



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	)	NO. 2016106138
	)	
<b>Caliber Company, Inc.</b>	)	<b>Plat of Mannerwood Meadows</b>
	)	
For a Preliminary Plat	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
_____	)	

**SUMMARY OF DECISION**

The request for approval of a preliminary plat to subdivide 10.68 acres into 50 single-family residential lots, 14 townhouse lots, and open space tracts totaling 2.54 acres is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Caliber Company, Inc. (Applicant) requested approval of a preliminary plat to subdivide 10.68 acres into 50 single-family residential lots, 14 townhouse lots, and open space tracts totaling 2.54 acres. The subject property is located on the east side of Mayes Road SE within the Lacey Urban Growth Area of Thurston County.

**Hearing Date:**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on July 24, 2018.

**Testimony:**

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

Tony Kantas, Senior Planner, Community Planning and Economic Development Department  
Arthur Saint, P.E., Development Review Department  
Dawn Peebles, R.S., Public Health and Social Services Department  
Dave Spiller, Hatton Godat Pantier  
Jeff Pantier, Hatton Godat Pantier

Al Goudeau  
Eric Moore  
Joe Spears

Attorney Matthew Sweeney represented the Applicant at the hearing.

**Exhibits:**

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

- Exhibit 1 Community Planning and Economic Development Department Staff Report, including the following exhibits:
- A. Notice of public hearing
  - B. Master application, submitted on December 21, 2016
  - C. Division of land application, submitted on December 21, 2016
  - D. Forestland conversion application, submitted on December 21, 2016
  - E. Notice of application, mailed on March 28, 2017 (3 pages)
  - F. Zoning/2015 aerial/vicinity map
  - G. Revised site plan, received October 10, 2017
  - H. Landscape plan
  - I. Townhouse lots site plan
  - J. Townhouse design (2 pages)
  - K. Project narrative
  - L. Mitigated Determination of Non-Significance (MDNS), dated April 24, 2018
  - M. Memo, SEPA recommendation, from Arthur Saint, Thurston County Public Works Department, dated April 3, 2018
  - N. Memo, plat recommendation, from Arthur Saint, Thurston County Public Works Department, dated June 29, 2018
  - O. Letter, plat recommendation, from Thurston County Health Department, dated April 30, 2018
  - P. Comment letter from Washington State Department of Ecology, dated January 17, 2017
  - Q. Comment letter from Washington State Department of Ecology, dated April 17, 2017
  - R. US Department of Fish and Wildlife gopher review letter, dated August 11, 2017
  - S. Comment letter from Nisqually Indian Tribe, dated April 25, 2018
  - T. Comment letter from North Thurston School District, dated April 11, 2017

- U. Draft school mitigation agreement, dated June 4, 2018
- V. Comment letter from City of Lacey, dated April 7, 2017
- W. City of Lacey water and sewer acknowledgment letter, dated December 16, 2016
- X. Comment form letters received by surrounding property owners
- Y. Tree preservation plan, dated November 22, 2016
- Z. Level I trip generation and distribution report, dated November 10, 2016
- AA. Integrated pest management plan, revised October 6, 2017
- BB. Wetland summary report, dated December 3, 2016
- CC. Oregon white oak habitat management plan, dated November 19, 2016
- DD. Preliminary drainage and erosion control report, dated November 28, 2016

Exhibit 2 Letter from Matthew Sweeney, dated July 20, 2018

Exhibit 3 Photos of posted hearing notice and site (6 total)

Exhibit 4 Public comment letters from Marijke Deutscher and Margo Street

Exhibit 5 Safe walk route aerial photograph

Exhibit 6 Preliminary drainage and utility plans<sup>1</sup>

Based upon the record developed at the open record hearing, the Hearing Examiner enters the following findings and conclusions.

