



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. 2018106293
	)	
Washington Department of	)	Lake Lawrence Access
Fish and Wildlife	)	and Redevelopment
	)	
For Approval of a	)	
Shoreline Substantial Development Permit	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
	)	

### SUMMARY OF DECISION

The requested shoreline substantial development permit for boat launch upgrades, a dock, and site redevelopment including parking, ADA access, stormwater improvements, and new restroom facilities at Lake Lawrence Park located at 17500 Pleasant Beach Drive SE, Yelm Washington is **GRANTED** subject to conditions.

### SUMMARY OF RECORD

#### **Request:**

The Washington Department of Fish and Wildlife (Applicant) requested a shoreline substantial development permit (SSDP) for boat launch upgrades, a dock, and site redevelopment including parking, ADA access, storm water improvements, and new restroom facilities at Lake Lawrence Park. The subject property is located at 17500 Pleasant Beach Drive SE, Yelm, Washington.

#### **Hearing Date:**

The Thurston County Hearing Examiner held an open record hearing on the request on July 23, 2019.

#### **Testimony:**

At the hearing the following individuals presented testimony under oath:

Scott McCormick, Associate Planner, Thurston County  
Anna Sample, Washington Department of Fish and Wildlife, Applicant Representative  
John Hansen, Washington Department of Fish and Wildlife, Applicant Representative  
Steve Hannon

Barry Halverson

**Exhibits:**

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

- Exhibit 1            Community Planning and Economic Development Report including the following attachments:
- Attachment a        Notice of Public Hearing
- Attachment b        Zoning Map
- Attachment c        Master Application, received November 8, 2018
- Attachment d        JARPA Application, received November 8, 2018
- Attachment e        Narrative description & photos, received November 8, 2018
- Attachment f        Site Plans, received November 8, 2018
- Attachment g        WDFW SEPA determination of non-significance (DNS) with SEPA Checklist, received November 8, 2018
- Attachment h        Notice of application with adjacent property owners list, dated December 4, 2018
- Attachment i        Comments from the WA Department of Ecology, dated February 6, 2019 and December 17, 2018
- Attachment j        Approval memo Thurston County Environmental Health, dated January 4, 2019
- Attachment k        Comments from the Nisqually Tribe, dated November 30, 2018
- Exhibit 2            Photograph of posted hearing notice, taken by Scott McCormick
- Exhibit 3            Public comment from Tracy Lyons, dated July 10, 2019

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

**FINDINGS**

1. The Washington State Department of Fish and Wildlife (WDFW, Applicant) requested a shoreline substantial development permit (SSDP) for boat launch upgrades, a dock, and site redevelopment including parking, ADA access, stormwater improvements, and replacement restroom facilities at Lake Lawrence Park. The project would renovate a

current boat launching facility on a one-acre open space and recreation tract at Lake Lawrence. The subject property is located at 17500 Pleasant Beach Drive SE, Yelm, Washington.<sup>1</sup> *Exhibits 1, 1.C, 1.D, 1.E, and 1.F.*

2. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as Rural. *Exhibit 1.* Boating facilities including docks, piers, and floats are allowed in the Rural environment subject to the standards contained in the SMPTR. *Exhibit 1; SMPTR, Section 3, Chapter IV(D).* The project requires an SSDP because the value exceeds the permit threshold of \$7,047.00 set forth in the Shoreline Management Act. *RCW 90.58.030(3)(e); Washington State Register 17-17-007; Exhibit 1.D (page 8).*
3. The subject property is in the Public Parks and Preserves (PP) zoning district in unincorporated Thurston County. *Exhibit 1.* Various recreational amenities are permitted uses in the PP zoning district. *Thurston County Code (TCC) 20.08E.020.* Although the list of identified outright permitted uses does not specifically include boat launches, the existing recreational facility has been in place for approximately 40 years. The record does not identify whether a previous special use permit was issued for the use. *Exhibit 1.*
4. Surrounding land uses are single-family residential lots fronting Lake Lawrence to the west. Vacant land to the south and east is an undeveloped public park, with unmaintained trails. The record did not make clear whether this vacant property is owned by Thurston County or by the Washington Department of Fish and Wildlife. *Exhibit 1; Testimony of Scott McCormick and Anna Sample.*
5. In its existing condition, improvements at the park consist of a gravel parking areas, two vault toilets, and a concrete boat launch. The park, which contains approximately 170 feet of Lake Lawrence shoreline, is owned, operated, and maintained by WDFW as a boat launch open to the general public. The existing boat launch was installed decades ago, in approximately the early 1970s. As a result of age, use, and wave action, the edges of the concrete launch have eroded or crumbled away, leaving a narrow, irregular surface. As a result, users have begun to launch from bare ground adjacent to the existing ramp, creating a gulley and causing sediment to be loosened such that it enters the lake. The existing vault toilets are past the end of their useful life and need to be replaced. The current facilities do not provide access to persons with disabilities and do not include stormwater management. The used area is surrounded by mature evergreen trees; the developed areas contain patches of grass and invasive English ivy. *Exhibit 1.D; Testimony of John Hansen and Anna Sample.*
6. The project would consist of removing and replacing the existing concrete boat launch and vault toilets, asphalt paving of the currently graveled parking areas, providing parking and access compliant with the Americans with Disabilities Act (ADA), and installation of a new dock comprised of three six- by 20-foot long floats to be held in

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<sup>1</sup> The subject property is known as a part of the NW Quarter of Section 28, Township 16, Range 2E, also known as Tax parcel number 22628220100. *Exhibit 1.*

place by two eight-inch steel piles. The existing launch would be replaced by a 52-foot long precast concrete boat launch with articulated mats to be installed using an excavator. The float is proposed to be grey in color. Applicant representatives acknowledged the requirement for the facility to be painted and/or marked with reflectors to reduce low light hazards for lake users. A boarding float is proposed to improve safe access to boats in the water; it would consist of three floats configured perpendicular to the shoreline, parallel to the ramp, which would act as the dock. The existing 30,005 square foot graveled parking area would be replaced with an asphalt paved 28,085 square foot parking area, reducing impervious surfaces on-site. Proposed stormwater improvements include curbing, filter strips, grass lined ditches, and catch basins, none of which are present in the existing boat launch facility. Signage or a kiosk may be included at the site in the future; none are currently proposed. Removal of three existing black cottonwood trees that have been deemed hazard trees, and one mature western red cedar that is encroaching into the existing fence line, is proposed; the project also includes removal of one area of English ivy along the west fence line. The Applicant proposes to plant six five-gallon western red cedars in the location where existing trees would be removed, but farther from the fence line. The project is not expected to result in any significant increase in intensity of the existing use of site. *Exhibits 1, 1.C, 1.D, 1.E, and 1.F; Testimony of John Hansen and Scott McCormick.*

7. These improvements are proposed above and below the ordinary high water mark of Lake Lawrence. Excavation would remove 44 cubic yards of material below the OHWM and 28 cubic yards above the OHWM; all excavated material would be disposed of off-site at an appropriate facility. The project includes best management practices (BMPs) to avoid and reduce impacts during installation of the new boat launch and dock including the use of a turbidity curtain and a filter fabric fence during construction to restrain the entry of sediment into the lake. Articulated concrete matting is proposed on the sides and at the waterward end of the launch to reduce future erosion from use. The proposed amount of in-water work is limited and would be accomplished expeditiously to reduce the timeframe for possible erosion. No waste material would be allowed to enter the lake. The existing vault toilets would be decommissioned in accordance with Thurston County Sanitary Code requirements and the new double vault toilet would be installed in the same location. Additional BMPs would be implemented to reduce or eliminate the risk of contaminants entering the water. *Exhibit 1.D.*
8. The proposed dock would extend 60 feet into Lake Lawrence as measured from the OHWM and would be six feet wide. These dimensions are consistent with applicable SMPTR regulations that limit the length of new docks to the average of existing docks within 100 feet of the property line lines, with a length of 50 feet used in the calculation if there is not a dock on one side. In this case there is a 90-foot long dock to one side. *See Exhibit 1, page 3, 2018 Geodata Aerial Photo.* The distance to the opposite shore would be more well over 150 feet – estimated by one park user to be greater than one-quarter mile - satisfying the SMA mandate regarding the protection of navigation. *Steve Hannon Testimony; Exhibits 1 and 1.D.*

