



COUNTY COMMISSIONERS

Cathy Wolfe
 District One
 Sandra Romero
 District Two
 Karen Valenzuela
 District Three

HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2004104836
)	
)	
Rob Rice, on behalf of)	Plat of Steilacoom Village
Summit Land Development LLC)	
)	
)	FINDINGS, CONCLUSIONS,
For a Preliminary Plat)	AND DECISION
_____)	

SUMMARY OF DECISION

The requested preliminary plat subdividing 95.71 acres into 298 single-family residential lots and approximately 40.71 acres of open space in rural Thurston County partially within the Lacey Urban Growth Area and partially within the Nisqually Hillside Overlay District is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request

Rob Rice, on behalf of Summit Land Development LLC (Applicant), requested approval of a preliminary plat subdividing 95.71 acres into 298 single-family residential lots and approximately 40.71 acres of open space. The subject property is south of Steilacoom Road at the top of the McAllister Bluff in unincorporated Thurston County.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on November 4, 2013. On the record at hearing, the Applicant agreed to extend the decision deadline to December 3, 2013. During deliberations, the Examiner requested and the Applicant agreed to an additional decision issuance extension through December 6, 2013.

Testimony

At the open record public hearing, the following individuals presented testimony under oath:

Tony Kantas, Associate Planner, Resource Stewardship Department
 Sara Brallier, Thurston County Environmental Health

Arthur Saint, P.E., Development Review Department
Rob Rice, Summit Land Development LLC, Applicant
Jeff Pantier, Hatton Godat Pantier
Steve Hatton, Hatton Godat Pantier
Mick Phillips, Attorney for the Applicant
John Sondergard
Chuck Lindsey
Liz Kohlenberg
Tom Cook
Holly Chisa
Mitch Larsson
Kris Hare
Dr. John C. Britcher
Robert Cockrell
Sandra Lee Braget

Exhibits

At the open record public hearing, the following exhibits were admitted into the record:¹

Exhibit 1	Resource Stewardship Department Staff Report with the following attachments:
Attachment a	Notice of Public Hearing
Attachment b	Preliminary Plat Application, dated 9/29/04
Attachment c	Forest Land Conversion Application, dated 9/29/04
Attachment d	Vicinity/Zoning Map
Attachment e	Aerial Photo
Attachment f	Site Plan, Revision Date May 11, 2012
Attachment g	Re-Issuance of a Mitigated Determination of Non-Significance, Issued November 6, 2012
Attachment h	July 29, 2011 Letter from the North Thurston School District
Attachment i	July 25, 2011 Letter from Thurston County to the North Thurston School District
Attachment j	Mitigation Agreement between the Applicant and North Thurston School District
Attachment k	June 29, 2004 Sewer availability letter from the City of Lacey
Attachment l	June 25, 2004 Water Availability Letter from Meadows Water System

¹ The findings begin on page 11.

Attachment m	October 17, 2012 SEPA Recommendation Letter from the Thurston County Public Works Department
Attachment n	February 1, 2013 Plat Recommendation Letter from the Thurston County Public Works Department
Attachment o	December 5, 2007 Recommendation Letter from Thurston County Health Department
Attachment p	March 29, 2011 Comment Letter from State of Washington Department of Ecology
Attachment q	November 4, 2009 Comment Letter from State of Washington Department of Ecology
Attachment r	November 3, 2004 Comment Letter from State of Washington Department of Ecology
Attachment s	July 29, 2004 Tree Preservation Plan
Attachment t	March 9, 2005 Hearing Examiner Decision Regarding Lacey Urban Growth Area Boundary Interpretation
Attachment u	January 5, 2011 Letter from Steven Hatton to Tony Kantas
Attachment v	December 15, 2010 Letter from Tony Kantas to Jeff Pantier
Attachment w	December 15, 2010 Email from Nadine Romero to Arthur Saint
Attachment x	December 7, 2010 Email from Steven Johnson to Arthur Saint
Attachment y	November 29, 2010 Email from Nadine Romero to Steve Hatton
Attachment z	November 29, 2010 Email from Steve Hatton to Nadine Romero
Attachment aa	November 24, 2010 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment bb	September 10, 2010 Letter from Steven Hatton
Attachment cc	August 2, 2010 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment dd	June 30, 2010 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment ee	June 15, 2010 Email from Jeff Pantier to Tony Kantas
Attachment ff	June 14, 2010 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment gg	January 27, 2010 Letter from Steven Hatton to Tony Kantas

Attachment hh	December 22, 2009 Letter from Steven Hatton to Tony Kantas
Attachment ii	November 24, 2009 Letter from Steven Hatton to Tony Kantas
Attachment jj	November 17, 2009 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment kk	October 9, 2009 Memorandum from Nadine Romero, Thurston County Hydrogeologist
Attachment ll	January 22, 2009 Email from Paul Grant, PanGeo
Attachment mm	October 29, 2008 Memorandum from Nadine Romero, Thurston County Water and Waste Management
Attachment nn	October 3, 2008 Letter from Steven Hatton
Attachment oo	December 27, 2004 Memorandum from Steven Johnson, Thurston County Water and Waste
Attachment pp	December 3, 2004 Letter from Robert Mead, Thurston County Health Department
Attachment qq	November 29, 2004 Memorandum from Arthur Saint, Development Review
Attachment rr	Peer Review Agreement between Thurston County and PanGeo
Attachment ss	December 21, 2009 Technical Memorandum from Associated Earth Sciences
Attachment tt	September 1, 2009 report from Erickson Groundwater Service
Attachment uu	Letter from Denis Erickson to McAllister Creek Homeowners Association and Nisqually Heights Homeowners, undated
Attachment vv	August 26, 2008 Geotechnical Review from PanGeo
Attachment ww	July 2, 2008 Hydrogeologic Evaluation from Associated Earth Sciences
Attachment xx	June 13, 2008 Hydrogeologic Evaluation from Associated Earth Sciences
Attachment yy	November 20, 2007 Hydrogeologic Evaluation from Associated Earth Sciences
Attachment zz	October 4, 2006 Hydrogeologic Evaluation from Associated Earth Sciences

Attachment aaa September 13, 2005 Response from Associated Earth Sciences

Attachment bbb Comment Letters

1. November 20, 2012 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
2. February 24, 2012 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
3. December 27, 2011 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
4. November 17, 2011 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
5. October 18, 2011 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
6. October 3, 2011 Comment Letter from Larry and Eve Taylor
7. September 23, 2011 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
8. March 27, 2011 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
9. October 20, 2010 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
10. July 26, 2010 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
11. June 21, 2010 Email from Tom Cook to Tony Kantas
12. February 2, 2010 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
13. January 11, 2010 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
14. November 23, 2009 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
15. October 24, 2009 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
16. August 31, 2009 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
17. July 22, 2009 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
18. October 27, 2008 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors

19. September 15, 2008 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
20. August 12, 2008 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
21. July 28, 2008 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
22. December 20, 2007 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
23. November 9, 2006 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
24. February 25, 2005 Comment Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors
25. October 28, 2004 Comment Letter from Tom Cook
26. Letter in response to the Notice of Application from the Ridge Homeowners Association, undated
27. January 13, 2005 Comment Letter from John Loncar
28. November 20, 2012 Comment Letter from McAllister Creek Homeowner's Association and the Nisqually Heights Neighborhood
29. February 24, 2012 Comment Letter from McAllister Creek Homeowner's Association and the Nisqually Heights Neighborhood
30. December 27, 2011 Comment Letter from McAllister Creek Homeowner's Association and the Nisqually Heights Homeowners, including attachments
31. October 18, 2011 Comment Letter from McAllister Creek Homeowner's Association and the Nisqually Heights Homeowners, including attachments
32. October 3, 2011 Comment Letter from Larry and Eve Taylor

Attachment ccc	Preliminary Drainage and Erosion Control Report, revision dated April 23, 2012
Attachment ddd	Integrated Pest Management Plan, dated July 30, 2004
Attachment eee	Road and Street Link Capacity Review, dated January 27, 2011
Attachment fff	Level II Traffic Impact Analysis Addendum, dated March 20, 2012
Attachment ggg	Level I Trip Generation and Distribution Letter, dated August 6, 2004

