



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. 2013104165
)	
Gateway 850 LLC)	Gateway Division 2
)	
)	
For a Preliminary Plat)	FINDINGS, CONCLUSIONS, AND DECISION
_____)	

SUMMARY OF DECISION

The requested preliminary plat subdividing 80.43 acres into 374 single-family residential lots, a 3.49-acre future development tract for 90 multi-family units, and 17.38 acres of open space tracts, together with the requests for Forestland Conversion and Design Review approval, are **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request

Gateway 850 LLC (Applicant) requested approval of a preliminary plat subdividing 80.43 acres into 374 single-family residential lots, a 3.49-acre future development tract for 90 multi-family units, and 17.38 acres of open space tracts. Forestland conversion and design review applications were also submitted and must be approved for the project to proceed. The subject property is located on the north side of Britton Parkway near the Lacey city limits within the Lacey urban growth area.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on July 7, 2014.

Testimony

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

Tony Kantas, Associate Planner, Resource Stewardship Department

Arthur Saint, P.E., Development Review Department
Brad Sangston, Environmental Health Division
Jeff Pantier, Hatton Godat Pantier, Applicant Representative
Kevin O'Brien, Principal/Applicant
Martin Heiz
Joel Carlson

The Applicant was represented by Patrick Mullaney, Attorney.

Exhibits

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

Exhibit 1 Resource Stewardship Department Staff Report, dated July 7, 2014 with the following attachments:

Attachment a Notice of Public Hearing

Attachment b Thurston County Master Application, dated September 5, 2013

Attachment c Thurston County Division of Land Application, dated September 5, 2013

Attachment d Thurston County Forestland Conversion Application, dated September 5, 2013

Attachment e Thurston County Design Review Application, dated September 5, 2013

Attachment f Narrative Summary

Attachment g Mitigated Determination of Non-Significance, dated June 19, 2014

Attachment h May 20, 2014 Memorandum from the Arthur Saint, Thurston County Public Works Department (SEPA Recommendation)

Attachment i June 25, 2014 Memorandum from the Arthur Saint, Thurston County Public Works Department (Plat Recommendation)

Attachment j March 13, 2014 Letter from the Thurston County Health Department

Attachment k December 4, 2013 comment letter from Washington State Department of Ecology

Attachment l September 26, 2013 comment letter from Washington State Department of Ecology

Attachment m June 11, 2014 Letter from the U.S. Department of Fish & Wildlife

- Attachment n Zoning Map (Geodata)
- Attachment o Two-Foot Contour Map (Geodata)
- Attachment p City of Lacey Boundary Map (Geodata)
- Attachment q November 25, 2013 comment email from Dick Heiz
- Attachment r Preliminary Site Plan (Revision date, 1/24/14)
- Attachment s Preliminary Landscape Plan
- Attachment t Colored Site Plan
- Attachment u Townhouse Architectural Design
- Attachment v City of Lacey Decision and Record for Gateway Division 1
- Attachment w August 7, 2013 Wetland and Stream Delineation, Altmann Oliver Associates, LLC
- Attachment x October 10, 2012 Mazama Pocket Gopher Study
- Attachment y August 26, 2013 Tree Plan
- Attachment z Integrated Pest Management Plan, Revision date 1/24/14
- Attachment aa Sanitary Sewer Basin Study for Gateway Residential Subdivision Division 1
- Attachment bb Transportation Impact Study, dated March 10, 2014
- Attachment cc Preliminary Drainage and Erosion Control Report, dated December 20, 2013
- Attachment dd Tree Risk Assessment, dated December 3, 2013
- Attachment ee Notice of Application, dated November 14, 2013
- Exhibit 2 Recommended condition of approval number 39, offered by Mr. Kantas
- Exhibit 3 Terra Associates, Inc. Tacoma Smelter Plume Assessment, dated April 15, 2014
- Exhibit 4 North Thurston Public Schools mitigation request, dated August 30, 2013
- Exhibit 5 Public comments from Dick Heiz, dated July 7, 2014

