can impact protected species via prop scour of the substrate and harm marine vegetation in the substrate. In the instant case, there is no existing marine vegetation in the location of the proposal. *Exhibits 1.h and 1.y.*

9. Project design elements selected to reduce and minimize permanent impact include: installation of 50.5% functional grating in the float; 100% grating in the ramp; installing 91.3% functional grating in the pier; orienting floatation so as not to obstruct grating; use of galvanized steel pilings in place of treated wood; and providing float stops to prevent grounding of the float. The Applicants' consultants recommended a work window for pile driving from July 16th to February 15th, with recommended forage fish surveys prior to commencement of work. The Applicants' marine environmental consultant concluded that the proposal would not likely result in any "take" of protected species. In order to mitigate the unavoidable impacts, the marine consultants recommended off-site mitigation be pursued (discussed in detail below), as there is no location on-site that provides suitable opportunity. *Exhibits 1.h and 1.y.*
10. The Applicants propose to mitigate unavoidable on-site impacts through participation in an off-site mitigation project being conducted by South Puget Sound Salmon Enhancement Group (SPSSEG). The project site, known as Little Fish Trap, is located on Zangle Road approximately three miles northeast of the site on the east side of Budd Inlet. Approximately 240 linear feet of concrete bulkhead would be removed and the shoreline restored to provide habitat for juvenile salmonids and forage fish breeding. The Applicants and SPSSEG have entered an agreement through which the Applicants would provide financial support for the shoreline restoration activities. The restoration project would be self-sustaining and monitored for a period of ten years by the owners of the property from which the bulkhead is to be removed, who are also under contract with SPSSEG. *Exhibit 1.h.* Applicant representatives indicated that the Applicants would present a receipt for their financial contribution to the off-site restoration project prior to their own project's commencement. *Amy Lietman Testimony.* Planning Staff submitted that the off-site mitigation project satisfies the requirements of the SMPTR for protection of the shoreline environment. *Exhibit 1.*
11. In-water and over-water projects are subject to approval by WDFW. The Army Corps permit addresses water quality, Endangered Species Act compliance, and impacts to habitat. The Applicants would be required to obtain and abide by the conditions of permits from both agencies. In reviewing the proposal for compliance with applicable SMPTR provisions, including review of the abbreviated biological assessment, the mitigation plan, and project plans and several site visits, Planning Staff determined that water quality impacts would be temporary and limited to the period of dock construction. Staff also determined that the proposed off-site mitigation contribute to significant habitat improvement for fish and birds and as such would constitute adequate in-kind (in-water

as opposed to upland) mitigation for project impacts, achieving the standard of no net loss of ecological function. *Exhibit 1; Scott McCormick Testimony.*

12. The proposed dock location was chosen, in part, to achieve the required depth to accommodate boat moorage. Planning Staff noted that the location of the dock is on a fairly straight shoreline, meaning it would be visible for some distance and would stand out as there are no other docks or overwater structures visible north or south along the shoreline. Staff noted that this visibility could be perceived as a negative aesthetic impact. While the SMPTR discusses view impacts, it does not establish required mitigation of view impacts. The project would contribute to aesthetic improvements at Little Fish Trap, which Planning Staff submitted could be considered as offsetting aesthetic impacts at the dock project site. *Exhibit 1; Scott McCormick Testimony.*
13. Addressing impacts to public shoreline access, Planning Staff noted that the project would be constructed on and adjacent to a private, residentially zoned lot and that the facility is expected to be available for use by the Applicants and their guests but not the general public. Staff did not indicate that the project would impact public shoreline access. With regard to potential impacts to recreational boaters, Staff noted that when tides are low, the dock would be partially or completely out of the water, and thus highly visible and not a hazard to recreational users of the marine shoreline. During high tides, there could be potential impacts to recreational users. Planning Staff recommended conditions of approval requiring installation of reflectors to ensure the facility's visibility in low light conditions. *Exhibit 1.*
14. Applicable regulations in the Rural shoreline environment restrict impervious surfaces within 200 feet of the OHWM to a maximum of 30%. *SMPTR Section XVI, Residential Development, page 106 (3.b.)*. On-site upland area within 200 feet of the ordinary high water mark (OHWM) comprises approximately 26,500 square feet. Using aerial photos, Planning Staff calculated existing impervious surface coverage to be approximately 14,200 square feet, which comes out to be about 53%, which is in excess of the 30% maximum allowed. Staff asserts that some existing areas paved for parking, an expanded patio, and walkways were added after the 2010 construction of the residence despite a condition of the residential building permit (No. 2010101712) stating: "Please note that this parcel is reaching the maximum amount of impervious surface area allowed. No additional impervious surface is allowed on this parcel." Staff also submitted that not all impervious surface areas are shown on the approved site plan. The proposed pier is a structure which requires a building permit pursuant to TCC 14.17.030. In order to support a recommendation of approval for the project, Planning Staff recommended a condition of SSDP approval requiring the excess impervious surface to be remediated prior to issuance of the building permit required for the pier portion of the dock project. Staff suggested remediation could be accomplished either by reducing existing impervious surfaces to 30% or less of the shorelands on-site or through the Applicant's successful application for a shoreline variance to allow the excess. *Exhibits 1 and 1.a-1.*
15. In response to Staff's asserted 53% impervious surface coverage within the 200-foot shoreline jurisdiction on-site, the Applicants retained a professional engineering firm to