- Attachment hhh Gopher Reconnaissance, dated June 17, 2009
- Attachment iii September 1, 2004 Hydrogeologic Evaluation and Stormwater Infiltration Feasibility
- Attachment jjj January 10, 2012 Memorandum from Arthur Saint, Thurston County Public Works
- Attachment kkk September 22, 2011 Letter from Washington State Department of Ecology
- Attachment III June 4, 2012 Letter from Washington State Department of Ecology
- Attachment mmm July 11, 2011 Geology Evaluation from Wendy Gerstel
- Attachment nnn January 23, 2013 Letter from Washington State Department of Ecology
- Attachment ooo September 11, 2013 Email withdrawal of the SEPA appeal
- Attachment ppp November 27, 2012 appeal to the MDNS
- Exhibit 2 Full Site Site Plan
- Exhibit 3 Color Photos of Public Hearing Notice Posting
- Exhibit 4 Comment emails:
 - a. Murl Eley, November 3, 2013
 - b. Teruyo Khikiba, November 2, 2013
- Exhibit 5 Enlarged Color Site Plan
- Exhibit 6 Bald Eagle Evaluation, prepared by EnviroVector, November 3, 2013
- Exhibit 7 Supporting documentation from the Applicant including:
 - a. Reciprocal Easement Agreement, September 12, 2011
 - b. Tree Preservation Plan, July 29, 2004
 - c. City of Lacey Sewer Availability Confirmation Letter, August 28, 2008, together with City of Lacey Sewer Availability Letter, June 29, 2004
 - d. Puget Sound Energy Right-of-Way Easement, May 5, 2008
 - e. North Thurston School District letter, July 29, 2011, together with North Thurston School District Draft Mitigation Agreement, December 4, 2006
 - f. Response Letter and Revised Level II Steilacoom Ridge Traffic Impact Analysis, September 17, 2012, with:
 - 1. Letter from Steve Hatton to Tony Kantas, January 31, 2011
 - 2. Road and Street Link Capacity Review, January 27, 2011
 - 3. Level II Traffic Impact Analysis Addendum, September 16, 2005
 - 4. Level II Traffic Impact Analysis, January 18, 2005

- g. Notice of Application, January 7, 2005, together with Notice of Application, January 11, 2005
- h. Engineered Site Plans, five pages
- i. Integrated Pest Management Plan, July 30, 2004

Exhibit 8 Stormwater Record Summary:

- a. Summary of Proposal to Mitigate Impacts on Nisqually Bluff, November 4, 2013; Stormwater – Hydrogeology Review Timeline
- b. Original Stormwater Proposal including: Hydrogeologic Evaluation and Stormwater Infiltration Feasibility Report, Associated Earth Sciences, September 1, 2004 with the following: Memorandum from Arthur Saint, November 29, 2004; Comments from McAllister Creek Homeowners Association and Nisqually Heights Homeowners, February 25, 2005; PanGeo Proposal for 3rd Party Review, March 7, 2005; PanGeo Request for Additional Information, May 26, 2005; Associated Earth Sciences, Inc. Response to Request for Additional Information, including attachments; PanGeo Geotechnical Review, December 30, 2005; McAllister Creek Homeowners Association Response to December 30, 2005 PanGeo Peer Review, January 17, 2006; Memorandum from Steven Johnson, Thurston County Water & Waste Management, January 23, 2006
- c. Hydrogeologic Evaluation: Revised Stormwater Management Plan, Associated Earth Sciences, October 4, 2006 with the following: Letter from Jeff Pantier, October 10, 2006; Memorandum from Arthur Saint, Thurston County Roads and Transportation Services, November 20, 2006; Memorandum from Steven Johnson Water & Waste Management, November 16, 2006; Letter from Steven Hatton, January 4, 2007; Letter from Tony Kantas, Development Services, February 21, 2007; Memorandum from Arthur Saint, Roads & Transportation Services, February 20, 2007; Memorandum from Steven Johnson, Water & Waste Management, February 14, 2007; Letter from Steven Hatton, April 10, 2007; Memorandum from Arthur Saint, Roads & Transportation Services, June 8, 2007; Letter from Steven Hatton, July 5, 2007; Memorandum from Arthur Saint, Roads & Transportation, July 13, 2007; Letter from Steven Hatton, July 20, 2007; Letter from Steven Hatton, July 25, 2007, including Surface Water Test Results by Water Management Laboratories, Inc., dated July 12, 2007; Letter from Tony Kantas, Development Service, August 16, 2007, including Puget Sound Energy Letter dated July 23, 2007; Letter from Steven Hatton, November 27, 2007; Letter from Jocelyne B. Gray, November 27, 2007; Letter from Jocelyne B. Gray, November 27, 2007; Hydrogeologic Evaluation: Stormwater Management Plan, November 20, 2007

- d. Peer/Neighborhood Review of Revised Stormwater Management Plan: Questions for the Peer Reviewer, Erickson Groundwater Services Co., December 20, 2007; Geotechnical Review, W. Paul Grant, March 22, 2008; Hydrogeologic Evaluation: Stormwater Management Plan, Jon N. Sondergaard, June 13, 2008; Thurston County Third Party Reviewer Technical Memorandum, Jon N. Sondergaard, July 2, 2008, including attachments; Letter from Steven Hatton, July 31, 2008; Letter from Nisqually Heights and McAllister Creek community, August 12, 2008; Letter from Denis Erickson, August 11, 2008; Letter from W. Paul Grant, August 26, 2008; Letter from Steven Hatton, October 3, 2008; Memorandum from Steven Johnson, Water & Waste Management, October 29, 2008;

- e. Thurston County Hydrogeologist Review: Letter from Nisqually Heights & McAllister Creek Communities, July 22, 2009, including attachments; Agenda, August 21, 2009, including attachments; Final Report, Steilacoom Ridge – Nisqually Bend Subdivisions Hydrogeologic Characterization, September 1, 2009; Correspondence from Nadine Romero, October 9, 2009; Mitigated Determination of NonSignificance, October 21, 2009; Letter from Nisqually Heights & McAllister Creek Communities, October 24, 2009, including attachments: Email from Sonia Mendoza, November 4, 2009;

- f. Focus on Phase IV: Email from Nadine Romero, November 17, 2009, including attached letter from Nadine Romero dated November 17, 2009; Letter from Steven Hatton, November 24, 2009; Letter from Steven Hatton, December 22, 2009; Ground Water Monitoring Analysis: Phase 4 Infiltration Pond, December 21, 2009; Letter from Steven Hatton, January 27, 2010; Ground Water Monitoring Analysis: Phase 4 Infiltration Pond, January 27, 2010; Memorandum from Nadine Romero, May 4, 2010; Memorandum from Nadine Romero, June 14, 2010; Email from Jeff Pantier, June 15, 2010; Memorandum from Nadine Romero, June 30, 2010; Re-issuance of a Mitigated Determination of NonSignificance, July 13, 2010; Letter from McAllister Creek & Nisqually Heights, July 26, 2010, including attachments; Memorandum from Nadine Romero, August 2, 2010; Letter from Steven Hatton, December 22, 2009; Letter from Steven Hatton, August 3, 2010, including attached excerpt from October 1, 2008 Drainage Report

- g. More Modeling in Phase IV: Letter from Steven Hatton, September 10, 2010; Fax Transmittal from Jeff Pantier, including Comments from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, October 20, 2010; Memorandum from Nadine Romero, November 24, 2010; Email from Nadine Romero, November 29, 2010; Email from Nadine Romero, December 15, 2010; Letter from Tony Kantas, December 15, 2010; Letter from Steven Hatton, January 5, 2011,

including attachments; Re-Issuance of a Mitigated Determination of NonSignificance, March 15, 2011; Email from Tony Kantas, March 28, 2011; Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, March 27, 2011; Memorandum from Arthur Saint, July 27, 2011

- h. Department of Ecology Phase: Letter from Vicki Cline, September 22, 2011; Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, September 23, 2011, including July 11, 2011 Gerstel report; Notice of Continuation of Public Hearing before the Thurston County Hearing Examiner; Completeness Transmittal Memorandum, December 28, 2011; Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, December 27, 2011, including attachments; Letter from Steven Hatton, May 9, 2012, including site plans; Letter from Department of Ecology, June 4, 2012; Memorandum from Arthur Saint, October 17, 2012, including attachments; Re-issuance of a Mitigated Determination of NonSignificance, November 1, 2012; Letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, November 20, 2012; Letter from Elizabeth Weldin, January 23, 2013, including Technical Memorandum; Memorandum from Arthur Saint, February 1, 2013

- Exhibit 9a Steilacoom Ridge Geology Map
- Exhibit 9b Steilacoom Ridge Top of Vashon Glacial Till Map
- Exhibit 10 Testimony of McAllister Creek Homeowner's Association and the Nisqually Heights Homeowners (MCHA/NHH) including attachments:
 - a. 1996 Slide Photos
 - b. Gerstel Report, July 11, 2011
 - c. MCHA/NHH to County, September 23, 2011
 - d. MCHA/NHH to County, November 17, 2011
- Exhibit 11 Written Testimony of Tom Cook
- Exhibit 12 Written Testimony of Holly Chisa, November 4, 2013
- Exhibit 13 Written Testimony of Liz Kohlenberg, November 4, 2013
- Exhibit 14 Memorandum from McAllister Creek Homeowners Association and Nisqually Heights Homeowners, November 5, 2013, including Memorandum from Department of Natural Resources, September 16, 1997
- Exhibit 15 Applicant's Response to Exhibits Submitted, November 12, 2013, including attachments:

- a. Letter from Steve Hatton to Tony Kantas, October 31, 2011
- b. Technical Memorandum titled Response to Gerstel Review Comments, October 31, 2011

Exhibit 16 Added Testimony by the McAllister Creek Homeowners Association and the Nisqually Heights Homeowners, November 12, 2013, including Curricula Vitae of Wendy Gerstel

Exhibit 17 Steve & Val Hyer Comment Email, November 4, 2013

Based upon the record developed at the open record hearing, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

