

OFFICE OF THE HEARING EXAMINER

THURSTON COUNTY

REPORT AND DECISION

PROJECT NO.: 202015884,
DESCHUTES FALLS WALKWAY
AND VIEWING PLATFORM

SEQUENCE NO.: 20-114781 XC

TAX PARCEL NO.: 23510210000

LOCATION ADDRESS: 25005 Bald Hill Road S.E., Yelm, WA 98597

APPLICANT: Thurston County Public Works
Attn: Trevin Taylor
9605 Tilley Road S.W.
Olympia, WA 98512

OWNER: Thurston County Parks

PLANNER: Richard Felsing, Associate Planner

SUMMARY OF REQUEST:

The Applicant requests approval of a Shoreline Substantial Development Permit (SSDP) to construct a raised deck walkway and viewing platform at the Deschutes Falls Park visitor's overlook. The project would provide a stable, confined viewing area above a steep ravine, with the capacity to handle existing demand while preventing adverse off-trail impacts to unique riparian habitat from current levels of foot-traffic. —10-15-3E SE-NW LY NLY WEYCO 3000 RD; & SW-SW-NE-NW & PT NE4 NW4 LY SELY LN EXT NLY FR SE COR SW-SW-NE-NW TO NW COR NE-N W2-W2-NE-NW TO NW COR OF E2-E2-NE-NW. Thurston County Public Works proposes to build a raised deck walkway and viewing platform at Deschutes Falls Park. The park's main attraction consists of two waterfalls that drop 40 feet into a deep ravine. The raised deck and walkway will provide an environmentally friendly and safe option for visitors to view the falls. The 933 square feet of deck will be supported by twenty 18 inch diameter concrete posts embedded in the top of the north rockface of the ravine. The 933sf deck will reduce erosion and sediment that is created by the current visitors' foot traffic. Signs will be installed to remind visitors to use the trail to protect native plants. The project will construct a 150 linear foot walkway with

750 square feet of mulch that will encourage visitors to stay on the trail (Attachments d, e, and f).

SUMMARY OF DECISION: Request granted, subject to conditions

DATE OF DECISION: June 22, 2021

PUBLIC HEARING:

After reviewing the Community Planning and Economic Development Department Staff 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 May 18, 2021, at 1:30 p.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:

- EXHIBIT 1** - Staff Report, Community Planning and Economic Development Department, including the following attachments:
- Attachment a** - Notice of Public Hearing
 - Attachment b** - Zoning Map and Vicinity Maps
 - Attachment c** - Master Application, dated December 3, 2020
 - Attachment d** - JARPA Permit Application, dated December 3, 2020
 - Attachment e** - Project Narrative, dated December 3, 2020
 - Attachment f** - Site Plan Set, dated December 3, 2020
 - Attachment g** - Notice of Application, dated April 2, 2021
 - Attachment h** - Comment Letters: Nisqually Indian Tribe Comment Letter, January 12, 2021 and Squaxin Island Tribe, January 4, 2021; Unanticipated Discovery Plan and Procedures with background emails
 - Attachment i** - Comment Memorandum from Amy Crass, Environmental Health Division, January 14, 2020
 - Attachment j** - Comment Memoranda from Arthur Saint, Public Works Department, May 5, 2021
 - Attachment k** - Determination of NonSignificance and Environmental Checklist Thurston County Public Works, dated August 11, 2020 and received December 3, 2020; Notice of SEPA Application dated June 29, 2020; Comment Letters: DOE, July 29, 2020 and August 25, 2020; Department of the Army, May 11, 2021; State Department of Fish and Wildlife, December 29, 2020
 - Attachment l** - Site Photos

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 testified that and presented the County Staff Report. He stated that the Applicant is the Thurston County Public Works Department and the request is for a Shoreline Substantial Development Permit to construct a raised deck walkway and viewing platform at the Deschutes Falls Park visitor overlook on property that is owned by Thurston County Parks. The project would provide a stable, confined raised viewing area where two waterfalls drop 40 feet into a deep ravine. The viewing deck will have the capacity to handle existing demand while preventing adverse off-trail impacts to unique riparian habitat from current levels of foot-traffic. The deck will be 933 square feet supported by twenty 18-inch diameter concrete posts embedded in the top of the north rockface of the ravine and will reduce erosion and sediment that is created by the current visitors' foot traffic. Signs will be installed to remind visitors to use the trail to protect native plants. The project will construct a 150 linear foot walkway with 750 square feet of mulch that will encourage visitors to stay on the trail.

