



COUNTY COMMISSIONERS

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District One

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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. 2015100130
)	
Robert Presley)	Plat of Abernethy Court
)	
)	
)	FINDINGS, CONCLUSIONS,
For a Preliminary Plat)	AND DECISION
_____)	

SUMMARY OF DECISION

The requested approval of a preliminary plat subdividing 4.8 acres into 29 single-family residential lots and 0.6 acres of open space is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Robert Presley (Applicant) requested approval of a preliminary plat subdividing 4.8 acres into 29 single-family residential lots and 0.6 acres of open space.

Hearing Date:

The Thurston County Hearing Examiner conducted an open record public hearing on the request on July 10, 2018.

Testimony:

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

- Tony Kantas, Senior Planner, Community Planning & Economic Development Department
- Arthur Saint, P.E., Development Review Department
- Dawn Peebles, Environmental Health Division
- Chris Merritt, Olympic Engineering, Applicant Representative
- Bob Presley, Applicant

Exhibits:

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

- Exhibit 1 Community Planning and Economic Development Staff Report to the Hearing Examiner, dated July 10, 2018, with the following attachments:
- A. Notice of public hearing
 - B. Thurston County Master Application, submitted January 8, 2015
 - C. Thurston County Division of Land application, submitted January 8, 2015
 - D. Forest Lands Conversion application, submitted January 8, 2015
 - E. Preliminary plat map (3 pages)
 - F. Logging site plan
 - G. Project narrative
 - H. Vicinity and zoning map, 2015 aerial
 - I. Notice of application (3 pages)
 - J. Mitigated Determination of Non-Significance, issued May 8, 2018
 - K. Letter from Brad Sangston, Thurston County Environmental Health Department, dated November 25, 2015
 - L. Memo from Arthur Saint, Thurston County Public Works Department, dated June 15, 2018
 - M. Letter from North Thurston School District, dated March 17, 2015
 - N. Letter from Washington State Department of Ecology, dated May 22, 2018
 - O. Letter from Washington State Department of Ecology, dated April 2, 2015
 - P. Letter from Washington State Department of Ecology, dated January 29, 2015
 - Q. Public comment letters/emails received
 - 1. Letter from Tom and Cathy McNally, dated April 7, 2015
 - 2. Email from Tom and Cathy McNally, dated April 5, 2015
 - 3. Letter from Michael Polenz and Yvonne Dettlaff, dated April 30, 2015
 - R. Traffic Impact Analysis - Level 1, dated November 2014
 - S. Integrated pest management plan
- Exhibit 2 Memo from Tony Kantas with additional recommended conditions
- Exhibit 3 Photos of the site
- Exhibit 4 Comment email from Michael Polenz, dated July 8, 2018

Exhibit 5 Comment email from Michael Polenz and Yvonne Dettlaff, dated July 8, 2018

Exhibit 6 Letter from City of Lacey with additional proposed conditions, dated July 8, 2018

Exhibit 7 Comment letter from Michael Polenz and Yvonne Dettlaff, dated July 9, 2018

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

FINDINGS

1. The Applicant requested approval of a preliminary plat subdividing 4.8 acres into 29 single-family residential lots and 0.6 acres of open space. The subject property is in the Lacey urban growth area (UGA) at 1607 Abernethy Road NE.¹ *Exhibits 1, 1.B, and 1.C.*
2. The preliminary plat applications were submitted together with a forest lands conversion application on January 8, 2015. The applications were deemed complete for review on February 5, 2015. *Exhibits 1.B, 1.C, 1.D, and 1.J.*
3. The subject property is located on the west side of Abernethy Road NE approximately 300 feet north of the intersection with 15th Avenue NE. This location is within the Lacey urban growth area (UGA). Currently the middle and eastern portion of the site are developed with a single-family residence, associated outbuildings, and a pasture, all of which would be removed. The western third of the site is moderately treed and vegetated. The parcel is relatively flat with maximum slopes of approximately 8%. There are no critical areas or associated buffers on-site. However, the property is within designated Category II and III critical aquifer recharge areas and is located in the Henderson Inlet watershed. *Exhibits 1, 1.K, and 1.S.*
4. The subject property has a Moderate Density Residential District (MD 6-12) zoning designation, which requires a density of at least six but not greater than 12 residential units per acre. The Lacey-Thurston County Joint Comprehensive Plan designates the site for residential use at a density between six and 12 dwelling units per acre. *Exhibit 1.*
5. Surrounding parcels to the north, south, and east are zoned MD 6-12 and are within the Lacey UGA. Parcels to the west are zoned Mixed Use Moderate Density and are also within the UGA. Property farther to the east is zoned Low Density Residential (LD 0-4) and is comprised of larger parcels developed with single-family residences and some larger undeveloped properties. Adjacent to the north is a 4.8-acre parcel developed with a single-family residence and agricultural uses. *Exhibit 1.*
6. Thurston County Code (TCC) Title 21 establishes the purposes of the Moderate Density zoning district (among other items) as intending to: permit a greater variety of housing

¹ The legal description of the subject property is a portion of Section 8, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Number 11808420600. *Exhibit 1.*

types than are permitted in the low density residential districts; permit a higher density of development as a means of achieving more economical housing; promote mass transit; direct moderate density development to areas where urban utilities exist or can easily be extended; and preserve as much open space and related amenities as possible. *Thurston County Code (TCC) 21.15.010*. Single-family residential uses are permitted in the MD 6-12 zone. *TCC 21.15.020*.