Site and Surrounding Development Description

1. The Applicant requested approval of a preliminary plat subdividing 95.71 acres into 298 single-family residential lots and approximately 40.71 acres of open space. Of the 95.71 total acres, 73.7 acres are within the Lacey Urban Growth Area and 22.01 acres in rural Thurston County. The subject property is south of Steilacoom Road at the top of the McAllister Bluff and includes portions of the Nisqually Hillside Overlay District.² *Exhibit 1, Attachments b and f; TCC 17.15.830(A).*
2. The subject property abuts the eastern boundary of the Lacey Urban Growth Area (UGA). The site is comprised of two sections: the northwester roughly rectangular area abutting Steilacoom Road is separated from the bluff by property under different ownership, while the more trapezoidal section to the southeast abuts the Bluff. Overall, the site is hilly, containing two distinct east-west ridges with a valley through the central portion of the site, with elevations ranging from 14 to 282. The land slopes west to east with grades of 0% to 71%. The steepest slopes are located in the southeast corner of the site within the Nisqually Hillside Overlay District. The McAllister Bluff is located along the eastern portion of the site with McAllister Creek at the toe of the bluff. There are no wetlands or streams at the top of the bluff, but seeps and springs have been observed on the face of the bluff. *Exhibit 1, page 3; Exhibit 1, Attachment d;*
3. Surrounding properties are zoned Low Density Residential (LD 0-4), Low Density Residential (LD 3-6), and Mineral Extraction (ME). The nearby rural area includes Rural Residential One Dwelling Unit Per Five Acres (RR1/5) and Nisqually Agriculture (NA) zoning in the Nisqually Valley and is developed with agriculture to the east of the subject property. The existing residential density within the nearby Lacey UGA varies from one unit to two units per acre; the large lots were needed to accommodate on-site septic systems. The property north of Steilacoom Road is developed with the 64-lot Plat of

² The legal description of the subject property is a portion of Section 18, Township 18 North, Range 1 East, W.M.; also known as Tax Parcel Numbers: 21818220200 (43.78 acres) and 21818220300 (51.94 acres). *Exhibit 1, page 2.*

Nisqually Bluff (PLAT 98-0393), which received final plat approval in May 2004. Northeast of the subject property and adjacent to the Plat of Nisqually Bluff are the Nisqually Heights and McAllister Creek subdivisions. To the west are Ridgeview, Meridian Acres, Meadows, and The Ridge subdivisions. *Exhibit 1, pages 4-5.*

4. Since the time of the initial application, surrounding property owners and neighborhood groups have actively participated in review of the proposal, voicing concern that development of the site would possibly increase the risk of debris flows on McAllister Bluff. One area of particular concern has been the neighborhood around Salmon Lane, northeast of the subject property. Slopes around Salmon Lane have been previously over steepened for the construction of roads and home sites. In the heavy rainfall year of 1997-97, McAllister Bluff experienced significant debris flows on parcels at the toe of the bluff. Debris flows are "generally small mass wasting geological events that commonly appear on steep slopes... typically the result of a saturated slope face or the presence of seeps and springs on the face. Debris flows typically occur during winter months when precipitation and recharge are high, soils become saturated, and seeps and springs typically exhibit their highest rates of flow." *Exhibit 1, Attachment bbb; Exhibit 1, Attachment ccc, page 22; Kohlenberg Testimony; Exhibit 1, Attachment pp; See Exhibit 1, Attachment bbb, July 26, 2010 comment letter from McAllister Creek Homeowners Association and Nisqually Heights Neighbors, and Exhibit 10a for photos of past debris flows.*

Procedural History

5. Due to its proximity to the bluff, which is protected as a critical area, the subject property has an active zoning history. In November 1992, the County adopted the Nisqually Plan: Sub-Area Land Use and Zoning plan, which restricted the harvest of trees within 200 feet of the crest of McAllister Bluff. The 200-foot buffer area and the bluff were designated as the Nisqually Hillside Overlay District (NHOD). The Sub-Area Plan prohibited residential structures within the NHOD due to the severe risk of landslide and the potential adverse impacts to McAllister Creek. On April 30, 1997, a previous owner of the subject property received approval of a forestland conversion permit (Project No. 970051) to harvest the site except the portion within the NHOD, on which a no-cut condition was imposed. Determining that a rezone would better protect the McAllister Bluff by reducing the potential development intensity, the Board of County Commissioners approved a rezone of the site from Village Center to LD 0-4 in December 1999. In that decision, the Board of County Commissioners responded to citizen concerns regarding potential landslides on the bluff by requiring all future development above the bluff to be served by municipal sewer service with limited exceptions. *Exhibit 1, pages 3-4.*
6. As a result, the 73.7 acres of the site within the Lacey Urban Growth Area (UGA) are zoned Low Density Residential District with a maximum density of four units per acre (LD 0-4). The 22.01 acres of the site in rural Thurston County are zoned Rural Residential with a maximum density of one dwelling unit per five acres (RR 1/5). All proposed improvements would be located in the UGA west of the Nisqually Hillside Overlay and its required 200-foot buffer. *Exhibit 1, page 2.*

7. On September 29, 2004, the Applicant submitted a preliminary plat application seeking to subdivide the subject property into 325 single-family residential lots. The application was deemed complete on December 1, 2004, but the completeness letter stated that the application is “complete on hold” because the site plan depicted the boundary of the UGA urban growth area at the top of the McAllister Bluff rather than the western edge of the 200-foot buffer associated with the bluff. The Applicant appealed Staff’s determination of the location of the eastern UGA boundary. On March 9, 2005 the Thurston County Hearing Examiner granted the appeal, determining that the eastern boundary of the Lacey UGA is at the top of the Bluff. The decision did not specify the allowed density within the NHOD, but did refer to TCC 17.15.830(A), which prohibits residential development within the overlay district but allows the number of dwelling units based on the underlying residential zone (one unit per five acres) to be clustered on portions of the property outside the overlay district or to be transferred to adjacent property outside the buffer. After winning the appeal, the Applicant spent considerable time redesigning the project addressing concerns about the impacts of stormwater runoff on the stability of the bluff. Much of the time was spent in hydrogeologic review by multiple hydrogeologists for the County, the Applicant, and on behalf of the neighboring homeowners' associations. The final plat map, revision dated May 11, 2012, is still vested to the regulations in effect at the time of the 2004 application. *Exhibit 1, pages 3-4; Exhibit 1, Attachment t; Rob Rice Testimony; Kantas Testimony; Exhibit 2.*

8. Thurston County was designated lead agency for review of environmental impacts of the proposal pursuant to the State Environmental Policy Act. The County issued a mitigated determination of non-significance (MDNS) on November 6, 2012. As stated in the MDNS, the County’s review and threshold determination were based on information included in (but not limited to) the following documents:
 - The 2004 preliminary plat and forest conversion applications
 - A 2004 environmental checklist
 - Site plans dated October 2008, September 2011, and May 11, 2012
 - Traffic impact analyses dated August 2004, January 2005, September 2005, and September 17, 2012
 - City of Lacey sewer availability letter
 - Meadows Water System letter of water availability
 - Tree preservation plan
 - Draft mitigation agreement between the Applicant and North Thurston School District
 - Department of Ecology comments from November 2004, September 2011, and June 2012
 - At least six hydrogeologic evaluation reports performed on behalf of the Applicant by Associated Earth Sciences, prepared on dates ranging from September 2004 to June 2008
 - Comments from the McAllister Creek Homeowners Association and Nisqually Heights Homeowners Association ranging in date from February 2005 through July 2010

- Five third party reviews of Associated Earth Sciences hydrogeologic evaluations by PanGeo Inc., dates ranging from March 2005 through August 2008
- Thurston County Department comments from the Health Department, Roads and Transportation Services, Water and Waste Management, and Public Works
- July 2009 Gopher Reconnaissance survey
- Various supplemental comments from the Applicant consultants in response to County and neighbor comments
- Hydrogeologic review and comment prepared by a consultant for the neighbor groups, Erickson Groundwater Service in September 2009 and June 2010
- Hydrogeologic review by the County's hydrogeologist Nadine Romero dated October 2009, June 2010, August 2010, November 2010, and December 2010
- Amended Drainage plan and report, prepared September 2010

Exhibit 1, Attachment G; Kantas Testimony.