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

FINDINGS

1. The Applicant requested approval of a preliminary plat subdividing 80.43 acres into 374 single-family residential lots, a 3.49-acre future development tract for 90 multi-family units, and 17.38 acres of open space tracts. The subject property is located on the north side of Britton Parkway, northwest of the roundabout intersection with Marvin Road.¹ The request requires concurrent approval of a forestland conversion application and design review. The proposal would be completed in phases with timing to be determined by market conditions. *Exhibit 1, Attachments b, c, d, e, f, and p.*
2. The applications were submitted on September 5, 2013 and deemed complete for review on October 3, 2013. *Exhibit 1, page 2; Exhibit 1, Attachment ee.*
3. The instant proposal is the second phase of the larger overall Gateway subdivision. Gateway Division 1, adjacent to the south, was recently approved by the City of Lacey in which it is located. Division 1 will subdivide approximately 43 acres into 83 single-family lots and one 10.9-acre parcel for future multi-family development. Other surrounding development includes the single-family subdivision called Eagle Estates bordering half the northern site boundary, with the other northern half bordering two large lots with single-family residences. Light Industrial- and Business Park-zoned properties border the site to the east. The property to the west is owned by the City of Lacey and is slated for future park development. *Exhibit 1, page 2; Exhibit 1, Attachment v.*
4. Currently, the site contains vacant forestland. Topographically it slopes from east to west with high elevations ranging from approximately 230 feet above mean sea level in the east approximately 80 feet on the west side. Two wetlands and a stream have been delineated in the southwest portion of the site. *Exhibit 1, page 3; Exhibit 1, Attachments o and w.*
5. The subject property is within the City of Lacey urban growth area (UGA). The Lacey-Thurston County Joint Comprehensive Plan designates the area for residential use at a density between six and twenty dwelling units per acre. A small northern portion of the site has a Moderate Density Residential District (MD 6-12) zoning designation, which requires between six and twelve residential units per acre. The remainder of the property is zoned High Density Residential District (HD 6-20) requiring between six and 20 units per acre. *Exhibit 1, page 2; Exhibit 1, Attachments n and r.*

¹ The subject property is a portion of Section 3, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Number(s): 11803340000 and 11803420000. *Exhibit 1, page 1.*

6. Both of the underlying zoning districts are intended, among other purposes, to encourage a variety of housing types at higher densities than lower density districts, to allow for lower cost housing options in areas where urban level utilities are available, and to allow for preservation of open space and related amenities. *Thurston County Code (TCC) 21.18.010; TCC 21.15.010*. Projects in the MD 6-12 zone on parcels over ten acres in size must develop at least 50% of units for single-family use as detached, attached, townhouses, or condominiums. Parcels in the HD 6-20 zone over ten acres in size must develop no less than 25% with single-family uses. Both zones require the mix of housing types to be integrated as much as possible throughout the site and a minimum of six units per acre. *TCC 21.15.020.A.1; TCC 21.18.020.A.1*.
7. Development standards in the MD 6-12 zone require a minimum lot size of four thousand square feet. Minimum lot width when alleys are utilized is thirty feet and forty feet where alleys are not provided. Lots with rear lot alleys access must have a minimum front yard of ten feet on all streets with a ten-foot planter strip; front loading lots without alleys must have a twenty-foot front setback with standard planter strip. Side yards are required as follows: minimum on one side, five feet and minimum total both sides, ten feet; zero lot lines concept may be approved if project incorporates alley access for the majority of units and design review is approved. Minimum rear yards are fifteen feet, except that garages may be within three feet of the rear line when adjacent to an alley. Maximum building area coverage is 70% and maximum impervious surface is 85%. Primary buildings may be a maximum height of forty feet. Lots intended for attached single-family, condominiums, and multifamily are required to undergo design review consistent with TCC Chapter 21.70. *TCC 21.15.050*.
8. The HD 6-20 zone requires the same lot area, lot widths, side and rear yard standards, lot coverage by building, and lot coverage by impervious surfaces as the MD 6-12 zone. Minimum front yard on all streets are ten feet. Maximum building height is 80 feet or eight stories. Again, lots intended for attached single-family, condominium, and multifamily development are subject to design review consistent with TCC Chapter 21.70. *TCC 21.18.040*.
9. The Division 1 proposal calls for 286 single-family detached front load units, 44 single-family detached rear load units, 44 single-family attached rear load townhomes developed as duplexes, and 90 multifamily residential units to be developed in a future phase. The various housing types are mixed together throughout the site. The smallest proposed MD 6-12 lot is 4,550 square feet and the narrowest would be 49-feet in width. Alley access is not proposed in the MD 6-12 portion of the plat. The smallest proposed HD 6-20 lot is 4,000 square feet, except for the townhouse lots, the smallest of which would be 2,340 square feet consistent with the townhouse development standards at TCC 21.61.040.C. Alley access is only proposed in the townhouse portion of the plat. The narrowest single-family residential lot in the HD 6-20 zone would be 40-feet. At the time of building permit application, Thurston County Staff would review individual building permit applications to ensure that yard setbacks, building area coverage, impervious surfaces, and building height requirements are satisfied. Administrative Site Plan Review

