



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. 2016106167
)	
Tumwater School District)	East Olympia Elementary
)	
For a Special Use Permit and a Variance)	FINDINGS, CONCLUSIONS,
)	AND DECISION

SUMMARY OF DECISION

The requests for special use permit to remodel and modernize East Olympia Elementary School, and zoning variance to allow the site's impervious surface coverage to exceed 10% of the site area, are **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request

Tumwater School District (Applicant) requested a special use permit (SUP) to remodel and modernize East Olympia Elementary School, and a zoning variance to allow an impervious surface coverage of 22.8% of the site area, which is in excess of the 10% n permitted by the Zoning Ordinance. The subject property is located at 8700 Rich Road SE.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on May 1, 2017.

Testimony

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

Robert Smith, Senior Planner, Resource Stewardship Department
Dawn Peebles, Thurston County Environmental Health
Arthur Saint, Thurston County Public Works
Lisa Klein, Applicant Representative
Mel Murray, Applicant Representative

Exhibits

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

EXHIBIT 1 Resource Stewardship Planning & Environmental Section Report including the following attachments:

Attachment a	Notice of Public Hearing
Attachment b	Zoning/Site Map
Attachment c	Master Application, received December 22, 2016
Attachment d	Special Use Permit Application, received December 22, 2016
Attachment e	Variance Application, received December 22, 2016
Attachment f	Applicants Project Description, dated December 21, 2016
Attachment g	Applicant's Supplemental Variance Application Material, received April 18, 2017
Attachment h	Site Plan, received December 22, 2016
Attachment i	Notice of Application, dated February 8, 2017
Attachment j	Complete Application letter, dated February 7, 2017
Attachment k	SEPA Determination of Exemption letter from the Tumwater School District, dated December 16, 2016
Attachment l	April 18, 2017 Comment Memorandum from Dawn Peebles, Thurston County Public Health and Social Services Department
Attachment m	March 9, 2017 Comment Memorandum from Arthur Saint of the Thurston County Public Works Department
Attachment n	August 11, 2016 Letter from Eric Rickerson, US Fish and Wildlife Service
Attachment o	January 20, 2017 Comment Letter from the Washington State Department of Ecology
Attachment p	January 18, 2017 Comment Letter from Jackie Wall with the Nisqually Indian Tribe

Attachment q WAC 392-342-020

Attachment r Planting Plan and Plant Schedule, received April 18, 2017

EXHIBIT 2 SUP-8-88, approved July 14, 1988

EXHIBIT 3 Photo of posted notice of hearing

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

FINDINGS

1. The Applicant requested an SUP to remodel and modernize East Olympia Elementary School, and a zoning variance to allow an impervious surface coverage of 22.8% of the site area, which is in excess of the 10% permitted by the Zoning Ordinance. The subject property is located at 8700 Rich Road SE.¹ *Exhibit 1, Attachments C, D, and E.*
2. East Olympia Elementary School was approved through SUP 8-88 and constructed in 1989. It currently serves a student population of approximately 500 to 525 students. Existing improvements on the site include two permanent buildings and three portables providing a total of 48,028 square feet of net building area, access drives, stormwater ponds, and three parking areas (67 standard stalls, one ADA stall, and eight bus stalls total) clustered in the western half of the subject property. The site is also developed with playfields, a well, and septic system infrastructure in the eastern half of the subject property. *Exhibits 1, 2, and Exhibit 1, Attachments F and H.* Since 1989, students on-site have been in grades K through 6. Starting next year, sixth graders would be served at middle schools, and this facility would serve only grades K through 5. *Mel Murray Testimony.*
3. The project would include expanding classroom areas by remodeling the classroom building to add 750 square feet of net building area, and replacing one 911 square foot portable with two new portables totaling 3,612 square feet, resulting in a net class room increase of 3,449 square feet. The project's purpose is to allow for reduced class sizes as required by the State while maintaining the current student population. Other proposed improvements include: expanding and reconfiguring the main office entry area to provide for enhanced security; modifying existing asphalt and landscaped areas to provide a new student drop-off/pick-up area with additional stacking space for vehicles; and upgrading building finishes, lighting, low-voltage, and mechanical systems. *Exhibit 1, Attachment F.*
4. The 19.24-acre school site is in the rural portion of the County and is zoned Rural Residential Resource - One Dwelling unit per Five Acres (RRR 1/5). *Exhibit 1; Exhibit 1, Attachment B.* The purpose of the RRR 1/5 zone is "to encourage residential development that maintains the county's rural character; provides opportunities for

