



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. 2020102977
	)	
<b>Mance and Son</b>	)	
<b>Residential Developers Inc.</b>	)	<b>Shadow Creek</b>
	)	
For a Preliminary Plat and Planned Rural	)	
Residential Development	)	FINDINGS, CONCLUSIONS,
_____	)	AND DECISIONS

**SUMMARY OF DECISIONS**

The request for approval of preliminary plat and planned rural residential development applications to subdivide 100 acres into 20 single-family residential lots, a 73.61-acre resource use parcel, and three open space tracts is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request**

Mance and Son Residential Developers Inc. requested approval of a preliminary plat and planned rural residential development to subdivide 100 acres into 20 single-family residential lots, one 73.61-acre resource use parcel, and three open space tracts totaling 3.29 acres. The subject property is located on the west side of Puget Beach Road NE at its intersection with 56th Avenue NE in Thurston County, Washington.

**Hearing Date**

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on October 11, 2022. The record was held open through October 13, 2022 to allow members of the public who experienced technology-based barriers to 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 with respect to public comment on October 13, 2022. The Hearing Examiner also left the record open through October 12, 2022 for the County to submit a written response to issues raised during the hearing, and through October 17, 2022 for the Applicant to submit a written response. The requested responses were timely submitted and are admitted as identified below.

## **Testimony**

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

Heather Tschaekofske, MES, Associate Planner/Biologist, Thurston County  
Dawn Peebles, Senior Environmental Health Specialist, Thurston County  
Arthur Saint, Civil Engineer, Thurston County Public Works  
John Mance, President, Mance and Son Residential Developments Inc., Applicant  
Chris Merritt, PE, Olympic Engineering, Applicant Representative  
Heather Burgess, Phillips Burgess PLLC, Applicant legal counsel  
Heather Britton  
Rebecca Seltmann

## **Exhibits**

- Exhibit 1 Community Planning & Economic Department Report including the following attachments:
- A. Notice of Public Hearing
  - B. Zoning map
  - C. Master Application, received July 15, 2020
  - D. Division of Land Application, received July 15, 2020
  - E. SEPA Environmental Checklist Application, revised May 17, 2022
  - F. Project Narrative, revised June 14, 2022
  - G. Preliminary plat map
  - H. Traffic Impact Assessment, received October 8, 2019
  - I. Integrated Pest Management Plan, dated July 1, 2020
  - J. Preliminary Drainage Report, dated July 8, 2020
  - K. Hydrogeologic Report, dated September 26, 2019
  - L. Forestry Letter, dated December 10, 2021
  - M. Notice of Application, dated October 13, 2021
  - N. Address Assignment List
  - O. Comment Memorandum from Arthur Saint, Public Works Department, dated October 6, 2020
  - P. Comment letter from Dawn Peebles, Environmental Health Department, dated July 21, 2022
  - Q. Department of Health Water System review and approval letters, dated October 4, 2021 and April 15, 2022

- R. Letter from Ecology indicating “no further action” regarding the Model Toxics Cleanup Program, dated April 7, 2020
- S. Impact mitigation letter from North Thurston Public Schools, dated July 27, 2020
- T. Comment letters from Brad Beach, Nisqually Indian Tribe, dated July 30, 2020, October 18, 2021, June 21, 2022, and August 16, 2022
- U. Comment emails from Shaun Dinubilo, Squaxin Island Tribe, dated July 20, 2020, October 25, 2021, and June 17, 2022
- V. Comment letters from Department of Archaeology and Historic Preservation, dated July 30, 2020 and June 16, 2022
- W. Comment letters from Ecology, dated August 10, 2020 and November 4, 2021
- X. Public Comments, dated October 27, 2021
- Y. Mitigated Determination of Non-Significance, issued August 3, 2022
- Z. Wetland Analysis, dated May 16, 2022, Response, dated January 3, 2022, and associated wetland rating sheet revisions
- AA. Plat Name Reservation Certificate

Exhibit 2 Applicant’s Response to Staff Report, dated October 10, 2022

Exhibit 3 Staff’s Response to Exhibit 2, dated October 12, 2022

Exhibit 4 Applicant’s Response, dated October 13, 2022

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

### FINDINGS

1. Mance and Son Residential Developers Inc. (Applicant) requested approval of a preliminary plat and planned rural residential development (PRRD) to subdivide 100 acres into 20 single-family residential lots, one 73.61-acre resource use parcel, and three open space tracts totaling 3.29 acres. The subject property is located on the west side of Puget Beach Road NE at its intersection with 56th Avenue NE in Thurston County, Washington.<sup>1</sup> *Exhibits 1, 1.C, 1.D, 1.F, and 1.G.*
2. The application was submitted on July 15, 2020 and determined to be complete for the purpose of commencing project review on August 12, 2020. *Exhibit 1.M.*
3. The subject property is zoned Rural Residential Resource, One Dwelling Unit Per Five Acres (RRR 1/5). *Exhibits 1 and 1.B.* Primary permitted uses in the RRR 1/5 zone include single-family residential development, agriculture, and home occupations.