### **FINDINGS**

1. The Applicant requested approval of a preliminary plat to subdivide 10.68 acres into 50 single-family residential lots, 14 townhouse lots, and open space tracts totaling 2.54 acres. The subject property is located on the east side of Mayes Road SE within the Lacey urban growth area (UGA) of Thurston County.<sup>2</sup> *Exhibits 1, 1.B, 1.C, and 1.G.*
2. The preliminary plat application was submitted on December 21, 2016 and was deemed complete on January 18, 2017. The proposal under review is a revision of the original proposal, which sought to create 50 single-family residential lots, six townhouse lots, and eight multifamily units. *Exhibits 1.B, 1.C, and 1.E.*

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<sup>1</sup> The plat layout depicted on the plan set, dated November 2016, has been superseded by the layout depicted in Exhibit 1.G, dated received October 10, 2017. The Applicant offered this plan set in the record to show preliminary drainage and utility layouts depicted in sheets 2 through 7.

<sup>2</sup> The legal description of the subject property is a portion of Section 26, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Number 52400100000. *Exhibit 1.*

3. Located in the Lacey UGA, the subject property is zoned Moderate Density Residential (MD 6-12), a zone that requires a minimum density of six dwelling units per acre and a maximum density of twelve dwelling units per acre. With the proposed townhouse lots, the density of the subdivision would be exactly six dwelling units per acre. Townhouses are an allowed land use in the MD 6-12 zone. *Exhibits 1, 1.F and 1.G; Thurston County Code (TCC) 21.61.030.*
4. Surrounding zoning consists of Low Density Residential (LD 3-6) to the north, Moderate Density Residential District (MD 6-12) to the east, and Low Density Residential District (LD 0-4) to the south and west. *Exhibit 1.*
5. The proposal is vested to the zoning ordinances in effect at the time of complete application. While current TCC 21.15.020 requires subdivisions larger than ten acres to designate at least 20% of the dwelling units for multifamily development, the version of the ordinance in effect at the time of complete application did not include that requirement.<sup>3</sup> Instead, it requires subdivisions larger than ten acres to provide a mix of housing types, with at least 50% of lots for single-family use. The proposal includes two types of single-family housing: detached single-family residential and townhouse. The townhouse lots would be located in the western portion of the development, facing Mayes Road SE and accessed by a private alley from the rear of the lots. *Exhibits 1 and 1.G; TCC 21.15.020.*
6. The subdivision design standards applicable to the detached single-family residential portion of the development include a minimum lot area of 4,000 square feet and a minimum lot width of 40 feet. *TCC 21.15.050.* Each of the proposed lots for detached single-family residences would satisfy these standards. *Exhibit 1.G.*
7. The subdivision design standards applicable to the townhouse portion of the development include a minimum lot area of 1,600 square feet and a minimum lot width of 20 feet. *TCC 21.61.040.C.* Each of the townhouse lots would be 2,375 square feet in area and 25 feet wide. *Exhibit 1.I.*
8. The setback standards applicable to townhouse lots in the MD 6-12 zone include a minimum front yard setback of 25 feet, a minimum side yard setback of five feet, and a minimum rear yard setback of 15 feet, or three feet for the garage if the lot is rear-loaded. No more than two abutting townhouses may have the same front yard setback. *TCC 21.61.040.E, F, G, and I.* In addition, each townhouse lot must have at least 300 square feet of private yard space, enclosed by fences, walls, or plantings. *TCC 21.61.040.H.* The Applicant submitted plans depicting that the townhouse lots would be rear-loaded, with garages accessed from an alley. A 10-foot setback from the alley is proposed. The townhouses would be clustered in groups of two, with five-foot setbacks from the side lot lines on the non-shared walls. Conceptual elevations depict duplex structures that look like single-family residences, with two front porches each. Twenty-five-foot front yard

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<sup>3</sup> See Thurston County Code Supplement 52, dated December 12, 2016.