9. The MDNS identified required mitigation for the environmental impacts of the proposal, including (but not limited to): school impact mitigation; traffic impact fee payment to both Thurston County and City of Lacey; frontage improvements on Steilacoom Road; implementation of erosion control measures prior to timber harvest/earth movement; design of stormwater facilities based on continuous simulation modeling instead of single event modeling and based on a pre-development forested condition rather than on existing site conditions and providing capacity to handle 1996/97 and 2000/01 rainfall levels; provisions for the perpetual maintenance of stormwater facilities meeting specific standards; connection to municipal sewer and public water supply for each lot; prohibition against any present or future development of the 200-foot buffer for the McAllister Bluff; signage on each lot on the bluff and notes on the face of the final plat informing future owners of bluff protection requirements; reservation of a permanently preserved tree tract; construction or replanting of harvested timber areas within one year of harvest; installation of a groundwater monitoring well 200 feet eastward of the stormwater pond in Tract Q to a depth of the groundwater in the first aquifer to provide baseline information regarding hydrologic properties of the area near the bluff; and testing of site soils for arsenic and lead consistent with the Model Toxics Control Act (MTCA) clean up of the Tacoma smelter plume. Assuming compliance with these mitigation measures and with all applicable codes and development standards, the County determined that the proposal would not result in probable, significant, adverse environmental impacts. *Exhibit 1, Attachment G; Kantas Testimony.*
10. The Applicant timely appealed the MDNS, challenging condition 17 regarding the MTCA cleanup requirements. The concern was whether the condition as worded would require testing and possible clean up of the portions of the site within the NHOD that were intended to be left in the undisturbed existing condition. The Applicant engaged in consultation with the Department of Ecology regarding that agency's interpretation of the MTCA requirements applicable to the proposed application and of condition 17, and after reaching agreement with the state agency, withdrew the appeal. No other SEPA appeal was filed. *Kantas Testimony; Exhibit 1, Attachments ppp and ooo.*

The Proposal's Compliance with Applicable Development Standards

11. The proposal would create the 298 lots in eight phases. The majority of lots would be developed with single-family detached homes. Lots 63 through 90 and 123 through 150 (56 lots) would be developed with single-family attached dwellings (townhomes). The internal road system would take access off of Steilacoom Road at two locations and would provide stubs at the eastern and southern boundary of the northwest rectangular segment of the site and at the southern end of the southeastern segment of the site. Phase I construction would begin along Steilacoom Road and would include the larger stormwater facilities. Construction of lots and infrastructure would proceed southward, with the last phase to include the lots in the southeastern segment of the site adjacent to the Nisqually Hillside Overlay District. Of the total site area, 42.46 acres (44 %) would be set aside as permanent open space. Stormwater from all new impervious surfaces would be conveyed to facilities in Tracts A, B, and Q from which it would be discharged at controlled rates into adjacent infiltration ponds. The entirety of Tract A is encumbered by a Puget Sound Energy transmission line easement; PSE and the Applicant executed a reciprocal easement allowing the Applicant to place stormwater facilities in Tract A. All of the area within the NHOD would be set aside as Tract R. Tracts C and S would provide permanent active recreation opportunities. Two private access tracts would provide access to three lots each. Tract K would provide access to Lots 45, 46, and 47, while Tract O would allow access to Lots 159, 160, and 161. Tracts D, E, F, G, H, I, J, L, M, N, and P would contain landscaping. All tracts (A through S) would be owned and maintained by the proposed Steilacoom Ridge Homeowners Association. All lots would connect to City of Lacey sewer and the Meadows Public Water system. *Exhibits 2 and 5; Exhibit 7d.*
12. Detached single-family residential development is permitted in the LD 0-4 zone. *Thurston County Code (TCC) 21.12.020.A.1.* The Thurston County Code defines attached single-family dwellings as townhouses, which are allowed in the LD 0-4 zone subject to compliance with the use-specific development standards at TCC 21.61.040. *TCC 21.61.020; TCC 21.12.02.A.3.*
13. Again, the subject property is comprised of 73.7 acres in the LD 0-4 District in the UGA and 22.01 acres within the RR 1/5 Zone located entirely within the NHOD. The Nisqually Sub-Area Plan and the Thurston County critical areas ordinance (CAO) allow the number of dwelling units permitted by the underlying residential zone in the NHOD to be transferred to adjacent land outside the overlay district. Based on the permitted density of both acreages, the maximum allowed density of the proposal is 304 dwelling units. In the instant project, the Applicant proposed to dedicate the entire 22.01 acres within the NHOD to open space and critical area preservation without transferring density. The proposal would have an overall density of 3.11 units per acre and a density of four units per acre in the LD 0-4 zone. *Exhibit 1, pages 2-4, 7-8; Exhibit 2.*
14. For detached single-family subdivisions, the LD 0-4 zone requires a minimum lot size of 5,000 square feet and a minimum lot width of 50 feet. The minimum setbacks are: 20 feet from the front; 10 feet from flanking streets; 15 feet from the rear; and five feet from side property lines. *TCC 21.12.050.* Townhomes in the LD 0-4 zone must contain a

minimum area of 1,600 square feet and a minimum lot width of twenty feet. No more than two abutting townhouses or townhouse clusters within the project site can a common front building setback; variations in the setback of front building faces must be at least four feet. Townhouse units must be setback at least twenty-five feet from any public right-of-way and fifteen feet from a private access and must be setback fifteen feet from the rear property line. Townhouse lots must provide a private yard of at least three hundred square feet enclosed visually by fences or walls at least five feet in height or plantings to screen first level views from adjacent units. LD 0-4 townhouse lots require the same side setback as single-family lots. *TCC 21.61.040.*

15. From the plat map submitted, all proposed lots appear to meet the applicable bulk dimensional requirements of the LD 0-4 zone. *Exhibit 1, page 8; Exhibit 2.*
16. Pursuant to TCC 17.15.825.B, the Nisqually Hillside Overlay District includes the area from the toe of McAllister Bluff to a point 200 feet west of the top of McAllister Bluff. The criteria to field locate the top of McAllister Bluff “is a distinct topographic break in the slope less than 30 percent and at least 15 feet wide which is verified by the Thurston County Resource Stewardship Department”. *TCC 17.15.825.C.* The Applicant’s surveyor delineated the NHOD and associated 200-foot buffer and both are depicted on the plat map. Thurston County Staff field verified the McAllister Bluff and the 200-foot buffer as they are represented on the plat map. *Exhibit 1, pages 9-10.*
17. There are 21 proposed single-family detached lots along the western boundary of the NHOD buffer in the southeastern segment of the site. On the final site plan, the lots proposed along the 200-foot buffer are large enough to include residences and normal appurtenances without encroaching into the buffer. To ensure the Nisqually Hillside Overlay District and its associated 200-foot buffer are protected, conditions were adopted through the November 6, 2012 MDNS requiring the following: Condition 6 prohibits the removal and limbing of trees in the NHOD and 200-foot buffer. Condition 7 requires all residents within the plat to be informed of the biological value of the McAllister Bluff by means of a statement on the final plat map, individual property titles, and in the covenants, conditions, and restrictions (CC&Rs) of the subdivision. Condition 8 requires all lots along the 200-foot buffer to post signs on the edge of the buffer to inform the property owner the preservation requirements of the buffer. Condition 9 requires the signs to be erected and the buffer to be preserved in perpetuity. *Exhibit 2; Exhibit 1, page 9; Exhibit 1, Attachment g.*
18. The subdivision would access public roads from two points on Steilacoom Road. The proposed internal public road network would connect to the Plat of The Ridge by means of Summerfield Drive, recorded with the Thurston County Auditor on February 21, 1992. Thurston County Road Standards require a secondary access point for internal subdivision roads exceeding 500 feet to provide emergency vehicle access and future connectivity. The proposed road network also includes stubs that would connect to the adjacent properties to the south and east. The adjoining properties to the south and east are both subjects of subdivision applications currently under review; both will be

dependent on the instant proposal to obtain access onto Steilacoom Road. *Exhibit 1, page 2; Exhibit 2.*

19. During the years the project was under review, the Applicant commissioned multiple trip generation and traffic impact analyses (TIAs) of the proposal. The Revised Level II TIA dated September 17, 2012 supersedes earlier studies. Its scope included review of the intersections of Steilacoom Road with Ridgeview Drive SE, Duterow Road SE, and Marvin Road SE, the intersection of Martin Way and Duterow Road, and the intersection of Martin Way with Ridgeview Drive SE. In transportation management nationally, traffic engineers have developed a rating system to measure the efficiency of intersection operations, called levels of service (LOS), which range from A and B (very efficient) to F (traffic jam conditions). Thurston County Road has established minimum LOS within the UGA for various types of roads. High density corridors that are identified in the Regional Plan may not be allowed to fall below LOS E. Other urban roads must remain at or above LOS D. In the existing condition, all study intersections satisfy the applicable LOS. *Exhibit 7.*
20. The Applicant's TIA gathered information on concluded that the proposed 298 lots would generate 2,852 average new daily trips, with 224 in the AM peak hour and 301 in the PM peak hour. Adding these new trips to existing traffic and a 3% increase for background growth (including several projects currently in development in the vicinity), the TIA concluded that the instant project's new trips would reduce level of service (LOS) at two intersections. At Martin Way and Duterow Road, project traffic would cause the intersection to drop from LOS C to LOS D. At Steilacoom and Ridgeview Drive, the project's traffic would reduce the LOS from A to B. The TIA also concluded that the intersections of Steilacoom Road with both Duterow Road and Marvin Road would drop from LOS C to LOS D with or without the instant project by 2017. No other intersections are projected to experience changes in LOS. The two site access points are projected to experience LOS A or LOS B in peak hour traffic. The Thurston County LOS threshold for all affected roads is LOS D. The project's traffic would not cause any intersection to fall below the County's operating thresholds. *Exhibit 7.*
21. The TIA recommended the following mitigation for the project's addition of traffic to the surrounding road network:
 - Building the site and its access points in compliance with County requirements;
 - Provide clear sight lines at both proposed accesses on Steilacoom Road SE;
 - Install proposed pedestrian connection between Steilacoom Ridge Plat and Meadows Ridge Elementary School to appropriate requirements;
 - Contribute appropriate pro-rata share to identified Thurston County road improvement projects;
 - Pay appropriate traffic impact fees to City of Lacey; and
 - Install "bulb outs" at appropriate intersections to calm traffic speeds.