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<sup>1</sup> The legal description of the subject property is a portion of Section 27, Township 19 North, Range 1 West Quarter SE SW & N2 NW Survey LT 2 Document 4420926; also known as Tax Parcel # 11922340000. *Exhibit 1.*

PRRDs are permitted in the RRR 1/5 zone. The PRRD process may be used for projects of at least 20 and no more than 100 acres in area. *Thurston County Code (TCC) 20.09A.020; TCC 20.30A.020; TCC 20.30A.031.*

4. The purposes of the County's rural zoning designations, as described in the Thurston County Comprehensive Plan, include protecting areas with environmental constraints, allowing low-density residential uses which do not require a high level of public services and facilities, and protecting "rural character" as defined in state law. Rural character is defined in part as including land use patterns in which open space, the natural landscape, and vegetation predominate over the built environment. *Exhibit 1; Thurston County Comprehensive Plan, page 2-11.*
5. Surrounding land uses include single-family residences to the north and west, undeveloped land to the northwest, and resource use parcels to the south and east. All surrounding properties are zoned RRR 1/5. *Exhibits 1, 1.B, and 1.G.*
6. The purposes of the Thurston County Code PRRD provisions include: providing for residential development in rural areas in a way that maintains or enhances the County's rural character; retaining large, undivided parcels of land that provide opportunities for compatible agricultural, forestry and other rural land uses; protecting sensitive environmental resources; facilitating creation of open space corridors; and minimizing impacts of road and utility systems. *TCC 20.30A.010.*
7. The development standards of the RRR 1/5 zone allow a maximum residential density of one dwelling unit per five acres. Based on the subject property's area of 100 acres, the proposed density would be one dwelling unit per five acres in conformance with the RRR 1/5 density standard. *TCC 20.09A.040; Exhibit 1.*
8. The five-acre minimum lot area standard of the RRR 1/5 zone does not apply to lots within a PRRD, provided the lots meet Thurston County Sanitary Code requirements for water and sewage disposal. *TCC 20.09A.050(2).* However, a PRRD in the RRR 1/5 zone must include a resource use parcel comprising 65% of the site area. Resource use parcels may be used for: agriculture (including forest practices); passive recreation; preservation of natural areas such as critical areas and wildlife corridors; and development of one single-family residence and accessory uses, subject to the density limitations of the overall site. If there are prime agricultural soils or Grade 2 forest land on the property, these must be contained within the resource use parcel unless exceptions apply. Resource use parcels are required to be to the maximum extent possible contiguous parcels shaped to be compatible with the intended use and, if used for agriculture, forestry, or sensitive resource protection may not be bisected by roads if site conditions allow otherwise. To the extent consistent with other PRRD requirements, the resource use parcel must be contiguous with existing off-site resource lands and located to maximize visibility from adjoining collector roads, arterials, or state highways. Native vegetation must be retained unless incompatible with the designated use. The residential lots within PRRDs must be grouped and not assembled in a linear configuration, unless physical site conditions

warrant a linear configuration. The configuration and size of the lots must be varied and blend with the natural features of the site. *TCC 20.30A.040; TCC 20.30A.070.*