¹ The legal description of the subject property is Tract A of Boundary Line Adjustment BLA-0646; also known as Tax Parcel No. 39911800000. *Exhibit 1.*

compatible agricultural, forestry and other rural land uses; is sensitive to the site's physical characteristics; provides greater opportunities for protecting sensitive environmental areas and creating open space corridors; enables efficient road and utility systems; and does not create demands for urban level services." *TCC 20.09A.010*. Academic schools are allowed in the RRR 1/5 zone with approval of a SUP, subject to use-specific standards established in TCC 20.54.070(1). *TCC 20.54, Table 1; TCC 20.54.070*.

5. The Comprehensive Plan contains several policies relevant to the proposal, including that special uses permitted within the rural area should serve the rural area residents of the County; that new school facilities be coordinated with growth and consider impacts on roads and neighboring uses; that schools be sited on non-arterial roads to minimize pedestrian and vehicle conflict; and that availability of water and sewer facilities be considered in school siting. *Exhibit 1; Exhibit 1, Attachment F*.
6. Surrounding land uses consist of rural residences on lots of varying sizes. The zoning of surrounding parcels is RRR 1/5. *Exhibit 1; Exhibit 1, Attachment B*.
7. Bulk standards applicable to the development, based on the standards in effect on the December 22, 2016 application date, include: a maximum building height of 35 feet; minimum street, rear, and side yard setbacks of 25 feet, 10 feet, and 10 feet, respectively; and a maximum impervious surface coverage of 10% for parcels consisting primarily of hydrologic soil groups C or D. *Exhibit 1; TCC 20.09.050*. Over half of the subject property is mapped with Type C soils. The site's existing impervious surface coverage is 22.1%. The remodeled buildings and new portables would comply with the applicable height and setback limitations, but the new impervious surface coverage after improvements are complete would be 22.8%. This is an increase of 0.13 acre (1.7%) over the already nonconforming impervious surface coverage of 22.1%. At the time the school was originally developed, the zoning regulations did not restrict impervious surface coverage. The additional impervious surfaces are designed to address State requirements to reduce elementary school class sizes, and to improve safety and traffic impacts by moving vehicle queuing on-site instead of in County right-of-way. *Exhibit 1; Exhibit 1, Attachments E and H*.
8. The parking standard applicable to elementary schools is one parking space per classroom and office. The remodeled school would have 30 classrooms and 11 offices, resulting in a parking requirement of 41 off-street spaces. As proposed, the altered campus would provide 63 standard parking stalls, two ADA stalls, and eight bus stalls. *Exhibit 1; Exhibit 1, Attachment F*. This is a decrease of three parking stalls; however, it still exceeds the minimum parking required. *Robert Smith Testimony; Exhibit 1*.
9. Washington Administrative Code 392-342-020 identifies the site sizing criteria to be used by the Superintendent of Public Instruction and the School District for public schools. These criteria specify a minimum of five usable acres plus one additional usable acre per 100 students or portion thereof at projected maximum enrollment, or 11 acres for the approximate 525 students enrolled at East Olympia Elementary School. The subject property is 19.24 acres in area. *Exhibit 1, Attachments F and Q; Exhibit 1*.

