



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-2013100434
	)	
<b>Washington State Department of    Fish and Wildlife</b>	)	<b>FINDINGS, CONCLUSIONS,    AND DECISION</b>
	)	
For Approval of a	)	
Shoreline Substantial Development Permit	)	
_____	)	

**SUMMARY OF DECISION**

The request for a shoreline substantial development permit to remove and replace two existing boat ramps, install a new Americans with Disabilities Act- compliant vault toilet, and install an asphalt overlay on portions of an existing driveway in the Rural Shoreline Environment at the public boat launch at Summit Lake is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

The Washington Department of Fish and Wildlife (WDFW, Applicant) requested a shoreline substantial development permit to remove and replace two existing boat ramps, install a new Americans with Disabilities Act- compliant vault toilet, and install an asphalt overlay on portions of an existing driveway in the Rural Shoreline Environment at the public boat launch at Summit Lake.

**Hearing Date:**

The Thurston County Hearing Examiner held an open record hearing on the request on May 6, 2013.

**Testimony:**

At the hearing the following individuals presented testimony under oath:

- Robert Smith, Senior Planner, Thurston County Resource Stewardship Department
- Sara Brallier, Environmental Health Department
- Arthur Saint, P.E., Public Works Department

Chris Gourelly, WDFW, Applicant Representative  
John Hansen, WDFW, Applicant Representative  
Mike Shelstad

Exhibits:

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

EXHIBIT 1        Resource Stewardship Department, Land Use and Environmental Review  
                         Section Report including the following attachments:

- Attachment a        Notice of Public Hearing
- Attachment b        Zoning/Site Map
- Attachment c        Master Application, received February 8, 2013
- Attachment d        JARPA Permit Application, received February 8, 2013
- Attachment e        Narrative Description, received February 8, 2013
- Attachment f        Site Plan Set, received February 8, 2013
- Attachment g        Construction Detail Plan Sheets, received February 8, 2013
- Attachment h        Addendum to Determination of Non Significance, Dated  
                         November 15, 2012, Issued by the Washington Department of  
                         Fish and Wildlife
- Attachment i        March 22, 2013 Comment Memorandum from Brad Sangston,  
                         Public Health and Social Services Department
- Attachment j        February 27, 2013 Comment Memorandum from Kevin  
                         Chambers, Public Works Department

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 to remove and replace two existing boat ramps, install a new Americans with Disabilities Act-compliant vault toilet, and install an asphalt overlay on portions of an existing drive area at the

public boat launch at Summit Lake.<sup>1</sup> *Exhibit 1, page 1; Exhibit 1, Attachments C, D, E, and F.*

2. The subject property is a 1.98-acre lot located along the south shore of Summit Lake in rural Thurston County. It has been used as a public lake access point and boat launch since approximately 1958. It is currently developed with two boat ramps, a paved driving/maneuvering area, graveled parking areas, and a vault toilet. Existing parking includes areas for trucks and boat trailers. The access driveway and a mature forested area occupy the southern part of the site. Summit Lake is the north boundary of the parcel. Surrounding land uses to the east, south, and west are single-family residences. *Exhibit 1, page 2.*
3. Vegetation onsite is comprised of red alder, Douglas fir, and native shrubs including salmonberry, snowberry, and salal. There is a narrow grass area between the lake and the paved maneuvering area. A stream in the western portion of the site is considered to be fish-bearing; its length through the subject property contains small stretches of gravel suitable for trout spawning. Wetlands associated with Summit Lake are approximately 500 feet from the project site at their closest point. Neither the stream nor the wetlands would be impacted by the proposal. *Exhibit 1, Attachment D.*
4. The overall project includes removal and replacement of two existing concrete boat ramps with two new pre-cast concrete plank ramps occupying the same foot print. The new ramps would measure approximately 12 feet by 45 feet and would extend approximately 30 feet waterward of the ordinary high water mark. Upland from the boat ramps, an existing asphalt maneuvering area in poor condition would be overlain with a new layer of asphalt. The proposed ADA-compliant vault toilet would be placed in a graveled parking area adjacent to an existing paved ADA parking space; its proposed location is directly upland from the existing vault toilet on-site on a pre-cast concrete pad approximately 110 feet upland from the ordinary high water mark. The toilet would be 9.5 feet tall and would not be visible from off-site. No new impervious surfaces are proposed. This existing facilities currently provide pedestrian access to Summit Lake for swimming and launching non-motorized watercraft. The proposed improvements will not alter this access or existing on-site parking. *Exhibit 1, page 2; Exhibit 1, Attachments C, D, E, and F.*
5. Also included in the overall project is the removal and replacement of a culvert in the unnamed fish-bearing stream on-site. The existing 18-inch culvert must be replaced to provide fish passage and to maintain stormwater drainage through the site. Sometime in the last several years, Thurston County replaced an upstream 18-inch culvert with a 36-inch culvert; the change has resulted in increased flows that back up at the on-site culvert and flooding on adjacent residential properties. However, because the on-site culvert to