and Design Review applications would be required at the time the multi-family tract proceeds to development. *Exhibit 1, Attachments e, j, r, and t; Exhibit 1 pages 4-6.*

10. The proposed density is 6.01 dwelling units per acre. For the purpose of calculating density, the 3.2 acres in wetland was excluded from the site area; a total of 77.23 acres was considered when arriving at the allowed density of the proposed project. This density is consistent with the requirements of the underlying zoning districts. *Exhibit 1, page 4; Exhibit 1, Attachments r and v.*
11. In the Lacey UGA, residential subdivisions are required to dedicate ten percent of the total site as open space meeting the following standards: attractive, accessible, useable for active and passive recreation; separate and distinct from required yards and setbacks; up to 50% of the open space may be used to preserve critical areas, associated buffers, and trees tracts; open space may include stormwater facilities designed for active and or passive recreation opportunities; shall be consolidated to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance; placed in consideration of existing and potential open space on adjacent parcels; may be used to retain existing trees and significant vegetation. *TCC 18.47.040.* Eighteen open space tracts totaling 17.38 acres, or 22% of the gross site area, are distributed throughout the site as follows: critical areas and tree tracts are preserved in Tracts Q and U; storm drainage facilities are proposed in Tracts R and V; active recreation would be provided in Tracts S and V; landscaped open space or buffers would be provided in Tracts T, T, Z, AA, BB, CC, DD, EE, and FF. Nine percent of the proposed open space would be used for critical area preservation. The proposal includes 0.79 acres of active recreation. Resource Stewardship Staff recommended a condition of approval requiring the Applicant to submit an active recreational plan prior to final plat approval that would be incorporated into the final landscape plan. *Exhibit 1, page 8; Exhibit 1, Attachments r and t.*
12. The proposed lots would connect to City of Lacey sanitary sewer and water utilities. *Exhibit 1, page 7; Exhibit 1, Attachment j.*
13. The subdivision would be accessed from Britton Parkway via multiple roads through Gateway Division 1 in the City of Lacey. The proposed lots and tracts would be accessed by new internal major local residential streets, minor local residential streets, alleys, and private access tracts designed consistent with City of Lacey road standards and guidelines. The new roads would provide integrated bicycle and pedestrian facilities, develop a road grid consistent with the City's access management requirements, and address parking management measures. While the proposal includes a 60-foot right-of-way along the northern site boundary for an access road to a future City of Lacey park, this road would not be developed at the time the subdivision is built. It would be held as an open space tract until such a time as City of Lacey requests its dedication. *Exhibit 1, page 2; Exhibit 1, Attachments f, r, and bb.*
14. The Applicant submitted a professionally prepared traffic impact assessment (TIA), which forecast the project's traffic. The project is anticipated to generate 3,980 average

daily trips, including 306 AM peak hour and 384 PM peak hour trips. The impacts of the project's traffic would be mitigated through the payment of traffic impact fees to the City of Lacey and Thurston County. Traffic review staff for both jurisdictions reviewed the TIA and determined it satisfied City and County requirements for traffic assessment. *Exhibit 1, Attachments h and bb; Saint Testimony.*

