

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	Project No. 2011103481
)	SSDP-11-111060
Doug Eklund, on behalf of Thurston PUD)	
)	
)	Tempo Lake Glade Water System
For Approval of a)	
Shoreline Substantial Development Permit)	
_____)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for approval of a shoreline substantial development permit to upgrade an existing public water system, to include a new well, two buildings, 140 feet of underground pipe for water treatment, and approximately 130 feet of underground conveyance water line is **GRANTED** with conditions.

SUMMARY OF RECORD

Request:

Doug Eklund, on behalf of Thurston PUD (Applicant), requested approval of a special use permit (SUPT) to upgrade an existing public water system, to include a new water well, two buildings, 140 feet of underground pipe for water treatment, and approximately 130 feet of underground water line. The subject property is adjacent to Tempo Lake and is designated as Rural Shoreline environment pursuant to the Shoreline Master Program for the Thurston Region.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the request on April 16, 2012.

Testimony:

At the hearing the following individuals presented testimony under oath:

Robert Smith, Senior Planner, Thurston County Resource Stewardship Department
John Ward, Thurston County Environmental Health
Julie Parker, Thurston County PUD
Doug Eklund, JW Morrisette & Associates, Applicant Representative
Robert Fuller
Maureen Carbary

Exhibits:

At the hearing the following exhibits were admitted in the record:

EXHIBIT 1 Resource Stewardship Department Report including the following exhibits:

Attachment a	Notice of Public Hearing
Attachment b	Zoning/Site Map
Attachment c	Master Application, received September 29, 2011
Attachment d	JARPA Permit Application, received September 29, 2011
Attachment e	Narrative Description, received December 23, 2011
Attachment f	Site Plan Set, dated August 21, 2011
Attachment g	Mitigated Determination of Non Significance, Issued March 1, 2012
Attachment h	March 5, 2012 Comment Memorandum from John Ward, Public Health and Social Services Department
Attachment i	October 14, 2011 Comment Memorandum from Kevin Chambers, Public Works Department

EXHIBIT 2 Full size plan set (11x17)

EXHIBIT 3 Color copy of photo of posted public hearing notice

EXHIBIT 4 Well Site Approval Letter, John Ward, Environmental Health, dated March 5, 2012

Based on the record developed at hearing, the following Findings and Conclusions are entered:

FINDINGS

1. The Applicant requested approval of a shoreline substantial development permit (SSDP) to upgrade the existing Tempo Lake Glade public water system. Proposed improvements include: a new water well; two buildings; 140 feet of underground 12-inch pipe for water treatment; and approximately 130 feet of underground four- inch or smaller diameter water line. The water system is adjacent to a Rural shoreline environment as designated by the Shoreline Master Program for the Thurston Region (SMPTR).¹ *Exhibit 1, page 1; Exhibit 1, Attachment d, Joint Aquatic Resources Application (JARPA).*
2. The project site is located on 0.97-acre Lot 90 of the Tempo Lake Glade Division 3 subdivision, recorded in August 1965, on the south shore of Tempo Lake. The existing Group A water system serving the subdivision has been plagued with insufficient supply. Despite having drilled six wells, the system is still prone to outages during warm weather

¹ The legal description of the property is a portion of Lot 90 of the Tempo Lake Glade, Division 3 subdivision; known as tax parcel number 79080009001. *Exhibit 1, page 2.*

and higher consumption periods. The water system has experienced periodic episodes of coliform contamination. Well 6 produces water with arsenic levels over the maximum contaminant level allowed by the State of Washington drinking water standards. Group A public water systems operate under the regulatory authority of the Washington State Department of Health (WSDOH) Office of Drinking Water. The system upgrades are proposed in response to a Bi-lateral Compliance Agreement with the State Department of Health to improve the system's source of supply for both water quality and quantity. *Exhibit 1, page 2; Eklund testimony; Fuller testimony; Carbarry testimony.*

