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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. 2018105798
)	
Summit Land Development LLC)	Plat of Summit Place
)	
For a Preliminary Plat)	FINDINGS, CONCLUSIONS,
)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for approval of a preliminary plat to subdivide 12.36 acres into 56 single-family residential lots and open space tracts totaling 2.23 acres is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request

Summit Land Development LLC (Applicant) requested approval of a preliminary plat to subdivide 12.36 acres into 56 single-family residential lots and open space tracts totaling 2.23 acres. The subject property is located at 8400, 8420, and 8424 Mullen Road SE, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on August 25, 2020. In order to ensure public access to the virtual hearing process, the record was held open two business days (through August 27, 2020) to allow for public comment from members of the public who may have had difficulty joining the virtual hearings, with additional time arranged for responses by the parties. One timely post-hearing public comment was submitted, and the Applicant timely responded. The record closed on August 31, 2020.

Testimony

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

Scott McCormick, Associate Planner, Community Planning & Economic Development Department
 Arthur Saint, P.E., Development Review Department

Dawn Peebles, R.S., Public Health & Social Services Department
Jeff Pantier, Hatton Godat Pantier, Applicant representative
Lance Talmadge, Hatton Godat Pantier, Applicant representative
Joshua Glass
Marcee Peterson

Exhibits

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

EXHIBIT 1 Community Planning & Economic Development Department Report including the following exhibits:

- Attachment A Notice of Public Hearing
- Attachment B Zoning Map
- Attachment C Thurston County Master Application, dated October 11, 2018
- Attachment D Thurston County Division of Land Application, dated October 11, 2018
- Attachment E Project Narrative
- Attachment EE Preliminary Plat Map
- Attachment F Landscaping Plan
- Attachment G Plat name reservation certificate
- Attachment H Sewer and Water availability letter from the City of Lacey, dated April 9, 2018
- Attachment I Notice of Application, dated February 21, 2019
- Attachment J Final Mitigated Determination of Non-significance, dated October 10, 2019 with attached adjacent property owners list, dated February 19, 2019
- Attachment K Mitigated Determination of Non-significance, date issued May 23, 2019 with attached SEPA Environmental Checklist, received October 11, 2019
- Attachment L Thurston County Public Works SEPA recommendation memo, dated May 14, 2019
- Attachment M Integrated Pest Management Plan, dated April 10, 2019
- Attachment N Recommendation of Preliminary Approval from Thurston County Public Works, dated December 12, 2019

- Attachment O Recommendation of Preliminary Approval from Thurston County Environmental Health, dated June 5, 2019
- Attachment P Comment letter from the Nisqually Tribe, dated October 15, 2019
- Attachment Q Email from ORCAA, dated October 15, 2019
- Attachment R Comment letter from the Nisqually Tribe, dated June 6, 2019
- Attachment S Letters from the WA Dept. of Ecology, dated June 6, 2019 & March 13, 2019 & November 13, 2018
- Attachment T Email from Deborah Johnson with WA Dept. of Health, dated May 31, 2019
- Attachment U Email from the Squaxin Tribe, dated May 23, 2019
- Attachment V Email chain between Arthur Saint, P.E. and Choya Dewon Strong, dated March 20, 2019
- Attachment W Email chain between Arthur Saint, P.E. and Scot Keith
- Attachment X Email chain between Arthur Saint, P.E. and Choya Strong, dated March 12, 2019
- Attachment Y Email from the Sotos, dated March 11, 2019
- Attachment Z Email from Katarina Carter and Dan Fuller, dated March 11, 2019
- Attachment A1 Email chain between Arthur Saint, P.E. and Scot Keith, dated March 7, 2019
- Attachment B1 Letter from Bette Lacy, dated March 4, 2019
- Attachment C1 Email from Choya Strong, dated March 4, 2019
- Attachment D1 Email from the Squaxin Tribe, dated February 27, 2019
- Attachment E1 Letter from the Nisqually Tribe, dated February 26, 2019
- Attachment F1 Email from ORCAA, dated February 25, 2019
- Attachment G1 Email from Scot Keith, dated February 25, 2019
- Attachment H1 Email from the Squaxin Tribe, dated October 31, 2018