MR. FELSING testified that the location of the proposal is 25005 Bald Hill Road S.E., Yelm, WA 98597 in an unincorporated area of the County. The subject parcel is located in the Public Parks, Public Trails and Preserves District (PP) zoning and land use designation in the Thurston County Code (TCC) 20.08.E. and in the Thurston County Comprehensive Plan (TC Comprehensive Plan, Chapter 2" Land Use." He stated the project is a permitted use and consistent with the PP zoning designation. The project implements the objectives of Thurston County's Comprehensive plan by protecting "unique or rare" resources that are "at risk of loss or damage as its purpose is to protect the "unique geological features" of Deschutes Falls Park The proposal is also consistent with the policy and provisions of the Shoreline Management Act (SMA) as well as the regional criteria, Conservancy Environment, Archaeological and Recreation Sections of the of the of the Shoreline Master Program for the Thurston Region (SMPTR). He stated the Planning and Economic Development Department recommended approval of the SSDP with recommended conditions of approval.

TREVIN TAYLOR, Senior Environmental Coordinator, appeared and testified that the County had provided notice and requested comments on the proposal and SEPA Determination of NonSignificance (DNS) to all the Indian Tribes in the "usual and customary" area and received comments from the Nisqually and Squaxin Indian Tribes and reached an agreement that in addition to the "Inadvertent Discovery" recommended condition and in lieu of a cultural resource report, the County would provide monitoring of the project by a professional archaeological monitor who would submit a field report to the Nisqually Historic Preservation Officer (THPO) and the Department of Archaeology and Historic Preservation (DAHP).

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 2:03 p.m.

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

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. Pursuant to the State Environmental Protection Act (SEPA) review, the Environmental Coordinator of the Thurston County Public Works Department issued a Determination of NonSignificance (DNS) on July 29, 2020. (Attachment k). The project is proposed to eliminate environmental damage due to concentrated use at the scenic overlook, and as such, is designed to protect "[t]resources on these lands [that are] unique or rare, and are at risk of loss or damage." The project involves no changes in uses or activities, and as proposed, will reduce damage due to erosion stemming from existing usage levels. (Attachment k)
3. Written notice of the public hearing was sent to all property owners within 500 feet of the site on April 30, 2021, and notice was published in The Olympian on May 7, 2021 at least ten (10) days prior to the hearing. (Attachments g and a)
4. The Thurston County Public Works Department as the Applicant is requesting approval of a Shoreline Substantial Development Permit (SSDP) to construct a raised deck walkway and viewing platform at the Deschutes Falls Park visitor's overlook. The project is situated on 46.4 acres and would provide a stable, confined viewing area above a steep ravine overlooking two waterfalls with the capacity to handle existing demand while preventing adverse off-trail impacts to unique riparian habitat from current levels of foot-traffic .
5. The project location is at the end of Bald Hill Road in rural unincorporated southeast Thurston County. The street address is 25005 Bald Hill Road S.E., Yelm, WA 98597 in unincorporated Thurston County. The parcel number is 2351021000. The site description is Sec 17, Tw 18, R 1E, Qtr SW.
6. The construction will include a 933-square foot viewing deck supported by twenty 18-inch diameter concrete posts embedded in the top of the north rockface of the ravine and a 150-linear foot walkway with 750-square feet of mulch that will encourage visitors to stay on the trail. Signs will be installed to remind visitors to use the trail to protect native plants. (Attachments d, e, and f)

