



COUNTY COMMISSIONERS

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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. 2015102840 Wilridge Estates
	)	
<b>Howard Wheeler</b>	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
For a Preliminary Plat and	)	
<u>Reasonable Use Exception</u>	)	

**SUMMARY OF DECISION**

The requests for a preliminary plat to subdivide 92.35 acres into 14 single-family residential lots using the planned rural residential development (PRRD) design standards and a reasonable use exception to construct an access road within a wetland buffer are **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Howard Wheeler (Applicant) requested a preliminary plat to subdivide 92.35 acres into 14 single-family residential lots using the planned rural residential development (PRRD) design standards. The plat would consist of 12 clustered single-family residential lots, one discontinuous lot containing an existing single-family residence, and one 73.65-acre resource use parcel, which would also contain a single-family residence. Included is a request for a reasonable use exception to allow construction of an access road within a wetland buffer. The subject property is located at 18430 Northcraft Road SE, in Tenino, Washington.

**Hearing Date:**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on November 27, 2018.

**Testimony:**

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

- Robert Smith, Senior Planner, Thurston County
- Dawn Peebles, Environmental Health Division, Thurston County
- Donald Huber, Applicant representative

Howard Wheeler, Applicant  
Kevin Jensen

**Exhibits:**

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

- Exhibit 1 Community Planning and Economic Development Staff Report, with the following attachments:
- A. Notice of public hearing
  - B. Zoning/site map
  - C. Master application, received December 29, 2017
  - D. Division of land application, received April 2, 2015
  - E. Reasonable use exception application, received February 6, 2018
  - F. Project summary, received March 22, 2018
  - G. Amended proposal letter from Tom McDonald, dated September 11, 2018
  - H. Preliminary plat map, received October 29, 2018
  - I. Notice of application for the preliminary plat, issued October 12, 2016
  - J. Complete application letter for the preliminary plat, dated October 11, 2016
  - K. Notice of application for the reasonable use exception, issued April 3, 2018
  - L. Complete application letter for the reasonable use exception, dated April 2, 2018
  - M. SEPA Mitigated Determination of Non-Significance, issued April 18, 2018
  - N. Critical area review permit approval, dated October 26, 2018
  - O. Memo from Dawn Peebles, Thurston County Public Health and Social Services Department, dated November 14, 2018
  - P. Memo from Arthur Saint, Thurston County Public Works Department, dated September 22, 2016
  - Q. Letter from Washington State Department of Ecology, dated March 2, 2018
  - R. Comment letter from Jackie Wall, Nisqually Indian Tribe, dated April 4, 2018
  - S. Comment letter from Eric Rickerson, US Fish and Wildlife Service, dated September 2, 2015
  - T. Email from Tim Romanski, US Fish and Wildlife Service, dated April 13, 2017
  - U. 2015 aerial photo of subject property and vicinity