15. The project is anticipated to result in an overall impervious surface area of 45% of the gross site area. Design of the proposal's runoff treatment and flow control utilized a continuous hydrological simulation model consistent with Department of Ecology's Western Washington Hydrology model. The stormwater infrastructure of Division 1 was designed and built to receive and handle a portion of Division 2's stormwater runoff. The remainder of Division 2's runoff would either infiltrate on-site where possible or would be conveyed to detention/water quality treatment facilities in Tracts R and V, discharging after treatment towards the on-site wetland mimicking the pre-developed condition. The drainage report was reviewed and accepted by County Public Works Staff as consistent with the County's Drainage Design and Erosion Control Manual's requirements. *Exhibit 1, Attachment cc; Exhibit 1, pages 2, 9; Hatton Testimony; Saint Testimony.*
16. The Applicant submitted a professionally prepared wetland and stream delineation report, which identified and classified the two wetlands and one stream on the southwestern portion of the subject property. Wetland B is part of a larger Category II wetland system extending off-site to the west with a habitat value of 21 points. Pursuant to the CAO, such a wetland requires a 100-foot no disturb buffer. Wetland D was identified as a 212 square foot small depressional wetland east of Wetland B. It is exempt from regulation because it is isolated and less than 1,000 square feet in area pursuant to TCC 24.30.015.A. A stream in the northwest portion of the property was classified as a Type Ns stream, requiring a 150-foot buffer pursuant to TCC 24.25.020. All regulated wetland and stream boundaries and the associated buffers required by the Thurston County critical areas ordinance were surveyed by the Applicant and depicted on the proposed preliminary plat map as fully contained within proposed Tract Q. *Exhibit 1, Attachments r and w.*
17. The Applicant submitted a professionally prepared integrated pest management plan (IPMP), which would be implemented through the project's covenants, conditions, and restrictions (CC&Rs) and enforced by the homeowners' association for the protection of ground and surface waters. *Exhibit 1, Attachment z; Pantier Testimony.*
18. The Applicant submitted a professionally prepared Mazama pocket gopher study, which assessed the subject property for the presence of pocket gopher activity. During a site visit on September 28, 2012, the wildlife consultant searched the property in ten-foot transects, seeking evidence of Mazama pocket gopher mounding. Four conical mounds characteristic of the common mole were identified, but no positive confirmation of the protected pocket gopher was found. In June of 2014, U.S. Department of Fish and Wildlife (USFW) biologists visited the subject property with Thurston County Staff. Based on physical, environmental, and biological conditions on and near the site, USFW

Staff determined the proposal would not result in take, or is very unlikely to result in take, of the federally listed Mazama pocket gopher.² *Exhibit 1, Attachments m and x.*

19. Intercity Transit does not current serve the vicinity of the subject property. No transit stops are proposed. *Pantier Testimony.*
20. The subject property is in the North Thurston School District (the District) service area. Students residing in the project would attend North Thurston High, Chinook Middle School, and Pleasant Glade Elementary, all of which are located approximately three miles south or southwest of the site. All children would be bussed to school. The District submitted a letter indicating its current requested impact fee per single-family and multifamily unit and requesting that the Applicant enter into a voluntary mitigation agreement prior to final plat approval. The Applicant representative indicated that discussions with the District regarding the voluntary mitigation agreement are already in process. The location of on-site bus stops is being coordinated with the District. Students within the plat would be able to reach the bus stops via sidewalks on both sides of the streets throughout the plat. *Exhibit 1, pages 7-8; Pantier Testimony; Exhibit 4.*
21. Townhome developments are subject to the general standards established at TCC 21.61.040. In compliance with the townhome provisions, the Applicant submitted a design review application and an architectural design for the townhouse portion of the project. As proposed and conditioned, Resource Stewardship staff asserted that the proposed townhouse lots are consistent with the requirements of TCC 21.61.040 and that the design review application should be approved with the recommended conditions. *Exhibit 1, page 8; Exhibit 1, Attachments e and u; Kantas Testimony.* The Forestland Conversion Ordinance requires that at least five percent of the site be set aside for tree retention and that at least one tree per 4,000 square feet of lot area be planted or retained. The proposal would set aside nine percent of the gross site area for tree preservation and would satisfy or exceed the minimum tree retention/planting requirements. Staff asserted that, with the recommended conditions, the proposal would be consistent with the requirements of the forestland conversion ordinance and should be approved with conditions. *Kantas Testimony; Pantier Testimony; Exhibit 1, Attachments d, r, s, and y.*
22. The Washington State Department of Ecology (Ecology) submitted comments indicating that the subject property is located within 800 feet of a known ASARCO Smelter contaminated property, the 212-acre Lacey Gateway Parcel A. Ecology noted that soil and duff within the identified smelter plume contain contaminated soils that are known to pose a risk to human health, especially for children and people who work with the soil. Ecology recommended that the developer be required to test site soils prior to residential development. *Exhibit 1, Attachments k and l.* As a response to these comments, Planning Staff recommended an additional condition of approval requiring the Applicant to perform Ecology's recommended site study. *Exhibit 2.*

