



COUNTY COMMISSIONERS

Carolina Mejia-Barahona  
District One

Gary Edwards  
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. 2021102255
	)	
<b>Jim Meyer</b>	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
	)	
For a Reasonable Use Exception	)	
_____	)	

**SUMMARY OF DECISION**

The request for a reasonable use exception to replace a single-family residence within a landslide hazard buffer, marine bluff hazard area buffer, and marine and freshwater riparian habitat buffers<sup>1</sup> is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request**

Jim Meyer (Applicant) requested a reasonable use exception (RUE) to replace an existing single-family residence with a new single-family residence within the same footprint with a 128 square foot addition to the north side of the residence on an existing lawn. The proposed building envelope is located within a landslide hazard area buffer, marine bluff hazard buffer, and marine and freshwater riparian habitat buffers. The subject property is located at 7841 Kerbaugh Road NE, Olympia, Washington.

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<sup>1</sup> Although the freshwater riparian habitat buffer was not described in the project materials and staff analysis, it is appropriate to include within the scope of this decision because the stream was identified in the materials, and the project area was described as a Fish and Wildlife Habitat Conservation Area, a designation which includes both freshwater and marine riparian habitats. *Exhibits 1 and 1.E.*

## **Hearing Date**

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on January 11, 2022. The record was held open through January 13, 2022 to allow members of the public who experienced technical or access obstacles to joining the virtual hearing to submit written comments, with time scheduled for responses by the parties. No post-hearing comments were submitted, and the record closed on January 13, 2022.

## **Testimony**

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

Scott McCormick, Associate Planner, Thurston County  
Dawn Peebles, Senior Environmental Health Specialist, Thurston County  
Jim Meyer, Applicant  
Tony Kantas, Applicant Representative

## **Exhibits**

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

- Exhibit 1      Thurston County Community Planning and Economic Development Department Staff Report including the following attachments:
- A. Notice of Public Hearing
  - B. Zoning/Vicinity Map
  - C. Master Application, received May 5, 2021
  - D. Reasonable Use Exception application received May 5, 2021
  - E. Revised Narrative, dated November 27, 2021, with Applicant's response to codes (undated)
  - F. Revised Site Plan, received November 23, 2021
  - G. Geotechnical Investigation and Marine Bluff Assessment, dated August 9, 2021 prepared by Insight Geologic Inc., with Geotech Addendum, dated November 17, 2021
  - H. Pictures of Site
  - I. Notice of application (revised), dated December 10, 2021 with adjacent property owners list, dated June 30, 2021
  - J. Approval memo from Thurston County Environmental Health, dated December 14, 2021

- K. Hearing Examiner decision for adjacent parcel to the north for Reasonable Use Exception 2015103999
- L. Comments from the Squaxin Tribe, dated May 26, 2021
- M. Comments from the Nisqually Tribe dated July 12, 2021
- N. Comments from Olympic Region Clear Air Agency (ORCAA), dated May 20, 2021

Exhibit 2 Certified Sewage Site Plan, by James Hunger, stamped August 12, 2021

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

### FINDINGS

1. Jim Meyer (Applicant) requested a reasonable use exception (RUE) to replace an existing single-family residence with a new single-family residence within the same footprint adding only a 128 square foot addition to the north side of the residence. The proposed building envelope is located within a landslide hazard area buffer, marine bluff buffer, and marine and freshwater riparian habitat buffers. The subject property is located at 7841 Kerbaugh Road NE, Olympia, Washington. *Exhibits 1, 1.C, 1.D, and 1.E.*
2. The RUE application was submitted on May 5, 2021 and determined to be complete for the purpose of commencing project review on June 3, 2021. *Exhibit 1.I.*
3. The subject property is 6.54 acres in area and is developed with the following: a single-family residence built in the 1930s with a footprint of 896 square feet; a detached garage, which was constructed around 1954; a six-foot high concrete bulkhead, which was constructed in the 1950s; a 384 square foot tool shed, which was constructed in 1978; a three-bedroom septic system; and a single-family well. The parcel is bordered by Henderson Inlet to the west and Kerbaugh Road NE to the east. The structures on site, along with the well and septic system, are clustered in the western portion of the parcel near the top of the marine bluff. A walking trail and staircase lead down to the beach. The residence has been inhabited since its construction in the 1930s and it has been in the Applicant’s family’s ownership since 1958. *Exhibits 1, 1.E, 1.F, and 1.H; Scott McCormick Testimony.*
4. The entire parcel slopes down from Kerbaugh Road towards Henderson Inlet, with the elevation of the road at approximately 208 feet and the elevation of the residence at approximately 48 feet. The steepest slopes are in the western portion of the parcel, except for the relatively flat homesite. From the contour map provided on page 4 of the narrative (Exhibit 1.E), it appears that the eastern third of the parcel may have less than a 10% slope. *Exhibit 1.E.* The project’s geotechnical consultant characterizes the upland portion of the site as “gently to moderately sloped.” *Exhibit 1.G, page 2.*