setbacks would be provided. Compliance with the townhouse setback and private yard standards would be determined during a future design review process that would occur prior to building permit issuance. *Exhibits 1, 1.I, and 1.J.*

9. Within the Lacey urban growth area, subdivisions must provide 10% of the total site area as usable open space which must be separate from yards, setbacks, and other undeveloped portions of the site. The open space may include stormwater facilities, if designed for active or passive recreation. The instant project proposes open space comprising 24% of the site area, including tree tracts, stormwater tracts, and other open space tracts. Unspecified active recreation is proposed to be provided in Tract B; benches and tables are shown on the revised site plan. The County recommended as a condition of approval that the Applicant revise the submitted landscape plan to depict the active recreation features. A homeowners association is proposed to maintain all common open space areas, including stormwater facilities, private access roads, and the alley serving the townhouse units. *Exhibits 1, 1.G, and 1.H; Tony Kantas Testimony; Jeff Pantier Testimony.*
10. Thurston County Code 21.80.055 contains landscaping standards that require screening between incompatible uses. In this case, the proposed lots along the northern plat boundary and Lots 1, 2, and 3 in the southern portion of the plat, adjacent to the eastern plat boundary, are considered incompatible uses because they would be less than half of the area of the existing adjacent lots. The incompatible use standards require a 30-foot wide vegetated buffer to screen new incompatible uses from existing development; however, the provisions allow modification of landscaping requirements if the modified landscaping achieves an equal result and complies with the purpose of the chapter.<sup>4</sup> The Applicant requested a reduction to 15 feet of vegetated buffer combined with installation of an eight-foot tall solid wood fence. Implementation of the 30-foot buffer would not allow density requirements to be satisfied without including additional townhomes in the proposed plat design. The County recommended that the reduced buffer be approved and requested as a condition of approval that the Applicant revise the submitted landscape plan to depict the buffer. *Exhibits 1 and 1.H; Tony Kantas Testimony.* For proposed Lots 1, 2, and 3, the eight-foot fence is proposed on the site perimeter with the 15-foot landscape buffer occupying the rear of the lots. The landscape buffer would include trees planted at 25-foot spacing, to be maintained by the owners of the three lots. For Lots 25 through 33, the eight-foot fence would be placed on the site perimeter, and the 15-foot landscape buffer would be included in Tract A, outside of the lots, to be maintained by the homeowners association. *Jeff Pantier Testimony.*
11. Approximately half of the subject property consists of open pasture. The remaining 50% of the property is forested with a mixture of Douglas fir and Bigleaf Maple. There are eight individual Oregon white oak trees on-site. There are no wetlands or streams on or within 300 feet of the subject property. *Exhibits 1, 1.Y, 1.BB, 1.CC, and 3.*

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<sup>4</sup> In its preamble, TCC 21.80.060 appears to specify that modification from 21.80.030 and .040 is allowed; however, the undersigned has accepted Planning Staff's interpretation that it also allows modification from TCC 21.80.055.