² The Examiner notes for the record that the Section 3(19) of the Endangered Species Act defines "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" of a protected species.

23. In response to Ecology's comments, the Applicant submitted a professional site soils assessment, prepared April 15, 2014, that assayed site soils for the two contaminants of concern, lead and arsenic. Test results showed all samples tested below the Model Toxics Control Act Method A clean up values for both lead and arsenic. The study recommended releasing the subject property from further consideration for study regarding the Tacoma smelter plume and recommended that no clean up action, further testing, or reporting to Ecology was required. *Exhibit 3.*

24. Pursuant to the State Environmental Policy Act, Thurston County acted as lead agency for review of environmental impacts of the proposal. The County issued a mitigated determination of non-significance (MDNS) on June 19, 2014. 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:
 - Applications submitted September 5, 2013
 - Narrative summary
 - Environmental Checklist submitted September 5, 2013
 - Preliminary plat map
 - Landscape plan
 - Tree plan
 - Traffic impact assessment
 - Mazama pocket gopher study
 - Critical areas report
 - Sanitary sewer basin study
 - Integrated pest management plan
 - Civil site plans
 - City of Lacey Traffic Impact Analysis, dated May 9, 2014
 - Thurston County Public Works SEPA comments
 - Thurston County Health Department recommendation
 - US Fish & Wildlife letter, dated June 11, 2104

The MDNS identified required mitigation for the environmental impacts of the proposal, including: inadvertent discovery procedures in the event archeological or historic materials are uncovered during site development; hours of construction activity restrictions; compliance with State noise standards; payment of City of Lacey traffic impact mitigation fees; and a requirement to prevent sediments from being tracked onto public roads during construction. No appeals or comments were filed by the applicable deadlines and the MDNS became final on July 22, 2104. *Exhibit 1, Attachment g, MDNS; Kantas Testimony; Exhibit 1, page 7.*

25. The preliminary site plan, drainage plan/report, and traffic impact analysis were routed to Thurston County Public Works Development Review Section (Public Works) for review of project compliance with applicable standards. Public Works determined that all of the preliminary requirements of the County's Road Standards and Drainage Design and

Erosion Control Manual could be met and recommended approval with conditions. *Exhibit 1, page 7; Exhibit 1, Attachment i; Saint Testimony.*

