



COUNTY COMMISSIONERS

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District Three

**HEARING EXAMINER**

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*Creating Solutions for Our Future*

**FINDINGS, CONCLUSIONS AND DECISION  
OF THE HEARING EXAMINER FOR  
THURSTON COUNTY**

**CASE NO:** 2010100757 (Griffin Fire District reservoir special use permit)

**APPLICANT:** Thurston County Fire Protection District No. 13

**SUMMARY OF REQUEST:**

The Applicant requests a special use permit to construct a water reservoir/tank for filling fire trucks.

**LOCATION OF PROPOSAL:**

Thurston County Assessor's Parcel No. 12930120301 in Section 30, Township 19 North, Range 2 West.

**SUMMARY OF DECISION:**

The special use permit is granted, subject to conditions.

**HEARING AND RECORD:**

The hearing on this request was held before the undersigned Hearing Examiner on October 18, 2010. The following exhibits are admitted as part of the record:

Exhibit 1. Staff Report by Thurston County Resource Stewardship Department for Case No. 2010100757, prepared by Gayle C. Zeller and dated October 18, 2010. This Exhibit includes the seven-page Staff Report and Attachments a through l listed on Page 7 of the Staff Report. Attachment f includes both the reduced and the full size plan set offered into the record.

Exhibit 2. Photograph of notice posted at site.

Exhibit 3. Letter dated October 9, 2008 from John S. Wood to surrounding property owners.

Exhibit 4. Letter from Dennis Karras to John S. Wood.

Exhibit 5. Letter dated March 19, 2009 from John Wood to Dennis Karras.

At the hearing, the following individuals testified under oath:

Gayle C. Zeller, Associate Planner  
Thurston County Resource Stewardship Department  
2000 Lakeridge Drive SW  
Olympia, WA 98502

Jerry Morrissette  
Jerome W. Morrissette & Associates, P.S.  
1700 Cooper Point Road SW, #B-2  
Olympia, WA 98502-1110

John S. Wood  
Chief, Thurston County Fire Protection District No. 13  
3707 Steamboat Loop NW  
Olympia, WA 98502

After consideration of the testimony and exhibits described above, the Hearing Examiner makes the following findings of fact, conclusions of law, and decision.

### **FINDINGS OF FACT**

1. The Applicant requests a special use permit to construct a water reservoir with an outflow area and underground water lines at its fire station located on Gravelly Beach Loop Road near its intersection with Young Road. The concrete reservoir tank would be 15 feet high and 20 feet in diameter. It would be used to fill fire trucks at the station.

2. The details of the proposed improvements are shown in the Site Plan and drawings at Exhibit (Ex.) 1, Attachment (Att.) f. The reservoir will be located in the center of the site, as shown on the Site Plan, and will be more than 50 feet from any property line. No lights are associated with the proposal, and the Department recommends a condition restricting lights to those triggered by motion. The proposal is not expected to generate any noise. The reservoir will generate a minimal amount of

vehicular trips for maintenance. The paved area on the north side of the station has four parking spaces, which will be sufficient for the occasional visit for maintenance.

3. The Applicant will install an overflow pipe leading to an outfall in the southwest portion of the site, as shown on the Site Plan. This will handle possible overflow from the tank. Due to the low flow of the well pump, the amount of water in any overflow would be small. Ex. 1, p. 2. No evidence suggested that any reasonably expected overflow amount would reach other properties.

4. The fire station at issue was approved by the Thurston County Hearing Examiner in 1984, but a reservoir tank was not included in that approval. A reservoir tank is a typical component of a fire station.

5. The fire station is unstaffed and houses at least one fire tender truck.

6. The subject parcel is 1.03 acres in size and is zoned Rural Residential/Resource – One Dwelling Unit per Five Acres (RRR 1/5). It contains no critical areas. It is bordered by rural residences on large lots to the west, south and east. To the north lies Gravelly Beach Loop, beyond which are additional rural residences.

7. The parcel is screened by mature forest on the west, south and, with the exception of the access point to Gravelly Beach Loop, on the north. The east border of the site is not screened, and buildings associated with the neighboring parcel lie immediately beyond it. To achieve compliance with landscaping requirements of the zoning ordinance, the Department recommends a condition requiring a landscaped buffer along that portion of the east property line that contains no vegetation. The landscaping would consist of any combination of trees, live ground covers, shrubs, earthen berms, and other landscape features which will provide a year round sight-obscuring screen within three years. An aesthetically pleasing high solid fence could be substituted for the vegetative screen. This condition is included in the decision below.

8. The Fire District has no hydrants. It currently obtains water from a well on Steamboat Island Road and a few private water systems scattered throughout the District. The fire station at issue has a "local" well from which it can draw water for the tank. The private water systems, though, do not necessarily provide the quantities needed to suppress fires, and the need to travel to the Steamboat Island well delays fire response. The circumstances of the aquifer supplying the "local" well, discussed in Finding No. 9, below, calls into question whether that well could always supply needed water without the proposed reservoir tank. The proposed tank would help remedy these problems. See Ex. 3 and 5. The tank would also provide a gravity feed to the tender, which is faster and more reliable than suctioning from an underground tank. Ex. 5.