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

## FINDINGS

1. The Applicant requested a preliminary plat to subdivide 92.35 acres into 14 single-family residential lots using the planned rural residential development (PRRD) design standards. The plat would consist of 12 clustered single-family residential lots, one discontinuous lot containing an existing single-family residence, and one 73.65-acre resource use parcel, which would also contain an existing single-family residence. Included is a request for a reasonable use exception to allow construction of an access road within a wetland buffer. The subject property is located at 18430 Northcraft Road SE, in Tenino, Washington.<sup>1</sup> *Exhibits I, I.C, I.E, and I.H.*
2. The subject property is zoned Rural Residential Resource - One Dwelling Unit per Five Acres (RRR 1/5). The purpose of the RRR 1/5 zone is “to encourage residential development that maintains the County’s rural character; provides opportunities for compatible agricultural, forestry, and other rural land uses; is sensitive to the site’s physical characteristics; provides greater opportunities for protecting sensitive environmental areas and creating open space corridors; enables efficient road and utility systems; and does not create demands for urban level services.” *Thurston County Code (TCC) 20.091.010*. Primary permitted uses in the RRR 1/5 zone include single-family residential development, agriculture, and forestry. PRRDs are permitted in the RRR 1/5 zone. *TCC 20.09A.020; TCC 20.09A.050(1)(b); TCC 20.30A.020*.
3. The base density allowed in the RRR 1/5 zone is one unit per five acres. *TCC 20.09A.040*. PRRDs in the RRR 1/5 zone are not required to satisfy a minimum lot size so long as lots comport with all applicable standards for provision of water and sewage disposal contained in Articles III and IV of the Thurston County Sanitary Code. *TCC 20.09A.050(2)(b)*. The density of the proposed subdivision would be one dwelling unit per 6.6 acres. The lots would be a minimum of one acre in area in order to allow utilities to be provided by individual wells and sewage disposal systems. *Exhibits I and I.O.*
4. The stated purpose of the Thurston County Code PRRD provisions includes: providing for residential development in rural areas in a way that maintains or enhances the County’s rural character; retaining large, undivided parcels of land that provide opportunities for compatible agricultural, forestry, and other rural land uses; protecting sensitive environmental resources; facilitating creation of open space corridors; and minimizing impacts of road and utility systems. *TCC 20.30A.010*.
5. PRRDs must be a minimum of 20 acres and a maximum of 100 acres in area. In order to qualify for the bulk dimensional standard flexibility provided by the PRRD process, developers of a PRRD within the RRR 1/5 zone must set aside a minimum of 65% of the overall site area as a resource use parcel (RUP) to be permanently retained for resource use. A homeowners’ association or an individual landowner may own the RUP. Uses permitted within resource use parcels include: agriculture; forest practices; passive

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<sup>1</sup> The legal description of the subject property is a portion of Donation Land Claim No. 39 and 43 in Sections 5 and 6, Township 15 North, Range 1 West and Sections 31 and 32, Township 16 North, Range 1 West; also known as Tax Parcel Numbers 09660001000 and 09660007100. *Exhibit I.*

recreation; natural areas including, but not limited to, critical areas, associated buffers, and wildlife corridors; community and individual water systems, sewage system drainfields, and stormwater detention ponds<sup>2</sup>; and one single-family residence with accessory uses. *TCC 20.30A.040*. The proposed 73.65-acre resource use parcel would comprise approximately 80% of the overall site area. The RUP would be used to preserve Mazama pocket gopher habitat, oak woodlands, and wetlands, and would contain an existing single-family residence, well, and on-site sewage system. *Exhibit 1; Robert Smith Testimony; Donald Huber Testimony*.

6. The site design is consistent with PRRD design standards. Specifically, 12 of the lots would be grouped together in the southeast portion of the subject property and not arranged in a linear manner. One proposed lot would be located in the southwest corner of the subject property, discontinuous from the clustered lots but near the existing residence to be retained on the resource use parcel. The PRRD design standards allow lots created for existing residences to be discontinuous from the remaining residential lots. *Exhibits 1 and 1.H; TCC 20.30A.070(6)*.
7. Access to the subdivision would be from Northcroft Road, which runs along the western boundary of the subject property. The clustered lots would be in the eastern portion of the property, screened by trees. The western portion of the property would contain the RUP and existing residences; both existing residences would retain their existing access points on the frontage. *Exhibit 1.H; Robert Smith Testimony and Donald Huber Testimony*.
8. A small sliver of land in the southwest corner of the subject property is located to the west of Northcroft Road. The County recommended as a condition of preliminary plat approval that this area be excluded from the plat, to avoid creating a separate saleable lot. *Exhibits 1 and 1.H; Robert Smith Testimony*.
9. The subject property contains several features that are regulated under the Thurston County Critical Areas Ordinance (CAO). The eastern portion of the subject property contains a 2.6-acre Category III wetland (Wetland A), which has a habitat score of 7. The parcel to the north of the subject property also contains a Category III wetland (Wetland B) with a habitat score of 7. Both wetlands require a minimum 240-foot buffer unless reduced or modified as authorized by the CAO. The buffer of off-site Wetland B extends onto the northern portion of the subject property. *Exhibit 3*.
10. The subject property contains three vegetation communities a Douglas fir stand, European pasture grasses, and oak habitat. The western portion of the subject property consists of pasture grasses that provide habitat for the Mazama pocket gopher, a species listed as threatened under the Endangered Species Act. The eastern portion of the subject property is forested primarily with Douglas fir. Individual Oregon white oak trees (102)