26. Thurston County Environmental Health Department (EHD) reviewed the application materials for compliance with County health regulations. EHD determined that the project is not expected to result in any significant impacts to ground or surface water and would not endanger public health and welfare because: all lots would connect to municipal sewer and water; there would be no on-site sewage disposal and no new wells; and an integrated pest management plan would be implemented on all lots and enforced by the homeowners' association. EHD Staff noted that there is a monitoring well on-site associated with the ASARCO Tacoma smelter plume, which would need to be either properly decommissioned or, if still in use by the Department of Ecology, shown on the face of the final plat. EHD recommended approval with conditions. *Exhibit 1, page 7; Exhibit 1, Attachment j; Sangston Testimony.*
27. Written notice of the public hearing was sent to all property owners within 300 feet of the site, published in The Olympian, and posted on-site on June 27, 2014 at least ten days prior to the hearing. *Exhibit 1, page 3; Exhibit 1, Attachment a.*
28. The County received one public comment before the hearing questioning whether the trees along the north property line and within the right-of-way to be dedicated for a future roadway for a future Lacey park would remain wind firm given the proposed site development. The comment also expressed concerns about stormwater and traffic impacts. *Exhibit 1, Attachment q.*
29. Public comment was offered at hearing voicing concerns about: whether the future Lacey park would result in trespass to surrounding private properties; whether trees along the property line would remain wind firm; how runoff and erosion would be prevented; and about construction hours of operation; the relatively low density proposed in the moderate and high density zones and whether the project will meet future housing demand; and whether slash would be burned on-site. *Heiz Testimony; Exhibit 5; Carlson Testimony.*
30. Upon receipt of the public comment letter, the County required the Applicant to consult with a certified forester to provide an assessment of the trees within a tree length of the properties adjacent to the north. The tree assessment identified five hazardous trees in the vicinity of the north property line that should be removed. Staff recommended a condition of approval that would only allow the five identified hazard trees to be removed within the future road right-of-way. Staff clarified that the intent of the condition is to maintain a natural buffer until the road is constructed and to remove only the trees that have been determined to be dangerous. Staff noted for the record that the City of Lacey has not established a timeline for construction of the future road and park. *Exhibit 1, page 9; Exhibit 1, Attachments y and dd; Kantas Testimony.*

31. Regarding other concerns, Staff noted the following: construction hours of operation were restricted in the MDNS; compliance with the County's drainage design manual, required by conditions of approval, would ensure appropriate dust and erosion control measures were implemented during construction; that a pollution control plan would be developed and recorded against each property, to be enforced by the homeowners' association, with the express intention of reducing pollution into surface and groundwater; that the public park is not currently slated for construction in the known future; that five trees professionally identified as hazardous would be removed and the remaining existing vegetation in the future City of Lacey right-of-way along the north site boundary would be retained as is until the City proceeds with road construction. Finally, Staff noted that the proposed density complies with the density standards of both underlying zoning districts. *Kantas Testimony; Saint Testimony.*
32. In addition to Staff's comments offered in response to public comment, the Applicant representative noted that the project as a whole would be required to obtain and abide by an NPDES permit, which would address erosion control during construction. Runoff from the areas nearest to the residence of Mr. Heiz, who commented, would be infiltrated or sent to stormponds. Slash from the clearing of Gateway Division 1 is being chipped on-site and the Applicant representative stated no slash in Division 2 would be burned on-site. *Pantier Testimony.*
33. 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 Lacey-Thurston County Joint Comprehensive Plan, and the requirements of TCC Title 21, the Lacey Urban Growth Area Zoning Ordinance. Staff recommended approval. *Kantas Testimony; Exhibit 1, pages 10-16.*

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 public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds and all other relevant facts.** The proposed internal public road network would provide access to all lots and connect to the existing network within Division I. A total of 22% of the site would be set aside in open space, more than twice the minimum required. A condition of approval would ensure that the proposal's active recreation plan complies with applicable standards. Municipal sewer and water services would be extended to each lot. Stormwater runoff from the project's impervious surfaces would be either infiltrated on-site, conveyed to a stormwater facility on-site, or conveyed off-site to storm ponds in Division 1 that were sized and designed to accept this runoff. School aged children would be bused to the appropriate North Thurston Public School District facilities. Sidewalks within the plat would connect to a bus waiting area, assuring safe walking for the distance that school aged children living in the plat would walk. The impacts from the proposal's new vehicle trips would be mitigated by the payment of traffic impact fees to the City of Lacey and to Thurston County, and by construction of vehicle, bicycle, and pedestrian facilities consistent with City of Lacey road standards. *Findings 3, 9, 10, 11, 12, 13, 14, 15, 17, 20, 25, 26, and 33.*

