



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 Applications of)	NO. 2021101604 Trestlewood
)	
Trestlewood Lacey LLC)	FINDINGS, CONCLUSIONS,
)	AND DECISIONS
For a Preliminary Plat,)	
Planned Residential Development,)	
Forest Land Conversion, and Variance)	

SUMMARY OF DECISION

The requests for a preliminary plat, planned residential development, forest land conversion, and variance for the proposed development of property located at 124 Duterrow Road SE are **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Trestlewood Lacey LLC (Applicant) requested a preliminary plat to subdivide 9.914 acres into 62 single-family residential lots using the planned residential development (PRD) design standards, a variance from the private open space dimensional requirement of TCC 21.60.140.A.6, and a forest land conversion to harvest approximately 100,000 board feet of timber. The subject property is presently addressed as 124 Duterrow Road SE, Olympia, Washington.

Hearing Date:

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the requests on January 25, 2022. The record was held open through January 27, 2022 to allow any members of the public who experienced technology or access barriers to participation in the virtual hearing to submit written comments, with time scheduled for responses by the parties. Post-hearing public comment was submitted on January 27, 2022 and the Applicant timely submitted a response dated January 28, 2022. The record was also held open until January 31, 2022 to allow County Planning Staff to respond in writing to questions posed by the Hearing Examiner during the hearing, and until February 2, 2022 to allow the Applicant to respond to the

County's submittal. The requested documents were timely submitted, and the record closed on February 2, 2022.

Testimony:

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

Sharon Lumbantobing, Senior Planner, Thurston County
Arthur Saint, Civil Engineer, County Public Works
Dawn Peebles, Senior Environmental Health Specialist, PHSS
Tyler Burbridge, Project Manager, RJ Development
Ron Hastie, Partner, RJ Development
Jeff Yates, Partner, RJ Development
Ronnie Hastie, Project Manager, RJ Development
Tyrell Bradley, Principal Engineer, LDC, Inc.
Mallory Dobbs, Project Manager, LDC, Inc.
Eric Williams, Landscape Architect, Lyon Landscape Architects

Exhibits:

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

Exhibit 1 Community Planning and Economic Development Staff Report, with the following attachments:

- A. Notice of Public Hearing, dated January 10, 2022
- B. Thurston County Master Application, dated April 1, 2021
- C. [none submitted]
- D. Revised Division of Land Application, dated November 24, 2021
- E. Revised Project Narrative, dated November 24, 2021
- F. Revised Overall Preliminary Plat Drawings, dated November 24, 2021
- G. Revised Landscape Plans, dated November 24, 2021
- H. Variance Application for Martin Way Access Spacing, dated November 24, 2021
- I. Variance Application for Private Open Space, dated November 24, 2021
- J. Vicinity Map for the Private Open Space Variance Application, dated November 24, 2021
- K. Variance Request for Road Standard, dated March 29, 2021
- L. Revised Forestland Conversion Application
- M. Revised Forestland Conversion Site Plan
- N. Site Driveway Analysis Memo, dated July 14, 2021
- O. Ridgeview Drive Analysis, dated August 3, 2021

- P. Duterrow Autoturn Exhibit, dated September 20, 2021
- Q. Duterrow WB-50 Autoturn Exhibit, dated August 25, 2021
- R. Preliminary Drainage Report, dated August 2021
- S. Duterrow Cut and Fill Exhibit
- T. Tree Survey, dated February 23, 2021
- U. Tree Report, dated May 5, 2021
- V. Summary of Geotechnical Engineering Services/Stormwater Report, dated January 29, 2021
- W. Stormwater Scoping Report response, dated April 15, 2021
- X. Traffic Scoping, dated February 26, 2021
- Y. Soil Characterization Results by Sierra Mott and Christine Kimmel, dated March 9, 2021
- Z. Revised Integrated Pest Management Plan, dated April 2021
- AA. Thurston County Critical Area Determination Review, dated November 6, 2020
- BB. Notice of Application and Adjacent Property Owners List, dated April 15, 2021
- CC. Mitigated Determination of Non-Significance, dated October 8, 2021¹
- DD. Revised SEPA Environmental Checklist, dated August 30, 2021
- EE. North Thurston School District letter dated, April 20, 2021
- FF. Nisqually Indian Tribe comments, dated April 23, 2021
- GG. Nisqually Indian Tribe comments, dated September 15, 2021
- HH. Squaxin Island Tribe, letter dated April 20, 2021
- II. Intercity Transit letter, dated April 27, 2021
- JJ. All Public Comment received as of May 20, 2021
- KK. City of Lacey Water and Sewer Availability Letter, dated February 11, 2021
- LL. City of Lacey Site Plan Review Conditions, dated August 3, 2021
- MM. Washington State Department of Ecology Comments, dated October 22, 2021
- NN. Nisqually Comment on MDNS, dated October 11, 2021
- OO. Public Comment on SEPA, dated November 15, 2021
- PP. Tree Planting and Maintenance Cost Estimates, dated November 5, 2021

¹ The incorrect MDNS was initially submitted into the record. Post-hearing, Staff substituted the correct version. *Exhibit 5.*

- QQ. Communications Matrix
- RR. Trestlewood Lacey Public Comment Response Summary, dated January 13, 2022
- Exhibit 2 Pre-Hearing public comments received after publication of staff report
 - A. Email from Victoria Cabiao, dated January 16, 2022
- Exhibit 3 Hearing Examiner’s Post-Hearing Request to Supplement Record, issued January 25, 2022
- Exhibit 4 County’s Response to Hearing Examiner’s Request for Information, dated January 26, 2022
- Exhibit 5 County’s Motion to Clarify/Correct Two Issues, dated January 26, 2022
- Exhibit 6 Post-Hearing Public Comment from Bill and Shirley Johnston, dated January 27, 2022²
- Exhibit 7 Applicant’s Response to Public Comment from Bill and Shirley Johnston, dated January 28, 2022
- Exhibit 8 Applicant’s Response to Staff Comments, dated February 1, 2022

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

FINDINGS

Site Context and Procedural Background

1. Trestlewood Lacey LLC (Applicant) requested a preliminary plat to subdivide 9.914 acres into 62 single-family residential lots (34 for detached dwelling units and 28 for attached dwelling units) using the planned residential development (PRD) design standards, a variance from the private open space dimensional requirement of TCC 21.60.140.A.6. The request included an application for forest land conversion to harvest approximately 100,000 board feet of timber. The subject property is located at 124 Duterrow Road SE, Olympia, Washington.³ *Exhibits 1, 1.B, 1.D, 1.E, 1.F, 1.I, and 1.L; Sharon Lumbantobing Testimony.*

² During the public hearing, two members of the public were identified as being in attendance, both of whom verbally declined the opportunity to provide comment on the record: Bill Johnston and Jared Burbidge. Following the hearing, written comments were submitted by Bill and Shirley Johnston. As explained on the record, the post-hearing written comment period is expressly not available to members of the public who were able to attend the hearing and have an opportunity to comment. However, in an abundance of caution, because Shirley Johnston did not decline the opportunity to provide comment at hearing, this post-hearing written public comment will be admitted, as will Applicant’s response thereto.

