



COUNTY COMMISSIONERS

John Hutchings  
District One

Gary Edwards  
District Two

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District Three

**HEARING EXAMINER**

*Creating Solutions for Our Future*

**BEFORE THE HEARING EXAMINER  
FOR THURSTON COUNTY**

In the Matter of the Application of	)	NO. 2016106246
	)	
<b>SBA Investment Group, LLC</b>	)	<b>Plat of Ventura Crossing</b>
	)	
For a Preliminary Plat	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
_____	)	

**SUMMARY OF DECISION**

The request for approval of a preliminary plat to subdivide 12.54 acres into 53 single-family residential lots, 16 townhouse lots, and open space tracts totaling 3.93 acres is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

SBA Investment Group, LLC (Applicant) requested approval of a preliminary plat to subdivide 12.54 acres into 53 single-family residential lots, 16 townhouse lots, and open space tracts totaling 3.93 acres. The subject property is located at 1630 Judd Street NE within the Lacey Urban Growth Area of Thurston County.

**Hearing Date:**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on January 22, 2019.

**Testimony:**

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

- Tony Kantas, Senior Planner, Community Planning and Economic Development Department
- Arthur Saint, P.E., Development Review Department
- Dawn Peebles, R.S., Public Health and Social Services Department
- Dave Spiller, Hatton Godat Pantier
- Jeff Pantier, Hatton Godat Pantier

Curtis Wambach, EnviroVector  
Carmen Matsumoto  
Carol Faubion  
Keith Dion  
Donna Dion  
Thomas Sliva  
Charlyn Shipley  
Linda Canfield  
K Wood

**Exhibits:**

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

Exhibit 1 Community Planning and Economic Development Department Report including the following attachments:

- A. Notice of public hearing
- B. Master application, submitted December 29, 2016
- C. Division of land application, submitted December 29, 2016
- D. Forestland conversion application, submitted December 29, 2016
- E. Notice of application (3 pages), mailed April 26, 2017
- F. Narrative summary
- G. Revised site plan, received August 22, 2018
- H. Landscape plan
- I. Utility plan (6 pages)
- J. Zoning map
- K. 2015 aerial
- L. Mitigated determination of non-significance (MDNS), dated November 1, 2018
- M. Letter from Thurston County Health Department, plat recommendation, dated September 21, 2018
- N. Memo from Arthur Saint, Thurston County Public Works Department, plat recommendation, dated December 4, 2018
- O. Memo from Arthur Saint, Thurston County Public Works Department, SEPA recommendation, dated October 25, 2018
- P. Comment letter from North Thurston School District, dated November 2, 2018
- Q. Comment letter from North Thurston School District, dated May 17, 2017
- R. Memos from City of Lacey, addressing traffic and transportation impact mitigation, dated October 5, 2018, and addressing site plan review conditions,

utility connections, stormwater management, and other applicable City development standards, dated January 17, 2018

- S. Comment letter from Nisqually Indian Tribe, dated November 7, 2018
- T. Comment letter from Nisqually Indian Tribe, dated May 16, 2017
- U. Comment letter from Washington State Department of Ecology, dated November 15, 2018
- V. Comment letter from Washington State Department of Ecology, dated May 25, 2017
- W. Email from Olympic Region Clean Air Agency, dated November 14, 2018
- X. Comment letters/emails received from surrounding property owners:
  - 1. Email from Keith and Donna Dion, dated November 16, 2018
  - 2. Email from [wmnw59@gmail.com](mailto:wmnw59@gmail.com), dated November 15, 2018
  - 3. Email from David Overton, dated May 31, 2017
  - 4. Email from Keith and Donna Dion, dated May 26, 2017
  - 5. Letter from Carol and Joe Faubion, dated May 19, 2017
  - 6. Letter from K. Wood, undated
- Y. Tree preservation plan, dated December 15, 2016
- Z. [not offered]
- AA. Response letter, incident data, dated October 22, 2018
- BB. Response letter, access operational analysis, dated August 20, 2018
- CC. Level I trip generation and distribution, dated December 12, 2016
- DD. Integrated pest management plan, dated December 29, 2016
- EE. Critical areas report, dated December 13, 2016
- FF. Preliminary drainage and erosion control report and drainage calculations, dated December 28, 2016<sup>1</sup>

Exhibit 2 Photos of posted hearing notice and site (eight total)

- Exhibit 3 A. Email from David Overton, dated January 21, 2019
- B. Email from K. Wood with photos, dated January 21, 2019

Exhibit 4 Color version of Exhibit 1.G

Exhibit 5 Wetland photo from K. Wood

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<sup>1</sup> Exhibit 1.EE is repeated as an attachment to Exhibit 1.FF, the drainage report (FF1) and calculations (FF3).

Exhibit 6 Topographic map depicting off-site discharge path to ravine, submitted with permission after close of the record by Dave Spiller, Hatton Godat Pantier

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 to subdivide 12.54 acres into 53 single-family residential lots, 16 townhouse lots, and open space tracts totaling 3.93 acres. The subject property is located at 1630 Judd Street NE within the Lacey Urban Growth Area of Thurston County.<sup>2,3</sup> *Exhibits 1, 1.B, 1.C, and 1.G; Jeff Pantier Testimony.*
2. The preliminary plat application was submitted on December 29, 2016 and was deemed complete on January 26, 2017.<sup>4</sup> The proposal under review is a revision of the original proposal described in the application materials, which was to subdivide the land into 35 single-family residential lots, 38 townhouse lots, and 4.6 acres of open space. *Exhibits 1.B, 1.C, 1.E, and 1.F.*
3. The subject property is developed with a single-family residence and some outbuildings. The Applicant proposes to retain the existing residence on proposed Lot 69 and demolish the outbuildings. There is a 0.23-acre Category III wetland in the northwest portion of the subject property. Due to the wetland's habitat score of 5, the Thurston County Critical Areas Ordinance requires a 180-foot wetland buffer. The wetland and buffer occupy 2.79 acres in the northern portion of the subject property. *Exhibits 1, 1.G, and 1.EE; Jeff Pantier Testimony.*
4. The subject property is located in the Lacey Urban Growth Area. The northern portion of the property (5.67 acres net, not including wetland and wetland buffer) is zoned Moderate Density Residential (MD 6-12), a zone that requires a minimum density of six dwelling units per acre and a maximum density of twelve dwelling units per acre. The southern portion of the subject property (4.15 acres) is zoned High Density Residential (HD 6-20), a zone that requires a minimum density of six dwelling units per acre and a maximum