9. No prime agricultural soils or Grade 2 forest land were identified on the subject property. *Exhibits 1 and 1.F.*
10. There are 18 wetlands on or within 300 feet of the subject property, which range in area from 115 to 619,358 square feet, including off-site portions. Three of the wetlands are beneath the size threshold for regulation under the Critical Areas Ordinance. A Type F stream flows through the off-site portion one of the wetlands immediately to the west of the subject property. The highest wetland classification identified among the delineated wetlands is Category III, which applies to five of the wetlands. The remaining wetlands are Category IV. The minimum buffers applicable to the wetlands, based on TCC 24.30.045, range from 140 to 240 feet. The minimum required stream buffer is 150 feet. *Exhibits 1 and 1.Z.*
11. The wetlands and buffers occupy most of the eastern and southern portions of the subject property. The Applicant proposes to preserve the wetlands and buffers in the proposed resource use parcel (Tract A), which would be contiguous with existing resource parcels to the south and east, and which would be visible from Puget Beach Road NE. No portion of the development would encroach into the wetlands or buffers. At 73.61 acres, the proposed resource use parcel would exceed the minimum of 65 acres needed to comply with the PRRD ordinance. *Exhibits 1.F and 1.G.*
12. The proposed residential lots would be grouped in the northern and northwestern portions of the property to avoid the wetlands and wetland buffers in the eastern and southern portions of the property. The lots would vary in size and shape and would be separated from Puget Beach Road NE by open space tracts and the resource use parcel. The lots would be accessed via an internal private road extending from Puget Beach Road NE near the northeast corner of the subject property. *Exhibit 1.G.*
13. Although PPRD standards allow residential development within resource use parcels, in this case a residence could not be developed within the resource use parcel without exceeding the density limitations of the RRR 1/5 zone. Planning Staff recommended that the plat include a note stating that the plat was approved with the maximum allowed density for the knowledge of future purchasers. *Exhibits 1 and 1.G.*
14. The subject property was logged between 1992 and 2003, with some trees retained in wetland areas, and access roads were constructed within the property to facilitate logging. The vegetation currently present on the site consists primarily of young forests of red alder, Douglas fir, and red cedar, with Oregon ash in wet areas. The understory vegetation consists primarily of Himalayan blackberry, salal, sword fern, and Scotch broom, with salmonberry, Douglas spirea, slough sedge, and water parsley in wet areas. *Exhibits 1, 1.Z and 1.F.* Planning Staff recommended as a condition of project approval that roadbeds within the resource use parcel be abandoned and allowed to return to a natural vegetated condition for consistency with TCC 24.30.280. *Exhibit 1.*

15. Based on the trip generation rates established in the ITE *Trip Generation Manual*, 10th Edition, the project is expected to generate 237 average weekday vehicle trips, including 19 AM peak hour trips and 22 PM peak hour trips. The proposed new site access from Puget Beach Road NE would satisfy AASHTO entering sight distance standards. All traffic generated by the project would enter or exit the neighborhood via the arterial Marvin Road NE to the east. Mitigation of traffic impacts would be through payment of transportation impact fees assessed pursuant to Title 25 of the Thurston County Code. *Exhibit 1.H; TCC 25.04.040.*
16. The subject property is located in an area that has been identified by the Washington Department of Ecology (DOE) as potentially contaminated with arsenic and lead due to air emissions originating from the old Asarco smelter in north Tacoma. Soil sampling was conducted on site in 2019, the results of which showed that arsenic levels in some areas exceeded the threshold for cleanup under the Model Toxics Control Act (MTCA), with the highest concentration found in a wetland buffer where no development is proposed. The Applicant performed soil remediation, and on subsequent re-testing the soils were found to be within MTCA limits. On April 7, 2020, the DOE issued an opinion that no further remedial action is required under MTCA. *Exhibit 1.R.*
17. Because the subject property is located in an area identified by the Washington Department of Archaeology and Historic Preservation (DAHP) as having high sensitivity for cultural resources, DAHP requested that the Applicant prepare a professional archaeological survey of the site. The Applicant submitted the requested survey, which found that the project would have no effect on historic properties. DAHP concurred with the result but requested that the Applicant stop work and consult with DAHP if archaeological or historic resources are discovered during construction. Planning Staff incorporated the requirement into the recommended conditions of permit approval. *Exhibits 1 and 1.V.*
18. The subject property is within the North Thurston School District and would be served by South Bay Elementary School, Chinook Middle School, and North Thurston High School. In comments dated July 27, 2020, the School District submitted that the District's schools are over capacity and requested payment of mitigation fees pursuant to the State Environmental Policy Act (SEPA). The County included a specific fee amount of \$4,485 per dwelling unit in the mitigated determination of non-significance (MDNS), which was not appealed. However, this action conflicted with the Interlocal Agreement executed between the County and the School District in 2019, which requires the County to collect school impact fees pursuant to Title 25 of the Thurston County Code. Whereas the MDNS specifies a set fee amount, TCC Title 25 fees might change as they are based on the fee schedule in effect at the time of building permit issuance. The County requested that the Applicant be required to comply with TCC Title 25 instead of the fee amount specified in the SEPA determination or requested that the SEPA process be reopened for correction. The Applicant agreed to pay school mitigation pursuant to Title 25. *Exhibits 1.S, 1.Y, 3, and 4; Heather Burgess Argument.*