³ The legal description of the subject property is: Section 12 Township 18 Range 1W Quarter NE SE E OF DUTERROW RD LESS S 400F LESS ROW 3766227 and 12-18-1W SE-NE LY SLY OF PSH #1 & ELY OF DUTERROW RD; also known as Tax Parcel Numbers: 11812410600 and 11812410100. *Exhibit 1.*

2. The subject property is situated within the Lacey Urban Growth Area and is zoned Low Residential Density (LD 3-6). *Exhibit 1*. Land uses permitted outright in the LD 3-6 zone include single-family residences; planned residential developments; townhouse developments; two- and three-family units, limited to five percent of the project dwelling units; and housing for people with functional disabilities. *Thurston County Code (TCC) 21.13.020*. The permitted residential density is a minimum of three and a maximum of six residential units per acre. *TCC 21.13.035*. The Lacey-Thurston County Joint Comprehensive Plan designates the area for residential use. *Exhibit 1*.
3. The purposes of the planned residential development provisions within the Lacey UGA are established in County Code as follows: a) to encourage imaginative design and the creation of permanent open space by permitting greater flexibility in zoning requirements than is generally permitted by other chapters of this title; b) to preserve or create environmental amenities superior to those generally found in conventional developments; c) to create or preserve usable open space for the enjoyment of the occupants; d) to preserve to the greatest possible extent the natural characteristics of the land, including topography, natural vegetation, waterways, views, etc.; e) to encourage development of a variety of housing types; f) to provide for maximum efficiency in the layout of streets, utility networks, and other public improvements; and g) to provide a guide for developers and county officials in meeting the purpose and provisions of this chapter. *TCC 21.60.010*. Parcels developed pursuant to the PRD provisions are subject to the lot size, setback and yard standards, design standards, and environmental/ recreational amenities provisions of the PRD chapter (*TCC Chapter 21.60*). Development within PRDs remains subject to the requirements of the underlying zone and of the subdivision ordinance except to the extent that those requirements are superseded by the PRD provisions; the setback, lot size, height limits, and other dimensional requirements of the underlying zone are expressly waived. *TCC 21.60.050.A and B*.
4. The subject property is rectangular in shape and is currently undeveloped. It is bordered by Martin Way to the north and Duterrow Road and undeveloped Thurston County right-of-way to the west. Surrounding land uses include single family residences to the east, southeast, and southwest on land zoned LD 0-4, single-family residences on land zoned LD 3-6 to the south, and commercial uses on land zoned MHDC to the west. *Exhibits 1, 1.F, and 1.J; Arthur Saint Testimony*.
5. The subject property is forested, with the highest concentration of trees in the central portion of the property consisting of a dense mixture of Douglas fir, shore pine, bitter cherry, and madrone. Douglas fir is the dominant species. Many trees are dead, but the live trees are in fair to good condition. *Exhibits 1.T and 1.U*.
6. Thurston County soil mapping indicates that the subject property has potential to provide habitat for the Mazama pocket gopher, a species listed as endangered pursuant to the federal Endangered Species Act. However, based on a site-specific study, no Mazama pocket mounds have been detected on the subject property and the risk of significant impact to the species from proposed development activities is low. In addition, the

subject property does not contain prairie habitat, Mima mounds, or Oregon white oak trees. *Exhibit 1.AA.*

7. The subject property is within a Category 1 aquifer recharge area, a critical areas designation which does not prohibit residential development, but which requires the project to include best management practices designed to protect groundwater. *TCC 24.10.020; TCC 24.10.030; Exhibit 1.* The Applicant has prepared an integrated pest management plan (IPMP) that provides a process for pest management that would minimize the application of chemicals within the subdivision. *Exhibit 1.Z.* There are no other environmental features on the subject property regulated pursuant to the County's critical areas ordinance. *Exhibit 1.*
8. The subject property is located in an area that has been identified by the Washington Department of Ecology (Ecology) as potentially contaminated with arsenic and lead due to air emissions originating from the old Asarco smelter in north Tacoma. Based on testing of soil samples collected from the site, site soil lead levels do not exceed the threshold for cleanup under the Model Toxics Control Act (MTCA), but arsenic levels do exceed the threshold for cleanup. Ecology submitted requested conditions of project approval that address cleanup requirements, including development of a soil remediation plan for Ecology review and obtaining a "no further action" opinion letter from Ecology indicating that the remediation plan was successfully implemented. *Exhibits 1.Y and 1.MM.* A condition of approval was added to address compliance with these requirements.

Proposal

9. The proposal includes 34 detached dwelling units and 28 attached dwelling units (townhouses), with the townhouses grouped in sets of two, three, or four units. The detached residences would not exceed 2,300 square feet in area, with maximum building footprints of 1,188 square feet. The townhouses would not exceed 1,500 square feet in area, with maximum building footprints of approximately 800 square feet. The average lot area would be 3,800 square feet, with the smallest proposed lot 2,392 square feet. The lots would be arranged around a central common open space area containing preserved trees, landscaping, walking paths, picnic and barbeque facilities, and children's play areas. Each unit would have a porch facing the common open space, and each would have driveways and maximum 450 square foot detached garages facing the exterior of the site, accessed via a private perimeter looped road. Private courtyards proposed between the residences and detached garages. *Exhibits 1.E, 1.F, and 1.G; Ronnie Hastie Testimony.*
10. In a PRD development, the setback, lot size, height limits, and other dimensional requirements of the underlying zone are waived, and the standards of the PRD ordinance apply.⁴ PRD developments are also exempt from the design requirements of the

⁴ The Hearing Examiner notes that TCC 21.61 contains development standards that are specific to townhouse developments. County Planning Staff have determined that TCC 21.60 and TCC 21.61 are distinct processes that

subdivision ordinance. *Exhibit 1; TCC 21.60.050*. One of the key requirements of the PRD ordinance is the requirement to set aside 30% of the overall site area as common open space, which must be usable and accessible physically and visually from an adjacent street or internal pedestrian route and must have convenient access for residents of the development. *TCC 21.60.050 and 21.60.140*. The minimum open space requirement for the proposed 9.91-acre PRD is 2.97 acres. The Applicant proposes to meet the requirement through the 2.13-acre central open space tract (Tract A), perimeter landscaped areas totaling 0.71 acre (Tracts B and C), and 0.15-acre of roadside landscaping between the lots and the looped road (Tract D). *Exhibits 1.F and 1.G*. Planning Staff submitted that this proposed allocation of common open space among the several tracts satisfies the intent of the PRD provisions. *Exhibit 1*.

11. PRD developments that include four of the environmental and recreational amenities listed in TCC 21.60.145 are eligible for a density bonus. For PRDs in the LD 3-6 zone, the maximum density bonus is 15%. Consistent with TCC 21.60.145, the proposal includes: (1) significant recreational areas within the common open space, in the forms of paths and play areas; (2) the retention of existing native trees within a portion of the common open space; (3) storm drainage facility landscaping (the facility would be beneath a lawn area within the common open space); and (4) substantial and exceptional landscaping treatment. *Exhibits 1.F and 1.G*. The proposed development density would be 6.25 dwelling units per acre, which is substantially less than the maximum allowed with the density bonus, whether calculated based on gross site area or calculated based on the formula set forth in TCC 21.60.140, which is based on net buildable area and results in a higher number of allowed dwelling units.⁵ *Exhibits 1 and 1.F; Sharon Lumbantobing, Ronnie Hastie, and Tyler Burbidge Testimony*.
12. The Applicant proposes that each of the single-family detached lots would have the option of an accessory dwelling unit above the garage. *Exhibit 1.E; Ronnie Hastie Testimony*. Accessory dwelling units are allowed in the LD 3-6 zone and do not count towards the residential density calculation. *Exhibit 1; TCC 21.06.055*.
13. Although PRD developments are exempt from standard setback and yard requirements, and common wall construction (e.g., townhouses) is allowed, all detached structures must

apply to different types of development projects, such that if the project is a PRD (with townhouses incorporated the housing mix), TCC 21.60 and not TCC 21.61 would apply. *Exhibit 1.QQ*.

⁵ There was a discrepancy in the materials as to what the maximum density allowed on site would be based on application of density bonus, with a maximum number of units ranging from 72 to 79. Doing the math independently, the undersigned arrived at 68 unit maximum. After discussion among the parties on the record, the question of the correct calculation was dropped as an “academic” question that need not be provided in the instant record, because the proposal specifically seeks permission to create 62 maximum units, which is below any of the submitted numbers of maximum units. Of note, in order to qualify for a density bonus, a project proponent must demonstrate compliance with criteria established at TCC 21.60.145, which are not explicitly addressed anywhere in the record that the undersigned could discover. It is the conclusion of the undersigned that 1) the proposed 62 units clearly fall below the accurate maximum number of units and 2) the proposed 62 units fully develop the site. Therefore, with development limited to 62 units, no further demonstration of compliance regarding density is required.

be separated by a minimum of 10 feet. *TCC 21.60.110; Exhibit 1*. The site plan demonstrates compliance with this requirement. All detached residences and townhouse clusters would be set back at least 10 feet from each other, and at least 10 feet from the garages. *Exhibit 1.F*.