identify and calculate the existing impervious surfaces within 200 feet of the shoreline. The resulting survey showed 31.84% of the area within shoreline jurisdiction is impervious. The surveyor included area covered by the residence, concrete deck/patios, and concrete driveway as impervious, and excluded areas of concrete pavers and non-compacted gravel surfaces. The Applicants plan to remediate the 1.84% exceedance prior to building permit application for the dock. *Exhibits 2 and 2.a.*

16. At hearing, Planning Staff disputed the Applicants' surveyor's calculation of impervious surface areas because it excluded the gravel and crushed oyster shell walkways, which Staff stated are considered impervious by the County. Staff testified that he has worked at the County for 18 years, and for that entire time and all time he worked at other jurisdictions prior to his work for Thurston County, gravel surfaces have been considered impervious as a matter of policy. He did not cite to a written policy in support of this assertion. *Scott McCormick Testimony.*
17. At hearing, legal counsel for the Applicants noted that the SMPTR defines impervious surface as follows: "Those surfaces that do not allow the downward passage of water." *SMPTR, Definitions, page 128.* Counsel also presented a letter from the surveyor with four attached photographs of the crushed oyster shell and pea gravel walkways in question. The surveyor wrote:

As pictures 1-4 show, the non-compacted gravel surfaces do allow for the passage of water. The pea gravel and oyster shells present are walking surfaces only. They are not subject to vehicular traffic or any other traffic that would compact the material. In fact pea gravel and broken oyster shells are not easily compacted at all, and are thus commonly used in areas to support drainage infiltration. Each of these pictures was taken on December 11, 2018 during heavy and prolonged rains. The pictures clearly show: [the material is not compacted; [and] there is no runoff, so downward passage of water is occurring.]<sup>5</sup> Therefore it is my professional opinion as a 21-year licensed Professional Engineer that the pea gravel and oyster shell non-compacted surfaces on your property are not in fact impervious surfaces as defined under the SMPTR.

*Exhibit 3.* Counsel for the Applicants argued that the SMPTR does not incorporate by reference any other definition of impervious from any other source of County regulation or policy. *Heather Burgess Argument.*

18. The Applicant's engineer provided further information and clarification after close of the record in a new letter dated February 1, 2019, which was admitted on reconsideration. The letter states:

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<sup>5</sup> Formatting changes were made for readability; no words were added or omitted except "and".

For purposes of clarification and to further assist the Examiner, your site contains 674 square-feet of existing pavers, covering three (3) different areas. The areas are described as follows:

- Area 1 - In the landscape island in the middle of your driveway. The pavers range in size from a maximum 24"x24" square to minimum of 12"x12" square. The pavers are placed with an approximate 1.5" space between them and are laid over a 3"- 4" sand bed.
- Area 2 - located between the driveway and front entry to the home. The pavers range in size from a maximum 24"x24" square to minimum of 12"x12" square. The pavers are placed with an approximate 1.5" space between them and are laid over a 3"- 4" sand bed.
- Area 3 - located around the southern side of the house. The pavers are 24"x24" square. The squares are placed with an approximate 4" space between them and are laid over a 3"- 4" bed of pea gravel.