19. All stormwater runoff would be dispersed and/or infiltrated on site. Roadway runoff would be conveyed from roadside ditches to dispersion trenches located in the open space and resource tracts. Water quality treatment is not required because the runoff would be fully dispersed and not recollected into a downstream conveyance system. *Exhibits 1.J and 1.G.*
20. Thurston County Public Works reviewed the project plans against Thurston County Road Standards and the Drainage Design and Erosion Control manual and determined that the preliminary requirements of these documents have been satisfied. Public Works recommended approval of the project, subject to conditions. The Public Works conditions identify applicable road, utility, drainage, permitting, inspection, and plat note requirements. *Exhibit 1.O.*
21. Sewage disposal for the lots would be through individual septic systems. The soils on each proposed lot have been evaluated and are suitable for septic. No septic drainfields would be located within the 100-foot sanitary control radii of off-site wells. *Dawn Peebles Testimony; Exhibit 1.P.*
22. The County's assimilative capacity standard prohibits a project from increasing nitrate concentrations in groundwater by more than ten percent of the difference between background nitrate concentrations and the maximum contaminant level for drinking water in Washington. Based on hydrogeologic modeling, septic effluent from the project would cause nitrate concentrations within the Vashon Advance Outwash aquifer (Qva) (the shallowest water supply aquifer beneath the subject property) to rise 0.1 mg-N/L, which is substantially less than the permissible increase of 0.7 to 0.9 mg-N/L under the assimilative capacity standard. *Exhibits 1, 1.F, 1.K, and 1.P.*
23. The lots would be served by a new Group A Community Water System. The two existing source wells are located within Tract A near Lot 14. The Washington State Department of Health approved the water system for 10 connections on April 15, 2022 and is currently reviewing the Applicant's request for approval of the remaining ten connections. The Applicant proposes to develop the project in two phases of ten lots each to account for water availability. *Exhibits 1.P and 1.Q; John Mance Testimony; Heather Burgess Argument.*
24. The subject property is located within Category I, II, and III aquifer recharge areas as defined in the Thurston County Critical Areas Ordinance. The Applicant submitted an Integrated Pest Management Plan (IPMP) outlining landscape management practices to reduce impacts to ground and surface waters. The Thurston County Environmental Health Division has approved the submitted IPMP. *Exhibit 1.P.*
25. The Thurston County Environmental Health Division reviewed the project against the requirements of the Thurston County Sanitary Code and recommended approval subject to conditions that the Applicant grant non-public restrictive covenants for existing off-site wells located within 100 feet of the subject property, submit confirmation of final water system construction approval from the DOH and record the approved IPMP prior to final

subdivision approval, identify all existing wells and their sanitary control radii on the final plat map, and include a note on the final plat map indicating that a public water system has been developed to serve the subdivision. *Exhibit 1.P.*

26. Pursuant to the State Environmental Policy Act (SEPA), Thurston County acted as lead agency for review of the proposal's environmental impacts. The County determined that, with conditions, the project would not have a probable, significant adverse effect on the environment and issued a mitigated determination of non-significance (MDNS) on August 3, 2022. The MDNS was not appealed and became final on August 24, 2022. The conditions of the MDNS address school mitigation, erosion control, protection of cultural resources, and spill containment. *Exhibits 1 and 1.Y.*
27. Notice of the open record hearing was mailed to property owners within 500 feet of the site on September 22, 2022 and published in *The Olympian* on September 30, 2022. *Exhibits 1 and 1.A.*
28. At hearing, there was comment from neighboring property owners expressing concern about existing stormwater runoff from the subject property that could potentially be increased as a result of development. Neighbors also asked how close the residences would be placed to the abutting single-family lots and whether trees in the rears of the proposed lots would be completely cleared. *Testimony of Heather Britton and Rebecca Seltmann.*
29. In response to comments about drainage, Public Works Staff testified that the new development would not be allowed to increase runoff onto adjacent property, but it also does not allow decreased runoff; the goal of development is to maintain the existing water regime. *Arthur Saint Testimony.* Environmental Health Staff noted that stormwater runoff would not be allowed to be directed into the sanitary radii for any offsite wells abutting the subject property. *Dawn Peebles Testimony.* Applicant representatives testified that roof runoff would be designed to disperse within each lot, and that runoff from common improvements (including the internal roadway) would be directed to a stormwater facility in Tract C that is set well back from any perimeter boundary of the subject property. They also specified that homes would be placed approximately 30 feet from front lot lines, leaving rear yards of 75 to 125 feet in depth. No clearing would occur in the rear of the lots; each lot would have approximately 25 feet of cleared rear yard depth behind the residences, with the remaining depth to the external plat boundary left in a native condition. *Testimony of John Mance and Chris Merritt.*
30. Having heard all testimony and reviewed and documents submitted, at hearing Planning Staff maintained their recommendation for approval of the permits subject to the conditions in the staff report. *Exhibit 1; Heather Tschaekofske Testimony.* Aside from the discussion over the amount of school impacts fees to be paid, Applicant Representatives waived objection to the recommended conditions. *Heather Burgess Comments; Testimony of John Mance and Chris Merritt.*



## CONCLUSIONS

### **Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats, planned rural residential developments, and variances pursuant to RCW 36.70.970, TCC 2.06.010(A), TCC 18.12.090, and TCC 20.52.010.

