

OFFICE OF THE HEARING EXAMINER

THURSTON COUNTY

REPORT AND DECISION

PROJECT NO.: 2018105173, LACKAMAS ELEMENTARY SCHOOL

FOLDER NO.: 18 112288 ZM

TAX PARCEL NO.: 22624440000

LOCATION ADDRESS: 16240 Bald Hill Road S.E., Yelm

APPLICANT: BCRA
Attn: Erin Anderson
2106 Pacific Avenue South, Suite 300
Tacoma, WA 98402

PLANNER: Robert Smith, Senior Planner

SUMMARY OF REQUEST:

Special Use Permit approval to allow installation of two, new, portable classroom buildings at an existing school site and to increase the hard surface coverage of the site by 1.4 percent to a total of 34.4 percent. The site is located at 16240 Bald Hill Road S.E., Yelm.

SUMMARY OF DECISION: Request granted, subject to conditions.

DATE OF DECISION: March 7, 2019

PUBLIC HEARING:

After reviewing the Community Planning and Economic Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on February 26, 2019, at 10:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1" - Community Planning and Economic Development Department Development Services Section Staff Report**
- Attachment A - Notice of Public Hearing**
- Attachment B - Zoning/Site Map**
- Attachment C - Master Application**
- Attachment D - Special Use Permit Application**
- Attachment E - Narrative Summary**
- Attachment F - Project Memo**
- Attachment G - Email with Amendment to Special Use Permit**
- Attachment H - Applicant's Supplemental Information Letter**
- Attachment I - Site Plan**
- Attachment J - Notice of Application**
- Attachment K - Complete Application Letter**
- Attachment L - Comment Memo from Dawn Peebles**
- Attachment M - Comment Memo from Arthur Saint**
- Attachment N - Critical Area Review Clearance**
- Attachment O - Comment Letter from Department of Ecology**
- Attachment P - Comment Letter from Jackie Wall**
- Attachment Q - Report and Decision dated June 17, 2005**
- Attachment R - Report and Decision dated July 17, 2006**
- Attachment S - Oversize Site Plan**
- Attachment T - Photograph of Public Notice Sign**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

ROBERT SMITH appeared, presented the Community Planning and Economic Development Department Staff Report, and introduced Attachments Q through T to the Staff Report. The applicant proposes two, new, portable buildings that will also increase the hard surface coverage of the overall campus. He then presented a history of the site that includes the conversion of a residential building to a school facility and approval of four, portable classrooms. However, the school district did not install two of the four approved portables and the application expired. The intent of the portables is to reduce classroom size, but not to increase enrollment. The portables will create no issues regarding parking, access, septic, or water. When the four portables were originally approved, the County had no impervious surface requirements. The code now limits impervious coverage to a maximum of ten percent. The school campus was constructed with 33 percent coverage. The zoning code allows an increase in the impervious coverage with a special use permit. The new portables will increase the impervious coverage by 1.4 percent to 34.4 percent. Staff recommends approval for both requests. Stormwater runoff from the new buildings will be accommodated by an infiltration trench that Public Works

has reviewed.

DAWN PEEBLES, Environmental Health, appeared and testified that she has reviewed the matter and recommends approval with four conditions. One condition requires that the school population not increase. The present 290-300 students exceed the approved water system capacity. She then recommended changes to her condition listed as E-2.

ARTHUR SAINT, Public Works, appeared and testified that the school meets all stormwater and road requirements.

ERIN ANDERSON appeared on behalf of the request and testified that they propose a 1.4 percent increase in impervious surfaces from 33 percent to 34.4 percent. The new surfaces will include the roofs of the structure and hard surface paths. They will comply with water testing as necessary and the school enrollment at 290 will not increase. She has no questions or concerns with any conditions of approval. They anticipate installing the portables in the summer of 2019.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 10:15 a.m.

NOTE: A complete record of this hearing is available in the office of the Thurston County Resource Stewardship Department.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The proposal is exempt from review pursuant to the State Environmental Policy Act (SEPA).
3. Written notice of the public hearing was sent to all parties of record on February 6, 2019. Notice of the public hearing was published in The Olympian on February 15, 2019, at least ten (10) days prior to the hearing. Notice was posted on site on February 8, 2019.
4. The applicant, Yelm Community Schools, owns and operates Lackamas Elementary School located at the northeast quadrant of the intersection of Bald Hill Road S.E. and Peissner Road S.E. in the Yelm area of unincorporated Thurston County. The parcel contains 7.37 acres and is located at 16240 Bald Hill Road S.E., Yelm.