14. In addition to common open space, a minimum of 300 square feet of private, usable open space with minimum dimensions of 15 feet in depth and width must be provided for each ground level dwelling unit within a PRD, visible and accessible from the dwelling unit. *TCC 21.60.140.A(6)*. While the Applicant proposes private open space far exceeding 300 square feet for each dwelling unit, the Applicant requested a variance from the depth dimensional standard. The proposed depth of most lots' private open space would be 10 feet. The width of private open space on each lot would comply with or exceed the standard. Private open space would be provided within the courtyards between the residences and the detached garages (with a 10-foot minimum width for the townhouses and a 12-foot minimum width for the detached residences). Open space would also be provided between the residences and the rear property lines (i.e., facing the common open space), with a portion consisting of a covered porch. *Exhibits 1.I, 1.F, and 1.G; Ronnie Hastie Testimony*. This proposal requires approval of a variance from the PRD private open space minimum dimensions.

15. The primary reason for the variance request is that the overall depth of the lots could not be increased without reducing the area of common open space. The rectangular subject property is relatively narrow in width. The Applicant submitted that the need to comply with street standards, perimeter buffering requirements, off-street parking, and other applicable development standards limits the Applicant's ability to create additional private open space depth while maximizing density in the UGA. The Applicant submitted that reducing the number of proposed lots could allow for an increase in lot width, but would not result in increased lot depth. Also, changing the location of the common open space would affect site drainage. *Exhibits 1.I, 4, and 8; Ronnie Hastie, Jeffrey Yates, Tyler Burbidge, and Tyrell Bradley Testimony*. While *TCC 21.60.140(a)(5)* specifies that land or cash may be donated in lieu of some of the required common open space, the County has not adopted an administrative process for receiving the funds (and therefore will not accept them), and a variance is the Applicant's only remaining the option for relief. *Exhibits 1.I, 4, and 8*. The Applicant submitted that approval of the variance would allow the development to more fully achieve the intent of the PRD ordinance by allocating more land to common open space, creating superior environmental amenities, maximizing street layout efficiency, and providing innovative design while retaining substantial private open space on each lot. *Exhibits 1.I and 8*. Further, strict application of this dimensional standard can be read to conflict with the portion of *TCC 21.60.140.A(6)* which states that "developments are encouraged to conform to the usable open space provisions of the applicable zone." The LD 3-6 open space standard of *TCC 21.13.050.D* specifies 15-foot by 15-foot minimum open space dimensions but allows one side to be reduced to 10 feet if it "is designed with features that make it more inviting, private and usable." *TCC 21.13.050.D; Exhibit 1.I*. The Applicant proposes to provide patios within the private courtyard areas, with gates,

privacy fencing, and planters. *Exhibit 1.G; Ronnie Hastie, Jeffrey Yates, Tyler Burbidge, and Tyrell Bradley Testimony.*

16. The minimum building setback from the exterior boundary of a PRD must be compatible with existing development on adjacent properties and not less than 20 feet. *Exhibit 1; TCC 21.60.110.* All proposed structures would be set back more than 50 feet from the exterior boundary of the PRD. Structures would be separated from the exterior boundary of the PRD by the driveways, individual lot landscaping, the loop road, perimeter landscape buffers, and a six-foot wood fence at the perimeter. *Exhibit 1.F; Ronnie Hastie Testimony.*
17. To comply with the landscaping standards contained in TCC 21.80.050, the Applicant proposes to install an eight-foot wide Type II landscape buffer, which would include a six-foot tall wood fence, trees, and shrubs, along the eastern and southern property lines (adjacent to residential development) and a six-foot-wide Type III landscape buffer, which would include a six-foot tall wood fence, trees, and shrubs, along the western and northern property lines (adjacent to Duterrow Road and Martin Way, respectively). *Exhibits 1.F and 1.G.*
18. Pursuant to TCC 21.80.055(1)(b), a subdivision proposing residential lots smaller than 50% of the size of the contiguous residential development creates lots that are defined as an incompatible use. Incompatibility is required to be screened by a 30-foot wide vegetated buffer planted with predominantly native and drought tolerant species that provides a very dense sight barrier and physical buffer to significantly separate conflicting uses. A combination of trees, shrubs, berms, fences, and related design features may be selected, provided that the result is sight-obscuring from adjoining properties. Retaining mature vegetation is preferred. *TCC 21.80.055(3).* Of note, individual single-family residences, existing, legal non-conforming uses, and properties separated by a public road are exempt from the perimeter screening buffer requirement. *TCC 21.80.055(2)(b).* Explicit analysis of the project's compliance with TCC 21.80.55-based standards regarding incompatibility with adjacent larger residential parcels was not provided in the record.
19. TCC 21.80.100 limits features such as decorative paving, sculptures, and fountains to a maximum of 25% of required landscape areas. The decorative paving, walking paths, and recreation structures proposed for the central common open space would constitute approximately 15% of the open space area. *Exhibits 1 and 1.G.*
20. The proposal includes an application for forest land conversion, stating an intention to harvest approximately 100,000 board feet from 9.27 acres of the subject property. *Exhibit 1.L.* The criteria for forest land conversion require that at least 5% of the property being subdivided be preserved or planted with new trees and dedicated as a separate tract. The County may waive the dedication requirement if an equivalent means of retaining or planting trees is provided in the development proposal. *TCC 17.25.400.D.5.a.* To meet this requirement the Applicant proposes to retain healthy trees within a 0.54-acre portion of the central common open space tract, an area constituting

more than 5% of the total site area. The County considers the open space tract, which would be owned and maintained by the homeowners association, to be an acceptable means of tree retention that is equivalent to a separate tree tract. *Exhibits 1, 1.F, 1.M, and 4; Ronnie Hastie Testimony.*

21. In addition to the tree tract requirement, the forest land conversion ordinance requires a tree plan identifying safeguards to be employed to protect retained trees, the landscaping or planting of all common areas within the subdivision, the retention or planting of new trees on individual lots at a rate of one tree for every 4,000 square feet of lot area, and the installation of street trees. *TCC 17.25.400.D.5.c, -f, -g, and -h.* Consistent with these requirements, the Applicant proposes to landscape or plant all common areas, and plant street trees consistent with County requirements. County Staff incorporated the requirement to plant trees on individual lots into the recommended conditions of project approval. Although the recommended conditions require the Applicant to submit an irrigation plan and a maintenance assurance device pursuant to the landscaping regulations contained in TCC 21.80, they do not address safeguards to protect retained trees. *Exhibits 1, 1.E, 1.F, 1.G, and 4.*
22. Access to the subdivision would be from a right-in/right-out driveway off Martin Way E and a full-access driveway off Duterrow Road, opposite Northwood Drive. *Exhibits 1.N and 1.X.*
23. Based on the trip generation rates contained in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the proposed development is expected to add 56 PM peak hour trips to the local street system. *Exhibit 1.X.*
24. An operational and queuing analysis was conducted for intersections potentially affected by the development. With respect to the intersection of Duterrow Road and Northwood Drive, the eastbound Northwood Drive approach currently operates at level of service (LOS) C and is expected to continue to operate at LOS C under future traffic conditions with the traffic generated by the development.⁶ The left turn movements on northbound and southbound Duterrow Road would both operate at LOS A with the traffic generated by the development. *Exhibit 1.N.* With respect to the intersection of Martin Way and Ridgeview Drive, which is east of the proposed site access on Martin Way, the northbound Ridgeview Drive approach currently operates at LOS C and is expected to continue to operate at LOS C under future traffic conditions with the traffic generated by the development. Eastbound and westbound Martin Way would continue to operate at LOS A. *Exhibit 1.O.* Queuing at both intersections would fall within acceptable levels. *Exhibits 1.N and 1.O.*
25. The Applicant requested and obtained Thurston County Public Works Department approval of a variance from Martin Way intersection spacing standards to allow the

⁶ LOS ranges from A to F, with A representing the least amount of delay (i.e., free-flowing conditions) and F representing the most delay. *Exhibit 1.N.*

proposed right-in/right-out driveway. The right-in/right-out driveway would provide a secondary access allowing for enhanced emergency response, efficient internal traffic circulation, and reduced traffic impact at the intersection of Martin Way / Duterrow Road. *Exhibits 1, 1.H, and 1.X.*