Exhibit 7f.

22. As proposed, stormwater runoff from all new impervious surfaces would be directed to ponds by a series of catch basins and piping. Throughout the site, four stormwater management areas are proposed: the largest is in Tract B; two smaller facilities would be developed in Tract A; and a fourth facility would be installed in Tract Q, the only one in the southeastern segment of the site closest to the bluff. Each stormwater management facility is comprised of two to three ponds. All four have a wet pond for treatment and a retention pond for infiltration. The two larger facilities (Tract B and Tract Q) each also have a holding pond to detain excess runoff during high rainfall seasons and/or events. Throughout the site, runoff from pollution generating surfaces (streets, sidewalks, driveways, and landscaped areas) would be directed to wet ponds for treatment.³ Treated stormwater from these surfaces would be discharged to the retention/infiltration ponds, where it would infiltrate and recharge the aquifer. Runoff from non-pollution generating surfaces would be directed as follows: 168 single-family homes across all project phases would be discharged to individual drywells for infiltration; 24 roofs across all phases would discharge to a holding pond in Phase I; and the remaining roofs would connect to the on-site stormwater system, where their runoff would mix with that from pollution generating surfaces and be directed to the wet ponds for treatment.⁴ The proposed wet ponds were sized consistent with the Thurston County Drainage Manual to hold and infiltrate up to and including a 100-year, 24-hour event. Emergency overflow routes would be provided from the proposed ponds for flows exceeding the 100-year event. Should a holding pond be at capacity during a rain event, excess runoff would flow to wet ponds 2 and 3 or pond 4 via gravity, without need for pumping, mechanical equipment, or human operator. All above-ground stormwater facilities would be hydroseeded upon construction. The retention ponds would also be planted with a variety of wetland species in the areas of the permanent pools and along the edges of project permanent water surfaces. *Exhibit 1, Attachment ccc.*
23. City of Lacey sanitary sewer and Meadows public water utilities would be extended into the subdivision to serve all lots. Lacey first confirmed sewer availability in July 2004. The availability of sewer was more recently confirmed by the City in writing on August 28, 2008 and verbally in with Thurston County Environmental Health Division. Meadows Water System LLC first confirmed water availability in June 2004. The water system's continued capacity to serve the project has been confirmed Washington State Office of Drinking Water. *Exhibit 1, page 10; Exhibit 1, Attachments k and l; Brallier Testimony; Pantier Testimony; Exhibit 7c.*
24. Per TCC 18.47.040.2, subdivisions of ten lots or more are required to dedicate 10% of the total site to open space that is designed to be attractive and usable with convenient access for all residences of the development and that retains existing trees and significant vegetation. The project's total proposed open space is 40.71 acres, which is 43% of the

³ Wet pond 1 is in the northwest corner of the site in Tract A. Pond 2 is in the center of Tract A. Pond 3 is in Tract B. Pond 4 is in Tract q. *Exhibit 1, Attachment ccc.*

⁴ See Table II-9.1 at Exhibit 1, Attachment ccc, page 17.

site. The open space includes critical area and tree preservation tracts, passive landscape tracts, and two active recreational tracts: Tract C at 0.62 acres and Tract S at 0.76 acres. In addition, the large holding ponds in Tracts B and Q would be dry for part of the year and available for active recreation. As stated above, all open space tracts will be owned and maintained by the homeowners association. The recreation tracts would be open to all residents. Resource Stewardship Staff recommended conditions of approval that would ensure all open space requirements are met by the final plat. *Exhibit 1, pages 11-12; Exhibit 2; Pantier Testimony.*

Review of Hydrogeologic Impacts to McAllister Bluff

25. Hydrogeological evaluation of the site has been ongoing since the initial 2004 application. The Applicant's consultant, Associated Earth Sciences INC. (AESI), provided a hydrogeologic evaluation and stormwater infiltration feasibility study for the proposal dated September 1, 2004; since that time AESI has filed several addenda dated September 13, 2005, October 4, 2006, November 20, 2007, June 13, 2008, July 2, 2008, December 21, 2009, January 27, 2010, and October 30, 2011 in response to requests for additional information. *Exhibit 1, Attachments ww, xx, yy, zz, and aaa; Exhibit 15.* The initial AESI studies included subsurface exploration and hydrogeologic study for the purpose of evaluating the feasibility of on-site stormwater infiltration and any potential impacts to McAllister Bluff east of the property. The AESI studies collectively concluded that development as proposed would not result in significant environmental impact on the bluff. At the time the application was submitted and for several subsequent years, the County did not have a hydrogeologist on staff; thus at the County's direction, the AESI studies were peer reviewed by PanGeo Incorporated, an independent third-party consultant. In August 2008, PanGeo concluded that, based upon the history of debris flows on the slopes below and east of the site on McAllister Bluff and the general variability in geologic conditions, on-site stormwater design should use a conservative predevelopment, forested condition recharge rate to calculate necessary retention volumes.⁵ The Applicant accepted the suggestion and revised the proposed stormwater plan to retain the runoff from a predevelopment forested condition. By the time the revised stormwater design was submitted, Thurston County had employed a staff hydrogeologist, who had to be brought up to speed on the project and provided subsequent review of all the slope stability reports. In the course of her review, the County hydrogeologist implemented numerical groundwater modeling to calculate the stormwater runoff volumes of the project in relation to the underlying aquifer and the stability of McAllister Bluff. *Exhibit 1, pages 5-6; Exhibit 1, Attachments y, through aaa; Exhibit 8.*
26. The McAllister Creek Homeowners Association and Nisqually Heights Homeowners contracted with Erickson Groundwater Service to conduct an independent hydrogeologic characterization of the area. The Erickson report presented an alternative understanding

⁵ Forests allow less recharge of stormwater because evapotranspiration, the process of vegetation uptake, interception, and evaporation of rainfall. Plants use rain and also hold rain off the ground increasing surface area from which rainfall evaporates rather than infiltrates. A forested condition results in lower groundwater recharge than post-cleared vegetation such as exists on-site. *Exhibit 8a; Hatton Testimony.*

of site hydrogeologic conditions relating to groundwater and the slopes of McAllister Bluff. Prior to completion of project review and MDNS issuance, the neighbors' consultant retired and they hired a second hydrogeologist, Wendy Gerstel, to review the revised proposal. Ms. Gerstel submitted a report in July 2011, which the neighbors provided to the County and the Applicant. Applicant consultants responded to both the Erickson and Gerstel reviews. The County hydrogeologist reviewed the Erickson, Gerstel, and Applicant consultants' responses before making her final recommendation for approval of the project. *Exhibit 1, pages 5-6; Exhibit 1, Attachments tt, uu, bbb, and mmm; Exhibit 8a; Exhibit 15; Kantas Testimony.*

27. Neighborhood concern about saturation of the bluff primarily focuses of the potential for runoff recharge flowing towards Salmon Lane and the other residential neighborhoods at the toe of the slope. Increased recharge of slopes is a known factor that increases the risk of debris flows.⁶ Neighbors have expressed concern that the concentrated nature of runoff infiltration after site development would increase the risk of debris flows, especially as compared to piping runoff to the base of the bluff for release. The proposed holding ponds are intended and sized to retain the difference (or delta) between the amount of stormwater recharge naturally occurring on-site in a pre-development forested condition and the amount generated by the new impervious surfaces. The decision to calculate that delta by modeling the site as forested rather than in its actual, existing condition was suggested by the third-party hydrogeological reviewer hired by the County and adopted by the Applicant's design team for the express purpose of coming up with a more conservative, and therefore more protective, stormwater management system. During winter months, the large holding ponds in Tracts B and Q would retain the delta to be later discharged during dry months when the risk of debris flow is minimized. The project's stormwater ponds are specifically sized to address continuous, successive excess rainfall events such as those experienced from October 1996 through September 2000. Holding ponds would be emptied annually into the retention ponds for infiltration, starting on May 1 each year. Release rates would be restricted to approximately one-quarter of the receiving retention pond's infiltration rate to avoid creating groundwater mounding effect. The holding ponds would be emptied by October 1 each year in preparation for seasonal rainfall. Modeling of the resulting summertime groundwater mounding showed mounds less than that occurring in the predeveloped state. *Exhibit 1, Attachments bbb, ccc, and mmm; Exhibit 8a; Hatton Testimony.*
28. The Applicant noted that 85% of the proposed impervious surfacing is within Phases 1 through 7, the infiltration ponds for which are located nearly half a mile from the bluff. The entirety of Tract R, which contains the bluff, the on-site NHOD, and its 200-foot buffer, would remain untouched, and recharge in the critical area above the creek would not be altered by the proposal. In the site's existing condition, approximately 5.6% of stormwater drains towards Salmon Lane. The project proposes to place three of the four retention (infiltration) ponds south of an on-site ridge in the subsurface till layer, which