- Attachment I1 Letter from the North Thurston Public School District, dated October 30, 2018
- Attachment J1 Letter from the City of Lacey to Rob Rice, dated June 15, 2018 regarding sewer and water availability
- Attachment K1 Geotechnical and Stormwater Investigation from Insight Geologic Inc., dated April 16, 2018
- Attachment L1 Mazama Pocket Gopher Screenings by Envirovector, dated October 5, 2018
- Attachment M1 Oregon White Oak Habitat Management Plan by Envirovector, dated October 4, 2018
- EXHIBIT 2 Katerina Carter public comment, received August 20, 2020
- EXHIBIT 3 Summit Place Traffic Memorandum – Access Operational Review, dated August 21, 2020
- EXHIBIT 4 Photo of sign stating road is to be extended in future
- EXHIBIT 5 Preliminary civil plans
- EXHIBIT 6 Preliminary Drainage and Erosion Control Report, dated May 3, 2019
- EXHIBIT 7 Revised condition 34 language submitted by Mr. Pantier
- EXHIBIT 8 Staff response to revised condition 34 submitted by Mr. McCormick
- EXHIBIT 9 Comments from Bridgett Glass, dated August 25, 2020
- EXHIBIT 10 Applicant response to post-hearing comment, dated August 26, 2020

Based on 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 12.36 acres into 56 single-family residential lots and open space tracts totaling 2.23 acres.¹ The subject parcels

¹ The site area of 12.36 acres is the surveyed acreage, which is more accurate than the information presented on the assessor's website. *Testimony of Scott McCormick and Jeff Pantier.*

are located at 8400, 8420, and 8424 Mullen Road SE, Olympia, Washington.² *Exhibits 1, 1.C, 1.D, 1.E, and 1.EE.*

2. The preliminary plat application was submitted on October 11, 2018 and was deemed complete for purposes of commencing project review on November 8, 2018. *Exhibits 1, 1.D, and 1.I.*
3. The subject property is located in the Lacey Urban Growth Area and is zoned McAllister Springs Geologically Sensitive Area Residential (MGSA). The MGSA zone requires a minimum density of three dwelling units per acre and a maximum density of six dwelling units per acre when sewer is provided. The density of the proposed development, which would be connected to public sewer, would be 4.53 dwelling units per acre. *Exhibits 1, 1.B, and 1.EE; Thurston County Code (TCC) 21.10.035.*
4. The subdivision design standards applicable to the development include a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet. *TCC 21.10.050.* Each of the proposed lots would satisfy these standards. Compliance with building setback standards would be determined at the time of building permit application. *Exhibits 1 and 1.EE (final proposed site plan dated May 22, 2019).*
5. Within the Lacey Urban Growth Area, subdivisions must provide 10% of the total site area as usable open space, which 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 comprising 18% of the site area would include a stormwater retention area and wet pond (Tract A), a tree tract surrounding the stormwater facilities (Tract B), a combined tree tract and active recreation tract (Tract C), and landscaping (Tract D). Because Tracts A and B are located at the north end of the subject property, adjacent to the railroad right-of-way, Planning Staff recommended as a condition of approval that the Applicant install an eight-foot-high fence along the northern property line to ensure safe tract usage. *Exhibits 1 and 1.EE; TCC 18.47.040.B.*
6. The Applicant had two of the parcels comprising the subject property (8420 and 8424 Mullen Road SE) screened for the Mazama pocket gopher, a threatened species under the Endangered Species Act. The study was performed by a qualified biologist and took place over three site visits during the work window specified by the US Fish and Wildlife Service (USFWS). No mounds characteristic of the Mazama pocket gopher were observed on the parcels during the field visits. *Exhibit 1.L1.* The third parcel comprising the subject property (8400 Mullen Road) was previously reviewed by USFWS staff in 2017 and found not to contain gopher mounds. *Exhibits 1.L1, Appendix H, and 10.*

² The legal description of the subject parcels is that they are portions of Section 35, Township 18 North, Range 1 West, W.M.; also known as Tax Parcel Numbers: 09710012000, 09710012002, and 09710012004. *Exhibit 1.*

