

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

CASE NO: 2009101125 (Application for a Reasonable Use Exception).

PETITIONER: Jeff Brown and Malanie Reimer.

SUMMARY OF REQUEST:

The Applicants have requested a Reasonable Use Exception to construct a single-family residence on a landslide hazard area slope. The Applicants have also requested that they be able to maintain two rock walls constructed at the base of this slope.

LOCATION OF THE PROPOSAL:

The subject project would be located in lot 6 of the Edwards Lake Lawrence, Division 6 subdivision, known as Tax Parcel No. 45870000600.

SUMMARY OF DECISION:

The request for a Reasonable Use Exception is DENIED.

HEARING AND RECORD:

The open record hearing on this request was held before the undersigned Hearing Examiner on June 20, 2011. The following exhibits are admitted as part of the record:

EXHIBIT 1 Land Use and Environmental Review Section Report with the following Attachments:

Attachment a Notice of Public Hearing

Attachment b Zoning/Site Map

Attachment c Master Application, received February 25, 2010

Attachment d Reasonable Use Exception Application, received February 25, 2010

Attachment e Reasonable Use Exception Criteria Responses, received April 29, 2011

Attachment f Development Narrative, undated

Attachment g Site Plan/Profile, Received April 29, 2011

Attachment h April 21, 2010 Comment Memorandum from John Ward, Thurston County Public Health and Social Services Department

Attachment i March 15, 2010 Comment Memorandum from Kevin Chambers,
Thurston County Public Works Department

Attachment j June 10, 2010 Comment Letter from the Washington State
Department of Ecology

Attachment k Grading & Erosion Control Plan, received April 29, 2011

Exhibit 2 Photo of Public Hearing Notice Posting
Exhibit 3 Geotechnical Report, January 12, 2010
Exhibit 4 Critical Areas Assessment for the Development of a Single Family Home along
Lawrence Lake, January 19, 2010
Exhibit 5 Shoreline Restoration Program Associated with the Development of a Single
Family Homesite within an Existing Parcel Along the Shoreline of Lawrence
Lake, August 17, 2010
Exhibit 6 Enlarged Site Plan with highlights
Exhibit 7 Color photo of Retaining Wall
Exhibit 8 Color photo of Higher Elevation of Retaining Wall
Exhibit 9 Color Photo of Concrete Wall with Shed
Exhibit 10 Color Photo of Shoreline
Exhibit 11 March 18, 2010 Letter from Department of Ecology

At the hearing, the following individuals testified under oath:

- Jeff Brown, Applicant.
- Matt Cyr, Abbey Road Group and consultant for the Applicant.
- Robert Smith, Senior Planner, Thurston County Resource Stewardship Department.
- John Ward, Thurston County Public Health and Social Services.
- Arthur Saint, Civil Engineer, Thurston County Roads and Transportation Services,
Development Review.

After considering 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 seeks approval of a Reasonable Use Exception (RUE) to construct a one-story single-family residence with a daylight basement on a slope designated as a landslide hazard area and its buffer. Ex. 1, Attach. d, e, f, and g. The proposed residence would be

approximately 1,580 square feet in size with a building footprint of approximately 1,302 square feet.

2. The daylight basement portion of the project would be cut into the slope. Ex. 1, Attach. g
3. The subject property is located between the shore of Lawrence Lake and Lakepoint Drive Southeast. The area of the property between the top of the steep slope and Lakepoint Drive is gently sloping. Fill material has been placed in the northeast corner of the property at the top of the gently sloping hill. Test of Matt Cyr. The property is bisected by a steep slope which lies toward the southwest portion of the property and is approximately 15 feet in height and approximately 100 percent. Ex. 6; Ex. 3, p. 4. This steep slope is considered to be a landslide hazard area.
4. The evidence indicates that approximately a ten-foot portion of the proposed structure, across its width, would extend approximately ten feet beyond the top of the landslide hazard slope. The residence is proposed to have a 13 by 25 foot deck that extends from the southerly side of the residence. The deck would extend, along its width, approximately 15 feet over the toe of the slope. Ex. 1, Attach. g. As the residential structure is currently proposed, it would almost completely occupy the 50 foot buffer, measured from the top of the slope, for the landslide hazard area.
5. Domestic water is to be supplied by the Lake Lawrence public water system. Ex. 1, p. 2.
6. The subject property is zoned Residential LAMIRD – Two Dwelling Units Per Acre (RL 2/1) and is located in rural Thurston County. A single-family residence is a permitted use in the RL 2/1 zoning district. Ex. 1, p. 2. Surrounding land uses consist of single-family residences of the Edwards Lake Lawrence subdivision to the north, east, and west. Lawrence Lake lies to the south. Ex. 1, p. 2. There was no evidence of any building height restrictions in this neighborhood.
7. A septic tank and drain field already have been installed along the southeastern property boundary, just northeast of the proposed building site. Ex. 1, Attach. g. It is apparent that the Applicants purchased the property with the septic system already installed. Test. of Jeff Brown.
8. When the Applicants initially submitted the building permit application to the county for the proposed home, the site plan did not indicate that a basement was contemplated. Test. John Ward. The County Building Code requires a 25 foot setback between the basement wall cut and the edge of the septic system's disposal field. Based on the drawings submitted, it is difficult to tell whether this setback requirement has been met. County staff contemplates this issue would be more fully addressed as part of the building permit process. Test. John Ward.
9. The subject property lies along the shoreline of Lawrence Lake, which is a water body under the jurisdiction of the Shoreline Master Program for the Thurston Region (SMPTR). The