5. The parcel is predominantly wooded, with lawn areas and landscaping surrounding the homesite. Although site-specific species information was not submitted, a RUE decision issued for development on an adjacent wooded parcel (Case No. 2015103999) included a finding that, based on Washington State Department of Fish and Wildlife Priority Habitats and Species mapping, the area provides habitat for the little brown myotis and Yuma myotis bat species. The proposed 128 square foot expansion of the residence would cover a portion of the lawn area and not affect wooded areas. *Exhibits 1, 1.E, 1.F, 1.G, 1.H, and 1.K.*
6. The subject property is zoned Residential LAMIRD One Dwelling Unit per Two Acres (RL 1/2). Primary permitted uses in the zone include single-family and two-family residences, agriculture, and home occupations. *Exhibits 1 and 1.B; Thurston County Code (TCC) 20.10A.020.*
7. Adjacent shoreline parcels to the north and south of the subject property are also zoned RL 1/2. The parcel to the north contains a single-family residence and the parcel to the south is undeveloped. *Exhibit 1.*
8. The Shoreline Master Program for the Thurston Region designates the subject shoreline as a Conservancy environment. Single-family residential development is allowed in the Conservancy environment subject to the development standards contained in the SMPTR. In relevant part, these standards require a minimum 100-foot setback from the ordinary high water mark in the Conservancy environment. While the SMPTR contains provisions relating to nonconforming structures, no specific evidence was presented as to the proposal's compliance with these provisions.<sup>2</sup> The existing residence is set back 66 feet from the ordinary high water mark. *Exhibits 1, 1.E, and 1.F.*
9. For marine shorelines with a Conservancy designation, the Thurston County critical areas ordinance (CAO) requires a marine riparian habitat area of 250 feet in width as measured from the ordinary high water mark (OHWM), or from the top of the bank if the OHWM cannot be identified. *TCC 24.25.050.* When the riparian habitat area contains a landslide hazard area, the riparian habitat area must be increased to coincide with the landslide hazard area buffer at the top of the slope. *TCC 24.25.050.C; TCC 24.25.030.A.* A marine riparian habitat area must be retained in its existing condition unless explicitly authorized by the CAO. *TCC 24.25.050.*
10. Based on the results of a geotechnical investigation and marine bluff assessment, the marine bluff on the subject property is classified as both a marine bluff hazard area (TCC 24.03.010) and a landslide hazard area (TCC 24.03.010) because the bluff face exceeds

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<sup>2</sup> See Section One, Subsection E of the SMPTR for regulations on nonconforming structures. The regulations appear to allow for alteration or expansion of a nonconforming structure if certain criteria are satisfied, based on review by the administrator or other decision-making body, and allow for reconstruction of a nonconforming structure if less than 50 percent is destroyed by fire or other disaster. *SMPTR, pages 11-13.* County staff did not comment on the applicability of these provisions.