5. Improvements on the school site include a covered play area, onsite septic system and drainfields, seven portable classrooms, gymnasium, two-story classroom building, bus parking area, car parking area, and a two-story, single-family residential home converted to academic uses. The school building was constructed on the site in 1911 and used as a school until 1946 when it was closed. The onsite structures were then utilized for various community and private functions. The site and buildings underwent a full restoration in the late 1980s, and in 2005 the applicant obtained a special use permit to reopen the school. In 2006 the applicant obtained an amendment to the special use permit to allow placement of four portable classrooms in the northwest corner of the site. The applicant installed two of the approved classrooms and now desires to install the other two classrooms. However, the previously approved amendment expired. Therefore, the applicant submitted a new application to allow placement of the previously approved portables in the previously approved location.
6. The parcel is located within the Rural Residential Resource-One Dwelling Unit per Five Acres (RRR 1/5) zone classification of the Thurston County Code (TCC). The TCC authorizes academic schools within the RRR 1/5 classification subject to acquisition of a special use permit. The proposal satisfies all bulk regulations of the RRR 1/5 classification as the portable classrooms will not exceed the maximum building height of 35 feet and will meet all structural setbacks of 20 feet from Bald Hill Road (front yard), ten feet from Peissner Road S.E. (flanking street), and five feet from the north and east property lines. Adequate on-site parking exists to support the two, new portables. The TCC requires 20 off-street parking spaces and the school provides 50 such spaces. Staff finds that landscaping in the nature of a row of mature, conifer trees along the north property line, and spaced fir trees along with a decorative wooden fence along Bald Hill Road satisfies all landscaping standards set forth in TCC 20.45.040.
7. Section 20.09A.050(6)(b)(i) TCC limits the maximum, hard surface coverage to ten percent of the overall school parcel. The existing school facility contains approximately 33 percent of hard surface coverage and is thus legally nonconforming. The proposed portable structures and associated walkways will increase the hard surface coverage by 1.4 percent to 34.4 percent. Section 20.07.090(1)(e) TCC allows increases in hard surface coverage upon acquisition of a special use permit. Thus, the applicant has properly requested a special use permit to both install the portables and increase the hard surface coverage.
8. The onsite Spanaway soils can provide habitat for the Mazama pocket gopher, a listed species under the United States Endangered Species Act. However, a review of the project site found no evidence of gophers or habitat. The site is also mapped as a Category I critical aquifer recharge area and the Environmental Health Section of the Public Health and Social Services Department has recommended conditions of approval that address groundwater recharge.

9. Prior to obtaining approval of a special use permit the applicant must show that the request satisfies the criteria set forth in TCC 20.54.040. Findings on each criterion are hereby made as follows:
 - A. The continued use of the parcel as an elementary school with two, additional, portable classrooms is consistent with the Thurston County Comprehensive Plan that allows schools in rural areas that are constrained in size and scale so as to maintain the rural character. The addition of two, portable classrooms to an existing school campus that will not expand its overall 7.37 acre site maintains the rural character. Such is especially true since the school does not anticipate expanding its enrollment beyond the present 290 students.
 - B. The proposed portable classrooms comply with the general purpose and intent of the applicable RRR 1/5 zone classification that provides for a minimum lot size of five acres. The applicant's parcel is 7.37 acres, includes significant open spaces, and all structures meet required setbacks. The proposed portables are single story structures that will measure 14 to 16 feet in height as compared with the 35 foot height limitation. The additional impervious coverage is needed to provide additional classroom space to prevent overcrowding. The sport and play fields on the campus provide open space.
 - C. The proposed special use is appropriate in the location proposed. The two portable classrooms and increased hard surface coverage will not result in a substantial or undue adverse impact on adjacent properties; neighborhood character; natural environment; traffic conditions; parking; public property or facilities; or other matters that affect the public health, safety, and welfare. The portable classrooms will serve the existing student population, and will not adversely impact the area. Furthermore, since the applicant does not propose to increase the student population, the portable classrooms will not impose an undue burden on any improvements in the area. Furthermore, the school campus has existed since 1911, and the school has operated continuously at the site since 2005. The proposed additions will have no impact on the community.
10. Prior to obtaining a special use permit for the two portable classrooms and increased hard surface coverage, the applicant must also show that the request satisfies the specific standards that apply to academic schools set forth in TCC 20.54.070(1). Findings on each criterion are hereby made as follows:
 - A. Criterion (a)(i) requires that a public school site have the minimum size required by the State Superintendent of Public Instruction. Section 392-342-020 of the Washington Administrative Code (WAC) sets forth the standards for elementary schools. Said standards require a minimum parcel size of five

acres, plus one, additional, usable acre for each 100 students. Lackamas Elementary School requires an eight acre site, but its site measures 7.37 acres. However, the school has existed on the site for many years and the density of students per acre will not change as a result of the new portable classrooms.