7. The northern half of the property contains Oregon white oak habitat, a regulated critical area, although the habitat has been degraded by livestock grazing. The understory consists primarily of bare ground and grazed pasture grasses. Ninety-three oak trees have been surveyed on the subject property. *Exhibit 1.M1, page 7*. The Applicant considered preservation of oak habitat in the subdivision design, in that proposed open space Tract C coincides with a large stand of oak trees, and a portion of open space Tract B coincides with another cluster of oak trees. A total of 53 oak trees would be preserved on site, and 40 oak trees would be removed. The removed trees would be replaced at a 3:1 ratio, resulting in the planting of 120 new Oregon white oak trees on site. The trees would be planted within Tracts B and C, with most of the trees planted adjacent to the stormwater facilities in the northern portion of the site. *Exhibit 1.M1 (Figure 4)*.
8. The Applicant's biologist conducted a wildlife reconnaissance that included a field survey and review of agency databases. No evidence of state or federally-listed species of wildlife was observed on or in the vicinity of the subject property. *Exhibit 1.M1*.
9. The subject property is located in an area with potential for contamination by heavy metals due to air emissions originating from the old Asarco smelter in north Tacoma. As recommended by the Washington Department of Ecology (DOE), the Applicant had the soils tested for arsenic and lead. The DOE reviewed the results and determined that the concentrations of arsenic and lead are below the levels requiring cleanup under state law. *Exhibit 1.S*.
10. Primary vehicular access to the subdivision would be from Mullen Road SE via Rosa Court SE and 48th Court SE within the adjacent 26-lot Sunset Hollow subdivision. Currently 48th Court SE stubs at the western property boundary. The proposal would extend it into the site and connect it to the proposed internal street network. The only direct connection to Mullen Road SE would be via Tract E, which would initially serve as a construction entrance and then would be restricted to pedestrian and emergency vehicle access only. The proposed internal loop road would stub to the eastern site boundary in two locations to allow for connectivity in the event that property to the east develops in the future. *Exhibits 1, 1.EE, and 4; Arthur Saint Testimony*.
11. Frontage improvements would be provided along Mullen Road SE, including additional pavement width and a bicycle lane, planter strip, and sidewalk. The internal streets would include bulb-out parking lanes, planter strips, and sidewalks. *Exhibit 5*.
12. The traffic generated by the development is not expected to decrease the level of service (LOS) C classification of the intersection of Rosa Court and Mullen Road SE. *Exhibit 3*.
13. Following notice of application, residents of the Sunset Hollow subdivision submitted comments objecting to the proposed access via Sunset Hollow streets and requesting that the Applicant be required to establish direct access from Mullen Road SE. However, the Applicant cannot establish access from Mullen Road SE consistent with the road design standards applicable to the Lacey Urban Growth Area. Mullen Road SE is classified as an arterial street, requiring minimum intersection spacing of 660 feet. The subject property

frontage is not wide enough to meet this standard. *Exhibits 1, 1.V, 1.W, 1.X, 1.Y, 1.Z, 1.AI, 1.CI, 1.GI, and 2A; Testimony of Jeff Pantier and Arthur Saint.*

14. Stormwater runoff from the developed site would be treated and infiltrated on site in accordance with the requirements of the Thurston County Drainage Design and Erosion Control Manual. The proposed pre-settling basin and infiltration pond would be located in Tract A. Roof runoff would be directed to drywells. Based on evaluation by an engineering geologist, the soils on site are suitable for infiltration. *Exhibits 6 and 1.K1; Lance Talmadge Testimony.*
15. 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, and found that all of the preliminary requirements have been satisfied. The Public Works Department recommended approval of the subdivision, subject to conditions. *Exhibit 1.N; Arthur Saint Testimony.*
16. The proposed development would be served by the City of Lacey public water and sewer systems. The City confirmed that both systems have adequate capacity to serve the development. As required by the Thurston County Environmental Health Division, existing wells on site would be decommissioned in accordance with Washington State Department of Ecology standards, and existing septic systems on site would be abandoned in accordance with the Thurston County Sanitary Code. *Exhibits 1.J1 and 1.O; Dawn Peebles Testimony.*
17. The subject property is located within Category I and Category II aquifer recharge areas, a McAllister Geologically Sensitive Area, and a Group A wellhead protection area. The Thurston County Environmental Health Division reviewed the proposal and determined that adequate ground and surface water protection has been demonstrated based on lack of encroaching off-site wells, the proposed decommissioning of existing on-site wells and abandonment of on-site septic systems, the proposed connection to public water and sewer systems, and the preparation of an Integrated Pest Management Plan for the development, which has been reviewed and accepted by Environmental Health. *Exhibits 1.M and 1.O; Dawn Peebles Testimony.*
18. The subject property is located within the North Thurston Public Schools No. 3 school district (District). Each single-family dwelling unit is expected to add 0.76 full-time equivalent students to the school system, which is 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 proposal under SEPA, required the Applicant to enter into such mitigation agreement or demonstrate adequate school capacity. The Applicant agreed to enter into the agreement for payment of fees. The requested mitigation amount is \$4,211 per single-family dwelling unit. *Exhibits 1.II and 1.K; Jeff Pantier Testimony.*

