



COUNTY COMMISSIONERS

John Hutchings

District One

Gary Edwards

District Two

Tye Menser

District Three

HEARING EXAMINER

Creating Solutions for Our Future

BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application or)	NO. 2019106015 Johnson Smokehouse
)	Home-Based Industry
)	
Ron Johnson)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For a Special Use Permit for a)	
<u>Home Based Industry</u>)	

SUMMARY OF DECISION

The request for a special use permit to construct a 4,000 square foot shop for use as a commercial smokehouse and food preparation home-based industry at 8310 Diagonal Road SE is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Ron Johnson (Applicant) requested a special use permit (SUP) to construct a 4,000 square foot shop for use a commercial smokehouse and food preparation home-based industry. The subject property is located at 8310 Diagonal Road SE, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on June 23, 2020. Due to the newness of and potential difficulty for members of the public in joining virtual hearings, the record was held open two business days to allow for public comment, with additional time arranged for responses by the parties. No post-hearing public comment was submitted, and the record closed on June 25, 2020.

Testimony

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

Ron Buckholt, Senior Planner, Thurston County

Dawn Peebles, Thurston County Environmental Health Division

Arthur Saint, Thurston County Public Works Department
Gary Cooper, Local Planning Solutions, Applicant Representative
Josh Johnson, Applicant

Exhibits

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

EXHIBIT 1 Community Planning & Economic Development Department Report including the following exhibits:

Attachment a	Notice of Public Hearing, issued June 10, 2020
Attachment b	Master Application, received November 18, 2019
Attachment c	Special Use Permit Application, received November 18, 2019
Attachment d	Narrative Summary, Gary Cooper, Local Planning Solutions, received March 18, 2020
Attachment e	Site Plan and Landscaping Plan, received May 27, 2020
Attachment f	Notice of Application
Attachment g	Complete Application letter
Attachment h	Comment Memorandum from Dawn Peebles, Thurston County Public Health and Social Services Department, dated April 8, 2020
Attachment i	Comment Memorandum from Arthur Saint of the Thurston County Public Works Department, dated April 16, 2020
Attachment j	Gopher Review letter from Vince McDowell, Thurston County Community Planning and Economic Development Department, dated November 8, 2019
Attachment k	Comment Letter from the Washington State Department of Ecology, dated December 16, 2019
Attachment l	Comment Letter from Brad Beach, Nisqually Indian Tribe, dated December 6, 2019
Attachment m	Comment Letter from Brad Beach, Nisqually Indian Tribe, dated December 30, 2019

Attachment n Email from citizen Daryl and Dorothy Palmer, dated January 2, 2020

Attachment o Email from citizen Wayde Holmquist, dated January 10, 2020

EXHIBIT 2 Email from Daryl and Dorothy Palmer, dated June 15, 2020

Note: The Examiner did not conduct an in-person site visit but did view the property and surrounding area on Google Maps.

Based on the record developed at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions:

FINDINGS

1. The Applicant requested a special use permit (SUP) to construct a 4,000 square foot accessory structure for use as a commercial smokehouse and food preparation home-based industry. The subject property is located at 8310 Diagonal Road SE in unincorporated Olympia, Washington.¹ *Exhibits 1, 1.B, and 1.C.*
2. The SUP application was submitted on November 18, 2019 and determined to be complete for purposes of commencing project review on December 19, 2019. *Exhibits 1.B, 1.C, and 1.G.*
3. The proposed smokehouse use includes the processing of meat, sausage, poultry, seafood, and cheese; no on-site animal slaughter is proposed. The smokehouse use would be subject to USDA/FDA inspection requirements. *Exhibit 1.D.*
4. The subject property is zoned Rural Residential Resource – One Dwelling Unit per Five Acres (RRR 1/5). *Exhibit 1.* The purpose of the RRR 1/5 zone is “to encourage residential development that: maintains the county’s rural character; provides opportunities for 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.” *Thurston County Code (TCC) 20.09A.010.* Home-based industries are allowed in the RRR 1/5 zone with approval of a SUP. *TCC 20.54, Table 1.* The defined purpose of home-based industry special use is “to provide for small-scale commercial or industrial activities on residential parcels, subordinate to the primary residential use, if the approval authority finds that such activities can be conducted without substantial adverse impact on the residential environment in the vicinity.” *TCC 20.54.070(15).* The Comprehensive Plan specifies that special uses in the rural area “should be constrained in size and scale so as to maintain rural character” and that the “primary purpose of special uses should be to serve the rural area residents of Thurston County.” *Exhibit 1, page 8.*

