



COUNTY COMMISSIONERS

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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. 2019102075 Weaver RUE
)	
Larry Weaver)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For a Reasonable Use Exception)	
_____)	

SUMMARY OF DECISION

The request for a reasonable use exception to construct a single-family residence, septic system and driveway within a wetland and stream buffer is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Larry Weaver (Applicant) requested a reasonable use exception (RUE) to construct a single-family residence, septic system, and driveway within a wetland and stream buffer. The reduced buffer for the wetland and stream would be 60 feet in width at the narrowest point. The subject property is located at 16700 Sargent Road SW, Rochester, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual 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. No timely post-hearing public comment was submitted, and the record closed on August 27, 2020.

Testimony

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

Jackson Ewing, Assistant Planner
Arthur Saint, Thurston County Public Works
Dawn Peebles, Thurston County Environmental Health Division
Alex Callender, Applicant Representative
Larry Weaver, Applicant

Exhibits

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

- Exhibit 1 Community Planning and Economic Development Report including the following attachments:
- A. Notice of Public Hearing
 - B. Master Application, received May 6, 2019
 - C. Reasonable Use Exception application, received May 6, 2019
 - D. Site plan, Figure 3, Reasonable Use Buffer and Habitat Mitigation Plan, Land Services Northwest, accepted by Thurston County April 24, 2020
 - E. Critical Area report, Envirovector, received May 6, 2019
 - F. Reasonable Use Buffer and Habitat Mitigation Plan, Land Services Northwest, accepted by Thurston County April 24, 2020
 - G. Non-Platted Survey (NPS-0018), Auditor File Number 1093471
 - H. Notice of Application, dated June 19, 2019
 - I. Comment Memorandum from Amy Crass, Thurston County Public Health and Social Services Department, dated July 2, 2019
 - J. Comment letters from Washington State Department of Ecology, dated May 28, 2019 and July 9, 2019
 - K. Comment letters from the Nisqually Indian Tribe, dated May 31, 2019 and June 24, 2019
 - L. Email from Rhonda Foster, Squaxin Island Tribe, dated May 14, 2019

Based on the record developed through 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 a single-family residence, septic system, and driveway within a wetland and stream buffer. The wetland buffer would be reduced from 160 feet to a minimum of 50 feet. The subject property is located at 16700 Sargent Road SW, Rochester, Washington¹. *Exhibits 1, 1.B, and 1.C.*
2. The RUE application was submitted on May 6, 2019 and determined to be complete for purposes of commencing project review on June 3, 2019. *Exhibit 1.H.*
3. The 5.12- acre subject property is essentially a rectangle to the east of Sargent Road SW, with the long sides running north-south, located in a densely forested area south of the Black River and Littlerock Road SW. It is accessed by an easement along its southern boundary. It is Lot 11 of a non-platted survey (NPS-00018) known as Scatter Creek North recorded under Auditor's File Number 1092471 in 1979. The subject property is densely forested. Surrounding parcels were also created by NPS-00018 and are developed with single-family residential uses. There is a Thurston County waste transfer station abutting the subject parcel's northern boundary. *Exhibits 1, 1.F, Figure 2, and 1.G; Larry Weaver Testimony.*
4. The subject property is in unincorporated Thurston County and is zoned Residential Resource – One Dwelling Unit Per Five Acres (RRR 1/5). Primary permitted uses in the RRR 1/5 zone include single-family residences and accessory uses and structures in conjunction with the primary use and agriculture. *Thurston County Code (TCC) 20.09A.020.* At 5.2 acres, the subject property conforms to current RRR 1/5 minimum lot area standard for residential development, which requires a minimum of five acres for single-family residential lots. The RRR 1/5 zone requires setbacks of 20 feet in front and five feet from side and rear lot lines for structures greater than 200 square feet in area. *Exhibit 1; TCC 20.09A.050; TCC 20.07.030.* The subject property is located in an area designated by the Thurston County Comprehensive Plan as Rural Residential Resource – One Dwelling Unit Per Five Acres (RRR 1/5). This designation is intended to allow for rural housing and resource uses at a density not to exceed one dwelling unit per five acres. *Exhibit 1; Thurston County Comprehensive Plan, Chapter 2 – Land Use.*
5. The subject property is essentially bisected north to south by an unnamed fish-bearing stream, which in turn is encompassed by an associated wetland, running north-south through the center of the parcel; the stream channel is less than five feet wide. The stream and wetland were evaluated, delineated, and categorized by a professional wetland biologist on behalf of the Applicant. *Exhibit 1.E, see Figure 4.* Pursuant to the Thurston County critical areas ordinance (CAO), a 150-foot wide no disturb riparian habitat buffer is required for the stream. *TCC 24.25.020, Table 24.25-1.* The wetland is a Category II with a habitat score of eight resulting in a rating of HHM under the Washington State Wetland Rating System for Western Washington, 2014. The CAO requires a 280-foot buffer for this type of wetland. *TCC 24.30.045, Table 24.30-1.* The required wetland