9. The SMPTR requires docks on fresh water to be set back at least ten feet from each side property line. As proposed, the boat launch amenities would be setback more than 10 feet from either side property boundary along the shoreline. Applicant representatives testified that the ramp would be set back 24 feet from the side property line, and the float would be set back an additional 14 feet. *Exhibit 1.D, (site plan); John Hansen Testimony.*
10. No mooring buoy is proposed. *Exhibit 1.D; John Hansen Testimony.*
11. Access to the site would continue to be from Pleasant Beach Drive SE. No changes to the existing gated site access are proposed. The sidewalk from Pleasant Beach Drive connects with the site entrance, and as proposed, there would be paved pedestrian access to the restrooms and new boat launch. There is no public transit service to the site. *Exhibits 1 and 1.D.*
12. As in the existing condition, the vault toilets would be regularly pumped and maintained through a WDFW-contracted service. *John Hansen Testimony.*
13. The proposal requires hydraulic project approval (HPA) from the Washington Department of Fish and Wildlife (WDFW). Applicant representatives testified that a different section of the state agency from the proponent section is responsible for issuance of HPAs. This project's HPA is in progress. The project also required Section 404 certification under the federal Clean Water Act, which has been approved by the US Army Corps of Engineers. There is an aquatic lease in place from the Washington State Department of Natural Resources for the existing facility. *Exhibit 1.D; John Hansen Testimony.*
14. The County recommended several conditions of approval intended to ensure compliance with applicable provisions of the SMPTR. In addition, WDFW's hydraulic project approval would include conditions designed to protect water quality and the aquatic environment. *Exhibits 1 and 1.D.*
15. Notice of application was sent to owners of property within 500 feet of the subject property and to interested public agencies and tribes on January 17, 2019. *Exhibit 1.H.*
16. A cultural resources report was prepared for the site, although it was not provided for the record. *Exhibit 1.D (page 15).* The Nisqually Indian Tribe reviewed the report and submitted comments indicating it had no concerns but requested to be notified of the inadvertent discovery of potential cultural resources. The Washington State Department of Ecology submitted conditions pertaining to water quality standards. *Exhibits 1.I and 1.K.*
17. Thurston County Public Works Department reviewed the proposal with no comment. Thurston County Public Health and Social Services Department (Environmental Health) reviewed and approved the proposal subject to conditions requiring appropriate approvals for the removal and replacement of the vault toilets. This comment memo noted that the

vault toilet is required to be placed at least 50 feet from surface waters. *Exhibit 1.J*. The site plan depicts the vault toilet near the site entrance from Pleasant Beach Drive, apparently more than 200 feet from the water. *Exhibit 1.D, Site Plan*.