26. Consistent with the conditions recommended by the City of Lacey to ensure compliance with the City of Lacey 2017 Development Guidelines and Public Works Standards Manual, the Applicant would construct half-street frontage improvements along the subdivision's Martin Way frontage, which would include a sidewalk and planter strip. The improvements would extend to Ridgeview Drive to the east. *Exhibits 1.F and 1.LL; Arthur Saint Testimony.*
27. The existing abutting Duterrow Road street section contains one travel lane in each direction. The section along the subject property frontage has sufficient right-of-way to comply with applicable standards and does not require a left turn lane to address projected traffic impacts of the proposal. As previously described, the intersection of Duterrow Road and Northwood Drive operates at LOS A and would continue to operate at LOS A after development is complete. *Exhibit 1.N; Arthur Saint Testimony.*
28. The Applicant requested and obtained Thurston County Public Works Department approval of a variance from the applicable City of Lacey Major Local Residential street standard for the perimeter loop road, which would allow the Applicant to provide a six-foot wide parking lane on one side of the street (along the exterior edge, to avoid driveway cuts on the interior edge), two 10-foot wide drive lanes, and five-foot wide planter strips and sidewalks on one side along the interior edge, to provide a buffer between the residences and the road. Sidewalks serving each residence would also be provided in the interior of the site, within the common open space. No residences would abut the side of the street without a sidewalk. The City of Lacey Public Works Department has approved the proposed street section. *Exhibits 1, 1.K, 1.LL, and 5; Tyler Burbidge Testimony.*
29. Pursuant to TCC 21.60.120 and Table 21T-13, each single-family unit must be provided with a minimum of two off-street vehicle parking stalls, and each ADU must be provided with one off-street parking stall. *TCC Title 21, Table 21T-13.* The Applicant proposes to provide each detached single-family unit and each townhouse unit with its own two-car garage and sufficient driveway space for two additional parking spaces, for a total of four off-street parking spaces per lot. On-street parking would also be provided along the outer edge of the perimeter road. *Exhibits 1, 1.E and 1.LL.*
30. The subject property is located within the North Thurston Public Schools service area (School District). School aged residents of the plat would be served at Meadows Elementary, Salish Middle, and River Ridge High Schools. The School District commented that its schools are over capacity, and that it anticipates the need to purchase land and construct additional facilities due to increased enrollment from the proposed and other residential developments. The School District requested mitigation fees of \$4,485 for each new single-family detached and townhouse unit. *Exhibit 1.EE.* The School

District's requested mitigation was included as a condition of the SEPA mitigated determination of non-significance (MDNS) that was issued for the proposal (addressed in detail below). *Exhibit 5*. It is expected that students would be bussed to the schools. Planning Staff's recommended conditions of project approval require the Applicant to designate a bus waiting area and shelter that is acceptable to the School District. *Exhibit 1; Sharon Lumbantobing and Ronnie Hastie Testimony*.

31. Intercity Transit provides public bus service in the vicinity of the subject property. The nearest transit stop is approximately one-quarter mile from the subject property. To support its efforts to provide transit enhancements in the future, Intercity Transit requested that the Applicant be required to develop the Duterrow Road street frontage in a manner that would accommodate a 50-foot long bus loading zone, should Intercity Transit decide to install a bus stop at that location. The bus zone would need to be free of street trees and include a 24-foot wide concrete bus landing pad between the sidewalk and curb. In addition, in order to provide paratransit service to residents of the development, Intercity Transit requested that the Applicant provide site access road grade transitions that accommodate longer wheelbases and adequate turning radii along the looped road. *Exhibit 1.II*. Intercity Transit's requested mitigation was included as a condition of the SEPA MDNS issued for the proposal. *Exhibit 5*.
32. The subdivision would be connected to the City of Lacey water and sewer systems, which have capacity to serve the subdivision. Water and sewer service would be subject to providing improvements such as transmission mains. *Exhibit 1.KK*. The City of Lacey Public Works Department has identified the specific water and sewer improvements required for the project (*Exhibit 1.LL*), and these have been incorporated into the County's recommended conditions of project approval. *Exhibits 1 and 1.LL*.
33. The Applicant proposes to infiltrate stormwater on site, within three underground infiltration systems corresponding to stormwater basins. Based on a geotechnical investigation, infiltration is feasible in the areas proposed. With respect to the Martin Way frontage improvements, the planter strip would include a bioretention facility designed to provide treatment and flow control for half of Martin Way and infiltration of runoff. *Exhibits 1.R and 1.V*.
34. The Thurston County Public Works Department reviewed the project for compliance with the Thurston County Road Standards and the Drainage Design and Erosion Control Manual and determined that the preliminary requirements have been satisfied. Public Works recommended approval of the project, subject to conditions as outlined in the County's Staff Report. *Exhibit 1; Arthur Saint Testimony*.
35. The Thurston County Environmental Health Division reviewed the project for compliance with the Thurston County Sanitary Code and recommended approval, subject to conditions as outlined in the County's Staff Report. The conditions of approval include provisions to protect an existing off-site well. *Exhibit 1; Dawn Peebles Testimony*.

36. The Nisqually Indian Tribe and Squaxin Island Tribe commented that they have no issues of concern but requested to be notified if there are any inadvertent discoveries of archaeological resources or human burials. This request was incorporated into the SEPA MDNS and the recommended conditions of project approval. *Exhibits 1, 1.CC, 1.FF, 1.GG, 1.HH, and 5.*
37. Thurston County acted as lead agency for review of probable, significant adverse environmental impacts of the proposal pursuant to the State Environmental Policy Act (SEPA). Having reviewed the preliminary plat plans, technical reports, environmental checklist, agency comments, and other documents, the County's SEPA responsible official issued a mitigated determination of non-significance (MDNS) on October 8, 2021. The MDNS imposed conditions requiring: park, traffic, and school mitigation fees; mitigation for failing intersections on Marvin Road; transit improvements consistent with comments submitted by Intercity Transit; compliance with maximum density requirements; use of clean fill; implementation of erosion and stormwater control best management practices; protection of archaeological deposits discovered during construction; containment of pollutants; and compliance with applicable laws. The MDNS was not appealed and became final on October 29, 2021. *Exhibits 1, 1.CC, and 5.*
38. Public comment on the application included: questions about barriers for noise attenuation and trespassing; concerns about street lighting impacts; concerns about traffic, particularly with respect to the Martin Way entrance and its close proximity to Ridgeview Drive, and the intersection of Duterrow and Northwood; and questions about traffic study methodology. *Exhibits 1.JJ and 6.* With respect to barriers, perimeter fencing would be provided. *Exhibit 1.G; Ronnie Hastie Testimony.* Traffic analysis, including projected level of service impacts, was conducted by a certified professional transportation planner for the intersections formed by both site entrances. The conclusion was that both intersections would function at acceptable levels of service. County Engineering Staff have accepted the traffic reports and concur that the surrounding road network can accommodate the traffic generated by the development. According to Public Works Staff, while the County's road and street lighting standards do not contain provisions addressing the question of off-site glare generated by streetlights, Staff testified that the approved fixtures are designed to prevent or minimize glare outside of the roadway. *Exhibits 1.N, 1.O, and 7; Arthur Saint Testimony.*
39. Having heard all testimony and reviewed the complete materials, at hearing Planning Staff maintained their recommendation for approval of the proposal subject to the conditions in the staff report. Revisions to some of the recommended conditions were subsequently submitted after the hearing. *Exhibits 1 and 5; Sharon Lumbantobing Testimony.* At hearing, Applicant representatives waived objection to the recommended conditions of approval, with one minor clarification/correction regarding the required width of the planter strip along the proposed perimeter road. The recommended condition, based on City of Lacey requested conditions, required a 5.5-foot wide planter strip; however, Lacey had previously agreed to a five-foot wide strip. In invited post-hearing submittals, both the Applicant and County Staff provided email from the City of

Lacey representative acknowledging and formally accepting the proposed five-foot wide planter strip. *Exhibits 5 and 8; Testimony of Ronnie Hastie.*

CONCLUSIONS

Jurisdiction:

The Thurston County Hearing Examiner is granted jurisdiction to hear and decide applications for planned residential developments and variances within the Lacey UGA pursuant to TCC 2.06.010.B and TCC 21.81.040. The Examiner is granted jurisdiction to hear and decide preliminary plats of lands within unincorporated Thurston County pursuant to TCC 2.06.010.A, TCC 18.10.030, and TCC 21.60.050.B. Pursuant to TCC 20.60.020(3), TCC 17.225.400.E(3), and TCC 20.60 Table 2, the Hearing Examiner is granted jurisdiction to hear and decide applications for Type III forest land conversion applications.