10. There is a row of mature trees along the southern and eastern property lines, which provides screening for adjacent residential uses. The Applicant has submitted a landscape plan for areas disturbed by construction in the western portion of the property. Resource Stewardship Staff determined that the plan complies with applicable County landscape standards. *Exhibit 1; Exhibit 1, Attachment R.*
11. The mapped soils on-site include soils which provide potential habitat for the Mazama pocket gopher, a threatened species under the Endangered Species Act. In 2016, U.S. Fish and Wildlife Service (USFW) biologists visited the subject property to evaluate impacts to the Mazama pocket gopher and determined that the project would not or would not likely result in a take of the species. *Exhibit 1; Exhibit 1, Attachment N.*
12. The subject property is served by an onsite Group A water system, including a well, 110,000-gallon storage tank, and a booster pump. The Washington State Department of Health has approved the system to serve a maximum 550 students and staff. No changes are proposed to the water system. *Exhibit 1, Attachments F and L.* The school currently has approximately 35 to 40 faculty and staff. *Mel Murray Testimony.* The water system of 550 persons served is a hard limit. The Applicant would be required to apply with the state department of health to increase its capacity. *Dawn Peebles Testimony.*
13. The subject property is served by two sewage disposal systems, including one Large On-Site Sewage System (LOSS) serving the main school building which is under the jurisdiction of the Washington State Department of Health. The LOSS is sized for 650 students and staff. The second sewage disposal system serves two portables on site and is sized for 100 students and staff. The proposed new portables would be connected to the LOSS. The Washington State Department of Health has approved the project. *Exhibit 1, Attachments F and L.*
14. The subject property is within Category I and Category II critical aquifer recharge areas. The Thurston County Public Health and Social Services Department reviewed the proposal for compliance with the Thurston County Sanitary Code and recommended approval, subject to conditions requiring that the Applicant complete a water system capacity analysis with the Washington State Department of Health if students and staff exceed 550 (see Finding 12), that a School Facility Plan Review Application be approved by the Food and Environmental Services Section prior to building permit issuance, and that an inspection by the Food and Environmental Services Section be completed prior to building occupancy. These conditions were incorporated into the recommended conditions of SUP approval. *Exhibit 1, Attachment L; Exhibit 1.*
15. Stormwater generated by existing impervious surfaces is treated using four hydraulically connected stormwater ponds, overflow from which is conveyed to an underground infiltration trench. The system has capacity for the additional runoff created by the project. New roof surfaces would drain to gravel infiltration trenches. *Exhibit 1, Attachments E and F.*

16. Three driveways provide access to the subject property, including a main driveway from Rich Road SE and two driveways from 87th Avenue SE. Parents dropping off or picking up students enter the site from Rich Road SE and exit to 87th Avenue SE. With the current driveway/parking configuration, the route for pick up and drop off does not provide adequate queuing length and traffic backs up onto Rich Road SE. The proposed improvements would connect two existing parking areas, creating a longer drive lane that would allow cars to queue entirely on-site. *Exhibit 1, Attachments F and G.*
17. The Thurston County Public Works Department reviewed the proposal for compliance with Thurston County Road Standards, the Drainage Design and Erosion Control Manual, and City of Olympia Development Guidelines. Public Works Staff determined that all preliminary requirements have been satisfied. The Department recommended approval subject to conditions. The Public Works conditions were incorporated into the recommended conditions of SUP approval. *Exhibit 1, Attachment M; Exhibit 1.*
18. The Nisqually Indian Tribe reviewed the proposal and did not have comments, but requested that the Tribe be informed if there are discoveries of archaeological resources or human burials during construction. This request was incorporated into the recommended conditions of SUP approval. *Exhibit 1, Attachment P; Exhibit 1.*
19. The Tumwater School District acted as lead agency for review of the project's environmental impacts under the State Environmental Policy Act (SEPA). On December 16, 2016, the District determined that the project is exempt from SEPA review based on WAC 197-11-800(1). 2017. *Exhibit 1, Attachment K.*
20. Notice of the open record hearing was mailed on April 18, 2017, published in *The Olympian* on April 21, 2017, and posted on-site on April 19, 2017. *Exhibits 1, Exhibit 1, Attachment, and 3.* There was no public comment on the application. *Robert Smith Testimony; Exhibit 1.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide special use permit applications and zoning variances under Sections 2.06.010, 20.54.015, and 20.52.010 of the Thurston County Code.

