



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. 2014100570
	)	
	)	
<b>Deschutes River Highlands LLC</b>	)	<b>Re-Plat of Deschutes River Highlands</b>
	)	<b>Tracts T, U, and V</b>
	)	
For a Preliminary Plat	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
_____	)	

**SUMMARY OF DECISION**

The requested preliminary plat subdividing the 1.21 acres comprised of future development Tracts T, U, and V of the approved Deschutes River Highlands Plat into 12 single-family residential lots is **GRANTED**, subject to conditions.

**SUMMARY OF RECORD**

**Request**

Deschutes River Highlands LLC (Applicant) requested approval of a preliminary plat subdividing three future development tracts of the approved Deschutes River Highlands Plat totaling 1.21 acres into 12 single-family residential lots.

**Hearing Date**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on June 2, 2014.

**Testimony**

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

- Robert Smith, Associate Planner, Resource Stewardship Department
- Sara Brallier, Thurston County Environmental Health
- Arthur Saint, P.E., Development Review Department
- Jeff Pantier, Hatton Godat Pantier, Applicant Representative

## **Exhibits**

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

- Exhibit 1      Resource Stewardship Department Staff Report with the following attachments:
- Attachment a    Notice of Public Hearing
  - Attachment b    Zoning/Site Map
  - Attachment c    Master Application, received November 12, 2013
  - Attachment d    Division of Land Application, received November 12, 2013
  - Attachment e    Narrative Summary, undated
  - Attachment f    Preliminary Plat Map, dated November 12, 2013
  - Attachment g    Notice of Application, dated March 11, 2014
  - Attachment h    Mitigated Determination of Non-Significance, issued May 8, 2014
  - Attachment i    April 16, 2014 Comment Memorandum from Arthur Saint of the Public Works Department
  - Attachment j    December 2, 2013 Comment E-Mail from Brad Sangston of the Environmental Health Department
  - Attachment k    September 17, 2013 Comment Memorandum from Suresh Bhagavan with the City of Tumwater
  - Attachment l    Final Plat for Deschutes River Highlands, Phase 1, recorded on March 27, 2007
  - Attachment m    Final Plat for Deschutes River Highlands, Phase 2, recorded on May 23, 2013
  - Attachment n    Mazama Pocket Gopher Evaluation, EnviroVector, dated October 3, 2014
- Exhibit 2      Full size site plan
- Exhibit 3      Color copy of photograph of posted notice of hearing
- Exhibit 4      Email from Chris Carlson to Jeff Pantier, dated May 29, 2014

- Exhibit 5 Drainage and Erosion Control report, dated April 15, 2014
- Exhibit 6 Mazama Pocket Gopher Federal Register Listing, dated April 9, 2014, submitted by the Applicant
- Exhibit 7 U.S. Fish & Wildlife Critical Area Habitat Flyer: "Critical Habitat: What is it?", submitted by the Applicant

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 1.21 acres into 12 single-family residential lots. The property subject to the application is comprised of future development Tracts T, U, and V of the approved Deschutes River Highlands Plat.<sup>1,2</sup> *Exhibit 1, Attachments C and D; Exhibit 1, page 2.*
2. The application for the subdivision known as Deschutes River Highlands (file PLAT 020244, submitted in 2002) proposed 327 single-family lots and 14 tracts containing 54.5 acres of open space. On March 30, 2005 the County Commissioners approved Deschutes River Highlands on appeal. The project was subsequently amended through a plat amendment (Project # 2005104839) approved by the Hearing Examiner on February 21, 2007. The amendment reduced the approved open space from 54.5 acres to 46.3 acres and increased the total number of lots to 343. Final plat approval for Phase I, recorded on March 27, 2007, created 149 lots and most of the open space. Phase II was recorded on May 23, 2013, creating 182 lots, the remaining open space tracts, and three future development tracts. Those tracts, known as Tracts T, U, and V, are the property subject to the instant preliminary plat application. *Exhibit 1, page 2; Exhibit 1, Attachments B, C, L, and M.*
3. In seeking to develop the future development tracts, the Applicant originally applied for a plat alteration on November 12, 2013. It was subsequently determined that the proper means to further divide the tracts was a new preliminary plat application. The submitted plat alteration application was "converted" to a preliminary plat application for the purposes of proceeding with review and was considered complete by default of the 28-day review clock on February 21, 2014. *Exhibit 1, page 2; Smith Testimony.*
4. The subject property is in the Tumwater Urban Growth Area (UGA) and is zoned Single-Family Low Density Residential (SFL). Located in the middle of the Deschutes River Highlands plat, it is surrounded on all sides by existing single-family residential lots.