12. The Applicant proposes to retain 63 existing trees within Tracts A and B, including three Oregon white oak trees, and to mitigate removal of five Oregon white oak trees by planting new oak trees at a 3:1 ratio. *Exhibits 1.Y and 1.CC.*
13. Access to the proposed development would be from Mayes Road. The new internal street system would connect both to Mayes Road and to 26th Avenue SE, which currently stubs at the east property line. A private alley, connecting to the internal street system and to Mayes Road, would provide access to the townhouse lots. All road improvements, including frontage improvements on Mayes Road, would be constructed to City of Lacey standards. The City's classification of Mayes Road - Minor Collector Type 2 - includes a bicycle lane and does not allow for on-street parking. On-street parking would be available along the proposed new internal streets, as well as in driveways and garages throughout the project. *Exhibit 1.G; Tony Kantas Testimony; Jeff Pantier Testimony.*
14. The Applicant submitted a professionally prepared Level I trip generation and distribution report (traffic study). Based on trips generated by single-family and townhome uses, as recognized by the Institute of Transportation Engineers (ITE) Trip Generation manual, the proposed dwellings would result in 557 average new daily trips, including 57 PM peak hour trips. The trip distribution analysis projected 25 or more PM peak hour trips to the already over-capacity intersections of Marvin Road and Pacific Avenue SE and Marvin Road and 25th Avenue SE. *Exhibit 1.Z.* The County addressed traffic impacts through State Environmental Policy Act review, discussed in Finding 24 below.
15. Stormwater runoff from the undeveloped site generally flows to the west and northwest across Mayes Road towards Long Lake. The Applicant proposes to infiltrate stormwater from new impervious surfaces on-site. Settling basins would be provided to pre-treat the runoff prior to infiltration. Treatment for phosphorous would be provided by an amended soil liner in the infiltration ponds due to the close proximity to Long Lake. The ponds would be located in Tract C, in the northwest corner of the subject property. The design would ensure that there is no reduction in groundwater recharge as a result of the project. *Exhibit 1.DD; Arthur Saint Testimony; Jeff Pantier Testimony.*
16. There are four groundwater monitoring wells on-site, which were installed to study groundwater flows for purposes of stormwater design. As recommended by the County Public Health Department, the Applicant would decommission the wells in accordance with Washington Department of Ecology standards. *Exhibit 1.O; Jeff Pantier testimony.*
17. The Thurston County Public Works Department reviewed the development for compliance with Thurston County Road Standards, the Drainage Design & Erosion Control Manual, and the City of Lacey Development Guidelines, and found that all of the preliminary requirements have been satisfied. The Public Works Department recommended approval of the subdivision, subject to conditions. *Exhibit 1.N; Arthur Saint Testimony.*

18. The City of Lacey does not commit to providing water and sewer to developments until after preliminary plat approval; however, the City issued a letter stating that sufficient water and sewer capacity to serve the development is available. *Exhibit I.W.*
19. There is an existing off-site well within 100 feet of the subject property. The Public Health Department recommended that the Applicant be required to file a restrictive covenant for the portion of the sanitary control radii that encroaches on the subject property. *Exhibit I.O.*
20. US Fish and Wildlife Service (USFWS) staff visited the site to evaluate it for the presence of the federally listed Mazama pocket gopher. USFWS staff did not find mounds characteristic of the Mazama pocket gopher, and based on this and the physical, environmental, and biological condition of the parcel, determined that the project would not result in a “take” of Mazama pocket gophers. *Exhibit I.R.*
21. The subject property is located in an area that might have been contaminated with heavy metals due to air emissions originating from the former Asarco smelter in north Tacoma. In comments on the proposal, the Department of Ecology recommended that the Applicant be required to test the soil for contaminants and, if levels are above the clean-up level indicated in the Model Toxics Control Act, develop and implement a soil remediation plan. *Exhibit I.P.*
22. The subject property is located within the North Thurston Public Schools No. 003 school district. Each single-family dwelling unit is expected to add 0.76 full-time equivalent students to the school system, which is presently over capacity. The District anticipates the need to develop new school facilities as a result of this and other new developments and requested that the Applicant enter into a voluntary mitigation agreement to pay mitigation fees for compliance with the State Environmental Policy Act (SEPA) and the State Subdivision Act. The County, in its review of the project under SEPA, required the Applicant to enter into such a mitigation agreement or demonstrate adequate school capacity. The Applicant agreed to enter into the agreement prior to final plat approval. The requested mitigation amount is \$4,211 per single-family dwelling unit. *Exhibits I.L, I.T, and I.U; Jeff Pantier Testimony.*
23. While students from the development would likely be bused to school, there is a safe walking route from the subject property to Seven Oaks Elementary School, which is located approximately one-quarter mile to the north. Sidewalks on both sides of the streets within the subdivision would connect to the off-site sidewalks, contributing to the safe walk route. *Exhibit 5; Jeff Pantier Testimony.*
24. Thurston County reviewed the environmental impacts of the project pursuant to the State Environmental Policy Act and issued a mitigated determination of non-significance (MDNS) on April 24, 2018. The MDNS contains conditions to address school, traffic, and construction impacts; to protect archaeological resources; and to require soil testing and remediation as needed to comply with the Model Toxics Control Act. With respect to traffic impacts, the MDNS requires the Applicant to pay City of Lacey traffic