18. Consistent with the State Environmental Policy Act (SEPA), WDFW acted as lead agency for review of the proposal's environmental impacts. Upon completion of review, which included consideration of the master application, SEPA Environmental Checklist, JARPA, site plans, and supporting documents, a determination of non-significance (DNS) was issued on October 12, 2018. The DNS was not appealed and became final as of October 26, 2018. *Exhibits 1 and 1.G; John Hansen Testimony*.
19. Notice of the public hearing was sent to all property owners within 500 feet of the site, published in The Olympian, and posted onsite on July 12, 2019. *Exhibits 1 and 1.A*.
20. Neighboring property owner Steve Hannon testified at the hearing in support of the proposal, stating the current boat launch is not wide enough and paving would clean up the area, as a large gulley has formed adjacent to the existing launch. *Steve Hannon Testimony*. Barry Halverson, a volunteer with the Community Lake Management District Program, testified expressing concern with the length of the dock and lack of garbage receptacles. He commented that he knew the County lacks resources to maintain the park, noting people using trails do not use the restrooms and garbage is left; he also stated that toxic algae had caused facility closure two times last year. Mr. Halvorson testified that the gates to the launch site are locked at such times, which interferes with the normal school bus use of the parking area as a turn around. *Barry Halverson Testimony*. One written public comment submitted prior to the hearing requested consideration of a widened turn around outside the locked site access gate in front of the residence at 17152 Pleasant Beach Drive SE. *Exhibit 3*.
21. Applicant representatives indicated that there is no plan to provide solid waste collection facilities at the site. WDFW maintains all of its recreational facilities as pack-in, pack-out, self-service facilities. Applicant representatives submitted that the questions of school bus access to the site when the launch is closed due to public health or other concerns, as well as the issue of adequate turn around area outside the site access gate, are matters for consideration by the County outside the scope of the instant permit. They agreed to provide contact suggestions for management of the school bus related issue. *Testimony of John Hansen and Anna Sample*.

## **CONCLUSIONS**

### **Jurisdiction**

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

## **Criteria for Review**

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

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

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

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

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

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

#### ***B. Applicable regulations from the Washington Administrative Code***

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

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

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

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

*C. Shoreline Master Program for the Thurston Region*

The Shoreline Master Program for the Thurston Region designates the shoreline jurisdiction on the subject property as Rural. The proposed improvements are governed by the policies and regulations contained in the “Recreation” chapter of the SMPTR (Section Three, Chapter XIV), and the “Boating Facilities” chapter of the SMPTR (Section Three, Chapter IV).

SMPTR Section Three, Chapter XIV, Part B. Recreation Policies

1. Priorities for recreational development of shorelines should relate directly to densities and unique characteristics of the population served. Priorities for acquisition should consider need and special opportunities as well as access by public transit.
2. All recreational development projects should be considered on the basis of their compatibility with the environment.
3. Access to recreational locations such as fishing streams and hunting areas should be planned to prevent concentration of use pressures.
4. The linkage of shoreline parks and public access points through provisions for linear open spaces should be encouraged. Such open space could include hiking paths, bicycle paths and/or scenic drives located as close to the water's edge as feasible.
5. Recreational developments should be designed to preserve, enhance or create scenic views and vistas. Favorable consideration should be given to those projects that complement their environment.
6. Where possible, parking areas should be located inland, away from the immediate edge of the water, and recreational beaches, and should be linked with the shoreline by walkways.
7. Recreational development should comply with all applicable city, county, state, and federal regulations.
8. Facilities for intensive recreational activities should be permitted only where sewage disposal and pest control can be accomplished to meet public health standards without altering the environment adversely.



9. Development of public fishing piers, underwater fishing reefs, and access to public waters and tidelands should be encouraged as part of an overall recreation plan or development.
10. Where appropriate, nonintensive, recreational use should be encouraged on flood plains that are subject to recurring flooding.
11. Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity.