subject property falls within the jurisdiction of the SMPTR and is designated as rural shoreline. A single family residence is a permitted use within the rural shoreline subject to certain development standards. Those standards include a minimum structural set back of fifty feet from the ordinary high water mark of the lake and minimum vegetation buffers along the lake shore. Ex. 1, p. 2.

10. The County Building Code requires a 25 foot setback between the basement wall cut and the edge of the septic system's disposal field. Test. John Ward. The setbacks required by County ordinance between the septic system and other aspects of the property are as follows: between the septic system and Lake Lawrence's high water mark -- at least 100 feet; between the septic tank and the adjacent property lines -- five feet; between the septic system and the county right of way for Lake Point Drive, which is marked on Ex. 6 by a dashed line -- five feet. Test. of Ward and Robert Smith. The evidence indicates that the residential structure, as it is currently proposed, sits less than five feet from the septic tank and approximately ten feet from the drain field. Ex. 6.
11. The setback required by County ordinance between a building structure and the road right of way for Lake Point Drive is 20 feet. Test. of Smith. The evidence indicates that the residential structure, as it is currently proposed to be located sits five feet from the northwest property line. Ex. 6.
12. The evidence supports a finding that the site will support other uses with less impact on the landslide hazard area. These might include, for example, a 2,125 to 2,625 square foot residential structure (excluding garage space) with a configuration and footprint that do not extend into the steep slope. The evidence did not indicate any building height restrictions in the neighborhood. The evidence also did not indicate that the soils would not support a two story structure. Based on the premise that no restrictions would prohibit the construction of a two-story residential structure and that the soils underlying the site would support a two-story structure, and based on the setback requirements set forth in finding Nos. 8-11, it would be possible to construct a structure as wide as 25-30 feet and as deep as 50 feet, construct the structure as a two-story home, locate the structure on the northwest portion of the property with the structure remaining twenty feet back from the road right of way, five feet from the adjoining property line to the northwest, and five to ten feet from the existing septic tank drain field. The evidence indicates that no re-grading of the slope would be required to place a residential structure back from the top of the slope as described above. Ex. 6.
13. The evidence supports a finding that the septic tank also could be moved, if needed, to support a reconfiguration of the structure. The septic tank was permitted and constructed under a prior version of county ordinance. Test. of Ward. Moving the system would entail abandoning the existing tank and drain field and installing a new system, which the county would require to be designed under current regulatory provisions. Test. of Ward. It is likely that a different system in a different upslope location could be permitted under the current county code, although the county staff could not comment on any possible design or technology without responding to an actual proposal for a new septic system. Test. of Ward. The septic system must remain five feet from the road right of way. Test. of Ward. Also, if

the system remained on the southeastern portion of the property, moving the system would require the removal of fill that was placed in this area. Test. of Ward. However, these limitations do not appear to make it impossible to reconfigure and move the household waste disposal system.