7. The project will not increase public use to the current location and will bring the site up to current safety and environmental standards. The project does not require instream pile driving as it will use an auger or drilling equipment to penetrate the rock. The project will not have a permanent structure or center pier within the ordinary high water mark (OHWM). The project will require work within the OHWM and once under construction will follow the Regional Road Maintenance Group (RRMG) 4(d) requirements that meet or exceed the Regional Road Maintenance Group standards. (Attachment d)
8. The current vegetation of the site includes grasses, Red Sword Fern and Salal Brush. The proposal is a self-mitigating project designed to improve the environmental condition reducing sediment from entering the Deschutes River due to excessive foot traffic from park visitors. (Attachment d)
9. The subject parcel is located within the "Public Parks, Trails and Preserves District" (PP) zoning classification and land use designation in the Thurston County Code (TCC) 20.08.E. and in the Thurston County Comprehensive Plan (TC Comprehensive Plan, Chapter 2" Land Use." Adjacent parcels are primarily timberland forestry.
10. The Zoning Code (TCC 20.08.E.010) state the purpose of the PP district is threefold:
 1. To identify and protect unique and outstanding examples of publicly owned fish and wildlife habitat conservation areas or unique geologic features;
 2. To acknowledge the state, county and federal governments' ongoing responsibility to protect critical areas and other resource values on lands within this district; and
 3. To identify federal, state, and county-owned parks and trails suitable for public recreation.
11. The Comprehensive Plan, Land Use, Chapter 2 at pages 25-26, also states the purpose of the PP district is also threefold:
 1. To identify and protect unique and outstanding examples of Publicly owned fish and wildlife habitat conservation areas or unique geologic features.
 2. To identify publicly owned (federal, state, and county) parks and trails that may be used for passive and active recreation.
 3. To acknowledge the ongoing responsibility of the county, state and federal government to protect critical areas and other resource values and provide for public recreation on lands within this designation.
12. The proposed project is consistent with the Zoning Code and the Comprehensive Plan. Permitted uses include both active and passive recreation, including unpaved trails or boardwalks for passive recreation use. The project's proposed walkway,

raised deck, and viewing platform by definition is a permitted use and consistent with the PP zoning district and is consistent with designating "publicly owned (federal, state, and county) parks and trails that may be used for passive and active recreation." The project purpose is to protect the "unique geological features" of Deschutes Falls Park and the "unique and outstanding fish and wildlife habitat conservation areas" formed by the Deschutes River, abutting geological landforms, and riparian areas in general. The project purpose is also to protect the species, slopes, geology, habitat and natural resources from adverse visitor impacts. The project implements the objectives of Comprehensive plan by protecting "unique or rare" resources that are "at risk of loss or damage."

13. The proposal is consistent with the criteria in the "Shoreline Master Program for the Thurston Region" (SMPTR) because it complies with the policies provided in the "General Goals and Policies." (pages 22-23)

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.

The walkway, raised deck, and viewing platform provide public access to shoreline views in a manner that preserves pre-existing characteristics of the riparian landscape and associated habitat. The project will minimize and prevent erosion damage caused by visitors' foot traffic and will protect local species, allow unique riparian habitat to recover from these impacts and improve safe public access to desirable views of Deschutes Falls

- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.

The project will reduce or eliminate erosion that could affect surface waters of the Deschutes River and will allow riparian habitat degraded by adverse human impact to recover naturally. The project has been analyzed for its effect on the aquatic environment and the Thurston County Public Works Department has issued a Determination of NonSignificance (DNS). (Attachment k)

- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial

development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.

Not applicable.

- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.

Not applicable.

- E. Governmental units shall be bound by the same requirements as private interests.

The Applicant is a unit of government and subject to all requirements through this process.

- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.

The Applicant is proceeding herein under the burden of proof noted.

- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized,

The Deschutes River Falls is notable for its aesthetic, scenic and ecological qualities. The project is proposed to eliminate "poor quality shoreline conditions" by containing, guiding, and supporting visitors and hikers in order to prevent further and ongoing adverse impacts that have degraded the shoreline environment's unique riparian habitat.

- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

The facility would provide a stable, safe viewing area that is designed with the capacity to meet visitor demand. The shoreline environment ecological integrity is protecting by enhancing riparian habitat which maintains and improves surface water quality. (Attachment i)