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<sup>2</sup> Such facilities must be for the purpose of serving the proposed subdivision and are subject to the standards in Section TCC 20.32.070. Such facilities shall not be permitted in agricultural and forestry districts where they would significantly impede the agriculture or forestry use or potential for such use. *TCC 20.30A.040(3)(a)*.

are located in the east-central portion of the subject property. The existing on-site oak habitat is regulated as an “important habitat” under Thurston County ordinances. *Exhibits 2, 1.S, and 1.T.*

11. The proposed 12 clustered lots would be located in the southeastern portion of the subject property. The location was selected in order to avoid Mazama pocket gopher habitat, Wetland A, and most of the oak trees, which features would be preserved within the resource use parcel. However, this proposed location requires extension of an existing farm access road across the entire width of the parcel. The existing portion of the road roughly follows the northern property line, and extension of the road within the same northern corridor is proposed in order to avoid impacting Mazama pocket gophers. The road would turn south to reach the proposed development location once it enters the forested area, which is not gopher habitat. *Exhibits 3, 1.F, 1.H, and 1.T.* Planning Staff submitted that the proposed road route is the least impactful considering all critical areas on- and off-site. *Robert Smith Testimony.*
12. While the proposed road corridor is protective of Mazama pocket gopher habitat, it intrudes into the buffers of Wetlands A and B. For Wetland A, the intrusion would be limited to the outer 25 % of the buffer. The County Code, at TCC 24.30.060(B), allows wetland buffers to be reconfigured provided no portion of the buffer is reduced to less than 100 feet (or to 75% of the required buffer width, whichever is greater), the overall buffer area is maintained, and wetland functions are maintained. *TCC 24.30.060(B).* The area of Wetland A buffer intrusion would be 73,287 square feet. *Exhibit 3.*
13. With respect to the Wetland B buffer, the intrusion exceeds the outer 25% of the buffer and therefore requires a reasonable use exception. At its narrowest point, the reduced buffer would be approximately 150 feet instead of the minimum 180 feet. The impacted area within the outer 25% of the buffer would be 24,653 square feet. The impacted area within the inner 75% of the buffer would be 6,150 square feet. *Exhibit 3.*
14. As mitigation for buffer impacts and to satisfy the buffer reconfiguration requirements of TCC 24.30.060(B), the Applicant proposes to replace the total 104,100 square feet of impacted buffer with 104,100 of new buffer, which would consist of a contiguous area located on the northwest side of Wetland A and the southeast side of Wetland B. Habitat enhancements would include the elimination of invasive weeds from the Wetland A buffer; the installation of 256 Western red cedar trees at the outer edge of the reduced Wetland A and Wetland B buffers; the removal of garbage and trash from the wetlands and buffers; the installation of split rail fences at the buffer edges to limit entry; and the installation of educational signs, bird nesting boxes, and bat boxes. *Exhibit 3.*
15. The proposed road construction would require removal of nine Oregon oak trees. However, the route avoids Oregon oak trees to the greatest extent possible while not further impacting the Wetland B buffer. A more southerly route would impact a higher number of trees. The Applicant would replace nine removed Oregon white oak with 27 new Oregon white oak trees (a 3:1 ratio). *Exhibits 2 and 3.*

