



COUNTY COMMISSIONERS

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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2018105800 Wendler RUE
)	
Paul Wendler)	FINDINGS, CONCLUSIONS
)	AND DECISION
For a Reasonable Use Exception)	
_____)	

SUMMARY OF DECISION

The request for a reasonable use exception to construct an access driveway within a wetland and wetland buffer is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Paul Wendler for Picasso Acquisitions LLC (Applicant) requested a reasonable use exception (RUE) to construct an access driveway within a wetland and wetland buffer. The subject property is comprised of two parcels located at 1006 and 1120 143rd Avenue SE, Tenino, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on February 11, 2020.

Testimony

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

Robert Smith, Senior Planner, Thurston County Community Planning & Economic Development Department

Dawn Peebles, Thurston County Environmental Health Division

Arthur Saint, P.E., Thurston County Public Works Department

Paul Wendler, Picasso Acquisitions LLC, Applicant

Charlie Severs, P.E., SCJ Alliance

Christian Fromuth, Aqua Tierra

Kenneth Koernke

Attorney Aaron Wagner represented the Applicant at the hearing.

Exhibits

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

EXHIBIT 1 Development Services Section Community Planning & Economic Development Department (staff) report with the following attachments:

Attachment A Notice of Public Hearing

Attachment B Zoning/Site Map

Attachment C Master Application, received November 14, 2018

Attachment D Reasonable use exception application, received October 11, 2018

Attachment E Generalized Site Plan, received November 14, 2018

Attachment F Detailed Site Plan, received January 15, 2020

Attachment G Complete Application Letter, dated March 29, 2019

Attachment H Notice of Application, dated March 29, 2019

Attachment I Comment Memorandum from Dawn Peebles, Thurston County Public Health and Social Services Department, dated January 21, 2020

Attachment J Comment Letter from the Washington State Department of Ecology, dated November 13, 2018

Attachment K Comment Letter from Jackie Wall, Nisqually Indian Tribe, dated November 5, 2018

Attachment L Public Comments:
1. Sherry Hill, dated April 8, 2019

2. Tom and Wendy Rutledge, dated April 12, 2019
3. Joni Blake, dated April 16, 2019
4. Gaye Mercer, dated April 16, 2019
5. Meryl, Bernstein, dated April 18, 2019

- Attachment M Photograph of Public Hearing Notice sign posted onsite on January 30, 2020
- Attachment N Wetland Delineation and Buffer Rating Report by Agua Tierra Land and Water Services, Inc., dated December 2019
- Attachment O Wetland and Wetland Buffer Mitigation Report by Agua Tierra Land and Water Services, Inc., dated December 12, 2019
- Attachment P Wetland Mitigation Bank Plan by Agua Tierra Land and Water Services, Inc., January 2020

- EXHIBIT 2 Public comments:
- a. Joni Blake, dated February 10, 2020
 - b. Gaye Mercer, dated February 10, 2020
 - c. Meryl Bernstein, dated February 10, 2020
 - d. Justin and Jennifer Bourke, dated February 11, 2020
 - e. Tracy and Robert Lamie, dated February 10, 2020 (2)

EXHIBIT 3 Stopping Site Distance Plan and Table

EXHIBIT 4 Copy of Exhibit 1, Attachment F marked by Applicant at hearing

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

FINDINGS

1. The Applicant requested a reasonable use exception (RUE) to construct an access driveway within a wetland and wetland buffer. The subject property is located at 1006 and 1120 143rd Avenue SE, Tenino, Washington. *Exhibits 1, 1.C, 1.D, 1.E, and 1.F.*
2. The RUE application was submitted on October 11, 2018 and determined to be complete for purposes of commencing project review on March 27, 2019. *Exhibits 1.D and 1.G.*
3. The subject property consists of two adjacent tax parcels that front on 143rd Avenue SE. The western parcel (1006 143rd Avenue SE) is owned by Edward Danzer, and the eastern parcel (1120 143rd Avenue SE) is owned by the Applicant. The Applicant's parcel is developed with a barn structure and has been used to host private events such as weddings. *Exhibits 1 and 4.*