As my December 27, 2018 letter provides, pea gravel bedding is a well-draining material. Sand bedding is also a well-draining material that will allow for the horizontal movement of runoff. As runoff flows the maximum 24" distance across a paver, it penetrates downward into the sand between pavers and moves horizontally under the pavers. The pavers alone could arguably prevent the downward passage of runoff directly below the paver, but once the runoff reaches the sand/pea gravel in the spaces between the pavers the sand and pea gravel allows the runoff to flow horizontally prior to reaching the native soil. This is standard engineering design and construction applications for permeable pavements.

*Exhibit 5.*

19. The proposal was reviewed by the Thurston County Public Health and Social Services Department. No issues of public health concern were identified and the County Health Department recommended approval with no conditions, in part based on the fact that because all construction activities are proposed to take place from the shoreline via barge. *Exhibits 1.o and 1.v.*
20. Thurston County Public Works reviewed the proposal and recommended approval subject to a condition requiring the Applicant to apply for and obtain (if required by the state) a Construction Stormwater Permit). This requirement was included in the recommended conditions of permit approval. *Exhibits 1 and 1.t.*
21. Having reviewed the proposal, Washington State Department of Ecology (DOE) submitted comments addressing toxics clean up water quality standards relevant to the proposal. *Exhibits 1.s and 1.w.* Planning Staff incorporated DOE concerns into recommended permit conditions. *Exhibit 1.*

22. The Applicant obtained Hydraulic Project Approval (HPA) from WDFW on November 26, 2018. Conditions of that approval for the proposed in-water work include: work windows from July 15 through December 31 and January 1, through February 15 with a qualified biologist's surf smelt survey prior to commencement; compliance with construction plans approved by WDFW; pre- and post-construction notification to WDFW; fish kill and water quality reporting to WDFW; and conditions with specifications addressing staging, job site access, equipment, construction related sediment/pollution containment, construction materials, avoidance of marine vegetation, pile driving, and cleanup at the end of construction. *Exhibit 2.C.*
23. The Thurston County Resource Stewardship Department reviewed the project for compliance with the requirements of the State Environmental Policy Act (SEPA) and issued a mitigated determination of non-significance (MDNS) on August 2, 2018. This determination was based on review of the Master Application, SEPA Environmental Checklist, JARPA, Interim Abbreviated Biological Evaluation dated April 4, 2016, Comment letters from agencies and tribes, a Habitat Assessment Study dated December 29, 2016, a revised Compensatory Mitigation Plan dated June 8, 2018, and permit and MDNS information from South Puget Sound Salmon Enhancement Group relating to the Little Fish Trap Restoration Project. The MDNS contains conditions requiring the following: that state and federal permits be obtained; submission of proof of payment for the offsite mitigation project; onsite mitigation in the form of installation of 500 square feet of native plantings directly landward of the existing bulkhead; prohibition against vehicle parking and materials staging on on-site sewage system components or water lines; that no lighting be installed on the dock; that reflectors be used to prevent hazard to water surface users; that work stop and agencies/tribes be notified if archaeological artifacts are observed; that the project conform to submitted plans; that any spills be contained; that construction materials and debris be disposed of on land; and that best management practices be implemented. *Exhibit 1.g.*
24. One comment was received during the SEPA comment period ending August 16, 2018. The Nisqually Indian Tribe concurred with the environmental threshold determination and requested to be notified in the event of inadvertent discovery of archeological resources or human burials. The MDNS was not appealed and became final on August 23, 2018. *Exhibits 1, 1.g, and 1.j.*
25. The Squaxin Island Tribe submitted comment asserting that the "project would likely have a significant deleterious impact on salmonid populations including listed Chinook salmon and Steelhead Trout." The Tribe also expressed concern regarding cumulative impacts, arguing that the instant approval would set a precedent for approval of similar overwater proposals. *Exhibit 1.r.*
26. Applicant consultants responded to the Squaxin Island Tribe's concerns. The same consultant who prepared the abbreviated biological evaluation and the mitigation plan submitted that while studies do show changes in migration patterns for in-water and over-water structures, none of these studies show that these migration pattern changes result in negative impacts to salmon. Siting studies based on Washington State Ferry terminals