16. The Thurston County Community Planning and Economic Development Department reviewed the proposed impacts to critical areas and the proposed mitigation and issued a Critical Areas Review Permit authorizing the 25% reductions in wetland buffer width and the removal of Oregon white oak trees for road construction. As noted previously, the proposed intrusion into the inner 75% of the wetland buffer cannot be administratively approved and requires Hearing Examiner approval of a reasonable use exception. *Exhibit 1.N.*
17. Portions of the subject property are located within Category I and III critical aquifer recharge areas. The Applicant submitted and received Environmental Health Division approval of an integrated pest management plan (IPMP), outlining landscape management practices to help reduce impacts to surface and groundwater. *Exhibit 1.O.*
18. The two existing residences are served by one well, which would be retained on the resource use parcel after subdivision. Each of the proposed clustered lots would have its own single-family well. The covenants, conditions, and restrictions (CCRs) of the subdivision would limit withdrawals for each lot to 357 gallons per day in order to comply with the state's 5,000-gallon-per-day water right exemption for domestic water supply. Water usage would be metered to ensure compliance. This level of withdrawal exceeds the Washington Department of Health's standard for indoor use of 200 gallons per day. Existing irrigation water rights would be used to provide irrigation water to the lots. Irrigation water would be allocated pursuant to a homeowners' agreement and distributed to the lots by an irrigation system installed by the Applicant. *Exhibits 1.H, 1.G, and 1.O; Donald Huber Testimony.*
19. Each lot would be served by an individual sewage disposal system. Evaluation of test holes on each lot confirmed that there are adequate depths of permeable, unsaturated soils for a properly-designed system. *Exhibit 1.O.*
20. The Environmental Health Division reviewed the proposed subdivision for compliance with the requirements of the Thurston County Sanitary Code and recommended approval subject to conditions. The Environmental Health conditions have been incorporated into the conditions of preliminary plat approval. *Exhibits 1 and 1.O.*
21. The Thurston County Public Works Department reviewed the project for compliance with Thurston County Road Standards and the Drainage Design and Erosion Control Manual and determined that the preliminary requirements have been satisfied. Public Works recommended approval of the project subject to conditions. The conditions have been incorporated into the conditions of preliminary plat approval. *Exhibit 1 and 1.P.*
22. The Nisqually Indian Tribe commented that it had no concerns regarding the development but requested to be informed if there are any inadvertent discoveries of archaeological resources or human burials. *Exhibit 1.R.*

23. The subject property is located within the Tenino School District. The School District did not comment on the application. In compliance with the state subdivision statute, in order to ensure that school impacts are mitigated, the mitigated determination of non-significance issued for the proposal requires the Applicant to enter into a mitigation agreement with the School District prior to final plat approval. *Exhibits 1 and 1.M.* Students would be bussed to school. *Robert Smith Testimony.*
24. Thurston County acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act (SEPA) and issued a mitigated determination of non-significance (MDNS) on April 18, 2018. The MDNS was not appealed and became final on May 2, 2018. The version of the proposal reviewed during the SEPA process included the creation of 16 lots. One of the conditions of the MDNS required the Applicant to obtain a water right from the Washington State Department of Ecology prior to final plat approval. Since MDNS issuance, the Applicant has reduced the total number of proposed lots to 14 to reduce water for indoor use below the 5,000-gallon-per-day water right threshold. *Exhibits 1, 1.G, and 1.M.* Because the revised proposal would create fewer lots and minimizes critical area intrusion to the extent possible, effectively reducing impacts compared to those reviewed during SEPA, Community Planning and Economic Development Staff are satisfied that the SEPA review addressing 16 lots adequately addresses the instant proposal's environmental impacts. *Robert Smith Testimony.*
25. Notice of the open record hearing was mailed to property owners within 500 feet of the site on November 7, 2018, published in *The Olympian* on November 16, 2018, and posted on-site on November 15, 2018. *Exhibits 1, 1.A, and 4.*
26. One neighboring property owner testified at hearing, speaking to concerns about impacts to off-site residential and agricultural uses as a result of the proposed placement of the clustered lots' wells near the eastern bite boundary. *Kevin Jensen Testimony.*
27. County Environmental Health Staff clarified that although the original proposal identified well sites that would encroach onto off-site parcels, the current revised proposal identified well location such that all required sanitary protection radii would be wholly contained within the subject property. *Dawn Peebles Testimony; Exhibit 1 (see recommended condition 27).*

## CONCLUSIONS

### **Jurisdiction:**

The Hearing Examiner is granted jurisdiction to hear and decide applications for Reasonable Use Exceptions pursuant to TCC 2.06.010(F) and TCC 24.45.030.