⁶ Note: A debris flow, while potentially dangerous, differs significantly from a slope stability failure. There is no expert opinion in the record that development on-site could result in an unstable slope. *Exhibit 1, Attachment ccc, page 22.*

sends subsurface flows southeasterly, away from the Salmon Lane neighborhood which is northeast of the project. *See Exhibit 9b.* Proposed Pond 1 would be located north of the subsurface ridge in the till layer, and some are concerned that water infiltrated there would travel subsurface to the northeast towards the Salmon Lane neighborhood; however, the Applicant's consultants indicated that infiltrated water in the area of Pond 1 flows north and west, also away from Salmon Lane. Once the project is complete, less stormwater would recharge the bluff above these neighborhoods than does in the current, pre-development condition. *Exhibit 1, Attachment ccc; Hatton Testimony; Exhibit 8a.*

Other Project Elements

29. The Forest Lands and Conversion Ordinance, adopted in April 1998 (TCC 17.25), requires projects that convert forestland to other uses within the North County Urban Growth Areas to include a tree preservation and new tree planting plan depicting the following: retention of existing trees or the planting of new trees on individual residential lots at a rate of one tree for every 4,000 square feet of lot area; and a tree tract including at least 5% of the project site must be provided. The proposed tree tract, Tract R, is 22 acres of the project site, exceeding the 5% requirement. The Applicant submitted the required tree preservation and new tree planting plan, which identified the trees on-site that would be saved. The study noted that the entire site was logged in 1997 with the exception of the slope and associated buffer, which would be retained as Tract R and contains Douglas fir, Western Redcedar, Pacific Yew, Bigleaf Maple, and scattered Pacific Madrona, Oregon Ash, and Oregon oak. Other trees to be retained throughout the site including 47 Douglas fir, nine Oregon oak, two Redcedar, and one 17-inch diameter Pacific Madrona. Resource Stewardship Staff accepted the tree preservation plan in satisfaction of Forest Conversion ordinance requirements. *Kantas Testimony. Exhibit 1, page 11; Exhibit 1, Attachment s.*
30. The Applicant commissioned a professionally prepared gopher reconnaissance study of the site to determine the presence or absence of the Mazama pocket gopher. Basing their methodology on the September 2008 WDFW Mazama Pocket Gopher Survey Protocol, the consultants field studied the site on foot using zig-zag pattern on 100-foot transects focusing on clearings in the dense brush looking for evidence of the animal and for suitable habitat. Five mound formations were found, but these were determined to be moles based on the shape, spacing, and arrangement of the mounds, as well as on mole remains discovered nearby. The consultants no preferred Mazama pocket gopher habitat, nor any evidence of the species' presence on-site. *Exhibit 1, Attachment hhh.*
31. In response to public comments expressing concerns about impacts to bald eagles, the Applicant commissioned a bald eagle site evaluation, which studied the site for bald eagle nests, habitat, and individual occurrence. The environmental consultant's report noted that the McAllister Bluff is an ideal nesting and roosting habitat for raptors, including hawks and eagles because it provides an overlook onto the valley, which contains prey species in abundance. The study included traversing the site on foot and scanning of each potential eagle tree using high powered binoculars. The report noted that Washington Department of Fish and Wildlife Priority Habitats and Species database contains no documentation of eagle breeding or nesting activity on-site; the nearest eagle activity in

the PSH database is located 1.5 miles northwest of the site and 2.5 miles east. The eagle survey discovered no bald eagle nests on-site, noting that they tend to nest about 70 feet above the ground in large trees in nests that can range from five to nine feet in diameter and can weigh up to two tons and tend to protect a nesting territory of one to two square miles. During the survey, one eagle was observed flying overhead and two bald eagles were observed roosting in a large grand fir at the top of the bluff near Steilacoom Road SE approximately east of the subject property. Based on eagle activity observed on-site and documented by WDFW, the eagle report concluded that the proposed plat would not adversely affect the eagle roosting tree or any known habitat, as eagles are accustomed to human presence and are adaptable. *Exhibit 6.*

32. Families living in the proposed plat would be served by the North Thurston School District (District) at Meadows Elementary, Nisqually Middle, and River Ridge High schools. Students would be bused to the middle and high schools. Meadows Elementary is located west of the site. In reviewing the potential school impacts of the proposal, County Staff requested specific input from the District regarding capacity at the schools that would serve the project and about funding for the capacity required to serve the instant plat. The District responded, indicating that the schools that would serve this subdivision have adequate capacity to accommodate the anticipated students from the project. The affected elementary school would require additional interim capacity through the purchase or relocation of portable classrooms; however, the District stated that it has funding to provide the needed portable classrooms. The MDNS contains a condition requiring school impact mitigation. By the time of hearing, the District and the Applicant had executed a school mitigation agreement. Regarding safe walking for school students, the proposed internal road system would provide sidewalks within the plat and a pedestrian connection at the southwest corner of Tract A. Resource Stewardship Staff recommended a preliminary plat condition of approval requiring the Applicant to designate a bus waiting area and shelter acceptable to the School District. This bus waiting area would be shown on the final plat map. *Exhibit 1, pages 10-11; Exhibit 1, Attachments g, h, i and j; Exhibits 7e and 7f; Exhibit 2.*
33. Upon review of the most recent drainage plan and report (April 23, 2102) and traffic impact analysis (September 17, 2012), the Thurston County Public Works Department determined that all preliminary requirements of the Thurston County Road Standards and Drainage Design and Erosion Control Manual (DDECM) are satisfied by the proposal. Public Works Staff recommended plat approval with conditions addressing the following: appropriate access construction permits and traffic control devices; appropriate repair of rights-of-way after utility installation; dedication of right-of-way, as appropriate; contribution to off-site traffic mitigation in both Thurston County and the City of Lacey; satisfaction of final plat requirements; obtaining a Construction Stormwater Permit from Department of Ecology; and drainage conditions. Specifically regarding drainage, the following conditions were recommended: design and construction in conformance to the 1994 DDECM with the allowance for the “higher standard” of using continuous simulation modeling instead of single event modeling; a two-year operation and maintenance agreement and financial security executed prior to approval; formation of a homeowners’ association with the authority to raise fees and responsible for maintenance

of stormwater facilities; control of stormwater runoff through all projects phases; placement of all natural and manmade drainage paths in easements; and landscaping of stormwater facilities by a Washington licensed civil engineer. *Exhibit 1, Attachment n; Saint Testimony.*

34. The Thurston County Public Health and Social Services Department Environmental Health Division (EHD) reviewed the proposal and determined that ground and surface waters were not anticipated to be impacted because: all neighboring water supplies within 200 feet were identified and no sanitary control radii extend into the site; the proposal would connect to municipal water and sewer; any existing wells on-site would be decommissioned in accordance with Department of Ecology standards; proposed stormwater facilities would be set back at least 100 feet from off-site water supplies and surface waters; an integrated pest management plan was developed and would be implemented; and hydrogeologic site evaluation showed that the project would not significantly impact the underlying aquifer. EHD recommended approval with conditions. *Exhibit 1, Attachment O; Brallier Testimony.*
35. Washington State Department of Ecology submitted comments at several steps throughout County review of the proposal. Ecology's comments related to the following: the MTCA cleanup of the Tacoma smelter plume as it affects the site; protection of McAllister Creek and associated wetlands located outside the development envelope; prohibition of discharge of sediment-laden water to any waters of the state and erosion control requirements; the requirement for a water right and dam construction permits if the project proposed to impound water for irrigation use (an initially proposed idea that was dropped); and release of the project from any requirement to perform MTCA cleanup of proposed Tracts A and R. *Exhibit 1, Attachments p, q, r, kkk, ll, and nnn; Exhibit 8h.*
36. Written notice of the public hearing was sent to all property owners within 300 feet of the site and to others who had requested notice, and was published in The Olympian on October 25, 2013. *Exhibit 1, Attachment a.* Notice was posted on-site on October 23, 2013. *Exhibit 1, pages 6-7; Exhibit 3.*
37. Before and during the public hearing, neighboring property owners presented testimony and verbally and in writing expressing concern about the following issues. There are 11 households on Salmon and Sockeye Lanes, which experienced debris flows in the 1996/1997 extreme weather season. They continue to occur on an ongoing basis on the steep face of the bluff. These slides tend to happen in the middle of the night and historically they have hit homes at or near bedrooms. They also close roads. Neighbors asserted that infiltration is not required by the County's drainage standards, but that it is a preferred method of stormwater management. They argued that while this preference makes sense in most places, it should not be used on top of the bluff. The McAllister Creek Homeowners Association and the Nisqually Heights Neighborhood have retained two hydrogeologists to review the Applicant's and County's study of the proposal. According to neighbor testimony, their more recent consultant, Wendy Gerstel, remains unconvinced that any proposal placing infiltration ponds on top of the bluff won't increase water coming out of the face of the bluff, leading to increased debris flows. The

neighbors assert that Ms. Gerstel's comments have not been adequately reviewed and addressed by Applicant consultants and County Staff. They concede that the current proposal is safer than the original design – and expressed thanks to County Staff and the Applicant for considering their concerns – but question whether the proposed system is safe enough. Neighbors urged the County to require all stormwater to be tightlined to the toe of the slope. They requested further delay to allow their consultant to review the current design to determine, among other questions, whether evaporation is correctly considered and whether the seeps on the bluff have been adequately identified in relation to subsurface travel of infiltrated stormwater above. On other topics, neighbors questioned the placement of the posted public hearing notice. Neighbors asserted that there was no comprehensive study of wildlife on the site despite the proximity to the Nisqually Wildlife Refuge and that the wildlife information in the record is incomplete based on their personal observation of eagles and other wildlife in the area on a regular basis. Neighbors asserted that traffic was not adequately studied based on unaddressed heavy congestion on Steilacoom Road, which is already unsafe for pedestrian and bicycle use. They argued that their TIAs don't include the already scheduled increases in base traffic due to projects currently under construction. Finally, neighbors argued that the proposed density is too high. *Kohlenberg Testimony; Cook Testimony; Chisa Testimony; Larsson Testimony; Hare Testimony; Britcher Testimony; Cockrell Testimony; Exhibit 1, Attachment bbb; Exhibits 10a, 10b, 10c, 10d, 11, 12,13, and 14.* One comment letter was submitted in support of the proposal. *Exhibit 17.*

