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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. 2020100418
)	
)	
Thurston County Fire District 13)	Griffin Fire Station No. 13-2 Water Tank
)	
)	FINDINGS, CONCLUSIONS,
For a Special Use Permit)	AND DECISION
)	

SUMMARY OF DECISION

The request for a special use permit to construct a new 30,000 gallon concrete water tank at Griffin Fire Station No. 13-2 is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Thurston County Fire District 13 (Applicant) requested a special use permit (SUP) to construct a new 30,000 gallon concrete water tank at Griffin Fire Station No. 13-2. The subject property is located at 8113 Steamboat Island Road NW, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on December 22, 2020. The record was held open until December 24, 2020 to allow any parties who had difficulty joining the meeting to submit written comments, with time arranged for responses by the parties. No post-hearing public comment was submitted and the record closed on December 24, 2020.

Testimony

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

Scott McCormick, Associate Planner, Thurston County

Steve Willie, Jerome W. Morrisette & Associates, Applicant representative

Exhibits

The following exhibits were admitted in the record:

Exhibit 1 Community Planning and Economic Development Staff Report including the following attachments:

- A Notice of Public Hearing
- B Zoning map
- C Master Application, submitted February 3, 2020
- D Special Use Permit Application, submitted February 3, 2020
- E Narrative summary, submitted February 3, 2020
- F Site plans, submitted February 3, 2020
- G Geotechnical Report by Insight Geologic Inc., submitted February 3, 2020
- H Notice of Application, dated March 19, 2020, with adjacent property owners list dated March 12, 2020
- I SEPA determination of non-significance (DNS), dated April 24, 2020
- J SEPA Environmental Checklist, submitted February 3, 2020
- K Memo from Dawn Peebles, Environmental Health, dated April 29, 2020
- L Comment letter from the WA Dept. of Ecology, dated March 2, 2020
- M Comment letter from the Nisqually Tribe dated February 27, 2020
- N Comment email from the Squaxin Indian Tribe, dated February 19, 2020
- O Full sized site plan

Based on the record developed through the open record hearing process, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicant requested a special use permit (SUP) to construct a new 30,000 gallon concrete water tank at Griffin Fire Station No. 13-2. The subject property is located at 8113 Steamboat Island Road NW, Olympia, Washington.¹ *Exhibits 1, 1.C, 1.D, and 1.E.*
2. Submitted on February 3, 2020, the application was determined to be complete for purposes of commencing project review on March 3, 2020. *Exhibits 1.C, 1.D, and 1.H.*
3. The subject property is 4.92 acres in area and is zoned Rural Residential Resource One Dwelling Unit per 5 Acres (RRR 1/5). *Exhibits 1 and 1.B.* The purpose of the RRR 1/5 zone is “to encourage residential development that maintains the county’s rural character;

¹ The legal description of the subject property is a portion of Section 9, Township 19 North, Range 2 West, Plat SANDERSON HARBOR BLA TR A Document 9507240124 2431/69; also known as Tax Parcel Number 72000000400. *Exhibit 1.C.*

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*. Primary permitted uses in the RRR 1/5 zone include single- and two-family residences, agriculture, home occupations, and farm housing. *TCC 20.09A.020*. Public facilities are allowed in the RRR 1/5 zone with approval of a SUP. *TCC 20.54, Table 1*. There are no special use standards applicable to new or major additions to a public facility. *TCC 20.54.070(29); Exhibit 1*.

4. The subject property is developed with Griffin Fire Station No. 13-2, which does not currently have an efficient way to refill pumper trucks. Instead, trucks refill at Station No. 13-3, which has an above-ground concrete water tank with water supplied by a well at that location. With the proposed water tank at Station No. 13-2, usage of the tank at Section No. 13-3 would be reduced, refilling would be more efficient for some trucks, and emergency response times are expected to be improved. *Exhibit 1.E; Steve Willie Testimony*.
5. The setback and bulk requirements applicable to the proposed water tank include a minimum street setback of 10 feet, minimum side and rear setbacks of five feet, and a maximum building height of 35 feet. *Exhibit 1; TCC 20.07.030*.
6. The proposed concrete storage tank would be 20 feet in diameter and 15 feet tall; with handrails, maximum structure height would be 18.5 feet. It would be set back from the nearest property line approximately 127 feet and would be screened from adjacent properties to the north and west by existing trees and other vegetation. Steamboat Island Road NW, approximately 250 feet from the proposed water tank, forms the southeast property line. *Exhibits 1.E and 1.F*.
7. The proposed water tank would be operated continuously, but is not expected to generate noise other than engine sounds while fire apparatus are filling from it. *Exhibits 1 and 1.D*.
8. Traffic to and from the site is not expected to significantly increase as a result of the proposal. Most trucks that would refill from the new tank are trucks that would be returning to the fire station after refilling at Station 13-3. Trucks would enter the site via the existing driveway and would turn around in the existing parking lot. Truck traffic to other fill locations would be reduced. *Exhibit 1.E*.
9. The proposed water tank would be filled from the existing on-site potable water supply (Griffin Fire Station Two Group B Exempt Public Water System, ID No. 06980L). A backflow prevention device meeting Washington State Department of Health Standards would be installed to ensure that water from the tank does not flow back into the potable water system. The Thurston County Environmental Health Division reviewed the proposal and determined that the requirements of the Thurston County Sanitary Code have been satisfied. The Environmental Health Division recommended approval of the

project, subject to conditions requiring that spill kits be kept on site during construction activities, and that there be no increase in population, additional water service connections, or water service provided to a use listed in Washington Administrative Code (WAC) 246-291-010(62)(a) through (h) without prior review and approval. *Exhibits 1.E., 1.F, and 1.K.*