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<sup>1</sup> The legal description of the subject property is Tracts T, U, and V of the Deschutes River Highlands, Phase II subdivision; known as Tax Parcel Numbers 44190000009, 44190000010, and 44190000011. *Exhibit 1, page 1.*

<sup>2</sup> The Examiner notes the following discrepancy for the record. The Staff Report refers to the future development tracts as being addressed as 1930, 2004, and 2020 - 71st Avenue SE, Olympia, WA; however, the site plan in the record at Exhibit 2 refers to the street fronting the subject property as Mesa Drive SE. *Exhibit 1, page 1; Exhibit 2.*

While the overall subdivision contained large critical areas, including wetlands, landslide hazard slopes, Munn Lake shoreline, and habitat for certain priority species, future development Tracts T, U, and V contain no critical areas except being within an area identified as priority prairie species habitat, specifically Mazama pocket gopher habitat (discussed more in Findings 10, 11, 12, and 13 below). The 1.21 acres are flat with no significant vegetation, having already been cleared for installation of the surrounding roads and utility infrastructure. *Exhibit 1, page 2; Exhibit 1, Attachments B, E, and F.*

5. Single-family residential development is allowed in the SFL zone at densities from four to seven dwelling units per acre. *TCC 22.10.020, .050.* The SFL zone requires a minimum lot size for detached single-family lots of 4,000 square feet and a minimum lot width of 50 feet. *TCC 22.10.050(D).* With the proposed lots, the density of the overall Deschutes River Highlands subdivision is 5.26 dwelling units per acre. The smallest of the 12 proposed lots would be 4,138 square feet and all 12 lots would be at least 50 feet wide. The public streets, sidewalks, driveway approaches, sewer, water, and storm drainage infrastructure have already been installed. *Exhibit 1, page 3; Exhibit 1, Attachment F.*
6. The proposal would connect homes to City of Tumwater domestic water and sewer services. Both utility lines were installed in the adjacent road right-of-way and across the front of the subject property during construction of Deschutes River Highlands Phase II. The City of Tumwater submitted comments detailing the requirements for connection of the lots to the city utilities, including:
  1. Any relocation of City of Tumwater utilities is the Applicant's responsibility.
  2. If applicable, the Applicant shall be responsible for the maintenance and timely repair of all public improvements for a period of 30 months following final certification by the City, and shall submit a surety for maintenance equal in value to fifteen percent of the total value of the required public improvements certified by the Public Works Director.
  3. The owner of the property will be required to sign a Waiver of Protest/Special Power of Attorney for Annexation as a condition of connection to City utilities.

Resource Stewardship Staff recommended conditions of plat approval that would require compliance with City of Tacoma utility connection requirements. *Exhibit 1, page 3; Exhibit 1, Attachment K; Exhibit 4.*

7. Each of the 12 lots would access public roads by driveways directly onto the fronting street. *Exhibit 2.* During review of the overall Deschutes River Highlands subdivision, traffic impact assessment was undertaken and the required mitigation for all lots resulted in intersection improvements at Henderson Blvd SE and 65th Avenue SE. Trips generated by the 12 proposed lots do not trigger further traffic assessment according to County standards; however, impacts to the City of Tumwater transportation system were considered and impact fees were imposed through the environmental review process, as detailed further in Finding 17 below. *Saint Testimony; Exhibit 1, Attachment H.*