7. The MD 6-12 zone requires a minimum density of six units per acre. Each lot is subject to the following standards. Lots must have a minimum lot area of 4,000 square feet and a minimum lot width of 40 feet if no alleys are used. Front yards are required to be at least 16 feet deep, except that garages fronting a street are required to be set back 20 feet, or 10 feet on flanking streets. Side setbacks of at least five feet and rear setbacks of at least 15 feet are required where no alley access is proposed. Unenclosed porches are allowed to extend up to six feet into the front setback. A minimum of 10% of each lot must be set aside as useable yard space, not fewer than 15 feet on all sides. Maximum allowed coverage by impervious surface is 75%, and maximum allowed lot coverage by structure is 50%. Maximum allowed height for dwellings is 40 feet and for accessory structures is 20 feet. *TCC 21.13.050*.
8. The proposal would result in a residential density of six dwelling units per acre. The project does not include alley access. The smallest proposed lot would be 4,015 square feet, and the narrowest lot would be 55 feet wide. The proposed plat map states that the maximum building height would be 40 feet. *Exhibit 1.E*. At the time of building permit, Thurston County Staff would review individual applications to ensure all setback, lot coverage, and building height standards are satisfied. *Exhibit 1; Tony Kantas Testimony*.
9. The proposed lots would connect to City of Lacey sanitary sewer and water utilities. *Exhibits 1 and 1.E*. The City submitted a letter that indicated a capacity to serve the proposed lots with sewer and water service subject to a list of 47 conditions, which they sought to have imposed on County approval of the plat. *Exhibit 6*. County Staff noted that such conditions would normally be imposed during civil engineering review rather than at time of plat approval. *Arthur Saint Testimony; Tony Kantas Testimony*. The City's conditions are included in this decision in full in Appendix A for the purpose of memorializing them in their entirety in the instant document.
10. In the Lacey UGA, residential subdivisions are required to dedicate 10% of the total site as open space meeting the following standards: the open space must be attractive, accessible, and useable for active and passive recreation; it must be separate and distinct from required yards and setbacks; up to 50% of the open space may be used to preserve critical areas, associated buffers, and tree tracts; open space may include stormwater facilities designed for active and/or passive recreation opportunities; the space shall be consolidated to provide maximum access, visibility, and usability, and minimization of impacts to residential uses and ease of maintenance; it shall be placed in consideration of existing and potential open space on adjacent parcels; and it may be used to retain existing trees and significant vegetation. *TCC 18.47.040*.

11. The proposal would set aside 0.6 acres, or approximately 12% of the site, as open space as follows. Open space Tract A (0.41 acres) is rectangular area in the northeast corner of the site abutting Abernethy Road; it is proposed as a tree tract and to contain active recreational amenities, to be determined. Open space Tract B is 0.06 acres adjacent to the north boundary of the cul-de-sac bulb and the internal terminus of a proposed private road tract. Open space Tract C (0.07 acres) is proposed between Lots 15 and 16 along the southern site boundary; it would abut an ingress/egress/utility easement off-site to the south. Open space Tract D is 0.06 acres at the southeast corner of the site abutting Abernethy Road. An unnamed open space area surrounds the western end of the cul-de-sac bulb and is intended to be retained to allow for future connection when property to the west develops. The tracts' landscaping would be maintained by a homeowners association. Planning Staff recommended a condition requiring submission prior to final plat of a landscape plan in accordance with TCC 18.47.040(B) and 21.80, including Type I landscaping along the north boundaries of open space tracts on the north site perimeter and Type II and III landscaping within the open space tracts located in the internal areas of the plat. *Exhibits and 1.E.*

12. The proposal did not include a landscape plan. Pursuant to TCC 21.80.055(1)(b), the project is considered an incompatible use with the adjacent properties to the north, west, and south because the proposed lot sizes are less than 50% of the size of the existing adjacent parcels. A landscape plan demonstrating compliance with the requirements of TCC 18.47.040(B), TCC 21.13.070, and TCC Chapter 21.80 is required. Screening between incompatible uses must consist of a thirty-foot wide buffer adhering to the following:
 1. A vegetated buffer of predominantly native and drought tolerant species that will provide a very dense sight barrier and physical buffer to significantly separate conflicting uses and land use districts;
 2. Plant materials and ground cover shall be selected and maintained so that the thirty-foot buffer will be fully vegetated within three years;
 3. A combination of trees, shrubs, earthen berms, and related plant materials or design features may be selected, provided that the resultant effect is sight-obscuring from adjoining properties. In addition, fences and walls may be incorporated into the landscaping buffer;
 4. A minimum of one tree per twenty-five linear feet shall be planted. Trees shall be a minimum one inch in caliper measured six inches above the base at the time of planting;
 5. Shrubs must be capable of growing to a minimum of five feet in height, within three years. Shrubs shall be planted on eight-foot centers at minimum;
 6. Ground cover shall consist of bark, mulch, native grasses, and/or native understory vegetation such as salal, Oregon grape, Kinnikinnick, Sword fern, etc.; and

7. Retention and salvage of existing native vegetation and trees is preferred over removal and replacement of vegetation.

TCC 21.80.055(3).

13. Deviation from the listed screening requirements is allowed pursuant to TCC 21.80.060(B) if the following requirements are met:
 1. The proposed landscaping implements portions of an urban forestry program or plan duly adopted by the County;
 2. The proposed landscaping represents an equal result that could have been achieved by strictly following the requirements of this chapter; and
 3. The proposed landscaping complies with the stated purpose of this chapter.

Because the zoning requires a density that is incompatible with adjacent uses, Planning Staff submitted that the requirement for a 30-foot incompatible use buffer should be modified to 20 feet if the landscape plan incorporates an eight-foot high solid wood fence around the perimeter of the subdivision to mitigate the incompatible use. *Exhibit 1; Tony Kantas Testimony.*

