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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2015100527
)	
Camp Solomon Schechter, Inc.)	
)	
For Approval of)	
Shoreline Substantial Development and)	FINDINGS, CONCLUSIONS,
Shoreline Conditional Use Permits to install)	AND DECISION
A Sanitary Sewer line in the)	
<u>Conservancy Shoreline Environment</u>)	

SUMMARY OF DECISION

The requested shoreline substantial development and shoreline conditional use permits to extend a City of Tumwater sanitary sewer line along the 73rd Avenue SE corridor within 200 feet of the Munn Lake shoreline in Tumwater, Washington are **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Sam Perlin on behalf of Camp Solomon Schechter, Inc. (Applicant) requested shoreline substantial development and shoreline conditional use permits to extend a City of Tumwater sanitary sewer line along the 73rd Avenue SE corridor in Tumwater, Washington. A portion of the project is within 200 feet of the Munn Lake shoreline, which has a Conservancy Shoreline environment designation pursuant to the Shoreline Master Program for the Thurston Region.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the request on August 1, 2016.

Testimony:

At the hearing the following individuals presented testimony under oath:

Robert Smith, Senior Planner, Resource Stewardship Department

Dawn Peebles, Thurston County Environmental Health
Arthur Saint, Thurston County Public Works
Daniel Ramras, Applicant Representative
Sam Perlin, Director of Camp Solomon Schechter, Inc.
Clint Pierpoint, KPFM Consulting, Applicant Representative
Theresa Dusek, Natural Resources Ecologist, Applicant Representative
Andy Kaplowitz
Jeff Foster

Exhibits:

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

Exhibit 1 Resource Stewardship Department, Land Use and Environmental Review Section Report, dated August 1, 2016, including the following attachments:

- A. Notice of Public Hearing, dated July 18, 2016
- B. Zoning/Site Map
- C. Master Application, received January 22, 2015
- D. JARPA Permit Application, received January 22, 2015
- E. Narrative Summary, Bruce Arnold, Jones and Jones, dated December 18, 2014
- F. Supplemental Application Description, Bruce Arnold, Jones and Jones, dated December 18, 2014
- G. Overall Camp Site Plan, dated December 16, 2014
- H. Off-Site Sewer Extension Plans, KPFF, dated November 13, 2015
- I. Notice of Application, dated June 15, 2015
- J. Mitigated Determination of Non-Significance, issued May 10, 2016
- K. Comment Memorandum from Dawn Peebles, Public Health and Social Services Department, dated June 4, 2015
- L. Letter to Daniel Ramras from Arthur Saint, Public Works Department, dated May 3, 2016
- M. Comment Memorandum from Arthur Saint, Public Works Department, dated May 3, 2016
- N. Comment Memorandum from Arthur Saint, Public Works Department, dated July 7, 2016
- O. Approval Letter for the Associated Administrative Site Plan Review application, folder 15 101499ZL, dated June 21, 2016
- P. Approval Letter for the Associated Critical Area Review Permit application, folder 15 101504 XD, dated June 21, 2016
- Q. Comment Letter from the Washington State Department of Ecology, dated February 19, 2015
- R. Comment Letter from the Nisqually Indian Tribe, dated January 28, 2016
- S. Letter from the United States Fish and Wildlife Service, dated October 15, 2016
- T. Comment Email from Derek Hobkirk, dated July 6, 2015
- U. Comment Letter from Paul Steucke, dated June 20, 2015
- V. Interlocal Agreement between the City of Tumwater and Thurston County, relating to the development within annexation areas, dated January 28, 2008

- W. First Amendment to Interlocal Agreement between the City of Tumwater and Thurston County, relating to the development within annexation areas, dated January 7, 2014
- X. Appointment of Hearing Examiner Pro Tem, dated May 4, 2016

Exhibit 2 Wetland Delineation Report, dated March 24, 2014

Exhibit 3 Wetland Buffer Mitigation Report and Plans, dated December 15, 2014

Exhibit 4 Cultural Resources Survey, dated December 21, 2015

Exhibit 5 Enlarged Aerial Site Plans, dated December 16, 2014

Exhibit 6 Photos of Public Hearing Notice Posting

Based upon the record developed at hearing, the following findings and conclusions are entered:

FINDINGS

1. The Applicant requested shoreline substantial development and shoreline conditional use permits to extend a City of Tumwater sanitary sewer line along the 73rd Avenue SE corridor in Tumwater, Washington. A portion of the sewer line extension is within 200 feet of the Munn Lake shoreline, which has a Conservancy Shoreline environment designation pursuant to the Shoreline Master Program for the Thurston Region.¹ The proposed sewer line extension is part of a larger project to upgrade and modernize the existing Camp Solomon Schechter facility. *Exhibits 1, 1.B, 1.C, and 1.D.*
2. The subject property was annexed into the Tumwater city limits on January 1, 2016, nearly a year after the shoreline permit applications were submitted to Thurston County on January 22, 2015. The City and County entered into an agreement by which land use permits under County review at the time of annexation will be completely reviewed and issued by the County. To this end, the City appointed the Thurston County Hearing Examiner as *pro tem* to hear and decide the instant permits, which have been reviewed pursuant to the County regulations in effect at the time of complete application. *Exhibits 1.V, 1.W, and 1.X.*
3. Camp Solomon has operated as a non-profit camp since 1954 and has been on-site since 1967 providing an immersive Jewish educational environment, preparing young people to discover their talents, abilities, and skills. The Applicant acquired the property in 1978. The overall property is developed with camp facilities including residential cabins, staff quarters, a medical building, a dining hall, a caretaker residence, storage buildings, and

¹ The legal description of the subject property is a portion of the Northwest Quarter and the Northeast Quarter of Section 12, Township 17 North, Range 2 West; a portion of the Northwest Quarter of Section 7, Township 17, Range 1 West; and a portion of the Southeast Quarter of Section 1, Township 17 North, Range 2 West, W.M.; Known as Tax Parcel Numbers 12712220100, 12712210100, 12712210200, 12712110000, 11707220000, and 12701430200. *Exhibit 1.*

outdoor recreation areas. Starting in 1955, the camp was originally known and operated as the Trails End Lake Summer Camp. The Camp serves from 450 to 600 campers each summer and employs up to 75 staff. *Exhibits 1 and 1.D; Perlin Testimony.*

4. The proposed improvements to the existing camp include: replacing the existing dining hall (Chadar) in the same location, increasing the size to 12,900 square feet; adding a new 12,300-square foot multi-purpose building (Mercaz) and a new 1,100-square foot storage building with a 500 square foot waste storage area; adding a new two story, 1,800 square foot building for medical staff; replacing an administrative office building with a new two story, 1,800 square foot structure in the same location; remodeling the existing infirmary; extending natural gas lines into the property from 73rd Avenue SE; replacing existing on-site water utility lines; undergrounding existing electricity lines on-site; extending municipal sewer to serve the camp; and abandonment of the existing on-site septic systems. No increase in camp population is proposed. All project activities would occur in areas that have been developed with uses similar to those proposed since 1978. *Exhibits 1, 1.D, 1.E, 5, and 6.*
5. Surrounding land uses include single-family residential development to the north, south, and west, and vacant parcels in the Deschutes River valley to the east. Munn Lake is north. *Exhibits 1 and 1.B.*
6. For the purposes of the application vesting agreement detailed above, the overall program of camp upgrades was reviewed based on previous Thurston County zoning designations, which were Open Space (Thurston County Code (TCC) Chapter 22.31) and Greenbelt (TCC Chapter 22.30). A portion of the adjacent 73rd Avenue SE right-of-way is zoned Single-Family Low Density (TCC Chapter 22.10). Of the entire project, only the part of the sewer extension that falls within shoreline jurisdiction is under consideration in the instant proceedings. All remaining project elements located outside the shoreline jurisdiction, including the new buildings and other utility work, were reviewed pursuant to an Administrative Site Plan Review application (folder 15 101499 ZL) that was approved on June 21, 2016. That approval was not appealed and became final. *Exhibits 1 and 1.O.*
7. The proposal would extend City of Tumwater sanitary sewer lines from the intersection of Tumwater and Henderson Boulevards south on Henderson Boulevard and east on 73rd Avenue SE to the Camp Solomon Schechter facility. A portion of the proposed sewer line along the 73rd Avenue SE right-of-way falls within the Conservancy Shoreline environment associated with Munn Lake pursuant to the Shoreline Master Program for the Thurston Region (SMPTR). The land affected is zoned Open Space or Single-Family Low Density. Both zones allow “support facilities” as permitted uses (no permit required); the County’s definition of support facilities includes sewer lines. *TCC 22.04.595; Exhibits 1 and 1.D.*
8. The proposed sewer line extension would be comprised of a three-inch force main installed via a directional bore in the 73rd Avenue SE right-of-way within the Munn Lake wetland and buffer, which would connect to an eight-inch gravity line to be installed west