(and others), the consultant submitted that there is presently no evidence that salmonid predators aggregate around docks in Puget Sound. The consultant pointed out that no pilings are proposed in available surf smelt spawning habitat and that WDFW approved construction during specific work windows designed to protect surf smelt spawning. The consultant submitted that most impacts to salmonid habitat are addressed through implementation of construction and design practices based on best available science. *Exhibit 1.q.*

27. Addressing cumulative impacts, the Applicants' consultant noted there is no scientific literature the cumulative impacts of small residential docks. *Exhibit 1.q.* Planning Staff submitted that cumulative impacts of docks is a consideration, but that the low number of marine docks applications and the challenges, expense and time involved in obtaining approvals for residential docks appear to substantially limit cumulative impacts. Staff submitted that approval of the proposed new dock may encourage future applicants, but acknowledged that this is speculation and that any future dock applications would have to undergo review for approval. Further, individual dock projects must effectively mitigate their own impacts in order to successfully complete SEPA and Shoreline Management Act review, which require each project to demonstrate no net loss of ecological function. *Exhibit 1.*
28. The application was submitted May 5, 2016. Notice of the application and the associated 20-day comment period was initially issued on June 30, 2016. After review of comments received and subsequent project review activities, notice of application was reissued on October 5, 2017. *Exhibits 1, 1f, and 1.z.*
29. Notice of the public hearing was sent to all property owners within 500 feet of the site, posted on-site, and published in The Olympian on November 2, 2018. *Exhibits 1 and 1.f.* There was no public comment at the hearing and no additional public comment submitted after notice of hearing. *Scott McCormick Testimony.*

## **CONCLUSIONS**

### **Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to RCW Chapter 36.70, WAC 173-27, and Section One, Part V of the Shoreline Master Program for the Thurston Region.

### **Criteria for Review**

#### **Shoreline Substantial Development Permit (WAC 173-27-150)**

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

#### ***A. Shoreline Management Act***

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

*B. Applicable regulations from the Washington Administrative Code*

WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

### *C. Shoreline Master Program for the Thurston Region*

The Shoreline Master Program for the Thurston Region designates the shoreline jurisdiction on the subject property as Rural. Docks, piers, and floats are covered in the “Boating Facilities” chapter, Section Three, Chapter IV, and are allowed subject to standards contained in the specific regulations of the chapter and a permit review process.

#### SMPTR Section Three, Chapter IV, Part B. Policies

##### *Piers and Docks:*

12. Pier and docks should be designed and located to minimize obstructions to scenic views, and conflicts with recreational boaters and fishermen.
13. Cooperative uses of piers, docks and floats are favored especially in new subdivisions.
14. Moorage buoys are preferred over piers and docks especially in tidal waters.

##### *Mooring Buoys and Recreation Floats:*

15. Mooring buoys and recreation floats should be as close to the shore as possible.
16. Mooring buoys and recreational floats should be designed and marked to be clearly visible.

#### SMPTR Section Three, Chapter IV, Part C. General Regulations

##### *Piers and Docks:*

13. [N/A]
14. All pier and dock development shall be painted, marked with reflectors or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.
15. Docks and piers are prohibited on lakes or marine water bodies where the distance to the opposite shore is one hundred fifty (150) feet or less. This is to insure the maintenance of navigation.
16. [N/A]
17. In marine water, the length of piers or docks for recreational use may be the average length of the existing docks or piers within one hundred (100) feet of each property line. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be one hundred (100) feet. If there are no piers or docks within one hundred (100) feet, the maximum length shall not exceed one hundred (100) feet as measured from the mean higher high-water mark and not exceed a depth of minus three (-3) feet as measured from mean lower low water. If this is not sufficient length to reach the desired depth for moorage, then a buoy shall be used.

18. [N/A]
19. The width of recreational docks or piers shall not exceed eight (8) feet.
20. [N/A]
21. At the terminus of a dock or pier, a float is normally attached for purposes of a landing and for moorage of watercraft. These floats may either be parallel to the dock or pier, or form a tee. The float cannot exceed four hundred (400) gross square feet for a piling dock/pier in tidal waters, two hundred fifty (250) gross square feet for a floating dock/pier on tidal water, and two hundred (200) gross square feet for docks/piers on fresh water. The total length of the dock/pier with an attached float cannot exceed the total length allowed under General Regulations #17 and #20.
22. Docks and piers shall be set back ten (10) feet on fresh and twenty (20) feet on tidal water from the side property line. These setbacks may be waived if two single-family property owners wish to construct a joint pier on the common property line under the following conditions: a. Both property owners must record a non-exclusive easement granting each other the right to use the pier. b. The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.
23. Span between pilings for piers or docks on pilings shall be eight (8) feet or greater.

