

December 2, 2022

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
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REPORT AND DECISION

SUBJECT: Department of Local Services file no. **CAEX200002**

HANS HAHNE CRITICAL AREAS ALTERATION EXCEPTION

Alteration Exception and SEPA Appeal

Location: [REDACTED] Vashon

Appellants: **Greg McBrady and Katy Ellis**

[REDACTED]
Vashon, WA 98070

Telephone: [REDACTED]

Email: [REDACTED]

Applicants: **Hans Hahne and Kristine Gregonis**

Nest Life Development, LLC

[REDACTED]
Vashon, WA 98070

Telephone: [REDACTED]

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King County: Department of Local Services

represented by **Brian Lee**

Department of Local Services

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FINDINGS AND CONCLUSIONS:

Overview

1. Neighbors Greg McBrady and Katy Ellis (Appellants) challenge a Department of Local Services determination of nonsignificance and an approval of a critical areas alteration exception. After entertaining the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we find that while most of Appellants challenge grounds fall short, they have met their burden as it relates a portion of the septic drainfield. We remand for further review.

Background

2. Hans Hahne and Kristine Gregonis (Applicants) purchased a small lot on Vashon Island encumbered with critical areas setbacks. Because the lot was so encumbered with critical areas setbacks—a wetland and a seasonal stream—citing a single-family home was feasible only through a critical areas alteration exception. The Applicants produced a variety of studies and plans, covering critical areas, environmental impacts, mitigation, arborist/tree removal/replanting, wildlife, septic, grading, floodplains, and engineering. Ex. D1 at ¶ C.8.
3. In August 2022, Local Services determined, under the State Environmental Policy Act, (SEPA), that the project did not pose a probable significant adverse impact environment, and Local Services approved the alteration exception with various conditions. Exs. D1, D2. In September, Appellants timely challenged both, specifically disputing the septic system, especially its effect on critical areas, runoff, and groundwater contamination; Appellants requested reversal, or at least a requirement for more testing prior to approval. Ex. A17.
4. We held a prehearing conference in October and set a November hearing.¹

Hearing Testimony

Appellant Witnesses

5. Greg McBrady discussed the seasonal stream, the floodplain analysis being based on a single observation of the stream, and the lack of flooding analysis. Gutters and ditches along 99th Ave. SW are shallow and water can spread onto the road, though he has never actually observed that. Public Health visited during dry months and dry years, and there is no soil log for the northern edge of the drainfield. Their concerns about the County not looking at rainy season conditions are not a last-minute complaint, but something they put the County on notice about early and often.

¹ Local Services initially transmitted the September appeal to the examiner when the case first came over, but neither Local Services nor Appellants included the appeal in their exhibits. We assign it exhibit number A17.

6. Mr. McBrady noted that, once installed, a microfast septic system is really complex to maintain. It is tough to find maintenance folks on Vashon, and future owners/renters could muck up the system. This has extra ramifications given the stream running through the subject property that could carry contaminants.
7. Katy Ellis noted that the property was sold with critical area recharge areas (CARAs) in place. She discussed lessons from a recent septic workshop regarding the importance of septic systems and problems when such systems do not perform properly. While Vashon sees its highest rainfall November to January, the professionals' visits were earlier than that. Precipitation preceding Ms. Criscuolo's fall 2019 visits did not qualify as heavy rainfall; there is a difference between adding an inch or two of rain at the end of the dry season versus adding it after months of saturation. She discussed the increase in water volume from domestic use. She thinks winter water review is necessary.
8. The neighbor directly to the north, Jim Wescott asserted that the area is much wetter than anyone who reviewed it is acknowledging. Visits in July or September or October were insufficient to observe true rainy season conditions. He submitted winter videos showing lots of running and standing water at the lower reaches of the northern edge of property, and testified that this is what that area looks like for much of the winter, with water there consistently for months. He did not just go out on the few days he took videos of; he could have gone out any winter day and taken videos showing standing water in those areas. He also pointed to other areas on the west edge of the property with standing water and submitted video of that.
9. In Mr. Wescott's estimation, these areas in the north and west meet the definition of "seasonal water," meaning there is a required 30-foot setback from those spots to the drainfield. Yet the drainfield is within 30 feet. There is a two-foot drop from the SL-4 test pit to the northern edge of the drainfield, meaning the northern half of the drainfield was not adequately studied. He thinks the 270 gallons the septic might put out in a day exacerbates standing water.
10. Nick Simmons is a water distribution manager with Burton Water. He discussed what Vashon being a sole-source CARA means—that potable water on the island comes only from rainfall. It makes sense that Mr. Amman would not have observed standing water in July, as standing water starts to recede in May to June, typically reaching its lowest point in October, then rising to a high point in March.