14. The evidence supports a finding that it would not be possible to place any structure on the property, given the required setbacks, and remain outside of the required buffer for the landslide hazard area. Ex. 6.
15. A geotechnical engineering investigation and report was submitted by the Applicants in support of their request for a RUE. Ex. 3. The report was prepared by Phil Haberman, P.G., PEG, Senior Engineering Geologist, and Sean L. Caraway, P.E., Senior Geotechnical Engineer, of Kane Environmental Incorporated. These individuals opined that the home can be constructed on the property, subject to their recommendations, without causing slope failure. This opinion is more fully expanded in the findings 16 through 23 below.
16. Based on digging and examining materials from two test pits and two hand borings, the report indicates that the site is underlain by glacially consolidated outwash materials, which are generally medium dense to dense, and are not prone to deep seated landslide activity, in a relatively undisturbed condition. Ex. 3, pp. 5-6.
17. Kane checked for the presence of groundwater during and immediately following the test pit and hand boring work. None was encountered. However, no ground water tracking was installed. The report acknowledges that water table elevations will depend on seasonal variations, precipitation, irrigation and land use, and other factors. The report does not contemplate how these variations could affect the stability of the above soil types that underlie the site. Ex. 3, p. 5. The authors recommend that if any groundwater is encountered during construction, to bring an expert onto the site to observe the conditions and determine if dewatering is recommended. Ex. 3, p. 12.
18. The geotechnical engineering investigation sets forth a number of recommendations regarding design and construction of drainage control methods: (1) To prevent buildup of water within the footing areas, install specifically designed continuous footing drains (with cleanouts) at the base of each footing (Ex. 3, p. 14); (2) To reduce the lateral earth pressure and the buildup of water pressure against below-grade walls, install specifically designed continuous footing drains (with cleanouts) at the bases of the walls (Ex. 3, p. 15); (3) Slope the ground surface away from the building pads and pavement areas and toward appropriate drop inlets or other surface drainage devices and slope exterior grades at least three percent for at least ten feet away from the structure; (4) Tilt roof drains away from foundations; (5) Subgrade soils in pavement areas should be sloped to at least one percent and drainage gradients should be maintained to carry all surface water to collection facilities off site and maintain these grades for the life of the home; (6) Tightline collection facilities away from slopes that exceed 30 percent; and (7) Do not allow site runoff to flow over existing slope areas and the areas at the top of the steep slope, but rather grade the area to drain surface water away from the slope (Ex. 3, p. 16).

19. Natural geologic processes such as weathering and erosion, that the site slopes will slowly retreat toward the north and may affect the structure, albeit only in a limited fashion, over the next 50 to 75 years, provided that proper drainage and erosion control features are implemented, if the natural vegetation is left in place to the greatest extent possible, and landscaping and other permanent erosion control features are in place. Slope retreat could accelerate if shallow slides and slope movement take place and are not properly mitigated and/or drainage measures are not maintained. Periodic maintenance of the slope area may be needed. Ex. 3, p. 6.
20. Unlike deep seated landslide activity, the soils underlying the site are prone to erosion in a disturbed state. The report does not define a “disturbed state.” Erosion can be reduced through landscaping and surface runoff control. Ex. 3, p. 6. To reduce erosion and sloughing of the steep slope areas, the authors of the geotechnical engineering investigation recommend re-compacting the slope facing with vibratory forces. They also recommend performing this work prior to basement excavation or following backfilling operations of the basement walls. This is also recommended for the footing areas of the home. The authors recommend that this be verified by monitoring during construction by a geotechnical engineer or representative. Ex. 3, p. 8. The authors also recommend that no earthwork occur during the months of October through May. Ex. 3, p. 9.
21. Delineated soil conditions may not be fully accurate and, as excavation work progresses, it is advisable to re-evaluate the maximum inclination of the temporary slopes by a geotechnical engineers so that supplemental recommendations can be made. Soil and groundwater conditions can be variable and that scheduling for excavation work will need to be adjustable to deal with unanticipated conditions. Ex. 3, p. 11.
22. Construction related erosion and sediment control measures should be implemented in general accord with local recommendations, including:
 - a. Phase soil, foundation, utility, and other work that requires excavation or soil disturbance during the dry season – may through September. Grading activities can take place in wet weather with best management practices.
 - b. Complete all site work as quickly as possible.
 - c. Perimeter erosion and sediment control features may be needed to reduce sediment from entering surface water, including silt fences, a construction berm, and other filtration systems.
 - d. Runoff generated by dewatering discharge should be treated through construction of a sediment trap or other filtration method allowed given the space available.
23. The geotechnical engineering investigation concludes that the residential structure, as proposed, would be supported on a shallow foundation system bearing on the medium dense to dense native soils, or on properly compacted structural fill placed on these native soils. The authors expect to find bearing soils three to eight feet down where footers might be placed. Ex. 3, p. 6. The authors recommended that an expert observe the subgrade

conditions prior to placing any fill or concrete so that the expert can verify that any unsuitable materials have been removed. Ex. 3, p. 13.