### **Criteria for Review**

#### ***PRRD Criteria***

In review of a Planned Rural Resource Development, the Hearing Examiner considers the proposal with the requirements established in TCC 20.30A.040 and 20.30A.070. Criteria that are applicable to this proposal are as follows:

PRRDs located within RRR 1/5 districts must contain a resource use parcel comprising at least 65 percent of the proposed subdivision. *TCC 20.30A.040(1)(d)*.

Permitted uses of resource use parcels include agriculture; passive recreation; natural areas, including critical areas and buffers; community water, sewage disposal, and stormwater facilities. *TCC 20.30A.040(3)*.

A residence within the resource use parcel counts toward the total number of residential units allowed. *TCC 20.30A.040(4)*.

Limitations on the use and subdivision of the resource use parcel must be noted on the plat. *TCC 20.30A.040(5)*.

The resource use parcel must, to the greatest extent possible, be a single contiguous parcel and be shaped to be usable for resource uses. *TCC 20.30A.070(5)(b)*.

Roads or easements shall not bisect resource use parcels that are used for agriculture, forestry or sensitive resource protection where the physical conditions of the site would allow otherwise. *TCC 20.30A.070(5)(c)*.

Where consistent with other provisions of this chapter, the resource use parcel shall be contiguous with any abutting resource use parcel, open space, greenbelt, agricultural lands, commercial forestry lands, public preserves, parks, or schools. *TCC 20.30A.070(5)(d)*.

The subdivision shall be designed, to the extent consistent with other provisions of this chapter, to maximize the visibility of the resource use parcel and open space areas from adjoining collector roads, arterials, or state highways. *TCC 20.30A.070(5)(e)*.

Native vegetation must be retained in the resource use parcel to the extent that it is compatible with the intended use of the parcel and does not pose a risk to public safety. *TCC 20.30A.070(5)(f)*.

Any single-family residence and accessory uses within the resource use parcel must be sited to maximize resource opportunities on the remainder of the parcel. *TCC 20.30A.070(5)(g)*.

The configuration and size of the lots within the subdivision must be varied and blend with the natural features of the site. *TCC 20.30A.070(6)(a)*.

Windfirm trees must be retained where they would screen residences from collector roads, arterials or state highways, unless they would unduly impede site development, be incompatible with the intended use of the resource use parcel, or pose a risk to public safety for motorists on those roadways and to private utilities. *TCC 20.30A.070(6)(b)*.

Residential lots must be grouped and not assembled in a linear configuration, unless unusual site conditions, such as wetlands, steep slopes, shorelines, or very narrow lots warrant a linear configuration. *TCC 20.30A.070(6)(d)*.

### ***Preliminary Plat Criteria***

In addition, the following preliminary plat criteria in Thurston County Code 18.12.090 must be satisfied:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication.

### **Conclusions Based on Findings**

1. As conditioned, the proposed PRRD satisfies the requirements established in TCC 20.30A and applicable RRR 1/5 standards. PRRDs are permitted uses in the RRR 1/5 zone, and the proposed residential density would not exceed one dwelling unit per five acres. The resource use parcel would exceed 65% of the site area and would be used to protect critical areas and buffers. No residence is proposed within the resource parcel. The conditions of approval require notes to be placed on the final plat restricting the use and subdivision of the resource use parcel until such time that the project is annexed into a city. The resource use parcel would be contiguous and shaped to include wetlands and buffers and would be adjacent to off-site resource parcels. With the proposed project design, no roads would bisect the resource use parcel. The resource use parcel and open space tracts would be immediately adjacent to, and therefore visible from, Puget Beach Road NE. Native vegetation would be retained within these areas, retaining the natural, rural character of the site as viewed from the road. The lot sizes and configuration would vary. To the extent the lot layout represents a linear configuration, the layout is approved because the wetlands and buffers preclude an alternate configuration. *Findings 3, 6, 7, 8, 9, 10, 11, 12, 13, 28, 29, and 30.*