Local Services Witnesses

11. Pesha Klein explained the distinction between how the code treats critical aquifer recharge areas (CARAs) versus other critical areas such as wetlands. CARAs restrict the types of available septic systems, but building a single-family home in a CARA does not require an alteration exception. KCC 21A.24.045.A. Development within CARAs must meet the development standards of KCC 21A.24.316.
12. Wetland buffers are different (and more restrictive) than CARAs. As to the extent of the wetland, she went back out April 28, 2021, to check if any wetland areas were missed. She observed some standing water at the northern and western boundaries but found no

hydric soils or hydrophytic vegetation in these areas—two items necessary for classification as a wetland. *See also* Ex. D1 at ¶ C.5. The term “seasonal waters” can come into play when Local Services rates stream class, but it is not itself a critical area that Local Services can regulate.

13. Ms. Klein explained that the Applicants had submitted a very small building envelope. She walked through the other criteria that the Applicants had met.
14. Kevin Fitts explained that his review at this stage is only to ensure that a reasonable plan could later be approvable through a building permit application. The Applicants’ technical information report (TIR) address the floodplain, per the drainage manual. Here there are 17 feet of vertical separation from the house to the ordinary high watermark. There were no drainage complaints in the quarter mile downstream the property.
15. The impervious surface Applicants will be adding is below the amount to even trigger a drainage study/mitigation, and the rain that falls on the driveway and residence will be routed *away* from the drainfield and wetland and into the swale/roadside ditch on the west side. Review of a subsequent building permit application will drill down deeper into the surface water runoff, but as of now the proposal looks compliant.
16. Mr. Fitts did not do a site visit, and he agreed seasonal waters were not always picked up in the documents he reviews. The site plan appeared consistent with what he was seeing on iMAP. Future building permit review would look at water coming off the home and added impervious surfaces, not from water coming off the drainfield or other seasonal waters, unless they received a drainage complaint.
17. Brian Lee explained that it would have been more ideal if reviewers had gone out in the wetter seasons. It was unfortunate the review and site visit had not covered that. However, he argued it was unrealistic to hold the application for multiple months to analyze wet season conditions. Once built out, after thorough building permit application review process, the site would likely improve current runoff conditions.

Public Health Witnesses

18. Liana Criscuolo was Public Health’s inspector assigned to review the septic design here. She visited on July 31, 2019, then held the application until things got a little bit wetter, following up September 22 and October 22, after two heavy rains. She stated that she also visited the site on November 2, 2021.
19. Ms. Criscuolo saw no standing water, nor any mottling within 24 inches of the surface. Mottling occurs when water is perched for lengthy periods, and turns the soil lighter, often accompanied by rust-colored streaking. She explained that while 18 inches of good soil is the requirement, when mottling is in the 18–24 inch range, they typically require winter water review. She observed no mottling in that range to justify winter water review. She was not sure how long it would take for a mottling signature to go away in dry conditions.

20. Lynn Schneider is a Public Health supervisor. She explained that 18 inches of good soil are required for this type of drainfield (the first 6 inches for installation and the bottom foot for drainage). She noted there were no signs of mottling near 18 inches that would indicate winter water review was necessary. And Ms. Criscuolo went out three times. The code requires two soil logs in the septic system area, which was done here. She agreed it might have been better to have sited one of the pits at the northern end.
21. Ms. Schneider explained how the microfast septic system works. The first treatment area is anoxic, meaning anaerobic processes break down the waste. It then moves to an aeration area with oxygen-loving bacteria, followed by ultraviolet disinfection. Unlike gravity systems, pump systems build in an extra 1/3 capacity, so that if the power goes off, the system has three to five days of cushion for water to sit in the tank and be passively treated before it could flow into the drainfield. The microfast system went through a state review to even be on the approved list. And while they do not have the staff to 100% ensure that people always follow through with post-installation management, they do require contracts with licensed installers.