8. The Applicant submitted a stormwater drainage report for the proposed re-plat. The proposed lots have already been cleared and graded into a level condition. Currently, stormwater sheetflows off the property into the Deschutes River Highlands stormwater system. There is no sign of erosion channels or drainage problems. In the overall Deschutes River Highlands subdivision, stormwater facilities were designed and built to receive stormwater runoff from the proposed lots. Frontage improvements have already been built that would address runoff from driveways and sidewalks; no additional frontage improvements are proposed. Roof runoff would be disposed of via drywells on each lot. The proposed lots would belong to the overall subdivision's homeowners' association and would pay dues that would be used, in part, to maintain the plat's private stormwater system. *Exhibit 5; Pantier Testimony.*
9. Subdivisions in the Tumwater UGA are required to dedicate 10% of their gross land area as open space. *TCC 18.47.020(D); 18.47.040(C).* Open space may include wetlands and other critical areas, associated buffers, and stormwater facilities that are designed for active and/or passive recreation consistent with the Thurston County Drainage Design and Erosion Control Manual. Open space within residential subdivisions must include two or more facilities for active and/or passive recreation listed in *TCC 18.47.040(3)*, at least one of which must be for active recreation. In the overall Deschutes River Highlands subdivision, tracts totaling 43% of the gross land area were designated as open space, including a large area along the Munn Lake shoreline providing lake access and walking trails and two tot lots with play equipment in Tracts O and P. Of the 46.41 acres of open space provided, 25.42 contain protected critical areas. Because they would be part of the original subdivision, the proposed lots would have access to all open space tracts and amenities. No further open space is required to be provided by the instant plat. Park impact fees would be assessed at the time of construction of each new single-family residence. *Exhibit 1, pages 4-5; TCC 25.08; TCC 18.47.030(B); Pantier Testimony.*
10. Site soils are mapped as "Indianola loamy sand, 3 to 15%", which soil type has been identified by the Washington State Department of Fish and Wildlife (WDFW) and the US Fish and Wildlife Service (USFWS) as a soil capable of being habitat for certain prairie species including the Mazama pocket gopher. The gopher is listed in the County critical areas ordinance (CAO) as an important species and is a State priority species. USFWS recently listed the gopher as a threatened species under the Endangered Species Act (ESA), effective May 9, 2014. The Applicant submitted a professionally prepared gopher evaluation that studied the site for signs of gopher and gopher habitat. After conducting an October 2013 site visit, the wildlife consultant who prepared the report found no gophers and no suitable gopher habitat on the subject property. *Exhibit 1, Attachment N.*
11. The final plat of Deschutes River Highlands Phase 2 that includes the subject property was recorded on May 23, 2013, which means that the subject property was graded to allow construction of streets and utilities, and to prepare Tracts T, U, and V for future development, more than one year prior to ESA listing of the Mazama pocket gopher. *Exhibit 1, Attachment M.*