14. The proposal is consistent with the criteria in the SMPTR regarding the Conservancy Environment, SMA Section 2, Chapter VI. The raised deck and viewing area would "protect, conserve, and manage existing resources and valuable historic and cultural areas in order to ensure continuous flow of recreational benefits to the public and to achieve sustained resource utilization." The project protects and sustains the park's unique resources while maintaining ongoing public access to passive and active recreational opportunities. (SMPTR Sec. Two, Chap. VI (B)(1, 2b, 2c, 4, 6, 7; pp 28-29)) Construction activity will be monitored in real-time by an on-site archaeologist to account for the high potential for cultural resources and protect such resources in the event of an inadvertent archaeological discovery. In addition, the project is consistent with the goals of public access, prevention of the destruction of the more fragile recreation areas through excessive use, exercise due regard for the safety of the public and limit the intensity of the recreational use to the capacity of the environment to sustain it.
15. The proposal is consistent with the criteria in the SMPTR regarding Archaeological Areas and Historic Sites, Section 3, Chapter 14, as the Applicant has reached a mutual agreement with the Nisqually Historic Preservation Officer (THPO) and the Department of Archaeology and Historic Preservation (DAHP) to have a professional qualified archaeologist on-site to monitor earth-moving activity in real-time and to issue a report at the conclusion of the construction. In addition, an Inadvertent Discovery condition will be included in the event that ground-disturbing activity uncovers any cultural, historic or archaeological resources on-site.
16. The proposal is consistent with the policies of the SMPTR regarding Recreation, Section 3, Chapter 14 Part B, Policies and Regulations for Use Activities.
 1. Priorities for recreational development of shorelines should relate directly to densities and unique characteristics of the population served. Priorities for acquisition should consider need and special opportunities as well as access by public transit.

The proposed project improves access to the viewing area for low-mobility visitors. The Park is accessible by motor vehicles of all kinds. The project is designed to address the “densities and unique characteristics” of those served by handling high volumes of foot-traffic in a way that protects the Park’s unique resources.

2. All recreational development projects should be considered on the basis of their compatibility with the environment.

The proposed project will restore the character of the site and allow riparian habitat defining the shoreline environment here to recover from adverse impacts. The project is compatible with the environment and would prevent adverse impacts.

3. Access to recreational locations such as fishing streams and hunting areas should be planned to prevent concentration of use pressures.

The proposed facility will “prevent concentration of use pressures” and is intended to eliminate adverse impacts of foot-traffic volumes. Upgrading and maintenance of the existing public access site will prevent concentration of uses elsewhere.

4. The linkage of shoreline parks and public access points through provisions for linear open spaces should be encouraged. Such open space could include hiking paths, bicycle paths and/or scenic drives located as close to the water’s edge as feasible.

Deschutes Falls Park includes trails, open space; establishing linear open space linkages is beyond the scope of this project and not applicable.

5. Recreational developments should be designed to preserve, enhance or create scenic views and vistas. Favorable consideration should be given to those projects that complement their environment.

The project purpose is to “preserve, enhance, [and maintain a] scenic view and vista.” The project complements, maintains, and restores its environment.

6. Where possible, parking areas should be located inland, away from the immediate edge of the water, and recreational beaches, and should be linked with the shoreline by walkways.

The project will not alter the existing parking area, which is located well inland of the Deschutes River shoreline at a trailhead that links visiting hikers to the overlook.

7. Recreational development should comply with all applicable city, county, state, and federal regulations.

The proposed project is being reviewed through this permitting process for any applicable regulations at the federal, state, and county levels. The Applicant would be required to obtain applicable state and federal permits. The JARPA application submitted for this SSDP application was also submitted to state and federal agencies.

8. Facilities for intensive recreational activities should be permitted only where sewage disposal and pest control can be accomplished to meet public health standards without altering the environment adversely.

The low-intensity passive recreational facility proposed here does not require sewage disposal, which is provided for elsewhere in Deschutes Falls Park.

9. Development of public fishing piers, underwater fishing reefs, and access to public waters and tidelands should be encouraged as part of an overall recreation plan or development.

Not applicable to this site or project.

10. Where appropriate, non-intensive, recreational use should be encouraged on flood plains that are subject to recurring flooding.

Not applicable to this site or project.

11. Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity.

Not applicable to this site or project

17. The proposal is consistent with the policies of the SMPTR regarding Recreation, Section 3, Chapter 14 Part B, General Regulations.

1. Public access points on lakes must provide parking space appropriate for the intended use.

Deschutes Falls Park contains ample parking at the trailhead leading to the overlook.

2. Recreation facilities or structures which are not compatible with the environmental designation in which they are proposed are prohibited.

Public access facilities and passive recreation are allowed in the Conservancy shoreline environment.

3. Events and temporary uses in the public interest may be approved by the Administrator in any environment, provided that such uses will not damage the wetland environment.