*Mooring Buoys and Recreational Floats:*

24. Buoys and floats must be discernible under normal daylight conditions at a minimum of one hundred (100) yards and must have reflectors for nighttime visibility.
25. [N/A]
26. [N/A]
27. Mooring buoys and recreational floats shall not be located farther waterward than the existing floats and mooring buoys, or established swimming areas, unless the draft of the boat dictates it.
28. Only one mooring buoy or recreational float will be allowed per waterfront lot unless there is a demonstration of need. Such demonstration may include a community park or residential development where lot owners both on and away from the shoreline share a shoreline open space area.

SMPTR Section Three, Chapter IV, Part D. Environmental Designations and Regulations

2. Rural Environment. Marinas, boat ramps, piers, docks, boathouses, mooring buoys, recreational floats and marine railways are permitted subject to the Policies and General Regulations.

## SMPTR Section Two, Chapter V. REGIONAL CRITERIA

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.
- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.
- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

## Conclusions Based on Findings

1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. Boating facilities are water-dependent uses, and as such, enjoy a preferred use status subject to the requirement to protect against adverse effects to



the public health, the land, and its vegetation and wildlife. With the conditions of the HPA and the MDNS, together with those of the instant decision, the pier, ramp, and float would be protective of the ecology of the shoreline. The proposal would use galvanized steel piling and would be required via the HPA to use only materials that are not harmful to the marine environment. The County Health Department recommended approval with no concerns as to public health as proposed. No upland vegetation removal is proposed for the pier. There is no aquatic vegetation in the location of the proposed dock that could be impacted by the proposal. Site specific environmental study considered impacts to protected species known to use the project location and concluded that, with the implementation of specific measures consistent with best available science, the project would not result in "take" and is unlikely to produce permanent adverse impacts. Water quality impacts and noise resulting from construction would be temporary and mitigated through the use of best management practices. The undersigned is not persuaded that cumulative impact analysis is required for shoreline substantial development permits pursuant to the Shoreline Management Act, which act calls out cumulative impacts analysis only for shoreline variances and shoreline conditional use permits. The Squaxin Island Tribe forwarded future docks on the marine shoreline as foreseeable future acts encouraged by approval of the instant application, which together could result in cumulative impacts. Such speculative future impacts do not trigger cumulative impacts review pursuant to SEPA.<sup>6</sup> *Findings 2, 4, 8, 9, 10, 11, 12, 13, 19, 22, 23, 24, 25, 26, and 27.*

2. As conditioned, the proposal complies with applicable regulations in the Washington Administrative Code. No part of the structure would be more than 35 feet above average grade. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Finding 4.*
3. As conditioned, the proposal is consistent with the applicable Boating Facilities policies and regulations of the Shoreline Master Program for the Thurston Region. The subject property is in a highly visible location not currently hosting over-water recreational structures; however, the proposed off-site mitigation, which would contribute to removal of a bulkhead from a estuary in Budd Inlet, would produce aesthetic benefits adequate to off-set whatever aesthetic impacts would result from the proposal. The dock would not be lit. A condition of approval would ensure only one buoy is allowed in conjunction with the dock. At eight feet wide at its widest, with an overall length of 100 feet and a float smaller than 250 square feet, the dock has been designed to comply with bulk dimensional standards established in the SMPTR that are intended to address aesthetic impacts (among others). Cooperative use of piers and use of moorage buoys in lieu of piers is preferred, but not mandatory. The proposed pier would extend into Eld Inlet at a location that is sufficiently wide so as not to interfere with navigation. The distance to the opposite shore would be well over 150 feet. Conditions of approval would require the proposed dock and the associated moorage buoy to be marked with reflectors for nighttime visibility. A condition would ensure the pier would be set back more than 20

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<sup>6</sup> See *Boehm v. City of Vancouver*, 111 Wn. App. 711, 720 (2002).