SMPTR Section Three, Chapter XIV, Part C. Recreation General Regulations

1. Public access points on lakes must provide parking space appropriate for the intended use.
2. Recreation facilities or structures which are not compatible with the environmental designation in which they are proposed are prohibited.
3. Events and temporary uses in the public interest may be approved by the Administrator in any environment, provided that such uses will not damage the wetland environment.
4. Recreational developments must provide facilities for nonmotorized access, such as pedestrian, bicycle and/or equestrian path links to the shoreline.
5. Sewage disposal and pest control must meet public health standards; waste must not be allowed to enter the water.
6. The following regulations shall apply to artificial aquatic life habitats:
  - a. Habitats shall minimize interference with surface navigation.
  - b. Habitats shall be constructed of long-lasting, nonpolluting materials, and moored so as to remain in their original location even under adverse current or wave action.
  - c. Habitats may not be installed on publicly-owned submerged land without written permission of the administering governmental agency.
7. Public or private recreation areas which cater to the use of all-terrain or off-road vehicles as the primary recreational activity shall not be allowed in the shoreline areas.
8. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer:
  - a. The location proposed is mapped as "Unstable" or "Intermediate Stability" in the Washington Coastal Zone Atlas prepared by the state Department of Ecology.
  - b. All stair towers 24 feet in height or taller.
  - c. Other instances where the building official determines that site conditions dictate the preparation of plans by a licensed civil engineer.

9. Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.

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

3. Rural Environment. Low to medium intensity recreational uses shall be permitted on Rural Environment shorelines, subject to the general regulations and following specific regulation:
  - a. A recreational facility or structure which changes or detracts from the character of the Rural Environment (by building design or intensity of use) shall be prohibited.
  - b. Roads, parking and vehicular camping facilities, including restrooms, shall not be located within fifty (50) feet of the ordinary high-water mark of any shoreline with the exception of access to boat launching facilities. Parking facilities and roadways may be within fifty (50) only if they provide access for handicap or scenic viewpoints. Maintenance or upgrading of existing roads, parking and/or vehicle camping facilities including restrooms is permitted provided the area devoted to these facilities is not enlarged. Pedestrian and hiking trail access shall be provided to link upland facilities with the shoreline.

SMPTR Section Three, Chapter IV, Part B. Boating Facilities Policies (as applicable to Piers and Docks)

Piers and Docks:

12. Pier and docks should be designed and located to minimize obstructions to scenic views, and conflicts with recreational boaters and fishermen.
13. Cooperative uses of piers, docks and floats are favored especially in new subdivisions.
14. Moorage buoys are preferred over piers and docks especially in tidal waters.
15. Mooring buoys and recreation floats should be as close to the shore as possible.
16. Mooring buoys and recreational floats should be designed and marked to be clearly visible.

SMPTR Section Three, Chapter IV, Part C. Boating Facilities General Regulations (as applicable)

Piers and Docks:

13. Prior to final project approval of a residential development, a usable area shall be set aside for pier or dock unless there is no suitable area. Only one dock or pier is permitted in a new residential development.
14. All pier and dock development shall be painted, marked with reflectors or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.
15. Docks and piers are prohibited on lakes or marine water bodies where the distance to the opposite shore is one hundred fifty (150) feet or less. This is to insure the maintenance of navigation.
16. When bulkheads are constructed in conjunction with pier or dock development, the bulkhead shall be placed no farther waterward of the ordinary high water mark than is necessary to achieve erosion control. The most landward portion of the footing shall be at the toe of the bank or the vegetation line where the toe of the bank is not discernible.
17. In marine water, the length of piers or docks for recreational use may be the average length of the existing docks or piers within one hundred (100) feet of each property line. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be one hundred (100) feet. If there are no piers or docks within one hundred (100) feet, the maximum length shall not exceed one hundred (100) feet as measured from the mean higher high-water mark and not exceed a depth of minus three (-3) feet as measured from mean lower low water. If this is not sufficient length to reach the desired depth for moorage, then a buoy shall be used.
18. There is no maximum length and width for commercial piers or docks; however, the proponent must show the size proposed is the minimum necessary to allow the use proposed.
19. The width of recreational docks or piers shall not exceed eight (8) feet.
20. In fresh water areas, new docks shall not exceed the average length of the existing docks within one hundred (100) feet of the property lines. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be fifty (50) feet. If there are no docks with one hundred (100) feet, the length shall not exceed fifty (50) feet as measured from the ordinary high water mark.
21. At the terminus of a dock or pier, a float is normally attached for purposes of a landing and for moorage of watercraft. These floats may either be parallel to the dock or pier, or form a tee. The float cannot exceed four hundred (400) gross square feet for a piling dock/pier in tidal waters, two hundred fifty (250) gross square feet for a floating dock/pier on tidal water, and two hundred (200) gross square feet for docks/piers on fresh

water. The total length of the dock/pier with an attached float cannot exceed the total length allowed under General Regulations #17 and #20.