¹ The subject property is known as Tax Parcel Number 39908700003. *Exhibits 1 and 1.B.*

5. The subject property is 3.4 acres in area and is developed with a single-family residence and various accessory structures. Surrounding RRR 1/5 properties are predominantly developed with residential uses. *Exhibit 1; Google Maps site view.* The Applicant previously operated a smokehouse on the subject property for many years; this use was regarded as legally nonconforming by the Community Planning and Economic Development Department because it operated on-site prior to adoption of current zoning that requires special use review for home-based industry in the RRR 1/5 zone. However, the building housing the previous smokehouse use was damaged to the point of being destroyed in a recent electrical fire. The fire did not result from the former smokehouse use. *Exhibit 1; Testimony of Ron Buckholt, Josh Johnson, and Gary Cooper.* No evidence was submitted that previous smokehouse operations on the subject property have had adverse effects on the community. Comments submitted by owners of property in the immediate vicinity are in support of reestablishment of the business. *Exhibits 1.N, 1.O, and 2A.*
6. The new 4,000 square foot shop building housing the smokehouse would be all metal and have an internal fire sprinkler system. The building would comply with all RRR 1/5 height and setback standards. Whereas the minimum setback from the west property line is 10 feet and the minimum setback from the north, south, and east property lines is five feet, the proposed building would be set back more than 100 feet from the nearest property line. No other buildings or outside storage for the use are proposed. *Exhibits 1 and 1.E; Josh Johnson Testimony.*
7. While the previous use of the property was lawfully established, the existing 30% hard surface coverage of the site exceeded what is now allowed in the RRR 1/5 zone (10%). After the proposed work is complete the hard surface coverage would be approximately 25%. The Applicant proposes retain the excess hard surface coverage per TCC 20.07.090(1)(d), which allows replacement but not expansion of nonconforming hard surface coverage. *Exhibits 1 and 1.E; Ron Buckholt Testimony.*
8. Consistent with County home-based industry standards, the Applicant resides on site and no more than two persons residing off site would be employed on the site at one time. *Exhibits 1 and 1.D.*
9. Existing landscaping on site, which includes mature vegetation along the site perimeter and privacy fencing, provides screening of the use from adjacent properties and is consistent with County landscape standards for commercial uses. *Exhibits 1 and 1.E; Josh Johnson Testimony; TCC 20.45.040.*
10. The Applicant proposes to provide seven parking stalls within an existing gravel area in the southern portion of the site, a number which meets the minimum required by the parking standard for home-based industries contained in TCC 20.54.070(15)(b)(v). Businesses that require customers to visit the site must provide three spaces for customers, one space for each full-time equivalent employee who resides off site, and two spaces for the property owners. Although the seven spaces meet the standard for businesses with on-site customers, the Applicant does not intend to have customers visit the subject property. Instead, the Applicant is proposing a retail location on an adjacent

parcel, which is being reviewed under a separate application. *Exhibits 1 and 1.E; Johnson Testimony.*

11. The Applicant proposes hours of operation of 8:00 am to 5:00 pm seven days per week to allow for flexibility, but actual operations would likely be limited to five days per week. No customers would come to the proposed home-based industry on-site. Sales would be accomplished at another property, being reviewed under separate application. *Exhibit 1; Josh Johnson Testimony.*
12. No off-site signs are proposed in conjunction with the SUP. *Exhibit 1.*
13. Access to the site would be from Diagonal Road SE, a paved public road, via a paved driveway. The County Public Works Department did not identify any issues of concern in its review of the project, but recommended several conditions of approval addressing road, drainage, and utility requirements. *Exhibits 1 and 1.I; Arthur Saint Testimony.*
14. The proposed use would be served by an existing public water supply system and a new on-site sewage system. *Exhibit 1.D.* The Thurston County Environmental Health Division (EHD) reviewed the project for compliance with the Thurston County Sanitary Code. Staff from EHD recommended that prior to building permit issuance the Applicant be required to: obtain approval of the sewage system application and design; submit documentation from the Washington State Department of Health that the water system has capacity to serve the use; submit a detailed spill plan for hazardous materials and that prior to final building occupancy the Applicant be required to install the new sewage system. *Exhibit 1.H; Dawn Peebles Testimony.*²
15. The subject property is located within a Category 3 critical aquifer recharge area (CARA), as defined by the Thurston County Critical Areas Ordinance. The County Environmental Health Division considered CARA requirements in its review of the application and its recommended conditions of approval. *Exhibit 1.*
16. The subject property does not contain any wetlands, streams, or geologic hazard areas, and is not within the jurisdiction of the Shoreline Master Program for the Thurston Region. *Exhibit 1.*
17. Because the subject property is mapped with soil types that are potential habitat for the Mazama pocket gopher, a species listed under the Endangered Species Act, Thurston County conducted a review to determine potential impacts to the gopher. The review was completed on November 8, 2019 with the conclusion that the proposal has a low likelihood of significant impact. *Exhibits 1 and 1.J.*
18. The Olympic Region Clean Air Agency (ORCAA) received notice of the application but did not submit any comments on potential impacts to air quality. The Applicant