mitigation fees and to construct improvements at four over-capacity intersections along Marvin Road (Mullen Road SE/Marvin Road SE, Union Mills Road SE/Marvin Road SE, 19th Avenue SE/Marvin Road SLE, and 25th Avenue SE/Marvin Road SE) prior to final plat approval. As an alternative to construction of the four intersections, the MDNS allows the Applicant to purchase reserve capacity per a Marvin Road Corridor Concurrency White Paper. This MDNS mitigation measure is intended to ensure that the instant plat cannot be built until traffic concurrency requirements are satisfied. As of the hearing date, the Applicant does not propose to improve all four intersections in order to move forward with the proposal; instead the Applicant might delay development until such time that larger projects in the vicinity complete the required improvements, or until the County undertakes the intersection improvements as part of a capital improvements project. *Exhibits 1.L and 1.M; Arthur Saint Testimony; Jeff Pantier Testimony.*

25. Written notice of the public hearing was sent to all owners of property within 300 feet of the site on July 10, 2018. Notice of hearing was published in The Olympian and posted on-site on July 13, 2018. *Exhibits 1, 1.A, and 3.*
26. In public comment on the proposal, neighboring property owners objected to the proposed development density (and the underlying MD 6-12 zoning) as being incompatible with the lower density of adjacent development. Neighbors also objected to previously proposed multifamily residential development. This feature has been removed from the proposal; all townhouses would be on developed on fee simple lots. Neighbors also expressed objections to the location of the townhouses within the development and concern regarding on-street parking on Mayes Road, intersection safety at Mayes Road and 25th Avenue SE, traffic, water availability, impacts to groundwater recharge, and school capacity. *Exhibits 1.X and 4; Testimony of Al Goudeau, Eric Moore, and Joe Spears.*
27. Testimony and evidence submitted by the Applicant and County staff in response to public comments are incorporated into previous findings and included: that the plat must satisfy minimum density standards; that parking would be provided internally; that traffic impacts would be mitigated prior to development; that the City of Lacey's water right would be used for the development (and water is available); that there would be no reduction in groundwater recharge and thus no reduction of water quantity in surrounding private water supplies; and that impacts to school capacity would be mitigated through payment of mitigation fees. *Testimony of Tony Kantas, Dawn Peebles, and Arthur Saint; Testimony of Jeff Pantier and Dave Spiller; Matthew Sweeney Argument.*
28. The Community Planning and Economic Development Department recommended approval of the preliminary plat, subject to the conditions identified by the Public Works and Public Health Departments, the conditions of the MDNS, and additional conditions designed to ensure compliance with the County's landscaping and design requirements. In addition, the Department recommended that the Applicant be required to demonstrate adequate school capacity or enter into a mitigation agreement with the North Thurston School District prior to final plat approval and complete the Washington State voluntary soil testing and clean-up program associated with the Tacoma smelter plume. *Exhibit 1.*

The Applicant concurred with the recommended conditions of approval. *Jeff Pantier Testimony.*

## **CONCLUSIONS**

### **Jurisdiction:**

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats pursuant to RCW 36.70.970, TCC 2.06.010(A), and TCC 18.12.090.

### **Criteria for Review:**

#### ***Preliminary Plat***

The proposal must satisfy the criteria for preliminary plat approval contained in TCC 18.12.090:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication.