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<sup>2</sup> The legal description of the subject property is a portion of Section 9, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Number 11809310400. *Exhibit 1.*

<sup>3</sup> Of note, previously proposed 0.01-acre Tract D was removed from the project, without the remaining Tracts being renumbered; there is no proposed Tract D. *Jeff Pantier Testimony.*

<sup>4</sup> As indicated in the notice of application, the application was deemed complete "by default" for purpose of beginning project review on January 26, 2017. *Exhibit 1.E.* In public comment on the application, there was a question as to what was meant by "by default". *Exhibit 1.X.4.* Pursuant to TCC 21.81.040, an application is deemed complete by default if Staff does not make a written determination that the application is *incomplete* within 28 days of application submittal. The complete application date is significant because it establishes the regulations under which the application vests.

density of 20 units per acre.<sup>5</sup> With the proposed mixture of detached single-family and townhouse lots, the density of the subdivision would be 6.92 dwelling units per acre, consistent with the density required for both zones. Both housing types are allowed land uses in the MD 6-12 and HD 6-20 zones. *Exhibits 1, 1.G, and 1.J; Thurston County Code (TCC) 21.61.030, 21.15.020, and 21.18.020; Tony Kantas Testimony.*

5. Surrounding zoning consists of Low Density Residential (LD 0-4) to the north; a combination of LD 0-4, MD 6-12, and HD 6-20 to the west (the LD 0-4 designation is west of the northern portion of the subject property, across Judd Street NE); a combination of MD 6-12 and HD 6-20 to the east; and a combination of LD 0-4 and Open Space/Institutional to the south (across 15th Avenue NE). *Exhibit 1.J.*
6. The proposal is vested to the zoning ordinances in effect at the time of complete application. While current TCC 21.15.020 requires subdivisions larger than ten acres within the MD 6-12 zone to designate at least 20% of the dwelling units for multifamily development, and TCC 21.18.020 requires subdivisions larger than ten acres within the MD 6-20 zone to designate at least 50% of the dwelling units for multifamily development, the version of the ordinances in effect at the time of complete application did not include those requirements.<sup>6</sup> Instead, they required subdivisions larger than ten acres to provide a mix of housing types, with no less than 50% for single-family use in the MD 6-12 zone and no less than 25% for single-family use in the HD 6-20 zone. The proposal includes two types of single-family housing (detached residences and townhouses), with some units front-loaded and some units rear-loaded (i.e., garage accessed from a rear alley). The townhouse lots would be located in the southern, HD 6-12 zoned portion of the property, within the interior of the site, and along the eastern subdivision boundary. The single-family lots would be located in the southern, western, and northern portions of the subdivision around the perimeter of the site, nearest to existing off-site development. *Exhibits 1 and 1.G; TCC 21.15.020 and 21.18.020.*
7. The subdivision design standards applicable to detached single-family residences in the MD 6-12 zone include a minimum lot area of 3,000 square feet and a minimum lot width of 30 feet where alleys are utilized, or a minimum lot area of 4,000 square feet and a minimum lot width of 40 feet where alleys are not used. *TCC 21.15.050.* Each of the proposed lots for detached single-family residences would satisfy these standards. The smallest rear-loading single-family lots in the MD 6-12 zone would be 3,040 square feet in area, and the narrowest would be 38 feet wide. The smallest front-loading single-family lots would be 4,000 square feet in area, and the narrowest would be 43 feet wide. *Exhibits 1 and 1.G.*
8. The subdivision design standards applicable to detached single-family residences in the HD 6-20 zone include a minimum lot area of 2,000 square feet and a minimum lot width

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<sup>5</sup> The zoning district boundaries are approximate as they are not set by legal description; thus, the depiction of the zoning boundary as shown on Exhibit 1.G (having the line follow proposed lot lines) is not in conflict with the zoning map that is Exhibit 1.J.

<sup>6</sup> See Thurston County Code Supplement 52, dated December 12, 2016.

of 30 feet where alleys are utilized, or a minimum lot area of 3,500 square feet and a minimum lot width of 40 feet where alleys are not used. *TCC 21.18.040*. Each of the proposed lots for detached single-family residences would satisfy these standards. The smallest rear-loading single-family lots in the HD 6-20 zone would be 3,320 square feet, and the narrowest would be 40 feet wide. The smallest front-loading single-family lots would be 3,520 square feet in area, and the narrowest would be 45 feet wide. *Exhibits 1 and 1.G*.