² Ms. Peebles testified that some or all of the requirements specified in EHD recommended condition I.1 have already been satisfied. *Dawn Peebles Testimony.*

submitted that smoke is only emitted briefly, and that most of the emissions are stream.
Testimony of Josh Johnson and Ron Buckholt.

19. The proposal is exempt from review under the State Environmental Policy Act (SEPA).
*Exhibit 1; TCC 17.09.055(D).*³
20. The Nisqually Indian Tribe commented that it has no issues of concern but requested that it be notified if there are any inadvertent discoveries of archaeological resources or human burials. This request was incorporated into the recommended conditions of SUP approval. *Exhibits 1.L and 1.M.*
21. Notice of the open record hearing was mailed on June 10, 2020, published in *The Olympian* on June 12, 2020, and posted on the County website on June 10, 2020. *Exhibits 1 and 1.A.* Three written public comments were submitted prior to hearing by two neighboring property owners expressing unreserved support for the proposal. *Exhibits 1.N, 1.O, and 2.* There was no public comment offered at hearing.
22. Planning Staff recommended approval subject to the conditions enumerated in the staff report. *Exhibit 1; Ron Buckholt Testimony.* Applicant representatives waived objection to the recommended conditions of approval. *Testimony of Gary Cooper and Josh Johnson.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide this special use permit application pursuant to TCC 2.06.010 and TCC 20.54.015(2).

Criteria for Review

The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 23.48.030 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:

³ TCC 17.09.055.D exempts from review the construction of commercial buildings of up to 8,000 square feet in area and associated parking.

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.

Home Based Industry Use-Specific Standards

TCC 20.54.070 (15) (b) (i-xiv):

- i. The business must be owned and operated only by full-time residents of the parcel on which the proposed use is being requested.
- ii. The business may not employ more than two persons on the site at any one time who reside off the subject property.
- iii. Only those buildings or areas as specifically approved by the approval authority maybe utilized in the conduct of the business.
- iv. Any new building constructed to house the home-based industry shall be limited in scale so that it is in character with neighboring properties. In no case shall more than four thousand square feet of total building area on the property be devoted to the home-based industry.
- v. Any business requiring customers to visit the site shall provide a minimum of three on-site parking spaces in addition to one each for full-time equivalent employees who reside off the subject property and two for the owners of the subject property.
- vi. All activity related to the conduct of the business or industry shall be conducted within an enclosed structure, except that vehicles used in the business may be stored openly as approved on the site plan.
- vii. The approval authority may attach additional conditions or requirements or may make modifications to the site plan where necessary to protect the health, safety and welfare of the public.
- viii. The scale of the proposed use shall be limited in nature.
- ix. The granting of the proposed use shall not, in effect, constitute a rezone.
- x. (1) Direct access must be from a road improved at minimum to a rural gravel road under Thurston County Road Design Standards, Appendix 6-A. Exception: If the estimated traffic generated by the home based industry, in addition to existing traffic, exceeds one hundred sixty trips per day total, or in the opinion of the Director of Thurston County Public Works, will likely cause significant hazards or cause

significant damage to said road, a paved road built to Thurston County Road Design Standards is required. (2) If located on a private road

- xi. No off-site signage is permitted.
- xii. No business may provide drive-through services.
- xiii. No outside storage of equipment or materials shall be permitted unless screened or fenced so as to not be visible from streets and neighboring properties.
- xiv. No expansions of the approved home-based industry are permitted.