2. **With conditions of approval, the public use and interest will be served by the platting of the subdivision.** The proposed density complies with the development standards of both the MD 6-12 and the HD 6-20 zoning districts. The proposed minimum lot dimensions also comport with the requirements of both underlying zoning districts. Traffic impacts in both Thurston County and City of Lacey would be mitigated through the payment of fees. School impacts would either be mitigated by voluntary mitigation agreement. After appropriate study, no evidence of the Mazama pocket gopher discovered on-site and the USFWS expressly released the subject property from further review for impacts to that species. Site soils were studied for the presence of arsenic and lead, associated with the ASARCO smelter plume, and were found to contain levels of both contaminants below the Model Toxics Control Act cleanup standards. The proposal was reviewed for compliance with SEPA requirements and an MDNS was issued. The proposal complies with the Lacey- Thurston County Joint Comprehensive Plan. *Findings 5, 6, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 20, 22, 23, 24, 25, 26, 30, 32, and 33.*

3. As conditioned, the applications for forestland conversion and design review approval demonstrate compliance with the applicable provisions. *Findings 1 and 21.*

DECISION

Based on the preceding findings and conclusions, the request for approval of a preliminary plat subdividing 80.43 acres into 374 single-family residential lots, a 3.49-acre future development tract for 90 multi-family units, and 17.38 acres of open space tracts, together with the requests for Forestland Conversion and Design Review approval, are **GRANTED**, subject to the following conditions:

Public Works Conditions:

1. The proposed roadway in concept and design shall conform to the Road Standards and the City of Lacey standards and development guidelines.
2. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.
3. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, 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 storm water management system shall conform to the Drainage Design & Erosion Control Manual.
6. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners 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. Because proper landscaping is vital to the performance of the stormwater system, the Landscape Plan (if required) shall be signed/sealed by a WA licensed civil engineer (preferably the engineer who designed the stormwater system).
9. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit 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.

10. 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.
11. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather only items 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.
12. Permanent survey control need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
13. 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 360-867-2378.
14. Payment of the off-site traffic mitigation required in the 6/19/14 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
15. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
16. 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.
17. 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 Drainage Design & Erosion Control Manual.
18. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.
19. 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.

20. 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.

21. PRIOR to construction, the applicant shall:

- a. Pay outstanding construction review and inspection fees*
- b. Receive an erosion and sediment control permit
- c. Have the erosion and sediment control inspected and accepted
- d. Receive a construction permit
- e. Schedule a pre-construction conference with county staff.

* The current fee schedule can be found online at <http://www.co.thurston.wa.us/permitting/fees/fees-home.html> or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at (360) 867-2050 or by e-mail at padillr@co.thurston.wa.us.

22. 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.
- c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
- d. Receive and accept Engineer's Construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion Control Manual).
- e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
- f. Execute an agreement with financial security for the maintenance and operation of the right-of-way improvements in accordance with Thurston County Code 18.24.010.
- g. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
- h. Approve the Final Plat Map.
- i. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
- j. Completion of required frontage improvements.
- k. Completion of required signing and striping.
- l. Payment of any required permitting fees.

23. The final plat map shall note or delineate the following:

Required Plat Notes

- a. "ATTENTION": Thurston County has no responsibility to build, improve, maintain or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation or servicing of the storm water facilities outside the county rights of way are the responsibility of the property owner(s).
- b. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
- c. 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.
- d. 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.
- e. Approval of this subdivision is conditioned upon payment of City of Lacey Traffic Mitigation Fees in the amount of \$1,701 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.
- f. This plat is subject to storm water maintenance agreement recorded under auditor's file no. _____.
- g. 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 storm water 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 _____.
- h. Maintenance of the required landscaping and vegetated drainage facilities within the public right of way is the sole responsibility of the property owners within this subdivision. Thurston County has no responsibility to maintain or service the said

landscaping.

- i. “Tract “ZZ” is reserved for a future planned collector roadway. Said tract is hereby dedicated to the homeowners association. The homeowners association shall own and maintain said tract until such time as Thurston County or the City of Lacey, request in writing, dedication to the public for street right of way purposes.”
- j. Provide language on the plat describing the drainage design requirements for runoff from buildings and parking surfaces for individual building lots (drywell design/sizing storm drain connection points, etc.).
- k. Please clearly label all public and private roads.