3. The proposed well (well 7) would be drilled near existing well 1 (currently in use) using cable tool drilling methods. The proposed 140 feet of 12-inch water treatment pipe would be installed underneath an existing paved parking lot. The water treatment pipe would convey water from well 1 to the distribution system while allowing adequate contact time for the proposed disinfectant to destroy bacterial contamination. The underground water lines would be installed by open trenching, backfilling, and surface restoration. *Exhibit 2, Sheets 1 and 2; Exhibit 1, Attachment d, JARPA; Eklund testimony.*
4. Both existing well 1 and proposed well 7 would be located in a lawn area. An existing eight- by eight-foot pump house building over well 1 would be removed and replaced with a new 10- by 20-foot building in the same location. The replacement structure would house well 1, well pump controls, and water treatment equipment. A second eight- by 12-foot well pump control building for well 7 is proposed adjacent to an existing paved parking area further upland. Both structures would be nine to 9.5 feet tall and minimally sized to enclose water system components. The buildings would have concrete foundations with conventional wood frame construction. Any areas disturbed by construction or water line installation would be revegetated with lawn and the area between buildings would continue to be available as open space. *Exhibit 2; Exhibit 1, page 4; Exhibit 1, Attachment d, JARPA; Smith testimony; Eklund testimony.*
5. Proposed well 7 would be drilled to a depth of between 150 to 250 feet. It is hoped that water from well 7 would be of sufficient quantity and quality to address the historic water quantity problem, in which case well 6 would be taken out of production. If the new well doesn't provide sufficient water volumes, abatement of well 6's water quality problems would be pursued in a separate project. The proposed water treatment facilities would be used to treat well 1 (which has experienced periodic coliform contamination) and/or to treat water quality issues in the new well 7's supply. *Eklund testimony.*
6. No in-water work is proposed. The nearest component of the project to the ordinary high water mark of Tempo Lake would be the replacement well house for well 1, set back 70 feet from water's edge. The second structure would be farther from the lake adjacent to the parking lot. Existing vegetation would partially screen the buildings from view from the lake. Upslope from the buildings are trees and a slope that would enable the improvements to blend in with the background. The buildings would not obstruct views from onshore. *Exhibit 2; Exhibit 1, page 4; Exhibit 1, Attachments d and e.*

7. The proposed improvements would be accessed by existing the driveway connection to public roads. The project would not alter access to the lake. *Exhibit 1, page 4; Exhibit 2.*
8. The site has a Residential LAMIRD – Two Dwelling Units Per Acre (R 2/1) zoning designation and the corresponding R 2/1 Comprehensive Plan land use designation. The existing water system is accessory to the Tempo Lake Glade subdivision and is a legally nonconforming use of the property. The proposed system upgrades are an intensification of the existing nonconforming use. Pursuant to Thurston County Code (TCC) 20.56.030(1), intensification of nonconforming nonresidential uses is permitted outright when the intensification is contained within the existing use area and is not different in kind from the existing nonconforming use. The proposal would not expand the site of the water system beyond Lot 90 and would not change the nature of the use. *Exhibit 1, pages 2- 3; Smith testimony.*
9. Construction is proposed to begin upon permit approval and to complete within six months. The project's cost and location within the Rural shoreline environment trigger the requirement for a shoreline substantial development permit. *Exhibit 1, page 3; Exhibit 1, Attachment d.*
10. The proposal includes silt fencing to prevent sediment laden run off during construction from reaching surface waters. With the exception of the new building footprint, all disturbed areas would be restored to match the conditions that existed prior to construction (lawn and paved parking). *Exhibit 1, page 5; Exhibit 1, Attachment d.*
11. The chemical used in the proposed water treatment component - sodium hypochlorite - is bleach. The Applicant proposes to store up to 32 two-gallon containers of the chemical (in liquid form) on a pallet standing in a high density polyethylene tray designed to contain up to ten gallons of leakage or spill. The tray would be inside the replacement well house for well 1. The proposed chemical containment measures would undergo review and must receive approval by the Washington State Department of Health. The product produced through use of the chemical on-site would be potable water. Any unintentional release of treated water would not result in the release of polluting materials. After construction and restoration of the site, the expanded water system is not anticipated to generate negative impacts to the lake. *Exhibit 1, page 6; Eklund testimony; Exhibit 2; Ward testimony.*
12. Tempo Lake does not host any aquacultural activities. The proposal would not construct hydroelectric or sewer facilities. The proposed water system upgrades are not an industrial activity as defined by the SMPTR. *Exhibit 1, pages 6-7.*
13. Thurston County Environmental Health Division (EHD) reviewed the project for compliance with applicable County sanitary health code provisions. No issues of concern were identified and EHD recommended approval with a condition requiring plans and specifications to be approved by the Washington State Department of Health prior to release of any County construction permits. EHD also inspected and approved the proposed well site for well 7, provided the appropriate 100-foot sanitary wellhead

protection radius is filed with the County Auditor. *Exhibit 1, Attachment h (see map of six potential well sites); Ward testimony; Exhibit 4.*