15 feet in height, is mapped as unstable, and has an inclination greater than 40%. The bluff is 42 feet in height and has an inclination of up to 75% to the west of the residence. The bluff face does not show evidence of slope failure, and the probability of future slope failure is relatively low, with the mechanism of slope failure consisting of shallow sloughing of surficial soil. *Exhibit 1.G.*

11. The buffering requirement for landslide hazard areas and marine bluff hazard areas is the greater of (1) 50 feet from the toe and top of slope, or (2) the distance measured from the toe of slope (or ordinary high water mark, for marine bluffs) upward at a slope of 2:1 horizontal to vertical to a point that intersects with the existing topography of the site. The Applicant and County Staff submitted that the slopes and 2:1 buffer combined encumber the entire parcel.<sup>3</sup> The existing residence is set back approximately 25 feet from the top of the marine bluff, and 66 feet from the ordinary high water mark. *Exhibits 1, 1.E, and 2.F.*
12. The licensed engineering geologist who prepared the geotechnical investigation submitted that the proposed development, including the proposed four-foot wide expansion on the north side of the residence (parallel to the slope with no reduction in the existing setback), is unlikely to increase the risk of slope failure. The footings of the residence would be underpinned to support the bluff side of the structure should a failure occur. The geologist recommended the following: that the base of the footings for the residence be set back from the top of the slope a distance equal to or greater than the existing building footprint; that all stormwater drainage, foundation drainage, and road runoff be routed through tightlines to the base of the slope or to an engineered stormwater system; and that low-growing vegetation be encouraged on and within 10 feet of the slope face to reduce erosion and increase soil strength. *Exhibit 1.G.*
13. In addition to the geologic hazards on the site, there is a 12-inch wide drainage channel that carries runoff downslope from the upper portion of the property towards Henderson Inlet that is approximately 14 feet south of the existing residence (opposite side from the proposed expansion). This drainage is not fish-bearing but is regulated as a stream under the CAO. The CAO provides for freshwater riparian habitat areas (i.e., stream buffers) ranging from 100 to 250 feet depending on stream type and other factors. Although details regarding stream typing and required buffers were not provided, it is clear from the materials submitted that the project would occur wholly within the regulated stream buffer even if the narrowest buffer were to be applied. The drainage channel is well-vegetated on both sides, and the Applicant proposes to follow best management practices during construction to avoid impacts to water quality. In addition, as mitigation for the proposed 128 square feet of building addition, the Applicant proposes to plant 256 square

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<sup>3</sup> The undersigned was unable to identify independent evidence to support this assertion by the parties. The geotechnical report does not say this, although it is possible the consultant did not evaluate entire site. Neither the Applicant materials nor County analysis articulate where hazard areas end and buffers start on any site plan or graphic. The geotechnical report only delineated the marine bluff face as hazard and did not delineate the 2:1 buffer, but only the 50-foot buffer. Neither the Applicant nor Staff state whether the landslide hazard extends beyond the area delineated by the Geotech consultant. The undersigned presumes they are asserting that the 2:1 buffer encumbers the entire property.

feet of native shoreline vegetation on the south side of the residence adjacent to the drainage channel, using species identified as appropriate by the Washington Department of Ecology. *Exhibit 1.E; Testimony of Scott McCormick and Tony Kantas.*

14. The CAO allows for the alteration and expansion of nonconforming structures within critical areas without a RUE, but the scope of work in this case does not meet the criteria of TCC 24.50.020 or the definition of “alteration” set forth in TCC 24.03. The cost would exceed 50% of the value of the house, and expansion into the buffer is not a type of expansion that is allowed. The modest expansion is proposed to modernize the house consistent with current building codes. *Exhibit 1.E; Tony Kantas Testimony.*
15. Based on a certified sewage site plan (CSSP) prepared by a licensed sewage system designer, the existing septic system on site is sized for a three-bedroom residence and provides for a reserve drainfield. The Thurston County Environmental Health Division (EHD) reviewed the application materials and the CSSP and recommended approval of the project, but noted in its review memorandum that EHD would verify that all required setbacks from septic system and well components are met at the time of building permit application. Staff also submitted that extreme caution must be taken during construction to prevent vehicle or equipment travel over water lines, septic system components, and drainfield areas. *Exhibits 1.E, 1.J, and 2; Dawn Peebles Testimony.*
16. The construction of a single-family residence and accessory structures is exempt from review under the State Environmental Policy Act. *Exhibit 1; TCC 17.09.055; WAC 197-11-800.*
17. The Olympic Region Clean Air Agency (ORCAA) submitted comments on the application, which identified requirements for an asbestos survey. This requirement was incorporated into the County’s recommended conditions of RUE approval. *Exhibits 1 and 1.N.*
18. The Nisqually Indian Tribe historic preservation officer submitted comments that the tribe had no concerns so long as the project stayed within the existing residence’s footprint. *Exhibit 1.M.* The Squaxin Island Tribe submitted comments indicating the tribe had no specific cultural resources concerns for the proposal, but still requested to be notified in the event that any cultural or archeological resources are uncovered during site work, and that work halt until such discoveries are reviewed by tribal and state archeologists. *Exhibit 1.L.* The Applicant representative expressed doubt that any resources would be discovered in the minimal 128 square foot residential expansion. Planning Staff noted that the County has a standard inadvertent discovery plan [IDP] that could be provided to the Applicant at no charge, and implementation of the County’s IDP does not require the Applicant to have an archeologist onsite during construction unless resources are uncovered. *Testimony of Tony Kantas and Scott McCormick.*
19. Notice of the open record hearing was mailed to property owners within 500 feet of the subject property and was published in *The Olympian* on December 31, 2021. There was