22. Docks and piers shall be set back ten (10) feet on fresh and twenty (20) feet on tidal water from the side property line. These setbacks may be waived if two single-family property owners wish to construct a joint pier on the common property line under the following conditions:
  - a. Both property owners must record a non-exclusive easement granting each other the right to use the pier.
  - b. The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.

23. Span between pilings for piers or docks on pilings shall be eight (8) feet or greater.

#### Mooring Buoys and Recreational Floats:

24. Buoys and floats must be discernible under normal daylight conditions at a minimum of one hundred (100) yards and must have reflectors for nighttime visibility.
25. Single property owner recreation floats shall not exceed sixty-four (64) square feet.
26. Multiple property owner recreational floats shall not exceed ninety-six (96) square feet.
27. Mooring buoys and recreational floats shall not be located farther waterward than the existing floats and mooring buoys, or established swimming areas, unless the draft of the boat dictates it.
28. Only one mooring buoy or recreational float will be allowed per waterfront lot unless there is a demonstration of need. Such demonstration may include a community park or residential development where lot owners both on and away from the shoreline share a shoreline open space area.

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

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

#### SMPTR Section Two, Chapter V. REGIONAL CRITERIA

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

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

### **Conclusions Based on Findings**

1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. The proposed renovation of the existing boat launch facility is a reasonable and appropriate use of the shoreline and is consistent with state policy. It would allow public access for boating and other recreation on Lake Lawrence under much improved circumstances while reducing ongoing impacts to water quality from the degraded existing boat launch. As conditioned, the proposed improvements would benefit all lake users and environmental conditions of the shoreline on and adjacent to the site. *Findings 2, 3, 5, 6, 7, 8, 11, 12, 13, 14, 17, and 18.*

2. As conditioned, the proposal complies with applicable regulations in the Washington Administrative Code. The only above-ground structure proposed is the vault, toilet which would not be more than 35 feet tall. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Finding 6.*
3. As conditioned, the proposal is consistent with the applicable policies and regulations of the Shoreline Master Program for the Thurston Region.
  - a. With conditions, the proposal is consistent with applicable shoreline recreation policies and regulations. The project has been designed to be compatible with the environment, including removal of old and degraded facilities and replacement with new facilities sited in essentially the same locations as existing improvements. Concentration of use pressures is not an issue because the new facilities are not expected to increase intensity of facility use or to promote development of other similar facilities. The project would improve the walking surface between Pleasant Beach Drive SE and the waterfront, benefiting access for all. The low-intensity character of the redevelopment would preserve existing views and would complement the environment. New parking areas within the shoreline are not proposed. Existing parking within 50 feet of the OHWM would be paved and striped to better control entry of sediments into the water, and closest to the shoreline would be ADA-accessible parking to promote access to recreational facilities for persons with disabilities; the existing parking area would not be enlarged. The project would be required to comply with all applicable regulations and with the requirements of agencies with jurisdiction. No intensive recreational activities or on-site sewage disposal are proposed. *Findings 2, 3, 5, 6, 7, 8, 11, 12, 13, 14, 17, and 18.*
  - b. With conditions, the proposal is consistent with the boating general and environment-specific regulations. The renovated recreation facilities would be consistent with the Rural designation of the shoreline; the use would be low intensity and would not alter the character of the shoreline. There would be no change to existing views of or from the shoreline. No mooring buoys or recreational floats are proposed; the boarding floats would extend no farther than 60 feet from the OHWM and would be marked with reflectors (or other means) to enhance visibility in low light conditions. Existing public access to the shoreline would be improved. No sewage disposal is proposed, and no waste would be permitted to enter the water. No artificial aquatic life habitat is proposed. The facility is not designed for off-road vehicles. No stair towers or bulkheads are proposed. No roads would be installed within 50 feet of the OHWM. The proposed length, width, and setback for the proposed boarding floats/dock would comply with the maximums established in the boating facilities regulations. The span between the proposed pilings would be at least eight feet. *Findings 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.*

