



COUNTY COMMISSIONERS

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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2021104634
)	
Travis Brown, T&R Construction)	Keller Garage
)	
For a Special Use Permit)	FINDINGS, CONCLUSIONS,
)	AND DECISION
)	

SUMMARY OF DECISION

The request for a special use permit to construct a 2,000 square foot detached garage at 5300 Boulevard Ext. Road SE is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Travis Brown of T&R Construction (Applicant), on behalf of property owners Keith and Shannon Keller, requested a special use permit (SUP) to construct a 2,000 square foot detached garage, which would be associated with an existing single-family residence. The garage would be used for storage of the family’s recreational vehicles and yard maintenance equipment. The subject property is located at 5300 Boulevard Ext. Road SE, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on May 24, 2022. The record was held open through May 26, 2022 to allow members of the public who experienced access or technology barriers to joining the virtual hearing to submit written comments, with opportunity for responses by the parties. No post-hearing public comment was submitted and the record closed on May 26, 2022. No in-person site visit was conducted, but the Examiner viewed the subject property on Google Maps.

Testimony

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

Scott McCormick, Associate Planner, Thurston County

Dawn Peebles, Senior Environmental Health Specialist, Thurston County
Travis Brown, T&R Construction, Applicant Representative
Shannon Keller, Owner/Applicant

Exhibits

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

- Exhibit 1 Community Planning and Economic Development Staff Report including the following attachments:
- A. Notice of Public Hearing
 - B. Zoning map
 - C. Master Application, submitted September 1, 2021
 - D. Special Use Permit Application, submitted September 1, 2021
 - E. Narrative summary, dated December 2, 2021
 - F. Site plan, received March 10, 2022
 - G. Notice of Application, dated October 22, 2021 with adjacent property owners list, dated October 20, 2021
 - H. Letter from the City of Olympia, dated September 30, 2021
 - I. Email from the Squaxin Island Tribe, dated September 20, 2021
 - J. Letter from the Nisqually Indian Tribe, dated September 20, 2021
 - K. Email Memo from Dawn Peebles, Environmental Health, dated March 3, 2022
 - L. Comment email from Maureen Rawlings, dated October 28, 2021

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

FINDINGS

1. Travis Brown of T&R Construction (Applicant), on behalf of property owners Keith and Shannon Keller, requested a special use permit (SUP) to construct a 2,000 square foot detached garage, which would be associated with an existing single-family residence. The garage would be used for storage of the family's recreational vehicles and yard maintenance equipment. The subject property is located at 5300 Boulevard Ext. Road SE, Olympia, Washington.¹ *Exhibits 1, 1.C, 1.D, 1.E, and 1.F.*

¹ Tax Parcel No. 50930001100. *Exhibit 1.*

2. The application was submitted on September 1, 2021 and determined to be complete for purposes of commencing project review on September 30, 2021. *Exhibits 1.C, 1.D, and 1.G.*
3. The subject property is within the Olympia Urban Growth Area and is zoned Residential 4-8 Dwelling Units per Acre (R 4-8). *Exhibits 1 and 1.B.* The purpose of the R 4-8 zone is “[t]o accommodate single-family houses and townhouses at densities ranging from a minimum of four units per acre to a maximum of eight units per acre; to allow sufficient residential density to facilitate effective mass transit service; and to help maintain the character of established neighborhoods.” *Thurston County Code (TCC) 23.04.020.B(4).* “Large garages” exceeding 800 square feet in area require an SUP in the R 4-8 zone. *TCC 23.04.040, Table 4.01; TCC 23.04.060.2(c).* The applicable use standards require that such garages “not be adverse to the public interest” and be “compatible with the surrounding neighborhood.” The hearing examiner is directed to establish a maximum size for garages receiving special use approval. *TCC 23.04.060.2(c)(ii)* .
4. The subject property is 1.09 acres in area and is developed with a single-family residence and attached garage. The building footprint is 3,125 square feet. The proposed detached garage would be constructed in the northwest corner of the property over a portion of the existing gravel driveway and some yard area. *Exhibits 1 and 1.F.*
5. Surrounding land uses are single-family residential, and there are other garages of similar scale to the proposed garage in the near vicinity. *Exhibit 1; Testimony of Travis Brown and Shannon Keller.*
6. As depicted on the submitted site plan, the proposed garage would comply with the building setback requirements of the R 4-8 zone. The garage would be set back 35 feet from Boulevard Ext. Road SE and 17 feet from the nearest side property line. The total impervious surface coverage would be less than the maximum 40% specified for the R 4-8 zone. *TCC 23.04.080, Table 4.04; Exhibit 1.F.*
7. The proposed garage would be plumbed for a utility sink but would not contain a restroom. The plumbing would connect to the existing residential septic system. *Exhibits 1.E and 1.K; Travis Brown Testimony.* The County Environmental Health Division reviewed the proposal and recommended several conditions of approval, including: that the septic system be inspected (and pumped if needed) prior to building occupancy approval; that there be no parking over the top of the existing septic drainfield; that the water line and sewage transport line beneath the driveway be encased to prevent damage from vehicular traffic; that the garage be set back at least 10 feet from the septic drainfield; and that the property connect to City of Olympia sanitary sewer upon failure of the existing septic system. *Exhibit 1.K.* There is a City of Olympia sewer main within Boulevard Ext. Road SE within 200 feet of the subject property, and the City of Olympia commented that the subject property could be connected to the sewer subject to City permitting requirements. Because public sewer is available to the site, a reserve drainfield need not be designated on the subject property (and none is shown on the site plan). *Exhibits 1.H and 1.F; Dawn Peebles Testimony.*