9. The subdivision design standards applicable to the townhouse portion of the development include a minimum lot area of 1,600 square feet and a minimum lot width of 20 feet. *TCC 21.61.040.C*. Each of the townhouse lots would be at least 2,324 square feet in area and at least 28 feet wide. *Exhibits 1 and 1.G*.
10. The setback standards applicable to the townhouse lots include a minimum front yard setback of 25 feet from a public right-of-way (15 feet from a private road), a minimum side yard setback of five feet, and a minimum rear yard setback of 15 feet, or three feet for the garage if the lot is rear-loaded. No more than two abutting townhouses may have the same front yard setback. *TCC 21.61.040.E, F, G, and I*. In addition, each townhouse lot must have at least 300 square feet of private yard space, enclosed by fences, walls, or plantings. *TCC 21.61.040.H*. Compliance with these requirements would be confirmed during the administrative design review process; the Applicant has not yet submitted a design review application. However, it appears that compliance with the setback requirements is possible based on the subdivision design. For example, the preliminary plat map contains a Front Load Townhome Detail depicting placement of the front-loading townhouses on the lots consistent with the required setback standards. While the Rear Load Townhome Detail provides for only 10-foot front setbacks, it appears that the lots are of sufficient depth to accommodate larger setbacks. Per the conditions of approval, the Applicant would be required to obtain design review approval prior to construction. *Exhibits 1 and 1.G*.
11. Within the Lacey Urban Growth Area, subdivisions must provide 10% of the total site area as usable open space, which open space must be separate from yards, setbacks, and other undeveloped portions of the site. The open space may include stormwater facilities if designed for active or passive recreation. For the proposed development, open space would constitute 31% of the site area, including 1.36 acres that excludes critical areas. Proposed Tract A (2.12 acres) would contain the on-site portions of the wetland and buffer. Proposed Tract B (1.44 acres) would include the outer 25% of the wetland buffer, where portions of the stormwater facilities are proposed. Proposed Tracts C (0.12 acres), D (0.01 acres), E (0.01 acres), and G (0.04 acres) are small landscaped tracts; Tract C is designed to reflect the necessary setbacks, landscaping, and sidewalk that would be required once 15th Avenue NE is fully developed. Proposed Tract F (0.2 acres) is an open space/active recreation tract. Because the landscape plan reflects an earlier site design, the County recommended as a condition of approval that the Applicant be required to revise the submitted landscape plan. The revised plan would need to show details of the active recreation component. In addition to on-site open spaces and amenities, the Applicant would be required pay park impact fees exceeding \$80,000.00,

which would be used by the County to address regional recreational needs. *Exhibits 1, 1.G, 1.H, and 4; Jeff Pantier Testimony.*

12. The northern approximately three-quarters of the subject property slopes downward towards the northeast, with the elevation ranging from 136 feet approximately to 90 feet. The southern quarter of the subject property slopes downward towards 15th Avenue NE. The Applicant proposes to infiltrate stormwater runoff on-site in a pond to be developed at the low point in the northeast corner of the subject property. As required by the Thurston County Drainage Design and Erosion Control Manual, the runoff would be pretreated in a settling basin prior to infiltration. These facilities would be located in proposed Tract B. *Exhibits 1.G, 1.I, and 1.FF; Arthur Saint Testimony.*
13. Under current conditions, stormwater exits the site near the northeast corner, discharging into a ravine and eventually into Woodland Creek. Any overflow from the proposed stormwater facilities would follow this existing drainage path. However, based on the calculations contained in the project's preliminary drainage and erosion control report, the proposed stormwater improvements are expected to decrease 100-year peak flow rates from the subject property, thereby improving downstream conditions. *Exhibits 1.FF and 6; Dave Spiller Testimony.*
14. The site topography and the natural drainage flow require placement of the stormwater facilities in the northeast corner of the subject property, but such location results in a small intrusion into the outer portion of the Category III wetland buffer. The Critical Areas Ordinance allows new stormwater facilities designed for runoff from impervious surfaces within or outside of the wetland buffer to be located within the outer 25% of a Category III wetland buffer when "there is no available alternative outside of the buffer for accommodating stormwater due to topographic or other physical constraints." *TCC 24.30.310.* The stormwater facilities must satisfy certain standards outlined in the Critical Areas Ordinance relating to location, water quality treatment, vegetation, and other issues of concern. County Staff submitted that the proposed buffer intrusion satisfies the criteria, and that aside from construction of the stormwater facility in the outer 25% of the buffer, the proposal would result in no impacts to the regulated wetland. *Exhibits 1, 1.EE, and 1.FF; Tony Kantas Testimony.* In the course of final engineering, Applicant consultants would consider, with County consultation, whether any roof runoff would need to be directed towards the wetland to protect its existing natural recharge in the undeveloped site condition. It is anticipated that the infiltration at the proposed stormwater pond may sufficiently recharge the wetland. *Dave Spiller Testimony; Curtis Wambaugh Testimony.*
15. The subject property is located within a Category II Aquifer Recharge Area. The Applicant has prepared and obtained Thurston County Environmental Health approval of an integrated pest management plan (IPMP), which outlines landscape management practices to help reduce impacts to ground and surface waters. The IPMP would be included in the covenants, conditions, and restrictions (CCRs) for the subdivision. *Exhibits 1.M and 1.DD.*