- c. With conditions, the proposal is consistent with the SMPTR regional criteria. As proposed and conditioned, water quality and aquatic habitat would be protected. With the proposed upland tree plantings and removal of English ivy, upland habitat would experience a modest net benefit over the existing condition. The project would renovate an existing public shoreline recreational facility. Stormwater improvements and the proposed paving of parking areas would improve shoreline water quality over the existing condition. No residential development is proposed. The new vault toilets would continue to be setback more than 50 feet from the OHWM and would continue to be regularly pumped and maintained by a professional service provided contracted by WDFW. The record contains no evidence of the potential for harm to the public health.

*Findings 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.*

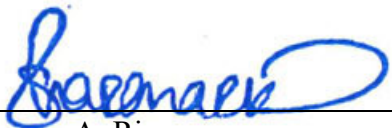
### DECISION

Based on the preceding findings and conclusions, the requested shoreline substantial development permit to allow renovation of the existing boat launch, dock, parking, and restroom facilities at Lake Lawrence Park located at 17500 Pleasant Beach Drive SE, Yelm, Washington is **GRANTED** subject to the following conditions:

1. No physical work shall be initiated until the Applicant obtains all required State and Federal permits and approvals, including a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife (WDFW). Construction pursuant to this permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).
2. All construction shall be in substantial compliance with the plans included in the project JARPA application and shall comply with all applicable general policies and use regulations of the Shoreline Master Program for the Thurston Region (SMPTR).
3. The Applicant shall remove construction debris and other debris related to mitigation to an approved site (landfill or recycling center) outside of the shoreline area to avoid degradation of state waters.
4. During construction, all releases of oils, hydraulic fluids, fuels and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills shall take precedence over all other work at the site. Spill prevention and response material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.
5. The dock shall be constructed in the location proposed, maintaining a minimum of a 20-foot setback from property lines.
6. The maximum dock width shall be eight (8) feet.

7. Reflectors shall be used to identify the dock in order to prevent unnecessary hazardous conditions for water surface users during day or night.
8. The span between pilings for piers and docks on pilings shall be eight (8) feet or greater.
9. Permanent lighting of the dock shall not be permitted. Any temporary lighting shall be directed such that off-site glare is minimized to the extent possible.
10. The Applicant shall obtain an aquatic lands lease or authorization of use from the Washington State Department of Natural Resources if necessary, prior to dock placement.
11. If archaeological artifacts are observed during any phase of the aquaculture operation, all work shall be immediately halted. The State Department of Archaeology and Historic Preservation, the Thurston County Resource Stewardship Department, and affected Tribes shall be contacted to assess the situation prior to resumption of work.
12. Any mooring buoys shall be designed and marked to be clearly visible. No more than one buoy shall be permitted to support boating activities<sup>2</sup>.
13. Prior to approval and release of any building permits, an on-site septic tank placement application must be submitted for the proposed vault toilet. The application must be reviewed and receive permit approval from Thurston County Environmental Health. It should be noted that vault toilets are required to be located a minimum of 50 feet from surface waters.

Decided August 8, 2019.

  
\_\_\_\_\_  
Sharon A. Rice  
Thurston County Hearing Examiner

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<sup>2</sup> A single mooring buoy does not require a permit from CPED.



**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 **\$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\_\_\_\_.