no public comment submitted on the application up to and including the open record hearing. *Exhibits I and I.A; Scott McCormick Testimony.*

20. In support of the application, the Applicant cited an RUE issued to replace a residence on the adjacent parcel, which is also on a marine bluff and encumbered by landslide hazards and a marine riparian habitat area. In that case, the approval allowed replacement of an existing residence with a larger residence a minimum of 100 feet from the Conservancy shoreline. *Exhibits I.E and I.K.* The Applicant noted the analysis of the 2017 RUE that replacing the residence with one in the same vicinity instead of a location further upland was less impactful on critical areas and would avoid removing mature vegetation that provides valuable habitat. *Exhibit I.E.*
21. Having heard all testimony at hearing, Planning Staff maintained their recommendation for approval of the RUE subject to the conditions in the staff report. *Exhibit I; Scott McCormick Testimony.* The Applicant waived objection to the recommended conditions. *Tony Kantas 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. No other reasonable use of the property as a whole is permitted by the critical areas ordinance. Based on the current and historic usage of the subject property, the use of the adjacent property, the uses allowed in the RL 1/2 zone, and the encumbrance of a majority of the site by critical areas and associated buffers, single-family residential use is the only reasonable use of the property. *Findings 3, 4, 5, 6, 6, 7, and 21.*
2. No reasonable use with less impact on the critical areas is possible. Placing the new residence within the same footprint as the existing residence minimizes impacts to the extent possible, because wooded areas would not need to be disturbed. The proposed addition would be modest in scale, would occupy lawn area, and would not reduce the width of existing setbacks from the bluff and stream. *Findings 3, 4, 5, 7, 10, 11, 12, 13, and 21.*
3. With conditions of approval, the requested residential 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. The project would include foundation design elements and stormwater improvements designed to improve the safety of the residence and reduce the risk of slope failure over the existing condition. The existing septic system is adequate for the proposal. The conditions of approval require compliance with the conditions outlined in the geotechnical report, the conditions of the Environmental Health Division, and the asbestos survey requirement identified by ORCAA. An engineered drainage and erosion control plan would be required prior to building permit issuance. A condition requiring implementation of an inadvertent discovery plan would prevent adverse impacts to any cultural or archeological resources underlying the modest expansion of the residence. *Findings 3, 4, 5, 7, 10, 11, 12, 13, 15, 17, 18, and 21.*
4. The proposed reasonable use is limited to the minimum encroachment necessary to prevent denial of reasonable use of the property. Development on the relatively flatter eastern portion of the property would require vegetation disruption. The proposed redeveloped residence would be placed largely within the existing building footprint to minimize new encroachments into the critical areas. Based on the relatively small area of the existing building footprint in relation to modern building requirements, the very modest expansion proposed is reasonable. *Findings 4, 5, 7, 11, 12, 13, and 21.*



