



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. 2021101031
)	
)	
John Brannan)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For Reasonable Use Exception)	
_____)	

SUMMARY OF DECISION

The request for a reasonable use exception to construct a single-family residence, driveway, utilities, well, and septic system within a frequently flooded area is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

John Brannan (Applicant) requested a reasonable use exception to construct a single-family residence, driveway, utilities, well, and septic system within a frequently flooded area associated with the Nisqually River. The subject property is located at 230 Conine Street SE, in unincorporated Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on July 13, 2021. The record was held open until July 15, 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 comments were submitted, and the record closed on July 15, 2021.

Testimony

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

Heather Tschaekofske, Associate Planner/Biologist, Thurston County Community Planning & Economic Development Department

Dawn Peebles, Environmental Health Specialist, Thurston County

Tim Rupert, Plans Examiner/Floodplain Manager, Thurston County

John Brannan, Applicant

Tia Milette, neighbor

Exhibits

At the open record public 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 July 2, 2021
- B. Zoning Vicinity Map
- C. 100 and 500 Year Flood Map
- D. 1996 Flood of Record Map
- E. Shoreline Jurisdiction Map
- F. Master Application, received March 4, 2021, revised March 17, 2021
- G. Reasonable use exception application, received March 4, 2021, revised March 17, 2021
- H. Site plan, received March 4, 2021
- I. Driveway proposal site plan, received March 4, 2021, revised May 10, 2021
- J. Habitat Assessment and Habitat Management Plan, dated February 23, 2021
- K. Driveway addendum, submitted May 10, 2021
- L. Driveway specifications, dated June 8, 2021
- M. RUE project summary, dated June 9, 2021
- N. Notice of applications, dated April 29, 2021
- O. Comment memorandum from Arthur Saint, Thurston County Public Works Department, dated April 20, 2021
- P. Comment memorandum from Amy Crass, Thurston County Public Health & Social Services Department, dated March 16, 2021
- Q. Comment letter from Brad Beach of the Nisqually Indian Tribe, dated March 16, 2021

- R. Comment emails from Shaun Dinubilo of the Squaxin Island Tribe, dated March 16, 2021 and May 3, 2021
- S. Public comment emails from Judy Lynn, dated May 19, 2021, and June 15, 2021
- T. Applicant response to public comments, submitted via email June 14, 2021

Based on the record developed through the open record public hearing process, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

1. John Brannan (Applicant) requested a reasonable use exception (RUE) to construct a single-family residence, driveway, utilities, well, and septic system within a frequently flooded area associated with the Nisqually River. The subject property is located at 230 Conine Street SE, Olympia, Washington.¹ *Exhibits 1, 1.F, 1G, and 1.H.*
2. The application was submitted on March 4, 2021 and revised on March 17, 2021. The County determined the application to be complete for purposes of commencing project review on April 1, 2021. *Exhibits 1, 1.F, and 1.N.*
3. The subject property is zoned Rural Residential One Dwelling Unit per Five Acres (RR 1/5). *Exhibits 1 and 1.B.* Primary permitted uses in the RR 1/5 zone include single-family and two-family residences and agriculture (including forest practices). *Thurston County Code (TCC) 20.09.020.*
4. The subject property is 3.96 acres in area and is considered a legal lot under the criteria of TCC 18.04.045. The only development on the property is a 576 square foot shed, which would be removed. Conine Street runs along the west property boundary and the Nisqually River along the east property boundary. *Exhibits 1, 1.D, and 1.K.*
5. Land uses in the immediate vicinity of the subject property are single-family residential on parcels zoned RR 1/5. Larger parcels in the area not immediately adjacent to the subject property contain agricultural or resource and light industrial uses. *Exhibit 1; Heather Tschaekofske Testimony.*
6. Frequently flooded areas are critical areas that are regulated under the Thurston County critical areas ordinance (CAO). The CAO defines “frequently flooded areas” as follows:

... lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year or areas within the highest known recorded flood elevation, or within areas subject to flooding due to high ground water. This includes all areas within unincorporated Thurston County identified on flood insurance rate maps prepared by the Federal Insurance Administration, as

¹ The legal description of the subject property is: Section 08 Township 18 Range 1E Quarter SE NE Donation Land Claim PACKWOOD #37 DLC BLA-1397 TR A Document 016/083. *Exhibit 1.*

supplemented by "The Flood Insurance Study for Thurston County," dated November 17, 1980, as amended.... Frequently flooded areas may include special flood hazard areas as defined in Chapter 14.38 TCC or high ground water flood hazard areas ... or may overlap with other critical areas, such as streams, rivers, lakes, coastal areas, and wetlands.