of the wetland and buffer. The portion of the pipe under the wetland would be comprised of continuous 40-foot lengths of fusion welded HDPE pipe that would be pressure tested prior to install. No road improvements to 73rd Avenue SE are proposed. *Exhibits 1, 1.D, 1.H, 5, and 6; Pierpoint Testimony.*

9. The existing camp facility, which predates the state's adoption of the Shoreline Management Act and could qualify as non-conforming use, would be classified as recreational use pursuant to the SMPTR. However, the existing facility complies with the applicable policies and general regulations of the Recreation chapter. *Exhibit 1; SMPTR Section Three, Chapter XIV.*
10. Sanitary sewer lines are addressed in the "Utilities" chapter of the SMPTR and are allowed in the Conservancy shoreline environment upon review and approval of a shoreline conditional use permit (SCUP) subject to compliance with standards in the utilities and shoreline environment regulations. Based on the value of the project, the proposal is also required to obtain approval of a shoreline substantial development permit (SSDP). *Exhibit 1.*
11. The Thurston County critical areas ordinance allows for new utility lines in existing rights-of-way subject to development standards and critical area permit review. *TCC 24.30.085.* In support of the overall project application, the Applicant submitted critical areas studies including a wetland report and a wetland mitigation plan. The wetland report identified four wetlands on the overall property. Wetland A, which is known as Trails End Lake, was rated as a category II wetland requiring a 180-foot buffer. Wetland B, an isolated depressional wetland in the northeast portion of the camp property, was rated as a category I wetland requiring a 250-foot buffer. Wetland C, an isolated depressional wetland located east of the access road entry from 73rd Avenue SE, was rated as a category III wetland requiring a 100-foot buffer. Munn Lake, which is a wetland located along a portion of 73rd Avenue SE, was rated as a category II wetland requiring a 180-foot buffer. *Exhibits 1, 2, and 5.*
12. The Applicant's critical areas consultant analyzed project impacts and proposed mitigation. The sewer line proposed within the shoreline jurisdiction would cross Wetland A (the Munn Lake wetland) installed via a directional bore. Bore entry and exit locations are proposed outside of the wetland and buffer and are proposed to have erosion control measures in place during construction in order to prevent sediment from entering any critical area. Because of this, no impacts to the wetland are anticipated. The proposed mitigation includes removal of invasive species, enhancement of currently degraded buffers with native vegetation, a monitoring plan with performance standards, and a contingency plan. *Exhibits 1 and 3.*
13. The Applicant's critical area review permit was approved on June 21, 2016. No appeal was filed and the approval became final. *Exhibits 1 and 1.P.*
14. All portions of the property within shoreline jurisdiction and subject to the instant applications are within a developed road right-of-way. The affected segment of 73rd

Avenue SE does not front on the lake or in any way provide lake access. Property between the road and the lake is privately owned. It is neither possible nor feasible to provide public access as part of the underground utility installation. *Exhibits 1 and 1.H.*

