



COUNTY COMMISSIONERS

Carolina Mejia-Barahona  
District One

Gary Edwards  
District Two

Tye Menser  
District Three

**HEARING EXAMINER**

*Creating Solutions for Our Future*

**BEFORE THE HEARING EXAMINER  
FOR THURSTON COUNTY**

In the Matter of the Application of	)	NO. 2018103676
	)	
<b>Nicolas Garcia</b>	)	<b>Garcia Dock</b>
	)	
For Approval of a Shoreline Substantial	)	
Development Permit and a Shoreline	)	FINDINGS, CONCLUSIONS,
Variance	)	AND DECISIONS
_____	)	

**SUMMARY OF DECISIONS**

The requested shoreline substantial development permit and shoreline variance to approve a previously constructed recreational dock on Lake St. Clair are **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Nicolas and Doreen Garcia (Applicants) requested a shoreline substantial development permit (SSDP) and a shoreline variance to approve a previously constructed recreational dock on Lake St. Clair. The subject property is located 5411 Peninsula Drive, Olympia, Washington.

**Hearing Date:**

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on February 23, 2021. The record was held open until February 25, 2021 to allow any members of the public having difficulty joining the virtual hearing to submit written comments, with time scheduled for responses from the parties. No post-hearing public comment was submitted and the record closed on February 25, 2021.

**Testimony:**

At the hearing the following individuals presented testimony under oath:

- Heather Tschaekofske, Associate Planner/Biologist, Thurston County
- Nicolas Garcia, Applicant
- Doreen Garcia, 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, dated February 12, 2021
  - B. Zoning/Site Map
  - C. Master Application for Shoreline Substantial Development, received July 2, 2018
  - D. JARPA Application, received July 2, 2018
  - E. Site plan, received July 2, 2018
  - F. Master Application for Variance, received October 15, 2019
  - G. JARPA Application for Variance, received October 15, 2019
  - H. Variance Narrative, received August 10, 2019
  - I. Medical Testimony, received February 23, 2020
  - J. Original Dock Plans, undated
  - K. Revised dock plans with pictures, received February 24, 2020 (updated January 25, 2021)
  - L. Notice of Applications, dated September 12, 2018 and January 23, 2020
  - M. Determination of Non-Significance (Folder 18 108797 XA), issued on February 27, 2020
  - N. Comment Memorandum from Jeremy Baarsma, Thurston County Public Health & Social Services Department, dated October 19, 2018
  - O. Comment Letter from Jackie Wall of the Nisqually Indian Tribe, dated July 16, 2018
  - P. Comment email from Shaun Dinubilo of the Squaxin Island Tribe, dated November 18, 2019
  - Q. Comment Letters from Washington State Department of Ecology, dated July 27, 2018, and October 2, 2018

Based on the record developed at hearing, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

## FINDINGS

1. Nicolas Garcia (Applicant) requested a shoreline substantial development permit (SSDP) and a shoreline variance to approve a previously constructed recreational dock on Lake St. Clair. The subject property is located 5411 Peninsula Drive, Olympia, Washington.<sup>1</sup> *Exhibits 1, 1.C, 1.D, 1.F, 1.G, and 1.H.*
2. The subject property is on the north shore of Lake St. Clair. The Shoreline Master Program for the Thurston Region (SMPTR) designates the subject shoreline as Rural shoreline environment. *Exhibit 1.* Boating facilities including docks are allowed in the Rural shoreline environment subject to the standards contained in the SMPTR. *Exhibit 1; SMPTR, Section 3, Chapter IV(D).* The subject dock requires an SSDP because the value (\$15,000) exceeds the exemption limit of \$10,000 set forth in Washington Administrative Code (WAC) 173-27-040(2)(h)(ii)(B)<sup>2</sup> and a shoreline variance because the dimensions exceed the allowances of the SMPTR. *Exhibits 1, 1.B, and 1.D; WAC 173-27-040.*
3. The subject property is 4.58 acres in area, with approximately 1.75 acres upland of the shoreline, and is zoned McAllister Geologically Sensitive Area (MGSA). The property is developed with a single-family residence, built in 2002, and a recreational dock, which was constructed without shoreline permits in approximately 2004. The Shoreline Master Program for the Thurston Region become effective on May 15, 1990. *Exhibits 1, 1.B, and 1.E.*
4. For docks on freshwater lakes, the SMPTR limits the dock length to the average of surrounding docks within 100 feet of the property lines (with 50 feet ascribed to a side lacking a dock, if there is a dock on one side but not the other), or to 50 feet if there are no docks within 100 feet. In this case there are two approximately 70-foot long docks to the north of the subject property, but because those docks were constructed without required permits, the County does not include them in the calculation. As there are no permitted docks within 100 feet of the property lines, the 50-foot limit applies. The subject dock is 66 feet long, including a fixed platform at the shoreline, a gangway, two floating dock segments, and a tee float at the end. *Exhibits 1, 1.J (photos), and 1.K; SMPTR, Section 3, Chapter IV(C)(20).*
5. Lake St. Clair is used for recreational activities including speed boating, swimming, inner tubing, and fishing. Along the subject shoreline Lake St. Clair is shallow, particularly during late summer and fall, and the lakebed contains large woody debris that protrudes several feet from the lake bottom. The 16 feet of additional dock length was needed to provide sufficient depth for the safety of swimmers and for moorage of speed boats. It has also had the effect of moving recreational activities farther from shoreline vegetation