19. In addition to payment of school mitigation fees, County Staff recommended that the Applicant be required to work with the school district to designate a school bus waiting area and provide a shelter if required. The parties agreed that a concrete pad would serve as the bus waiting area, and that a shelter, if required, would be located within an open space tract and not off site or within the right-of-way. *Exhibits 7 and 8; Jeff Pantier Testimony.*
20. Thurston County reviewed the environmental impacts of the project pursuant to the State Environmental Policy Act and issued a final mitigated determination of non-significance (MDNS) on October 10, 2019. The MDNS contains conditions requiring school and traffic mitigation, road improvements, archaeological resource protection, soil testing and remediation (if needed to comply with the Model Toxic Control Act), compliance with 7:00 am to 7:00 pm construction hours, and street cleaning during construction. With respect to traffic impacts and roads, the MDNS requires the Applicant to pay City of Lacey traffic mitigation fees in the amount of \$43,280.93, and to construct improvements at four over-capacity intersections along Marvin Road (Mullen Road SE/Marvin Road SE, Union Mills Road SE/Marvin Road SE, 19th Avenue SE/Marvin Road SLE, and 25th Avenue SE/Marvin Road SE) prior to final plat approval, or purchase reserve capacity. The Applicant proposes to partner with other projects in the area to complete the required improvements, or delay development until the improvements are complete. *Exhibit 1.K; Jeff Pantier Testimony.*
21. Both the Nisqually Indian Tribe and the Squaxin Island Tribe commented on the application, requesting that they be informed if any archaeological resources are uncovered during construction. The MDNS contains a stop work/notice provision that would apply if archaeological resources are uncovered. *Exhibits 1.K, 1.D1, 1.E1, 1.H1, 1.R, and 1.U.*
22. Written notice of the public hearing was sent to all owners of property within 300 feet of the site and published in The Olympian on August 14, 2020. *Exhibits 1 and 1.A.*
23. Public comment on the application addressed the following issues. Neighbors feel it is not necessary or in their interests for the traffic from the proposed plat to access through their streets (adjacent plat of Sunset Hollow, Rosa Court SE/48th Court SE); they would prefer it if the project took direct access from Mullen Road. Other concerns included: impacts to safety for pedestrians and children within their plat; impacts to emergency services response times; concern that the Oregon white oak survey provided by the Applicant was inadequate and a request that a more detailed replanting plan be submitted; questions about the gopher soils evaluations conducted; questions about whether the birds/vertebrate species currently utilizing the existing Oregon white oak stands were properly evaluated and considered; questions about the total site area, since a smaller area is reflected in the Assessor's information for the subject parcels and the number of lots is based on site area; questions about the proposed outcome for an existing retaining wall along Sunset Hollow Lot 17; and increased traffic at the intersection of Rosa Court and Mullen Road, at which neighbors already have to wait to turn into their subdivision. One neighbor requested that the fence between the site and railroad right-of-way be solid wood, rather than chain link. *Exhibits 2a and 9; Testimony of Josh Glass and Marcee Peterson.*