¹ The legal description of the subject property is a 27-16-3W L11 Scatter Cr North Sur 12/4 AKA L11 NPS-0018; also known as Tax Parcel No. 13627241100. *Exhibit 1.*

and stream buffers encumber the entire site. *Exhibit 1.E, Figure 6.* The Applicant's critical areas consultant also identified 43 Oregon White Oak trees (*Quercus garryana*), which species is a regulated Important Habitat and Species pursuant to the CAO. *TCC 24.25.065.B(4); Exhibit 1.E.*

6. The subject property is underlain by soils identified by the Washington State Department of Fish and Wildlife (WDFW) and the US Fish and Wildlife Service (USFWS) as soils that provide habitat for prairie species including the Mazama pocket gopher; the pocket gopher is a State priority species, a regulated CAO important species, and listed as threatened under the federal Endangered Species Act. However, after site inspection by County Staff and a biologist, it was determined that there were no protected gophers on site and that no further review for Mazama Pocket Gophers or Prairie habitat was required for the proposed development. *Exhibit 1.*
7. For existing legal lots of record on which strict application of the CAO would prohibit development, the existing nonconforming uses, structures, and lots provisions in TCC Chapter 24.50 apply. Pursuant to these regulations, TCC 24.50.060 would allow a development area of 3,500 square feet located in the outer 25% of a standard critical area buffer through a critical area review permit process. These provisions cannot be applied where the entire property is encumbered by buffers, because then there is insufficient area (zero) on site in the outer 25% of the buffer. Therefore, the only procedure available for development of the subject property is the reasonable use exception. *Exhibits 1 and 1.D; TCC Chapter 24.45.*
8. The Applicant proposes to build a single-family residence in the southwest corner of the site, near the parcel's frontage on the established access easement. The approximately 3,500 square foot building envelope would include 800 to 1,200 square feet of driveway, and 2,700 square feet of other building area to include the residential footprint and residential landscaping/yard area. A well and septic system would be located outside of the development envelope, with the septic system set as far from the edge of the critical area as possible. A total of 9,695 square feet of clearing would be required to accommodate the residence, driveway, septic system, and 15-foot building setback. The proposed development envelope would provide a 60-foot setback from stream/wetland edge. In designing the project, the Applicant placed the development close to the access easement to reduce impervious surface area, which requires sandwiching the residence between the stream and the close growing Oregon white oaks in the southwest corner of the site. The Applicant proposes to construct a wood fence along the 60-foot reduced buffer edge to provide permanent demarcation and protection for the retained buffer on-site. The fence would run the entire length of the property south to north; however, the Applicant does not propose landscaping or any other use of the eastern stripe of property north of the septic field. As he noted in his testimony, it backs up to the County solid waste transfer station, and it is unlikely that future residents would want to engage in too many activities too close to that facility. The proposed location of the development envelope would require removal of five trees, one Douglas fir and four Oregon white oaks. In order to minimize impacts to the Oregon white oaks and keep the development within a 3,500 square foot envelope, the proposal includes reduction of the required 15-

foot building setback down to four feet at its narrowest location. Stormwater runoff from the roof of the proposed residence would be directed to dry wells and then infiltrated. *Exhibits 1, 1.C, 1.D, 1.F, and 1.E, Figure 7; Larry Weaver Testimony.*

