

**OFFICE OF THE HEARING EXAMINER**

**THURSTON COUNTY**

**REPORT AND DECISION**

**PROJECT NO.:** 2009103092, Plat of Freestone Crossing

**LOCATION:** 2100 Seven Oaks Road S.E.  
Olympia, WA 98503

**TAX PARCEL NO.:** 76100004100

**APPLICANT:** BMC Freestone LLC  
Attn: Barbara Rodgers  
150-120<sup>th</sup> Avenue N.E., Suite 200  
Bellevue, WA 98005

**REPRESENTATIVE:** Jeff Pantier  
Hatton Godat Pantier  
3910 Martin Way East, Suite B  
Olympia, WA 98506

**PLANNER:** Tony Kantas, Associate Planner

**SUMMARY OF REQUEST:**

Approval of a preliminary plat to subdivide 4.59 acres into 16 single-family residential lots at a site located at 2100 Seven Oaks Road S.E., Olympia.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

**DATE OF DECISION:** March 6, 2017

**PUBLIC HEARING:**

After reviewing the Planning and Land Services Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on February 21, 2017, at 10:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1"** - **Resource Stewardship Department Staff Report**
- Att. A** - **Notice of Public Hearing**
- Att. B** - **Master Application**
- Att. C** - **Land Application**
- Att. D** - **Forestland Conversion Application**
- Att. E** - **Proposed Site Plan**
- Att. F** - **2015 Aerial Photo**
- Att. G** - **Zoning/Vicinity Map**
- Att. H** - **Notice of Application**
- Att. I** - **MDNS**
- Att. J** - **Memo from Public Works re: SEPA Recommendation**
- Att. K** - **Memo from Public Works re: Plat Recommendation**
- Att. L** - **Letter from Health Department re: Plat Recommendation**
- Att. M** - **Letter from State DFW**
- Att. N** - **Letter from U.S. DFW re: Gopher Review**
- Att. O** - **Letter from North Thurston School District**
- Att. P** - **Traffic Impact Analysis**
- Att. Q** - **Oregon White Oak Habitat Management Plan**
- Att. R** - **Storm Drainage Report**
- EXHIBIT "2"** - **Park Plan**
- EXHIBIT "3"** - **Proposed Conditions**
- EXHIBIT "4"** - **Draft Mitigation Agreement**
- EXHIBIT "5"** - **Email from Mr. Douglas Leo**
- EXHIBIT "6"** - **Email from Mr. Jeff Pantier**

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

TONY KANTAS appeared, presented the Resource Stewardship Planning and Environmental Staff Report, and testified that staff recommends approval of both subdivisions subject to conditions of approval. The Freestone Crossing plat proposes 16 lots and 2.54 acres in open space that will protect oak trees, prairie habitat, and provide active recreation. Staff recommends approval of Freestone Crossing subject to 38 conditions. The Freestone Place plat is subject to 37 conditions. Both plats are located within the LDR zone classification that authorizes densities of between three and six dwelling units per acre. Freestone Place will have a density of 4.6 units per acre with consideration of the critical areas, and Freestone Crossing will have a density of 4.8 dwelling units per acre without consideration of critical areas. The applicant proposes one set of CCRs for both plats, and residents of both plats will utilize the active recreation area

on Freestone Crossing. The only reason staff reviewed the plats separately is because the parcels are separated by a public right-of-way. The County provided notice of the application as well as issuance of the DNS, and no public comments were received on either. Staff recommends approval of both plats subject to conditions.

DAWN PEEBLES, Environmental Health, appeared and testified that both plats comply with all sanitary codes and she recommends approval. Her conditions are included in both Staff Reports as Numbers 29 and 30.

ARTHUR SAINT, Public Works, appeared and testified that Public Works recommends approval. Following a discussion regarding recent Supreme Court cases, he recommended changing the stormwater condition to require compliance with the applicable Storm Drainage Manual. The County is currently reviewing said cases to determine their applicability.