2. As conditioned, the criteria for preliminary plat approval are satisfied.
  - a. With conditions of approval, appropriate provisions would be made for the public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds and all other relevant facts. The soils on site have been evaluated for arsenic and lead contamination and have been found to meet Department of Ecology standards. With respect to the proposed septic systems, a hydrogeologic study was conducted, which concluded that the nitrates added to the underlying Qva aquifer from septic effluent would fall within allowed limits. Potable water would be provided through a new Group A community water system. The conditions of the Public Works Department addressing storm drainage would ensure that runoff from site development does not have off-site impacts. School, transportation, and park impact fees would be paid pursuant to Title 25 TCC. Due to the rural, low-density character of the area, provision for urban amenities such as sidewalks and transit stops is not warranted. The project was reviewed under SEPA and an MDNS was issued. *Findings 4, 5, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 28, 29, and 30.*
  - b. With conditions of approval, the public use and interest would be served by the platting of the subdivision. The subdivision complies with the density limitation of the RRR 1/5 zone. The PRRD design allows for the retention of more than 73 acres of wetlands, buffers, and adjacent open space, thereby ensuring compliance with the critical areas ordinance and protecting rural character consistent with the Comprehensive Plan. *Findings 3, 4, 6, 7, 8, 10, 11, 28, 29, and 30.*

### **DECISIONS**

Based on the preceding findings and conclusions, the requested preliminary plat and PRRD are **GRANTED** subject to the following conditions:

- A. The project shall comply with the recommendations contained in the Wetland Analysis report by EnviroVector dated May 16, 2022.
- B. The wetland buffers adjacent to the development area shall be fenced with orange construction fencing prior to final map recording. The construction fencing shall be maintained throughout the site development process.
- C. Washington State Water Quality Laws, Chapter 90.48 RCW, Water Pollution Control and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, define quality of state waters. Any discharge of sediment-laden runoff or of other pollutants to waters of the state is in violation of these state laws and may be subject to enforcement action.
- D. This project may require a construction stormwater permit (also known as National Pollution Discharge Elimination System (NPDES) and State Waste Discharge General

Permit for Stormwater Discharges Associated with Construction). This permit is required for projects which meet both of the following conditions:

- a. One or more acres of soil surface area will be disturbed by construction activities.
  - b. The site already has offsite discharge to waters of the state or storm drains or will have offsite discharge during construction.
- E. Prior to submitting a final plat application, Critical Area signs shall be placed at the corner of each lot on Lots 14 through 20 and Tract B adjacent to the Resource Parcel. Additional critical area signage shall be placed along the outer edge of the Wetland T buffer along the extent of the boundary of the of the buffer with the edge of the final location of the proposed cul-de-sac; at no more than 300-foot intervals along the edge of the buffers of Wetlands Q and R adjacent to the proposed private road; and at no more than 300-foot intervals along the edge of the buffer of Wetlands K and W adjacent to Puget Beach Road NE. The signs shall be permanent and shall be surveyor verified. Additional alternative signage or fencing options for the remaining wetland buffer areas within the resource use parcel can be submitted for review and approval at the time of final plat application. For inspection, call Heather Tschackofsky (360)786-5553.
- F. Prior to submitting a final plat application, all required on-site and off-site road, utility, and landscaping construction, identified below, shall be completed, and approved (only minor improvements remain to be installed may be bonded as provided for in TCC 18.24).
- G. Street addresses shall be shown on the final map.
- H. Windfirm trees shall be retained where they would screen residences from collector roads, arterials, or state highways.
- I. The following conditions of the Mitigated Determination of Non-Significance shall be completed at the times specified:
- a. All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from Thurston County Environmental Health prior to filling. All removed debris resulting from this project must be disposed of at an approved site. Contact Thurston County Environmental Health for proper management of these materials.
  - b. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants. To the extent possible, land-disturbing activities associated with the project should be performed during dry weather to reduce opportunities for erosion to occur.
  - c. The Applicant and subsequent property owners 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 Tribe and the State Department of Archaeology and Historic Preservation.