9. The submitted application materials included a critical area study that delineated and categorized the stream and wetland on site. The critical area study was prepared by a qualified professional and was accepted by Thurston County Community Planning and Economic Development Department (CPED, Planning) as satisfying the CAO requirement for assessment. *Exhibit 1.E.* In addition, the Applicant submitted a buffer and habitat mitigation plan prepared by a qualified professional. The mitigation plan calls for replacing the removed trees at a 3:1 ratio, the removal of invasive species (English ivy, Himalayan blackberry, and holly) from approximately 79,795 square feet of the wetland buffer, and replanting of 20,260 square feet of the outer half of the retained 60-foot wetland buffer with native species. Proposed mitigation includes a lighting plan that would direct residential lighting away from the retained critical area buffer. Silt fencing would be installed prior to construction to protect the critical areas from construction runoff. The mitigation is intended to result in a more effective and resilient buffer over the existing condition, and would improve structure, diversity, and habitat screening. The Applicant's consultant submitted that the proposed mitigation would result in no net loss of buffer ecological functions; to the contrary, it would create an overall enhancement of wetland and stream buffer functions, increasing shading over the stream, which would improve fish habitat. *Exhibit 1.F; Alex Callender Testimony.*
10. On questioning, the Applicant indicated that the design intentionally placed the residence closer to the access easement to reduce driveway length and the extent of required utility trenching. Although it might be possible to remove fewer oaks if the home were farther from the access, these other impacts would outweigh the benefit of retaining those four trees. The reason those four oaks must be removed, even though they are outside the development footprint, is because all four lean into the development envelope. They will be replaced in kind in the retained buffer area on site. *Testimony of Larry Weaver and Alex Callender.*
11. Planning Staff submitted that the proposed development appears to be located as far away from the stream and wetland as possible, while balancing impacts to the Oregon white oak stand in the southwestern portion of the site. Staff determined there is no location for development onsite that would reduce impacts farther than the proposed location. *Exhibit 1; Jackson Ewing Testimony.*
12. County Planning Staff reviewed the proposed mitigation plan and submitted that it satisfies County requirements for critical areas review. Staff agreed that the Applicant's critical areas submittals demonstrate that the proposal would result in no net loss of critical area functions and values. *Exhibit 1; Jackson Ewing Testimony.*
13. Planning Staff submitted that the proposal would be consistent with the applicable goals and policies of the County's Comprehensive Plan, both in that it is consistent with the Comprehensive Plan land use designation and also with the goals and policies of the

Plan's Chapter 9, Natural Environment addressing preservation of water quality and natural features. *Exhibit 1; Thurston County Comprehensive Plan, Chapter 9, Surface Water Goal, Objective 1, Policies 1, 2, 3, and 8.*