Applicant Witnesses

22. Jeff Amman described his experience designing septic systems, over half of which are microfast. The present site meets all the code requirements. He dug five test holes, only one of which showed mottling, and that at the 23-inch level. He saw no indication of seasonal waters or even a stream, and no water in his test pits, though he agreed he did his site visit in July. He has never seen mottling disappear; the staining and coloration just do not go away with a dry couple of years.
23. Mr. Amman described how the microfast system works. There is initial pretreatment, then it goes into a second tank with an air blower to keep the oxygen level rich for that bacteria to break the waste down to 80-85% water, then ultraviolet disinfection, before it gets to the drainfield. Post-septic system installation, Public Health requires an ongoing series of two-year maintenance contracts to ensure septic system will operate correctly.
24. Kristine Gregonis discussed their recent successful build of a four-bedroom/three-bathroom rental with the microfast septic system. If something were to go wrong, it is not the type of thing they would try to fix themselves; the engineers who installed it live nearby, and they have a contractor actively monitoring that system twice a year. If something were to fail, buzzers and bells would go off, so they would know to call the professionals. That has not been an issue, as they have had zero problems with system.
25. Ms. Gregonis noted that on the eight days prior to Mr. Wescott's January 7, 2021, video, 5.6 inches of rain fell at the nearest measuring station. In the two days leading up to his February 28, 2022, video there were 1.6 inches of rain. They live in walking distance of the subject property, and she disputed Mr. Wescott's testimony that there was standing water (outside of the creek itself) for much of the winter.
26. Ms. Gregonis explained that they have tried extremely hard to meet all the requirements and to create a minimal impact, including the tiny footprint for the house. Their business plan is to make the subject property a long-run rental (like the last house they built), not

a short-term rental. She discussed improvements they would make to the site related to native plants. The current alignment, with the house squeezed into the southeastern portion and the drainfield to the north, was the only alignment that could work, given the direction water drains.

27. Hans Hahne noted that Mr. Wescott has the same stream running through his property. He pointed to County's affordable housing crisis; this lot has a water share and they are attempting to build a green, affordable home. They researched septic systems and checked alternatives, and realized what they proposed is the only suitable system and in the only suitable location on the property. They will monitor the septic system, like they do on their other properties. The neighbors are biased because they do not want a new home near them.

Legal Standards

28. Local Services “may approve alterations to critical areas except wetlands ..., aquatic areas and wildlife habitat conservation areas, and alterations to critical area buffers and critical area setbacks, when all of the following criteria are met:
- a. there is no feasible alternative to the development proposal with less adverse impact on the critical area;
 - b. the alteration is the minimum necessary to accommodate the development proposal;
 - c. the approval does not require the modification of a critical area development standard established by this chapter;
 - d. the development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;
 - e. for dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, building setbacks or other land alteration, including grading, utility installations and landscaping, but not including the area used for a driveway or for an on-site sewage disposal system. When the site disturbance is within a critical area buffer, the building setback line shall be measured from the building footprint to the edge of the approved site disturbance;
 - f. to the maximum extent practical, access is located to have the least adverse impact on the critical area and critical area buffer;
 - g. the critical area is not used as a salmonid spawning area;...”

KCC. 21A.24.070.A.3 (emphasis added). Our pertinent examiner rule (XIV.C) states that:

In considering a critical areas alteration exception appeal under KCC 21A.24.070, the following principles apply:

The proceeding shall be a de novo review. The appeal decision shall embody an individualized inquiry based on the specific characteristics of the applicant's property, as established by the hearing record. Agency rules governing the process shall function as guidelines, where appropriate and when the factual record supports their applicability.

In determining whether a proposed alteration of a critical area is the minimum necessary to allow for reasonable use of the property, the examiner may consider the dimensions and character of development on other comparable properties in the neighborhood.

29. Appellants bear the burden of proving, by a preponderance of the evidence, that the County erroneously issued the alteration exception. Exam. R. XV.E.1 & F.1. Unless directed to by law—and no special directive applies to the alteration exception—the examiner does not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.
30. Appellants bear a higher burden challenging the SEPA determination of nonsignificance (DNS). Appellants must demonstrate that Local Services' SEPA determination was clearly erroneous based on the record of the whole, meaning the examiner is “left with a definite and firm conviction that a mistake has been committed.” *Moss v. Bellingham*, 109 Wn. App. 6, 13, 31 P.3d 703 (2001). And an examiner must accord the responsible SEPA official's decision substantial weight. KCC 20.44.120.A.3 (citing RCW 43.21C.075(3)(d)).

