



COUNTY COMMISSIONERS

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## **HEARING EXAMINER**

*Creating Solutions for Our Future*

### **OFFICE OF THE HEARING EXAMINER**

#### **THURSTON COUNTY**

#### **REPORT AND DECISION**

**PROJECT NO.:** 2021103754  
**CHALLAIN REASONABLE USE EXCEPTION**

**SEQUENCE NO.:** 21 108799 XI

**TAX PARCEL NO.:** 43620002000

**LOCATION ADDRESS:** 8517 Evergreen Drive NE  
Olympia, WA 98506

**LEGAL DESCRIPTION:** 22-16-2W PT SE4 NW4 KA LOT 36 LL-0637 DIV #4 5/661

**OWNER/APPLICANT:** Cheryl and Larry Challain  
8517 Evergreen Drive NE  
Olympia, WA 98506

**PROPOSAL:** Tony Kantas  
3727 Wesley Loop NW  
Olympia, WA 985032

**PLANNER:** Richard Felsing, Associate Planner

#### **SUMMARY OF REQUEST:**

The Applicant seeks approval of a Reasonable Use Exception to construct two additions to an existing single-family residence (SFR) to provide wheelchair access into the home and for ADA-compliant maneuverability within the home. The 1,008-square foot addition is proposed landward of and lateral to the existing SFR footprint. No construction would occur waterward of the existing home.

**SUMMARY OF DECISION:** Approved with conditions.

**DATE OF DECISION:** July 15, 2022

**PUBLIC HEARING:**

After reviewing the Community Planning and Economic Development Department Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on June 14, 2022 at 10:00 a.m. Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- |                     |   |
|---------------------|---|
| <b>EXHIBIT 1</b>    | - Land Use and Environmental Review Section Report  |
| <b>Attachment a</b> | - Notice of Public Hearing;   |
| <b>Attachment b</b> | - Master and Reasonable Use Applications; Received July 20, 2021  |
| <b>Attachment c</b> | - Revised Site Plan; dated March 17/received March 23, 2022   |
| <b>Attachment d</b> | - Revised Project Narrative; dated March 17/received March 23, 2022   |
| <b>Attachment e</b> | - Site Photos; received July 20, 2021   |
| <b>Attachment f</b> | - Revised Mitigation Plan and Planting Schedule; dated March 17/received March 23, 2022   |
| <b>Attachment g</b> | - Notice of Application, mailed December 17, 2021   |
| <b>Attachment h</b> | - Existing Floor Plan   |
| <b>Attachment i</b> | - Accepted Record Drawing, Septic System; dated February 9, 2022  |
| <b>Attachment j</b> | - Recommendation for Approval, email; Dawn Peebles, Thurston County Environmental Health; February 9, 2022  |
| <b>Attachment k</b> | - Review comment letters; Brad Beach, Nisqually Indian Tribe, July 30, 2021; and Shaun Dinubilo, Squaxin Island Tribe, August 2, 2021 Concurrence Letter, 2021-08-05595; Stephanie Jolivette, Dept. of Archaeology and Historic Preservation; November 29, 2021 |
| <b>Attachment l</b> | - Archaeology and Historic Preservation; November 29, 2021  |
| <b>Attachment m</b> | - Priority Habitats & Species Report - WDFW PHS database  |
| <b>EXHIBIT 2</b>    | - Staff Comment for the Record; June 15, 2022   |
| <b>EXHIBIT 3</b>    | - Challain Reply to Staff Comment for the Record; June 15, 2022   |

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

RICHARD FELSING, Associate Planner, appeared and requested Exhibit 1 and attachments be made a part of the record and then testified that the Applicant seeks approval of a Reasonable Use Exception for an expansion to an existing legal non-conforming single-family home involving two additions totally 1,008-square feet to provide the residents access into the home and maneuverability within the home which would enable standard usage of the home. Thurston County Code (TCC) Title 24 entitled "Critical Areas" (CAO) prohibits expansion of structures within the critical area which herein includes a marine riparian habit critical area. The parcel is also located in the Shoreline Conservancy environment of the Shoreline Master Program (SMP). The critical areas on the Challain property encompass the entire parcel. The proposal will remove obstacles to access the home and, as such, the access is not an appurtenance but is intrinsic to this home as to all homes to enable standard entry and usage of the home. Mitigation measures have been provided.