Criteria for Review

I. Special Use Permit

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

- A. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.

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

II. Variance

The Hearing Examiner may approve a variance if the following criteria set forth in TCC 20.52.020 are satisfied:

- 1. That the granting of the proposed variance will not result in the allowance of a use which is not classified as a permitted or special use in the district wherein the use would be located;
- 2. That special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;
- 3. That the special conditions and circumstances are not the result of the actions of the applicant;
- 4. That granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district;
- 5. That the granting of the variance will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated;

6. That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land;
7. That the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Additional Applicable Code Sections

TCC 20.54.070(1): Academic Schools

1. Academic Schools.

a. Minimum Site Size.

- i. For Public Schools. Minimum site size shall be as required by the Superintendent of Public Instruction.

....

- b. Any portion of the site which abuts upon a residential use shall be screened in such a manner as to reduce the noise generated by activities on the school grounds.
- c. The height of any auditorium or gymnasium shall be set by the approval authority.

Conclusions Based on Findings

1. With conditions of approval, the proposal satisfies the criteria for approval of a special use permit.
 - a. With conditions, the proposed use at the proposed location would comply with applicable laws and plans, including the special use standards for schools (addressing site size, screening, and building height), the Thurston County Comprehensive Plan, the Thurston County Road Standards, the Drainage Design and Erosion Control Manual, the Thurston County Sanitary Code, and the Endangered Species Act. Consistent with the Comprehensive Plan, the school use serves the residents in the immediate vicinity of the site. The proposed improvements would reduce impacts on County roads. Compliance with the impervious surface coverage limitation of the RRR 1/5 zone is addressed by the variance application. *Findings 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 19.*
 - b. The use would comply with the general purposes and intent of the RRR 1/5 zone, and with applicable site area, height and setback standards. The proposed remodel would not change the character of the existing use, but would improve traffic circulation and safety and would allow for smaller class sizes. The proposed increase in impervious surface coverage, which already exceeds RRR 1/5 standards, is addressed by the variance application. *Findings 3, 4, 7, and 16.*
 - c. The proposed use is appropriate in the location for which it is proposed.
 - i. With conditions, the use would not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment,

traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety, and welfare. The existing school is part of the character of the surrounding rural residential neighborhood. The remodeled building and new portables would comply with applicable setback standards. The development would be screened from adjacent residential uses by existing mature vegetation. The critical aquifer recharge area would be protected through compliance with County and State of Washington health department requirements. There would not be an impact on threatened species. Traffic circulation in the area would be improved. Adequate parking and open spaces would be provided on-site. *Findings 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, and 16.*

- ii. With the conditions identified by the Public Works and Public Health departments, the use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area. *Findings 12-17.*

2. The proposal satisfies the criteria for a variance.

- a. The variance would not allow a use that is not classified as a permitted or special use in the RRR 1/5 zone. *Finding 4.*
- b. Special conditions and circumstances exist, including an underlying soil type that requires a strict impervious surface coverage limitation, which limitation did not exist at the time the school was constructed. Literal interpretation of the Zoning Ordinance would deprive the Applicant the ability to comply with state mandates on class sizes and the ability to make safety improvements on-site. *Findings 3 and 7.*
- c. The special conditions and circumstances are not the result of the actions of the Applicant. The school did not violate an impervious surface coverage limitation at the time it was constructed. The overall site area far exceeds the minimum required for an elementary school. The need for additional impervious surfaces is the result of state mandates for reduced class sizes. *Findings 2, 3, 7, and 9.*
- d. The granting of the variance would not confer a special privilege to the property that is denied other lands in the same district. The school is a preexisting use that is legally nonconforming with respect to impervious surface coverage. The proposed increase in impervious surfaces coverage is extremely modest and is necessary to comply with state class size requirements. Under these circumstances the variance would not be a special privilege. *Findings 2 and 7.*
- e. With the conditions of the Public Health and Public Works departments, the granting of the variance would not be materially detrimental to the public welfare or injurious to other land or improvements in the RRR 1/5 zone. The stormwater and sewage disposal systems are adequate for the proposed site modifications. The changes would improve off-site traffic conditions. *Findings 13, 14, 15, 16, and 17.*