38. In response to public comment, County Staff submitted the following information. Regarding the posting of the hearing notice sign, the location was decided based on visibility from Sandra Lee and safety along Steilacoom Road, due to dense brush, as well as on the presence of compacted rock in the vicinity that made it difficult to drive the stake into the ground. Posted notice comported with Count Code requirements at TCC 21.81.040 .7.C. At all times since application, the County has been well aware of public concern on the project and there has been much public participation in review, including the multiple MDNSs. Notice was mailed to a far greater radius that required by Code, including residences from below the bluff. Regarding wildlife and eagles in particular, the application and environmental checklist were routed to WDFW, which agency tracks mapped eagle nests. When WDFW has a concern regarding known nest sites, they notify the County. WDFW did not comment in the application. Finally, the July 2011 Gerstel report is in the Staff Report at Attachment mmm. It was routed to the County Hydrogeologist along with the Applicant's consultant's response dated October 2011 and considered during her review. At the time of hearing, Resource Stewardship Staff had not been informed why the county hydrogeologist did not respond in writing to the neighborhood group about the individual questions in the Gerstel memo or to the Applicant's response submittal; however, both were considered in her final review prior to MDNS issuance and final recommendation for project approval. *Kantas Testimony; Exhibit 1, Attachment mmm.*
39. County Public Works Staff testified that the latest traffic study was released in September 2012, using traffic counts taken in January through March 2012, which are within an appropriate time window for traffic data gathering. Staff reiterated that the most recent

TIA showed there would be no intersections operating below acceptable level of service as a result of the project, as shown by the TIA that included appropriate background growth numbers to account for other projects in development. With regard to assertions that the road is currently unsafe, Public Works staff conceded that there is a lack of lighting, curb, gutter, or sidewalk on Steilacoom Road in the project vicinity. Staff noted that there would be a two-way turn lane along the entire frontage and sidewalk on the project side added by the project. *Saint Testimony*.

40. In response to public comment, the Applicant testified that he has been building in Thurston County since the 1980s and that he lives locally. He has used the same engineering consultants on all projects. Applicant consultants noted that: the proposal calls for less than maximum density allowed under code; the proposed stormwater management not only meets but exceed applicable code requirements; there would be no increase in subsurface flows towards Salmon Lane; there would be no increase in winter recharge or any groundwater mounding at the bluff from the proposed ponds; and the ponds were sized to contain the difference in runoff between that from the proposed development and from a forested condition, which is less runoff that the site currently experiences in its post-forested condition, meaning the ponds have greater capacity than existing conditions warrant. Because of these factors, the Applicant team argued that the project fully mitigates all impacts to the built and natural environments and that there would be no increased risk of debris flow as a result of the project. *Rob Rice Testimony; Hatton Testimony; Lindsey Testimony; Exhibit 8a*.
41. Considering the entire record including public comment, Resource Stewardship Staff determined that the proposal with recommended conditions would comport with the requirements of the zoning and platting and subdivision ordinances, the Thurston County-Lacey Joint Comprehensive Plan for the Urban Growth Areas, the Nisqually Sub-Area Plan, and the Thurston County Lacey Urban Growth Area Zoning Ordinance. Staff recommended approval. *Kantas Testimony; Exhibit 1, pages 14-15*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats pursuant to RCW 36.70.970, TCC 2.06.010(A), and TCC 18.12.090.

Criteria for Review

Consistent with Revised Code of Washington (RCW) 58.17.110, the preliminary plat may be approved if the record demonstrates that the following criteria in Thurston County Code 18.12.090 are satisfied:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

2. The public use and interest will be served by the platting of such subdivision and dedication.

Conclusions Based on Findings

1. **With conditions, appropriate provisions would be made for the management of stormwater such that the proposal would not result in adverse impacts to the safety of McAllister Bluff.** Hydrogeologic evaluation and stormwater management design has been a more than nine year process for the instant proposal involving multiple reviewers for the County, the neighborhood groups, and the Applicant. As proposed and conditioned, the final stormwater management system, exceeds all requirements of the 1994 Thurston County Drainage Design and Erosion Control Manual. The project is vested to older, less stringent stormwater standards but in order to address concerns about slope safety the Applicant opted to use some of the more stringent newer provisions, including continuous simulation rather than single event modeling. The soils and geology underlying the site were studied, providing knowledge about the direction and quantities of subsurface flows. Based on the record presented, the Applicant has demonstrated, and the County hydrogeologist has concurred, that the development would not result in an increase in recharge or subsurface flows towards Salmon Lane and would not increase groundwater mounding at the bluff that would result in increased risk of debris flow. *Findings 22, 23, 24, 25, 26, 27, 28, 37, 38, 39, and 40.*
2. **With conditions, appropriate provisions would be made for the public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds and all other relevant facts.** The proposal would connect to municipal water and sewer. The record demonstrates that the project would not cause any area intersections to drop below acceptable levels of service. Required frontage improvements, including the two-way left turn lane along the site frontage and internal roads built to current standards, and the payment of traffic impact fees to both Thurston County and City of Lacey would ensure that the project's traffic impacts are mitigated fully as required by Code. The Applicant has executed a school impact mitigation agreement with Thurston County School District and would pay a per-lot school impact fee that would address capacity impacts of the proposal. Safe walking would be constructed between the plat and Meadows Elementary School. On-site open space exceeds the minimum required and would include active and passive recreation amenities. As conditioned, stormwater would be retained, treated as necessary, and released for infiltration at controlled rates that would not increase subsurface flows towards the McAllister Bluff. Conditions of approval would ensure that the stormwater management system is maintained in perpetuity. *Findings 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 37, 38, 39, 40, and 41.*
3. **With conditions of approval, the public use and interest will be served by the platting of the subdivision.** The proposed 298 lots satisfy the density and minimum lot dimensions required by the underlying LD0-4 zoning district and come in at six fewer lots than allowed by code. The 22-acre portion of the Nisqually Hillside Overlay District would be permanently protected from disturbance in an open space tract that would preserve existing vegetation to protect slope stability and wildlife habitat. Additional

open space, tree tracts, and landscaping would be provided throughout the plat. The site was evaluated specifically for Mazama pocket gopher and bald eagle presence and habitat; neither species was found to inhabit the site. The proposal was reviewed for compliance with SEPA requirements and an MDNS was issued. The Applicant filed the only appeal of the MDNS, which was subsequently withdrawn. The project complies with the Forest Practices and Conversion Ordinance. The proposal complies with the Thurston County-Lacey Joint Comprehensive Plan for the Urban Growth Areas. *Findings 11, 12, 13, 14, 15, 17, 29, 30, 31, 33, 34, 35, 37, 38, 39, 40, and 41.*

DECISION

Based on the preceding findings and conclusions, the requested preliminary plat subdividing 95.71 acres into 298 single-family residential lots, roads, stormwater facilities, and approximately 40.71 acres of open space including a 22-acre tree tract within the Nisqually Hillside Overlay District is **GRANTED**, subject to the following conditions:

- A. Prior to submitting a final plat application, all required on-site and off-site road, utility, and landscaping construction, identified below, shall be completed and approved (or bonded). Also, prior to submitting a final plat application, all agreements (school mitigation, etc.) shall be secured, all mitigation payments paid, and all applicable review fees paid.
- B. Prior to final plat approval the following Health Code related conditions shall be met:
 - 1. Prior to final plat approval City of Lacey sanitary sewer service must be extended to and through this subdivision. Written confirmation of final sewer extension approval from the City of Lacey must be provided.
 - 2. Prior to final plat approval the Meadows Group A Public Water service must be extended to and through this subdivision. Written confirmation of final water extension approval from the Washington State Department of Health (Office of Drinking Water) must be provided.
 - 3. All existing wells located on this property must be properly decommissioned per Washington State Department of Ecology standards prior to final plat approval.
 - 4. An Integrated Pest Management Plan (IPMP) has been developed for this project and has been accepted by this office. Prior to final plat approval the applicant must provide in writing a proposed method of IPMP distribution to future homeowners within this subdivision. This distribution method must be reviewed and approved by this office prior to final plat approval.