24. The Applicant and Mr. Cyr could not say whether the soils on site would, or would not, support a two story structure.
25. It is possible that future purchasers of this home would not know of the ongoing maintenance needs contemplated in finding Nos. 18 and 19, unless they were told. Test. of Cyr and Smith.
26. To construct the home in the currently proposed location, to achieve consistency in the slope across the width of the proposed structure, it will be necessary to grade the face of the slope across the width of the proposed home – at least 45 feet – and alter the grade of the 15-foot landslide hazard area or slope. Test. of Cyr. The nature of this change is reflected on Exhibit 6 by the notation “proposed grade” and an adjacent dashed line indicating the existing slope. Ex. 6. The evidence supports a finding that this excavation is necessary as part of constructing the proposed structure and basement. Ex. 1, attach. i.
27. Prior to the time when the Applicants took ownership of the subject property, the property was cleared of most native vegetation, including tree cover. The natural slope of the property was also significantly graded from the original slope profile set forth in Exhibit 1, Attach. g. This clearing violated the SMPTR and CAO, and the slope grading violated the CAO. Ex. 1, pp. 2-3.
28. The Applicants constructed three block walls on the site, only two of which are within the landslide hazard area. This was done without approval by Thurston County. Ex. 1, Attach. e and g. The Applicants request approval to keep and maintain the two existing block walls in the landslide hazard area and for approval of the previous grading and vegetation removal on the slope. Ex. 1, Attach. e and g. The site is currently sparsely vegetated with grasses, blackberries, other herbaceous plants, and a few trees. Ex. 1, p. 3.
29. The Applicant references its Critical Areas Assessment (Ex. 5, p. 17) and a letter from the Washington Department of Ecology (Ex. 11) as evidence that the rock walls create no adverse environmental impact and can be left in place. However, the relevant portions of the critical areas assessment (Ex. 5) provide insufficient analysis to support a finding that the rock walls do not affect the stability of the steep slope. The Ecology letter appears to be on a different topic than slope stability; this document provides no probative value to the issue of slope stability.
30. The evidence does not support a finding that the use of the property depends on having cleared the site of native vegetation, grading the slope in the area of the block walls, or constructing the block walls.

CONCLUSIONS OF LAW

1. Thurston County Code (TCC) 17.15.415 provides: The application for a RUE, along with a recommendation made by the department, shall be heard by the Thurston County hearing examiner, who shall render a decision pursuant to TCC Chapter 2.06.
2. The steep slope on the property being approximately 15 feet in height and approximately 100 percent, by definition under the CAO, is a “landslide hazard area.” TCC 17.15.200. Landslide hazard areas are a type of geologic hazard area. *See* RCW 36.70A.030 (9); TCC 17.15.600.
3. The limits of the subject landslide hazard area are from the toe of the steep slope, approximately 50 feet from the edge of the lake, to the top of the slope, approximately 80 feet from the edge of the lake. Ex. 6; TCC 17.15.200. A fifty-foot buffer of native vegetation is to be maintained from the top and along the sides of the landslide hazard area. A twenty-five-foot buffer of native vegetation must be maintained from the toe of the landslide hazard area. TCC 17.15.620A1.
4. TCC 17.15.610 B and Table 5 of the CAO prohibits “single-family-residence, appurtenant structures, boathouse, deck, and garage” in Landslide Hazard Areas or their buffers. TCC 17.15 Table 5.
5. Any property owner may apply for a reasonable use exception to carry out a use or activity that is prohibited within a critical area or within the half of the required buffer or setback located closest the critical area. TCC 17.15.415.
6. The Applicants request a RUE to construct a residential structure in the buffer of the hazardous slope and across the top of the steep slope. The Applicants also request permission to maintain the re-grading and the constructed rock walls at the bottom of the original slope. Without the RUE, neither of these uses would be authorized.
7. According to TCC 17.15.415 C, a reasonable use exception may be granted only if all of the following requirements are met:
 1. No other reasonable use of the property as a whole is permitted by this chapter;
 2. No reasonable use with less impact on the critical area or buffer is possible;
 3. 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;
 4. Any alteration to a critical area is the minimum necessary to allow for reasonable use of the property; and