14. Access to all lots would be from a site entrance off Abernethy Road on the site's eastern boundary. A new proposed internal private roadway within the plat would end in a cul-de-sac, with an easement area retained west of the cul-de-sac that could connect to future roads developed off-site to the west and/or north. The 1.037 linear feet of roadway (0.84 acres) would be developed to City of Lacey Major Local road standards; however, because porous (pervious) pavement is proposed for stormwater management purposes, it would be maintained as a private roadway. Additional right-of-way may be required along the Abernethy Road frontage in order to create the complete standard road, which is a City of Lacey Minor Collector Type II Roadway requiring 60 feet of right-of-way. Frontage improvements consistent with City of Lacey standards would be required, including street lighting, street trees, and other City design requirements for the road type. The private roadway, including the associated stormwater facilities, would be owned and maintained by a homeowners association. *Exhibits 1, 1.G, 1.L, and 6; Arthur Saint Testimony; Chris Merritt Testimony.*
15. The Applicant submitted a professionally prepared Level 1 traffic impact assessment (TIA), addressing the project's anticipated traffic. The 29 new lots are anticipated to generate 276 average daily trips, including 22 AM peak hour and 29 PM peak hour trips. At this rate, the proposal is not expected to have significant impacts on local traffic conditions. Thurston County Public Works Staff indicated that the study satisfied County requirements for traffic impact assessment; because the project is not expected to generate 50 or more peak hour trips, no additional traffic impact analysis was required. No off-site mitigation was recommended or required. With a 35 mile per hour speed limit on Abernethy, 390 feet of entering sight distance is required at the site entrance. To the south, this standard is met. To the north, there are minor vegetation encroachments

into the required sight distance that can be managed through coordination with property owners. *Exhibit 1.R; Arthur Saint Testimony.*

16. As noted above, the proposal calls for the use of pervious pavement for the private roadway and also for driveways on-site for the management of stormwater. Runoff would be treated through the pervious roadway section. Roof drain stubs would connect to a roof drain system on each lot. A bioretention facility is proposed along the site frontage to retain and treat runoff from the west half of Abernethy Road. *Exhibits 1.G and 1.S.*
17. The preliminary site plan, drainage plan/report, and traffic impact analysis were routed to Thurston County Public Works Development Review Section (Public Works) for review of project compliance with applicable standards. Public Works determined that all of the preliminary requirements of the County's Road Standards and Drainage Design & Erosion Control Manual could be met and recommended approval with conditions. Some of the conditions recommended refer to City of Lacey design guidelines because the roadways would all be built to City standards. *Exhibit 1.L; Arthur Saint Testimony.*
18. The project was directed to the Environmental Health Division (EHD) of the Thurston County Public Health and Social Services Department for review of compliance with health codes. In their comments for the record, EHD Staff noted that there is an existing domestic well on-site that would need to be decommissioned, and an existing septic system that would need to be properly abandoned. One off-site well was identified within 100 feet of the northeast corner of the site, which requires the Applicant to record a non-public restrictive covenant for the portion of the off-site well's 100-foot sanitary control radius that extends into the site in what has been proposed as Tract A. The area would be landscaped and dedicated to open space and recreation use. The Applicant would be required to extend City of Lacey sewer and water mains to each lot and through the plat. EHD Staff recommended approval with conditions. *Exhibit 1.K; Dawn Peebles Testimony.*
19. The application materials included an integrated pest management plan (IPMP), aimed at informing future lot owners and the homeowners association of proper vegetation and property maintenance techniques to protect groundwater recharge quality. *Exhibit 1.S.* EHD's recommended conditions included one indicating that the IPMP required a correction to reflect impervious rather than pervious paving on the private access road. *Exhibit 1.K.* However, it was clarified at hearing that the private road would be constructed with pervious paving, and this requested correction should be stricken. *Chris Merritt Testimony; Dawn Peebles Testimony.*
20. The subject property is in the North Thurston School District (the District) service area. Students residing in the plat would attend Pleasant Glade Elementary, Chinook Middle, and North Thurston High schools. In order to approve the subdivision, a finding must be made that there are adequate school facilities to accommodate the students generated by the subdivision. The District has provided comments indicating that its schools are over capacity at all levels and that the District lacks funds to acquire adequate property to

build new schools. At the time of the comments, the District's capital facilities plan estimated the cost of providing class space for students at \$3,728 per new single-family unit. (Note that the District's comments were issued in 2015 and the cost per unit is adjusted annually, meaning it has likely gone up.) The District requested that the Applicants be required to enter into a voluntary mitigation agreement to pay impacts fees on a per-lot basis. Finally, the comments noted that provisions for safe walking conditions are required of new residential development. *Exhibit 1.M.* Among Planning Staff's recommended conditions of approval was one requiring compliance with the mitigation imposed through State Environmental Policy Act review, which required both a voluntary mitigation agreement and a safe walking route to Pleasant Glade Elementary School. *Exhibit 1.J; Kantas Testimony.*

21. The proposal includes a forestland conversion application to allow development in portions of the forested area of the site. The County's Forest Lands Conversion Ordinance at TCC Chapter 17.25 requires projects that convert forest lands to other uses to provide a tree preservation and new tree planting plan to retain existing trees or plant new trees on individual residential lots at a rate of one tree for every 4,000 square feet of lot area. Conversion projects must also preserve at least five percent of the underlying site as a tree tract. The proposal identifies Tract A as a tree tract, as well as open space and recreation area. Tract A is 11% of the subject property. However, Planning Staff recommended a condition of approval requiring a specific tree tract (or tracts) of at least 5% of the total site to be identified on the final map. The forest practices permit and the preliminary plat application were reviewed jointly with one SEPA determination issued for the project. As proposed and conditioned, Staff submitted the position that the proposed plat would be in compliance with the requirements TCC 17.25. *Exhibits 1, 1.D, 1.E, and 3.*
22. The Washington State Department of Ecology (Ecology) submitted comment letters in 2015 and 2018 addressing environmental review of the proposal. The comments related to standard language concerning the cleanup of any toxic or hazardous wastes discovered on-site during development and protection of the on-site surface waters from erosion during construction. *Exhibits 1.N, 1.O, and 1.P.*
23. Pursuant to the State Environmental Policy Act, Thurston County Community Planning and Economic Development Department (Department) acted as lead agency for review of environmental impacts of the proposal. The Department issued a mitigated determination of non-significance (MDNS) on May 8, 2018. As stated in the MDNS, the County's review and threshold determination were based on information included in (but not limited to) the following documents:
 - Applications, submitted January 8, 2015
 - Project narrative
 - Environmental checklist, submitted January 8, 2015
 - Project summary