16. Approximately 82% of the subject property is forested. Per the County's Forest Lands Conversion Ordinance, the Applicant must retain existing trees or plant new trees on individual lots, at a rate of one tree for every 4,000 square feet of lot area, and must designate a tree tract constituting at least 5% of the site. In this case the Applicant proposes to retain trees within the wetland and buffer (Tract A), except that some trees in the outer 25% of the buffer would need to be removed for construction of storm drainage facilities. Two hundred and twenty-five trees would be retained. The tree retention area would exceed 5% of the site area.<sup>7</sup> *Exhibits I, I.K, and I.Y.*
17. Primary access to the site subdivision would be from Judd Street NE. Four access points from Judd Street NE are proposed, including two to proposed internal public streets, one to a proposed private street (Tract J), and one to a private alley (Tract I). Emergency-only secondary access would be provided from 15th Avenue NE, via proposed private Tract K, which is required because more than 30 single-family units are proposed to be accessed via Judd Street NE and would be provided with at least 2 feet of paved width for emergency vehicle access. Tract K would likely be barricaded at 15th Avenue NE to prevent public vehicle access; however, it may be used for pedestrian connection to 15th Avenue NE. *Exhibit I.G; Arthur Saint Testimony.*
18. The County Code requires each lot to provide at least two off-street parking spaces. Applicant representatives indicated that each lot would provide two parking spaces in the driveway and two in the garage. The internal public streets would include bulb-out on-street parking, which would provide at least one additional space per lot. The proposed internal street system includes a stub at the east property line to provide a connection in the event that the adjacent property is developed at some unknown future time. *Exhibit I.G; Jeff Pantier Testimony; Tony Kantas Testimony.*
19. Based on the trip rates contained in the Institute of Transportation Engineers (ITE) *Trip Generation*, 10<sup>th</sup> Edition, the proposed development is expected to generate 608 net new weekday trips, including 60 PM peak hour trips. *Exhibit I.BB.*
20. Because Judd Street NE dead-ends north of the subject property, all traffic from the development would pass through the intersection of Judd Street NE and 15th Avenue NE, with 59% expected to travel to and from the west, and 41% expected to travel to and from the east. There is currently a stop sign at the Judd Street NE approach to the intersection. The Applicant's traffic engineer evaluated the level of service (LOS) of the intersection, considering the traffic generated by the proposed subdivision, and projected background traffic volumes in 2021. The 2021 traffic volumes assume a growth rate of 4% per year beyond May 2018 baseline traffic data and include pipeline projects identified by the City of Lacey. The traffic study determined that the southbound leg of the intersection would operate at LOS C, and all other movements at the intersection would operate at LOS A. (LOS ranges from A to F, with LOS A representing the least congested traffic condition and LOS F representing the most congested traffic condition.) The Applicant's traffic

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<sup>7</sup> Note that while some earlier supporting documents discuss wetland buffer averaging, in the final proposal, buffer averaging was not relied upon. *Tony Kantas Testimony; Jeff Pantier Testimony.*



engineer determined that left-lane channelization is not required at the intersection due to the projected LOS, the good sight lines at the intersection, and the collision data for the 15th Avenue NE corridor, which does not suggest a safety issue. *Exhibit 1.AA and 1.BB; Arthur Saint Testimony; Jeff Pantier Testimony.*

21. The Applicant would be required to construct internal and frontage road improvements in accordance with City of Lacey design standards, with 15th Avenue NE constructed to Arterial standards and Judd Street NE constructed to half-street Minor Collector Type II standards. The street improvements would include sidewalks. Because the property frontage does not extend the entire distance to the 15th Avenue NE intersection, County Staff recommended conditions of approval that would require the Applicant to improve Judd Street NE with two 11-foot travel lanes and a concrete sidewalk between the property frontage and the intersection, in order to accommodate project traffic without adverse impacts to pedestrian or vehicle safety. *Exhibits 1.G, 1.N, 1.R, and 1.BB; Jeff Pantier Testimony.*
22. The Applicant would be required to mitigate traffic impacts to City of Lacey transportation infrastructure by paying \$81,612.52 in mitigation fees prior to final plat approval, and to the Thurston County road network by paying impact fees pursuant to TCC Title 25 prior to building permit issuance. The County fees would be based on the rates in effect at the time of building permit application. The current Thurston County Capital Facilities Plan includes a 15th Avenue NE road widening project. Pursuant to TCC 25.04.070, the Applicant may seek credit towards impact fees for frontage improvements that are in a capital facilities project. Whether a credit is warranted would be determined at building permit review. *Exhibits 1.L, 1.N, 1.O, and 1.R; Jeff Pantier Testimony; Arthur Saint Testimony; TCC 25.04.*
23. The Thurston County Public Works Department reviewed the development for compliance with Thurston County Road Standards, the Drainage Design and Erosion Control Manual, and the City of Lacey Development Guidelines. As proposed, roof runoff on the detached single-family lots would be infiltrated within each lot by dry wells or foundation drains. Runoff from pollution generating impervious surfaces (roads and driveways) would be captured and conveyed to a treatment pond in the northwest corner of the site, where runoff would be treated prior to infiltration. Roof runoff from the townhouse lots would be captured and conveyed to the storm ponds which were sized to receive their drainage. Based on the Applicant's preliminary technical information report, site soils meet County standards for infiltration, which include the requirement that after development, the site not release more stormwater to off-site and downstream receiving properties than it does in the current undeveloped condition. The storm ponds would not release any planned discharges, as they would be designed to infiltrate all runoff. In storm events exceeding the 100-year storm, overflow from the ponds would be anticipated to travel with topography off-site to the east in an existing natural ravine that flows towards Woodland Creek in Pleasant Glade Park. *Exhibits 1.FF and 6; Jeff Pantier Testimony; Dave Spiller Testimony.* County Public Works review determined that all preliminary drainage requirements have been satisfied and the proposed stormwater management plan is feasible on-site. The Public Works Department

recommended approval of the subdivision subject to conditions. *Exhibit I.N; Arthur Saint Testimony.*