- d. Per request by the Washington Department of Archaeology and Historic Preservation, an Inadvertent Discovery Plan is required to be visibly posted on site prior to site development, and during all phases of site development, and available to all personnel associated with site development.
  - e. During construction, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.
  - f. All construction shall be in substantial compliance with the plans included in the submitted land use applications. If there are any changes to the project or conditions made based on those outside agency reviews, the County will need to rereview.
  - g. The proposed project is subject to compliance with the following policies and regulations, including any applicable mitigation requirements: Thurston County Comprehensive Plan, Zoning Ordinance (TCC 20), Critical Areas Ordinance (TCC 24), Stormwater Drainage Design and Erosion Control Manual (TCC 15.05), Uniform Building Code (TCC 14), State Environmental Policy Act (SEPA) Ordinance (TCC 17.09.).
- J. The final design of this subdivision and future development of lots shall conform with all minimum standards of the Zoning Ordinance (i.e. lot size, lot dimension, setbacks, etc.) and the Platting and Subdivision Ordinance.
- K. Prior to final plat approval, the following conditions shall be met:

**Public Works Department** related conditions:

1. The proposed roadway in concept and design shall conform to the Road Standards.
2. A construction permit shall be acquired from the Thurston County Public Works-Development Review Section prior to any construction.
3. Illumination shall be provided at the intersection off the project with Puget Beach Rd NE.

*Traffic Control Devices*

4. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works — Development Review Section Staff to obtain the most current Thurston County guidelines.

5. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the Applicant shall be transferred to the Applicant.

#### *Drainage*

6. The stormwater management system shall conform to the Drainage Design & Erosion Control Manual.
7. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
8. Stormwater runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.
9. Because proper landscaping is vital to the performance of the stormwater system, the Landscape Plan (if required) shall be signed/sealed by a Washington licensed civil engineer (preferably the engineer who designed the stormwater system).

#### *Utilities*

10. The proposed water and sewer system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water and sewer plans are subject to review and acceptance by the respective utility purveyor.
11. Proposed utility work within the Thurston County Right-of-Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather only items such as restoration of the County right-of-way and traffic control.
  - a. Placement of utilities within the County right-of-way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
  - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.17 feet of asphalt concrete pavement.

#### *Right-of-Way and Survey*

12. Permanent survey control needs to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
13. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 360-867-2378.

#### *General Conditions*

14. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
15. The proposed grading or site work shall conform to Appendix J of the International building code, title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
16. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.
17. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is required and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. Any additional permits and/or approvals shall be the responsibility of the Applicant.

#### *Project Specific Conditions*

18. Once the planning department has issued the official preliminary approval, a complete set of construction drawings shall be submitted along with a final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
19. Prior to construction, the Applicant shall:
  - a. Pay outstanding construction review and inspection fees\*
  - b. Receive an erosion and sediment control permit
  - c. Have the erosion and sediment control inspected and accepted
  - d. Receive a construction permit
  - e. Schedule a pre-construction conference with county staff

\* The current fee schedule can be found online at Thurston County Permit Assistance Center webpage or contact Ruthie Padilla with the Thurston County Public Works - Development Review Section by phone at ( 360) 867- 2046 or by e-mail at padillr@co.thurston.wa.us.

#### **General Information**

##### *Final Review*

20. Prior to receiving final approval from this department, the following items shall be required:
  - a. Completion of all roads and drainage facilities.
  - b. Final inspection and completion of all punch list items.

- c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
  - d. Receive and accept Engineer's construction Inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion control Manual).
  - e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
  - f. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
  - g. Approve the Final Plat Map.
  - h. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
  - i. Completion of required signing and striping.
  - j. Payment of any required permitting fees.
21. The final plat map shall note or delineate the following:
- Required Plat Notes
- a. "ATTENTION": Thurston County has no responsibility to build, improve, maintain or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation, or servicing of the storm water facilities outside the county rights of way are the responsibility of the property owner(s).
  - b. Increased storm water runoff from the road(s), building, driveway, and parking areas shall be retained on site and shall not be directed to roadway ditches adjacent to Puget Beach Rd NE.
  - c. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
  - d. Private roads are required to remain open at all times for emergency and public service vehicle use. Any future improvements (gates, fencing, etc.) that would not allow for "open" access will need to be approved by all applicable departments of Thurston County.
  - e. The owner and/or Homeowners Association shall be responsible to operate and maintain the streetlights until such time the property is annexed to the City.
  - f. Development of the lots within this plat is subject to the payment of impact fees required pursuant to TCC Title 25 at the time of building permit issuance or at such other time as authorized by law.
  - g. This plat is subject to the RESIDENTIAL AGREEMENT TO MAINTAIN STORMWATER FACILITIES AND TO IMPLEMENT A POLLUTION CONTROL PLAN", as recorded under Auditor' s File No. \_\_\_\_\_.
  - h. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for



subdivision \_\_\_\_\_ including unrestricted access for Thurston County staff to any and all storm water system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofit as may become necessary. No encroachment will be placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners' Association as established by covenant recorded under Auditor's file number \_\_\_\_\_.