TCC 24.03.010.

7. Although only the western and eastern portions of the property are within the FEMA-regulated 100-year floodplain of the Nisqually River (the remainder is designated 500-year floodplain), the entire parcel is within the highest known recorded flood elevation, which flooded in 1996 and is designated a special flood hazard area (SFHA). Because TCC 24.20.135 prohibits residences within frequently flooded areas unless allowed under the CAO or other applicable sections of the Thurston County Code, a RUE is required for the proposed development. *Exhibits 1, 1.C, 1.D, and 1J; Heather Tschaekofske Testimony; TCC 24.20.135.*
8. The Applicant proposes to construct the residence, septic system, and well within the central and north-central portions of the property, outside of the 100-year floodplain. Only the proposed gravel driveway connecting to Conine Street would be constructed within the 100-year floodplain. This proposed intrusion is unavoidable because the 100-year floodplain includes Conine Street and the entire western edge of the subject property. Impervious surfaces proposed would total 8,345 square feet (approximately 4.8% of the total site area), with approximately 4,000 square feet within the 100-year floodplain and the remaining 4,345 within the 500-year floodplain.² The existing 576 square foot shed would be removed, resulting in a net new 7,769 square feet of impervious surface on the 3.96 acre site. No trees would need to be removed for the development. Consistent with TCC 24.20.130, the proposed septic system would not be located within a 100-year channel migration hazard area. *Exhibits 1, 1.C, 1.G, 1.H, and 1.J.*
9. The proposed driveway route is flat and does not contain trees. The driveway would be 12 feet wide, including shoulders, and approximately 150 feet long. The proposal calls for the minimum driveway width required to comply with Thurston County Public Works Department standards, which is 10 feet wide with one foot gravel shoulders on either side. The depth of gravel would be 12 inches, and the final grade would match existing ground level. Utilities including electric service would be installed in a trench along the driveway. Materials excavated for gravel placement would be removed and disposed of at the local landfill or approved disposal site. Groundwater and/or flood flow would not be adversely affected by placement of the driveway. *Exhibits 1, 1.H, 1.I, 1.J, 1.L, 1.M, and 1.O; Testimony of John Brannan and Tim Rupert.*

² These figures are from the flood assessment and habitat management plan at Exhibit 1.J. Of note, the site plan at Exhibit 1.H states smaller figures of 2,500 square feet for the driveway and 3,000 square feet for the residence, for total of 5,500 square feet impervious surface. Approval is based on the larger number.

10. Pursuant to the County's critical areas ordinance, the Nisqually River is a Type S stream requiring a riparian habitat buffer of 250 feet from the ordinary high water mark. No proposed development would occur within the required riparian habitat area. The development envelope is as far west (away from the river) as possible without intruding into the 100-year floodplain. The CAO does not require buffers from the edge of the 100-year floodplain. *Exhibits 1, 1.H, and 1.J.*
11. The Nisqually River is a Shoreline of the State pursuant to the Shoreline Management Act. All development within the regulated shoreline is subject to the requirements of the Shoreline Master Program for the Thurston Region (SMPTR). The subject property contains two shoreline designations – Rural and Conservancy, although the majority of the property is designated Rural. The SMPTR requires a minimum lot area of 20,000 square feet and lot width of 100 feet for residential development within the Rural designation, and a minimum lot area of 40,000 square feet and width of 100 feet for residential development within the Conservancy designation. The subject parcel meets both the Rural and Conservancy dimensional standards. All proposed development would occur within the portion of the property designated Rural shoreline environment. Compliance with the building setback standards of the Rural environment would be reviewed during building permit review. A shoreline substantial development permit is not required for the project because the construction of a single-family residence is exempt pursuant to Washington Administrative Code (WAC) 173-27-040(2)(g). *Exhibits 1, 1.E, and 1.H.*
12. The project was evaluated for potential impacts to the habitats of species listed under the Endangered Species Act, and it was determined that neither direct nor indirect permanent impacts would occur. There are no critical habitats within the development area, no modifications to water bodies are proposed, and no woody debris would be removed. Erosion control best management practices would be implemented on the site to prevent sediment and pollutants from entering surface waters. *Exhibit 1.J.*
13. As mitigation for adding impervious surfaces to the special flood hazard area, the Applicant proposes to restore native vegetation within a 16,690 square foot portion of the site. A minimum of 830 native plants would be installed within the riparian habitat area of the Nisqually River. *Exhibit 1.J.*
14. The Thurston County Environmental Health Division (EHD) reviewed and approved the proposed septic system design. EHD Staff confirmed that the locations of the septic system, residence, and well depicted on the reasonable use exception application site plan match the approved septic design. Environmental Health also approved the proposed well site. EHD Staff submitted that the project meets the requirements of the Thurston County Sanitary Code and recommended approval with conditions including a requirement of the County floodplain manager that the septic system be made as watertight as possible, and that above-grade alarms, switches, and electrical equipment be elevated at least two feet above base flood elevation. *Exhibits 1 and 1.P; Dawn Peebles Testimony.*

