



COUNTY COMMISSIONERS

Carolina Mejia-Barahona
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 of)	NO. 2021104687
)	
City of Lacey)	Madrona pH Treatment Facility
Water Resources Department)	
)	
)	FINDINGS, CONCLUSIONS,
For a Special Use Permit)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for a special use permit to construct a new pH treatment facility to serve the existing Madrona Park wellfield site is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

The City of Lacey Water Resources Department (Applicant) requested a special use permit (SUP) to construct a new pH treatment facility to serve the existing Madrona Park wellfield site. The subject property is located at 8824 Milbanke Drive SE, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on August 23, 2022. The record was held open until August 25, 2022 to allow post-hearing written public comment from any members of the public who tried to participate but had technology or access problems, with additional time scheduled for responses by the parties. No post-hearing public comments were submitted, and the record closed on August 25, 2022.

Testimony

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

- Sharon Lumbantobing, Senior Planner, Thurston County
- Dawn Peebles, Environmental Health Specialist, Thurston County
- Puna Clarke, P.E., City of Lacey
- Nathan Rostad, P.E., City of Lacey

Exhibits

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

- Exhibit 1 Community Planning & Economic Department Report including the following attachments:
- A. Notice of Public Hearing, dated August 5, 2022
 - B. Master Application, dated September 3, 2021
 - C. Special Use Permit Application, dated September 3, 2021
 - D. Vicinity and Location Map
 - E. Existing Site Plan
 - F. Proposed Site Plan, dated September 3, 2021 and revised on July 11, 2022
 - G. Madrona Grading Plan
 - H. Landscaping Narrative, dated September 3, 2021 and revised on July 11, 2022
 - I. Landscape Plan dated September 3, 2021 and revised on July 11, 2022
 - J. Building Elevations
 - K. Project Narrative
 - L. Stormwater Drainage Report
 - M. Ecology Soil Sampling Report
 - N. Washington Department of Ecology No Action for TSP
 - O. Geotech Report
 - P. Tree Report
 - Q. Gopher Prairie Report
 - R. County Review of Gopher Prairie Report
 - S. Integrated Pest Management Plan
 - T. Generator Spec Draft
 - U. Hazmat Spill Plan
 - V. Determination of Non-Significance, issued September 1, 2021 by City of Lacey Planning Department
 - W. Notice of Application, dated June 15, 2022
 - X. Memorandum from Amy Crass, Thurston County Environmental Health, dated December 17, 2021
 - Y. Memorandum from Arthur Saint, Thurston County Public Works, dated June 28, 2022
 - Z. Department of Health letter, dated June 1, 2022

AA. Olympic Region Clean Air Agency email, dated September 22, 2021

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

FINDINGS

1. The City of Lacey Water Resources Department (Applicant) requested a special use permit (SUP) to construct a new pH treatment facility to serve the existing Madrona Park wellfield site (ID 43500Y). The subject property is addressed as 8824 Milbanke Drive SE, Olympia, Washington. *Exhibits 1, 1.B, 1.C, 1.F, and 1.K.*
2. The application was submitted on September 3, 2021 and determined to be complete for purposes of commencing project review on October 1, 2021. *Exhibits 1 and 1.W.*
3. The Madrona Park wellfield houses three wells that supply water for distribution to the City of Lacey's 400 pressure zone. The purpose of the project is to increase the pH of the groundwater extracted from the wells to optimize corrosion control and maintain reliability within the network, consistent with the 2019 City of Lacey Corrosion Control Study and Treatment Recommendations. The project is mandated by the Washington State Department of Health. *Exhibit 1.K.*
4. The subject property is 0.68-acres in area and consists of four adjacent City of Lacey-owned parcels, each with an area of 0.17 acres.¹ Existing development on the subject property includes three well buildings and one chlorination building. The new 2,930 square foot building housing the pH treatment facility would be on the easternmost of the four parcels, which is currently vacant. A standby generator would be installed on one of the western parcels, between two existing buildings and south of a proposed 16-foot wide by 10-foot tall sound attenuating wall. Driveway and walkway improvements would be installed, as well as a six-foot tall vinyl-coated chain link fence and swing gate. *Exhibits 1, 1.E, 1.F, and 1.K.*
5. Surrounding land uses are single-family residential. *Exhibit 1.*
6. The subject property is within the Lacey Urban Growth Area and is zoned Low Density Residential (LD 3-6). Some of the purposes of the LD 3-6 zone are to "enhance the residential quality of the Lacey UGA by providing a high standard of development for single-family residential areas of low density" and to "guide development of residential areas in such manner as to encourage and plan for the availability of public services and community facilities such as utilities...." *Thurston County Code (TCC) 21.13.010.* Public utilities and their appurtenances, including water distribution and storage facilities, are allowed in the LD 3-6 zone with special use permit approval. *Exhibit 1; TCC 21.66.020.C.*