feet from the side property line. The span between pilings would exceed eight feet.  
*Findings 4, 5, 6, 7, 8, 9, 10, 11, 12, 22, 23, 24, 25, 26, and 27.*

4. As conditioned, the proposal is consistent with the applicable regional criteria. The subject property is private residential land; there would be no impact to public shoreline access. The dock would not prevent others from accessing the waters of Puget Sound in a material way. The proposal has been reviewed for impacts to the marine environment, both by County Staff through the SEPA process, and by the Washington Department of Fish and Wildlife through the HPA process. Both processes identified extensive mitigation measures that would prevent or minimize impacts. Conditioned to comply with the HPA and MDNS in use of appropriate materials, there is no evidence that the proposal would adversely affect the ecology of the shoreline. No industrial use is proposed and no governmental units are involved in the application. The proposal has been reviewed for impacts to public health, and the conditions of the MDNS address potential construction impacts and spill containment. *Findings 2, 8, 9, 10, 11, 12, 13, 19, 20, 21, 22, and 23.*
5. Addressing "land use and code enforcement" concerns expressed in the staff report: The record submitted supports the conclusion that the detached accessory structure is properly used for accessory purposes rather than as a dwelling unit. No "land use" correction is required as to the game room, based on the information available at time of hearing. The Applicant is, again, on notice that the structure is not permitted for dwelling purposes. With respect to excess impervious surface area within the 200-foot shoreline jurisdiction, notwithstanding Planning Staff's 18 years of experience with County codes and policy, the definition of impervious surfaces in the SMPTR controls the discussion of what constitutes impervious surface for the purpose of calculating the maximum allowed within the shoreline area of the site. There is nothing to contradict the Applicants' engineer's assertion that the pea gravel and broken oyster shell walkways are not compacted. The photographs offered, alleged to have been taken during heavy prolonged rain, do not show pooling water around pavers in the walkways. The record contains the opinion of a licensed professional engineer that the walkways surrounding the pavers allow the downward passage of water. As noted by the Applicants' engineer, the pavers themselves could arguably be considered impervious; however, as installed, overlaying a sand bed and spaced to allow runoff to enter the crushed shell and gravel walkway surfaces, they function as part of a system that allows stormwater to flow horizontally prior to reaching native soils, thus meeting industry standards for permeable pavements. Because they do not interfere with or prevent the downward flow of stormwater runoff, the pavers, pea gravel, and crushed oyster shell areas are not impervious surfaces for the purposes of the SMPTR. *Findings 2, 4, 14, 15, 16, 17, and 18.*

## DECISION

Based upon the preceding findings and conclusions, the requested shoreline substantial development permit to construct a new pier, ramp, and float with a total overwater length of 100 feet at 7529 Copper Point Road NW, Olympia, Washington is **GRANTED** subject to the following conditions:

1. No physical work on the dock shall be initiated until the Applicant obtains all required State and Federal permits and approvals, including a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife (WDFW) and permit from the US Army Corps of Engineers.
2. A Thurston County Building permit is required for the pier portion of the project prior to construction.
3. Prior to issuance of the required Thurston County building permit for the pier portion of the project, proof of payment of mitigation fees for the Little Fish Trap restoration project (bulkhead removal) shall be provided to and verified by Thurston County CPED planning staff.
4. All construction shall be in substantial compliance with the plans included in the project JARPA application and shall comply with all applicable general policies and use regulations of the Shoreline Master Program for the Thurston Region (SMPTR).
5. The mooring buoy and recreational float shall be designed and marked to be clearly visible.
6. Per SMPTR Section Three, pg. 53, no. 28. (Mooring Buoys and Recreational Floats), only mooring buoy is allowed. This condition shall be verified by Thurston County Planning Staff prior to issuance of a building permit for pier portion of the project.
7. The Applicant shall remove construction debris to an approved site (landfill or recycling center) outside of the shoreline area to avoid degradation of state waters.
8. To minimize impacts to shallow water, water quality and beach habitat, construction of the proposed dock shall be done with marine grade or non-treated wood and/or materials that will not release toxic substances into the water.
9. During construction, all releases of oils, hydraulic fluids, fuels and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills shall take precedence over all other work at the site. Spill prevention and response material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.
10. The dock shall be constructed in the location proposed, maintaining a minimum of a 20-foot setback from property lines.