15. The proposed placement of a sewer line does not include sewage treatment or sewage outfall. The instant proposal is not considered a major transmission facility, nor a hydroelectric facility, and is not located on the Nisqually River. The proposal is not an industrial activity as defined by the SMPTR. The proposal does not involve any underwater or overwater development. *Exhibits 1, 1.D, and 1.H.*
16. The site plan submitted with the SSDP and SCUP applications depicts all existing utility lines in the vicinity. The proposed route, which follows an existing transportation right-of-way, is the shortest possible route to make the connection. Installation of the underground sewer line would not impact scenic views and, with the proposed best management practices implemented, is not anticipated to impact the natural environment. *Exhibits 1 and 1.H.*
17. There are no known aquacultural activities in Munn Lake. *Exhibit 1.*
18. The Applicant commissioned a professionally prepared cultural resources survey to determine whether the project could potentially impact valuable resources. The December 2015 survey included background research, field investigations, and subsurface testing. No cultural resources or archeological sites were encountered. While two historic structures would be impacted by the proposal, neither meets historic register eligibility criteria. No further cultural resources work was recommended by the consultant. *Exhibit 4.*
19. Frontage improvements would normally be required to bring 73rd Avenue SE up to current standards. The Applicant submitted an application for variance requesting to be excused from any requirement to make improvements to 73rd Avenue SE. Existing camp access along 73rd Avenue SE was reviewed by both the County Public Works Department and the City of Tumwater. Appropriate staff from both local governments considered that the proposal is to modernize the existing camp in order to serve the existing number of campers. Given the presence of the wetland adjacent to 73rd Avenue SE and its location within shoreline jurisdiction, and that there would be no increase in anticipated traffic as a result of the proposal, the County Engineer approved the variance request. No improvements to the 73rd Avenue SE right-of-way would be required. *Exhibits 1 and 1.L.*
20. The instant shoreline applications were reviewed by the Thurston County Public Health and Social Services Department for possible public health issues. Identifying no health concerns attributable to the sewer line, the Department recommended approval. *Exhibits 1 and 1.K.*
21. Having reviewed the preliminary site plan, the drainage plan, and a traffic impact analysis, Thurston County Public Works Department recommended approval of the application. *Exhibits 1.M and 1.N; Saint Testimony.*

22. The Washington State Department of Ecology submitted comments concerning toxics clean up and water quality protections that are overseen by that agency. *Exhibit 1.Q.* The Nisqually Tribe submitted comments indicating they had no concerns about the project. *Exhibit 1.R.* The US Fish and Wildlife Service (USFWS) submitted comments indicating that, based on a site visit, it was unlikely that the proposal would result in a take of the federally listed Mazama pocket gopher. *Exhibit 1.S.*
23. The Applicant's critical areas consultant noted that USFWS representatives have reviewed the site three times and found no gopher presence within the project footprint. *Dusek Testimony.*
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 May 10, 2016. No appeals were filed and the determination became final. *Exhibits 1 and 1.J; Smith Testimony.*
25. Notice of public hearing was posted on-site on July 15, 2016, and sent to all owners of property within 500 feet of the project and published in The Olympian on July 22, 2016. *Exhibits 1, 1.A, 1.I, and 6.*
26. The County received two public comment letters in response to notice of application. One person expressed concern about noise impacts from the existing camp facility, particularly events and fireworks, and opposed its expansion. *Exhibit 1.T.* The other comment requested that the new sewer line extension include a "tap" for the neighboring subdivision to allow for future connection to the sewer line. This individual also commented on noise from large vehicle traffic, impacts from the installation of the sewer line, and whether the project was an opportunity to require other utilities to be undergrounded. *Exhibit 1.U.*
27. At hearing, one member of the public representing the Cloister at Munn Lake offered public comment. Noting that their properties are the closest residences to the gate, Jeff Foster stated that the Camp is a wonderful neighbor. He asked for information about closures on 73rd Avenue SE, because neighbors will be impacted during construction. Regarding the pressurized line, he asked whether a pressurization apparatus would be above ground and result in noise impacts. He also asked for information concerning the contemplated construction window. *Foster Testimony.*
28. Considering public comment, Planning Staff offered the following responses. With regard to the comment about noise impacts, Staff noted the concern but also noted the camp has been at this location for more than 35 years, and the proposed sewer line does not represent a new land use or noise source. With regard to concerns about potential impacts to the wetlands, Staff noted that the entry and exit locations for the directional bore would be outside of the wetland and buffer and therefore no impacts are anticipated. With no wetland impacts to mitigate, the Applicant is not required to make environmental upgrades; however, the proposal includes some mitigation in the interior of the property.