12. Resource Stewardship Staff noted that the gopher habitat assessment submitted by the Applicant satisfies the County's CAO study requirements but indicated that the recent listing under the ESA has resulted in uncertainty as to the federal position on disturbance of "potential gopher habitat." The instant preliminary plat approval would not, by itself, result in ground disturbing activities, because roads and utilities for the 12 lots are already installed. Ground disturbance would not occur until permits are issued for individual lot construction, triggering site plan review. As of the hearing date, USFWS had not responded to Staff's requests for guidance or standards for project review for sites that contain gopher soils. Staff recommended a condition of approval acknowledging the novel situation, noting that future federal regulations could preempt County approval for disturbance of soils that are identified as potential gopher habitat. *Exhibit 1, pages 4 and 10; Smith Testimony.*
13. The Applicant provided the Federal Register designating critical habitat for the Mazama pocket gopher (Vol. 79, No. 68, dated April 9, 2014), which was listed as threatened elsewhere in the Register that same day. The USFWS publication indicates that 1,607 acres of Thurston County are designated as critical habitat for the protected species. *Exhibit 6.* The Applicant also submitted a flyer prepared by USFWS that explains the effects of the critical habitat designation and noted the following information for the record. Critical habitat under the ESA includes areas not inhabited by the listed species that are necessary for its conservation. The flyer states that critical habitat designations "affect only Federal agency actions or federally funded or permitted activities..." and "do not affect private landowners if there is no Federal nexus ..." and that the "rules typically exclude developed areas...". *Exhibit 7.* The Applicant representative noted that approximately half of Thurston County has been federally designated as critical gopher habitat, but that this does not include the subject property, which is approximately two miles east of areas so designated. *Pantier Testimony.*
14. Families living in the proposed plat would be served by schools in the Tumwater School District (District). The overall Deschutes River Highlands subdivision included a voluntary mitigation agreement between the Applicant and the District to ensure the plat's impacts on District facilities were addressed. Since then, the County has adopted an impact fee ordinance. Students at all levels would be bussed to and from the appropriate schools. Sidewalks along the proposed lot frontages connect with sidewalks in the overall plat, which in turn lead to designated bus waiting areas that are already built. The District was notified of the plat application and the public hearing but did not comment. *Exhibit 1, page 5; Exhibit 1, Attachment F; Smith Testimony; Pantier Testimony.*
15. Upon review of the proposed site plan, the Thurston County Public Works Department determined that all preliminary requirements of the Thurston County Road Standards and Drainage Design and Erosion Control Manual are satisfied. Public Works Staff recommended plat approval subject to standard conditions addressing the following: road construction, traffic control devices, drainage, utilities, right-of-way, survey, and traffic impact mitigation. Recommended conditions also requiring design and construction to the higher of the two differing road standards in the event of conflict between County and City standards and notes required to be placed on the final plat. *Exhibit 1, Attachment I;*

*Saint Testimony.*

16. The Thurston County Public Health and Social Services Department Environmental Health Division (EHD) reviewed the proposal and determined that, because sewer and water infrastructure had already been installed, there were no environmental health issues associated with the plat. EHD recommended approval without conditions. *Exhibit 1, Attachment J; Brallier Testimony.*
17. Thurston County was designated lead agency for review of environmental impacts of the proposal pursuant to the State Environmental Policy Act. The County issued a mitigated determination of non-significance (MDNS) on May 8, 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: the environmental checklist; plat application; subdivision map; Applicant's project narrative; the Mazama pocket gopher evaluation dated October 3, 2013; Final Plat of Deschutes River Highlands Phase 2; comments from Thurston County Public Works; comments from Thurston County Public Health Environmental Health Division; and comments from City of Tumwater Community Development Department. The MDNS identified required mitigation for the environmental impacts of the proposal, including payment of traffic impacts fees to the City of Tumwater for trips generated by the plat. The environmental threshold determination was not appealed and became final on May 15, 2014. *Exhibit 1, pages 3-4; Exhibit 1, Attachment H.*
18. The subject property has a Residential land use designation pursuant to the Tumwater/Thurston County Joint Comprehensive Plan, adopted April 1995 and last updated in 2009. Applicable land use goals and policies are found in Chapter 3. Upon review by all County departments, Resource Stewardship Staff determined that the proposed subdivision would comply with applicable goals and policies regarding appropriate residential densities, discouraging inappropriate conversion of undeveloped land to low density development, efficient use of public utilities, and compliance with critical area regulations. The proposed residential use would comply with the Joint Comprehensive Plan's Future land Use map. *Exhibit 1, pages 2, 5; Tumwater/Thurston County Joint Comprehensive Plan, Goals 2, 3, and 8, Policies 2.2, 3.2, and 8.1.*
19. Written notice of the public hearing was sent to all property owners within 300 feet of the site and to others who had requested notice on May 20, 2014. Notice was posted on-site on May 22, 2014 and was published in The Olympian on May 23, 2014. *Exhibit 1, Attachment a; Exhibit 1, pages 2-3; Exhibit 3.*
20. Considering the entire record, Resource Stewardship Staff determined that the proposal with recommended conditions would comport with the requirements of the zoning and platting and subdivision ordinances, the Tumwater /Thurston County Joint Comprehensive Plan, and the Thurston County Tumwater Urban Growth Area Zoning Ordinance. Staff recommended approval. *Smith Testimony; Exhibit 1, pages 6-11.*