24. The subdivision would be served by the City of Lacey water and sewer systems. Existing well and septic systems on the subject property would be decommissioned in accordance with applicable State and County standards. Although in previous years the City water system lacked capacity, it has since obtained additional water rights and has capacity to serve the development. *Exhibits I, I.M, and I.R; Jeff Pantier Testimony.*
25. There are several existing private wells within 200 feet of the subject property boundaries, including three that were shown on the plat map within 100 feet of the subject property. The Public Health Department recommended that the Applicant be required to file restrictive covenants for the portion of the 100-foot sanitary control radii that encroach on the subject property. Sanitary sewer lines would not be allowed within 50 feet of the wells. *Exhibits I.G and I.O; Dawn Peebles Testimony.* Public comment at the hearing questioned whether all off-site wells within 200 feet of the site had been identified. At the conclusion of the hearing, Public Health Staff requested to confer with members of the public who were present and had this concern. *Carmen Matsumoto Testimony; Dawn Peebles Testimony.*
26. The subject property is located within the North Thurston Public Schools No. 3 School District. Each single-family dwelling unit is expected to add 0.76 full-time equivalent students to the school system, which is currently over capacity. The District anticipates the need to develop new school facilities as a result of this and other new developments, and requested that the Applicant enter into a voluntary mitigation agreement to pay mitigation fees for compliance with the State Environmental Policy Act (SEPA) and the State Subdivision Act. The County, in its review of the project under SEPA, required the Applicant to enter into such mitigation agreement or demonstrate adequate school capacity. The Applicant agreed to enter into the agreement prior to final plat approval. The requested mitigation amount is \$3,989 per single-family dwelling unit. *Exhibits I.L, I.P, and I.Q; Jeff Pantier Testimony.*
27. Students from the proposed development would be bussed to school from waiting areas to be coordinated with the school district. All street frontages on the interior and perimeter of the site would be provided with separate sidewalks which, together with a concrete sidewalk from site frontage improvements to an existing pedestrian path on the north side of 15th Avenue NE to the west of the site (recommended as a condition of approval by the County), would ensure safe walking to school bus stops for school aged plat residents and for all pedestrians in the plat. *Exhibit I; Jeff Pantier Testimony.*
28. Thurston County reviewed the environmental impacts of the project pursuant to the State Environmental Policy Act and issued a mitigated determination of non-significance (MDNS) on November 1, 2018. The MDNS contains conditions to address school, traffic, and construction impacts, and to protect archaeological resources. The MDNS was not appealed and became final on November 22, 2018. *Exhibits I and I.L.*

29. Written notice of the public hearing was sent to all owners of property within 300 feet of the site, published in The Olympian, and posted on-site on January 11, 2019. *Exhibits 1, 1.A, and 2*. Additional interested parties who had commented on the proposal were notified by email by Planning Staff. *Tony Kantas Testimony*.
30. Public comment on the application expressed concern about the following topics: proposed new traffic on Judd Street NE and 15th Avenue NE (including lack of left turn lanes onto Judd Street NE), which are already congested as a result of the apartments built nearby in the last two years and would become unacceptable with the instant project; existing flooding conditions on Judd Street NE and at the north end of the project and the possibility that the proposed development would worsen existing conditions; potential impacts to private well water quality; impacts to wildlife on-site and wildlife passage through the site to the stream corridor to the east and north; concerns that school bus and garbage truck stops on 15th Avenue NE associated with the proposed development would worsen the traffic conditions; a concern that the proposed bulb end of the internal public road would encourage plat residents to trespass onto the property to the east on foot and on bikes and dirt bikes; a concern that the developer may encroach onto the property to the east with portions of the development; concern about the future road connections to the east suggested by the proposed internal road layout; concern that development of the site would trigger mandatory municipal water and sewer hook ups for surrounding residences currently served by private well and septic systems, or could result in other mandatory cost contributions from neighbors; and the adequacy of parking and pedestrian facilities. *Exhibits 1.X, 3, and 5; Testimony of Carmen Matsumoto, Carol Faubion, Keith Dion, Donna Dion, Thomas Sliva, Charlyn Shipley, Linda Canfield, and K. Wood*.
31. In addition to the general public, various agencies submitted comments as follows. The City of Lacey recommended approval of the subdivision subject to conditions requiring vehicular and multi-modal traffic impact mitigation. City of Lacey also submitted requested conditions of approval addressing: water and sewer extension and connection to each unit; road standards for all proposed road construction; frontage improvements along Judd Street NE; street lighting and street trees; traffic impact mitigation fee payment; and other City requirements. *Exhibit 1.R*. The Nisqually Tribe requested to be informed in the event of inadvertent discoveries of archeological resources or human burials. *Exhibits 1.S and 1.T*. Washington State Department of Ecology submitted comments addressing state requirements for water quality protections, toxics clean up in the vent of contaminated soils, and solid waste management. *Exhibits 1.U and 1.V*. The Olympic Region Clean Air Agency (ORCAA) submitted comments addressing state requirements for asbestos containment during demolition of any structures on-site. *Exhibit 1.W*. Additionally, the application materials were sent to the Washington Department of Fish and Wildlife for review, which state agency did not comment on the proposal. *Tony Kantas Testimony*.
32. In response to concerns from members of the public, Planning Staff offered the following. Consistent with the County code provisions applicable within the Lacey UGA, single-family residential development is required to provide two off-street parking

spaces per dwelling unit. Multifamily development is only required to provide 1.5 spaces per unit, which means nearby multifamily projects would not be adhering to the same code. As proposed, the project exceeds minimum off-street parking provisions because there would be at least two spaces per unit and on-street parking available for guests and excess cars on all interior public roads. Planning Staff asserted that the County cannot require the developer to exceed the minimums required by Code. To the Planning Staff's knowledge, there would be no costs to off-site property owners resulting from the project; all impacts would be required to be mitigated, and all fees paid, by the developer. Specifically, the project would be required to mitigate school, traffic, and park impacts. With respect to the requested wildlife corridor, under the applicable County code, the Applicant would be required to maintain the wetland and its regulated buffer in a natural state. Because there are no known protected species on the site, no authority exists in the Code to require additional wildlife protections. *Tony Kantas Testimony.*