24. Applicant representatives responded to public comment, noting as follows. The site was reviewed for gopher soils by a professional consultant and by US Fish and Wildlife personnel and has received “gopher clearance” from that federal agency. (See Exhibit 1.L1.) The habitat management plan for Oregon white oak contains detailed planting plans. (See Exhibit 1.M1, Figures 4 and 5.) The design of the subdivision considered avoidance and minimization of impacts to existing oaks trees, and unavoidable impacts would be mitigated by planting of new oaks at a rate of 3:1, consistent with County Code. A total of 57% of the existing oak trees would be preserved. The Applicant noted that a recent project (Oak Tree) was approved with the preservation of 55% of the Oak Woodlands on its site. The Applicant submitted that the Oak habitat management plan (HMP) and design of the subdivision are consistent with TCC 24.01.037 (addressing requirements for mitigation sequencing). The biologist who prepared the oak HMP evaluated the subject property for nests, surveying the site on 10 foot transects and using camera and binoculars to assist in the evaluation of the oak habitat. No other protected species were identified and no further evaluations are required. With respect to traffic impacts, the submitted transportation information shows that the proposal satisfies operational requirements and also meets sight distance standards. The Applicant agent submitted that the site area presented at 12.36 acres is accurate based on a current survey, and that Assessor’s records often reflect site area based on other, less accurate information. With regard to the specific retaining wall addressed in comment, the Applicant would be required through the grading plan and civil engineering process to design and construct safe, code-compliant connections with adjacent parcels and roadways. An Applicant agent noted that a chain link fence between the site and the railroad right-of-way would last longer and require less maintenance. *Jeff Pantier Testimony; Exhibit 10.*
25. Planning Staff submitted that Assessor’s records often do not reflect accurate site area and that surveys are generally regarded as the most accurate means of arriving at site area. Staff submitted that the proposed density is consistent with the three to six units per acre allowed in the underlying zone, and that density is calculated based on gross site area. Regarding the fence, Planning Staff noted that there is no provision in the code that requires the fence to be solid wood. Public Works Staff reiterated that access to the proposed plat would not be possible from Mullen Road directly due to City of Lacey intersection spacing standards. Having heard all testimony, Planning Staff recommended approval subject to the conditions in the staff report. *Testimony of Scott McCormick and Arthur Saint; Exhibit 1.* Applicant representatives requested alternate language for the condition requiring a school bus stop shelter, seeking to have the final location and design be consistent with requirements of the School District. They also requested to be allowed to install a chain link fence along the railroad. *Jeff Pantier Testimony; Exhibits 7 and 8.*

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, the proposed plat makes appropriate provisions for public health, safety, public ways, potable water supplies, sanitary wastes, recreation, playgrounds, schools and school grounds and all other relevant facts. Soils testing conducted on site found that arsenic and lead levels are below the thresholds for remediation established in state law. The MDNS contains mitigation measures to address identified school and road capacity issues. Stormwater would be infiltrated on site. City of Lacey water and sewer would be provided to the lots. The proposed open space would include a playground. The internal roadway would stub in two places to the east to allow for the possibility of future through connections. Sidewalks would be provided within the development and along the property frontage to provide safe walking conditions. As conditioned, the Applicant would work with the school district to establish a school bus waiting area. *Findings 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, and 25.*
2. With conditions of approval, the public use and interest would be served by the subdivision. The density of the development and the site design would comply with the requirements of the MGSA zone. These requirements include a minimum density of three dwelling units per acre. Critical area requirements with respect to Oregon white oak would be satisfied. The site design allows for protection of large stands of Oregon white oaks, and removed oaks would be replaced at a 3:1 ratio. The proposed access through Sunset Hollow is necessary due to intersection spacing requirements. While the access would result in additional traffic within Sunset Hollow, credible evidence in the record supports the conclusion that the plat's additional traffic would not result in degradation of overall intersection level of service. *Findings 3, 4, 5, 6, 7, 8, 10, 12, 13, 23, 24, and 25.*

DECISION

Based on the preceding findings and conclusions, the requests for approval of a preliminary plat to subdivide 12.36 acres into 56 single-family residential lots and open space tracts totaling 2.23 acres is **GRANTED**, subject to the following conditions:

Public Works Conditions:

ROADS

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.

TRAFFIC CONTROL DEVICES

3. 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 & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
4. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.

DRAINAGE

5. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
6. 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.
7. Storm water runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.
8. Because proper landscaping is vital to the performance of the stormwater system, the Landscape Plan (if required) shall be signed/sealed by a WA licensed civil engineer (preferably the engineer who designed the stormwater system).

UTILITIES

9. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
10. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather only items such as restoration of the County right of way and traffic control.
 - a. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
 - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a

minimum of 0.20' of asphalt concrete pavement.

RIGHT-OF-WAY & SURVEY

11. In order to meet the requirements of the Road Standards, additional right of way may be required. The Applicant shall have a legal representative or surveyor prepare a Quit Claim Deed describing the necessary right-of-way, being a strip of land which when added to the existing right-of-way totals 49 feet of right-of-way lying North of and abutting the existing centerline of Mullen Road SE. Upon request, Thurston County's right-of-way representative can prepare the Quit Claim Deed describing the necessary right-of-way dedication. Please contact the Thurston County Right-of-Way section at 360-867-2356.
12. Permanent survey controls need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
13. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 360-867-2378.