15. The Nisqually Indian Tribe and the Squaxin Island Tribe submitted comments indicating that they have no issues of concern; however, both requested to be notified if there are any inadvertent discoveries of archaeological resources or human burials. This request was incorporated into the recommended conditions of permit approval. *Exhibits 1, 1.Q, and 1.R.*
16. The proposal is exempt from review under the State Environmental Policy Act pursuant to TCC 17.09.055.B, which exempts the construction of up to four residential structures outside of the urban growth area. *Exhibit 1; TCC 17.09.055.*
17. Notice of the open record hearing was mailed to owners of property within 500 feet of the site on June 24, 2021 and was published in The Olympian on July 2, 2021. *Exhibits 1 and 1.A.*
18. In public comment on the application, a neighbor related information regarding the extent of flooding during a recent flood in February of 2020 and expressed concern regarding the potential for increased flood hazard as a result of the proposal. *Exhibit 1.S.* Although the neighborhood did flood in 2020, the proposed building site did not flood. *Exhibit 1.T; Tia Miclette Testimony.* At hearing, the County's floodplain manager testified in response to the written public comment that the proposed development would not change the site's topography or existing water flow patterns, and he confirmed that no fill would be used. The residence would be elevated and include flood vents to prevent water displacement. Consequently, the project is not expected to increase flood risk on adjacent properties. *Tim Rupert Testimony.*
19. Having heard all testimony, County Planning Staff maintained the recommendation for approval of the project subject to conditions. *Heather Tschaekofske Testimony.* The Applicant waived objection to the recommended conditions. *John Brannan Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for reasonable use exception 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.

Additional Applicable Ordinances:

TCC 24.20.080 Frequently Flooded Areas – General Standards

The following requirements apply, as applicable, to all uses and activities listed in TCC Table 24.20- 1.

- A. Applications to undertake a use or activity within frequently flooded areas or a 100-year channel migration hazard area shall contain all information necessary to evaluate the proposed activity, its impacts, its compliance with the applicable provisions of this chapter and Chapter 14.38 TCC, Development in Flood Hazard Areas.
- B. All development in frequently flooded areas and one-hundred-year channel migration hazard areas shall be designed to avoid habitat degradation, consistent with Chapter 24.25 TCC, Fish and Wildlife Habitat Conservation Areas.
- C. Development in frequently flooded areas shall be designed so it does not increase flood hazards, except as provided for in this section and Chapter 14.38 TCC.
- D. The approval authority shall deny proposed developments and uses if it is determined that they would require structural flood hazard reduction measures including, but not limited to, channeling the floodway or creating a new impact upstream or downstream at the time of construction/implementation or anytime thereafter, except as provided for in Chapter 24.25 TCC.
- E. Excavation and development shall be prohibited in the one-hundred-year floodplain of Type S and F streams if the approval authority determines that it would cause significant dewatering of the hyporheic zone (the saturated zone

located beneath and adjacent to streams with subsurface flow between surface water and the water table), block ground water flow or significantly inhibit recharge of the hyporheic zone. The approval authority may require the applicant to submit data as necessary to determine if excavation, soil compaction, or impervious surfaces associated with the project would cause significant, detrimental disruption to the ground water system.