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<sup>1</sup> The legal description of the subject property is a portion of the Northeast Quarter of the Southeast Quarter of the Northeast Quarter of Section 13, Township 18 North, Range 4 West, W.M.; also known as tax parcel number 14813140100. *Exhibit 1, page 1.*

be replaced is more than 200 feet from the ordinary high water mark, it is not located within the shoreline jurisdiction and thus this portion of the project does require shoreline permit approval. *Exhibit 1, Attachment D; Gourley Testimony; Schelstad Testimony.*

6. The site is zoned Residential LAMIRD – Two Dwelling Units Per Acre (RL 2/1) and has the corresponding Comprehensive Plan land use designation. The existing public boat launch/lake access site was in place prior to adoption of the current zoning and SMPTR designations. The proposed boat ramp replacement and paving overlay are considered maintenance activities and are allowed. The proposed new toilet is considered an intensification of the existing use and is allowed subject to compliance with applicable standard of the RL 2/1 zone. *Testimony; Exhibit 1, pages 2- 3.*
7. New structures in the RL 2/1 zone are required to be setback 25 feet from a local road and 10 feet from side and rear property lines. *Thurston County Code (TCC) 20.07.030(1)*. The proposed placement of the new vault toilet would exceed the required setbacks. No other structures are proposed. *Exhibit 1, page 3; Exhibit 1, Attachment F.*
8. Land within 200 feet of ordinary high water mark of the lake is designated as Rural Shoreline Environment pursuant to the Shoreline Master Program for the Thurston Region (SMPTR). *Exhibit 1, page 2*. Public boat launches and lake access points are addressed in the Recreation chapter of the SMPTR and are allowed subject to a permit review process to ensure compliance with the applicable shoreline regulations. *Exhibit 1, page 3; SMPTR Section Three, Chapter XIV.*
9. The project has a total estimated cost of \$270,000 and therefore requires a shoreline substantial development permit. *Exhibit 1, Attachment D; Exhibit 1, page 3.*
10. Prior to construction, the Applicant would have erosion control measures in place to prevent sediments from entering summit lake; proposed measures include the use of filter fabric, turbidity curtain, and sandbags. The existing grass adjacent to the parking area would be retained and would help treat stormwater runoff from the driving area during and after construction. The Applicant would be required to obtain applicable state and federal permits prior to beginning in-water work (limited to replacing the two boat ramps). Construction is anticipated between August and October 2013, assuming all permits are obtained. *Exhibit 1, page 5; Exhibit 1, Attachment D; Hansen Testimony.*
11. The proposed boat ramp replacement, asphalt overlay, and placement of a vault toilet are not industrial activities, as defined by the SMPTR. *Exhibit 1, page 8.*
12. WDFW assumed Lead Agency status for review of the proposal's environmental impacts. A determination of non-significance (DNS) was issued on November 15, 2012 for the proposal; however, the agency subsequently amended the DNS to include information regarding the on-site stream which was discovered to be fish-bearing. Because of the status of the stream, the originally proposed 18-inch culvert was replaced by a proposed 72-inch culvert in order to facilitate fish passage. The amended DNS, issued February 8, 2013, identified fish protection measures to be implemented in the event that water is

flowing at the time of construction. The DNS was not appealed. *Exhibit 1, Attachment H; Gourley Testimony.*