33. With regard to potential impacts to existing wells, the existing on-site well and septic system would be decommissioned and abandoned, respectively, in compliance with applicable standards. All new lots would be served by public water and sewer utilities. Neighbors would not be required to connect to these municipal utilities. County Staff cannot speak at this time as to whether annexation, at some unknown future point, would require connection. The County's Environmental Health Division reviewed off-site water supplies and approved the site plan with those that are identified on it. If there is an additional, unidentified well off-site to the northeast within 200 feet of the plat, it does not show up in a review of available records. Owners of wells not shown on the plat should communicate with the County, as the proposal is not allowed to adversely affect off-site water supplies and is required to provide a restrictive covenant to protect any well's 100-foot sanitary control area that encroached onto the subject property. *Dawn Peebles Testimony.*
34. Addressing the concern that stormwater could affect water quality in surrounding private wells, County Public Works Staff testified that the Drainage Design and Erosion Control Manual (DDECM) requires treatment for runoff from impervious surfaces prior to infiltration and that, as conditioned, the project's proposed facilities would meet this requirement. Regarding future road connections to the east, County Code requires a developer to make provisions for potential future road connection, regardless of whether the property in question is under consideration for development, so that future development can provide for orderly connectivity of the road network. The proposed road stubs would have no effect on the property to the east if its owner chooses not to develop it. Regarding the request for a left turn lane onto Judd Street NE from 15th Avenue NE, the Applicant's traffic study, prepared in August 2018, considered existing traffic based on counts performed in May 2018 as well as all known "pipeline projects" (proposed or known contemplated development) in the City, and included a conservative growth rate. Based on these assumptions, no left turn lane was warranted. The County is aware that traffic is already congested on 15th Avenue NE and has identified the full build out of 15th Avenue NE in its current transportation improvement program (TIP); however, the project is not currently scheduled. It is not known when that project will be scheduled. The Applicant is required to dedicate the land that would be needed for full

build out of that road section and may apply for transportation impact fee credit to the extent the constructed frontage improvements are consistent with the County's TIP project. *Arthur Saint Testimony.*

35. Addressing the public's request for a project access point off of 15th Avenue NE, the Applicant representative testified that an earlier project layout did propose full access from 15th Avenue NE, but that the access was not permitted by the County because it would have been located too close to other existing accesses, and because the County Code requires the project to take access off the lower classification, lesser traveled roadway. Considering that the County's capital facility plan would turn 15th Avenue NE into a major arterial, it would benefit traffic in the long run to restrict interruptions to future traffic flow on that street. A property owners' association would be established to oversee the maintenance of the alleys and streets, as well as common landscaped areas, the stormwater tracts, the active recreation facilities, and the landscaped frontages along both Judd Street NE and 15th Avenue NE. Regarding the comments about school bus stops on 15th Avenue NE disrupting traffic, the Applicant representative noted that the School District decides where bus waiting areas go; the representative thinks it is likely to be within the subdivision. The alleys and internal streets were designed to accommodate garbage and delivery truck traffic. A professional survey was obtained of the subject property; it revealed no material encroachments to or from the property to the east or from any other property boundary. The Applicant agrees to provide a fence and/or other barricade along the ends of the internal roads that stub to the east, provided that a sidewalk would likely need to be accommodated on the southern stub. *Jeff Pantier Testimony.*
36. Addressing the public comment about wet soils and existing flooding, Applicant representatives reiterated that the wetland complex in the northwest corner of the site would be retained undisturbed. Additional soil testing would be done prior to construction to determine whether foundation drains would be required in addition to drywells for the single-family residential units. The County drainage manual requires the Applicant to infiltrate stormwater runoff if possible, and preliminary testing shows that infiltration is possible for the site. The stormponds are sized to accommodate runoff from the 16 townhome units and all roads, alleys, and driveways, which runoff would be first treated and then infiltrated. No discharge is planned. Overflow in large storm events exceeding the 100-year flood would follow the existing natural, unaltered path to the east and then north in the existing ravine. *Exhibits 1.FF and 6; Dave Spiller Testimony; Jeff Pantier Testimony.*

## 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:**

#### **Preliminary Plat**

The proposal must satisfy the criteria for preliminary plat approval contained in TCC 18.12.090:

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, including the conditions of the MDNS, the proposed plat makes appropriate provisions for public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds, and all other relevant facts. School mitigation fees would address identified capacity impacts. The road improvements on Judd Street NE would extend beyond the property frontage to ensure adequate roadway width and safe walking conditions; two 11-foot lanes would be required in addition to the full half street improvements on the property frontage. While the project would significantly increase traffic at the intersection of Judd Street NE and 15th Avenue NE, the intersection would still operate at acceptable levels of service and no left-turn channelization is required. The Applicant would pay mitigation fees towards Thurston County and City of Lacey transportation projects, which fees would be used by both local governments to fund transportation projects in the site vicinity. Stormwater would be infiltrated on-site consistent with the design and operational requirements of the County's drainage manual. While several residents testified as to wet/flooded conditions in the area, the Applicant submitted sufficient technical evidence supporting that stormwater can be adequately accommodated on-site consistent with County stormwater standards. Compliance with the adopted stormwater management regulations and the Drainage Design and Erosion Control Manual is sufficient to ensure that the proposed development would not exacerbate the flooding issues identified by area residents. City of Lacey water and sewer would be provided to the lots. *Findings 12, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, and 37.*
2. With conditions of approval, the public use and interest would be served by the subdivision. The project density conforms to the range established by ordinance for both underlying zones, and the Applicant has demonstrated that the applicable development standards can be satisfied. The proposed residential densities and housing variety meet minimum standards. The plat would provide significant open space, both for critical area preservation and active and passive open space. Trees would be retained within the

wetland buffer tract and planted elsewhere on-site in accordance with County standards. The townhouse lots would be required to undergo design review. *Findings 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 16.*