### **Criteria for Review:**

#### ***Reasonable Use Exception***

Pursuant to TCC 24.45.030, the Hearing Examiner shall grant the Reasonable Use Exception if:

- A. No other reasonable use of the property as a whole is permitted by this title; and
- B. No reasonable use with less impact on the critical area or buffer is possible. At a minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design. This may include a variance for yard and setback standards required pursuant to Titles 20, 21, 22, and 23 TCC; and
- C. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety, or welfare on or off the development proposal site, or increase public safety risks on or off the subject property; and
- D. The proposed reasonable use is limited to the minimum encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property; and
- E. The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions; and
- F. A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site; and
- G. The reasonable use shall not result in the unmitigated adverse impacts to species of concern; and
- H. The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception.

### ***PRRD***

In review of a Planned Rural Resource Development application, the Hearing Examiner considers the proposal with the requirements established in TCC 20.30A.040 and 20.30A.070. Criteria that are applicable to this proposal are as follows:

- PRRDs located within RRR 1/5 districts must contain a resource use parcel comprising at least 60 percent of the proposed subdivision. *TCC 20.30A.040(1)(d)*.
- The resource use parcel must, to the greatest extent possible, be a single contiguous parcel and be shaped to be usable for resource uses. *TCC 20.30A.070(5)(b)*.
- Roads or easements shall not bisect resource use parcels that are used for agriculture, forestry, or sensitive resource protection where the physical conditions of the site would allow otherwise. *TCC 20.30A.070(5)(c)*.
- Where consistent with other provisions of this chapter, the resource use parcel shall be contiguous with any abutting resource use parcel, open space, greenbelt, agricultural lands, commercial forestry lands, public preserves, parks, or schools. *TCC 20.30A.070(5)(d)*.



- The subdivision shall be designed, to the extent consistent with other provisions of this chapter, to maximize the visibility of the resource use parcel and open space areas from adjoining collector roads, arterials, or state highways. *TCC 20.30A.070(5)(e)*.
- Native vegetation must be retained in the resource use parcel to the extent that it is compatible with the intended use of the parcel and does not pose a risk to public safety. *TCC 20.30A.070(5)(f)*.
- The configuration and size of the lots within the subdivision must be varied and blend with the natural features of the site. *TCC 20.30A.070(6)(a)*.
- Windfirm trees must be retained where they would screen residences from collector roads, arterials, or state highways, unless they would unduly impede site development, be incompatible with the intended use of the resource use parcel, or pose a risk to public safety for motorists on those roadways. *TCC 20.30A.070(6)(b)*.
- Residential lots must be grouped and not assembled in a linear configuration, unless unusual site conditions, such as wetlands, steep slopes, shorelines, or very narrow lots warrant a linear configuration. *TCC 20.30A.070(6)(d)*.

***Preliminary Plat Criteria***

In addition, the following preliminary plat criteria in Thurston County Code 18.12.090 must be 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:**

***Reasonable Use Exception***

1. No other reasonable use of the property as a whole is permitted by the critical areas ordinance. The proposed subdivision is a reasonable use of the 92.35-acre parcel, as the existing residential density is far lower than is authorized in the zone. Use of the PRRD design standards allows critical areas to be preserved to the maximum extent possible. *Findings 9, 10, 11, 12, and 13.*
2. No reasonable use with less impact on the critical area or buffer is possible. The subject property is constrained by multiple critical areas, and it would not be possible to reduce the impact to the wetland buffer without adversely affecting another critical area. *Findings 3, 9, 10, 11, 12, and 13.*

3. As conditioned, the requested residential development would not result in damage to other property and would not threaten the public health, safety, or welfare on or off the development site, or increase public safety risks on or off the subject property. The conditions recommended by the Public Works Department and Environmental Health Division for approval of the preliminary plat would address potential public health and safety issues. No specific issues of concern have been identified with respect to the road encroachment into the wetland buffer. *Findings 9, 10, 11, 12, and 13.*
4. The proposed reasonable use is limited to the minimum buffer encroachment necessary to prevent denial of all reasonable use of the property. The road would be sited as far from the wetland as possible without encroaching into Mazama pocket gopher habitat. The project also minimizes removal of Oregon white oaks to the extent possible. *Findings 9, 10, 11, 12, 13, and 14.*
5. The proposed reasonable use would result in minimal alteration of the critical area. No direct impacts to wetlands are proposed. The alteration of the wetland buffer would be limited to the width required to construct an access road and would be not more than approximately 6,150 square feet in area. *Findings 9, 10, 11, 12, 13, and 14.*
6. With implementation of the critical areas mitigation plan, the proposal ensures no net loss of critical area functions and values. *Findings 14 and 15.*
7. The use would not result in unmitigated adverse impacts to species of concern. *Findings 10, 14, and 15.*
8. The location and scale of existing development is not the sole basis for granting the reasonable use exception. The subject property is uniquely constrained by critical areas, such that the only feasible area for development is the southeast corner of the subject property. The reasonable use exception would provide needed access, without which the density of the property could not be realized. *Findings 3, 9, 11, and 12.*