- Integrated pest management plan
- Level 1 Traffic Impact Analysis
- Preliminary drainage and erosion control report, dated January 2, 2015
- Revised site plan, dated October 2, 2015
- Thurston County Health Department comments
- Washington State Department of Ecology comments
- North Thurston School District comments, dated March 17, 2015
- Thurston County Public Works SEPA comments

The MDNS identified six required mitigation items for the environmental impacts of the proposal, including: execution of a school impact mitigation agreement with North Thurston School District; construction of a safe walking path to Pleasant Glade Elementary School; inadvertent discovery procedures in the event archeological or historic materials are uncovered during site development; hours of construction activity restrictions; and a requirement to prevent sediments from being tracked onto public roads during construction. No appeals or comments were filed by the applicable deadlines and the MDNS became final on May 29, 2018. *Exhibit 1.J.* Department Staff recommended that the MDNS mitigating measures be made conditions of approval for the preliminary plat. *Exhibit 1.*

24. Written notice of the public hearing was sent to all owners of property within 300 feet of the site boundaries on June 25, 2018. Notice of hearing was published in The Olympian and posted on-site on June 29, 2018. *Exhibits 1 and 1.A.*
25. In response to notice of application, the County received public comments expressing the following concerns: the high density impacting the on-site wildlife; a request to require fencing at the end of the cul-de-sac; drainage and impacts to well water quality; safety of children walking to Pleasant Glade Elementary School; a request for a traffic impact analysis; forestland conversion; building setbacks; and construction impacts/hours of operation. *Exhibit 1.Q.*
26. At the hearing, a neighboring property owner who had submitted pre-hearing comments voiced appreciation for the revisions to the initial design and acknowledged that the proposal complies with zoning regulations. His primary concern was potential impact to his well (the well adjacent to the north of Tract A within 100 feet of the site), expressing uncertainty that the 100-foot radius recommended by EHD would sufficiently protect its water quality. Based on his personal, professional experience as a licensed geologist, he testified as to the nature of the soils underlying the site and between the well and the proposed project, indicating his belief in conditions facilitating high transmissivity and that the contours drain directly from the center of the subject property to his well. He asked that the Applicant be required to provide a stub to his property for future municipal water hook up, including any easement required, and that County ensure that if there is impact

to his well (either contamination or reduction in recharge) that he would be exempted from hook up fees. Another neighboring owner commented that, in a subdivision recently constructed by the Applicant in the near vicinity, there was construction outside of allowed construction hours of operation. She also expressed concern about the potential for boundary tree disputes and asked that the Applicant contact her to discuss potential impacts to trees on their property and that boundary trees be well marked before construction. She asked to be able to see the landscaping plan before it is finalized. Finally, she requested that the “incompatible use” buffer fence be only six-feet high along Tract A, which is immediately next to her house and asked that large Douglas firs in Tract B be retained if possible for the benefit of wildlife. *Testimony of Michael Polenz and Yvonne Dettlaff; Exhibit 7.*

27. Planning Staff responded to public comment, reiterating or clarifying as follows. The subject property is within the Lacey urban growth area and is zoned MD 6-12 Zoning District. The Applicant has proposed the minimum required density. As proposed, the plat would exceed the minimum open space requirement. Enhanced screening would be required at the perimeter of the plat to buffer the incompatible density required by the zoning, including an eight-foot high fence. However, along the property boundary in Tract A, greater than 30-feet of landscaped area would be provided and a six-foot fence could be allowed, so long as landscaping meets the requirements of TCC 21.80.055(1)(b). The County Public Works Department and City of Lacey have reviewed and accepted the Applicant’s proposed preliminary stormwater management design as satisfying requirements. With the required 100-foot sanitary radius, the County Health Department is satisfied that the adjacent well is protected. The Applicant is required to provide a safe walking route to the elementary school prior to final plat approval. If citizens believe existing traffic is consistently speeding, citizens may request the Thurston County Sherriff to increase patrols of the street. Because of the density and shape of the parcel, it is difficult to retain existing on-site mature trees due to damage to the root systems. The project would remove all on-site trees and then provide replacement trees in the open space/tree tracts consistent with the forestland conversion ordinance, providing one tree per single-family lot and required street trees along Abernethy Road and the internal private roadway. The incompatible use buffer standards require additional trees and shrubs throughout the project. Setbacks would be reviewed at time of building permit issuance on each lot. Construction hours of operation are governed by an MDNS condition, with which the Applicant is required to comply. *Tony Kantas Testimony.*
28. Addressing the request to require the Applicant to pay the neighbor’s future hook up fees, EHD Staff testified that the County cannot be involved in requesting fee reduction for connection/hook up. Staff noted that the IPMP addresses application of chemicals to the subject property expressly for the protection of groundwater quality. She was unable to find a well log for the commenting neighbor’s well. The residence was built in 1926, and it is likely their water supply was built at that time. If so, it might not be up to current health code. From the perspective of EHD, the project has not proposed sources of contaminants of concern regarding drinking water supplies. *Dawn Peebles Testimony.*

29. Public Works Staff also responded to public comment, noting that maintenance of the stormwater facilities would be required to be done by the homeowners association. The stormwater management plan, as proposed, meets County drainage design and erosion control standards. Staff also noted that landscaping plans are often part of the engineering plans, which would be able to be viewed online through the Public Works Department. *Arthur Saint Testimony.*
30. The Applicant representative responded to public comment, noting that the project as a whole, and the drainage system specifically, will meet code. He agreed with EHD Staff that the 100-foot sanitary control radius is the applicable standard and, as designed, the plat satisfies that standard. He indicated that the Applicant had no objection to reducing the height of fencing along Tract A to six feet, and that the Applicant is not yet sure whether any large trees can be retained at the end of the internal roadway, but if they can be, they will be. *Chris Merritt Testimony.*
31. Considering the entire record including public comment, Community Planning and Economic Development, Public Works, and Environmental Health Division Staff determined that the proposal - as conditioned - would comport with the requirements of the zoning, platting, and subdivision ordinances; the Lacey-Thurston County Joint Comprehensive Plan; and the requirements of TCC Title 21, the Lacey Urban Growth Area Zoning Ordinance, and Thurston County roads, stormwater, and health standards. Staff recommended approval. *Testimony of Tony Kantas, Dawn Peebles, and Arthur Saint; Exhibits 1, 1.K, and 1.L.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats pursuant to RCW 36.70.970, TCC 2.06.010(A), and TCC 18.12.090.