### DECISION

Based on the preceding findings and conclusions, the request for approval of a preliminary plat to subdivide 12.54 acres into 53 single-family residential lots, 16 townhouse lots, and open space tracts totaling 3.93 acres is **GRANTED**, subject to the following conditions:

#### Public Works Conditions:

1. The proposed roadway in concept and design shall conform to the 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. Judd Street NE shall be improved to two 11-foot lanes out to 15th Avenue NE from the site frontage improvements.
4. Concrete sidewalk from site frontage improvements to the existing pedestrian path on the north side of 15th Avenue NE to the west of the site shall be installed prior to final.
5. Site lines meeting ASHTTO intersection site distance shall be established prior to final, including easements to the public (if necessary) for ongoing maintenance at the intersection of Judd Street NE and 15th Avenue NE.
6. 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.
7. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division, and any liability incurred by the County due to nonconformance by the Applicant shall be transferred to the Applicant.
8. The stormwater management system shall conform to the Drainage Design and Erosion Control Manual.
9. 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.

10. 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.
11. Proper landscaping is vital to the performance of the stormwater system. The landscape plan (if required) shall be signed and sealed by a WA licensed civil engineer, preferably the engineer who designed the stormwater system.
12. 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.
13. 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. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.17' of asphalt concrete pavement.
14. 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 50 feet of right-of-way lying north of and abutting the existing centerline of 15th Avenue NE. Upon request, Thurston County's right-of-way representative will prepare the Quit Claim Deed describing the necessary right-of-way dedication. Contact the Thurston County Right-of-Way section at 360-867-2356.
15. Permanent survey controls must be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries, and other points of control.
16. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works - Survey Division. Contact the Survey Division at 360- 867- 2378.
17. Payment of the off-site traffic mitigation required in the Mitigated Determination of Non-significance (MDNS), dated November 1, 2018, is required prior to final approval in accordance with the Thurston County Road Standards. Timing of such payments to other jurisdictions may be altered upon agreement with the respective jurisdiction and Thurston County.
18. No work shall take place until a construction permit has been issued by Thurston County.



19. 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.
20. 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 and Erosion Control Manual.
21. When all construction/improvements have been completed, contact the Thurston County Public Works - Development Review Section for a final inspection.
22. 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 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.
23. Once the planning department has issued the official preliminary approval, a complete set of construction drawings shall be submitted along with the final drainage and erosion control report to the Thurston County Public Works - Development Review Section for review and acceptance.
24. 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 the Thurston County Permit Assistance Center webpage or by contacting Ruthie Padilla with the Thurston County Public Works - Development Review Section by phone at 360-867-2046 or by email at [padillr@co.thurston.wa.us](mailto:padillr@co.thurston.wa.us).
25. Prior to receiving final approval from this department, the following items shall be required:
  - a. Completion of all roads and drainage facilities.
  - b. Final inspection and completion of all punch list items.

- 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 engineer's construction inspection report form (Appendix IC, Volume I of the Drainage Design and Erosion Control Manual).
  - e. Receipt and acceptance of maintenance agreement form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
  - f. Execution of 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. 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.
  - h. Approval of the final plat map.
  - i. Property owners' articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
  - j. Completion of required frontage improvements.
  - k. Completion of required signing and striping.
  - l. Payment of any required permitting fees.
  - m. Payment of any required mitigation fees.
  - n. Completion of the right-of-way dedication process.
26. 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 15th Avenue NE and Judd Street NE.
  - c. If seasonal drainage crosses the 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. Approval of this subdivision is conditioned upon payment of City of Lacey traffic mitigation fees in the amount of \$\_\_\_\_\_ per lot. This fee increases on July

1 of each year in accordance with the increase in the Engineering News Record Construction Cost Index, and the amount is determined at the date of payment. Payment is required prior to the issuance of a water meter for those lots served by the Lacey Water Utility and prior to building permit issuance for those lots not served by such Utility.

- g. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any building permits associated with this project.
- h. This plat is subject to the residential agreement to maintain stormwater facilities and to implement a pollution control plan, as recorded under Auditor's File No. \_\_\_\_\_.
- i. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision \_\_\_\_\_, including unrestricted access for Thurston County Staff to any and all stormwater system features for the purpose of routine inspections and/or performing maintenance, repair, and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the property owners' association as established by covenant recorded under Auditor's File No. \_\_\_\_\_.
- j. The property described herein is required to accommodate stormwater runoff from frontage improvements to 15th Avenue NE and Judd Street NE and all natural tributary areas abutting said property.
- k. Maintenance of the landscaping and roadside drainage and stormwater facilities, such as ditches, swales, and ponds, within the public right-of-way is the sole responsibility of the property owners or homeowners' association within this subdivision. Thurston County has no responsibility to maintain or service said landscaping or roadside stormwater facilities.
- l. Language shall be provided on 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.)
- m. The access restrictions shall be delineated by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of 15th Avenue NE and Judd Street NE on the final plat map.
- n. The final plat map shall clearly label all public and private roads.

Health Conditions:

- 27. All existing off-site wells within 200 feet of the property must be shown on the final map with their associated 100-foot sanitary control radii. The Applicant must grant non-public restrictive covenants for existing off-site wells located within 100 feet of the

property. The covenants must be submitted to this office for review prior to being filed with the Thurston County Auditor's Office.

28. There shall be no sanitary sewer lines located within 50 feet of any existing single-family well.
29. City of Lacey water and sewer utilities must be extended through the subdivision prior to final approval. Confirmation of final water and sewer construction approval from the City of Lacey must be provided.
30. The existing well located on the property must be properly decommissioned by a licensed well driller per Washington State Department of Ecology standards. A copy of the decommissioning report must be submitted to this office.
31. The existing septic system must be properly abandoned per Article IV of the Thurston County Sanitary Code. An abandonment permit is required and copies of all abandonment documentation from a licensed septic system pumper must be provided.