4. The Applicant's parcel has existing access from 143rd Avenue SE via a driveway at the southeast corner of the property, near the developed portion of the site. Topographically, 143rd Avenue SE inclines to the east along the subject property frontage, with the crest of the hill approximately 15 feet east of the subject property. At the current driveway location, vehicles entering and exiting the site are not visible to westbound traffic. The minimum required stopping sight distance applicable to westbound traffic on 143rd Avenue SE (considering six percent downgradient and design speed of 50 miles per hour) is 474 feet. That distance cannot be met along the frontage of the Applicant's property but can be met from the Danzer parcel. Consequently, the Applicant proposes to obtain access to his own parcel through the Danzer parcel via a new driveway built within a legally recorded easement and to abandon site access along his parcel's frontage. Mr. Danzer evidenced his willingness to participate in the requested development on his property by his signature on the application. At the proposed driveway entrance, the sight distance would be 505 feet. *Exhibits 1, 1.D, 3, and 4; Testimony of Robert Smith and Charlie Severs.*
5. The subject property is within the rural portion of the County and zoned Rural Residential Resource – One Dwelling Unit Per Five Acres (RRR 1/5). It is also located within the Agritourism Overlay District (AOD). *Exhibits 1 and 1.B; Robert Smith Testimony.* Pursuant to Thurston County Code (TCC) 20.08G.015, conflicts between the AOD standards and other zoning ordinance standards are to be resolved in favor of the AOD standards. The AOD standards allow “weddings and similar temporary gatherings” involving fewer than 100 individuals per day for up to ten days per year as a matter of right, without need of a land use permit, as long as the primary use of the property is agriculture or an approved winery, brewery, distillery, country inn or approved agritourism operation, and as long as all applicable County regulations that apply to the gathering use are satisfied; these standards include but are not limited to those addressing public health, building, and public works requirements. Safe vehicular access must be provided for all AOD activities. *TCC 20.08G.040(7) and TCC 20.08G.020(4) and (5).*
6. The Applicant's past use of the property for private events was in violation of various County regulations and resulted in issuance of a Notice of Violations. To remedy this, the Applicant has submitted building, fire, septic system, and water system permit applications for County review. However, the County will not issue permits until the Applicant has addressed the safe vehicular access requirement and remedied past violations of the County's critical areas ordinance (CAO). *Exhibit 1; Robert Smith Testimony.*
7. Although the subject RUE application was submitted to address requirements for desired event center use, County Planning Staff submitted that safe access would be needed for any reasonable use of the property, including a residential use. County driveway standards do not distinguish between residential and commercial uses. *Exhibit 1; Arthur Saint Testimony.*
8. Four wetlands have been identified either on or near the subject parcels:

- Wetland A is 15,700 square feet in area and is located on and to the east of the shared property boundary between the subject parcels, north of the proposed driveway corridor. The wetland drains to the west via an excavated drainage ditch. The wetland is in a degraded condition and is currently dominated by non-native reed canary grass and native shrub and sedge species. Wetland A is classified as a Category 4 wetland, with habitat scores requiring a standard buffer of 220 feet, which may be reduced to 165 feet with mitigation. The Applicant proposes to reduce the buffer to 165 feet.
- Wetland B is a high quality wetland located offsite to the north. Wetland B is classified as a Category 2 wetland, with habitat scores requiring a standard buffer of 300 feet or a reduced buffer with mitigation of 225 feet. No buffer reduction is proposed; no portion of the Wetland B buffer would be affected by the proposed driveway construction.
- Wetland C is 7,980 square feet in area and is located on the Danzer parcel, within the path of the proposed driveway. The wetland is in a degraded condition and is dominated by reed canary grass. Wetland C is classified as a Category 4 wetland, with habitat scores requiring a standard buffer of 180 feet and a reduced buffer with mitigation of 135 feet. The Applicant does not propose a buffer reduction.
- Wetland D is west of Wetland C, and only the portion closest to the project area was delineated. In the absence of full delineation, the wetland was presumed for purposes of the driveway construction project to require the County's maximum buffer of 300 feet. While a 300-foot buffer would include a portion of the proposed driveway, all of the affected Wetland D buffer overlaps Wetland C or its buffer.