Analysis

31. In most respects, the Applicants' proposal passes muster as-is. There is no feasible way the Applicants could construct a home with fewer critical areas impacts, and the Applicants propose sufficient mitigation for the impacts they must create. The approval does not violate any specific development standards. Unlike the scenario that often arises in these cases—where an applicant proposes a luxury home and an extensive development envelope—the Applicants here have proposed a modest home in a tiny envelope. And absent the septic issues discussed below, the proposal does not pose an unreasonable threat to the public health, safety or welfare.
32. Appellants tried, at hearing, to challenge the extent of critical areas, namely wetlands. However, “The scope of an appeal shall be limited to matters or issues raised in the appeal statement and any amendments to the appeal statement the examiner may authorize.” KCC 20.22.080.G. The September 4 appeal statement did not challenge the extent of critical areas on the site, only the proposal's impact on those critical areas. Ex. A17. Our October 11 prehearing order noted that if Appellants wished to modify the issues or matters raised in their appeal, they could do so by October 21, otherwise the hearing issues would be those stated in our write-up or the original appeal statement. No modification was submitted.

33. Even if they had timely raised it, a critical areas challenge would not have gotten far. Although Appellants pointed to wet areas, qualifying as a jurisdictional wetland requires (in addition to hydrology), hydrophytic vegetation, and hydric soils. Ms. Klein inspected that area in April (still in the wet season) and saw standing water but found no hydrophytic vegetation or hydric soils. *See also* Ex. D1 at C.5. There is no wetlands-related deficiency with Local Services' approval.
34. The floodplains complaint does not get Appellants far either. First, they did not raise floodplains in their appeal statement. Even if they had, Local Services identified this issue in its 2018 critical areas designation and required more flood inquiry. Ex. D5 at 009. The Applicants acknowledged floodplains in their alteration request. Ex. D6 at 002. And then the Applicants commissioned an approximate floodplain study, part of which entailed a January site visit. Exs. D7, D8. The study determined that the home was 17 feet above the stream's overflow elevation. There is no floodplain-related deficiency with Local Services' approval.
35. Appellants did raise the sole-source aquifer and thus CARAs, in their appeal. CARAs matter, such as for the type of septic system required. But—and in the context of siting a single-family home—alterations in a CARA do not require an alteration exception. KCC 21A.24.045.A. If they did, none of the neighbors (nor others on Vashon) could have built their homes without an expensive critical areas alteration exception process either. There is no CARA-related deficiency with Local Services' approval.
36. Although the main appellate concern was contamination from septic systems (see below), Appellants did raise runoff. As Mr. Fitts explained, drainage from the development envelope is currently slated to be routed west and *away* from the wetland and drainfield. We understood Mr. Fitts to indicate that a future building permit review would only look at water coming off the home and added impervious surfaces and *not* water coming off the drainfield. It is possible that that is simply the way the rules work—that a runoff analysis relates only to building envelopes and not to drainfields—or that the volumes from a single-family septic system are too minor, relative to other sources, to merit attention. But, if we hold another hearing, it would be helpful for Local Services to address if or how drainfield outflows would play into a future building permit review.
37. Assuming for a moment that the septic system meets all the design requirements and is correctly installed, Appellants raised two post-installation septic concerns. These were good points, but ultimately were answered satisfactorily.
 - Unlike a gravity system, the microfast system relies on pumps and other electricity-dependent features. Appellants questioned what would happen when the power goes out. Ms. Schneider explained that the system has built in holding tank capacity to absorb three to five days of septic until power is restored.
 - Because of the complexity of the system and repair costs, apparently some owners have tempted to cheat and simply not fix the system, allowing untreated water to enter the groundwater. Ex. A2. There is no indication any of the commenters reside in King County or relate to installers/monitors whose continuing livelihood depends

on remaining on King County’s approved list. The Applicants here seem responsible enough, and ultimately no regulatory system can ensure hundred percent compliance. The Applicants do not need to meet some guarantee or extra monitoring no other King County property owners with microfast systems are subject to.