Planning Conditions:

32. The Applicant shall comply with all conditions of the Mitigated Determination of Non-Significance (MDNS), dated November 1, 2018.
33. Street address, lot size, and dimensions for each lot shall be shown on the final map.
34. The final design of this subdivision and future development of lots shall conform with all minimum standards of the Zoning Ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the Platting and Subdivision Ordinance.
35. All open space, landscaping, and tree preservation shall comply with the following:
  - a. New trees on individual residential lots shall be planted at a rate of one (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
  - b. All landscaping shall be planted as shown on the approved final landscape plan prior to final plat approval. Any conditions, improvements, or maintenance requirements associated with the landscaping plan shall be shown on the final plat map.
  - c. Prior to final plat approval, the Applicant shall submit a revised final landscape plan to reflect the revision of the plat. The revised landscape plan shall be submitted to Thurston County Community Planning and Economic Development Department for review and approval. The final landscape plan shall include the design of the active recreation component to the open space (i.e., play equipment, sports court, and irrigation). All landscaping shall be in compliance with the Thurston County Zoning Ordinance (Title 21) and the Thurston County Subdivision Ordinance (Title 18).

- d. The landscape plan shall include additional landscaping between the stormwater pond and the on-site wetland and include a fencing and signage plan for all the single-family lots that abut the wetland buffer in accordance with TCC 24.60.
  - e. The final landscape plan shall designate a 5% tree tract.
36. Prior to final plat approval, the Applicant shall submit evidence to the Thurston County Community Planning and Economic Development Department that adequate capacity exists in affected North Thurston School District schools or that the Applicant has entered into an agreement with the North Thurston School District to mitigate the impact the plat will have on the district schools.
37. If the agreement requires payment of mitigation fees or other actions after the final plat is recorded, then such conditions shall be noted on the final plat map.
38. 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) and the High Density Residential District (HD 6-20) (TCC 21.18).
  - b. New trees on individual residential lots shall be planted at a rate of one (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
  - c. All future development must conform to the requirements of the Zoning Ordinance and Platting and Subdivision Ordinance.
39. Prior to construction of the townhouses, the Applicant shall submit an administrative design review application for review and approval by the Thurston County Community Planning and Economic Development Department in accordance with TCC 21.61.
40. The Applicant shall comply with all conditions of the memo from the City of Lacey Public Works Department, dated January 17, 2018 (Exhibit 1.R).
41. A demolition permit is required by the Thurston County Building Department and the Olympic Region Clean Air Agency.
42. The property shall not be logged until all engineering and construction drawings have been issued by Thurston County Public Works.
43. 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 an 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.

44. Consistent with TCC 25.04.070, the Applicant may apply with the County to receive credit against transportation impact fees for the portion of improvements to 15th Avenue NE that satisfy the requirements of capital facilities improvements per the County's Transportation Improvement Plan.

**DECIDED** February 5, 2019.



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Sharon A. Rice  
Thurston County Hearing Examiner

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

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

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

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

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

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

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

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

1. Appeals may be filed by any aggrieved person or agency directly affected by the Examiner's decision. The form is provided for this purpose on the opposite side of this notification.
2. Written notice of Appeal and the appropriate fee must be filed with the 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 **\$750.00** for a Request for Reconsideration or **\$1,020.00** 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.



<b>Project No.</b> _____ <b>Appeal Sequence No.:</b> _____
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**Check here for:**                    **RECONSIDERATION OF HEARING EXAMINER DECISION**

THE APPELLANT, after review of the terms and conditions of the Hearing Examiner's decision hereby requests that the Hearing Examiner take the following information into consideration and further review under the provisions of Chapter 2.06.060 of the Thurston County Code:

(If more space is required, please attach additional sheet.)

**Check here for:**                    **APPEAL OF HEARING EXAMINER DECISION**

TO THE BOARD OF THURSTON COUNTY COMMISSIONERS COMES NOW \_\_\_\_\_  
 on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, as an APPELLANT in the matter of a Hearing Examiner's decision rendered on \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_ relating to \_\_\_\_\_

THE APPELLANT, after review and consideration of the reasons given by the Hearing Examiner for his decision, does now, under the provisions of Chapter 2.06.070 of the Thurston County Code, give written notice of APPEAL to the Board of Thurston County Commissioners of said decision and alleges the following errors in said Hearing Examiner decision:

Specific section, paragraph and page of regulation allegedly interpreted erroneously by Hearing Examiner:

1.     Zoning Ordinance \_\_\_\_\_
2.     Platting and Subdivision Ordinance \_\_\_\_\_
3.     Comprehensive Plan \_\_\_\_\_
4.     Critical Areas Ordinance \_\_\_\_\_
5.     Shoreline Master Program \_\_\_\_\_
6.     Other: \_\_\_\_\_

(If more space is required, please attach additional sheet.)

AND FURTHERMORE, requests that the Board of Thurston County Commissioners, having responsibility for final review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the Hearing Examiner decision.

**STANDING**

On a separate sheet, explain why the appellant should be considered an aggrieved party and why standing should be granted to the appellant. This is required for both Reconsiderations and Appeals.

Signature required for both Reconsideration and Appeal Requests

\_\_\_\_\_  
APPELLANT NAME PRINTED

\_\_\_\_\_  
SIGNATURE OF APPELLANT

Address \_\_\_\_\_

Phone \_\_\_\_\_

**Please do not write below - for Staff Use Only:**

Fee of  \$750.00 for Reconsideration or \$1,020.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Filed with the Community Planning & Economic Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.