Exhibit 1.N.

9. A previous owner logged and then replanted the eastern parcel pursuant to a Forest Practices Application issued in December of 2013. The Applicant cleared the seedlings in 2017, which was a violation of the critical areas ordinance due to the wetlands and wetland buffers present in the area. *Exhibits 1 and 1.N.*
10. The proposed driveway would enter the Danzer parcel at the location of an historic driveway entrance (which had been placed on wetland fill) in the vicinity of Wetland C; then it would immediately turn back to the southern property line, following the southern property line east to the developed portion of the Applicant's parcel. The driveway would be 20 feet wide, which is the minimum required to comply with County standards. The proposed alignment would require 1,950 square feet of Wetland C to be filled, but because it utilizes the historic entrance it minimizes the amount of fill required. While an entrance could be established to the east of the proposed location in compliance with sight distance standards (i.e., closer to the Applicant's parcel boundary), such location would result in a larger area of impact to Wetland C. With respect to Wetland A, the driveway would be placed as far south as possible, thereby minimizing buffer impacts.

There would be no direct impacts to Wetlands A, B, or D. *Exhibits 1.O, 1.P, 3 and 4; Testimony of Christian Fromuth, Charlie Severs, and Arthur Saint.*

11. Unavoidable direct impacts to Wetland C would include the fill of 1950 square feet of wetland and, as a result of the fill, the isolation of 761 square feet of wetland. Unavoidable indirect impacts to Wetland C would include the lack of protective buffer between the road fill and the remainder of the wetland. The new wetland edge along the road fill would eventually serve a buffering effect for the interior portion of the wetland and is thus referred to as a “paper buffer” in the Applicant’s mitigation plans. The paper buffer would comprise 1,383 square feet of Wetland C. The total direct and indirect impact area would be 4,094 square feet. *Exhibit 1.P; Christian Fromuth Testimony.*
12. Unavoidable impacts to Wetland C would be mitigated offsite by purchasing credits from a wetland mitigation bank overseen by representatives of the US Army Corps of Engineers (ACOE), US Environmental Protection Agency (EPA), and Washington State Department of Ecology (DOE). Both ACOE and DOE staff requested that the Applicant purchase credits instead of attempt on-site mitigation due to the higher success rate of mitigation bank projects and the availability of credits to purchase. *Exhibit 1.P; Christian Fromuth Testimony.*
13. At the watershed scale, use of the mitigation bank site to mitigate impacts to Wetland C would result in a net gain of wetland functions. The mitigation bank site is larger and of higher quality than Wetland C. In particular, the mitigation bank site provides higher habitat functions than Wetland C, including with respect to species richness, mature woody vegetation, snags and woody debris, and number of hydrologic regimes. The high edge to area ratio of Wetland C limits its possible performance. *Exhibit 1.P.*
14. Unavoidable impacts to wetland buffers resulting from the driveway construction would be mitigated onsite. The Applicant’s mitigation plan addresses both these impacts and impacts to the buffers resulting from prior clearing and construction of facilities associated with the event center use. The driveway would impact 10,055 square feet of wetland buffer (buffers A and C overlap in the area), which impact would be mitigated by increasing the buffers on the north side of Wetland A by 10,055 square feet.¹ With this mitigation, there would be no net loss of buffer. The mitigation location would provide superior habitat due to its location more than 300 feet from the road, lying between the buffers Wetlands A and B. The area is proposed to be planted with a variety of tree and shrub species. *Exhibit 1.O; Christian Fromuth Testimony.*
15. Although a portion of the Danzer parcel is mapped as having soils considered potential habitat for the Mazama pocket gopher, a threatened species under the federal Endangered Species Act, the County’s biologist reviewed the parcel and determined that gopher habitat is not present. No other listed species of wildlife have been identified on site. *Exhibit 1; Christian Fromuth Testimony.*

¹ This would be in addition to the 45,900 square feet of buffer added in the area to mitigate buffer reductions elsewhere on the site as a result of historic activities. *Exhibit 1.P.*