JEFF PANTIER appeared on behalf of both plats and testified that the applicant has two other plats presently under consideration on parcels located to the northwest. They will soon submit for final plat approval on those plats. One set of CCRs and one homeowners association will cover all four projects. An elementary school is located to the north and sidewalks will extend along Seven Oaks Road. 22<sup>nd</sup> Avenue already has an informal walkway extending from the east from Pleasanton. They will construct sidewalks on the west side of Seven Oaks along the plat frontage and along the south side of 22<sup>nd</sup>. The City of Lacey will provide sewer and water to all plats. They are proposing an active recreation area on the Freestone Crossing plat between Lots 1 and 14 that residents of both plats can use. He introduced Exhibit 2, the park plan for both subdivisions. The park plan also includes a shoreline park located on a plat currently under construction, the Long Lake plat. This park will provide recreational activities along the shoreline for residents of both Freestone Crossing and Freestone Place. Residents will enjoy use of the park, and they want the conditions to address that opportunity. He referred to conditions and noted that the plat map shows an active recreation area between Lots 1 and 14. He would like the opportunity to provide an alternative site if such is authorized by the County. They are looking for a better amenity for the entire community. If they provide another such opportunity, then no improvements will occur between Lots 1 and 14 and that area will remain as additional open space. Condition 37 results from the Tacoma Smelter and he read a proposed condition into the record. They have prepared a draft school mitigation agreement that they will enter with the district. Condition 12 on the Freestone Crossing Staff Report refers to a 52 foot right-of-way dedication. The dedication will actually be greater as the right-of-way must be 54 feet. They will dedicate 27 feet on both plats. They will meet both the stormwater and current road dedication requirements. The dedication of open space is far in excess of requirements due to the oak trees. The density is appropriate for the zone. Freestone Crossing would allow eight to 23 lots, and 16 are planned. Freestone Place would allow between six and 17 lots, and 11 are proposed. Both plats are within allowed density. Concerning stormwater, they have designed everything to the 2009 Drainage Manual. If Thurston County decides that they must meet the 2016 standards, they will meet said criteria. However, if the Supreme Court decision

requires compliance with only the Federal Clean Water criteria and not the County's criteria, they would still be vested under the 2009 manual. They have obtained modifications to the road section to avoid oak trees. They will design 22<sup>nd</sup> Avenue to connect to the east.

CRAIG STEEPE appeared and emphasized that they will provide a gravel pathway for the school children coming from the east consistent with what is there now.

No one spoke further in this matter. Subsequent to the close of the hearing, Mr. Douglas Leo appeared in the hearing room and advised that due to traffic he was late to the hearing and requested the opportunity to provide a written comment. The Examiner advised Mr. Leo that he could submit a written comment and he did so by email on Wednesday, February 22, 2017, that is marked as Exhibit 5. The Examiner also provided an opportunity for the applicant to respond to Mr. Leo's letter, and Mr. Pantier responded by email dated February 23, 2017. His response is marked as Exhibit 6. The Hearing Examiner took the matter under advisement. The hearing was concluded at 10:45 a.m.

**NOTE:** A complete record of this hearing is available in the office of the Thurston County Resource Stewardship Department.

### **FINDINGS, CONCLUSIONS, AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The application was reviewed pursuant to the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on December 20, 2016 (Attachment i). Thurston County staff determined that the proposed 16-lot subdivision is physically and functionally related to the proposed 11-lot subdivision (Project No. 2009103091) across Seven Oaks Road SE; therefore, one MDNS was issued for both projects. The environmental determination became final on January 10, 2017. The MDNS includes mitigating conditions regarding traffic mitigation, oak tree preservation and mitigation, archaeological requirements, construction noise limitations, construction hour requirements, and cleaning of public roads during construction.
3. Written notice of the public hearing was sent to all property owners within 300 feet of the site on February 6, 2017 and was published in The Olympian on February 10, 2017 at least ten (10) days prior to the hearing. Notice was posted on February 10, 2017.