County Planning Staff noted that the City of Tumwater is the sewer provider in vicinity, and the City has established construction standards for new sewer line installation. The location of the requested tap is west of shoreline jurisdiction, and is thus outside the perimeter of the project considered in the shoreline applications. Further, the City would be the agency with authority over requirements to provide for future connections. Any request for a “tap” should be directed to the City. The Applicant cannot be required to retrofit the existing power lines and place them underground. The feasibility of running sewer and power lines through the same bore would need to be explored with the City and with Puget Sound Energy. *Exhibit 1; Smith Testimony.*

29. Applicant representatives responded to public comment with the following information. With regard to the written comment about noise generally and fireworks specifically, the Camp observes County noise ordinances and fire regulations. Generally, approval of the instant permits would eliminate the camp’s on-site septic systems, which can be expected to protect ground and surface waters for the life of the use. The Camp has elected to install this very expensive sewer extension - about 1,300 feet in total, much of it more than 20-feet deep - to allow numerous on- and off-site buildings to connect to sewer. The proposed line has been sized to accommodate adjacent development referenced in the comment letter and other existing development, including a 44-unit apartment building currently on septic. All utilities are proposed in roadways to reduce impacts. The proposed method of directional boring is more expensive than other sewer line installation methods that could be approved; however, it is the ethic of the Camp’s organizers to take pride in stewardship. The Jewish community has been in Olympia since 1854. Environmental stewardship is a cornerstone of their faith and practice. The existing camp facility hosts campers from 16 states and three countries and strives to instill the ethic of environmental stewardship and nature appreciation. *Kaplowitz Testimony; Pierpoint Testimony.*
30. With regard to the Cloister at Munn Lake resident’s question regarding road/lane closures, use of the directional bore from Henderson Court to the end of 73rd Avenue SE is expected to leave plenty of room for vehicles to get around; there would be flaggers on both ends. No significant interruption to two-way traffic is expected. With regard to noise from pressurization, the proposed underground lift station is not a regional facility; it would serve only the camp. It is proposed in a secluded location on-site and is not expected to be audible off-site. Existing and future residences along the extended sewer line would be able to install their own connections. Regarding construction timing, the Applicant hopes to complete all off-site portions of the project before school starts this coming year. *Pierpoint Testimony.*
31. Upon review of the record and testimony offered at hearing, County Staff recommended approval of the permits with conditions. *Smith Testimony; Peebles Testimony; Saint Testimony; Exhibit 1.*
32. The Applicant waived objection to the recommended conditions of approval, but registered the suggestion that conditions 1 and 3 should require compliance with City of Tumwater Standards. *Pierpoint Testimony.* Planning Staff agreed to substitute City

standards in the two conditions. *Smith Testimony*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits and shoreline conditional use permits pursuant to Revised Code of Washington (RCW) Chapter 36.70, Washington Administrative Code (WAC) 173-27, and Section One, Part V of the Shoreline Master Program for the Thurston Region.

Criteria for Review

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

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

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

A. Shoreline Management Act

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

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

B. Applicable regulations from the Washington Administrative Code WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is

determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

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

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

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

C. Shoreline Master Program for the Thurston Region

The Shoreline Master Program for the Thurston Region (SMPTR) designates the shoreline jurisdiction on the subject property as Conservancy. Utilities, such as the proposed stormwater improvements, are covered in the “Utilities” chapter (Section Three, Chapter XX) of the SMPTR and are allowed in the Conservancy environment with approval of a Shoreline Conditional Use Permit (SCUP), subject to standards contained in the specific regulations of the chapter and a permit review process. Based on the value of the project, the shoreline permit requires a Shoreline Substantial Development Permit (SSDP).