10. The subject property does not contain any regulated critical areas. A geotechnical evaluation was conducted for the site, which concluded that the proposed structure is feasible from a geotechnical standpoint. This report included several recommendations with respect to foundation design, earthwork, and other matters. Compliance with these recommendations would be reviewed for and ensured during building permit review. *Exhibit 1.G; Steve Willie Testimony.*
11. The Thurston County Community Planning & Economic Development Department acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act. The Department issued a determination of non-significance (DNS) on April 24, 2020. The DNS was not appealed and became final on May 15, 2020. *Exhibits 1 and 1.I.*
12. The Nisqually Indian Tribe and Squaxin Island Tribe commented that they have no issues of concern. Both Tribes requested to 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, 1.M, and 1.N.*
13. The Washington Department of Ecology submitted comments requiring the following: that any grading and filling must be conducted using only clean fill; that erosion control measures must be in place prior to any clearing, grading, or construction; and that any discharge of sediment-laden runoff or other pollutants to waters of the state would violate state water quality laws. These requirements were incorporated into the recommended conditions of SUP approval. *Exhibits 1 and 1.L.*
14. Notice of the open record hearing was mailed to property owners within 500 feet of the site on December 3, 2020 and published in *The Olympian* on December 11, 2020. *Exhibit 1.A.* There was no public comment on the application. *Scott McCormick Testimony.*
15. After hearing all evidence offered at the hearing, Planning Staff maintained its recommendation for approval subject to conditions. *Scott McCormick Testimony; Exhibit 1.* The Applicant waived objection to the recommended conditions. *Steve Willie Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide special use permit applications under Sections 2.06.010 and 20.54.015(2) of the Thurston County Code.

Criteria for Review: 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.

Conclusions Based on Findings

- 1. With conditions of approval, the proposed use at the proposed location would comply with applicable laws and plans, including but not limited to the Thurston County Sanitary Code, the Thurston County critical areas ordinance, the State Environmental Policy Act, and applicable regulations of the Washington Department of Health and the Washington Department of Ecology. *Findings 9, 10, 11, and 13.*
- 2. The use complies with the general purposes and intent of the RRR 1/5 zone and with applicable setback and bulk standards. The water tank would not change the character of

the area or conflict with rural residential land uses. Proposed building setbacks far exceed the minimum required by the zoning ordinance. *Findings 3, 4, 5, and 6.*

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. The proposal is for a new water tank at an existing fire station. Significant distances as well as existing screening vegetation separate the project site from surrounding uses. The conditions of approval would require the existing vegetation to be maintained to ensure ongoing compliance with County landscaping and screening standards. The project would not increase traffic or parking demand. Consistent with public health and safety, the conditions of approval incorporate the recommendations of the geotechnical evaluation and the requirements of the Department of Ecology and the Thurston County Environmental Health Division. The conditions of approval include a requirement to stop work and provide notice to the Washington Department of Archaeology and Historic Preservation in the event of inadvertent discovery of archaeological resources or human burials. *Findings 1, 4, 5, 6, 7, 8, 9, 10, 12, and 13.*
 - b. As conditioned, 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. It is expected to facilitate improved emergency response times and Fire Department operational efficiency. *Findings 8 and 9.*

DECISION

Based on the preceding findings and conclusions, the request for a special use permit to construct a new 30,000 gallon water tank at Griffin Fire Station No. 13-2 is **GRANTED** subject to the following conditions:

Public Health and Social Services Department Conditions:

1. Spill kits must be kept on-site during construction activities to handle any minor equipment leaks or accidental spills.
2. No increase in population, additional water service connections, or water service provided to a use listed under WAC Chapter 246-2910010, (62) (a) through (h) is allowed without prior review and approval by TC Environmental Health.

Community Planning and Economic Development Conditions:

3. If contamination is suspected, discovered, or occurs during the proposed action, testing of the potentially contaminated media must be conducted. If contamination of soil or

groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator at (360)407-6300.

4. Erosion control measures shall be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are pollutants. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington and is subject to enforcement action.
5. Any grading and filling activities shall utilize only clean fill.
6. The existing natural site-obscuring trees and vegetation shall be maintained in such a way as to meet the landscaping/screening requirements of TCC 20.45.040.
7. In the case of inadvertent discovery of archaeological resources or human burial, the applicant and/or contractor must immediately stop work and contact the Washington Department of Archaeology and Historic Preservation at (360)586-3067.
8. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit if required.
9. All development shall be in substantial compliance with the approved site plan. Any expansion or alteration this use would require approval of a new or amended special use permit. Community Planning and Economic Development Staff shall determine whether any proposed amendment is substantial enough to require hearing Examiner approval.
10. Development of the site shall be consistent with the recommendations of the December 10, 2019 Insight Geologic geotechnical report in the record at Exhibit 1.G.

DECIDED January 11, 2021.



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 **\$777.00 for a Request for Reconsideration or **\$1,054.00** 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 ☐ \$777.00 for Reconsideration or \$1,054.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20____.