Criteria for Review:

Preliminary Plat Criteria

Pursuant to TCC 18.12.090.B, preliminary plat approval may be granted if the following criteria are shown to 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. If the hearing examiner finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the hearing examiner shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. The county shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

Planned Residential Development

TCC 21.60.050 Relationship to other ordinance provisions

- A. Zoning Requirements. The provisions of the Zoning Ordinance pertaining to land use of the underlying zoning district shall govern the use of land in a planned residential development. The specific setback, lot size, height limits and other dimensional requirements are waived, and the regulations for PRDs shall be those indicated in Section 21.60.140.
- B. Platting Requirements. A PRD shall be exempt from the specific design requirements of the Subdivision Ordinance, except that when any parcel of land in a PRD is intended for individual ownership, sale or public dedication, the platting and procedural requirements of the Subdivision Ordinance and applicable state laws

pertaining to the subdivision and conveyancing of land and the preparation of maps shall be followed.

...

TCC 21.60.070 Relationship of PRD site to adjacent areas

The design of a planned residential development shall take into account the relationship of the site to the surrounding areas. The perimeter of the PRD shall be so designed as to minimize undesirable impact of the PRD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PRD.

TCC 21.60.080 Site acreage

The minimum site for a planned residential development shall be a full block or a portion of a block if it was a numbered block in the original plat of the county, or a numbered block of a subdivision recorded prior to the adoption of the ordinance codified in this title. For all previously unplatted areas, the minimum site shall be two acres.

TCC 21.60.090 Access to public right-of-way

The major internal street serving the PRD shall be connected to at least one major arterial, secondary arterial or collector street.

TCC 21.60.100 Lot size

The minimum lot size provisions of other chapters of the zoning title are waived in a planned residential development.

TCC 21.60.110 Setback and side yard requirements

- A. Setbacks from the exterior boundary line of the PRD area shall be comparable to or compatible with those of the existing development of adjacent properties, or, if adjacent properties are undeveloped, the type of development which may reasonably be expected on such properties given the existing zoning of such properties or the projections of the comprehensive plan. In no event shall such setback be less than twenty feet.
- B. Setbacks or Side Yards Between Buildings. The standard setbacks and yard requirements between buildings may be waived in a PRD. Buildings may have common walls and, therefore, built to the property line as in townhouse construction. Wherever buildings are separated, a minimum distance of ten feet shall be maintained between such buildings.

TCC 21.60.120 Off-street parking

Off-street parking shall be provided in a PRD in the same ratios for types of buildings and uses as required for the underlying zoning district, and as described in Chapter 21.72 of this title.

TCC 21.60.140 Design standards

- A. Open space requirements shall be as follows:
 - 1. Common Open Space. Each planned residential development shall provide not less than thirty percent of the gross land area for common open space which shall be either:

- a. Held in single ownership where such ownership assumes full responsibility for maintenance and operation; or
 - b. Held in common ownership by all of the owners in the development area; or
 - c. Dedicated for public use, if acceptable to the county.
2. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the PRD, provided that the building coverage of such building or structure combined with the building coverage of the residential structures shall not exceed the maximum permitted by the underlying zone.
 3. Up to fifty percent of the common open space requirement may be satisfied by the preservation of tall stands of trees and/or wetland and/or critical area habitat and required critical area buffers in consideration of the significant passive recreation opportunities provided by said lands. Development shall be configured to take advantage of these areas as a significant site amenity. These areas should be visually accessible to the public rather than walled off from view. To the extent possible, trail networks should be integrated with these areas. For example, a trail along the wetland buffer is a desirable option. The remaining fifty percent of the common open space area must meet the criteria in subsection (4) below.
 4. Common open space must meet the following design criteria:
 - a. Must be usable and accessible. All common open spaces intended for public use shall be physically and visually accessible from the adjacent street or major internal pedestrian route. Open spaces shall be in locations accessible to intended users—rather than simply left—over or undevelopable space in locations where very little pedestrian traffic is anticipated. Locations integrated with transit stops, for instance, would be encouraged, as there is likely to be pedestrian traffic in the area.
 - b. Open space area shall have convenient access for residences of the development and shall be consolidated to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance.
 - c. Must be inviting. Inviting open spaces feature amenities and activities that encourage pedestrians to use and explore the space. On a large scale, it could be a combination of active and passive recreational uses. It could include a fountain, sculpture, children's play area, special landscaping element, or even a comfortable place to sit and watch the world go by. In order for people to linger in an open space, it must be comfortable. For instance, a plaza space should receive ample sunlight, particularly at noon, and have design elements that lend the space a "human scale," including landscaping elements, benches and other seating areas, and pedestrian-scaled lighting. No use shall be allowed within the open space that adversely affects the aesthetic appeal or usability of the open space. (See Table 21T-83.)

- d. Must be safe. Safe open spaces incorporate Crime Prevention through Environmental Design (CPTED) principles:
 - (1) Natural surveillance—which occurs when parks or plazas are open to view by the public and neighbors. For example, a plaza that features residential units with windows looking down on space means that the space has good "eyes" on the park or plaza.
 - (2) Lighting that reflects the intended hours of operation.
 - (3) Landscaping and fencing. Avoid configurations that create dangerous hiding spaces and minimize views.
 - (4) Entrances should be prominent, well lit, and highly visible from inside and outside of the space.
 - (5) Maintenance. Open spaces shall utilize commercial grade materials that will last and require minimal maintenance costs. Walls, where necessary, shall be designed and treated to deter graffiti. Use and maintain landscape materials that reduce maintenance cost and maintain visibility, where desired.
 - e. Provides for uses/activities that appropriately serve the anticipated residents and users of the development. For example, common open space that serves a variety of functions will attract greater usage. When designing open spaces, project applicants should consider a broad range of age groups, from small children, to teens, parents, and seniors.
 - f. Must be designed and placed in consideration of existing and potential open space on adjacent parcels to provide consolidation or opportunities for future consolidation of neighborhood open space areas.
 - g. Additional Criteria.
 - (1) Consolidation of open space is encouraged to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance.
 - (2) Existing trees and significant vegetation shall be retained in open space unless an alternative park/landscaping plan consistent with the criteria herein is approved by the department.
5. Cash or like value of land area and improvements may be donated to the county for open space purposes to fulfill up to fifty percent of open space requirements within that specific parks planning area. Acceptance will be at the discretion of the county.
6. Private Open Space. Developments are encouraged to conform to usable open space provisions of the applicable zone. However, at a minimum, three hundred square feet of private, usable open space having a minimum of fifteen feet in depth and width shall be provided for each ground level dwelling unit PRD. Such private open space should be visible and accessible from the dwelling unit. When

adjacent to common open space, such private open space is to serve as a buffer between dwelling units and common open space.

- B. Land Area and Dwelling Unit Computations. Open space, street area, etc., are computed as follows:
1. Street Right-of-Way. Streets in a PRD shall be computed at twenty percent of the gross land area, regardless of the amount of land actually used for streets in the final design.
 2. Density. The density of the underlying zone governs unless a density increase is granted as provided in this chapter.
 3. Density Increase. The county may approve an increase in the dwelling unit density up to:
 - a. In the low density district, fifteen percent;
 - b. In the moderate density district, twenty percent;
 - c. In the high density district, twenty-five percent; rounded to the nearest whole number, provided that the environmental and recreational amenities sought by this title are met.
 4. Development Formula. The computation of the number of dwelling units permitted, and other space requirements shall be as follows:

$DU = N/M \times 1.2$ (1.2 is the incentive factor)

G Gross land area in square feet

S Street area (i.e., twenty percent of G) in square feet

DU Number of dwelling units

M Minimum land area per dwelling unit

N Net buildable site (G-S) in square feet

Example: In a hypothetical five acre site in the moderate density residential district, thirty-two dwelling units are permitted under conventional development procedures, assuming a minimum lot area of five thousand four hundred forty-five square feet, no dedication for other public use, and twenty percent of the land area dedicated for public right-of-way. The calculations are as follows:

G = 5 acres = 217,800 square feet, gross land area

S = 20% of G = 43,560 square feet of public R.O.W.

