



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. SSDP-2012104799
)	
Century Link, Inc.)	Independence Road Fiber
)	Optic Cable
For Approval of a)	
Shoreline Substantial Development Permit)	FINDINGS, CONCLUSIONS,
And Shoreline Conditions Use Permit)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for a shoreline substantial development permit and shoreline conditional use permit to construct a fiber optic line along the Independence Road SW right-of-way within the 100-year floodplain of the Chehalis River and across the bridge in both the Rural and Conservancy Shoreline Environments is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Century Link, Inc. (Applicant) requested a shoreline substantial development permit and shoreline conditional use permit to construct a fiber optic line along the Independence Road SW right-of-way within the 100-year floodplain of the Chehalis River and across the bridge in both the Rural and Conservancy Shoreline Environments.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the request on February 19, 2013.

Testimony:

At the hearing the following individuals presented testimony under oath:

Scott Smith, Associate Planner, Resource Stewardship Department
 Hal Dempster, Applicant Representative

Exhibits:

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

- Exhibit 1 Resource Stewardship Department Staff Report, including the following attachments:
- | | |
|--------------|-------------------------------------------------------------------------------------------------------|
| Attachment a | Notice of Public Hearing |
| Attachment b | Zoning/Site Map |
| Attachment c | Master Application, received October 2, 2012 |
| Attachment d | JARPA Permit Application Revision, received December 12, 2012 |
| Attachment e | Site Plan, received December 11, 2012 |
| Attachment f | Detailed Site Plan of River Crossing, undated |
| Attachment g | December 10, 2012 Comment Memorandum from Brad Sangston, Public Health and Social Services Department |
| Attachment h | November 1, 2012 Comment Memorandum from Kevin Chambers, Public Works Department |
| Attachment i | December 18, 2012 Comment Letter from the Washington State Department of Ecology |
- Exhibit 2 Color copy of two photos of the notice of hearing posted on-site

Based upon the record developed at hearing, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

FINDINGS

1. The Applicant requested a shoreline substantial development permit and shoreline conditional use permit to construct a fiber optic line across the Chehalis River along Independence Road SW and within the 100-year floodplain of the Chehalis River. The purpose of the proposal is to upgrade service to a Verizon wireless communications site and to provide high speed internet to about 400 homes in the southwest corner of the County. *Exhibit 1, pages 1-3; Exhibit 1, Attachments C and D.*
2. Current land use within the project boundaries includes a public right-of-way and existing utility infrastructure. Surrounding uses are rural residential development and agriculture. *Exhibit 1, page 2.*
3. The property subject to the instant application is in a rural part of Thurston County. East of the Chehalis River, the subject property is zoned Long Term Agriculture (LTA) zone, while the portion of the project spanning and west of the river is zoned Rural Residential Resource One Dwelling Unit Per Five Acres (RRR 1/5). *Exhibit 1, page 2.* The proposed fiber optic cable is exempt from regulation of the County's zoning ordinance. *Thurston County Code (TCC) 20.05.030(1)(a).*
4. Land within 200 feet of the ordinary high water mark of the Chehalis River is subject to the jurisdiction of the Shoreline Management Act. The Shoreline Master Program for the

Thurston Region (SMPTR) designates the shorelands east of the river as Rural Shoreline Environment and shorelands west of the river as Conservancy Shoreline Environment. *Exhibit 1, page 2.*

5. The proposal would install a new overhead fiber optic communication line across the Chehalis River on existing utility poles on the south side of the Independence Road SW. The new fiber optic line would be installed below the existing power line. No new poles or any other structures are proposed. The line would be installed by a raised boom truck stationed at either end of the bridge. The project would not involve any contact with the river. The application materials include a plan that depicts the proposed improvements and the existing utilities in the area. The fair market value of the project is estimated at \$30,000.00. *Exhibit 1, Attachment D.*
6. Communication lines are considered utilities pursuant to the Utilities chapter of the SMPTR. Utilities are allowed in the Rural Shoreline Environment and are allowed in the Conservancy Shoreline Environment upon review and approval of a shoreline conditional use permit (SCUP). The value of the proposal exceeds the current threshold for shoreline substantial development permit (SSDP). An SSDP is required for the project within the Rural Shoreline Environment and both an SSDP and an SCUP are required for the project within the Conservancy Shoreline Environment. Although the project extends beyond the shoreline jurisdiction to the east and west of the river, only the portions of the project that fall within 200 feet of the Chehalis River or within the river's 100-year floodplain are subject to the subject shoreline applications. *Exhibit 1, Attachment D; Exhibit 1, pages 2-3.*
7. County Planning Staff submitted the position that the addition of the fiber optic line to the existing utility poles would not substantially alter the character of the area, adversely affect aesthetic qualities, or obstruct or destroy views considered to be scenic views for the purposes of the SMPTR. The proposed line would not impact public access to the shoreline or affect boating access on the river. By using the existing utility poles, the proposal would create a new utility line along the shortest, most direct route that would result in the least possible impacts. *Exhibit 1, page 7; Smith Testimony.*
8. The fiber optic line would not impact aquacultural activities. No in-water work is proposed. No sewage treatment, water reclamation, desalinization, power plants, hydroelectric generating facilities, or sewage outfalls are included in the proposal. The proposed utility line is not considered a major transmission facility or industrial activity by the SMPTR; it would not discharge pollutants that could harm the environment or people. The proposed use is not water-dependent or water-related for the purposes of the Shoreline Management Act. *Exhibit 1, pages 4-7; Smith Testimony.*
9. When asked whether there is a number of additional utility lines added to existing poles that would eventually result in either significant visual or cumulative impacts, Planning Staff testified, "I don't know, but this isn't it." *Smith Testimony.*
10. Thurston County Public Works Development Review Section reviewed the application