13. No septic or sewer service is proposed with the new toilet. Both the existing and proposed vault toilet would be pumped to remove sanitary wastes from the site. Pumping at public vault toilet facilities is handled by contracted providers. *Brallier Testimony.*
14. The proposal was routed to Thurston County Environmental Health Division (EHD) for review of the project's compliance with County health code requirements. EHD Staff noted that the septic systems for the adjacent residences to the west and that the water line serving the waterfront property to the west is very near to the boat ramp area EHD Staff recommended a condition of approval to ensure no vehicles or construction equipment travel over the existing septic systems or water line and that no parking or materials staging occurs above the utilities. With a condition to that effect, EHD Staff recommended approval. *Exhibit 1, Attachment I.*
15. 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; however, Staff noted that a construction stormwater permit from Department of Ecology might be required. Public Works Staff recommended approval conditioned on the Applicant contacting Ecology to find out whether the permit is required. *Exhibit 1, Attachment J.*
16. Notice of the public hearing was sent to all property owners within 500 feet of the site, posted on-site, and published in The Olympian on April 26, 2013, ten (10) days prior to the hearing. *Exhibit 1, pages 2- 3; Exhibit 1, Attachment A; Exhibit 2.*
17. At hearing, public comment was provided by one adjacent land owner. Mike Schelstad, who lives next door to boat launch, testified that the 18-inch culvert at the site driveway has flooded the last three years. He expressed concerns about trees that have fallen both on the subject property and on his land in the last several years. He noted that no new landscaping is proposed and inquired whether any should be required. Finally, he noted that the existing vault toilet routinely produces unpleasant odors in July and August. *Schelstad Testimony.*
18. In response to public comment, Resource Stewardship Staff testified that the critical areas permit for the culvert replacement has already been issued and the new six-foot culvert is anticipated to address all drainage issues Mr. Schelstad mentioned. Also, Staff noted that the proposed vault toilet would be placed next to the existing vault toilet and would not be a significant change in the view of the site from off-site. All other work proposed is on the ground or underwater. Therefore, no landscaping or screening is required. *Smith Testimony.*
19. EHD Staff noted that the contract for pumping the vault toilet specifies "regular" pumping and that complaints about the facility can be lodged online at the County's Health Department website. *Brallier Testimony.*

20. In response to public comment, Applicant representatives noted new toilet design is known as “sweet technology” with a better airflow, designed to reduce odors. They also noted that vault toilets at state facilities are regularly checked and pumped when needed by WDFW staff at the regional office in Montesano. Complaints about the facilities may also be lodged at the WDFW website. They stated that the shoulders on both sides of the buffer areas are maintained in grass and native plants and that no screening was proposed because new construction for the project is minimal. *Gourley Testimony; Hansen 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 Thurston County Shoreline Master Program.

### **Criteria for Review**

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.

*Washington Administrative Code (WAC) 173-27-150.*

#### *(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, Chapter V. Regional Criteria

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.

## Section Two, Chapter VII, Shoreline Environments

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### 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.

### Goal Statements: (pages 30-31)

1. Economic Development. Available resources should be utilized consistent with the definition and purpose of the Rural Environment.
2. Public Access. The primary goal of this element is to provide adequate public access areas to ensure maximum enjoyment of recreational and scenic opportunities with minimum conflict with other rural uses. It is the intent of this goal to:
  - a. Recognize and protect private property rights consistent with the public interest;
  - b. Prevent the destruction of the more fragile recreation areas through excessive use; and
  - c. Exercise due regard for the safety of the public.
3. Circulation. The goal of the Circulation Element in the Rural Environment is to provide facilities that are necessary only for local usage. Trail systems for safe nonmotorized traffic are to be encouraged where compatible with rural uses. Major planned circulation systems shall be located away from shoreline areas whenever possible.