### **Conclusions Based on Findings:**

1. With conditions, the proposed plat makes appropriate provisions for public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds, and all other relevant facts. Capacity issues with respect to schools and area intersections were considered during review. The mitigation required by the MDNS and the conditions of approval contain significant mitigation requirements, particularly with respect to traffic. Traffic impact fees would be paid to the City of Lacey, and the proposed lots would not be built until substantial intersection improvements have been constructed or partially funded by the proposal. The project sets aside more than twice the minimum amount of open space required within the plat and, as conditioned, would provide active recreation amenities. Stormwater would be infiltrated on-site and would not change groundwater recharge rates from the site; stormwater settling ponds would ensure that contaminants in stormwater runoff would be retained at the surface through biological and organic processes rather than infiltrating into groundwater. City of Lacey water and sewer would be provided to the lots. School impacts would be mitigated through the execution of a mitigation agreement between the Applicant and the North Thurston School District prior to lot construction. The plat's new internal roadways would be developed with sidewalks on both sides, which would connect to existing sidewalks to nearby schools or school bus stops. *Findings 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.*
2. With conditions of approval, the public use and interest would be served by the subdivision. The County's Hearing Examiner lacks authority to modify the adopted zoning and Urban Growth Area designation of the subject property and must apply the

regulations in effect at the time of complete application. The applicable regulations require a minimum density of six dwelling units per acre. The project proposes the minimum density allowed and multifamily residential development was eliminated. The plat would provide significant open space, including tree retention and planting in accordance with County standards. The proposed townhouse lots would undergo design review prior to construction, ensuring compliance with applicable development standards. The Applicant's request for a modification of the 30-foot buffer is granted. As conditioned, a Type I vegetated buffer and an eight-foot tall fence would be provided between the proposed lots and incompatible uses as defined in the County Code. *Findings 1, 2, 3, 4, 5, 9, and 10.*

### **DECISION**

Based on the preceding findings and conclusions, the request for approval of a preliminary plat to subdivide 10.68 acres into 50 single-family residential lots, 14 townhouse lots, and open space tracts totaling 2.54 acres is **GRANTED** subject to the following conditions:

#### ***Public Works Conditions***

1. The proposed roadway in concept and design shall conform to the Road Standards and City of Lacey standards and development guidelines.
2. A construction permit shall be acquired from the Thurston County Public Works - Development Review Section prior to any construction.
3. All access points with sight distance issues or abutting arterial or collector roadways shall be installed prior to final plat approval.
4. 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 Washington State Department of Transportation standards and specifications. A signage and striping plan shall be incorporated into the construction drawings for the project. Contact Thurston County Public Works - Development Review Section staff to obtain the most current Thurston County guidelines.
5. 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.
6. The stormwater management system shall conform to the Drainage Design & Erosion Control Manual.
7. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner, and/or homeowners association.

8. Stormwater 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 on other properties.
9. Because proper landscaping is vital to the performance of the stormwater system, the landscape plan shall be signed/sealed by a Washington licensed civil engineer (preferably the engineer who designed the stormwater system).
10. The proposed water and sewer system shall be designed in accordance with the standards and specifications of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
11. Proposed utility work within the Thurston County Right-of-Way shall conform to the Road Standards and Chapter 13.56 of the 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 0.17 feet of asphalt concrete pavement.
12. Permanent survey controls need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries, and other points of control.
13. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works - Survey Division. The Survey Division can be reached at 360-867-2378.
14. Payment of the off-site traffic mitigation fees required by the April 24, 2018 Mitigated Determination of Non-significance is required prior to final plat approval in accordance with the Thurston County Road Standards. The timing of such payments to other jurisdictions may be altered upon agreement with each respective jurisdiction and Thurston County.
15. No work shall take place until a construction permit has been issued by the Thurston County Public Works - Development Review Section.
16. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the corresponding City jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.