***PRRD/Preliminary Plat***

9. The proposal is consistent with applicable PRRD design standards. The resource use parcel would satisfy the minimum area requirement and would be used for an authorized purpose (critical areas preservation). Although the resource use parcel would be bisected by a road, the physical characteristics of the site would not allow otherwise. The lots would be arranged to blend with the natural features of the site, and the rural character of the site as viewed from public roadways would be retained. The lots would be arranged in a non-linear fashion. Native vegetation would be retained in the resource use parcel to the extent possible; Oregon white oak trees removed for road construction would be replaced at a 3:1 ratio. *Findings 2, 3, 5, 6, 7, 9, 10, 11, 12, and 13.*
10. As designed and conditioned, the project would make appropriate provisions for the public health, safety, general welfare, and all other factors identified in TCC 18.12.090. The Applicant has designed the plat at a lower density than would otherwise be authorized in order to ensure adequate water for the residences consistent with exempt

well limitations. Sewage disposal would be provided consistent with Environmental Health Division requirements. The access road and stormwater improvements would be designed in accordance with Public Works standards. School children would be bussed to school. *Findings 5, 7, 11, 17, 18, 19, 20, 21, and 23.*

11. With conditions of approval, the public use and interest would be served. The public interest would be served by the project's compliance with the intent of the RRR 1/5 zone and the PRRD ordinance to protect environmentally sensitive areas and rural character. The proposal was reviewed for consistency with the requirements of SEPA and an MDNS was issued. *Findings 3, 9, 11, 13, 22, and 24.*

### **DECISION**

Based on the preceding findings and conclusions, the requests for a preliminary plat to subdivide 92.35 acres into 14 single-family residential lots using the planned rural residential development (PRRD) design standards and the requested reasonable use exception to construct an access road within a wetland buffer are **GRANTED** subject to the following conditions:

***Prior to submitting a final plat application:***

1. All required on-site and off-site road, utility, and landscaping construction, identified below, shall be completed and approved (or bonded).

***Prior to final plat approval, the following Public Works Department-related conditions shall be met:***

2. The proposed roadway in concept and design shall conform to the Road Standards.
3. A construction permit shall be acquired from the Thurston County Public Works - Development Review Section prior to any construction.
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 that is not approved by the Public Works Department, and any liability incurred by the County due to nonconformance by the Applicant shall belong 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 property owners 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 (if required) shall be signed/sealed by a Washington state licensed civil engineer (preferably the 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 of the 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. 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 Road Standards, additional right-of-way may be required. In that event, 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 30 feet of right-of-way lying East of and abutting the existing centerline of Northcraft Road SE. Upon request, Thurston 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. 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.
17. When all construction/improvements have been completed, the Applicant shall contact the Thurston County Public Works - Development Review Section for a final inspection.
18. 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 regarding when a permit is required and the application can be found online 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.
19. 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 the Thurston County Public Works - Development Review Section for review and acceptance.
20. PRIOR to construction, the Applicant shall:
  - a. Pay outstanding construction review and inspection fees\*
  - b. Receive an erosion and sediment control permit
  - c. Have the erosion and sediment control inspected and accepted
  - d. Receive a construction permit
  - e. Schedule a pre-construction conference with County staff

\* The current fee schedule can be found online at <http://www.co.thurston.wa.us/permitting/fees/fees-home.html> or by contacting Ruthie Padilla with the Thurston County Public Works - Development Review Section at 360-867-2050 or [padillr@co.thurston.wa.us](mailto:padillr@co.thurston.wa.us).
21. Prior to receiving final approval from the Public Works Department, the following items shall be required:
  - a. Completion of all roads and drainage facilities.
  - b. Final inspection and completion of all punch list items.
  - c. Submission of record drawings for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
  - d. Receipt and acceptance of the Engineer's Construction Inspection Report Form (Appendix IC, Volume I of the Drainage Design & Erosion Control Manual).