14. Thurston County Public Works Development Review section reviewed the proposal for compliance with applicable County Road Standards and the Drainage Design and Erosion Control Manual. Public Works recommended approval subject to a condition requiring the Applicant to apply for a Construction Stormwater Permit from the Washington Department of Ecology, if required by that state agency. *Exhibit 1, Attachment i; Exhibit 1, page 8.*
15. Pursuant to the State Environmental Policy Act, Thurston County acted as lead agency for review of potential environmental impacts of the proposal. Review included the following documents: an environmental checklist; JARPA; site plans; narrative proposal summary; Thurston County Public Works comments; Thurston County Environmental Health comments; and two comment letters from Washington State Department of Ecology. The SEPA Responsible Official concluded that with mitigation the proposal would not result in probable, significant, adverse environmental impacts and issued a mitigated determination of non-significance (MDNS) on March 1, 2012. The MDNS was not appealed. *Exhibit 1, page 3; Exhibit 1, Attachment g, MDNS.*
16. Written notice of the public hearing was sent to all property owners within 500 feet of the site and published in The Nisqually Valley News on April 6, 2012. Notice was posted on-site on the same date. The County received no public comment on the application. *Exhibit 1, page 3; Exhibit 3; Exhibit 1, Attachment A; Smith testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide special use permit applications pursuant to Thurston County Code Sections 2.06.010 and 20.54.015(2).

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permit pursuant to RCW Chapter 36.70, WAC 173-27, and Section One, Part V of the Thurston County Shoreline Master Program.

Criteria for Review

Pursuant to WAC 173-27-150, in order to be approved by the Hearing Examiner, an SSDP application must demonstrate compliance with the following:

1. The policies and procedures of the Shoreline Management Act;
2. The provisions of applicable regulations; and
3. The Shoreline Master Program for the Thurston Region.

(a) Shoreline Management Act

Chapter 90.58 RCW, the Washington State Shoreline Management Act of 1971, establishes a cooperative program of shoreline management between the local and state governments with

local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Shoreline Management Act. The Thurston County Shoreline Master Program provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

Some of the policies of RCW 90.58.020 are to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and wildlife.

(b) Applicable regulations from the Washington Administrative Code

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.
- (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.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

(c) Shoreline Master Program for the Thurston Region

SMPTR Section Three, Chapter XX, Part B. Policies

1. Wherever utilities must be placed in a shoreline area, the locations should be chosen so as not to obstruct or destroy scenic views. Utilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.
2. Where construction connected with utility placement occurs on shorelines, banks should be restored to their pre-project configuration, replanted with native species and maintained until the new vegetation is established.
3. Sewage treatment, water reclamation, desalinization and power plants should be designed and located so as not to interfere with, and to be compatible with recreational, residential or other public uses of the water and shorelands.

4. Sewage outfalls to waterbodies should be avoided in preference to recycling or land disposal of sewage wastes. Where no alternative to outfalls into water exist, location of such outfalls should be part of the appropriate regional plan for solutions to sewage management problems.
5. Utility rights-of-way should be used for public access to and along waterbodies where feasible.
6. If utilities must be located over the water, they should be placed on bridge-like structures rather than fill, and said structures should provide clearance for all marine vessels normally using the area.
7. New major transmission facilities should follow existing utility corridors unless prohibited by the environmental designation and regulations.

SMPTR Section Three, Chapter XX, Part C. General Regulations

1. Applicants for permits to locate utility lines in the shoreline jurisdictional area shall submit a location plan with their application which shows existing utility routes in the vicinity of the proposed utility line. The proposed utility lines shall follow existing utility, natural drainage or transportation routes where feasible.
2. All utility facilities shall be located on lots or routes no larger than necessary.
3. The approved projects shall identify a method of reclamation which provides for revegetation and protection of wetland areas from erosion. As a minimum, this shall include the restoration of the affected area to pre-development elevation, replanted with native or pre-existing species and provisions for maintenance care for the newly planted or seeded vegetation until it is established.
4. Utility services accessory to individual projects shall be regulated by the specific use regulations for the activity in addition to the standards of this section and shall not require separate Substantial Development Permits for utility service installations.
5. Where feasible, utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive or significantly detrimental to the environment.
6. Utility facilities shall be designed for minimal environmental and aesthetic impact and shall be coordinated with local comprehensive plans.
7. Underwater utilities shall be located at a depth sufficient to prevent interference between the utility and other shoreline use activities.
8. All utility facilities must provide safeguards to ensure that no long-term damage will be caused to the adjacent or downstream environment should an accident occur involving the utility.