- f. The granting of the variance is justified based on the reasons set forth in the application, and the variance is the minimum needed to make reasonable use of the land. The school is subject to unique regulatory requirements, and the project design meets these requirements with a relatively small increase in impervious surface coverage. *Finding 7.*
- g. The variance would be in harmony with the purpose and intent of the Zoning Ordinance, and would not be injurious to the neighborhood or otherwise detrimental to the public welfare. The purpose and intent of the Zoning Ordinance, as stated in TCC 20.02.010, is:
- h.
 - ... to maintain, enhance and perpetuate environmental quality and to promote the public health, safety and general welfare by guiding development according to the goals, objectives and policies set forth in the Thurston County Comprehensive Plan and in adopted subarea plans. It is further intended to provide regulations and standards which will lessen congestion on the streets; encourage high standards of development; prevent the overcrowding of land; provide adequate light and air; and facilitate adequate provisions for transportation, utilities, schools, parks, recreation needs, drainage, open space and other necessary public needs.

The use and the proposed improvements are consistent with the Comprehensive Plan and would facilitate adequate provision for schools. *Findings 3, 5, and 7.*

DECISION

Based on the preceding findings and conclusions, the requests for special use permit to remodel and modernize East Olympia Elementary School (8700 Rich Road) and zoning variance to allow an impervious surface coverage of 22.8% are **GRANTED** 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. This property is mapped with Everett and Yelm soils. These soil types can be habitat for the gopher. Because of the mapped soil types the site was reviewed by US F&W biologists. The results of the review found no gophers in the project area. The County has received a letter from US F&W stating that, based on physical, environmental, and biological conditions at the project site, the Service has determined the project will not result in take, or are very unlikely to result in take, of Mazama pocket gophers. This determination is valid until October 31, 2017. However, if gophers are subsequently found in the development site, the school district shall contact U.S. Fish and Wildlife for consultation.

- 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. All proposed landscaping shall be installed as proposed prior to final building permit occupancy approval.
- E. 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).
- F. The following Health related conditions:
 - 1. Should there be an increase in population exceeding 550 students and staff, the Applicant must contact Washington State Department of Health Office of Drinking Water to complete a water system capacity analysis.
 - 2. 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 permit, the application and plans must be approved by the Food & Environmental Services Section.
 - 3. Prior to final building occupancy approval, a pre-opening inspection must be satisfactorily completed by the Food and Environmental Services Section. The applicant must contact the Food and Environmental Services Section at (360) 867-2667 to schedule an inspection.
- G. 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. Upgrade school zone beacon system to county standards and work with county system.
12. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
13. 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.

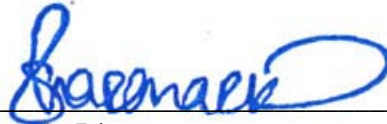
14. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 786-5214 for a final inspection.
15. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or 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.
16. 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.
17. 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.
18. 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. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).

- f. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
- g. Completion of required frontage improvements.
- h. Completion of required signing and striping.
- i. Payment of any required permitting fees.

H. 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.

DECIDED May 15, 2017.



Sharon A. Rice
Thurston County Hearing Examiner

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 Resource Stewardship 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 **\$669.00** for a Request for Reconsideration or **\$890.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Permit Assistance 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 ☐ \$669.00 for Reconsideration or \$890.00 for Appeal. Received (check box): Initial _____ Receipt No. _____

Filed with the Resource Stewardship Department this _____ day of _____, 20__.

Q:\Planning\FORMS\Current Appeal Forms\2016.Appeal-Recon-form.he.doc