- i. The property described herein is required to accommodate storm water runoff from frontage improvements to Puget Beach Rd NE and all natural tributary areas abutting said property.
- j. Maintenance of the landscaping, trees, sidewalk and roadside drainage and stormwater facilities such as ditches, swales, and ponds within the public right-of-way is the sole responsibility of the (property owners) or (homeowners association) within this subdivision. Thurston County has no responsibility to maintain or service said landscaping, trees, sidewalks or roadside stormwater facilities.

Delineate on the Plat

- k. Provide language on the plat describing the drainage design requirements for all projected hard surfaces and lawn/landscape areas within individual building lots (drywell design/sizing, storm drain connection points, incorporated into pond design, etc.).
- l. Delineate the access restriction by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of Puget Beach Rd NE on the final plat map.
- m. Please clearly label all public and private roads.

**Public Health and Social Services Department** related conditions:

22. The Applicant must grant non-public restrictive covenants for the existing off-site wells located within 100 feet of the project site. The covenants must be submitted to this office for review prior to being recorded with the Thurston County Auditor's Office.
23. Prior to final subdivision approval, confirmation of final water system construction approval from Washington State Department of Health Office of Drinking Water must be submitted to Environmental Health.
24. Prior to final subdivision approval, the Integrated Pest Management Plan must be recorded with the Thurston County Auditor's Office.
25. Department of Ecology records identify three existing wells on the property. The final map must show the location of all existing wells on the site along with their associated 100-foot sanitary control radii and all water lines and easements

throughout the subdivision. Any well not put to beneficial use is required to be decommissioned by a licensed well driller per Department of Ecology standards.

26. The final map must include a note specifying a public water system has been developed to serve the subdivision.

L. Required Plat Notes:

1. This subdivision has been approved through provisions of the Rural Residential Resource 1/5 zoning district (TCC 20.09A).
2. This subdivision was reviewed under project number 2020102977, Folder 20 107805 ZJ.
3. This subdivision has been approved through the provisions of the Thurston County Zoning Ordinance, 20.30A. The Resource Use Parcel is required by the Ordinance and approved for use as critical area preservation, forestry, and agriculture. These restrictions remain in force until the property is annexed to a city or town.
4. This property contains and is adjacent to streams and wetlands which are designated as critical areas in Thurston County and protected under the Thurston County Critical Areas Ordinance Title 24. Due to the importance of these wetlands for wildlife habitat, pollution control, ground water recharge and flood water storage, no clearing, filling, grading, logging, native tree or vegetation removal or other construction activities shall be allowed within the wetlands or buffer areas except where exempted by and when prior authorization is obtained from Thurston County Development Services.
5. The Applicant has defined several wetlands as nonjurisdictional pursuant to the Critical Areas Ordinance (TCC 24.30). State and Federal jurisdiction over the wetlands still may prevail.
6. Crossings of wetlands and/or buffers within areas proposed for development that were allowed by a State Forest Practices Permit but do not meet the requirements of this chapter, and any unlawfully established roads, shall be removed. The roadbeds within the resource use parcel shall be abandoned and allowed to return to a natural vegetated condition consistent with the surrounding undisturbed areas.
7. New agricultural uses are prohibited within all critical areas and associated buffers, including and not limited to wetlands, Type F streams, and any associated buffers.
8. Buildings on individual lots adjacent to the wetland buffers should be sited and constructed upland at a point where trees within the buffer areas will not be considered hazard trees.
9. This plat was approved with the maximum allowable density. No further subdivision or development of the Resource Parcel is permitted. The Resource Parcel contains

critical areas; the wetlands and their buffers provide wildlife habitat, wildlife corridors and critical drainage functions and shall remain protected from overuse and development. The use of the 73.61-acre Resource Parcel is limited to use as a natural area within critical areas; and passive recreation outside critical areas. These limitations on Resource Parcel use and division shall be effective until annexation to a city or town.

10. The ownership of Tract A (Resource Parcel) shall be retained by Mance and Son Residential Developers, Inc. The Open Space Tracts B, C, and D will be owned and maintained by the Homeowner's Association.
11. The maximum hard surface coverage allowed for the entire PRRD is 10%. "Hard surface" means an impervious surface, a permeable pavement, or a vegetated roof, in contrast with vegetated permeable soils. "Impervious surface" means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.
12. The Applicant and subsequent property owners 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 Tribe and the State Department of Archaeology and Historic Preservation.
13. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

**DECIDED** November 3, 2022.



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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 **\$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.



<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  \$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\_\_\_.