14. The reasonable use exception application was submitted to Thurston County for review on May 6, 2019. *Exhibits 1.B and 1.C.* Notice of the application was issued by the Planning Department on June 19, 2019. *Exhibit 1.H.*
15. Notice of the open record hearing was mailed to property owners within 500 feet of the site on August 7, 2020 and published in *The Olympian* on August 14, 2020. Notice was not posted on site due to the shelter in place order from the Governor, under which County Staff was working primarily remotely from home and was directed not to post notice. No public comment was received. *Exhibits 1 and 1.A; Jackson Ewing Testimony.*
16. The Environmental Health section of Thurston County Public Health and Social Services Department reviewed and approved the project for compliance of health codes. Noting that the well is existing, that no current septic design has yet been approved, and that site soils have not yet been evaluated, Environmental Health Staff recommended approval. *Exhibit 1.I; Dawn Peebles Testimony.*
17. The Development Review Division section of Thurston County Public Works Department reviewed the project and raised no objection or concerns about approval. *Arthur Saint Testimony.*
18. Washington State Department of Ecology submitted comment relating to water quality standards and water resources with recommendations for measures to take if toxic materials are discovered during construction. *Exhibit 1.J.*
19. The Nisqually Indian Tribe requested an archaeological survey by a qualified archaeologist be done prior to any ground disturbing activities on the site. The Squaxin Island Tribe submitted comment indicating they had no specific cultural concerns related to the subject property, but also indicating that if the Washington State Department of Archaeology and Historic Preservation (DAHP) requested a cultural resources survey be completed, they would second/join in the DHAP request. *Exhibits 1.K and 1.L.*
20. At hearing, after reviewing all information offered in the record by all parties, Planning Staff recommended approval of the RUE subject to the conditions in the staff report. *Jackson Ewing Testimony; Exhibit 1.* The Applicant waived objection to the recommended conditions. *Larry Weaver Testimony.*

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. The County's critical areas ordinance establishes a "reasonable use" exception to the requirements of the ordinance which may be available when adherence to the provisions of this title would deny all reasonable use of the subject property as a whole. A reasonable use exception can only be granted if no other reasonable alternative method of development is allowed under the code. *TCC 24.45.010*. Applicants cannot obtain approval of reasonable use exceptions if their inability to derive reasonable use is the result of a self-created hardship, such as subdividing the property, adjusting a boundary line, or other actions creating the undevelopable condition of the parcel. *TCC 24.45.020*. Unless otherwise prohibited by this chapter, any property owner may apply for a reasonable use exception to carry out a use or activity not permitted by this title, including development on a parcel wholly encumbered by critical areas and associated buffers, on legally created lots, including but not limited to lots created through subdivisions, short subdivisions, large lot subdivisions, binding site plans, and other legal property divisions. *TCC 24.45.025*. To obtain reasonable use exception approval, an applicant must satisfy the criteria for RUE approval at TCC 24.45.030.

2. Based on the record submitted, single-family residential use is the only identified reasonable use of the property considering its size and zoning and the residential development of surrounding parcels. *Findings 3 and 4.*
3. No reasonable use with less impact on the critical area or buffer is possible. The proposed development area is in the southwest corner of the property in a location that maximizes the distance between the development area and the wetland and stream, while also minimizing impacts to the Oregon white oaks along the site's western boundary. The proposed development envelope is a reasonable size considering the size of the parcel and the character of surrounding development. The proposed location of the residence allows reduction in the extent of necessary clearing, paving, and utility trenching. *Findings 5, 7, 8, 9, 10, and 11.*
4. As conditioned, the requested development would not result in damage to other property and would not threaten the public health, safety, or welfare on or off the development site, or increase public safety risks on or off the property. Runoff from the new impervious surfaces would be required to be managed consistent with the County's Drainage Design and Erosion Control Manual. The mitigation plan includes erosion control during construction. The septic design would be subject to review by the Environmental Health Division. The location of the property and the proposed residence upon it would have minimal impact to views from surrounding parcels. The eastern two-thirds to three quarters of the property would remain permanently undeveloped behind a fence provided with critical area signage. No direct impacts to the critical areas are proposed, and with implementation of the proposed mitigation plan, the project would appear to provide greater wetland and stream buffer functions over the existing condition. *Findings 5, 8, 9, 10, 11, 12, and 20.*
5. As described in Conclusion 3, the proposed reasonable use is limited to the minimum encroachment necessary to prevent denial of all reasonable use of the property. *Findings 5, 7, 8, 9, 10, and 11.*
6. The proposed reasonable use would result in minimal alteration of the critical area. Again, no direct impacts to the wetland or stream are proposed. The buffer reduction was minimized by intentional placement of the development footprint in the southwest corner of the property as close to the access point as possible. Unavoidable impacts would be mitigated through enhancement plantings and tree replacement planting on site. *Findings 5, 7, 8, 9, 10, 11, and 12.*
7. With conditions of approval ensuring implementation of the mitigation plan, the proposal ensures no net loss of critical area functions and values. As proposed, the mitigation plan would improve the overall function of the buffer over the existing condition by increasing shading over the stream (benefitting fish habitat) and improving the structure and diversity of vegetation within the retained buffer. *Findings 8, 9, 10, 11, 12, and 20.*