and plans and determined that as proposed, the project satisfies all requirements of the County's Road Standards and Drainage Design and Erosion Control Manual. Public Works Staff waived the requirement for a drainage and erosion control plan because there is no ground disturbance proposed and recommended approval. *Exhibit 1, Attachment H.*

11. The proposal was routed to Thurston County Environmental Health Division (EHD) for review of the project for compliance with County Health Code requirements. EHD Staff noted that the proposal should not impact any septic systems in the project vicinity and recommended approval. *Exhibit 1, Attachment G.*
12. The Washington State Department of Ecology (DOE) submitted a letter indicating that the proposal must comply with the Shoreline Management Act and the SMPTR. *Exhibit 1, Attachment I.*
13. Notice of the public hearing was sent to all property owners within 500 feet of the site and published in The Olympian on February 8, 2013, more than ten (10) days prior to the hearing. Notice was also posted on-site on February 8, 2013. *Exhibit 1, page 2; Exhibit 1, Attachment A; Exhibit 2.* The County received no comments on the proposal. *Smith Testimony.*

CONCLUSIONS

Jurisdiction

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

Criteria for Review

Shoreline Substantial Development Permit (WAC 173-27-150)

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

A. Shoreline Management Act

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

B. Applicable regulations from the Washington Administrative Code

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

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

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

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

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

C. Shoreline Master Program for the Thurston Region

The following are applicable provisions of the SMPTR:

SMPTR Section Two -- General Goals and Policies

...

B. Conservancy Environment (page 28)

Purpose. The intent of a Conservancy Environment designation is to protect, conserve and manage existing resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational benefits to the public and to achieve sustained resource utilization. The preferred uses are nonconsumptive of the physical and biological resources of the

area and activities and uses of a nonpermanent nature which do not substantially degrade the existing character of the areas. Nonconsumptive uses are those uses which utilize resources on a sustained yield basis while minimally reducing opportunities for other future uses of the resources of the area.

Definition. The "Conservancy Environment" designates shoreline areas for the protection, conservation and management of existing valuable natural resources and historic and cultural areas. This environment is characterized by low-intensity land use and moderate-intensity water use with moderate to little visual evidence of permanent structures and occupancy. Sustained management of the pastoral, aquatic and forest resources, as well as rigidly controlled utilization of nonrenewable and other nonmineral resources which do not result in long-term irreversible impacts on the natural character of the environment are permitted. Intensity of recreation and public access may be limited by the capacity of the environment for sustained recreational use.

C. Rural Environment (page 30)

Purpose. The primary purposes of the Rural Environment are to protect areas from urban expansion, restrict intensive developments along undeveloped shore-lines, function as a buffer between urban areas, and maintain open spaces for recreational purposes compatible with rural uses. New developments in a Rural Environment are to reflect the character of the surrounding area.

Definition. The "Rural Environment" designates shoreline areas in which land will be protected from high-density urban expansion and may function as a buffer between urban areas and the shorelines proper. This environment is characterized by low intensity land use and moderate to intensive water use. Residential development does not exceed two dwellings per acre. Visual impact is variable with a moderate portion of the environment dominated by structures of impermeable surfaces. Intensive cultivation and development of the renewable soils, aquatic and forest resources, as well as limited utilization of nonrenewable mineral resources is permitted. Recreational activities and public access to the shoreline are encouraged to the extent compatible with other rural uses and activities designated for this environment.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA (pages 22-23)

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.

- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.
- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

SMPTR Section Three, Chapter XX, Part B. Policies (pages 118-119)

1. Wherever utilities must be placed in a shoreline area, the locations should be chosen so as not to obstruct or destroy scenic views. Utilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.
2. Where construction connected with utility placement occurs on shorelines, banks should be restored to their pre-project configuration, replanted with native species and maintained until the new vegetation is established.
3. Sewage treatment, water reclamation, desalinization and power plants should be designed and located so as not to interfere with, and to be compatible with recreational, residential or other public uses of the water and shorelands.
4. Sewage outfalls to waterbodies should be avoided in preference to recycling or land disposal of sewage wastes. Where no alternative to outfalls into water exist, location of such outfalls should be part of the appropriate regional plan for solutions to sewage management problems.

