



Creating Solutions for Our Future

HEARING EXAMINER

3000 Pacific Ave SE, Olympia, WA 98501

TTY/TDD call 711 or 1-800-833-6388

Website: ThurstonCPED.org

Ashley Arai, Director

**BEFORE THE THURSTON COUNTY
HEARING EXAMINER**

The above-captioned five-year review was granted on May 21, 2025 with conditions.

On June 2, 2025, a request for reconsideration, dated received by Thurston County Development services on May 30, 2025, was forwarded to the undersigned during a scheduled out of office period of June 2 through June 6, 2025. Having seen the email, the undersigned informed the Hearing Clerk on June 3, 2025 that the request would not be reviewed until June 9, 2025 at the earliest.

On June 9, 2025, counsel for the Applicant submitted a notice of unavailability indicating she would be unable to respond to any decision on the reconsideration request between June 10 and June 30, 2025 and waiving any timeframe requirement for response to the requested reconsideration. On inquiry by the undersigned, the Hearing Clerk advised that County Staff had no objection to delaying a decision on reconsideration until after Applicant's counsel was back in the office and able to timely respond.

Jurisdiction

Pursuant to Thurston County Code (TCC) 2.06.060:

Any aggrieved person...who disagrees with the decision of the Examiner may make a written request for reconsideration by the Examiner within ten days of the date of the written decision. The request for reconsideration shall be filed with the Development Services Department upon forms prescribed by the Department. If the Examiner chooses to reconsider, the Examiner may take such further action as he or she deems proper and may render a revised decision....

Hearing Examiner Rules of Procedure

Rule 9.4, Procedure for Reconsideration and Reopening Hearing

...

b. Reconsideration.

- 1) Any party of record may file a written request with the Hearings Examiner for reconsideration within ten (10) days of the date of the Hearings Examiner's recommendation or decision. The request shall explicitly set forth alleged errors of procedure or fact. The request may also include direction to a specific issue that was inadvertently omitted from the Hearings Examiner's recommendation or decision.
- 2) Additional evidence may only be submitted upon a Request for Reconsideration if it is new evidence not available at the time of the public hearing, upon a showing of significant relevance and good cause for delay in its submission. At the Examiner's discretion, parties of record will be given notice of the consideration of such evidence and granted an opportunity to review such evidence and file rebuttal arguments.
- 3) The Hearing Examiner shall respond to the request for reconsideration by either denying the request or approving the request, by modifying or amending the recommendation / decision based on the established record, or by setting the matter for an additional public hearing.

Discussion

The request for reconsideration was accompanied by three documents:

- August 2011 Department of Natural Resources (DNR) site inspection report
- August 2011 DNR inspection map
- May 18, 2012 Lakeside response to DNR¹

The request for reconsideration fails to demonstrate the unavailability of these three documents at the time of the January 2025 five-year review hearing, nor does it forward any good cause for delay in their submission. They are not admitted.

The arguments offered on reconsideration against imposition of Condition A are substantially the same as - or are an extension of - the arguments offered, considered, and rejected through the hearing process. With respect, they are not more persuasive on reconsideration.

Reconsideration is denied.

DECIDED July 1, 2025.



Sharon A. Rice
Thurston County Hearing Examiner

¹ Lakeside was operating the mine at the time.

THURSTON COUNTY
PROCEDURE FOR APPEAL TO BOARD
AFTER HEARING EXAMINER RECONSIDERATION

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 after reconsideration, you may file an appeal. The appeal process is described in A below. Unless appealed, decisions of the Hearing Examiner after reconsideration become final on the 11th day after the date of the reconsideration decision. **The Board of Thurston County Commissioners renders decisions within 60 days following a notice of appeal unless the Board, the applicant, and the appellant mutually agree to a longer period.

An appeal of a SEPA decision must be filed in Superior Court pursuant to the Land Use Petition Act, RCW Chapter 36.70C. An appeal of a decision relating to SEPA shall be done in accordance with RCW 43.21C.075 and TCC 17.09.160 (T).

A. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS

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 Community Planning & Economic Development within **ten (10) days** of the date of the Hearing Examiner's decision on a reconsideration request.
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.

B. STANDING All appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the appeal should be granted.

C. FILING FEES AND DEADLINE If you wish to appeal this determination, please do so in writing on the back of this form accompanied by a non-refundable fee of **\$1,446.00**. Any 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 above. **Postmarks are not acceptable.** If your application fee as well as completed application form is not filed by this time, you will be unable to appeal this determination. This deadline may not be extended.

** Shoreline Permit decisions are not final until a 30-day appeal period to the state has elapsed following the date the County decision becomes final.



Project No. _____

Appeal Sequence No. _____

APPEAL OF HEARING EXAMINER DECISION AFTER RECONSIDERATION

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 _____, 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.

_____ **APPELLANT NAME PRINTED**

_____ **SIGNATURE OF APPELLANT**

Address _____

Phone _____

Please do not write below - for Staff Use Only:

Fee of \$1,446.00 Received: Initial _____ Receipt No. _____ Filed with the Community Planning & Economic Development Department this _____ day of _____, 20_____. \\\Apollo\\Apps\\Track\\Planning\\Forms\\Current Appeal Forms\\2019.Appeal.rec.doc