9. Mr. Karras' letter at Ex. 4 raises an important point in special use review: whether filling this large a tank would threaten the supply of domestic water for nearby

residents drawing from the same aquifer. The Applicant responded to Mr. Karras' question by stating in Ex. 5 that it had contacted Tom Loring, the Regional Manager of Water Resources at the Department of Ecology, about the situation. Mr. Loring determined that the amount of water drawn for the tank would not negatively affect the water supply, "if done during winter months or over a period of time." Ex. 5. To reduce its effect on the aquifer, the Applicant states that it will initially fill and will refill the tank from resources other than the local well. Ex. 5.

## CONCLUSIONS OF LAW

1. Thurston County Code (TCC) 20.03.040 defines "public facility" as:

"buildings or uses of land whether owned or leased, operated by a public agency for such purposes as providing places for public assembly and recreation, operating services of benefit to the public, or for the administration of public affairs."

A fire station is a public facility under this definition. As found, a reservoir tank is a typical component of a fire station. Public facilities are allowed in the RRR 1/5 zone subject to approval of a special use permit. TCC 20.54, Table 1. Therefore, this proposal requires a special use permit.

2. The heart of special use permit review is examining whether the proposed use is compatible with surrounding uses and properties. This requirement is seated in TCC 20.54.040 (3), which states:

"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:

a. 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 . . .

b. 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."

3. The only potential substantial or undue adverse effect on adjacent property disclosed by the evidence is that pertaining to the local aquifer. As discussed in Finding No. 9, above, the Department of Ecology states that the amount of water drawn for the tank would not negatively affect the water supply, "if done during winter months or over a period of time." In addition, the Applicant states that it will initially fill and will refill the tank from resources other than the local well. The Department of Ecology's

determination indicates that only outside of winter months would filling the tank from the well potentially threaten the water supply. The Applicant's willingness to fill and refill the tank from other sources would remove this potential outside of winter months. During winter months, Ecology's statement indicates that the well could be used to fill the tank without harm. Therefore, to ensure compliance with the above standards, this decision is conditioned to require that outside of winter months the tank shall be filled and refilled from resources other than the local well, unless the Department of Ecology determines that the local well can be used without risk to other water supplies. During winter months, the local well or any other appropriate water source may be used to fill the tank. The evidence did not specify what is meant by "winter months". A view to precipitation suggests that November through March would be a reasonable reading of "winter months". This will be used, unless relevant standards of the Department of Ecology or the County indicate a different period.

4. As conditioned, the Findings and the evidence show that the proposed facilities will 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 proposed 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. For these reasons, the proposed special use is appropriate in the location for which it is proposed. The proposal meets the requirements for special uses in TCC 20.54.040 (3), above.

5. Special uses must also comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans, including zoning regulations and the general purposes and intent of the applicable zoning regulations and subarea plans. TCC 20.54.040 (1) and (2). As conditioned, these requirements are met.

6. As conditioned, the proposal meets the requirements for a special use permit.

## **DECISION**

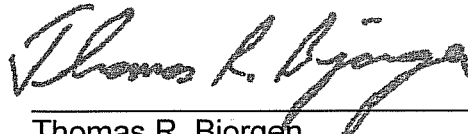
The special use permit is granted, subject to the following conditions:

1. Prior to any construction onsite, all applicable regulations and requirements of the Thurston County Environmental Health Division, Thurston County Public Works Department, Thurston County Fire Marshal, the Thurston County Resource Stewardship Department, State and Federal agencies and the Hearing Examiner Decision shall be met.
2. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.

3. All drainage facilities outside of the County right-of-way shall remain private and shall be maintained by the developer, owner and/or the property owners association.
4. 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 or impact any existing drainage or other properties.
5. 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.
6. There shall be no lights, other than motion sensitive security lights, associated with the reservoir.
7. Prior to permit issuance, a landscape plan is required. The landscape plan shall show a buffer strip along that area of the west property line that contains no vegetation. The buffer shall contain any combination of trees, live ground covers, shrubs, earthen berms, and other landscape features which will provide a year round sight-obscuring screen within three years. An aesthetically pleasing high solid fence may be substituted for the vegetative screen.
8. The applicant shall permanently maintain all landscape and planting areas in a healthy condition and replace any dead or dying vegetation.
9. All activities on-site shall fully comply with noise limitations outlined in WAC 173-60.
10. Any expansion of this use will require approval of a new or amended Special Use Permit. The Resource Stewardship Department shall determine if the expansion requires Hearing Examiner approval.
11. 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.
12. All development on the site shall be in substantial compliance with the approved site plan, except as conditioned above. Any expansion or alteration of this use, beyond that initially approved by the Hearing Examiner will require approval of a new or amended Special Use Permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
13. Outside of winter months the tank shall be filled and refilled from resources other than the local well, unless the Department of Ecology determines that the local well can be used without risk to other water supplies. During winter months, the local well or any

other appropriate water source may be used to fill the tank. "Winter months" include November through March, unless relevant standards of the Department of Ecology or the County indicate a different period.

Dated this 1st day of November, 2010.



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Thomas R. Bjorgen  
Thurston County Hearing Examiner







Project No. 2010100757 SUP  
 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:

## 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 3.21C.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 Development Services 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 Development Services 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 **\$595.00** for a Request for Reconsideration or **\$820.00** an Appeal). Any Request for Reconsideration or Appeal must be **received** in the Permit Assistance 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.