Criteria for Review:

Consistent with Revised Code of Washington (RCW) 58.17.110, the preliminary plat may be approved if the record demonstrates that the following criteria in Thurston County Code 18.12.090 are satisfied:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication.

Conclusions Based on Findings:

1. With conditions, appropriate provisions would be made for the public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds, and all other relevant facts. The proposed internal road would provide access to all lots and would stub to the north and west (including the required easement) to provide for future connectivity; it would be designed and built to City of Lacey road standards. A total of 12% of the site would be set aside in open space, exceeding the minimum required, providing active and passive recreational opportunities for residents as well as vegetation to screen the proposed plat from adjacent parcels' immediate view. A condition of approval would ensure that the proposal's active recreation plan complies with applicable standards. Municipal sewer and water services would be extended to each lot and to the end of the cul-de-sac. As conditioned, stormwater runoff management would be provided consistent with applicable Thurston County drainage design and erosion control requirements. Conditions would ensure that a safe walking route is installed connecting the project with Pleasant Glade Elementary School before any homes are built. The impacts of the plat's school-aged residents would be mitigated through execution of a voluntary mitigation agreement with the District. Conditions would ensure that a landscape buffer and fencing are provided to screen the proposed relatively higher density subdivision from adjacent, lower density development. The project's traffic is not anticipated to significantly impact the surrounding road network. The 100-foot protective sanitary radius of the off-site well to the north would be located within Tract A and protected through the required implementation of the IPMP. As conditioned, the project satisfies all applicable Thurston County regulations for off-site well protection. *Findings 2, 4, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, and 31.*

2. With conditions of approval, the public use and interest will be served by the platting of the subdivision. The proposed density and minimum lot dimensions comport with the development standards of the MD 6-12 zoning district. The recommended modification to the incompatible use buffer to a 20-foot landscaped buffer with eight-foot fence is adopted because the proposed density is at the low end of the range, and the project would have difficulty meeting minimum lot dimension, road standards, and open space requirements with a 30-foot buffer. The height of the fence along Tract A shall be reduced to six feet. A condition would require the landscaping in the 20 feet along Tract A's north boundary to satisfy the standards of TCC 21.80.055. The proposal was reviewed for compliance with SEPA requirements, and an MDNS was issued. As conditioned, the proposal complies with the Lacey-Thurston County Joint Comprehensive Plan. *Findings 4, 6, 7, 8, 9, 11, 13, 23, 24, 25, 26, 27, 28, 29, 30, and 31.*

3. With a condition requiring a tree tract comprising 5% of the total site area to be labeled on the face of the plat, the application for forestland conversion demonstrates compliance with the applicable provisions. *Findings 2, 3, 11, 21, and 31.*

DECISION

Based on the preceding findings and conclusions, the requested preliminary plat subdividing 4.8 acres into 29 single-family residential lots and 0.6 acres of open space is **GRANTED** subject to the following conditions:

Public Works Conditions

1. The proposed roadway in concept and design shall conform to the Thurston County Road Standards and the City of Lacey standards and development guidelines.
2. A construction permit shall be acquired from the Thurston County Public Works Development Review Section prior to any construction.
3. All access points with sight distance issues or abutting arterial or collector roadways shall be installed prior to final approval.
4. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices, and applicable WSDOT Standards and Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Contact Thurston County Public Works - Development Review Section staff to obtain the most current Thurston County guidelines.
5. County forces may remove any traffic control device constructed within the County right-of-way not approved by Public Works, and any liability incurred by the County due to nonconformance by the Applicant shall be transferred to the Applicant.
6. The stormwater management system shall conform to the Drainage Design & Erosion Control Manual.
7. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner, and/or the homeowners association.
8. Stormwater 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.
9. Because proper landscaping is vital to the performance of the stormwater system, the landscape plan shall be signed/sealed by a Washington licensed civil engineer (preferably the same engineer who designed the stormwater system).
10. The proposed water and sewer system shall be designed in accordance with the standards and specifications of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
11. Proposed utility work within the Thurston County right-of-way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address

specific City design requirements, but rather only items such as restoration of the County right-of-way and traffic control.

- a. Placement of utilities within the County right-of-way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final plat approval.
 - b. 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 0.17 feet of asphalt concrete pavement.
12. In order to meet the requirements of the Road Standards, additional right-of-way may be required. The Applicant's legal representative or surveyor shall 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 42.5 feet of right-of-way lying west of and abutting the existing centerline of Abernethy Road NE. Upon request, the County's right-of-way representative will prepare the Quit Claim Deed describing the necessary right-of-way dedication. For more information, contact the Thurston County Right-of-Way section at 360-867-2356.
 13. Permanent survey control monuments shall be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries, and other points of control.
 14. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works - Survey Division. For more information, contact the Survey Division at 360-867-2378.
 15. No work shall take place until a construction permit has been issued by Thurston County Public Works - Development Review Section.
 16. Development within the City of Lacey Urban Growth Area, requiring review by both Thurston County and the corresponding city jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.
 17. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code, and the Drainage Design & Erosion Control Manual.
 18. When all construction/improvements have been completed, the Applicant shall contact the Thurston County Public Works - Development Review Section for a final inspection.
 19. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. 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.