¹ The four are known as Tax Parcel Nos. 60330006400, 60330006500, 60330006600, and 60330006700. *Exhibits 1 and 1.C.*

7. The proposal is consistent with Thurston County Comprehensive Plan policies requiring cities to provide water service to unincorporated areas within their urban growth area and recognizing the need for safe drinking water. *Exhibit 1; Thurston County Comprehensive Plan, Chapter 7.*
8. Development standards for the LD 3-6 zone include a minimum front yard setback of 16 feet, a minimum side yard setback of five feet, a minimum rear yard setback of 20 feet, a maximum structure height of 35 feet, and a maximum impervious surface coverage of 65%. Considering the four parcels together as a single property, the new treatment building would comply with the setback and height standards. The overall impervious surface coverage of the site once development is complete, considering the four parcels combined, would be 60%. *Exhibits 1, 1.F, and 1.J; TCC 21.13.050.*
9. The new pH treatment building would be one story (approximately 20 feet) in height and constructed with concrete masonry block (CMU) walls and a metal roof. The materials and color scheme would match the existing buildings on site, which blend with the surrounding neighborhood. *Exhibits 1, 1.E, 1.J, and 1.K; Puna Clarke Testimony.*
10. Thurston County soil maps indicate the presence of soils potentially providing habitat to the Mazama pocket gopher on the subject property. The Mazama pocket gopher is protected under the Endangered Species Act and the Thurston County critical areas ordinance. The subject property was evaluated for the presence of the Mazama pocket gopher, as well as protected prairie habitat, Oregon white oaks, and Mima mounds; none of these species/features were detected. *Exhibits 1, 1.Q, and 1.R.*
11. The subject property is generally flat and covered with well-maintained grass. Four trees would be removed from the site to accommodate the proposed improvements. None of the trees proposed for removal are classified as significant trees under TCC 21.80.040, and therefore the trees are not subject to retention requirements. Six trees would be retained, with protective fencing installed where needed. *Exhibits 1 and 1.P.*
12. The landscaping standards applicable to the Lacey urban growth area require a minimum 15-foot wide Type 1 landscape buffer to separate conflicting land uses; however, the standards allow the Hearing Examiner to approve a modification of the landscaping requirements. *Exhibit 1; TCC 21.80.060.* The Applicant proposes to landscape the site to the extent compatible with security requirements. Full screening of the front of the site is considered not to be feasible due to its potential to prevent the identification of unauthorized persons tampering with the drinking water infrastructure. Low groundcover landscaping would be provided at the front of the site, including sword fern, Kelsey dogwood, and burning bush. An existing fence with privacy slats provides screening to the north and east consistent with Type 1 standards. Landscaping along the western site boundary is not feasible due to the presence of a 1,500-gallon septic tank effluent pump system. *Exhibits 1.H and 1.I.*
13. The facility would not result in increased traffic or require additional parking spaces. City Staff would continue to visit the site twice daily for monitoring and maintenance of

the existing and new facilities. Other than the already occurring monitoring and maintenance visits, the site would be unattended. *Exhibit 1.*