9. No discharge of waste material which could result in decertification of aquacultural areas or products or cause lowering of water quality ratings is permitted.
10. No new hydroelectric generating facilities are allowed on the Nisqually River pursuant to the recommendations of the Nisqually River Management Plan.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA

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

Conclusions Based on Findings

1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. Expansion and improvement of an existing public water system is a reasonable and appropriate use within the Rural shoreline environment that would protect against and reduce adverse effects to the public health. Conditions would ensure that the improvements are built without negatively affecting the land, the lake, its wildlife, or public access to the waterbody. *Findings 1, 2, 3, 4, 6, 7, 9, 13, and 15.*
2. As conditioned, the proposal complies with applicable regulations in the Washington Administrative Code. The proposed structures are only nine feet in height and setback a considerable distance from the ordinary high water mark. Both the new building and the replacement well house (setback 70 feet from water's edge) would blend with existing improvements and surrounding residential development and would be partially screened by existing vegetation and the slope of the property. No significant impacts to views of or from the lake would result from the proposal. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Findings 4, 6, 7, and 9.*
3. The addition of one well, one well house, and underground water lines for treatment and conveyance within the same lot as the existing public water system would comply with all applicable policies and regulations of the SMPTR. The proposed improvements would be in the same location as the existing use. One of the two buildings would replace an existing building in the same location. Existing vegetation would be retained and would partially screen both buildings from view from the lake. Trees and the slope of the underlying property upland of the improvements would further mask any visual impacts from the project. Built with typical wood framing construction, the two structures would blend with residences on adjacent lots. At nine feet in height, the buildings would not obstruct views from onshore. After construction, disturbed areas would be restored (e.g., replanted with grass or repaved) to their pre-project conditions. Except for the footprint of the well 7 well house, the site would remain usable for public open space purposes and would continue to allow access to the lake. No in-water work is proposed; all permanent improvements would be setback at least 70 feet from the ordinary high water mark. Silt fencing and other erosion control measures would be used during construction to prevent sediment laden run off from reaching surface waters. The proposed treatment chemical containment measures would be reviewed for compliance with state requirements by the Washington State Department of Health. During operations, any accidental release of treated water would not present danger to the public health or the lake. This project does not include sewer, hydroelectric, or major transmission facilities. Tempo Lake does not support aquaculture. The water system upgrades are not an industrial activity as defined by the SMPTR. The proposal was reviewed by the Thurston County Public Health and Social Services Department and no public health concerns were identified. It was also reviewed for compliance with the requirements of the State Environmental Policy Act and an MDNS was issued. As conditioned, the proposal would improve water quantity and quality for the residents in Tempo Lake Glade subdivision without any adverse affects the shoreline environment. *Findings 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.*

DECISION

Based upon the preceding findings and conclusions, the request for approval of a shoreline substantial development permit to upgrade the existing Tempo Lake Glade Water system as described herein is **GRANTED** 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. Group A public water systems are under the regulatory authority of the Washington State Department of Health (WSDOH), Office of Drinking Water. Prior to issuance of building permits and installation/construction of the proposed water system upgrades the plans and specifications from the water system engineer must be reviewed and approved by WSDOH.
3. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.
4. All activities shall fully comply with the Thurston County Stormwater Drainage Design and Erosion Control Manual (TCC 15.05) throughout all phases of the proposed project.
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. Erosion control measures must be in place prior to any clearing, excavation, grading or construction and must be approved by the Resource Stewardship Department. These measures must be effective to prevent soil from being carried into surface water by stormwater runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants
7. 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.
8. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater 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).
9. The buildings shall be finished with residential type siding and shall be painted an earth

tone color.

10. Copies of the Best Management Practices (BMPs) for potential hazardous materials spills must be made accessible to all workers on the project site along with spill response materials (spill kits, absorbent pads & booms, etc.).
11. Construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

Decided April 30, 2012.



Sharon A. Rice
Thurston County Hearing Examiner *pro tem*



Project No. 2011103481 SSDP
 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 Resource Stewardship Department this _____ day of _____, 20____.

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 Resource Stewardship 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.