20. In order to satisfy the requirements of RCW 58.17.110, Thurston County must make a determination that a safe walking condition exists for students who walk to and from school. Typically, students within a one-mile radius are expected to walk if safe conditions exist. As a condition of final plat approval, the project shall be required to include a safe walking route along the County right-of-way, from the proposed project access to Pleasant Glade Elementary School. This safe walking route shall be reviewed and accepted by Thurston County and the North Thurston School District prior to construction.
21. Once the Community Planning and Economic Development 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 the Thurston County Public Works - Development Review Section for review and acceptance.
22. Prior to construction, the Applicant shall:
 - a. Pay outstanding construction review and inspection fees;*
 - b. Receive an erosion and sediment control permit;
 - c. Have the erosion and sediment control inspected and accepted;
 - d. Receive a construction permit; and
 - e. Schedule a pre-construction conference with County staff.

* The current fee schedule can be acquired online at the Thurston County Permit Assistance Center webpage or by contacting Ruthie Padilla at the Thurston County Public Works - Development Review Section by phone at 360-867-2046 or by email at padillr@co.thurston.wa.us.
23. Prior to receiving final approval from Public Works, the following items shall be required:
 - a. Complete all roads and drainage facilities.
 - b. Complete final inspection and all punch list items.
 - c. Submit record drawings for review and acceptance. The record drawings shall include street names and block numbers approved by the Addressing Official.
 - d. Receive and accept Engineer's Construction Inspection Report Form (Appendix IC, Volume I of the Drainage Design & Erosion Control Manual).
 - e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design & Erosion Control Manual).

- f. Execute an agreement with financial security for the maintenance and operation of the right-of-way improvements in accordance with Thurston County Code 18.24.010.
 - g. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
 - h. Approve the final plat map.
 - i. Provide property owners' articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design & Erosion Control Manual.
 - j. Complete required frontage improvements.
 - k. Complete required signing and striping.
 - l. Payment of any required permitting fees.
 - m. Payment of any required mitigation fees.
 - n. Complete the right-of-way dedication process.
24. The final plat map shall note or delineate the following required plat notes:
- a. "ATTENTION: Thurston County has no responsibility to build, improve, maintain, or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation, and servicing of stormwater facilities outside the County rights-of-way are the responsibility of the property owner(s)."
 - b. "Increased stormwater runoff from the road(s), buildings, driveway and parking areas shall be retained on-site and shall not be directed to roadway ditches adjacent to Abernethy Road NE."
 - c. "If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted."
 - d. "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."
 - e. "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."
 - f. "Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any building permits associated with this project."
 - g. "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. _____."
 - h. "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, or maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Homeowners Association as established by covenant recorded under Auditor's file number _____."

- i. "The property described herein is required to accommodate stormwater runoff from frontage improvements to Abernethy Road NE and all natural tributary areas abutting said property."
- j. "Maintenance of the landscaping, roadside drainage, and stormwater facilities such as ditches, swales, and ponds within the public right-of-way is the sole responsibility of the Homeowners Association within this subdivision. Thurston County has no responsibility to maintain or service said landscaping or roadside stormwater facilities."
- k. The final plat shall provide language on the face of the plat describing the drainage design requirements for all projected hard surfaces and lawn/landscape areas within individual building lots (drywell design/sizing, storm drain connection points, incorporated into pond design, etc.).
- l. The final plat shall delineate the access restrictions by showing a 'no access' strip, written and hatched, between the County approved access points along the frontage of Abernethy Road NE on the final plat map.
- m. The final plat shall clearly label all public and private roads.

Health Conditions

25. Prior to final plat submittal, City of Lacey sanitary sewer must be extended to and through the subject property, and written confirmation of final sewer extension approval from the City of Lacey must be provided to the Environmental Health Division.
26. Prior to final plat submittal, City of Lacey water service must be extended to and through the subject property, and written confirmation of final water extension approval from the City of Olympia must be provided to the Environmental Health Division .
27. Prior to final plat submittal, the existing well on this property must be decommissioned by a licensed well driller per Washington State Department of Ecology standards. Copies of the well drillers' decommissioning reports (well logs) must be submitted to the Environmental Health Division.
28. Prior to final plat submittal, a copy of a signed, notarized, and recorded restrictive covenant form (non-public) must be submitted for the off-site well to the north of Tract A.
29. Prior to final plat submittal, the existing on-site sewage systems on this property must be abandoned per Article IV of the Thurston County Sanitary Code. An abandonment

permit is required, and all abandonment records must be submitted to the Environmental Health Division.

30. The existing off-site well, along with its 100-foot protective radius that overlaps the property line of the instant development, must be shown on the final recorded map.
31. An Integrated Pest Management Plan (IPMP) has been developed for the homeowners of this development. Prior to final plat approval, a proposal for the method of distribution for the IPMP to future property owners must be submitted to the Environmental Health Division. The method of distribution must be accepted prior to final plat approval. (Generally, this is accomplished by including the IPMP in the subdivision covenants.)
32. The following note to future property owners must be placed on the final subdivision map: “The development has been approved for public water and sanitary sewer utilities, with City of Lacey to provide the utility service.”

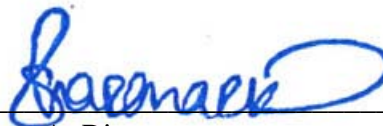
Planning Conditions

33. The Applicant shall comply with all conditions of the Mitigated Determination of Non-Significance, dated May 8, 2018.
34. Street addresses, lot size, and dimensions for each lot shall be shown on the final plat map.
35. 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, landscaping, lot dimension, setbacks, buffers etc.) and the Platting and Subdivision Ordinance.
36. All open space, landscaping, and tree preservation shall comply with the following requirements:
 - A. New trees on individual residential lots shall be planted at a rate of one tree for every 4,000 square feet of lot area at the time of building permit application.
 - B. A tree tract comprising a minimum of 5% of the total site shall be identified on the final plat map.
 - C. Prior to final plat submittal, the Applicant shall submit a landscape plan designed by a landscape architect for review and approval. The landscape plan shall be in compliance with TCC 18.47.040(B), 21.13.070, and 21.80. The landscape plan shall incorporate a sports court and play structure within the open space tract and include an 8-foot high solid wood fence along the north, west, and south property lines of the entire subdivision, except along the north boundary of Tract A where the fence may be reduced to six feet in height. The landscape plan shall include a 20-foot landscape buffer in accordance with the landscape requirements of TCC 21.80.055 along the north, west, and south property lines. The landscape plan shall include Type I landscaping along the north side of the open space tract to buffer the open space tract from the neighboring property, and Type II and III landscaping within the internal

areas of the open space tract.