- B. The school campus is located within a residential area, but is screened in a manner to reduce the noise generated by activities on the school grounds. Landscaping along the north property line, the closest to the portable classroom structures, provides a complete screen.
- C. No auditorium or gymnasium is proposed.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a special use permit satisfies all criteria set forth in the TCC and therefore should be approved subject to the following conditions:
 - A. Prior to or in conjunction with the issuance of any building permit, all applicable regulations and requirements of the Thurston County Public Health and Social Services Department, Public Works Department, Fire Marshal and Thurston County Resource Stewardship Department shall be met.
 - B. On April 8, 2014, the U.S. fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject parcel contains potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
 - C. The Applicant shall stop work and contact the proper authorities, including Nisqually Tribe Preservation Officer, Jackie Wall (360) 456-5221, if during excavation there are discoveries of archaeological artifacts or human burials.
 - D. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).

E. The following Health related conditions:

1. There shall be no stormwater infiltration within 100 feet of the existing Group A well.
2. The water system must contact Washington State Department of Health, Office of Drinking to complete a capacity analysis prior to release of the building permits.
3. A school facility plan review application has been submitted and is currently under review by the Food & Environmental Services Section. Prior to release of the building permits, the application and plans must receive approval.
4. Prior to final building occupancy approval, a pre-opening inspection must be satisfactorily completed by the Food and Environmental Services Section. The applicant will need to contact the Food and Environmental Services Section at (360) 867-2667 to schedule an inspection.

F. The following Public Works related conditions:

1. The proposed roadway in concept and design shall conform to the Road Standards.
2. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.
3. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
4. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.
5. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.

6. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
7. Storm water runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.
8. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
9. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather only items such as restoration of the County right of way and traffic control.
 - a. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
 - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.20' of asphalt concrete pavement.
10. Per Thurston County Resolution 14820, traffic impact fees shall be paid prior to issuing any building permits associated with this project.
11. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
12. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
13. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at (360) 867-2051 for a final inspection.

14. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is required and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. Any additional permits and/or approvals shall be the responsibility of the Applicant.
15. Once the planning department has issued the official approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
16. PRIOR to construction, the applicant shall:
 - a. Pay outstanding construction review and inspection fees*
 - b. Receive erosion and sediment control permit
 - c. Have the erosion and sediment control inspected and accepted
 - d. Receive a construction permit
 - e. Schedule a pre-construction conference with county staff.


* The current fee schedule can be found online at <http://www.co.thurston.wa.us/permitting/fees/docs/Roads-Development-Review-Fees-20090301.pdf> or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at 754-3355, ext. 2046, or by e-mail at padillr@co.thurston.wa.us.
17. Prior to receiving final approval from this department, the following items shall be required:
 - a. Completion of all roads and drainage facilities.
 - b. Final inspection and completion of all punch list items.
 - c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
 - d. Receive and accept Engineer's Construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion Control Manual).

- e. Payment of any required permitting fees.
 - f. Payment of any required mitigation fees.
- G. All development on the site shall be in substantial compliance with the approved site plan. Any expansion or alteration of this use beyond that initially approved by the Hearing Examiner will require approval of a new or amended Special Use Permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECISION:

The request for a special use permit to allow placement of two, new, portable classrooms at the Lackamas Elementary School and to increase the school parcel's hard surface coverage by 1.4 percent to a total of 34.4 percent is hereby granted subject to the conditions contained in the conclusions above. The approval is granted for the existing campus at 16240 Bald Hill Road S.E., Yelm.

ORDERED this 7th day of March, 2019.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this day of March, 2019, to the following:

APPLICANT: BCRA
 Attn: Erin Anderson
 2106 Pacific Avenue South, Suite 300
 Tacoma, WA 98402

OTHERS:

THURSTON COUNTY

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 **\$750.00** for a Request for Reconsideration or **\$1,020.00** 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 ☐ \$750.00 for Reconsideration or \$1,020.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20____.