TRAFFIC

14. Payment of the off-site traffic mitigation required in the October 10, 2019 mitigated determination of non-significance (Exhibit 1.J) is required prior to final approval in accordance with Section 2.13 of the Thurston County Road Standards. Timing of traffic impact mitigation payments to the other jurisdictions may be altered upon agreement with respective jurisdiction and Thurston County
15. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
16. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the City, shall be designed to the more stringent standards of the two jurisdictions.
17. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
18. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.
19. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is require and the application can be found at:

<http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. Any additional permits and/or approvals shall be the responsibility of the Applicant.

PROJECT SPECIFIC CONDITIONS

20. Once the planning department has issued the official preliminary approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
21. 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 contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at (360) 867-2050 or by e-mail at padillr@co.thurston.wa.us.

FINAL REVIEW

22. 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. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
 - d. Receive and accept Engineer's Construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion Control Manual).
 - e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
 - f. Execute an agreement with financial security for the maintenance and operation of the right-of-way improvements in accordance with Thurston County Code 18.24.010.
 - g. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
 - h. Approve the Final Plat Map.

- i. 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. Complete the right-of-way dedication process.
23. 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 storm water facilities outside the county rights of way are the responsibility of the property owner(s).
- b. Increased storm water runoff from the road(s), building, driveway and parking areas shall be retained on site and shall not be directed to roadway ditches adjacent to Mullen 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. 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 \$832.33 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 storm water system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners' Association as established by covenant recorded under Auditor's file number _____.
- j. The property described herein is required to accommodate storm water runoff from frontage improvements to Mullen Road SE and all natural tributary areas abutting said property.
- k. Maintenance of the required landscaping, trees, sidewalk 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 the said landscaping, trees, sidewalks, or roadside stormwater facilities.

Delineate on the Plat

- k. Provide language on the plat describing the drainage design requirements for runoff from buildings and parking surfaces for individual building lots (drywell design/sizing storm drain connection points, etc.).
- l. Delineate the access restrictions by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of Mullen Road SE on the final plat map.
- m. Please clearly label all public and private roads.

Health Conditions:

- 24. The existing off-site well located to the east must be shown on the final map.
- 25. 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.

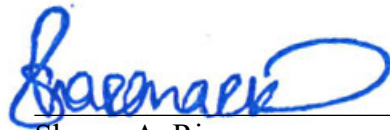
26. The four existing wells located on the property must be properly decommissioned by a licensed well driller per Washington State Department of Ecology standards. Copies of the decommissioning reports must be submitted to this office.
27. The three existing septic systems must be property abandoned per Article IV of the Thurston County Sanitary Code. Abandonment permit applications are required to be submitted with copies of all abandonment documentation from a licensed septic system pumper.
28. The method of distribution of the Integrated Pest Management Plan (IPMP) must be specified. This is typically done by incorporating a copy of the accepted 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.

Planning Conditions:

29. Comply with all conditions of the Final Mitigated Determination of Non-Significance dated October 10, 2019 (Exhibit 1.J).
30. Street addresses, lot size and dimensions for each lot shall be shown on the final map.
31. 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.
32. All open space and landscaping and tree preservation shall comply with:
 - A. New trees on individual residential lots shall be planted at a rate of one (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
 - B. All landscaping shall be planted as shown on the approved landscape plan (Exhibit 1.F) 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. The project shall comply with the recommendations contained in the project Oregon White Oak Habitat Management Plan (Exhibit 1.M1).
 - D. The Oregon white oaks that are required to be planted as mitigation for impacts to existing Oregon white oaks on-site shall be planted prior to final plat approval.
 - E. Prior to final plat approval, the Applicant shall submit a fence plan for the open space areas that are adjacent to the railroad right-of-way. The fencing shall be a minimum of eight feet in height and shall prevent residents within the subdivision from entering the railroad right-of-way.
33. 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 McAllister Springs Geologically Sensitive Area Residential District (MGSA) (TCC 21.10).
 - 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. This plat was reviewed through Thurston County Project Number 2018105798.
34. Prior to final plat approval, the Applicant shall meet with the North Thurston School District personnel to locate an acceptable bus waiting area. The bus waiting area shall consist of a concrete pad. If requested by the School District, a shelter may be added to the bus waiting area. Any shelter required pursuant to this condition shall be located within an open space tract.
35. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED September 15, 2020.



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 **\$1,041.00** 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 \$750.00 for Reconsideration or \$1,041.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Community Planning & Economic Development Department this _____ day of _____, 20___.