G-S = 174,240 square feet

DU = $174,240 / 5,445 = 31/6 = 32$ dwelling units

On the same five acre site, under PRD procedure, thirty-eight dwellings are permitted using the formula shown below:

$DU = N/M \times 1.2$

$$N = G-S = 217,800 - 43,560 = 174,240 \text{ square feet}$$

$$M = 5,445 \text{ square feet minimum lot area}$$

$$DU = 174,240/5,445 \times 1.2 = 38.4 = 38 \text{ dwelling units}$$

Forestland Conversion Criteria

Pursuant to TCC 17.25.400.D, forest lands conversions within the north county urban growth area shall comply with all of the applicable provisions of the following:

1. Title 24 of the Thurston County Code otherwise known as the Thurston County Critical Areas Ordinance and Chapter 17.15 of the Thurston County Code, otherwise known as the Thurston County Agricultural Activities Critical Areas Ordinance;
2. Chapter 19.04 of the Thurston County Code, otherwise known as the Thurston County Shoreline Master Program;
3. Chapter 15.05 of the Thurston County Code, otherwise known as the Drainage Design and Erosion Control Manual for Thurston County;
4. Chapter 15.04 of the Thurston County Code, otherwise known as the Minimum Design Standards for Urban and Rural Street Construction in New Developments;
5. Residential Subdivisions. Applications for residential subdivisions submitted to the resource stewardship department after September 29, 1997 are subject to the following:
 - a. Except in the R ½ and RLI 2-4 districts (Olympia Urban Growth Area, TCC 23.04), at least five percent of the property being subdivided must be preserved or planted with new trees and dedicated as a separate tract(s). Critical areas and their required buffers may be applied toward this five-percent requirement, but only the portion that contains trees to be preserved. The director may waive the dedication requirement if some other equivalent means of retention or replanting is provided by the development proposal. In the R ½ and RLI 2-4 districts, tree tracts shall comply with Sections 23.04.080(J)(5) and (6), respectively.
 - b. Any part of a tree tract located outside of critical areas and their associated buffers shall count toward open space required for the development by TCC 18.47 Open Space Standards, and 20.32 Open Space, consistent with the provisions of those chapters.
 - c. The plan shall identify what site development safeguards shall be employed to protect trees and ground cover proposed to be retained with the development of the site.
 - d. Where sites proposed for subdivision do not contain healthy trees that can be incorporated in the project and remain windfirm following development, the tree tract shall be planted with trees. The trees to be planted shall be of a type and spacing that, upon maturity, will provide a canopy spanning at least seventy-five percent of the tract. At the time of planting, evergreen trees shall be at least four feet tall and deciduous trees shall be at least one and one-half-inch caliper.
 - e. Where disturbed, critical area buffers may be planted with trees as necessary to improve the buffers for slope stability, wildlife habitat, wetland improvement, screening, etc.

- f. All common areas in residential subdivisions shall be landscaped or planted with new trees.
- g. The retention of existing trees or the planting of new trees on individual residential lots shall be required at a rate of one tree for every four thousand square feet of lot area.
- h. Street trees shall be installed per the applicable street development standards as stated in Chapter 15.04 of the Thurston County Code.
- i. A bond or other such method of financial security in an amount equal to one hundred twenty-five percent of the cost to purchase and install the required trees, based upon a contractor's estimate accepted by the county, shall be provided to the county to secure the successful establishment of newly planted trees. The county shall draw upon this surety as needed to replace any trees that die, upon failure of the developer or other responsible party to do so within the time period specified by the county. The developer shall not be required to replant trees which die or suffer severe degradation as a result of a water purveyors failure to supply adequate water, acts of vandalism or other actions of unrelated third parties acting beyond the developer's control. Such financial security shall be effective for a two-year period following completion of the planting.

Variance Criteria

The Hearing Examiner may approve an application for a variance only if the following criteria set forth in TCC 20.52.020 are satisfied:

1. That the granting of the proposed variance will not result in the allowance of a use which is not classified as a permitted or special use in the district wherein the use would be located;
2. That special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;
3. That the special conditions and circumstances are not the result of the actions of the applicant;
4. That granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district;
5. That the granting of the variance will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated;
6. That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land;

7. That the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Additional Applicable Provisions

TCC 21.60.010 (Planned Residential development) Intent

It is the intent of this chapter to:

- A. Encourage imaginative design and the creation of permanent open space by permitting greater flexibility in zoning requirements than is generally permitted by other chapters of this title;
- B. Preserve or create environmental amenities superior to those generally found in conventional developments;
- C. Create or preserve usable open space for the enjoyment of the occupants;
- D. Preserve to the greatest possible extent the natural characteristics of the land, including topography, natural vegetation, waterways, views, etc.;
- E. Encourage development of a variety of housing types;
- F. Provide for maximum efficiency in the layout of streets, utility networks, and other public improvements;
- G. Provide a guide for developers and county officials in meeting the purpose and provisions of this chapter.

Conclusions Based on Findings:

1. As conditioned, the proposal satisfies the criteria for a preliminary plat.
 - A. Appropriate provisions are made for the public health, safety, public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, and all other relevant facts. The PRD provides for on-site recreation facilities and would be subject to payment of park mitigation fees. With respect to safe walking conditions, the PRD includes sidewalks and would be required to designate a school bus waiting area. The Applicant is required to pay school impact mitigation fees. Transportation, water, and sewer infrastructure would be provided consistent with Thurston County and City of Lacey standards. Public health issues are addressed through the conditions provided by the County Environmental Health Division. The project's traffic impacts were assessed by a qualified professional, whose report and recommendations were determined by Public Works to demonstrate compliance with applicable transportation standards. All findings for necessary provisions can be made in the affirmative. *Findings 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, and 39.*
 - B. The public use and interest would be served by the subdivision implemented with the design flexibility of the PRD provisions. The proposal would add to the supply of housing in the area while providing for innovative design and superior environmental amenities, in a location where public water and sewer are already available to serve

the additional units. The proposed development density would be consistent with LD 3-6 standards as modified through the PRD process. Offsite impacts would be minimized through substantial setbacks, perimeter buffering, and payment of transportation, school, and park impact mitigation fees. Street lighting fixtures allowed by the County road and street lighting standards are designed to minimize glare outside of the roadway. The project would provide frontage improvements along both public rights-of-way fronting the ends of the site. Conditions of approval address the requirements identified by the agencies with jurisdiction over the project. *Findings 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, and 39.*

2. As conditioned and with approval of the variance, the PRD criteria for approval are satisfied. Through perimeter fence, landscaping buffers, a perimeter road, individual lot landscaping, and generous building setbacks, the perimeter of the PRD is designed to minimize undesirable impacts on adjacent properties developed at lower densities. The PRD site exceeds two acres in area. The proposed private internal street connects to at least one arterial or collector street. The wide building setbacks from the exterior boundary of the PRD are compatible with adjacent development. A minimum distance of 10 feet would be maintained between buildings. Adequate parking is proposed. At least 30% of the site area would be set aside as common open space, to be owned and maintained by a homeowners association. The proposed common open space would be usable and physically and visually accessible from all residential units. Each unit would have a porch facing the open space and a walkway leading into the central common area, which as proposed would be “inviting,” with features to encourage use of the space including landscaping elements, seating, and play areas. The space would serve a variety of functions, including retention of existing healthy trees. Each proposed unit would be provided with more than the minimum required area of private open space. The variance approval, detailed below, addresses the reduced depth of private open space. The number of dwelling units proposed is consistent with 15% density bonus allowed by the PRD ordinance and is lower than the maximum number of units allowed. *Findings 2, 3, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 28, 37, 38, and 39.*
3. As conditioned, the approval criteria for forest land conversion are satisfied. As conditioned, the project complies with the critical areas ordinance, the County’s Drainage Design and Erosion Control Manual, and Thurston County Road Standards. Trees would be retained on at least 5% of the site area and preserved within the common open space tract. Common areas would be landscaped and planted with new trees. Street trees would be installed. The conditions of approval address tree planting on individual lots and require tree protection during construction. *Findings 4, 5, 9, 20, 21, 37, 38, and 39.*
4. The criteria for approval of the requested variance from the private open space dimensional standard of the PRD provisions are satisfied.
 - A. Granting the variance would not allow a use not otherwise allowed in the LD 3-6 zone.