- C. Prior to final plat approval, the following Public Works Department related conditions shall be met:
1. Please note a construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction. This shall be applied for, and paid for prior to the pre-construction conference.
 2. All access points with sight distance issues or abutting arterial or collector roadways shall be installed prior to final approval.
 3. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the TCRS, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
 4. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.
 5. The stormwater management system shall conform to the 1994 Thurston County Drainage Design & Erosion Control Manual and Title 15.05 Thurston County Code.
 - a. For this project this also includes a two-year operation & maintenance agreement and financial security that shall be executed prior to final approval.
 - b. Prior to final approval a maintenance agreement found in Appendix K of the Drainage Design & Erosion Control Manual must be prepared for this project and recorded.
 - c. A property owners' association shall be formed. The document creating the Property Owners' Association shall at a minimum make provision for the following: (1) Members of the Property Owners' Association shall be responsible for maintenance of storm drainage facilities as described in Maintenance Plan (See Section 3.3), (2) Inclusion by reference of the maintenance manual prepared by the Project Engineer in accordance with Section 3.3 and (3) Power to assess fees to maintain storm drainage facilities and sanctions in the event that jurisdiction takes action to maintain facilities. Refer to Appendix E, Section E.2 of the Drainage Design & Erosion Control Manual for sample language.
 6. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer and/or the homeowner's association.

7. 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 nor impact any existing drainage or other properties.
8. All natural and man-made drainage paths contained in the proposed development require easements as set forth in Section 2.14 of the DDECM.
9. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
10. Proposed utility work within the Thurston County Right of Way shall conform to the 1999 Thurston County Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather on item such as restoration of the County right of way and traffic control.
 - a. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
 - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.20' of asphalt concrete pavement.
11. In order to meet the requirements of the 1999 Thurston County Road Standards, additional right of way may be required. Please have your legal representative or surveyor prepare a Quit Claim Deed describing the necessary right-of-way, being a strip of land which when added to the existing right of way totals 35 feet of right-of-way lying South of and abutting the existing centerline of Steilacoom Road. Upon your request, Thurston County's right-of-way representative will prepare the Quit Claim Deed describing the necessary right-of-way dedication. Please contact the Thurston County Right-of-Way section at 754-4998.
12. Pursuant to Title 18.24 Thurston County Code the Applicant shall execute an agreement and provide a financial security to assure successful operation of the required improvements prior to final approval. Improvements not covered by this agreement are water, sewer and stormwater facilities. These are addressed either by separate county ordinance or in the case of the water and sewer utilities by the utility purveyor.
13. Permanent survey control need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
14. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 754-4580.

15. Payment of the off-site traffic mitigation required in the 11/6/12 Mitigated Determination of Non-significance is required prior to final approval in accordance with Section 2.13 of the Thurston County Road Standards. Timing of such payments to the other jurisdictions may be altered upon agreement with respective jurisdiction and Thurston County.
16. The proposed roadway in concept and design shall conform to the 1999 Thurston County Road Standards and the City of Lacey standards and development guidelines.
17. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the corresponding city jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.
18. Required plan submittal information is presented in Chapter 3.00 of the TCRS.
19. 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 1994 Drainage Design & Erosion Control Manual.
20. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at (360) 867-2051 for a final inspection.
21. 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.
22. Once the planning department has issued the official preliminary approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
23. Prior to construction, the applicant shall:
 - a. Pay outstanding construction review and inspection fees.
 - b. Receive a construction permit.
 - c. Schedule a pre-construction conference with county staff.
24. A duplicate original mylar drawing, certified by the design engineer as "record drawing" in accordance with the January 1, 1999 edition of TCRS, shall be provided prior to final approval. The final plat map and the survey traverse closure calculations shall be submitted to the Resource Stewardship Department prior to receiving final approval.

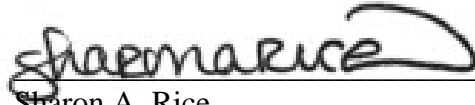
25. Prior to receiving final approval from this department, the following items shall be required:
- a. Completion of all roads and drainage facilities.
 - b. Final inspection and completion of all punch list items, if required after final inspection.
 - c. Receive and accept Appendix "F" and "K" per the DDECM submitted and signed by the project engineer.
 - d. Review and accept contractor's blueline record of changes. The changes shall be incorporated on to the original mylars, within "clouds". The record drawing mylars shall be received and accepted, then submit two sets of final record drawings for project file and bond file. The record drawings shall include street names and block numbers approved by Addressing Official.
 - e. Financial security will be necessary for maintenance and operation of the drainage facilities.
 - f. Financial security for the completion of all improvements required (i.e., sidewalks).
 - g. Required survey information on the final plat map.
 - h. Homeowner's articles of incorporation or covenants.
 - i. Completion of required frontage improvements.
 - j. Completion of required signing and striping.
 - k. Payment of any required utility fees.
 - l. Payment of any required final fees.
 - m. Payment of any required mitigation fees.
 - n. Complete the right-of-way dedication process.
26. The final plat map shall note or delineate the following:
- a. ATTENTION: Thurston County has no responsibility to build, improve, maintain or otherwise service the private road or driveway within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation or servicing of the stormwater facilities outside the county rights of way are the responsibility of the property owner(s).
 - b. Increased storm water runoff from the road(s), building, driveway and parking areas shall be retained on site and shall not be directed to roadway ditches adjacent to Steilacoom Road.
 - c. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
 - d. Delineate the access restrictions by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of Steilacoom Road on the final plat map.

- e. Private roads are required to remain open at all times for emergency and public service vehicle use. Any future improvements (gates, fencing, etc.) that would not allow for “open” access will need to be approved by all applicable departments of Thurston County.
- f. Storage requirements for runoff from buildings and parking surfaces shall be shown on individual building lots, including drywell sizing or storm drain connection points.
- g. Maintenance of the required landscaping and vegetated drainage facilities within the public right of way is the sole responsibility of the (property owners) or (homeowners association) within this subdivision. Thurston County has no responsibility to maintain or service the said landscaping.
- h. The owner and/or Homeowners Association shall be responsible to operate and maintain the streetlights until such time the property is annexed to the city.
- i. Approval of this subdivision is conditioned upon payment of City of Lacey Traffic Mitigation Fees in the amount of \$_____ per lot. This fee increases on July 1 of each year in accordance with the increase in the Engineering News Record Construction Cost Index and the amount is determined at the date of payment. Payment is required prior to the issuance of a water meter for those lots served by the Lacey Water Utility and prior to building permit issuance for those lots not served by such Utility.
- j. This plat is subject to stormwater maintenance agreement recorded under auditor’s file no._____.
- k. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision_____ including unrestricted access for Thurston County staff to any and all stormwater system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners’ Association as established by covenant recorded under Auditor’s file number _____.
- l. The property described herein is required to accommodate stormwater runoff from frontage improvements to Steilacoom Road and all natural tributary areas abutting said property.
- m. Please clearly delineate and label all public and private roads.

D. Street addresses shall be shown on the final map.

- E. The density and minimum lot widths of the final subdivision shall conform to requirements of the Low Density Residential District (TCC 21.12).
- F. All townhome lots and improvements thereon shall comply with the use-specific standards established at TCC 21.61.040.
- G. Prior to final plat approval, the Applicant shall submit a final landscape plan for review and approval.
- H. Prior to final plat approval, the Applicant shall install all proposed active and passive recreation features/structures, and landscaping within the open space tracts.
- I. Prior to final plat approval, the Applicant shall meet with the North Thurston School District personnel to locate an acceptable bus waiting area(s), make any necessary improvements for the waiting area(s), and show the waiting area(s) on the final plat map. A bus shelter shall be provided at the designated bus waiting area(s).
- J. Prior to final plat approval an agreement with the North Thurston School District that provides mitigation for the project's impacts to school facilities shall be submitted. If this agreement requires payment of mitigation fees or other actions after the final plat is recorded then such agreement shall be referred to on the final plat map.
- K. All conditions of the November 6, 2012 Mitigated Determination of Non-Significance in the record at Exhibit 1, Attachment g shall be satisfied prior to final plat approval.
- L. The use of all open space tracts shall be noted on the final plat map. The open space tracts shall be dedicated to the lot owners and/or association on the final plat map.
- M. The following notes shall be shown on the final plat map:
 - 1. This subdivision has been approved through provisions of the Low Density Residential District (TCC 21.12).
 - 2. This subdivision was reviewed under project number 2004104836, folder 04 115682 ZJ.
 - 3. At the time of home construction on individual lots trees shall be planted on the lot. The trees planted shall conform to the approved landscaping plan.
- N. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED December 6, 2013.

A handwritten signature in black ink, appearing to read "sharonarice", written over a horizontal line.

Sharon A. Rice
Thurston County Hearing Examiner

NOTE: Pursuant to TCC 22.62.020(C)10, affected property owners may request a change in valuation for property tax purposes.

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.



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 Resource Stewardship Department this _____ day of _____, 20___.