- e. Receipt and acceptance of the Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design & Erosion Control Manual).
  - f. Execution of an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
  - g. Approval of the final plat map.
  - h. Provision of property owners' articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design & Erosion Control Manual.
  - i. Completion of required frontage improvements.
  - j. Completion of required signing and striping.
  - k. Payment of any required permitting fees.
  - l. Payment of any required mitigation fees.
  - m. Completion of the right-of-way dedication process.
22. The final plat map shall note or delineate the following required plat notes:
- a. ATTENTION: Thurston County has no responsibility to build, improve, maintain, or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation, or servicing of the 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, driveways, and parking areas shall be retained on-site and shall not be directed to roadway ditches adjacent to Northcraft Road SE.
  - 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. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any building permits associated with this project.
  - f. This plat is subject to the stormwater maintenance agreement recorded under auditor's file number \_\_\_\_\_.
  - g. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision \_\_\_\_\_, including unrestricted access for Thurston County staff to any and all 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 \_\_\_\_\_.

- h. The property described herein is required to accommodate stormwater runoff from frontage improvements to Northcraft Road SE and all natural tributary areas abutting said property.
- i. Maintenance of the required landscaping and vegetated drainage facilities within the public right-of-way is the sole responsibility of the property owners within this subdivision. Thurston County has no responsibility to maintain or service the said landscaping.
- j. The plat shall include language describing the drainage design requirements for runoff from buildings and parking surfaces for individual building lots (drywell design/sizing storm drain connection points, etc.).
- k. The plat shall clearly label all public and private roads.

***Prior to final plat approval, the following Environmental Health Division-related conditions shall be met:***

- 23. The Applicant must grant a non-public, restrictive covenant for the existing off-site well located within 100 feet of the property. The covenant must be submitted to the Environmental Health Division for review prior to being filed with the Thurston County Auditor's Office.
- 24. A water line and access easement are required for the well located on the resource tract serving two existing single-family residences. The water line and access easement must be shown on the final subdivision map in benefit of Lot 1.
- 25. The Applicant must complete non-public declaration of covenants for the existing and proposed well sites. The covenants must be submitted to the Environmental Health Division for review prior to being filed with the Thurston County Auditor's Office.
- 26. The method of distribution of the Integrated Pest Management Plan (IPMP) must be submitted to the Environmental Health Division for review and approval. This is typically done by incorporating a copy of the approved IPMP into the subdivision CC&Rs. Other methods may be allowed provided they assure future property owners will receive a copy of the IPMP at the time of sale.
- 27. The proposed well sites and protective radii must be removed from the map and the following note must be placed on the final subdivision map:

Single-family residential wells have been identified for Lots 2 thru 13, and their locations are on file with Thurston County Environmental Health. Any changes to the proposed well site locations must receive prior approval from Thurston County Environmental Health. Any well proposed or drilled on the lots must be located a minimum of 100 feet from all property lines, easements, and road rights-

of-way. Wells proposed or drilled closer than 100 feet to any property line, easements, or road rights-of-way must be relocated or restrictive covenants must be secured from all affected neighboring property owners prior to the release of any on-site sewage system or building permits.

28. Logging activities should be avoided or completed with extreme care over the proposed primary and reserve drainfield areas. Logging activities may result in damage to future on-site sewage system areas, which could adversely impact development proposals.