- B. Circumstances inherent in the land, namely the narrow shape of the subject property, are the cause of the need for variance, such that strict application of the standard would prevent a site design that complies with the intent of the PRD ordinance, the PRD design standards, and other applicable requirements. Flexibility with respect to the standard is supported by applicable LD 3-6 zoning standards, such that denial of the PRD standards variance would prevent the Applicant from enjoying a right enjoyed by similarly situated property owners.
- C. The shape of the subject property is not the result of the actions of the Applicant. There is some incongruity between the significant design flexibility offered by the PRD ordinance with respect to lot area, setbacks, etc., and the inflexibility of the ordinance with respect to private open space dimensions. In the judgment of the undersigned, the proposed site design appropriately balances the many competing policies and regulations applicable to the development, resolving the minor conflict between the depth of private open space on individual lots and the common open space design in favor of the common open space design. The Applicant is hindered in the ability to request a reduction in the area of on-site common open space by the fact that a process for collecting fees in lieu of open space has not been implemented (“operationalized”) by the County. The depth of private open space proposed is reasonable in that it is consistent with the minimum required in the LD 3-6 zone. While it might be theoretically possible for the Applicant to increase the depth of the lots and make up the loss of common open space area by eliminating lots on the ends of the project and making the central common open space itself narrower, it is the opinion of the undersigned that such action would reduce the utility of the open space by making it narrow. This would also reduce tree retention opportunities in the center of the site. Further, requiring the Applicant to create additional private open space depth on each lot by reducing the depth of the structures on each lot would not be reasonable, as the proposed building footprints are not excessive, and the garages and driveways are needed to comply with off-street parking requirements. Given the total circumstances, the variance proposal to reduce minimum depth of private open space on some but not all proposed lots from 15 to 10 feet results in a better overall project design that is more consistent with the purpose of the PRD provisions than a project with deeper private open space areas and narrower common open space would be.
- D. Granting the variance would not confer a special privilege, as LD 3-6 private open space regulations allow for the dimensions proposed, and the overall area of open space provided on each lot would far exceed the minimum required by the PRD ordinance.
- E. Granting the variance would not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity. The variance affects a feature that would not be noticeable off the individual lot. The overall area of private open space on each lot would exceed ordinance standards, and any loss of open space utility resulting from the reduced depth would be more than offset by the lot’s proximity and connection to well-designed common open space.

- F. The application along with supporting testimony and evidence justify granting the variance. The variance is the minimum needed to ensure that adequate open space is provided.
- G. The variance would be in harmony with the intent of the Lacey Urban Growth Area zoning ordinance to facilitate orderly growth, protect residents' health and welfare, and provide flexible regulations and controls (TCC 21.03.020), and for the reasons described in Conclusion 4.E, would not be injurious to the neighborhood or detrimental to the public welfare.

Findings 2, 3, 4, 5, 9, 10, 13, 14, 15, 37, 38, and 39.

DECISIONS

Based on the preceding findings and conclusions, the requested preliminary plat, planned residential development, forest land conversation, and PRD private open space minimum dimensions variance are **GRANTED** subject to the following conditions:

SEPA Conditions of Approval from the MDNS issued on October 8, 2021

1. Thurston County Parks Mitigation: Parks mitigation fees are determined based upon current fee schedule at time of building permit issuance.
2. To mitigate traffic impacts within the City of Lacey, the proponent will need to contribute \$25,209.90 to the City of Lacey per Lacey Ordinance 14.21, and paid prior to final project approval, pursuant to County Road Standards. See attached worksheet prepared by the City of Lacey for a breakdown of this mitigation amount. Timing of the contributions may be altered if approved by both the City of Lacey and Thurston County.
3. This project impacts the intersections listed below, which do not have capacity for the additional traffic, and are projected to operate at below acceptable LOS in the future even without the project. Improvements to these intersections to mitigate the impact of this development, if not already completed by others, shall be constructed or mitigated prior to final plat approval.

Intersections:

- a. Mullen Road SE and Marvin Road SE
- b. Union Mills Road SE and Marvin Road SE
- c. 19th Avenue SE and Marvin Road SE
4. School mitigation: Prior to issuance of building permits, payment of school mitigation fees of \$4,485 per each new single-family or town home (\$282,555.00) is required for impacts to the North Thurston School District. Mitigation will be collected at the time of building permit issuance.
5. A portion of the site frontage shall be developed in a manner that would make it easy to add a future bus stop, including a final design that accommodates a 50-foot-long bus loading zone north of the planned entrance on Duterrow. The loading zone -- which

would enable northbound transit vehicles to stop in-lane, parallel with the curb -- should be free of street trees and include a 24 foot wide concrete bus landing pad between the sidewalk and curb. (Should Intercity Transit introduce service here, the transit agency would install and maintain the bus facility (e.g., a shelter or sign pole) atop the concrete pad.)

6. For future para-transit access, the final site plan shall include site access road grade transitions that accommodate longer wheel bases and adequate turning radius within the internal loop roadway to support the body-on-chassis-style shuttle. (Due to the presence of multiple building entrances, IT's paratransit vehicles would either park along the loop road curb or use residential driveways to pick up riders.)
7. [Stricken]⁷
8. Clean Fill / Solid Waste. 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.
9. Erosion and storm water control Best Practices meeting Thurston County standards; Chapter 15.05 shall be employed during all phases of the project. Proper erosion and sediment control practices shall be used on the construction site and adjacent areas to prevent upland sediments from entering surface waters or wetlands. All areas disturbed or newly created by construction activities shall be seeded, vegetated, or given some other equivalent type of protection against erosion.
10. 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.
11. In the event that archaeological deposits or skeletal material or features of a burial/interment situation are encountered, all work in the vicinity of the discovery area must stop immediately and contact made with the Washington State Historic Preservation Officer, the Nisqually Indian Tribe, any other affected Tribe, and Thurston County Community Planning and Economic Development (CPED).
12. 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.

⁷ Staff's proposed revised language in Exhibit 5 is expressly not adopted.

13. 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.
14. 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.).

Note:

This project may require a construction stormwater permit from the Washington State Department of Ecology (also known as National Pollution Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction). It is the Applicant's responsibility to obtain this permit if required. One or more acres of soil surface area will be disturbed by construction activities.

- The site already has offsite discharge to waters of the state or storm drains or will have offsite discharge during construction.
- Information about the permit and the application can be found at:
<http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>

This permit is required for projects which meet both of the following conditions:

One or more acres of soil surface area will be disturbed by construction activities.

- The site already has offsite discharge to waters of the state or storm drains or will have offsite discharge during construction.
- Information about the permit and the application can be found at:
<http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>

Public Works Conditions:

Roads

15. The proposed roadway in concept and design shall conform to the Road Standards and the City of Lacey standards and development guidelines.
16. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.
17. The access point on Martin Way will require a median curb be placed to prevent left turns. This shall be installed prior to certificate of occupancy.
18. The construction of frontage improvements will require a grind and over lay of the existing road surface to be determined during the construction review. This may be to

centerline depending on condition of the existing surface but will at a minimum be a full lane.

Traffic Control Devices

19. 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.
20. 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

21. The stormwater management system shall conform to the Drainage Design & Erosion Control Manual.
22. 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.
23. 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.
24. 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

25. 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.
26. 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 & Survey

27. Permanent survey control need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
28. 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.

Traffic

29. Payment of the off-site traffic mitigation required in the October 8, 2021 Mitigated Determination of Non-significance is required prior to final approval in accordance with the Thurston County Road Standards. Timing of such payments to the other jurisdictions may be altered upon agreement with respective jurisdiction and Thurston County.

General Conditions

30. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
31. Development within the City of Lacey urban growth boundary, requiring review by both Thurston County and the corresponding city jurisdiction, shall be designed to the more stringent standards of the two jurisdictions.
32. 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.
33. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.
34. 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

35. 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

- 36. 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 right-of-way improvements in accordance with Thurston County Code 18.24.010.
 - g. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
 - h. Approve the Final Plat Map.
 - i. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.
 - j. Completion of required frontage improvements.
 - k. Completion of required signing and striping.
 - l. Payment of any required permitting fees.
 - m. Payment of any required mitigation fees.