DAWN PEEBLES, Senior Environmental Health specialist, appeared and testified that Environmental Health did preview the project and has provided in Attachment j to the Staff Report a summary of their analysis and recommendation for approval of the project with no conditions of approval noted.

TONY KANTAS, representing the Proponent, appeared and testified that he provided the narrative in support of the request in Attachment d of the Staff Report. All improvements requested will not encroach into the Ordinary High Water Mark (OHWM) further than the existing single-family (SFR). The improvements are necessary for ADA purposes and the majority of the improvements will be landward of the existing residence and will be constructed as much as possible on existing impervious surfaces. The entire property is covered by mature native vegetation. The project proposed is designed to remove as little vegetation as possible. Three trees on the landward side of the residence will need to be removed. The Applicants have proposed mitigation of that loss by planting twenty-four (24) Western Red cedar trees that have been purchased at one-hundred dollars (\$100.00) per tree which he opined, given the cost, would be considered "saplings."

He requested certain corrections and/or deletions to the Staff Report:

- The residence had not been permitted pursuant to a variance with a 95-feet setback from the OHWM rather than the 100-feet Conservancy shoreline setback but was approved in 2000 based on the code enabling setbacks to be averaged by existing development in each direction along the shoreline.
- The property had been included in the Dana Shores subdivision but the current lot configuration was created by a two-lot short plat in 1997.
- The subject SFR is not "non-conforming" under the SMP as the structure complies with the setbacks, impervious surfaces and vegetation retention requirements of the SMP. He opined that the SFR is considered "non-conforming" as it was constructed prior to the enactment of the CAO in 2012 which required a 250-foot setback from the OHWM.
- The subject SFR is located on "Dana Passage" and not on "Henderson Inlet."

He concluded by stating that the Applicant is in agreement with all recommended conditions of approval and noted the existing conditions are the 3-bedroom residence and drain field and that the additional bedroom will meet the requirements of the existing drain field.

MR. FELSING did not have any response comments but was amendable to conducting further research on Mr. Kantas' requests. He concluded by stating the Staff's overall analysis and conclusions hold and remain unchanged.

CHERYL CHALLAIN, Owner/Applicant, appeared and testified that that she is grateful for the efforts by Staff and Mr. Kantas to assist them in this application process.

LARRY CHALLAIN, Owner/Applicant, appeared and testified that he is also appreciative for everyone's time and efforts.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 10:20 a.m. The Examiner then left the record open for 2-days to enable Staff to file a written response to the Applicants' request for deletion or correction and for an additional 2-days for the Applicant's reply.

On receiving the Staff Comment (Ex 2) and the Applicants' Reply, (Ex. 3) regarding the Applicants' request for corrections and deletions, the Examiner denies the Applicants' request for deletion of Section D, page 11, in the Staff Report and notes that the Findings of Fact have addressed the

above-referenced concerns.

**NOTE:** A complete record of this hearing is available in the office of the Thurston County Resource Stewardship Department.

**FINDINGS:**

1. The Applicants filed the Master Application and Supplemental Application for a Reasonable Use Exception (RUE) on July 20, 2021, requesting approval for two additions to an existing single-family residence (SFR) to provide American Disability Act (ADA) access into and ADA compliant maneuverability within the home. The additions are proposed landward of and lateral to the existing SFR footprint. No improvements or vegetation were proposed waterward of the existing home. (Att. b)
2. The Notice of Application of Application was issued on December 17, 2021, with the comment period expiring on January 6, 2022. (Att. g)
3. In an email dated February 9, 2022, Dawn Peeples, Thurston County Senior Environmental Health Specialist, commented that the Thurston County Public Health and Social Services department had reviewed the request and recommended approval as the residence is served by the Dana Passage Group A community water system and an on-site septic system approved to serve a 3-bedroom residence which the subject SFR will be after the requested construction of the third bedroom. (Attachment j)
4. In a letter dated July 30, 2021, the Nisqually Indian Tribe did comment and requested that a cultural resources survey be required before any development permits were issued and requested to be informed if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials. (Attachment k). A survey was conducted and, in a letter dated November 29, 2021, the Washington State Department of Archaeology and Historic Preservation (DAHP) noted no cultural resources were found during the survey and did not recommend direct archaeological supervision of the project but did recommend that a standard Inadvertent Discovery Plan be followed during all ground disturbing activities. (Attachment l).
5. The Washington State Department of Ecology and the Washington State Department of Washington State Department of Fish & Wildlife did not provide comment.
6. The construction of a single-family home is exempt from review under the State Environmental Policy Act (SEPA) (WAC 197-11-800(1)(b)(i)).
7. Written notice of the public hearing was mailed to all property owners within 500 feet of the site on May 31, 2022 and was published in The Olympian on June 3 2022, at least ten (10) days prior to the hearing. (att. a)
8. The Applicants, Cheryl and Larry Challain, have a possessory interest in the subject property located at 8517 Evergreen Drive NE, Olympia, WA 98506; Section 7, TWP 19N Range 1W, Dana Shores #2, L 20.
9. The subject parcel was included in the Dana Shores subdivision approved in 1967 and was created by a further division through a two lot short plat in 1997. The residence is accessed by a driveway on the landward side of the home from Evergreen Drive NE. The lot is rectangular in shape measuring 105-feet in width and 360-feet in length. The entire property