- D. The final plat map shall delineate the incompatible land use landscape buffer along the north, west, and south property lines and specify that the landscaping within this area shall not be removed or disturbed until the incompatibility of the adjacent properties is no longer applicable.
37. The following notes shall be shown on the final plat map:
- A. "This subdivision was reviewed and approved based on standards and allowances of the Moderate Density Residential District (MD 6-12) (TCC 21.15)."
 - B. "New trees on individual residential lots shall be planted at a rate of one tree for every 4,000 square feet of lot area at the time of building permit application."
 - C. "The incompatible land use landscape buffer requirements along the north, west, and south property lines shall be maintained until the adjacent properties are developed into a use that is not considered incompatible per TCC 21.80.055."
 - D. The final map shall contain any other notes as required by the various commenting agencies.
38. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Thurston County Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED July 26, 2018.



Sharon A. Rice
Thurston County Hearing Examiner

NOTE: Pursuant to TCC 22.62.020(C)10, affected property owners may request a change in valuation for property tax purposes.

Appendix A: City of Lacey Requested Conditions, from Exhibit 6

Specific Water Improvements:

1. Water is available in Abernethy Road. From its current location in Abernethy Road, the 10-inch water main shall be extended in Abernethy to the south property line of the plat. From the location of the water main in Abernethy Road an 8-inch main shall be extended within the private street to the west property line and to the north property line (in the future road area). Finally, the 8-inch water main shall be looped to the western most 8-inch water main to the south. (These conditions are in accordance with what is currently proposed with the plat documents provided).
2. When connection to the public water system is desired by a customer (or required by the City) connected to a well exempt from the provisions of Revised Code of Washington 90.44.050, the “exempt” well must be properly decommissioned per Department of Ecology (DOE) standards prior to making the connection. When connection to the public water system is desired by a customer connected to an existing well that has a water right issued by the DOE, a physical disconnect between the well and the public water system must be made and maintained. This is necessary to assure that an unapproved auxiliary water supply (the customer’s well) will not contaminate the City’s water supply. Provided it is in compliance with DOE setback standards and purpose of use restriction on the customers water right for said well, the customer’s “permitted” well may be kept serviceable for irrigation purposes only. In addition, if a well is to be used for irrigation, a Reduced Pressure Backflow Assembly (RPBA) is required and shall be installed as premise isolation at the public water supply service connection. If an existing well is not to be used for irrigation purposes, it must be decommissioned per DOE standards. No water meter will be installed until the RPBA is installed and cross connection inspection has been completed to the satisfaction of the City. (DG&PWS, Water, 6.120 E.)

General Water Improvements:

3. For Irrigation lines located in the Right-of-Way, the following shall be stated on the plat: “The homeowner’s association shall be responsible for maintaining and locating all irrigation lines located in the public Right-of-Way”. (DG&PWS, Water, Irrigation 6.210)
4. Water system improvements shall meet the requirements of the City of Lacey, the Coordinated Water System Plan (CWSP), Department of Health (DOH), City of Lacey Water System Plan, AWWA, Department of Ecology, Thurston County Environmental Health and City of Lacey Fire Code Official’s standards. Actual main size, loop closures, and possible off-site improvements including the number and location of fire hydrants, will depend on the fire flows required and available to the site. (DG&PWS, Water 6.010)
5. Show all adjacent wells within 100-feet of the proposed plat with their protective radii (this will assure the proposed development will not impact any wells) (DG&PWS, Subdivisions and Short Plats, Chapter 2 – plat checklist).
6. Extend water mains throughout the project to satisfy City of Lacey Water Comprehensive Plan requirements. Also, extend water mains throughout the site to assure fire, water quality and domestic requirements can be satisfied. Water mains shall be extended on North or East sides of roadways or drive aisles six feet off the centerline. (DG&PWS, Water 6.020)

7. Provide domestic water stubs to each lot/new building (if duplexes are utilized each side of the duplex must be metered). An irrigation meter with backflow prevention device is needed for all landscaped areas. (DG&PWS, Water 6.120 F)
8. The builder/applicant is required to purchase each meter prior to the issuance of each building permit. (DG&PWS Water 6.121)

Specific Sewer Improvements:

9. The 8-inch gravity main to the north on Abernethy Road shall be extended to the south property line in Abernethy. From the location of the sewer main in Abernethy Road, an 8-inch sewer main shall be extended within the private street to the west property line and to the north property line (in the future road area).

General Sewer Improvements:

10. All existing on-site septic tanks and drainfields shall be removed per Department of Ecology and Thurston County Department of Health.
11. All existing and proposed structures shall be connected to sanitary sewer. (DG&PWS, Sewer 7A.010) Public mains with associated appurtenances shall be installed to serve the proposed project with sewer.
12. Provide sewer stubs to each building connecting to the public main. Sewer main extensions shall be located 6-feet off the centerline of the street/drive area on the South or West side. (DG&PWS, Sewer 7A.010)
13. Sanitary sewer improvements associated with this project shall meet the requirements of the City of Lacey Comprehensive Sanitary Sewer Plan, Thurston County Health Department, Washington State Department of Health (DOH), the LOTT Clean Water Alliance and Department of Ecology. (DG&PWS, Sewer 7A.010 and Subdivisions and Short Plat 2-21)

Stormwater Improvements:

The City defers to the County for review, approval and construction of stormwater elements of the project.

Transportation Improvements:

22. The internal roadway shall be constructed as a private roadway to allow for pervious asphalt or concrete; however it shall be constructed to Major Local Residential standards (see detail 4-4.0 from the 2014 City of Lacey Development Guidelines and Public Works Standards Manual for improvement widths and requirements).
23. Abernethy Road is classified as a Minor Collector Type II Roadway which requires 60 feet of Right-of-Way. Frontage improvements to these standards shall be constructed with the plat (see detail 4-3.3 from the 2014 City of Lacey Development Guidelines and Public Works Standards Manual for improvement widths and requirements).