4. Recreation. The recreation goal is to assure diverse, convenient and adequate water-related recreational opportunities along the shorelines of the County located in such a way as to minimize conflicts with other rural activities.
5. Shoreline Use. Areas for intensive public use should be distributed in such a manner as to avoid concentration of user pressure, to discourage intrusions endangering life or property, and to avoid uses having adverse effects on fragile natural systems.
6. Conservation. This goal shall be to have sound management in the conservation of all natural resources within the Rural Environment.
7. Historical and Cultural Values. The goal of this element shall be to promote, protect and preserve historical, cultural scientific or educational values on shorelines where these values are acknowledged.
8. Restoration. This goal is to restore to a useful or original condition those areas (including waters) which are blighted by present uses, discontinued uses and dilapidated or abandoned structures.

### Section Three, Chapter XIV-- Policies and Regulations For Use Activities - Recreation

#### Part B, Policies (pages 90-91)

1. Priorities for recreational development of shorelines should relate directly to densities and unique characteristics of the population served. Priorities for acquisition should consider need and special opportunities as well as access by public transit.
2. All recreational development projects should be considered on the basis of their compatibility with the environment.
3. Access to recreational locations such as fishing streams and hunting areas should be planned to prevent concentration of use pressures.
4. The linkage of shoreline parks and public access points through provisions for linear open spaces should be encouraged. Such open space could include hiking paths, bicycle paths and/or scenic drives located as close to the water's edge as feasible.
5. Recreational developments should be designed to preserve, enhance or create scenic views and vistas. Favorable consideration should be given to those projects that complement their environment.
6. Where possible, parking areas should be located inland, away from the immediate edge of the water, and recreational beaches, and should be linked with the shoreline by walkways.
7. Recreational development should comply with all applicable city, county, state, and federal regulations.
8. Facilities for intensive recreational activities should be permitted only where sewage disposal and pest control can be accomplished to meet public health standards without altering the environment adversely.
9. Development of public fishing piers, underwater fishing reefs, and access to public waters and tidelands should be encouraged as part of an overall recreation plan or development.
10. Where appropriate, non-intensive, recreational use should be encouraged on flood plains that are subject to recurring flooding.
11. Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity.

### Part C, Regulations (pages 91-92)

1. Public access points on lakes must provide parking space appropriate for the intended use.
2. Recreation facilities or structures which are not compatible with the environmental designation in which they are proposed are prohibited.
3. Events and temporary uses in the public interest may be approved by the Administrator in any environment, provided that such uses will not damage the wetland environment.
4. Recreational developments must provide facilities for non-motorized access, such as pedestrian, bicycle and/or equestrian path links to the shoreline.
5. Sewage disposal and pest control must meet public health standards; waste must not be allowed to enter the water.
6. The following regulations shall apply to artificial aquatic life habitats:
  - a. Habitats shall minimize interference with surface navigation.
  - b. Habitats shall be constructed of long-lasting, nonpolluting materials, and moored so as to remain in their original location even under adverse current or wave action.
  - c. Habitats may not be installed on publicly-owned submerged land without written permission of the administering governmental agency.
7. Public or private recreation areas which cater to the use of all-terrain or offroad vehicles as the primary recreational activity shall not be allowed in the shoreline areas.
8. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer:
  - a. The location proposed is mapped as "Unstable" or "Intermediate Stability" in the Washington Coastal Zone Atlas prepared by the state Department of Ecology.
  - b. All stair towers 24 feet in height or taller.
  - c. Other instances where the building official determines that site conditions dictate the preparation of plans by a licensed civil engineer.
9. Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.

### Part D, Environmental Designations and Regulations

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3. Rural Environment. Low to medium intensity recreational uses shall be permitted on Rural Environment shorelines, subject to the general regulations and following specific regulations.
  - a. A recreational facility of structure which changes or detracts from the character of the Rural Environment (by building design or intensity of use) shall be prohibited.
  - b. Roads, parking and vehicular camping facilities, including restrooms, shall not be located within fifty (50) feet of the ordinary high-water mark of any shoreline with the exception of access to boat launching facilities. Parking facilities and roadways may be within fifty (50) feet only if they provide access for handicap or for scenic viewpoints. Maintenance or upgrading of existing roads, parking and/or vehicle camping facilities including restrooms is permitted provided the area devoted to these facilities is not enlarged. Pedestrian and hiking trail access shall be provided to link upland facilities with the shoreline.