is vegetated except for the area of the improvements associated with the residence and appurtenances. The subject property is located on a marine bluff above an inlet off of Dana Passage which prevents access to the beach.

10. The surrounding Land Use and Zoning/Shoreline Environment as follows:
  - Northeast - Puget Sound with Aquatic Classification/ Conservancy Designation;
  - Northwest - Existing SFR with RL 1/1/Conservancy;
  - Southeast - Evergreen Drive NE with RL 1/1/NA;
  - Southwest - Existing SFR with RL 1/1/Conservancy.
11. The .87-acre property is zoned Residential LAMIRD-One Dwelling Unit Per Acre (RL 1/1). The existing SFR and proposed expansion comply with the classification as a SFR is an outright permitted use in the RL 1/1 zone, meets the one dwelling unit per acre requirement and is consistent with all development standards including structural setbacks from property lines for structures larger than 120-square feet (20-feet from the front property line, 5-feet from the side lot lines, 10-feet from the rear property line) and the maximum building height of 35-feet from average grade.
12. The proposed additions are a 656-square-foot attached garage located landward of the home in the existing driveway area to replace the existing garage and 352-square foot new bedroom addition. The existing garage would be converted into an ADA-compliant bedroom and bathroom which will minimizes obstacles for low-mobility individuals moving from the home to motor vehicle and vice versa and the ADA bedroom would provide physical therapy space and an ADA-compliant bathroom. (Att. c)
13. The proposal to expand a SFR is consistent with the Thurston County Comprehensive Plan. The existing land use established by the 1967 subdivision is consistent with the Land Use section of the Plan as the noted purposes of the Residential LAMIRD designation are to provide for residential development in rural areas that were predominately developed at a density of one dwelling unit per acre prior to July 1, 1990, to minimize and contain these areas of more intensive rural development and to prevent new patterns of low-density sprawl. (Comp. Plan 2-21)
14. Pursuant to the Shoreline Master Program for the Thurston Region (SMPTR) promulgated in 1990, the subject property's location on the bluff above the shoreline of Dana Passage resulted in the parcel being designated as a Conservancy shoreline environment. Single-family residences and typical appurtenances are permitted within the Conservancy shoreline environment, subject to development standards established in the SMP. Those standards included a minimum 100-foot setback from the ordinary highwater mark (OHWM) of the shoreline and 30% maximum impervious area per residential lot. At the time the existing SFR was constructed, the code allowed the shoreline setback to be averaged by considering the existing structures 300-feet in both directions of the property lines along the shoreline. Although the average of the setbacks was 85-feet, the Applicants designed and established the existing building envelope to be at a 95-foot setback to enable more mature vegetation to remain on the property. The proposed additions are landward of the existing SFR and will not encroach any closer to OHWM than the existing SFR building footprint.
15. At the time the existing SFR was permitted in 2000, Thurston County Code Title 24 entitled "Thurston County Critical Areas Ordinance" (CAO) only regulated the marine bluff and not the Conservancy Shoreline Environment. CAO Title 24 refers to all shorelines with exception to