Not applicable to this application.

4. Recreational developments must provide facilities for nonmotorized access, such as pedestrian, bicycle and/or equestrian path links to the shoreline.

This existing site is designed for nonmotorized access on foot. The hiking trail and public access overlook is a pedestrian facility offering passive recreational activities.

5. Sewage disposal and pest control must meet public health standards; waste must not be allowed to enter the water.

The site is located away from the shoreline and is designed to prevent waste from entering the Deschutes River by stopping the erosion processes generated by unconstrained, off-trail foot traffic. Restrooms are located sewage disposal from the public utilizing this site.

6. The regulations shall apply to artificial aquatic life habitats.

Not applicable to this application.

7. Public or private recreation areas which cater to the use of all-terrain or off-road vehicles as the primary recreational activity shall not be allowed in the shoreline areas.

Not applicable to this application.

8. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer.

Not applicable to this application.

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

Not applicable to this application.

18. WAC 173-27-140. Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

As provided above, the project is consistent with the policy and provisions of the Shoreline Management Act and the Shoreline Master Program for the Thurston Region.

- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

The project is designed to enhance access to scenic views through upgrades that improve safety and protect the environment. No residences exist nearby, no views will be obstructed, and no structures over 35 feet in height are proposed.

19. WAC 173-27-150. Review criteria for substantial development permits.
- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
 - (a) The policies and procedures of the act;
 - (b) The provisions of this regulation; and
 - (c) The applicable master program adopted or approved for the area.

As provided above, the project is consistent with these criteria, the Shoreline Management Act, the approved SMPTR and with applicable policies.

- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program. (RCW 90.58.140(3))

The necessary conditions to the approval of the requested permit are attached.

- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
 - (a) The policies and procedures of the act;
 - (b) The provisions of this regulation;
 - (c) The applicable master program adopted or approved by the area.

As provided above, the project is consistent with these criteria, the Shoreline Management Act, the approved SMPTR and the applicable policies.

- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

As provided below in the Conclusions, the appropriate conditions have been attached to the approval.

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 shoreline substantial development permit should be approved, subject to the following conditions.
 1. Prior to or in conjunction with the issuance of any building permits, all applicable regulations and requirements of the Thurston County Public Health and Social Services department, Public Works Department, Fire Marshall, and Thurston County Resource Stewardship Department shall be met.
 2. Inadvertent Discovery: Cultural and Archaeological. In the event that ground-disturbing activity results in the inadvertent discovery of cultural material or archaeological remains, the Applicant must immediately stop work, and shall and contact the Tribes and the State Department of Archaeology and Historic Preservation at 360-586-3065.
 3. Environmental Health. There shall be no staging of materials and no parking of vehicles or equipment over any portion of the septic system components. Caution should be taken to prevent any equipment travel or storage of materials over the existing septic tank components located on Tax Parcel 23510210000.
 4. Public Works/Development Review. Prior to issuance of building permits, the applicant shall obtain approval of any revised site map, to the satisfaction of the Development Review Section of Thurston County Public Works.
 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. The Applicant shall install erosion control measures prior to any clearing, excavation, grading, or construction activity. Any revised site plans or erosion controls must be approved by Thurston County Development Review prior to construction.
 7. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.

8. All removed debris and waste materials resulting from this project must be disposed of at an approved site. Property owners, developers, and contractors are encouraged to recycle all possible left over construction, demolition, and land clearing (CDL) materials and reduce waste generated. Please visit <http://1800recycle.wa.gov> to find facilities that recycle construction, demolition, and land clearing materials in your area.
9. If contamination is known or suspected during construction, testing of potentially contaminated soil or fill media must be performed. If soil or groundwater contamination is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).
10. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings
11. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION:

The request for a shoreline substantial development permit for Deschutes Falls Walkway and Viewing Platform at 25005 Bald Hill Road S.E., Yelm, WA 98597 is hereby granted subject to the conditions stated above.

ORDERED this 22nd day of June, 2021.



STEPHEN R. SHELTON
Deputy Hearing Examiner

TRANSMITTED this day of June, 2021, to the following:

APPLICANT: Thurston County Public Works
 Attn: Trevin Taylor
 9605 Tilley Road S.W.
 Olympia, WA 98512

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 **\$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____.