- 37. 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, alleys or driveways within or providing access to

- property described in this plat. The building, maintenance, repair, improvement, operation or servicing of the stormwater facilities outside the County rights-of-way are the responsibility of the property owner(s).
- b. Increased stormwater 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 Martin Way E or Duterrow Road SE.
 - c. Thurston County has no responsibility to control road runoff that flows down driveways that are constructed below road grade. Homeowners are responsible for grading their access point and adjacent property to manage any runoff from the roadway.
 - d. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
 - e. 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.
 - f. 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.
 - g. Approval of this subdivision is conditioned upon payment of City of Lacey Traffic Mitigation Fees in the amount of \$_____ per lot. This fee increases on July 1 of each year in accordance with the increase in the Engineering News Record Construction Cost Index and the amount is determined at the date of payment. Payment is required prior to the issuance of a water meter for those lots served by the Lacey Water Utility and prior to building permit issuance for those lots not served by such Utility.
 - h. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any building permits associated with this project.
 - i. 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._____.
 - j. 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 stormwater 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 or homeowners’ association as established by covenant recorded under Auditor’s file number _____.
 - k. The property described herein is required to accommodate stormwater runoff from

frontage improvements to Martin Way East and Duterrow Road SE and all natural tributary areas abutting said property.

- l. Maintenance of the landscaping, trees, sidewalk, planter strips 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, sidewalk, planter strips or roadside stormwater facilities and the property owner(s) adjacent to the Right-of-Way shall be responsible for maintaining the planter strip and street trees (weeding, pruning, irrigating, mowing, etc.) in a healthy and growing manner in perpetuity.

Delineate on the Plat

- m. 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.).
- n. Delineate the access restrictions by showing a "no access" strip, written and hatched, between the County approved access points along the frontage of Martin Way E.and Duterrow Road SE on the final plat map.
- o. Please clearly label all public and private roads.

Environmental Health Project Conditions

38. The Applicant must grant a non-public restrictive covenant for the existing off-site well encroaching on the project site. The covenant must be submitted to Environmental Health for review prior to being recorded with the Thurston County Auditor's Office.
39. The existing off-site well must be accurately shown on the final subdivision map.
40. There shall be no sanitary sewer lines located within 50 feet of the existing off-site well.
41. There shall be no stormwater infiltration within 100 feet of the existing off-site well.
42. City of Lacey water and sewer utilities must be extended through the subdivision prior to final approval. Confirmation of final construction approval from the City of Lacey must be submitted to Environmental Health.
43. An Integrated Pest Management Plan (IPMP) has been developed for this project and accepted by Environmental Health. Prior to final plat approval the Applicant must provide the proposed method of IPMP distribution to future homeowners within the subdivision. This is typically done by incorporating a copy of the accepted IPMP into the subdivision CC&Rs. Other methods may be allowed provided they assure future property owners will receive a copy of the IPMP at the time of sale.

Planning Project Conditions

44. Approvals granted herein are expressly limited to the proposed and reviewed 62 lots as laid out in the plans in the record at Exhibits 1.F and 1.G.
45. Street addresses, lot size, and dimensions for each lot shall be shown on the final map.
46. 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 except as expressly modified by the instant approvals.
47. All open space and landscaping and tree preservation shall comply with:
 - A. New trees on individual residential lots shall be planted at a rate of (1) tree for every four thousand (4,000) square feet of lot area at the time of building permit application.
 - B. Any conditions, improvements or maintenance requirements associated with the landscaping plan shall be shown on the final plat map.
 - C. Prior to final plat approval, the Applicant shall submit a revised final landscape plan. The revised landscape plan shall be submitted to Thurston County Community Planning and Economic Development Department for review and approval. The final landscape plan shall include the design of the active recreation component to the open space i.e., play equipment, sports court, and irrigation. All landscaping shall be in compliance with the Thurston County Zoning Ordinance (Title 21) and the Thurston County Subdivision Ordinance (Title 18).
48. Prior to final plat approval, a maintenance assurance device or a performance device must be submitted to the county (TCC 21.80.080 or TCC 21.80.090).
49. Prior to final plat approval, an irrevocable notarized agreement granting the county and its agents the right to enter the property and perform any necessary landscaping work must be provided.
50. Prior to issuance of the certificate of occupancy, the required landscaping must be installed. In no case may the property owner/developer delay performance for more than one year after occupancy.
51. Prior to final plat approval, the Applicant shall submit evidence to the Thurston County Community Planning and Economic Development Department that adequate capacity exists in affected North Thurston School District schools or that the Applicant has entered into an agreement with the North Thurston School District to mitigate the impact the plat will have on the district schools. If the agreement requires payment of mitigation fees or other actions after the final plat is recorded, then such conditions shall be noted on the final plat map.

52. Prior to final plat approval, evidence that all necessary school, roads, and public parks mitigation have been paid shall be submitted to Thurston County Community Planning and Economic Development.
53. Prior to final plat approval, Applicant shall designate a bus waiting area and shelter, acceptable to the School District.
54. A portion of the site frontage shall be developed in a manner that would make it easy to add a future bus stop, including a final design that accommodates a 50-foot-long bus loading zone north of the planned entrance on Duterrow. The loading zone -- which would enable northbound transit vehicles to stop in-lane, parallel with the curb -- should be free of street trees and include a 24 foot wide concrete bus landing pad between the sidewalk and curb. (Should Intercity Transit introduce service here, the transit agency would install and maintain the bus facility (e.g., a shelter or sign pole) atop the concrete pad.)
55. For future para-transit access, the final site plan shall include site access road grade transitions that accommodate longer wheel bases and adequate turning radius within the internal loop roadway to support the body-on-chassis-style shuttle. Due to the presence of multiple building entrances, IT's paratransit vehicles would either park along the loop road curb or use residential driveways to pick up riders.
56. Before approval of the final development plan may be granted, the developer shall submit to the County covenants, deeds and/or homeowners' association bylaws and other documents guaranteeing maintenance, construction, common fee ownership, if applicable, of open space, community facilities, stormwater facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and approved by the County staff to ensure that they comply with the requirements of this chapter prior to approval of the final development plan by the County. Such documents and conveyances shall be accomplished and be recorded, as applicable, with the County auditor as a condition of any final development plan approval.
57. 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.).
58. Two off-street parking spaces are to be provided per dwelling unit (TCC 21.71). Dwelling units with an Accessory Dwelling Unit shall provide one additional off-street parking space (Table 21 T-13).

59. Prior to issuance of any permits for clearing, grading, or filling, the Applicant shall comply with the recommended soil analysis and remediation conditions submitted by the Washington State Department of Ecology in the record at Exhibit 1.MM.

General Plat Notes for the Final Plat Map

60. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this proposed subdivision will require approval of a new or amended plat. The Thurston County Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
61. Prior to final plat approval, a note shall be incorporated on the face of the final plat memorializing that the common open space will be owned and maintained by an HOA.

Conditions of Approval for Forest Land Conversion:

62. Prior to issuance of any clearing or timber harvesting permits, the Applicant shall submit to the Planning Department a revised tree protection plan consistent with tree / retained vegetation protection requirements in TCC 17.25.400.D(5)(c) and a surety consistent with TCC 17.25.400.D(5)(i).
63. Logging activities should be avoided over the existing or proposed on-site sewage system components, including the septic tank and drainfield areas. Logging activities can result in damage to future septic system areas or well sites which could affect future development proposals. Logging near or over the proposed drainfield areas should be done with caution and with input from a Thurston County certified installer, professional engineer or a licensed on-site sewage system designer that is familiar with the septic proposal.
64. 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.
65. Activity shall be limited to the hours of 7:00 a.m. to 7:00 p.m. to minimize associated noise. All activities onsite shall fully comply with noise limitations outlined in WAC 173-60.
66. Provision shall be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.
67. Clearing limits and/or any easements or required buffers should be identified and marked in the field, prior to the start of any clearing, grading, or construction. Some suggested

methods are staking and flagging or high visibility fencing. A permanent vegetative cover should be established on denuded areas if not otherwise permanently stabilized.

68. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
69. Street trees shall be installed per the applicable street development standards as stated in Chapter 15.04 of the Thurston County Code.
70. The project shall comply with the Thurston County Critical Areas Ordinance, the Thurston County Forest land conversion Ordinance, Zoning, and all required local, state, or federal permits and/or exemptions.
71. All work shall be in substantial compliance with the plans included in the project application.

City of Lacey Requirements:

72. All conditions shown in Exhibit 1.LL shall apply to this project, with the exception that the approved street section described in paragraph 16 includes a five-foot planter strip, not a 5.5-foot planter strip. Informational statements are for directional purposes only and shall be incorporated into the project. If there are conflicts between Thurston County and City of Lacey conditions, the most stringent shall apply.

Decided February 16, 2022 by



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.



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___.