- the Rural shoreline environment as “marine riparian habitat”. The marine riparian habitat buffer encumbers a majority of the subject property with the existing SFR completely within the buffer.
16. TCC Title 24 adopted on July 24, 2012, increased the Conservancy shoreline buffer from 100-feet to 250-feet from the OHWM, which made the existing SFR that was permitted 2000, a permitted non-conforming structure (TCC 24.25.050). At the time the existing SFR was permitted, only the SMPTR regulated the setbacks from shorelines. TCC 24.25.050 increased all shoreline setbacks to 250-feet from the OHWM with exception to the Rural Shoreline Environment. As a result, the existing SFR and the proposed addition(s) are completely within the marine riparian habitat buffer requiring a RUE application to be submitted for the proposed improvements
17. The authority for a RUE is expressed in TCC 24.45.010:
- A reasonable use exception is required when adherence to the provisions of this title would deny all reasonable use of the subject property as a whole, due to the property's size, topography, or location relative to the critical area and any associated buffer. A reasonable use exception shall only be granted if no other reasonable alternative method of development is provided under this title and the Thurston County Code.
18. TCC 24.45.030, Review criteria, provides that the hearing examiner shall approve, or approve with conditions, the reasonable use exception if the following eight (8) criteria are met:
- A. No other reasonable use of the property as a whole is permitted by this title;
- The Applicants' proposal is for expansion of a single-family residence. The primary permitted uses under RL 1/1 zoning are single-family residential, duplexes, agriculture, forest practices, and home occupations. (TCC 20.11A.020) The Applicants' property is too small to support agriculture or forest practices. The use of the property was established when the property was permitted to construct the existing SFR in 2000. The proposed RUE is result of the adoption of TCC Title 24 in 2012, which made the existing SFR a permitted non-conforming use to current code as it relates to buffers within a marine riparian habitat. Residential uses are the only alternative reasonable land use on the Applicants' property.
- B. No reasonable use with less impact on the critical area or buffer is possible. At a minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design. This may include a variance for yard and setback standards required.
- The Applicants' proposal to expand the single-family residence essentially within the existing impervious surface/building pad maintains the same use within the Conservancy shoreline environment and marine riparian habitat buffer that had been established with the existing permitted SFR. The expansion proposed appears to be minimal, size-limited by its purpose and in proportion to the existing home. A detached design could not move the project to or toward Evergreen Drive NE without defeating the project purpose, which is to provide

standard accessibility to the existing home. In addition, the expansion will not encroach any closer to the OHWM than the existing building envelope of the SFR and will require only three trees to be removed.

- C. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the development proposal site, or increase public safety risks on or off the subject property;

The proposed expansion to provide standard access and maneuverability within the home promotes a use that is similar in nature and intensity to the existing use and the use of surrounding residences. The expansion minimizes encroachment into riparian habitat and is set within an area of the existing SFR and primarily on existing impervious surfaces. As such, the proposal does not pose a potential hazard to other properties and will not threaten the public health, safety or welfare on or off the Applicants' property.

- D. The proposed reasonable use is limited to the minimal encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property;

The use of the property will remain residential and will have minimal encroachment into the Conservancy shoreline environment and maritime riparian habitat buffer. The 1,008-square foot total proposed expansion has minimal encroachment into the critical area as the 656-sf garage is constructed landward and the 352-sf ADA-compliant bed/bath/physical is constructed laterally to the shoreline and the OHWM.

- E. The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions;

The alterations to the critical area are minimal as the construction is confined to the areas adjacent to the existing residence plus an area for construction where some vegetation would be impacted such as three specific trees will be removed for construction of the garage. However, the mature vegetation will be maintained, the proposal will comply with the Thurston County Stormwater Manual and the mitigation plan includes planting 24 Red Cedar Trees will all act to ensure no impacts to vegetation, fish, and wildlife resources.

- F. A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site;

The Applicants' *Revised Mitigation Plan & Planting Schedule* (Attachment f) to ensure no "net loss of critical area functions and values" proposes planting twenty-four (s 24) Western Red Cedar saplings to mitigate the three trees that need to be removed to construct the garage which is the minimal necessary size to park two vehicles. The Applicant have stated that the Western Red cedar trees have been purchased at one-hundred dollars (\$100.00) per tree which given the cost would be considered "saplings." Further, the development will be

confined to essentially the existing building pad and the existing driveway area with a total of only 600-sf of new impervious service which supports there will be “no net loss of critical area functions or values” resulting from this project.