## 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.** Municipal water and sewer are already extended to each lot. Conditions recommended by the Public Works Department, adopted herein, would ensure that drainage and roads standards are satisfied. Open space totaling far in excess of 10% of the overall site has already been dedicated as part of an earlier subdivision, including lake access, walking trails, and play equipment. Impact fees would ensure the 12 lots contribute to additional parks and recreation opportunities. School aged children would be bussed to Tumwater School District facilities from designated bus stops within the plat that are already built. School impact fees would mitigate the impacts of these 12 lots on District schools. The subject property was reviewed for the presence of the Mazama pocket gopher but no evidence of the animal or its habitat were found on-site. The requirements of the County's critical areas ordinance relating to gopher protection have been satisfied. *Findings 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 20 .*
2. **With conditions of approval, the public use and interest will be served by the platting of the subdivision.** Including the proposed 12 lots, the overall Deschutes River Highlands continues to satisfy the density requirements of the underlying SFL zone. Each of the 12 lots comports with the zone's bulk dimensional standards. The proposal was reviewed for compliance with SEPA requirements and an MDNS was issued. The proposal complies with the Tumwater/Thurston County Joint Comprehensive Plan. *Findings 4, 5, 17, 18, and 20.*



## DECISION

Based on the preceding findings and conclusions, the requested preliminary plat subdividing the 1.21 acre of future development Tracts T, U, and V of the approved Deschutes River Highlands Plat into 12 single-family residential lots in the Tumwater Urban Growth Area is **GRANTED**, subject to the following conditions:

- A. Prior to submitting a final plat application, all required on-site and off-site road, utility, and landscaping construction, identified below, shall be completed and approved (or bonded).
- B. Prior to final plat approval, the following Public Works Department related conditions shall be met:
  - 1. The proposed roadway in concept and design shall conform to the Road Standards and the City of Tumwater standards and development guidelines.
  - 2. 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.
  - 3. 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.
  - 4. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
  - 5. 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.
  - 6. 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.
  - 7. 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).
  - 8. 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.

9. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
10. Proposed utility work within the Thurston County Right of Way shall conform to the 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.
11. Permanent survey control need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
12. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 754-4580.
13. Payment of the off-site traffic mitigation required in the 3-11-14 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
14. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
15. Development within the City of Tumwater 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.
16. 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.

17. Prior to receiving final approval from this department, the following items shall be required:
  - a. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
  - b. Approve the Final Plat Map.
  - c. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
  - d. Payment of any required mitigation fees.
  
18. 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. This plat is subject to storm water maintenance agreement recorded under auditor's file no.\_\_\_\_\_.
- f. 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

\_\_\_\_\_.

- g. 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.

Delineate on the Plat

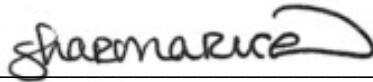
- h. Provide language on the plat describing the drainage design requirements for runoff from buildings and parking surfaces for individual building lots (drywell design/sizing storm drain connection points, etc.).
- i. Please clearly label all public and private roads.

- C. Street addresses shall be shown on the final map.
- D. All requirements of the City of Tumwater for provision of domestic water and sanitary sewer utilities to the lots shall be met. Written notice from the City of Tumwater that all requirements have been met is required.
- E. All conditions of the Mitigated Determination of Non Significance shall be completed at the times specified.
- F. On April 9, 2014, the U.S. fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject parcel contains the soil type considered potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations prior to ground disturbing activities. Approval of this and other County permits may be superseded by federal law.
- G. The following notes shall be shown on the final plat map:
  - 1. This subdivision has been approved through provisions of the Single-Family Low Density Residential District (TCC 22.10).
  - 2. This subdivision was reviewed under project number 2014100570, folder 13 113709 ZJ.
  - 3. On April 9, 2014, the U.S. fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject property contains the soil type considered potential pocket gopher habitat. It is the responsibility of

the landowner to comply with applicable federal regulations prior to ground disturbing activities.

- H. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

**Decided** June 16, 2014.



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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.



<b>Project No.</b> _____ <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  \$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\_\_\_.