Health Conditions:

24. City of Lacey sanitary sewer must be extended to and through the project and written confirmation of final sewer extension approval from the City of Lacey must be provided to this office prior to final plat approval.
25. City of Lacey water service must be extended to and through this project and written confirmation of final water extension approval from the City of Lacey must be provided to this office prior to final plat approval.
26. An Integrated Pest Management Plan (IPMP) has been developed for the homeowners of this development and must be incorporated into the Declaration of Covenant, Conditions and Restrictions. In addition, the phone number listed in the IPMP to be distributed to future property owners for Thurston County Environmental Health must be changed to (360) 867-2664 as the current submittal lists an incorrect phone number.
27. The monitoring well on the property must be properly decommissioned prior to final plat approval unless the Washington State Department of Ecology is still using the well. If the well is to remain in use, it must be shown on the final map.

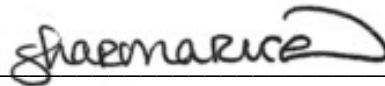
Planning Conditions:

28. Development shall comply with all conditions of the Mitigated Determination of Non-Significance dated June 19, 2014 (Attachment g).
29. Street addresses, lot size and dimensions for each lot shall be shown on the final map.
30. The final design of this subdivision and future development of lots shall conform with all minimum standards of the Zoning Ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the Platting and Subdivision Ordinance.
31. All open space and landscaping and tree preservation shall comply with:

- A. New trees on individual residential lots shall be planted at a rate of one (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
 - B. All landscaping shall be planted as shown on the approved final landscape plan prior to final plat approval. Any conditions, improvements or maintenance requirements associated with the landscaping plan shall be shown on the final plat map.
 - C. Prior to final plat approval, the applicant shall submit a final landscape plan to the Thurston County Resource Stewardship Department for review and approval. The final landscape plan shall include the design of the active recreation component to the open space i.e. play equipment, sports court, etc. All landscaping shall be in compliance with the Thurston County Zoning Ordinance (Title 21) and the Thurston County Subdivision Ordinance (Title 18).
32. Prior to final plat approval, the Applicant shall submit evidence to the Resource Stewardship Department that adequate capacity exists in affected North Thurston School District schools or that the applicant has entered into an agreement with the North Thurston School District to mitigate the impact the plat will have on the district schools. If the agreement requires payment of mitigation fees or other actions after the final plat is recorded then such conditions shall be noted on the final plat map.
33. The following notes shall be shown on the final plat map:
- A. This subdivision was reviewed and approved based on standards and allowances of the Moderate Density Residential District (MD 6-12) (TCC 21.15) and the High Density Residential District (HD 6-20) (TCC 21.18).
 - B. New trees on individual residential lots shall be planted at a rate of one (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
 - C. All future development must conform to the requirements of the Zoning Ordinance and Platting and Subdivision Ordinance.
34. 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).
35. Logging activity within the future roadway along the north property line shall be limited to only the five trees recommended to be removed by the tree assessment report (Attachment dd). No other grading and/or logging activity shall take place within the future roadway area until the time the roadway is constructed.

36. Prior to townhouse construction, the applicant shall receive final design review approval from the Thurston County Resource Stewardship Department.
37. Prior to construction on the multi-family tract, the Applicant shall submit an Administrative Site Plan Review and Administrative Design Review applications for review and approval by the Thurston County Resource Stewardship Department.
38. 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.
39. The Applicant shall comply with the recommendations from the Washington State Department of Ecology regarding sampling and potential clean up of site soil contamination, if any, from arsenic and lead as a result of the ASARCO smelter plume.

DECIDED July 21, 2014.



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 **\$638.00** for a Request for Reconsideration or **\$846.00** 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 \$638.00 for Reconsideration or \$846.00 for Appeal. Received (check box): Initial _____ Receipt No. _____

Filed with the Resource Stewardship Department this _____ day of _____ 20__.