### Conclusions Based on Findings

1. The proposed maintenance of existing facilities and addition of one new vault toilet at the Summit Lake boat launch is a water dependent use dedicated to public shoreline access.

As designed and conditioned, the project would: preserve the natural character, resources, and ecology of the shoreline; maintain and add to public park facilities for the long term; control pollution during construction; and most significantly improve access to the shoreline both for boaters and for persons with disabilities. The project is a reasonable and appropriate use of the shoreline consistent with the Shoreline Management Act. *Findings 2, 4, 5, 8, and 9.*

2. As conditioned, the proposed improvements comply with applicable regulations in the Washington Administrative Code. No new structure would be taller than ten feet above grade at any point. In adding one vault toilet adjacent to the existing one on-site, there would be no significant impact to the on-site views of the adjacent residences and no impact to water views from any property. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Findings 3, 4, and 7.*
3. As conditioned, the proposal is consistent with the applicable SMPTR policies and regulations. The proposal would improve an existing public facility. Boat ramp replacement and driving area resurfacing are maintenance activities without which continued public use would eventually no longer be possible. The addition of an ADA-compliant vault toilet is a new accessory use that would make the site accessible to additional users. No new impervious surfaces are proposed within the shorelands and the only new structure is a second vault toilet near the existing one. No views or scenic vistas would be impacted. The proposal would not negatively affect the character or environmental features of the site. There would be no change to public access or to the existing parking for vehicles and boat trailers. The Applicant is a unit of government and the instant application is subject to all requirements. Neighbors or users with concerns about odors or other sanitary conditions of the vault toilets on-site can file complaints with either Thurston County or WDFW. No public health concerns were raised during review of the project. *Findings 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, and 20.*

### **DECISION**

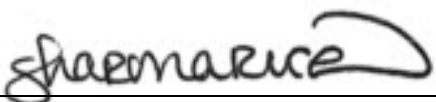
Based upon the preceding findings and conclusions, the requested shoreline substantial development permit remove and replace two existing boat ramps, install a new Americans with Disabilities Act- compliant vault toilet, and install an asphalt overlay on portions of an existing driveway in the Rural Shoreline Environment at the public boat launch at Summit Lake 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. The area of proposed work for this project is away from the existing septic systems on the neighboring properties to the west (parcels 14813140600 and 14813140700). However, to avoid potential damage to the septic system, caution should be taken to prevent any vehicle or equipment travel over the existing septic systems or water lines and there

should be no parking of vehicles or equipment and no staging of materials over the drainfield area, septic system components (tanks, building sewer lines, transport lines, etc.), and water lines. Both properties draw water from the lake. The water line serving the cabin on the waterfront property to the west is very close to the property line near the boat launch area according to the septic record drawing on file.

3. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.
4. All activities shall fully comply with the Thurston County Stormwater Drainage Design and Erosion Control Manual (TCC 15.05) throughout all phases of the proposed project.
5. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the applicant's responsibility to obtain this permit if required.
6. Erosion control measures must be in place prior to any clearing, excavation, grading or construction and must be approved by the Resource Stewardship Department. These measures must be effective to prevent soil from being carried into surface water by stormwater runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants
7. All removed debris and waste materials resulting from this project must be disposed of at an approved site. Property owners, developers, and contractors are encouraged to recycle all possible left over construction, demolition, and land clearing (CDL) materials and reduce waste generated. Please visit <http://1800recycle.wa.gov> to find facilities that recycle construction, demolition, and land clearing materials in your area.
8. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).
9. 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 May 20, 2013 by



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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 **\$620.00** 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.



<b>Project No.</b> <u>2013100434</u> <b>Appeal Sequence No.:</b> _____
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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  \$620.00 for Reconsideration or \$820.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_

Filed with the Resource Stewardship Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.