5. With conditions of approval, the proposed reasonable use would result in minimal alteration of the critical area. Impacts to vegetation and wildlife resources would be minimized by the site design, and any impacts would be mitigated by the proposed stream buffer mitigation. Storm drainage would be controlled on site to prevent slope instability. The septic system would not significantly affect hydrologic conditions on site and would not destabilize the slope. *Findings 4, 5, 7, 11, 12, 13, 15, and 21.*
6. As conditioned, the proposal ensures no net loss of critical area functions and values. The extent of new impacts on critical areas is limited to 128 square feet, and the impact would be limited to existing lawn area on the far side of the residence from the regulated drainage/stream. The proposed mitigation plantings at a 2:1 ratio, to be placed adjacent to the stream, would improve existing separation of the residence from the stream and, as conditioned, would be sufficient to mitigate any impacts to a point of no net loss. *Findings 4, 5, 7, 11, 12, 13, 15, and 21.*
7. The use would not result in unmitigated adverse impacts to species of concern. The residence would be constructed in a previously disturbed area, with the expansion into a lawn. Forested areas would not be affected, and the stream on site does not contain fish or any identified species of concern. *Findings 4, 5, 7, 11, 12, 13, 15, and 21.*
8. The location and scale of existing development on surrounding properties is not the sole basis for granting the reasonable use exception. The instant RUE is granted not because a RUE was granted for the adjacent property, but because the site-specific evidence supports approval, including the extent of critical areas on the site and that use of the existing, long-established building site would likely have less impact on critical areas than establishing a new building site farther from the bluff. *Findings 3, 4, 5, 7, 10, 11, 12, 13, and 21.*
9. Issues related to the Shoreline Management Act are outside the scope of this decision. This decision neither authorizes nor prohibits construction within the Conservancy setback required by the SMPTR. This decision only authorizes deviation from CAO requirements; further review and permitting appears to be required to ensure compliance with the SMPTR. *Finding 8.*

## DECISION

Based on the preceding findings and conclusions, the request for a reasonable use exception is **GRANTED** subject to the following conditions:

1. The Applicant shall remove all construction related debris to an approved site (landfill or recycling center) outside of critical areas and their buffers.
2. The Applicant shall submit a demolition permit application for Thurston County review and approval for the removal of the existing single-family residence.

3. The Applicant shall submit a building permit application to Thurston County for review and approval for construction of the new single-family residence.
4. The project shall be designed and constructed in compliance with the recommendations contained in the project Steep Slope Evaluations by Insight Geologic, Inc., dated August 9, 2021 and November 17, 2021 (Exhibit 1.G).
5. Prior to any construction activity, including demolition of the existing residence, erosion control measures shall be installed to prevent any siltation of drainage into the Puget Sound.
6. An engineered drainage and erosion control plan shall be submitted for review prior to building permit issuance.
7. An asbestos survey is required per ORCAA requirements.
8. Prior to any earth disturbing activity, silt fence and straw wattles shall be installed around the north, south, and west sides of the residence.
9. Prior to building permit issuance, a detailed mitigation planting plan shall be submitted to Community Planning and Economic Development Department for review and approval. A bond or irrevocable assignment of savings in the amount of 125% of the fair market value of the mitigation plan may be required.
10. All development shall be in substantial compliance with drawings and site plan included in the instant record, and in compliance with the detailed mitigation plan required by condition 9 above. Any expansion or alteration of this use will require approval of a new or amended approval. The Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
11. 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.
12. At the time of building permit application review, Environmental Health will verify that the project meets all required setbacks to existing septic system and well components.
13. Extreme caution must be taken during construction to prevent any vehicle or equipment travel over the existing water lines, septic system components, drainfield and reserve area. There shall be no staging of materials and no parking of vehicles or equipment over any portion of the septic system.

14. 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 shall immediately stop work and contact the Nisqually Indian Tribe, the Squaxin Island Tribe, and the State Department of Archaeology and Historic Preservation.
15. Community Planning and Economic Development Staff shall review the proposal and determine whether permitting is required pursuant to the Shoreline Master Program for the Thurston Region. If shoreline permits are required, they must be obtained prior to construction permit issuance under the instant RUE approval.

**DECIDED** January 28, 2022.



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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 **\$804.00** for a Request for Reconsideration or **\$1,093.00** 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  \$804.00 for Reconsideration or \$1,093.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Filed with the Community Planning & Economic Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.