5. Utility rights-of-way should be used for public access to and along waterbodies where feasible.
6. If utilities must be located over the water, they should be placed on bridge-like structures rather than fill, and said structures should provide clearance for all marine vessels normally using the area.
7. New major transmission facilities should follow existing utility corridors unless prohibited by the environmental designation and regulations.

SMPTR Section Three, Chapter XX, Part C. General Regulations (pages 119-120)

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

10. No new hydroelectric generating facilities are allowed on the Nisqually River pursuant to the recommendations of the Nisqually River Management Plan.

Shoreline Conditional Use Criteria (WAC 173-27-160)

The Washington Administrative Code (WAC) contains criteria for review of Conditional Use applications. The Applicant must demonstrate compliance with the criteria for the Conditional Use to be authorized. The criteria are listed below, along with staff analysis of project compliance.

- (1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - (a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - (b) That the proposed use will not interfere with the normal public use of public shorelines;
 - (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 - (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - (e) That the public interest suffers no substantial detrimental effect.
- (2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.59.020 and shall not produce substantial adverse effects to the shoreline environment.
- (3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.
- (4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

Conclusions Based on Findings

Shoreline Substantial Development Permit

1. As conditioned, the proposal would be consistent with the policies and procedures of the Shoreline Management Act. Utilities are allowed in both Rural and Conservancy

Shoreline Environments. The addition of a utility line to existing poles and infrastructure is a “reasonable and appropriate use” of the shorelands within the project limits. The proposal would not install any new structures on the shoreline and there would be no ground disturbing activities or vegetation removal. The project was reviewed by the County's Health Department and no impacts to public health were identified. The fiber optic line would not impact public shoreline access or views. *Findings 4, 5, 6, 7, and 11; SMPTR Section 3, Chapter XX.D.1 and D.3.*

2. As conditioned, the proposed utility line complies with applicable regulations in the Washington Administrative Code. No new structures would be installed. There would be negligible impacts to views or character of the rural area. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Findings 5 and 7.*
3. The proposal is consistent with the applicable policies and regulations of the Shoreline Master Program for the Thurston Region. The project would add one overhead line to existing poles and infrastructure. The project would not interfere with or alter public access to the river by land or water. Potential environmental impacts have been determined to be minimal, to be further minimized by conditions of approval. Visual impacts would be negligible; no significant views would be impacted. No grading, over-water work, or impacts to submerged lands would occur. The proposed route is an existing utility line, and as such is the shortest route available. There is no potential for discharge of waste materials associated with the use. *Findings 1, 4, 5, 6, 7, 8, 10, 11, and 12.*

Shoreline Conditional Use Permit

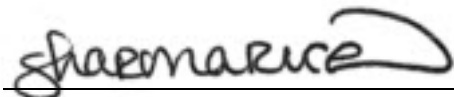
4. As concluded above in the SSDP conclusions, the proposal is consistent with the policies of RCW 90.58.020 and the SMPTR. It would result in no impacts to shoreline access and no significant adverse effects to the shoreline environments. The proposed additional line is compatible with the existing utility infrastructure on which it proposes to locate. The public interest in the rural area would be benefitted by increased cell and internet service. The record contains no evidence of harm to the public. *Findings 1, 4, 5, 6, 7, 8, 9, 10, 11, and 12.*
5. By using the existing utility infrastructure, the project minimizes the potential for impacts; the record contains no evidence of negative impacts to the rural project vicinity. Additional future requests for permission to add lines to existing utility infrastructure would similarly minimize impacts and not result in a cumulative adverse impact to the shoreline. *Findings 5, 8, 10, and 11.*
6. The proposed use is specified in the SMPTR, is allowed in the Rural Shoreline Environment, and is allowed in the Conservancy Shoreline Environment subject to conditional use permit. *Finding 6; SMPTR Section 3, Chapter XX.D.1 and D.3.*

DECISION

Based upon the preceding findings and conclusions, the requested shoreline substantial development permit and shoreline conditional use permit to construct a fiber optic line along the Independence Road SW right-of-way within the 100-year floodplain of the Chehalis River and across the bridge in both the Rural and Conservancy Shoreline Environments is **GRANTED** subject to the following conditions:

1. Prior to or in conjunction with the issuance of any building permits, all applicable regulations and requirements of the Thurston County Public Health and Social Services department, Public Works Department, Fire Marshall, and Thurston County Resource Stewardship Department shall be met.
2. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.
3. All activities shall fully comply with the Thurston County Stormwater Drainage Design and Erosion Control Manual (TCC 15.05) throughout all phases of the proposed project.
4. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the applicant's responsibility to obtain this permit if required.
5. All removed debris and waste materials resulting from this project must be disposed of at an approved site. Property owners, developers, and contractors are encouraged to recycle all possible left over construction, demolition, and land clearing (CDL) materials and reduce waste generated. Please visit <http://1800recycle.wa.gov> to find facilities that recycle construction, demolition, and land clearing materials in your area.
6. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).
7. Construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

Decided March 5, 2013 by



Sharon A. Rice
Thurston County Hearing Examiner

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. <u>2012104799 SSDP</u> 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___.