Conclusions Based on Findings

1. With conditions of approval, the proposed use at the proposed location would comply with applicable laws and plans, including the Thurston County Comprehensive Plan, the special use standards for home-based industries, the Drainage Design and Erosion Control Manual, the Thurston County Sanitary Code, the State Environmental Policy Act, and the Endangered Species Act. The home-based industries standards address the Comprehensive Plan requirement that special uses in the rural area be limited in scale, and the instant proposal satisfies this requirement. *Findings 4, 6, 7, 8, 9, 10, 12, 13, 17, and 19.*
2. The use complies with the general purposes and intent of the RRR 1/5 and with applicable open space, lot, setback, and bulk standards. The proposed continued deviation from the hard surface coverage requirement of the code is authorized by TCC 20.07.090. With respect to the purpose of the zone, the use would be sensitive to the site's physical characteristics as follows: there are no wetlands, streams, or geologic hazards; wastewater would be treated in an approved septic system; and perimeter buffering would be maintained. Compatibility with rural residential development is demonstrated by the Applicant's long history of operations on the site and the support offered by neighboring property owners. *Findings 4, 5, 6, 7, 9, and 16.*
3. With conditions, the proposed use is appropriate in the location for which it is proposed.
 - a. As conditioned, 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. Based on the evidence submitted, the use has operated at the proposed location for many years without raising issues of concern. The proposed hours of operation would be compatible with nearby residential development. The building would comply with applicable bulk standards and would be screened by existing vegetation. Adequate parking would be provided. The conditions identified by the Environmental Health Division would ensure protection of public health. *Findings 5, 6, 9, 10, 11, 14, 15, 16, 17, 18, and 20.*
 - b. With the conditions identified by the Public Works and Environmental Health departments, the use would be adequately served by and would not impose an

undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area. *Findings 13 and 14.*

DECISION

Based on the preceding findings and conclusions, the request for a special use permit to construct a 4,000 square foot shop for use as a commercial smokehouse and food preparation home-based industry at 8310 Diagonal Road SE is **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 Health Department, Public Works Department, Fire Marshal and Thurston County Community Planning and Economic Development Department shall be met.
- B. On April 8, 2014, the U.S. Fish and Wildlife Service listed the Mazama pocket gopher under the Endangered Species Act. The subject parcel contains potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
- C. The Applicant shall stop work and contact the proper authorities, including Nisqually Tribe Preservation Officer, (360) 456-5221, if during excavation there are discoveries of archaeological artifacts or human burials.
- D. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).
- E. Expiration of Approval. If a building permit has not been issued, or if construction activity or operation has not commenced within three years from the date of final approval, the special use permit shall expire. The special use permit shall also expire when the use or activity for which the permit was granted is vacated for a period of three years. Knowledge of the expiration date and initiation of a request for extension approval time is the responsibility of the Applicant. The county is not responsible for providing notification prior to expiration. All requests for an extension of time must be submitted to the department prior to expiration of the special use permit.
- F. All outdoor light fixtures shall be shielded downward to prevent light pollution on to the neighboring parcels.
- G. All roof and ground related mechanical equipment shall be screened from the adjacent parcels. All disposal and recycling bins shall be screened from adjacent parcels.
- H. Project shall adhere to the site plan and landscaping plans (Attachment e).
- I. The following Health related conditions:

1. Prior to release of the building permit, an on-site sewage system permit application and design must be approved. The design must address wastewater flows and wastewater strength. Technical justification prepared by a licensed designer was submitted with the application, although it did not adequately address the requested information or confirm an on-site sewage system can support the project as proposed.
2. Prior to release of the building permit, documentation of Washington State Department of Health approval must be submitted to our office confirming the water system has the capacity to serve the project as proposed.
3. Prior to release of the building permit, a detailed spill plan must be provided. All hazardous materials must be stored and handled in such a way that any spilled or released materials are contained inside a secondary container, and are not allowed to release to the environment.
4. Prior to final building occupancy approval, the new on-site sewage system must be installed and the record drawing (as-built) and designer/engineer certification must be accepted by this department.

J. The following Public Works related conditions:

ROADS

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.

DRAINAGE

3. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
4. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the owner.
5. 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.

UTILITIES

6. 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.
7. 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 utility 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 feet of asphalt concrete pavement.

TRAFFIC

8. Per Thurston County Resolution 14820, traffic impact fees shall be paid prior to issuing any building permits associated with this project.

GENERAL CONDITIONS

9. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
10. 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.
11. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 360-867-2051 for a final inspection.
12. 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.

PROJECT SPECIFIC CONDITIONS

13. Once the planning department has issued the official approval, submit 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.
14. 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/fees-home.html> or contact Ruthie Padilla with the Thurston County

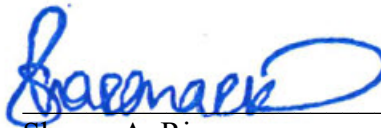
Public Works - Development Review Section by phone at 360-867-2050, or by e-mail at ruthie.moyer@co.thurston.wa.us.

GENERAL INFORMATION

FINAL REVIEW

15. 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. Payment of any required permitting fees.
- K. 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 Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED July 6, 2020.



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 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 **\$1,041.00** 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 \$1,041.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____ 20____.