4. The applicant has a possessory ownership interest in a generally rectangular, 4.59 acre parcel of property abutting the east side of Seven Oaks Road S.E. and the north side of 25<sup>th</sup> Avenue S.E. in the Lacey area of unincorporated Thurston County. The applicant requests preliminary plat approval to allow subdivision of the parcel into 16 single-family residential lots, a storm drainage tract, and open space tract. The preliminary plat map also shows extension of 22<sup>nd</sup> Avenue East across the northern portion of the plat parcel from the Pleasanton subdivision to the east to Seven Oaks Road.
5. The preliminary plat map shows Lots 2-13 abutting Seven Oaks Road and accessing thereon. Lot 1 is located at the intersection of Seven Oaks Road and the future 22<sup>nd</sup> Avenue East, and Lots 14-16 abut the south side of 22<sup>nd</sup> Avenue S.E. All lots have a rectangular shape and can provide an appropriate building footprint for a reasonably sized, single-family residential home that can meet all required setbacks. The plat map shows a minimum lot size of 5,000 square feet and a maximum lot size of 5,990 square feet. The storm drainage tract measures .5 acres and the open space tree retention tract measures 1.95 acres. Both tracts separate Lots 1-13 of the plat from the Pleasanton subdivision. The proposed preliminary plat of Freestone Place is located on the west side of Seven Oaks Road opposite Lots 1-13. Both projects are under the same ownership and would be developed as one plat except for their separation by Seven Oaks Road.
6. The parcel is located within the City of Lacey Urban Growth Area and within the Low Density Residential District (LD 3-6) zone classification of the Thurston County Code (TCC). The LD 3-6 classification authorizes single-family residential homes with densities of between three and six dwelling units per acre. The Lacey-Thurston County Joint Comprehensive Plan also designates the parcel for residential use at the same density. The preliminary plat proposes a density of 3.48 dwelling units per acre, consistent with both the zone and Comprehensive Plan.
7. Abutting parcels to the west, east, and south are located within the LD 3-6 classification, and the abutting parcel to the north is located within the Open Space Institutional (OSI) classification. Abutting uses include the Pleasanton single-family residential subdivision to the east, the proposed Freestone Place subdivision to the west, and the Seven Oaks Elementary School in the OSI classification to the north. The proposed preliminary plat is compatible with both existing uses and zones in the area.
8. All lots meet the minimum lot size requirement of 5,000 square feet as well as the minimum lot width of 50 feet where no alley access is provided. All lots provide a reasonably sized, building footprint that will meet required setback widths of front yard 20 feet, rear yard 15 feet, and side yard five feet, to include the exception of a ten foot wide, side yard from a flanking street (Lot 1).

9. Prior to obtaining preliminary plat approval the applicant must show that the request satisfies the criteria set forth in RCW 58.17.110 a section of the State Subdivision Act and the criteria set forth in TCC 18.12.090(A)(B). Findings on each criteria are made hereinafter.
10. Within the City of Lacey Urban Growth Area, preliminary plat applicants must dedicate a minimum of ten percent of the total plat area for open space. Furthermore, the plat must separate the open space area from required yard setbacks and other undeveloped portions of the site. However, the open space area may include stormwater facilities that are designed for active and passive recreation opportunities. In the present case the preliminary plat map shows 2.45 acres of open space (53 percent of the entire site) designated for oak tree preservation, oak tree mitigation, and passive/active recreation. The applicant has located the open space tract adjacent to the east property line of the plat parcel that abuts the Pleasanton subdivision's open space tract that was also designated for oak tree retention. Therefore, the proposed open space area provides connectivity of the two, oak tree habitat preservation areas. The preliminary plat map also shows an active recreation area adjacent to the future 22<sup>nd</sup> Avenue S.E. between Lots 1 and 14. Said area is available for residents of both the present plat and residents of Freestone Place. Furthermore, the applicant is presently developing two additional single-family residential subdivisions to the northeast, one of which abuts the shoreline of Long Lake. The applicant proposes to construct a waterfront park on Long Lake and make it available for residents of all four plats should the County agree. The applicant's plans also include providing one homeowners association to govern all four plats and the shoreline park. Should the County agree with the provision of the shoreline park maintain the applicant will ask to remove the onsite, active recreational facilities and said area as unimproved open space. The plat parcel supports 273 Oregon White Oak trees in a stand encompassing more than one acre. Thurston County Critical Areas Ordinance set forth in TCC Chapter 17.15 designates such areas as an important habitat. In the present case the applicant submitted an Oregon White Oak Management Plan that the Washington State Department of Fish and Wildlife reviewed and approved. The subdivision, if developed as proposed, will preserve 52 percent of said oak trees within the open space tract. The habitat management plan includes recommendations to improve the quality of the preserved oak habitat. The plat makes appropriate provision for open spaces, parks and recreation, playgrounds, and critical areas.
11. The applicant will construct the storm drainage facilities to either the 2009 Thurston County standards that were in effect on the date of submittal of a completed application for preliminary plat approval, or the 2016 standards should Thurston County determine that the storm drainage regulations do not vest until a building permit application is submitted (See the recent Washington Supreme Court decision in Snohomish County, et. al., v. Pollution Control Hearings Board, et. al., Case Number 92805-3, decided December 29, 2016). Regardless of which criteria are applicable, compliance with such will assure that the plat makes appropriate