17. 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 the Drainage Design & Erosion Control Manual.
18. When all construction/improvements have been completed, the Applicant shall contact the Thurston County Public Works - Development Review Section for a final inspection.
19. 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.
20. Once the Planning Department has issued the official preliminary 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 the Thurston County Public Works - Development Review Section for review and acceptance.
21. Prior to construction, the Applicant shall:
  - a. Pay outstanding construction review and inspection fees; \*
  - b. Receive an erosion and sediment control permit;
  - c. Have the erosion and sediment control inspected and accepted;
  - d. Receive a construction permit; and
  - e. Schedule a pre-construction conference with County staff.

\* The current fee schedule can be found online at the Thurston County Permit Assistance Center webpage or by contacting Ruthie Padilla with the Thurston County Public Works - Development Review Section by phone at 360-867-2046 or by email at [padillr@co.thurston.wa.us](mailto:padillr@co.thurston.wa.us).
22. 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. Receipt and acceptance of Engineer's Construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design & Erosion Control Manual).

- e. Receipt and acceptance of Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design & Erosion Control Manual).
  - f. Execution of an agreement of financial security for the maintenance and operation of the right-of-way improvements in accordance with Thurston County Code 18.24.010.
  - g. Execution of an agreement of financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
  - h. Approval of the final plat map.
  - i. Homeowners' articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design & Erosion Control Manual.
  - j. Completion of required frontage improvements.
  - k. Completion of required signage and striping.
  - l. Payment of any required permitting fees.
  - m. Payment of any required mitigation fees.
23. The final plat map shall note or delineate the following:
- a. ATTENTION: Thurston County has no responsibility to build, improve, maintain or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation, or servicing of the stormwater facilities outside the County rights-of-way are the responsibility of the property owner(s).
  - b. Increased stormwater runoff from the roads, buildings, driveways, and parking areas shall be retained on-site and shall not be directed to roadway ditches adjacent to Mayes Road SE.
  - c. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
  - d. Private roads are required to remain open at all times for emergency and public service vehicle use. Any future improvements (gates, fencing, etc.) that would not allow for "open" access will need to be approved by all applicable departments of Thurston County.
  - e. The owner and/or Homeowners Association shall be responsible to operate and maintain the streetlights until such time as the property is annexed to the city.
  - f. Approval of this subdivision is conditioned upon payment of City of Lacey traffic mitigation fees in the amount of \$423.02 per lot. This fee increases on July 1 of each year in accordance with the increase in the Engineering News Record Construction Cost Index, and the amount is determined at the date of payment. Payment is required prior to the issuance of a water meter for those lots served by the Lacey Water Utility and prior to building permit issuance for those lots not served by such utility.
  - g. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any

building permits associated with this project.

- h. This plat is subject to the residential agreement to maintain stormwater facilities and to implement a pollution control plan, as recorded under Auditor's File No. \_\_\_\_\_.
- i. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision \_\_\_\_\_, including unrestricted access for Thurston County staff to any and all stormwater system features for the purpose of routine inspections and/or performing maintenance, repair, and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Homeowners Association as established by covenant recorded under Auditor's File No. \_\_\_\_\_.
- j. The property described herein is required to accommodate stormwater runoff from frontage improvements to Mayes Road SE and all natural tributary areas abutting said property.
- k. Maintenance of the landscaping, roadside drainage, and stormwater facilities such as ditches, swales, and ponds within the public right-of-way is the sole responsibility of the homeowners association within this subdivision. Thurston County has no responsibility to maintain or service said landscaping or roadside stormwater facilities.
- l. The Applicant shall provide language on the plat describing the drainage design requirements for all projected hard surfaces and lawn/landscape areas within individual building lots (drywell design/sizing, storm drain connection points, incorporated into pond design, etc.).
- m. The Applicant shall delineate the access restrictions by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of Mayes Road SE on the final plat map.
- n. All public and private roads shall be clearly labelled.