The SMPTR’s Utilities chapter allows stormwater improvements in the Conservancy Shoreline Environment subject to policies, general regulations, and environment-specific guidelines. The applicable policies and general regulations regarding utilities are listed in the SMPTR section three, Chapter XX.

SMPTR Section Three, Chapter XX, Part B. Policies

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

such outfalls should be part of the appropriate regional plan for solutions to sewage management problems.

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

SMPTR Section Three, Chapter XX, Part C. General Regulations

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

9. No discharge of waste material which could result in decertification of aquacultural areas or products or cause lowering of water quality ratings is permitted.
10. No new hydroelectric generating facilities are allowed on the Nisqually River pursuant to the recommendations of the Nisqually River Management Plan.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA

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

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

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

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

Conclusions Based on Findings

A. Shoreline Substantial Development Permit

1. As conditioned, the proposal is consistent with the policies and procedures of the Shoreline Management Act. Converting sanitary sewage treatment from on-site septic to properly installed municipal sewer is a reasonable and appropriate use within the Conservancy shoreline environment. The project was reviewed by the County's Health

Department and no impacts to public health were identified. The project would be installed underground in the public right-of-way; there would be no impact to shoreline access or views. Conditions would ensure that the project is developed with minimal impact to the shoreline and surrounding properties. *Findings 7, 8, 9, 10, 14, and 31.*

2. As conditioned, the directionally bored sewer line under the wetland complies with applicable regulations in the Washington Administrative Code. No new above-grade buildings would be installed in the shoreline. There would be no impacts to views or to the character of the area. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Findings 8, 9, 10, 14, and 31.*
3. The proposal is consistent with the applicable policies and regulations of the Shoreline Master Program for the Thurston Region and the goals and policies of the Thurston County Comprehensive Plan. The new sewer line is proposed within a right-of-way that has already been altered from the natural condition. The new sewer line would be installed underground by directional bore and have no impacts on scenic views. The selected construction technique is expected to result in no impacts to the shoreline environment. The bore entry and exit sites are proposed to be placed outside the wetland, and therefore outside of the shoreline environment. Best management practice erosion control measures would be implemented to prevent sediment from entering the wetlands. The proposal was reviewed for compliance with the County's critical areas ordinance and the approved critical areas review permit was not appealed. The project was also reviewed for compliance with the requirements of the State Environmental Policy Act and the issued MDNS was not appealed. *Findings 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, and 32.*

B. Shoreline Conditional Use Permit

1. As concluded in the above SSDP conclusions, the proposed use is consistent with the RCW and the SMPTR. The underlying 73rd Avenue SE right-of-way crosses over a wetland associated with Munn Lake; it does not front on the lake or provide lake access in any other way. Properties between the road and the lake are privately owned. The proposal is compatible with existing and permitted uses under the Comprehensive Plan and SMPTR. The proposal includes implementation of erosion control construction techniques to prevent sediments from reaching Munn Lake. Of primary benefit, the proposed sewer connection would enable the camp to abandon five on-site sewage systems, eliminating potential pollution of ground and surface waters. The public interest would be protected. Additional similar proposals would not result in a cumulative adverse impact to the shoreline. *Findings 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31, and 32.*

DECISION

Based upon the preceding findings and conclusions, the requested shoreline substantial development and shoreline conditional use permits to extend a City of Tumwater sanitary sewer line along the 73rd Avenue SE corridor within 200 feet of Munn Lake in a Conservancy shoreline environment in Tumwater, Washington are **GRANTED** subject to the following conditions:

1. Prior to or in conjunction with the issuance of any building permits, all applicable City of Tumwater regulations and requirements including but not limited to those relating to Public Health, Public Works, Fire, and zoning shall be met.
2. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.
3. All activities shall fully comply with the City of Tumwater stormwater and erosion control regulations throughout all phases of the proposed project.
4. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit if required.
5. All removed debris and waste materials resulting from this project must be disposed of at an approved site. Property owners, developers, and contractors are encouraged to recycle all possible left over construction, demolition, and land clearing (CDL) materials and reduce waste generated. Please visit <http://1800recycle.wa.gov> to find facilities that recycle construction, demolition, and land clearing materials in your area.
6. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified. (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300.)
7. Please notify the Nisqually Indian Tribe if there are any Inadvertent Discoveries of Archaeological Resources/Human Burials (Jackie Wall, (360) 456-5221, ext. 2180).
8. On April 8, 2014, the U.S. Fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject property contains potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
9. Construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or

until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

Decided August 15, 2016.

By:



Sharon A. Rice
Thurston County Hearing Examiner

THURSTON COUNTY
PROCEDURE FOR RECONSIDERATION AND APPEAL
OF HEARING EXAMINER DECISION TO THE BOARD

NOTE: THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).

If you do not agree with the decision of the Hearing Examiner, there are two (2) ways to seek review of the decision. They are described in A and B below. Unless reconsidered or appealed, decisions of the Hearing Examiner become final on the 15th day after the date of the decision.* The Hearing Examiner renders decisions within five (5) working days following a Request for Reconsideration unless a longer period is mutually agreed to by the Hearing Examiner, applicant, and requester.

The decision of the Hearing Examiner on an appeal of a SEPA threshold determination for a project action is final. The Hearing Examiner shall not entertain motions for reconsideration for such decisions. The decision of the Hearing Examiner regarding a SEPA threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075 and TCC 17.09.160. TCC 17.09.160(K).

A. RECONSIDERATION BY THE HEARING EXAMINER (Not permitted for a decision on a SEPA threshold determination)

1. Any aggrieved person or agency that disagrees with the decision of the Examiner may request Reconsideration. All Reconsideration requests must include a legal citation and reason for the request. The Examiner shall have the discretion to either deny the motion without comment or to provide additional Findings and Conclusions based on the record.
2. Written Request for Reconsideration and the appropriate fee must be filed with the Resource Stewardship Department **within ten (10) days of the written decision**. The form is provided for this purpose on the opposite side of this notification.

B. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS (Not permitted for a decision on a SEPA threshold determination for a project action)

1. Appeals may be filed by any aggrieved person or agency directly affected by the Examiner's decision. The form is provided for this purpose on the opposite side of this notification.
2. Written notice of Appeal and the appropriate fee must be filed with the Resource Stewardship Department **within fourteen (14) days of the date of the Examiner's written decision**. The form is provided for this purpose on the opposite side of this notification.
3. An Appeal filed within the specified time period will stay the effective date of the Examiner's decision until it is adjudicated by the Board of Thurston County Commissioners or is withdrawn.
4. The notice of Appeal shall concisely specify the error or issue which the Board is asked to consider on Appeal, and shall cite by reference to section, paragraph and page, the provisions of law which are alleged to have been violated. The Board need not consider issues, which are not so identified. A written memorandum that the appellant may wish considered by the Board may accompany the notice. The memorandum shall not include the presentation of new evidence and shall be based only upon facts presented to the Examiner.
5. Notices of the Appeal hearing will be mailed to all parties of record who legibly provided a mailing address. This would include all persons who (a) gave oral or written comments to the Examiner or (b) listed their name as a person wishing to receive a copy of the decision on a sign-up sheet made available during the Examiner's hearing.
6. Unless all parties of record are given notice of a trip by the Board of Thurston County Commissioners to view the subject site, no one other than County staff may accompany the Board members during the site visit.

C. STANDING All Reconsideration and Appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the Reconsideration or Appeal should be granted.

D. FILING FEES AND DEADLINE If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$651.00** for a Request for Reconsideration or **\$866.00** 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 \$651.00 for Reconsideration or \$866.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Resource Stewardship Department this _____ day of _____, 20___.