11. The maximum dock length shall not exceed one hundred (100) feet as measured from the ordinary high-water mark (OHWM) located at the face of the existing bulkhead and not exceed a depth of minus three (-3) feet as measured from mean lower low water.
12. To avoid potential damage, caution should be taken to prevent any vehicle or equipment travel over the existing on-site sewage system or water lines. There should be no parking of vehicles or equipment and no staging of materials over the drainfield area, on-site sewage components (tanks, building sewer lines, transport lines, etc.) or water lines.
13. Reflectors shall be used to identify the dock in order to prevent unnecessary hazardous conditions for water surface users during day or night.
14. Permanent lighting of the dock shall not be permitted. Any temporary lighting shall be directed such that off-site glare is minimized to the extent possible.
15. If archaeological artifacts are observed during any phase of the project, all work shall be immediately halted. The State Department of Archaeology and Historic Preservation, Thurston County CPED and affected Tribes shall be contacted to assess the situation prior to resumption of work.
16. To minimize the adverse effects of increased noise and/or increased turbidity on migrating salmonids and bull trout; pile driving and dock construction should take place during the work window from July 16th to February 15th. A forage fish survey will be necessary prior to pile driving since there is no overlap in the Surf Smelt work window with the salmonids and bull trout work windows. Work during this period will reduce the possibility of contact with these species. Any in water work windows specified by WDFW shall also be observed and shall take precedence over this condition if there are conflicts.
17. No portion of the structure may exceed 35 feet in height.
18. Construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).
19. A Construction Stormwater Permit from the Washington State Dept. of Ecology may be required. Information about the permit and 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.
20. Best Management Practices shall include:
  - In-water work will occur during a period when juvenile salmonids are absent or present in very low numbers
  - Work will be completed at low tide whenever possible

- Comply with State water quality standards (WAC 173-201A)
- Have spill cleanup materials on vessel
- Regularly check and maintain fuel hoses, oil valves, and fittings for leaks
- Comply with federal, state, and local permit conditions and Best Management Practices

Decided February 7, 2019.



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Sharon A. Rice  
Thurston County Hearing Examiner



**THURSTON COUNTY**  
**PROCEDURE FOR APPEAL TO BOARD**  
**AFTER HEARING EXAMINER RECONSIDERATION**

**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 after reconsideration, you may file an appeal. The appeal process is described in A below. Unless appealed, decisions of the Hearing Examiner after reconsideration become final on the 11th day after the date of the reconsideration decision. \*\*The Board of Thurston County Commissioners renders decisions within 60 days following a notice of appeal unless the Board, the applicant, and the appellant mutually agree to a longer period.

**An appeal of a SEPA decision must be filed in Superior Court pursuant to the Land Use Petition Act, RCW Chapter 36.70C. An appeal of a decision relating to SEPA shall be done in accordance with RCW 43.21C.075 and TCC 17.09.160 (T).**

**A. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS**

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 Community Planning & Economic Development within **ten (10) days** of the date of the Hearing Examiner's decision on a reconsideration request.
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.

**B. STANDING** All appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the appeal should be granted.

**C. FILING FEES AND DEADLINE** If you wish to appeal this determination, please do so in writing on the back of this form accompanied by a non-refundable fee of **\$1,020.00**. Any 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 above. **Postmarks are not acceptable.** If your application fee as well as completed application form is not filed by this time, you will be unable to appeal this determination. This deadline may not be extended.

**\*\* Shoreline Permit decisions are not final until a 30-day appeal period to the state has elapsed following the date the County decision becomes final.**



Project No. \_\_\_\_\_

Appeal Sequence No. \_\_\_\_\_

**APPEAL OF HEARING EXAMINER DECISION AFTER RECONSIDERATION**

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 \_\_\_\_\_, 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.

\_\_\_\_\_  
APPELLANT NAME PRINTED

\_\_\_\_\_  
SIGNATURE OF APPELLANT

Address \_\_\_\_\_

\_\_\_\_\_  
Phone \_\_\_\_\_

**Please do not write below - for Staff Use Only:**

Fee of \$1,020.00 Received: Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_ Filed with the Community Planning & Economic Development Department this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\\Apollo\\Apps\\Track\\Planning\\Forms\\Current Appeal Forms\\2019.Appeal.rec.doc