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<sup>1</sup> The legal description of the subject property is a portion of Section 31, Township 18 North, Range 1 East, Quarter NW NE Plat Thompson's Lake St Clair BLA-1528 TR A Document 015/639; also known as Tax Parcel Number 79402400000. *Exhibits 1 and 1.A.*

<sup>2</sup> Although WAC 173-27-040(2)(h)(ii)(A) contains a higher exemption limit for certain replacement docks, no evidence was submitted that the criteria for the exemption are satisfied in this case.

and the quality habitat provided by the large woody debris. Fish congregate under the dock. *Exhibits 1 and 1.H; Heather Tschaekofske Testimony.*

6. The length of the subject dock does not conflict with navigation. The dock is within a cove, away from normal boating activities, and the distance between the dock and the opposite shore is approximately 500 feet. *Exhibits 1, 1.E, and 1.H.*
7. The SMPTR limits the width of recreational docks to eight feet. The raised platform at the shoreline is approximately ten feet wide. This is designed as a safety feature to accommodate one owner's medical condition and to address a slope at the approach to the dock. The remainder of the dock is approximately six feet wide. *Exhibits 1, 1.I, and 1.K; SMPTR, Section 3, Chapter IV(C)(19).*
8. The SMPTR requires the span between pilings for docks to be eight feet or greater. The subject dock is supported by 3.5-inch diameter galvanized steel pin pilings. These are intended to keep the dock from twisting during recreational activities that create large waves. The pilings are spaced 14 feet apart on each major deck segment, but between the deck segments the distance between the pilings is approximately 6.5 feet. Planning staff recommended that this distance be approved through the variance process, as the pilings support the construction already in place and have been used safely to date. *Exhibits 1 and 1.K; Nicolas Garcia Testimony; SMPTR, Section 3, Chapter IV(C)(23).*
9. The SMPTR limits the area of floats on freshwater docks to 200 square feet. The tee float at the end of the subject dock complies with this standard. *Exhibits 1 and 1.K; SMPTR, Section 3, Chapter IV(C)(21).*
10. The SMPTR requires that docks on freshwater lakes be set back at least 10 feet from the side property line. The subject dock, which is set back approximately 75 feet from the nearest property line, meets this requirement. *Exhibits 1 and 1.E; SMPTR, Section 3, Chapter IV(C)(22).*
11. The SMPTR requires docks to be painted, marked with reflectors or otherwise identified to prevent hazardous conditions for water surface users. The subject dock does not contain these features, but the Applicant did not object to a condition of approval requiring them. *Exhibit 1; Nicolas Garcia Testimony.*
12. The dock does not extend over public lands. *Exhibit 1.H; Nicolas Garcia Testimony.*
13. The dock also requires hydraulic project approval (HPA) from the Washington Department of Fish and Wildlife, which means the dock would need to comply with any conditions of HPA approval. Review through this state process would address protection of aquatic resources. *Exhibit 1.*

14. The Thurston County Environmental Health Division reviewed the permit request and did not identify any issues of concern. *Exhibit 1.N.*<sup>3</sup>
15. Notice of the public hearing was mailed to all property owners within 500 feet of the site on February 5, 2021 and published in The Olympian on February 12, 2021. There was no public comment on the application. *Exhibits 1 and 1.A.* At the conclusion of the hearing, County Staff maintained their recommendation for approval of the requested shoreline permits. *Heather Tschaekofske Testimony.* The Applicant waived objection to the recommended conditions. *Testimony of Nicolas Garcia and Doreen Garcia.*

## CONCLUSIONS

### **Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to RCW Chapter 36.70, WAC 173-27, and Section One, Part V of the Shoreline Master Program for the Thurston Region.