There is no septic system monitoring-related deficiency with Local Services’ approval.

38. And now we come to the flaws with the existing analysis, one related to seasonal waters and the other to a missing test pit.
39. In 2019, Ms. Criscuolo visited on September 22 and again on October 22, both times after heavy rains. Ex. A8. However, 2019 was the second year in a row of very low rainfall. Ex. A6 at 001. And even October would have just been the beginning of wet conditions, with Mr. Simmons noting that standing water starts to recede in May to June, typically reaching its lowest point in October. Even the roadside ditch was dry on her October 22 visit, which is not the case in the winter.
40. Applicants re-applied for septic design approval in late October 2021, and Public Health re-approved it in January 2022. Ex. D5 at 002. Unless we are missing something after several read-throughs, the January 2022 approval contains no reference to a November 2021 visit, the conditions of that visit, or any information gleaned from that visit being part of a basis for re-approval. Instead, the approval says the drainfield location meets the “30-ft setback from seasonal water as determined on initial inspection,” with “followup fi[el]d visits” in September/October 2019. Ex. D5 at 004. There is no mention of a November 2 study, and November 2 would have been the beginning of the really wet season anyway.
41. That matters because the edge of the drainfield must be at least 30 feet from “seasonal water.” BOH Table 13.28-2. While most wetlands are “seasonal water,” the fact that an area is not a wetland does not mean it is not a “seasonal water.” Because a “seasonal water” is defined as:

any body of water not classified as surface water, which either flows or is contained in natural or artificial depressions for more than forty-eight (48) continuous hours. Also included in this definition are all wetland areas as defined in King County Code Chapter 21A.24 which are not classified as surface water.

BOH 13.08.390. While “wetlands” require—in addition to water—hydrophytic vegetation and hydric soils, that is not a requirement for “seasonal water.”

42. The roadside ditch to the east and the video (exhibit A11) of what Mr. Wescott described as a seasonal water area in the southwest corner of the site are not themselves problematic. The roadside ditch is 30 feet from the edge of the proposed drainfield. Ex. A10 at 001. And the southwest corner area Mr. Wescott characterized as a seasonal water area is well beyond 30 feet from any portion of the drainfield. *Id.*

43. The subject property north of the drainfield is in a different box. Ms. Westcott documented standing water in that area. Ex. A12 (video shows about three inches of standing water in northwest corner in view of test pit); Ex. A13 (some standing water in January 2021, in vicinity of test pit). Mr. Westcott testified that this is what that area looks like for the better part of the winter. Ms. Gregonis countered that some of Mr. Westcott’s videos were taken during or after rains, and while she agrees there can be standing water, it is not that way continuously during the winter. However, the “seasonal water” inquiry looks whether there is water, other than surface waters,² either flowing or contained in natural or artificial depressions for more than 48 continuous hours; the water need not be there all winter. And Ms. Klein agreed that when she visited the site at then end of April, she too saw standing water at the north and west boundaries.
44. Thus, at this point we are weighing Mr. Westcott’s testimony, Ms. Klein’s testimony, and Mr. Westcott’s video indicating standing winter water in the north portion of the site against Ms. Gregonis’s testimony that it is not always wet there in the winter. Mr. Amman did not visit the site in the winter, and Ms. Criscuolo apparently visited at the very beginning of November, before that area would have become waterlogged. Given our record as it stands today (*i.e.*, without a formal winter water review), Appellants have shown that, more likely than not, there are seasonal waters within 30 feet of the north end of the drainfield.
45. Compounding that is the lack of soil information for the northern end of the drainfield. SL-4 is the most relevant test pit, but SL-4 is in the *southern*, upland half of the drainfield, close to the 103-foot elevation line, as opposed to the 101-foot elevation line near the northern end of the drainfield. Ex. A8 at 001. Mr. Westcott’s lateral cross section also illustrates how the gradient continues down and to the north from SL-4. Ex. A8 at 002.
46. We agree that lack of mottling in SL-4 is solid proof of the viability of southern, upland half of the drainfield, because mottling’s finger prints would not disappear after only two dry years. However, SL-4 is upland from the the northern edge of the drainfield. Based on what appear to be seasonal waters north of the drainfield, we can only speculative whether or not the north edge of the drainfield has 18 inches of good soil. We understand Ms. Schneider’s concern that drilling a test hole can compromise an otherwise available drainfield area; however, adding a test site just *north* of the proposed drainfield would not.
47. While Mr. Lee acknowledged it would have been more ideal if reviewers had gone out in the wetter seasons and Ms. Schneider agreed it might have been better to have a test pit at the northern edge of the propose drainfield, this issue is not an last-minute roadblock the neighbors have attempted to erect or some after-the-fact Monday morning quarterbacking. At least by November 2020 (over a year before Public Health reapproved the septic design in January 2022), Mr. Westcott had explained to Public