- F. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside of frequently flooded areas or usages permitted within such areas will not be subject to flooding or flood damage. This chapter shall not create liability on the part of Thurston County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

TCC 24.20.130 Frequently Flood Areas – New on-site sewage disposal systems

- A. New on-site sewage disposal systems shall be located outside the one-hundred-year floodplain, floodway, coastal high hazard areas, and high ground water flood hazard areas, including the no development and restricted development zones. This may require systems that provide a higher level of sewage treatment. The sewage disposal system shall be located as far from the frequently flooded area as possible. Also see Article IV, the Rules and Regulations of the Thurston County Board of Health Governing Disposal of Sewage, and WAC 173-160-171.
- B. New on-site sewage disposal systems shall be located outside the one-hundred-year channel migration hazard area, except as provided in Chapter 24.50 TCC. This may require systems that provide a higher level of sewage treatment. The sewage disposal system shall be located as far from the frequently flooded area as possible. Also see Article IV, the Rules and Regulations of the Thurston County Board of Health Governing Disposal of Sewage, and WAC 173-160-171.
- C. Failing on-site sewage disposal systems ...

TCC 24.20.135 Frequently Flood Areas – Residential- Single Family Home

- A. Residential and accessory structures, and typical residential-scale activities are prohibited, except as allowed under Chapters 24.50 and 24.55 TCC, this chapter, and other applicable sections of the Thurston County Code and Thurston County Sanitary Code. Onsite septic systems, including those associated with residential uses, are addressed in TCC Section 24.20.130. Gardens for personal consumption are permitted as consistent with Table 24.20-1.
- B. Use and storage of hazardous materials at typical residential scale are allowed

for legally approved residential uses, subject to applicable sections of the Thurston County Code and Thurston County Sanitary Code.

Conclusions Based on Findings

1. No other reasonable use of the residentially zoned parcel as a whole is permitted by the critical areas ordinance. Single-family residential use is the only reasonable use of the property considering the area and zoning of the property and surrounding land uses. *Findings 3, 4, and 5.*
2. No reasonable use with less impact on the critical area or buffer is possible. The special flood hazard area encumbers the entire parcel. The proposal minimizes critical area impacts by placing the house, septic system, and well outside of the riparian habitat area and 100-year floodplain of the Nisqually River. Although the driveway would cross the 100-year floodplain, such impact is unavoidable if any development of the property is to occur. Less than 5% of the site would be covered with impervious surfaces. *Findings 7, 8, 9, 10, and 19.*
3. As conditioned, the requested development would not result in damage to other property and would not threaten the public health, safety, or welfare, or increase public safety risks, on or off the subject property. The conditions of approval incorporate the recommendations of the County Floodplain Manager with respect to required home elevation and foundation design. Based on the best available science underpinning County and Federal flood regulations, the residence as proposed and conditioned would not displace floodwater so as to increase flood risk on adjacent properties. The driveway would be constructed at current grade. Construction debris would be removed from the site. The proposed septic system would comply with the Thurston County Sanitary Code and the standards of TCC 24.20.130. The Environmental Health Division reviewed the project and did not identify any issues of concern. *Findings 8, 9, 14, 18, and 19.*
4. The proposed reasonable use is limited to the minimum encroachment necessary to prevent denial of all reasonable use of the property. The entire parcel is designated a frequently flooded area; however, proposed encroachment is minimized in that the house, septic system, and well would be located outside of the 100-year floodplain and the riparian habitat area. The driveway, which is the only portion of the development that would encroach into the 100-year floodplain, would be the minimum width needed to comply with Public Works standards. More than 95% of the site would remain in vegetation and/or natural conditions. *Findings 6, 7, 8, 9, 10, and 19.*
5. The proposed reasonable use would result in minimal alteration of the critical area. No trees would need to be removed for the proposed construction. No fill would be placed within the floodplain. No critical habitat would be impacted. No development would occur within the 250-foot riparian habitat area. More than 95% of the site would remain in vegetation and/or natural conditions. *Findings 8, 9, 10, 12, 18, and 19.*
6. As conditioned, the proposal ensures no net loss of critical area functions and values. The residence would comply with floodplain construction standards to avoid

displacement of floodwater. The driveway would be constructed at existing grade. The addition of impervious surfaces would be mitigated at a 2:1 ratio through the proposed planting plan, going above and beyond mitigation required for the proposed development. *Findings 9, 13, and 18.*