### **Criteria for Review**

#### *Shoreline Substantial Development Permit (WAC 173-27-150)*

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

#### *A. Shoreline Management Act*

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the

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<sup>3</sup> The undersigned takes note that Environmental Health Division and Public Works representatives attended the hearing and were available in case questions, but did not feel the need to offer any testimony.

public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

*B. Applicable regulations from the Washington Administrative Code*

WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

*C. Shoreline Master Program for the Thurston Region*

The Shoreline Master Program for the Thurston Region designates the shoreline jurisdiction on the subject property as Rural. Docks, piers, and floats are covered in the “Boating Facilities” chapter, Section Three, Chapter IV, and are allowed subject to standards contained in the specific regulations of the chapter and a permit review process.

SMPTR Section Three, Chapter IV, Part B. Policies

*Piers and Docks:*

12. Pier and docks should be designed and located to minimize obstructions to scenic views, and conflicts with recreational boaters and fishermen.
13. Cooperative uses of piers, docks and floats are favored especially in new subdivisions.
14. Moorage buoys are preferred over piers and docks especially in tidal waters.

SMPTR Section Three, Chapter IV, Part C. General Regulations

*Piers and Docks:*

13. [N/A]
14. All pier and dock development shall be painted, marked with reflectors or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.
15. Docks and piers are prohibited on lakes or marine water bodies where the distance to the opposite shore is one hundred fifty (150) feet or less. This is to insure the maintenance of navigation.
16. [N/A]
17. [N/A]
18. [N/A]
19. The width of recreational docks or piers shall not exceed eight (8) feet.
20. In fresh water areas, new docks shall not exceed the average length of the existing docks within one hundred (100) feet of the property lines. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be fifty (50) feet. If there are no docks within one hundred (100) feet, the length shall not exceed fifty (50) feet as measured from the ordinary high water mark.
21. At the terminus of a dock or pier, a float is normally attached for purposes of a landing and for moorage of watercraft. These floats may either be parallel to the dock or pier, or form a tee. The float cannot exceed four hundred (400) gross square feet for a piling dock/pier in tidal waters, two hundred fifty (250) gross square feet for a floating dock/pier on tidal water, and two hundred (200) gross square feet for docks/piers on fresh water. The total length of the dock/pier with an attached float cannot exceed the total length allowed under General Regulations #17 and #20.
22. Docks and piers shall be set back ten (10) feet on fresh and twenty (20) feet on tidal water from the side property line. These setbacks may be waived if two single-family property owners wish to construct a joint pier on the common property line under the following conditions: a. Both property owners must record a non-exclusive easement granting each other the right to use the pier. b. The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.
23. Span between pilings for piers or docks on pilings shall be eight (8) feet or greater.

SMPTR Section Three, Chapter IV, Part D. Environmental Designations and Regulations

2. Rural Environment. Marinas, boat ramps, piers, docks, boathouses, mooring buoys, recreational floats and marine railways are permitted subject to the Policies and General Regulations.

#### SMPTR Section Two, Chapter V. REGIONAL CRITERIA

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.
- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.
- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

#### Shoreline Variance (WAC 173-27-170)



For the variance to be approved by the Hearing Examiner, the following criteria must be satisfied:

1. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
  
2. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
  - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
  - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
  - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  - e. That the variance requested is the minimum necessary to afford relief; and
  - f. That the public interest will suffer no substantial detrimental effect.
  
3. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
  - b. That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and

- c. That the public rights of navigation and use of the shorelines will not be adversely affected.
4. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
5. Variances from the use regulations of the master program are prohibited