provision for drainage ways.

12. Conditions of approval require the applicant to improve Seven Oaks Road S.E. and 25<sup>th</sup> Avenue S.E. to Thurston County road standards. In addition the applicant will construct 22<sup>nd</sup> Avenue East from Seven Oaks Road S.E. east to the existing 22<sup>nd</sup> Avenue S.E. within the Pleasanton subdivision. The proposed roadway will conform to Thurston County and City of Lacey standards and development guidelines. The applicant must also comply with Thurston County Traffic Impact Fee Resolution Number 14820 prior to the issuance of building permits. All lots will access onto either Seven Oaks Road S.E. or 22<sup>nd</sup> Avenue S.E., and the applicant must show adequate entering and stopping sight distance at each driveway. No internal roads or alleys are proposed to serve any of the plat lots. The preliminary plat makes appropriate provision for streets, roads, alleys, and other public ways.
13. A transit stop presently exists on Marvin Way approximately one-quarter mile east of the plat parcel, and no transit improvements are requested. The City of Lacey will provide both domestic water and fire flow to the site and will also provide sanitary sewer service to each lot. The plat makes appropriate provision for transit stops, potable water supplies, and sanitary waste.
14. The applicant submitted a draft school mitigation agreement with North Thurston County Schools that requires a monetary payment for each single-family residential home. The execution of said agreement and satisfaction thereof ensures that the preliminary plat makes appropriate provision for schools and school grounds.
15. The applicant will construct sidewalks across the plat frontage on Seven Oaks Road East and 25<sup>th</sup> Avenue S.E., and along the south side of the new 22<sup>nd</sup> Avenue S.E. The Pleasanton subdivision already has a direct pedestrian access to the elementary school. The applicant will also provide a crosswalk on 22<sup>nd</sup> Avenue to the school. The preliminary plat makes appropriate provision for safe walking conditions for students who only walk to and from school.
16. The Examiner left the record open for written comments from Mr. Douglas Leo who arrived subsequent to close of the hearing due to traffic conditions. Mr. Leo expressed concerns about the quality of a "Freestone development". However, the applicant has no association with a builder and developer known as "Freestone". The company developing both Freestone Place and Freestone Crossing is "Benchmark Communities". Mr. Leo also expressed concerns regarding traffic impacts, overcrowded schools, wildlife habitat destruction, and earthquakes. As set forth hereinabove, the applicant must mitigate the impact of its development to include road improvements, traffic impact fees, school impact fees, and preservation of Oregon White Oak trees on 58 percent of the site. No evidence of endangered species or species of concern are identified, and as previously noted, the applicant will maintain 80 percent of the oak trees.

## CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The proposed preliminary plat of Freestone Crossing is consistent with the Lacey-Thurston County Joint Comprehensive Plan and the LD 3-6 zone classification of the TCC. The proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare, for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions.
3. The proposed preliminary plat will serve the public use and interest by providing an attractive location for a single-family residential subdivision with convenient access to an elementary school and by providing protection for a significant Oregon White Oak tree stand. Furthermore, future plat residents may have access to a shoreline park on Long Lake. Therefore, the plat should be approved subject to the following conditions:
  1. Please note a construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction. This shall be applied for, and paid for prior to the pre-construction conference.
  2. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the TCRS, 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 stormwater management system shall conform to the applicable Thurston County Drainage Design & Erosion Control Manual and Title 15.05 Thurston County Code.
    - a. For this project this also includes a two-year operation & maintenance agreement and financial security that shall be executed prior to final approval.