- G. The reasonable use shall not result in the unmitigated adverse impacts to species of concern;

The project will not result in impacts to any species of concern as the area and location of the construction will result in minimal removal of vegetation or disturbance of soil. The mature forested area of the buffer will be retained exception for the removal of the three specific trees which will be mitigated by planting 24 Western Red Cedar Trees. Applicants have allowed potential roosting areas in the form of standing snags to remain. Further, the project would not impact or disturb any nursery colonies of the *Yuma myotis* (little brown bats) that occur in the area as noted in the Washington Department of Fish & Wildlife Priority Habitat & Species mapping database. (Att. m). Finally, Best Management Practices standard erosion control measures will be practiced throughout construction to protect the priority habitat of the nearby estuarine area of the Puget Sound.

- H. The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception

The location and scale of existing development on surrounding properties is not considered a factor in reviewing the proposed RUE application as the construction of the new garage is necessary to replace the existing garage which is being converted into an ADA designed bedroom/bathroom and the Shoreline Management Act considers garages a normal appurtenance to an SFR.

22. TCC 24.45.020 entitled “Reasonable use exception-Certain properties not eligible” prohibits a RUE if the inability to derive reasonable use is the result of a self-created hardship such as subdividing the property, adjusting a boundary line, or other actions thereby creating the property undevelopable.

Herein, the sole basis for the RUE is the passage of the CAO in 2000 which expanded the Conservancy shoreline environment and marine riparian habitat buffer that had been established with the existing permitted SFR and not from any “self-created” hardship created by the Applicant.

## **CONCLUSIONS:**

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The Applicant has demonstrated that the proposal will be consistent with all applicable codes; therefore, the request for the Reasonable Use Exception should be approved subject to the following conditions:
  1. Inadvertent Discovery. In the event that ground-disturbing activity uncovers or encounters archaeological artifacts, cultural material, or burial remains, the Applicant must stop all work in

the discovery area immediately, and shall contact the Thurston County Planning Manager (Community Planning and Economic Development (CPED)), the Tribal Historic Preservation Officer (THPO) of affected Tribes, and shall notify the Washington Dept. of Archaeology & Historic Preservation (DAHP) at 360-586-3065.

2. Prior to or in conjunction with the issuance of any building permit, all applicable regulations and requirements of Thurston County Public Health and Social Services, Public Works, and Thurston County Planning Departments shall be met. All required permits shall be obtained prior to commencing construction.
3. Erosion Control. Prior to earth disturbing activities, erosion control best practices shall be implemented. The erosion control methods must be maintained to ensure ongoing protection throughout construction until there is no longer risk of erosion polluting waters of the state. Erosion control best practices shall be monitored and approved through the Building Site review associated with the building permit application.
4. Surety Bond/Irrevocable Assignment of Savings. Prior to building permit issuance, the Applicant/property owner shall submit a surety agreement consistent with Thurston County Code chapter 24.70, for the mitigation measures and planting plan. The surety agreement shall cover 125% of the cost of the planting plan (*See Attachment f, Revised Mitigation Plan and Planting Schedule*).
5. Mitigation Planting Plan. Prior to final building inspection, the Applicant shall implement the proposed mitigation measures specified in the *Revised Mitigation Plan and Planting Schedule* (Attachment f) by planting twenty-four (24) Western Red Cedar trees (*Thuja Plicata*) in a time, location and manner that ensures their survival.
6. Prior to the release of surety, the project proponent shall obtain written approval from Thurston County Community Planning & Economic Development that the measures agreed to have been implemented in the time period specified.
7. All development on the site shall be in substantial compliance with the approved Reasonable Use Exception decision, as conditioned. Any alteration to the proposal will require approval of a new or amended Reasonable Use Exception, as determined by the CPED Planning Division.
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.

**DECISION:** The request for the Reasonable Use Exception to construct two additions (1,008-sf total) to an existing single-family residence to provide wheelchair access into and ADA-compliant maneuverability within the home is approved with the conditions noted above.

**ORDERED** this 15th day of July, 2022.



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**STEPHEN R. SHELTON**  
Pro Tem Hearing Examiner

**TRANSMITTED** this 15<sup>th</sup> day of July, 2022, to the following:

**OWNER/APPLICANT:** Cheryl and Larry Challain  
8517 Evergreen Drive NE  
Olympia, WA 98506

**PROPOSER:** Tony Kantas  
3727 Wesley Loop NW  
Olympia, WA 98503

**OTHERS:**

THURSTON COUNTY

**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.)

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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 \_\_\_\_\_

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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.

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**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\_\_\_\_.