14. After construction is complete, proposed aeration blowers would generate noise during facility operation and a backup diesel generator would generate noise during monthly testing or while in operation during power failures. Noise from the aeration blowers would be attenuated through use of a duct silencer and by placement of the blowers in a separate room equipped with acoustic paneling. These features would ensure that noise from the new building is comparable to the noise generated by the existing well buildings. Noise from the generator would be mitigated through use of a sound attenuating enclosure and wall. Noise emissions would be required to comply with the limits for residential areas set forth in WAC 173-60. *Exhibits 1, 1.V, and 2; TCC 21.57.030; Nathan Rostad Testimony.*
15. The proposed pH treatment facility would not result in the release of foul odors, as only atmospheric air would be used for the treatment process. *Exhibit 2.*
16. Hazardous material storage on the site would be limited to the fuel contained within the emergency generator's fuel tank; diesel fuel would not otherwise be stored on site. The generator would have secondary containment to meet Thurston County Sanitary Code requirements. The generator refueling process would create a small risk of fuel spill, and a spill kit would be located in the building immediately west of the generator. The City of Lacey has a hazardous material spill response plan in place pursuant to WAC 296-824. *Exhibits 1.U and 1.X.*
17. The proposed treatment building would not require any water system or sewer service connections, as the existing restroom for the site is located within the existing chlorination building. *Exhibit 1.X.*
18. The subject property is within a Category I Aquifer Recharge Area, and is in an area of elevated nitrates within the underlying aquifer. The Applicant has submitted an integrated pest management plan (IPMP) outlining landscaping management practices to help reduce impacts to surface and groundwater. The Thurston County Environmental Health Division has reviewed and approved the IPMP. *Exhibits 1.S and 1.X.*
19. The Thurston County Environmental Health Division reviewed the proposal and recommended approval, subject to conditions requiring the following: that the Applicant obtain Washington State Department of Health approval of the project; that the Applicant submit documentation confirming that the generator meets all storage and secondary containment requirements of the Sanitary Code and critical areas ordinance; and that any potentially hazardous materials be stored and handled in a way that any spilled or released materials are contained inside a secondary container and not allowed to release to the ground. *Exhibit 1.X.* Consistent with one of the conditions recommended by Environmental Health, the Applicant has submitted documentation of Washington State Department of Health approval of the project. *Exhibit 1.Z; Dawn Peebles Testimony.*

20. The Thurston County Public Works Department reviewed the proposal against the Thurston County Road Standards, Drainage Design and Erosion Control Manual, and City of Lacey Development Guidelines and determined that the preliminary requirements have been satisfied. Public Works recommended approval, subject to standard conditions addressing roads, traffic control, drainage, utilities, traffic mitigation, and permitting requirements and procedures. *Exhibit 1.Y.*
21. The Olympic Region Clean Air Agency (ORCAA) commented on the project that the proposed minimum 500 kW generator requires ORCAA approval of a Notice of Construction prior to installation. *Exhibits 1.T and 1.AA.*
22. The City of Lacey assumed the role of lead agency for the review of environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA). The City determined that the project would not have a probable, significant adverse impact on the environment and issued a SEPA determination of non-significance (DNS) on September 1, 2021. *Exhibit 1.V.*
23. The subject property is located in an area that had been previously identified by the Washington Department of Ecology (DOE) as potentially contaminated with arsenic and lead due to air emissions originating from the old Asarco smelter in north Tacoma. However, based on analysis of soil samples, the DOE has concluded that arsenic and lead concentrations on site do not exceed the maximums allowed and that no remediation is required. *Exhibits 1.M and 1.N.*
24. Notice of the open record hearing was mailed to property owners within 500 feet of the site on August 5, 2022 and published in The Olympian on August 12, 2022. *Exhibit 1.A.* There was no public comment on the application prior to or at the public hearing.
25. Thurston County Planning and Economic Development Department Staff reviewed the proposal for compliance with applicable County codes, the Thurston County Comprehensive Plan, and the City of Lacey and Thurston County Land Use Plan for the Lacey Urban Growth Area and recommended approval subject to conditions. The conditions address erosion control, pollution, stormwater, archaeological resources, lighting, landscaping, and construction hours, and incorporate the recommendations of ORCAA, the Thurston County Environmental Health Division, and the Thurston County Public Works Department. *Exhibit 1; Sharon Lumbantobing Testimony.* An Applicant representative waived objection to the recommended conditions of approval. *Puna Clarke Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide special use permit applications for development within the Lacey urban growth area under Sections 2.06.010 and 21.87.010 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 21.87.035 are satisfied:

- A. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Lacey Joint 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 the Lacey Joint Plan, the Thurston County Comprehensive Plan, the Thurston County Sanitary Code, the Thurston County Critical Areas Code, the Drainage Design and Erosion Control Manual, the Thurston County Road Standards, the State Environmental Policy Act, and the requirements of the Washington Department of Health, the Washington Department of Ecology, and ORCAA. *Findings 7, 10, 18, 19, 20, 21, 22, 23, and 25.*
2. The use complies with the general purposes and intent of the LD 3-6 zone and with applicable lot, setback, and bulk standards. The landscaping proposed is appropriate given the security needs of the use, the lack of change to the longstanding existing use of the site, and the overall site aesthetics. The proposed new building would be residential in scale and would match the existing buildings on site. Consequently, the lower-scale landscaping proposed along the front of the site and the reliance on privacy fencing

immediately adjacent to neighboring residences is consistent with the intent of the landscaping chapter of the Lacey UGA zoning ordinance to “promote safety, to provide screening between incompatible land uses, to safeguard privacy and to protect the aesthetic assets of the Lacey UGA.” *TCC 21.80.010; Findings 6, 8, 9, 11, and 12.*

3. 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 intent of the project is to protect public health, and the location of the pH treatment facility at the established well site is appropriate. The neighborhood character already includes structures associated with the wellfield, and the proposed new pH treatment building would be consistent with the existing development. Potential noise impacts associated with aeration equipment and the backup generator would be adequately mitigated. There would be no odor impacts or traffic impacts. The conditions of approval incorporate the conditions identified by Environmental Health and Public Works. *Findings 1, 3, 4, 5, 8, 9, 13, 14, 15, 16, 19, 20, and 23.*
 - b. 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. *Finding 17.*

DECISION

Based on the preceding findings and conclusions, the request for a special use permit to construct a new pH treatment facility to serve the existing Madrona Park wellfield site is **GRANTED** subject to the following conditions:

Community Planning and Economic Development Conditions:

1. 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.
2. Erosion control measures must 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.
3. 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.

4. 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.
5. 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.
6. All development on the site shall be in substantial compliance with the approved site plan and conditions. Any expansion or alteration of this use will require review and 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 a new permit.
7. Lighting shall be designed and shall function in a manner that shields direct light from adjoining streets and properties.
8. Landscaping is required to be completed, prior to final building inspection.
9. All refuse containers and roof and ground related mechanical equipment shall be screened from the public right-of-way and adjoining properties.
10. Construction activity shall be limited to the hours of 7:00 a.m. to 7:00 p.m. to minimize associated noise. All activities onsite shall fully comply with noise limitations outlined in WAC 173-60.
11. The owner shall be responsible for maintaining an orderly appearance of the property and shall be responsible for the care and maintenance of all installed landscaped areas. All required yards, parking areas, storage areas, operation yards, and other open uses on the site shall be maintained at all times in a neat and orderly manner.
12. Olympic Region Clean Air Agency's approval through a Notice of Construction (NOC) is required prior to installing the engine-generator set.

Public Health and Social Services Department Conditions:

13. Prior to building permit issuance, documentation must be submitted confirming that the on-site emergency generator meets all storage and secondary containment requirements of the Thurston County Nonpoint Source Pollution Ordinance (Article VI of the Sanitary Code) and the Thurston County Critical Areas Ordinance.
14. Any potentially hazardous materials shall 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 ground, surface water, or ground water.

Public Works Department Conditions:

Roads

15. The proposed roadway in concept and design shall conform to the Road Standards and the City of Lacey standards and development guidelines.
16. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.

Traffic Control Devices

17. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
18. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the Applicant shall be transferred to the Applicant.

Drainage

19. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
20. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
21. 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

22. 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.
23. 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

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

General Conditions

25. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
26. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the corresponding city jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.
27. 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.
28. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 360-867-2051 for a final inspection.
29. 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:

30. Once the Planning Department has issued the official approval, submit a complete set of construction drawings, checklists and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
31. 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

32. 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. Completion of required signing and striping.
 - g. Payment of any required permitting fees.

DECIDED September 9, 2022.



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 **\$804.00** for a Request for Reconsideration or **\$1,093.00** 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 \$804.00 for Reconsideration or \$1,093.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Community Planning & Economic Development Department this _____ day of _____, 20___.