7. The use would not result in unmitigated adverse impacts to species of concern. *Finding 12.*
8. The location and scale of existing development is not the sole basis for granting the reasonable use exception. The reasonable use exception is needed because the entire parcel is within the 1996 flood of record, and such designation precludes residential development of the property. *Finding 7.*

DECISION

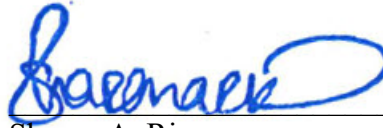
Based on the preceding findings and conclusions, the request for a reasonable use exception to construct a single-family residence, driveway, utilities, well, and septic system within a frequently flooded area at 230 Conine Street SE is **GRANTED** subject to the following conditions:

1. Prior to or in conjunction with the issuance of any building or construction permits, all applicable regulations and requirements of the Thurston County Public Health and Social Services department, Public Works Department, Fire Marshall, and Thurston County Community Planning and Economic Development Department shall be met.
2. The Applicant is responsible for compliance with other jurisdictional permitting requirements.
3. Plans and specifications for the construction of the home must meet the requirements of TCC 14.38.050 for buildings within the special flood hazard area (SFHA). The bottom of the floor joists must be two feet above the base flood elevation. The engineered plans submitted must be designed to prevent floatation, collapse, lateral movement and designed for flood velocity if required by site conditions.
4. An elevation certificate must be completed by a licensed surveyor and must be filed with Thurston County Development Services. The Applicant shall submit four color photographs of the front, rear, left side, and right side; see A6 of Flood Elevation Certificate. If the concrete or CMU wall is greater than foot feet in height, the crawl space elevation must be at the same elevation as the exterior grade elevation (see Fig 8 on the elevation certificate) or it is considered a below grade floor (see fig 2a).
5. The elevation certificate must be reviewed and approved by the Thurston County Flood Plain Manager. Certificates and elevation details are available at the Thurston County Permit Assistance Center.

6. A minimum of two flood openings having a total area of not less than one square inch for every square foot are required.
7. All electrical, heating, ventilation, plumbing, and air-conditioning equipment, and other service facilities, shall be designed and/or otherwise elevated two feet above the base flood elevation or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
8. Septic systems must be made as watertight as possible. All above-grade alarms, switches, and electrical equipment must be elevated two feet above the Base Flood Elevation. This must be verified by the Septic Designer before final approval of the septic system as-built.
9. The minimum driveway allowed is a 10-foot surface with a one-foot shoulder on both sides to allow emergency vehicles to access.
10. Mitigation and mitigation monitoring are required per the Habitat Assessment and Habitat Management Plan, dated February 23, 2021. Mitigation shall be implemented through the residential building permit process.
11. Critical area signage shall be required along the 250-foot riparian habitat area boundary for the Nisqually River, as a condition of final building permit issuance.
12. The area of property mapped as Shoreline Jurisdiction has a maximum impervious surface coverage allowance of 30%. The property has a maximum impervious surface coverage allowance of 10% per zoning criteria. The instant approval requires compliance with the more restrictive standard, meaning development of the subject property is limited to 10% impervious surface coverage.
13. The Applicant shall remove all construction related debris to an approved site (landfill or recycling center) outside of subject property. No fill is allowed on site.
14. 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.
15. Best management practices (BMPs) such as completing work during the dry season and maintaining proper working order of equipment, as well as temporary erosion and sediment control (TESC) methods including silt fencing and/or coir logs, shall be implemented. All disturbed areas shall be promptly backfilled and reseeded following installation, and TESC measures shall remain in place until site conditions are restored.
16. The Applicant must comply with all requirements of state and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on site during development. In the event of inadvertent disturbance or alteration, the Applicant must

immediately stop work and contact the Community Planning and Economic Development Department, the Nisqually Indian Tribe, the Squaxin Island Tribe, and the State Department of Archaeology and Historic Preservation.

DECIDED July 26, 2021.



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 **\$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.



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 \$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___.