### **Conclusions Based on Findings**

#### *A. Shoreline Substantial Development Permit*

1. Approval of the existing dock is consistent with the policies and procedures of the Shoreline Management Act. The subject dock allows for water-based recreational activities that are consistent with the character of the lake. The nearshore habitat has been preserved. *Finding 5.*
2. Approval of the existing dock is consistent with the applicable regulations in the Washington Administrative Code. The dock has a low profile and does not obstruct any views. *Finding 4.*
3. As conditioned and with approval of the variance, the existing dock is consistent with the applicable Boating Facilities policies and regulations of the Shoreline Master Program for the Thurston Region. The dock does not affect scenic views or conflict with recreational boaters or fishermen. The distance to the opposite shore exceeds 150 feet. The area of the tee float does not exceed 200 square feet, and the float is included in the overall dock length of 66 feet that is the subject of the variance application. The side setback standard is met on the subject property. The conditions of approval address the requirement for reflectors or other markings, and the variance addresses the dock length and width, and the narrow piling placement. *Findings 4, 5, 6, 7, 8, 9, 10, and 11.*
4. As conditioned, the existing dock is consistent with the applicable regional criteria. The dock design has preserved nearshore aquatic habitat. The required HPA process would include further review of, and mitigation for any, aquatic impacts. There has been no impact on public use of the shoreline. The subject shoreline has not been identified as having unique aesthetic, scenic, historic or ecological qualities, and the subject dock appears to be appropriate for the area. No public health issues were identified during the review process. *Findings 5, 6, 12, 13, 14, and 15.*

#### *B. Shoreline Variance*

1. Denying the variance would thwart the policy of RCW 90.58.020 to increase recreational opportunities in the shoreline. The Applicant has shown extraordinary circumstances in support of the variance, and there has been no detrimental effect on the public as a result of the dock as constructed. *Findings 4, 5, 6, 7, and 8.*

2. Strict application of the standards set forth in the SMPTR would preclude reasonable use of the property, given the recreational character of the lake. The additional dock length is needed on the subject shoreline due to the shallow water depth and the presence of large woody debris. The additional dock width, which is limited to the platform at the shoreline, was needed as a safety measure based at least in part on the slope of the upland area along the shoreline. The pilings as placed support the structure as built. *Findings 4, 5, 7, and 8.*
3. The hardship supporting the variance relates to natural features along the shoreline and in the lakebed. *Findings 5 and 7.*
4. The design of the dock is compatible with other authorized uses in the area (as well as the adjacent, similarly sized unpermitted docks) and, as conditioned, would not cause adverse impacts to the shoreline environment. *Findings 4, 5, and 13.*
5. The variance would not constitute a grant of special privilege, as the dock dimensions were needed to provide for the Applicant's recreational use of the lake and they do not differ significantly from the existing docks in the area. *Findings 4, 5, 7, and 8.*
6. The variance requested is the minimum necessary to afford relief. *Findings 5, 7, and 8.*
7. The public interest would suffer no substantial detrimental effect as a result of the variance. The dock has been in place since approximately 2004. The conditions of approval would ensure that reflectors or other markers are added for safety. *Findings 3 and 11.*
8. Public rights of navigation and use of the shoreline would not be adversely affected. *Findings 6 and 12.*
9. The cumulative impact of similar requests is not expected to be contrary to the policies of the Shoreline Management Act, in that the recreational use is encouraged by the Act, and significant adverse impacts to the shoreline have not been shown. *Findings 5 and 6.*
10. The requested variance is not from a use regulation. Docks are allowed in the Rural shoreline environment. *Finding 2.*

## **DECISIONS**

Based on the preceding findings and conclusions, the requested shoreline substantial development permit and shoreline variance to approve a previously constructed dock on Lake St. Clair are **GRANTED** subject to the following conditions:

1. The dock shall be painted, marked with reflectors or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.

2. A hydraulic project approval (HPA) is required from the Washington State Department of Fish and Wildlife. It is the Applicants' responsibility to obtain and comply with the requirements of this permit.
3. The instant County approvals are subject to final approval of the shoreline variance by the Washington State Department of Ecology.

Decided March 10, 2021.



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Sharon A. Rice  
Thurston County Hearing Examiner

**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 **\$777.00** for a Request for Reconsideration or **\$1,054.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development Center on the second floor of Building #1 in the Thurston County Courthouse complex no later than 4:00 p.m. per the requirements specified in A2 and B2 above. **Postmarks are not acceptable.** If your application fee and completed application form is not timely filed, you will be unable to request Reconsideration or Appeal this determination. The deadline will not be extended.

\* Shoreline Permit decisions are not final until a 21-day appeal period to the state has elapsed following the date the County decision becomes final.



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

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

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

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

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

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

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

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

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

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

**STANDING**

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

Signature required for both Reconsideration and Appeal Requests

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

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

Address \_\_\_\_\_

\_\_\_\_\_  
Phone \_\_\_\_\_

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

Fee of  \$777.00 for Reconsideration or \$1,054.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Filed with the Community Planning & Economic Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.