- b. Prior to final approval a maintenance agreement found in Appendix K of the Drainage Design & Erosion Control Manual must be prepared for this project and recorded.
  - c. A property owners' association shall be formed. The document creating the Property Owners' Association shall at a minimum make provision for the following: (1) Members of the Property Owners' Association shall be responsible for maintenance of storm drainage facilities as described in Maintenance Plan (See Section 3.3), (2) Inclusion by reference of the maintenance manual prepared by the Project Engineer in accordance with Section 3.3 and (3) Power to assess fees to maintain storm drainage facilities and sanctions in the event that jurisdiction takes action to maintain facilities. Refer to Appendix E, Section E.2 of the Drainage Design & Erosion Control Manual for sample language.
5. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer and/or the homeowner's 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. All natural and man-made drainage paths contained in the proposed development require easements as set forth in Section 2.14 of the DDECM.
  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 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.
  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 1999 Thurston County 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. In order to meet the requirements of the 1999 Thurston County Road Standards, additional right of way may be required. Please have your legal representative or surveyor prepare a Quit Claim Deed describing the necessary right-of-way, being a strip of land which when added to the existing right of way totals 27 feet of right-of-way lying East of and abutting the existing centerline of Seven Oaks Street SE. Upon your request, Thurston County's right-of-way representative will prepare the Quit Claim Deed describing the necessary right-of-way dedication. Please contact the Thurston County Right-of-Way section at 754-4998.
  13. Pursuant to Title 18.24 Thurston County Code the Applicant shall execute an agreement and provide a financial security to assure successful operation of the required improvements prior to final approval. Improvements not covered by this agreement are water, sewer and stormwater facilities. These are addressed either by separate county ordinance or in the case of the water and sewer utilities by the utility purveyor.
  14. Permanent survey control need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
  15. 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.
  16. Payment of the off-site traffic mitigation required in the 12/20/2016 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.

17. Per Thurston County Resolution 14820, traffic impact fees shall be paid prior to issuing any building permits associated with this project.
18. The proposed roadway in concept and design shall conform to the 1999 Thurston County Road Standards and the City of Lacey standards and development guidelines.
19. 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.
20. Required plan submittal information is presented in Chapter 3.00 of the TCRS.
21. 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 1994 Drainage Design & Erosion Control Manual.
22. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at (360) 867-2051 for a final inspection.
23. 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. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is required and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. Any additional permits and/or approvals shall be the responsibility of the Applicant.
24. 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.
25. PRIOR to construction, the applicant shall:
  - a. Pay outstanding construction review and inspection fees\*
  - b. Receive a construction permit
  - c. 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/docs/Roads-Development-Review-Fees-20090301.pdf> or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at (360) 867-2046, or by e-mail at [padillr@co.thurston.wa.us](mailto:padillr@co.thurston.wa.us).

26. A duplicate original mylar drawing, certified by the design engineer as "record drawing" in accordance with the January 1, 1999 edition of TCRS, shall be provided prior to final approval. The final plat map and the survey traverse closure calculations shall be submitted to the Development Services Department prior to receiving final approval.
27. 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, if required after final inspection
  - c. Receive and accept Appendix "F" and "K" per the DDECM submitted and signed by the project engineer
  - d. Review and accept contractor's blueline record of changes. The changes shall be incorporated on to the original mylars, within "clouds". The record drawing mylars shall be received and accepted, then submit two sets of final record drawings for project file and bond file. The record drawings shall include street names and block numbers approved by Addressing Official.
  - e. Financial security will be necessary for maintenance and operation of the drainage facilities
  - f. Financial security for the completion of all improvements required (i.e., sidewalks)
  - g. Required survey information on the final plat map
  - h. Homeowner's articles of incorporation or covenants
  - i. Approved deferral or completion of required frontage improvements
  - j. Completion of required signing and striping
  - k. Payment of any required utility fees
  - l. Payment of any required final fees
  - m. Payment of any required mitigation fees
  - n. Complete the right-of-way dedication process
28. The final plat map shall note or delineate the following:
  - a. "ATTENTION": Thurston County has no responsibility to build, improve, maintain or otherwise service the private road or driveway within or providing access to property described in this plat. The