General Transportation Improvements:

27. Street lighting levels shall satisfy City of Lacey requirements for roadways and intersections. Street lighting is required for all streets fronting this project (Street lighting per City of Lacey spacing Standards). All street light designs shall be prepared by an engineering firm capable of

performing such work. (DG&PWS, Transportation, Illumination 4E.010). Street lighting maintenance and operation shall be the responsibility of the homeowner's association until such time as annexation into the City of Lacey occurs. **Please include a note on the plat stating this requirement.**

28. Fiber optic conduit shall conform to the standards and requirements as set forth in Chapter 4 (Transportation) from the Development Guidelines & Public Works Standards (DG & PWS, Transportation 4E.035).
29. The following is a condition of approval and a note shall be placed on the face of the plat: The Homeowner's Association is responsible for maintenance of the private road areas within the subdivision. Maintenance not only includes road surfaces but also stormwater systems supporting these areas.
30. Traffic mitigations as determined by the Residential Traffic Generation worksheet are required. Conditions of Lacey Municipal Code 14.21 shall be satisfied.
31. All public streets within the City and the City's UGA boundary will be planted with trees to create a distinct and pleasant character for those roadways. The street trees located in the Development Guidelines shall be required in or along the public Right-of-Way, including medians. Contact the City for specific street and accent trees in the core area. (DG&PWS, Transportation 4G.100)
32. The following note is a condition for approval: "The owner shall be responsible for maintaining the private streets (along with associated parking areas) and planter strips (weeding, mowing, pruning of the street trees, etc). in a healthy and growing manner in perpetuity". (DG&PWS, Transportation 4G.100D)

General Surveying Requirements:

33. Utility easements are required for all mains, water and sewer located on private property. Easements shall include fire hydrants, water meters, sewer improvements and future extensions of mains to adjacent properties. Easements and stub outs shall be provided to serve adjoining properties as determined by the City. Rather than being designated as water or sewer, all easements shall be identified as "utility" easements on the civil drawings and in the easement document. Specific requirements will be determined at the of plan review. All easements shall be prepared by a licensed land surveyor and submitted prior to release of approved civil drawings (DG&PWS Chapter 3.110).
34. City of Lacey Vertical Datum has elevations referenced to the National Geodetic Vertical Datum of 1929 (NGVD29). Units are expressed in feet. A benchmark listing can be obtained from Lacey Public Works Department. (DG&PWS 3.025)
35. The City of Lacey Coordinate System shall be Washington Coordinate System, NAD 83/91 south zone. Units are expressed in feet. Horizontal and vertical control information can be obtained from the Lacey Public Works Department. (DG&PWS 3.025)

Other Requirements:

36. All improvements shall satisfy City of Lacey Development Guideline Standards in place at the time of complete application is obtained (as determined by the Thurston County staff).

37. As a condition of utility service, prior to receiving civil drawing approval, a power of attorney for annexation for your property shall be submitted to the City of Lacey.
38. All Public Works improvements must be designed by an engineer licensed in the State of Washington and submitted to the City of Lacey Public Works Department for review and approval. (DGPWS 3.040)
39. All structures associated with this site shall be connected to City of Lacey utilities (DG&PWS 6.010 and 7A.010).
40. Prior to civil drawing approval, one paper set of drawings along with a PDF copy of the drainage report and civil drawings shall be submitted for all approved final plans. (DG&PWS Chapter 3.040,B)
41. Prior to final Public Works Construction approval, “as-built” bonded paper drawings along with the revised digital electronic diskette (AutoCAD format) shall be submitted for all approved final plans. (DG&PWS Chapter 3.040, J)
42. A 20 percent maintenance bond or financial guarantee of the engineer’s estimate or approved bid estimate is required for a period of 24 months upon construction completion and approval of Public Works improvements. The financial guarantee may be released after 18 months if all conditions of approval have been satisfied. The financial guarantee applies to sewer, water and street lighting improvements (LMC 14.20.025).
43. Three sets of civil drawings, two drainage reports and one electronic copy of the civil drawings (PDF format) shall be submitted directly to the City of Lacey Public Works Department for civil review. **Drawings submitted to other County/City departments will not satisfy this requirement.** (DG&PWS 3.040, B)
44. The homeowner’s association shall be responsible for maintaining the planter strip and street trees in the Public Right-of-Way (weeding, pruning, irrigating, mowing, etc.) in a healthy and growing manner in perpetuity. If the planter strip and or trees are being maintained by another group or organization, then a maintenance agreement (or adequate documentation) that verifies the planter strip and/or trees are being (and will continue to be) maintained shall be submitted to the City for review. (Development Guidelines & Public Works Standards, Transportation 4G.100D).
45. To protect the public interest on private property, utility mains located on private property shall be protected from damage. If on-site settling or other phenomenon occurs causing valve boxes, sewer manholes or other appurtenances to protrude above the driving surfaces or ground elevations, the owner will be notified and the problem shall be fixed within 30 days of notification. If the problem is not fixed within the 30 day time period, the City will fix the problem and bill the property owner. This language shall be included on the face of any binding site plan or easement documents submitted to the City.
46. A Bill of Sale for proposed water and sewer improvements being installed with this project is a requirement for approval. Prior to Final Public Works approval of the project. Bill of Sale documents for water and sewer improvements shall be submitted to and approved by the City.

47. Please remember that as per the Memorandum of Understanding with the County, the City of Lacey reviews all improvements (Water, Sewer, Streets, Street Lighting, and right of way landscaping) to assure they meet City of Lacey standards. When plans are submitted, please include all sections for City review.

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 Community Planning & Economic Development 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 **\$688.00** for a Request for Reconsideration or **\$921.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development 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 \$688.00 for Reconsideration or \$921.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Community Planning & Economic Development Department this _____ day of _____ 20__.