8. As conditioned, the use would not result in unmitigated adverse impacts to species of concern. No *Mazama* pocket gophers or other prairie species of concern were identified on-site except for the Oregon white oak stand. The removal of these protected oak trees was minimized to the extent possible. Moving the development envelope to avoid oak removal would result in far greater amounts of paving and utility trenching, which would increase impacts to the fish-bearing stream and associated wetland. Conditioned to require implementation of the proposed mitigation plan, the project minimizes and mitigates for unavoidable impacts to the Oregon white oak. *Findings 8, 9, 10, 11, 12, 13, and 20.*
9. The location and scale of existing development is not the basis for granting the reasonable use exception. The RUE is needed because the critical area buffers encumber the entire site. *Findings 5 and 7.*

DECISION

Based on the preceding findings and conclusions, the request for a reasonable use exception to allow construction of a single-family residence, septic system, and driveway within a wetland and stream buffer, retaining a minimum 60-foot undisturbed critical area buffer, at 16700 Sargent Road SW, Rochester, Washington is **GRANTED**, subject to the following conditions:

1. Prior to or in conjunction with the issuance of any building permit, 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.
2. Prior to building permit issuance, erosion control shall be installed and inspected by Thurston Community Planning and Economic Development Department staff. Erosion and storm water controls, i.e. silt fencing and/or straw waddles must be installed landward of the reduced buffer such that uncontrolled storm water cannot reach the adjacent streams and wetlands.
3. Prior to building permit issuance, a cultural resources survey shall be completed and submitted electronically for review and approval to the Thurston County Community Planning and Economic Development Department at jackson.ewing@co.thurston.wa.us. A copy of the Cultural Resources Survey shall also be submitted in electronic format to the following agencies for review:

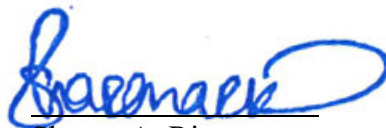
Nisqually Indian Tribe
Attn: Brad Beach, THPO
Beach.brad@nisqually-nsn.gov

and

Washington State Department of Archaeology and Historic Preservation
Attn: Gretchen Kaehler
Gretchen.kaehler@dahp.wa.gov

4. The Applicant shall stop work and contact the proper authorities, including the Nisqually Tribe Cultural Resources Preservation Officer, Brad Beach, the Squaxin Tribe, Chehalis Tribe, Thurston County Community Planning and Economic Development Department, and Washington State Department of Archeology and Historic Preservation (DAHP) if during excavation there are discoveries of archaeological artifacts or human burials.
5. 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.
6. 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.
7. The Applicant shall complete all buffer mitigation as proposed in the Reasonable Use Buffer and Habitat Mitigation Plan, prepared by Land Services Northwest (Exhibit 1.F), accepted by Thurston County on April 24, 2020.
8. The Applicant shall provide a surety agreement and bond, in compliance with TCC 24.70, to ensure the proposed 5-year monitoring and maintenance portion of the proposed Reasonable Use Buffer and Habitat Mitigation Plan is completed successfully.
9. On April 8, 2014, the U.S. Fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject parcel contains the soil type considered potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
10. Fencing and Critical Area signs shall be installed along the reduced buffer edge, subject to standards of TCC 24.60.
11. 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.

DECIDED September 11, 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___.