8. The County Public Works Department reviewed the application and had no comments. *Exhibit 1*. The proposed site plan depicts that stormwater runoff from the new building would be collected into a catch basin and directed into an infiltration trench. *Exhibit 1.F*.
9. Due to soil type, the site was evaluated for the presence of pocket gophers and prairie habitat, and neither were detected on site. There are no other critical areas on site. No trees would need to be removed to construct the garage. *Exhibit 1*.
10. The proposal is exempt from review under the State Environmental Policy Act (SEPA). *Exhibit 1; TCC 17.09.055*.
11. No potential impacts to the surrounding neighborhood were identified during the review process. The proposed garage would allow a boat and camping trailer that are currently being stored outside to be stored indoors. Planning staff recommended as a condition of SUP approval that the garage's paint and roofing material match the residence. *Exhibits 1 and 1.E*.
12. Notice of the open record hearing was mailed to property owners within 300 feet of the site on May 4, 2022 and published in The Olympian on May 13, 2022. *Exhibits 1 and 1.A*.
13. Having heard all testimony and reviewed all written materials, Planning Staff maintained the recommendation for approval subject to the conditions stated in the staff report. *Exhibit 1; Scott McCormick Testimony*. The Applicants waived objection to the recommended conditions of approval. *Testimony of Travis Brown and Shannon Keller*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide special use permit applications under Sections 2.06.010 and 23.48.020 of the Thurston County Code.

Criteria for Review: Special Use Permit

The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 23.48.030 are satisfied:

- A. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Olympia Joint Plan, and all applicable federal, state, regional, and Thurston County laws or plans.
- B. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.

C. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

1. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though said adverse effects may occur.
2. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

Conclusions Based on Findings

1. With conditions of approval, the proposed use at the proposed location would comply with applicable laws and plans. The conditions of approval address compliance with the Thurston County Sanitary Code, as well as state laws relating to stormwater runoff. No issues of concern were identified with respect to the critical areas ordinance. The project is exempt from SEPA review. *Findings 7, 8, 9, and 10.*
2. With conditions, the use would comply with the general purposes and intent of the R 4-8 zone and with applicable development standards. Any potential impact to residential character would be avoided with the condition of approval requiring the paint and roof materials of the garage to match the residence. Consistent with the special use standards for garages, the use would be compatible with the neighborhood and would not have an adverse effect on the public interest. Compliance with applicable bulk and setback standards would be confirmed during the building permit review process. *Findings 1, 3, 4, 5, 6, 7, 8, and 11.*
3. With conditions, the proposed use is appropriate in the location for which it is proposed.
 - a. As conditioned, the use would not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. The garage would provide for indoor storage of recreational vehicles that are currently being stored outdoors. Due to the presence of similar garages in the area, and a condition of approval requiring the paint and roofing to match the residence, the character of the neighborhood would not change. No critical areas would be affected. The public health is protected through the conditions recommended by Environmental Health. *Findings 1, 5, 7, 8, 9, 10, and 11.*

- b. With the conditions identified by the Environmental Health Department regarding the septic system, and with the availability of public sewer in the event of septic failure, the use would be adequately served by and would not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area. *Findings 7, 8, and 13.*

DECISION

Based on the preceding findings and conclusions, the request for a special use permit to construct a 2,000 square foot detached garage at 5300 Boulevard Ext. Road SE is **GRANTED** subject to the following conditions:

Public Health and Social Services Department Conditions:

1. Prior to final building occupancy approval, the existing septic system must be inspected, and pumped if needed, by a Thurston County certified pumper.
2. There shall be no parking over the top of the existing septic system drainfield.
3. The waterline and sewage transport line proposed under the gravel drive must be properly encased to prevent damage from vehicular traffic.
4. The proposed garage must be located at least 10 feet from the existing septic system drainfield.
5. The property will be required to connect to City of Olympia sanitary sewer upon failure of the existing on-site septic system.

Community Planning and Economic Development Conditions:

6. The paint color and roofing material of the proposed garage shall match that of the associated single-family residence.
7. Per comments from the City of Olympia (Exhibit 1.H), "If the Applicant wishes to abandon the existing septic system, there is a city-owned STEP main located in Boulevard Extension Rd that the property could connect to via appropriate permitting with the City of Olympia."
8. 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 pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington and is subject to enforcement action.

9. All grading and filling of land must utilize only clean fill.
10. In the case of inadvertent discovery of archaeological resources or human burial, the Applicants and/or contractor must immediately stop work and contact the Washington Department of Archaeology and Historic Preservation at (360)586-3067.
11. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the Applicants' responsibility to obtain this permit if required.
12. All development shall be in substantial compliance with the approved site plan. Special use permit approval is granted only for the 2,000 square foot garage discussed herein and no larger. Any expansion of the structure or alteration the use will require approval of a new or amended special use permit. Community Planning and Economic Development will determine if any proposed amendment is substantial enough to require hearing Examiner approval.

DECIDED June 15, 2022.



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___.