5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of this chapter.
8. Regarding the proposed residential structure, the first requirement is met because the reasonable use identified in finding 12 would also be prohibited by the CAO without the granting of a RUE. It would seem quite impossible to design any structure between the road right-of-way set back requirement and the fifty-foot landslide hazard area buffer. Therefore, it appears that no residential structure could be constructed without being placed inside of the fifty foot buffer required by TCC 17.15.620 and thus, being prohibited by the CAA and subject to the RUE requirement.
9. Regarding the rock walls at the base of the original slope, the first requirement is not met based on finding No. 27. Because the clearing and the slope grading violated the CAO, using the site in a restored state is not prohibited by the CAO. Neither is using the site in its original state without the rock walls.
10. Regarding the proposed residential structure, the second requirement is not met. The Applicant and County staff took the position that the CAO's protection of landslide hazard areas is safety only. Ex. 1, p. 4. The county asserts that because the Applicant's geotechnical engineers believe the proposed residence can be placed without destabilizing the slope, or compromising safety, that no smaller structure could have less impact. In addition, however, TCC 17.15.600 provides that the purpose of establishing geologic hazard areas is, among other things, to control erosion and siltation. It stands to reason that a differently configured structure that is set back from the top of the slope, which does not require the regarding of the slope, will have less impact to the critical area, at least in terms of soil and slope disturbance and also construction-related sedimentation. The geotechnical engineering report set forth a litany of conditions that must be met, both during the construction phase and over the next 50 to 75 years, in order prevent or reduce erosion and the slope from erosion and sloughing. Finding Nos. 18 and 19. Yet, there are no guarantees that the Applicant or future landowners would maintain the level of vigilance contemplated by the geotechnical engineers.
11. Regarding the rock walls at the base of the original slope, the second and fourth criterion are not met based on finding No. 30, because there is a reasonable use that is possible and impacts the critical area less and represents the minimum alteration of the slope as it existed in its original state—returning it to its original state.
12. The third requirement has been met for both the structure and the rock walls.
13. Regarding the proposed residential structure, the fourth requirement is not met based on finding Nos. 12 and 26. If, other reasonable uses of the property are possible, as indicated in finding No. 12, then grading required along the top of the slope for the proposed structure would not be the minimum alteration to the critical area necessary to allow for the reasonable

use of the property. This is so, even though the other use described would be subject to the RUE requirement because it would sit within the buffer of the landslide hazard area.

14. Regarding the rock walls, the fifth requirement is met based on finding Nos. 27 and 28.
15. The evidence does not support a conclusion that the Applicant is at fault for being unable to make a reasonable use of the subject property. First, there are reasonable uses allowed by the CAO for this property as set forth in finding No. 12. Also, the Applicant did not subdivide the property or adjust a boundary line thereby creating the undevelopable condition. Therefore, regarding the proposed residential structure, the fifth requirement is met.
16. To grant the RUE, the hearings examiner must find in favor of the Applicant on all five criteria set forth in TCC 17.15.415C. Because at least one of the five criteria for the proposed structure and the rock walls is found not to be met, the RUE is not granted.
17. The purpose of a RUE is to ensure that applicable land use regulations will allow a property owner some reasonable use of his or her property. This is clear from this first criterion. Its purpose is not to allow an owner his or her favorite or most profitable use of the property, as long as that use is "reasonable." Rather, its purpose is not to allow uses which are reasonable in terms of balancing development and environmental and safety protections required by the CAO. A RUE can only be issued if no other reasonable uses of the property with less impact on the critical area or buffer are possible and there are no alternative solutions that impose less impacts or alterations to a critical area. Here, regarding construction of the structure on the landslide hazard slope itself and regarding leaving the rock walls in place, this is not the case.

DECISION

The RUE to construct a residential structure on a landslide hazard area and to leave two rock walls on the landslide area intact is DENIED.

Dated this date of July 5, 2011



Jacqueline Brown Miller
Thurston County Hearing Examiner *pro tem*

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 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.



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 \$595.00 for Reconsideration or \$820.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Development Services Department this _____ day of _____ 20___. \\\MC1\Data\DevServ\Track\Planning\FForms\03.09.Appeal-Recon form.he.DOC