16. The Thurston County Environmental Health Division reviewed the proposal and noted the presence of two wells on the Applicant's parcel. On the Danzer parcel, County records indicate that a mobile home and septic system had previously been located in close proximity to the proposed access point. Environmental Health Staff recommended a condition of RUE approval requiring that, if a septic tank is discovered during construction, it must be abandoned in accordance with Article IV of the Thurston County Sanitary Code. *Exhibit 1.I; Dawn Peebles Testimony.*
17. Notice of the open record hearing was mailed to property owners within 500 feet of the site on January 24, 2020, published in The Olympian on January 31, 2020, and posted on site on January 30, 2020. *Exhibits 1 and 1.A.*
18. Public comment on the application was in opposition to the proposal, with concerns primarily relating to the history of code violations; traffic and noise impacts associated with the event center use; and alleged inconsistency with the requirements of the AOD zoning overlay. Some comments protested that others have been denied approval for relocating their driveways along the same stretch of road. Others questioned whether the proposed driveway would be wide enough to allow emergency vehicle access. Some residents argued that the existing access would be adequate for a single-family residence (while acknowledging poor visibility due to the crest of the hill). One neighboring property owner asked for clarification about the relationship between the Applicant and Picasso Acquisitions LLC, an entity listed on the application. Residents also argued that numerous species of wildlife use the property and expressed concern about stormwater runoff and reduced flood control functions on the site. *Exhibits 1.L and 2; Kenneth Koernke Testimony.*
19. County Public Works Staff responded to public concerns, indicating that 143rd is classified as a collector arterial, which requires a minimum of 300 feet of spacing between access points from either side. At 20 feet in width, the proposed entrance meets all applicable standards. Planning Staff responded noting that the County Code explicitly establishes procedures for correction of code violation through obtaining applicable permits and that the instant project requires correction of prior violations before it may be constructed. Staff also reiterated that any future commercial event center use of the property exceeding the 10 events per year allowed as of right in the AOD overlay would require special use permit review; however, even the allowed 10 events per year are not allowed unless the facilities satisfy applicable building, fire safety, access, public health, and other standards. *Testimony of Arthur Saint and Robert Smith.*
20. In response to public comment, the Applicant noted that there are three existing driveways serving the Danzer parcel on which the proposed access would be placed, and the proposed access location is a previously existing access point that served a former mobile home. The three driveways are more than 300 feet apart, as the parcel is 40 acres in area. Mr. Wendler clarified that he is the owner of Picasso Acquisitions LLC; it is his business. He confirmed that the existing driveway along the east property boundary would be abandoned if this proposal is approved. Regarding flood control, an Applicant

representative testified that the proposed driveway passes over a culvert. Runoff from the proposed driveway would flow through roadside swale into the culvert, which would function to meter runoff and attenuate flooding. He also testified that there are no priority or protected species in or adjacent to the subject parcels. Further the area proposed to be impacted is vegetated with invasive reed canary grass, which has been regularly mowed and provides very poor habitat in the existing condition. *Testimony of Paul Wendler and Christian Fromuth.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for reasonable use exceptions pursuant to TCC 2.06.010(F) and TCC 24.45.030.

Criteria for Review

Pursuant to TCC 24.45.030, the Hearing Examiner shall grant the reasonable use exception if:

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

Conclusions Based on Findings

1. No other reasonable use of the property as a whole is permitted by the critical areas ordinance. The proposal is to create a safe access driveway, which would be needed to serve any reasonable use of the property. Consequently, it is not necessary to evaluate whether the proposed use of the property for events is a reasonable use, or whether there are reasonable alternatives. Any future proposal for events center operation that exceeds the 10 gatherings per year allowed outright in the AOD would require further public land use review processes. *Findings 5, 7, 18, 19, and 20.*
2. No reasonable use with less impact on the critical area or buffer is possible. Access is a necessary element of any use. The proposed driveway corridor reduces impacts to critical areas to the extent possible by utilizing a historic driveway entrance onto the Danzer parcel and by following the southern property line. *Findings 8, 10, and 19.*
3. As conditioned, the requested driveway would not result in damage to other property and would not threaten the public health, safety or welfare on or off the development site, or increase public safety risks on or off the subject property. The existing driveway is a public safety risk, and the change in access location to comply with sight distance standards would reduce or eliminate the risk. A condition of approval has been added requiring the existing driveway to be eliminated. Potential health risks associated with a possible septic system in or near the driveway corridor would be addressed through the condition of approval recommended by the Environmental Health Division. *Findings 4, 16, 18, 19, and 20.*
4. The proposed reasonable use is limited to the minimum encroachment necessary to prevent denial of all reasonable use of the property. Compliance with sight distance standards requires placement of the driveway off site near Wetland C. Due to the number of wetlands on the parcels and the extent of buffer overlap, there does not appear to be any feasible location for a code-compliant driveway off 143rd Avenue that would not encroach on critical areas. The specific alignment selected minimizes the encroachment by utilizing a previously impacted area and by following the southern property boundary. *Findings 4, 8, and 10.*
5. The proposed reasonable use would result in minimal alteration of the critical area. The driveway alignment selected minimizes wetland alteration by utilizing a previously impacted area. Wetland C is in poor condition and does not provide high quality habitat. The Applicant would be required to mitigate direct impacts to Wetland C by contributing to an offsite wetland mitigation bank, where resources spent towards mitigation are expected to result in much greater improvement to habitat watershed-wide than would on site mitigation. Proposed impacts to wetlands and associated buffers would be mitigated consistent with the standards established in the County's critical areas ordinance. *Findings 8 and 10.*
6. With conditions of approval ensuring implementation of the mitigation plan, the proposal ensures no net loss of critical area functions and values. *Findings 11, 12, 13, and 14.*

7. The use would not result in unmitigated adverse impacts to species of concern. *Findings 15 and 20.*
8. The location and scale of existing development is not the sole basis for granting the reasonable use exception. The basis for the reasonable use exception is to establish safe driveway access for any future reasonable use of the property. *Findings 4 and 7.*

DECISION

Based on the preceding findings and conclusions, the request for a reasonable use exception to construct an access driveway within a wetland and wetland buffer at 1006 and 1120 143rd Avenue SE, Tenino, Washington is **GRANTED** subject to the following conditions:

- A. Prior to or in conjunction with the start of any construction, all applicable regulations and requirements of the Thurston County Public Health and Social Services Department, Public Works Department, Fire Marshal and Thurston County Community Planning and Economic Development Department shall be met.
- B. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicant's responsibility to obtain this permit if required.
- C. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, the Washington State Department of Ecology must be notified [Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300].
- D. Prior to construction, the Applicant shall obtain approval of an Encroachment Permit and Construction Permit from the Thurston County Public Works Department.
- E. Wetland fill requires a permit approval from the US Army Corps of Engineers. The Applicant shall secure this permit prior to any construction work within a wetland.
- F. The Applicant shall contact the proper authorities, including the Nisqually Indian Tribe Preservation Officer at (360) 456-5221, if during excavation there are discoveries of archaeological artifacts or human burials.
- G. The Applicant shall complete all mitigation as proposed in the Wetland and Wetland Buffer Mitigation Plan (Agua Tierra Land and Water Services, Inc., revised December 12, 2019).
- H. The Applicant shall provide a surety agreement and bond, in compliance with TCC 24.70, to ensure completion of the proposed five-year monitoring and maintenance portion of the proposed Wetland and Wetland Buffer Mitigation Plan (Agua Tierra Land and Water Services, Inc., dated December 12, 2019).

- I. Fencing and Critical Area signs shall be installed along the reduced wetland buffer, subject to standards of TCC 24.60.
- J. All development on the site shall be in substantial compliance with the approved Reasonable Use Exception application, as conditioned. Any alteration to the proposal will require approval of a new or amended Reasonable Use Exception. The Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
- K. If a septic tank is discovered on Tax Parcel No. 12611430200 during construction of the access road it must be properly abandoned per Article IV of the Thurston County Sanitary Code.

DECIDED February 25, 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 **\$1,051.00** 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 \$1,020.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Community Planning & Economic Development Department this _____ day of _____ 20___.