***Further conditions:***

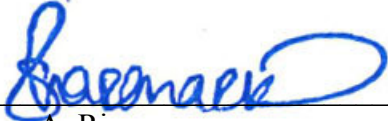
29. All conditions of the Mitigated Determination of Non-Significance shall be met.
30. The development shall meet and/or comply with all conditions of the Critical Area Review Permit approval.
31. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, the Washington State Department of Ecology must be notified by contacting the Environmental Report Tracking System Coordinator at the Southwest Regional Office at 360-407-6300.
32. A construction stormwater permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found online at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit, if required.
33. The Applicant shall stop work and contact the proper authorities, including Nisqually Tribe Preservation Officer, Jackie Wall, at 360-456-5221, if during excavation there are discoveries of archaeological artifacts or human burials.
34. Prior to final plat approval, the Applicant shall provide verification from the Washington State Department of Ecology that confirms there are sufficient water rights for outdoor irrigation on all lots, including the Resource Use parcel. If a transfer or change of existing water rights is necessary to supply adequate irrigation to specific lots, the Applicant shall provide documentation that a final change in authorization has been approved by the Washington State Department of Ecology.
35. Prior to final plat approval, an outdoor irrigation system shall be developed and extended to each lot. That system shall be separate from and not connected to any of the proposed individual wells providing domestic water to the lots.
36. Prior to final plat approval, the Applicant shall record a Declaration of Covenants, Conditions, and Restrictions (CCRs) for the entire subdivision that states:
  - Each lot, including the Resource Use parcel, shall not exceed a maximum withdrawal from the individual wells of 357 gallons per day.



- Water usage meters shall be installed for the individual wells on each lot, and the usage data will be made available to Thurston County and/or the Washington State Department of Ecology when so requested.
  - Outside irrigation shall be available by a separate well system, and this usage is subject to existing agricultural water rights.
37. Prior to final plat approval, all mitigation proposed in both the Critical Areas Report and Mitigation Plan (EnviroVector, January 12, 2018) and the Oregon White Oak Habitat Management Plan (EnviroVector, January 12, 2018) shall be instituted.
  38. Prior to final plat approval, the Applicant shall submit a surety agreement and financial security, consistent with the requirements of TCC 24.70, to ensure success of the proposed mitigation.
  39. The Oregon White Oak Habitat Management Plan (EnviroVector, January 12, 2018) shall be made an element of or referenced in the subdivision's Declaration of Covenants, Conditions, and Restrictions.
  40. On April 8, 2014, the US Fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject parcel contains potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
  41. Street addresses shall be shown on the final map.
  42. The final plat map shall show and label all wetland and buffer boundaries.
  43. The final design of this subdivision and future development of lots shall conform to all minimum standards of the Zoning Ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the Platting and Subdivision Ordinance.
  44. The final plat shall not include the land area west of Northcraft Road SE.
  45. Prior to final plat approval, an agreement with the Tenino School District that provides mitigation for the project's impacts to school facilities shall be submitted. If this agreement requires payment of mitigation fees or other actions after the final plat is recorded, then such agreement shall be referenced on the final plat map as a note or condition of approval.
  46. The following notes/conditions of approval shall be shown on the final plat map:
    - a. This subdivision has been approved through provisions of the Rural Residential Resource - One Dwelling Unit Per Five Acres Zoning District (TCC 20.09A).

- b. This subdivision has been approved through provisions of the Thurston County Zoning Ordinance, TCC 20.30A. The resource use parcel required by the ordinance is approved for use as a single-family residential lot, agriculture, important species habitat, and critical area preservation. These restrictions shall remain in force and the property cannot be further subdivided until the property is annexed to a city or town.
  - c. The individual domestic water wells on each lot, including the Resource Use parcel, shall not be used for outdoor irrigation.
  - d. Wetlands are located on or near to the lots of this subdivision. Due to the importance of wetlands for wildlife habitat, pollution control, ground water recharge, and flood water control, NO clearing, filling, grading, cutting, landscaping, or any other construction activities are allowed in the wetlands or associated buffers without further review by the Thurston County Community Planning and Economic Development Department.
  - e. This subdivision includes oak woodlands and is subject to an Oregon White Oak Habitat Management Plan.
  - f. On April 8, 2014, the US Fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The lots may contain pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations.
  - g. This subdivision was reviewed as project number 2015102840.
47. All development on the site shall be in substantial compliance with the approved plat. Any alteration of the site plan will require approval of a new or amended plat. The Planning and Environmental Sections will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED December 11, 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.

**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\_\_\_.