#### ***Health Conditions***

- 24. City of Lacey water and sewer utilities must be extended through the subdivision prior to final plat approval. Confirmation of final water and sewer construction approval from the City of Lacey must be provided.
- 25. The Applicant must grant a non-public restrictive covenant for the existing off-site well located within 100 feet of the property. The covenant must be submitted to this office for review prior to being filed with the Thurston County Auditor's Office.
- 26. All existing monitoring wells located on the property must be properly decommissioned by a licensed well driller per Washington State Department of Ecology standards. Copies of the decommissioning reports (well logs) must be submitted to this office. If any of the

monitoring wells are to remain, the Applicant must confirm the intended monitoring plan and show the location of the wells on the final map.

***Planning Conditions***

27. The Applicant shall comply with all conditions of the Mitigated Determination of Non-Significance, dated April 24, 2018.
28. Street addresses, lot sizes, and dimensions for each lot shall be shown on the final plat map.
29. The final design of this subdivision and future development of lots shall conform with all minimum standards of the Zoning Ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the Platting and Subdivision Ordinance.
30. All open space, landscaping, and tree preservation shall comply with the following requirements:
  - a. New trees on individual residential lots shall be planted at a rate of one tree for every 4,000 square feet of lot area at the time of building permit application.
  - b. All landscaping shall be planted as shown on the approved final landscape plan prior to final plat approval. Any conditions, improvements, or maintenance requirements associated with the landscaping plan shall be shown on the final plat map.
  - c. Prior to final plat approval, the Applicant shall submit a final landscape plan to the Thurston County Community Planning and Economic Development Department for review and approval. The final landscape plan shall include the design of the active recreation component to the open space (i.e. play equipment, sports court, oak tree preservation, and irrigation). All landscaping shall be in compliance with the Thurston County Zoning Ordinance (Title 21) and the Thurston County Subdivision Ordinance (Title 18).
  - d. The landscape plan shall include a 15-foot incompatible landscape buffer with an 8-foot high solid fence along the north rear property lines of proposed Lots 25 through 33 and the east rear property lines of Lots 1 through 3. The landscaping shall be in accordance with the landscape requirements of TCC 21.80.055.
31. Prior to final plat approval, the Applicant shall submit evidence to the Thurston County Community Planning and Economic Development Department that adequate capacity exists in affected North Thurston School District schools to accommodate the development, or that the Applicant has entered into an agreement with the North Thurston School District to mitigate the impact the plat will have on the district schools. If the agreement requires payment of mitigation fees or other actions after the final plat is recorded, then such conditions shall be noted on the final plat map.
32. The following notes shall be shown on the final plat map:
  - a. This subdivision was reviewed and approved based on standards and allowances of the Moderate Density Residential District (MD 6-12) (TCC 21.15).

- b. New trees on individual residential lots shall be planted at a rate of one tree for every 4,000 square feet of lot area at the time of building permit application.
  - c. All future development must conform to the requirements of the Zoning Ordinance and the Platting and Subdivision Ordinance.
33. Prior to construction of the townhouses, the Applicant shall submit an Administrative Design Review application for review and approval by the Thurston County Community Planning and Economic Development Department in accordance with TCC 21.61.
34. The Applicant shall comply with all mitigation outlined within the Oregon white oak habitat management plan.
35. The Applicant shall complete the Washington State voluntary soil testing and clean-up program associated with the Tacoma Smelter Plume.
36. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Thurston County Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

**DECIDED** August 7, 2018.



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Sharon A. Rice  
Thurston County Hearing Examiner

NOTE: Pursuant to TCC 22.62.020(C)10, affected property owners may request a change in valuation for property tax purposes.

**THURSTON COUNTY**  
**PROCEDURE FOR RECONSIDERATION AND APPEAL**  
**OF HEARING EXAMINER DECISION TO THE BOARD**

<b>NOTE:</b> 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).
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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\_\_\_\_.