building, maintenance, repair, improvement, operation or servicing of the stormwater 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. Storage requirements for runoff from buildings and parking surfaces shall be shown on individual building lots, including drywell sizing or storm drain connection points.
- e. Maintenance of the landscaping and roadside drainage and stormwater facilities such as ditches, swales and ponds within the public right of way is the sole responsibility of the (property owners) or (homeowners association) within this subdivision. Thurston County has no responsibility to maintain or service said landscaping or roadside stormwater facilities.
- f. 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.
- g. Approval of this subdivision is conditioned upon payment of City of Lacey Traffic Mitigation Fees in the applicable amount. 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.
- h. This plat is subject to the RESIDENTIAL AGREEMENT TO MAINTAIN STORMWATER FACILITIES AND TO IMPLEMENT A POLLUTION CONTROL PLAN", as recorded under Auditor's File No.\_\_\_\_\_.
- i. 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 stormwater 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 \_\_\_\_\_.

- j. The property described herein is required to accommodate stormwater runoff from frontage improvements to Seven Oaks Street SE and all natural tributary areas abutting said property.
  - k. Clearly delineate and label all public and private roads.
29. Prior to final plat approval, City of Lacey public water and sanitary sewer utilities must be extended to and through the subdivision. Written confirmation of final water and sewer extension approval from the City of Lacey must be provided to this office.
  30. Due to the aquifer sensitive nature of this area and the size and scope of this project an Integrated Pest Management Plan (IPMP) has been developed for this subdivision. This IPMP has been reviewed and approved. Prior to final plat approval, a written proposal for the method of IPMP distribution to future property owners must be submitted to this department for review and approval. Typically this is done by incorporating a copy of the approved IPMP into the subdivision covenants and restrictions (CC&R's); however other proposed methods may also be allowed provided the proposed method of distribution will assure future property owners will receive a copy of the IPMP at the time of sale.
  31. Comply with all conditions of the Mitigated Determination of Non-Significance dated December 20, 2016 (Attachment i).
  32. Street addresses, lot size and dimensions for each lot shall be shown on the final map.
  33. 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.

34. 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 (TCC 17.25.400(D)(5)(g)).
  - B. 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, oak tree preservation, landscaping, and irrigation. All landscaping shall be in compliance with the Thurston County Zoning Ordinance (Title 21) and the Thurston County Subdivision Ordinance (Title 18).
  - C. Active recreation will be provided in the area located between lots 1 and 14 of the Freestone Crossing Plat, unless an alternate site location, including active recreation Amenities is authorized by Thurston County.
35. 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.
36. 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 Low Density Residential District (LD 6-12) (TCC 21.13).
  - 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.
37. 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 of the Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

38. The applicant shall conduct soil testing and if lead or arsenic levels are found at concentrations above the Model Toxic Control Act (MTCA) clean up levels (chapter 173-340 WAC) remediation shall follow the Washington State Department of Ecology Voluntary Retention/Mitigation Areas of the Plat.
39. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
40. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for preliminary plat approval for Freestone Crossing to allow subdivision of a 4.59 acre parcel into 16 single-family residential lots and two tracts for a site located at 2100 Seven Oaks Road S.E., Olympia, is hereby granted subject to the conditions contained in the conclusions above.

**ORDERED** this 6th day of March, 2017.

  
\_\_\_\_\_  
**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner



**TRANSMITTED** this day of March, 2017, to the following:

**APPLICANT:** BMC Freestone LLC  
Attn: Barbara Rodgers  
150-120<sup>th</sup> Avenue N.E., Suite 200  
Bellevue, WA 98005

**REPRESENTATIVE:** Jeff Pantier  
Hatton Godat Pantier  
3910 Martin Way East, Suite B  
Olympia, WA 98506

**OTHERS:**

THURSTON COUNTY



**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 **\$669.00** for a Request for Reconsideration or **\$890.00** 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  \$669.00 for Reconsideration or \$890.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Filed with the Resource Stewardship Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.