² “Surface waters” are themselves defined as: “any body of water, whether fresh or marine, which either flows or is contained in natural or artificial depressions or drainage course and contains water for forty-eight (48) continuous hours during any of the months of May through October, or is identified by King County department of natural resources as a significant drainage feature. Such bodies include, but are not limited to, natural and artificial lakes, ponds, rivers, streams, swamps, marshes, tidal water and wetlands.” BOH 13.08.490.

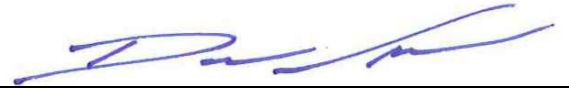
Health the percolation concerns and the lack of site visits during wet seasons, and he pointed to standing water he observed on portions of the property during winter months. Ex. A9.

48. We appreciate Public Health’s efforts to speedily process septic submittals and not to put applicants through unnecessary studies and reviews. And we do not discount the Applicants’ considerable compliance efforts, nor the advantages of increase the housing stock with a modest home. Applicants may very well get there, but not without winter water review and an additional test pit. Because—on our record as it closed on November 17—the proposed drainfield violates the 30-foot seasonal water set back requirement, and the development proposal poses an unreasonable threat to the public health. KCC. 21A.24.070.A.3.d. We remand the alteration exception application back to Local Services.
49. Appellants SEPA challenge is different, both because Appellants carry a higher burden and because we must accord the responsible SEPA official’s decision substantial weight. Ours is not a scenario where the applicable regulations do not adequately address the specific, septic-related impacts complained about, some unusual circumstance exists, or the DNS does not adequately mitigate for those impacts. There is a process for drainfield review that, if properly followed, should adequately protect the environment. Thus, Local Services’ finding that “the above described proposal does not pose a probable significant adverse impact to the environment when viewed in the context of existing regulations and other available authorized mitigations” is accurate. Ex. D3 at 002 (emphasis added). The issue is simply that, as it stands today, the drainfield-related regulations have not been satisfied. Local Services’ error was in prematurely granting the alteration exception, not in its SEPA analysis. As the DNS itself states, “this threshold determination does NOT constitute approval of the requested permit.” We deny Appellants’ SEPA challenge.
50. Public Health’s regulations requires that applicants submit, by no later than December 1 of that year, a plan for conducting winter water review. BOH 13.28.060.C. We request that Public Health extend this deadline so that Applicants can submit their plan—including a test pit at the northern edge of the proposed drainfield—and have the review completed this winter.

DECISION:

1. We DENY Appellants’ SEPA challenge.
2. We GRANT Appellants’ critical areas alteration exception challenge, REMANDING the matter to Local Services. After Public Health reevaluates the primary drainfield under winter weather conditions, and with a test pit at the northern edge of that proposed drainfield, Local Services should send a revised recommendation, and we will reopen the hearing process.

ORDERED December 2, 2022.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County’s final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE NOVEMBER 17, 2022, HEARING IN THE APPLICATION OF HANS HAHNE CRITICAL AREAS ALTERATION EXCEPTION AND SEPA APPEAL, DEPARTMENT OF LOCAL SERVICES FILE NO. CAEX200002

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Jeff Amman, Liana Criscuolo, Katy Ellis, Kevin Fitts, Kristine Gregonis, Hans Hahne, Peshia Klein, Brian Lee, Greg McBrady, Lynn Schneider, Nick Simmons, Jim Westcott. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

The following exhibits were offered and entered into the record by the Department:

Exhibit no. D1	Critical Areas Exception Report and Decision, dated August 22, 2022
Exhibit no. D2	Notice of Decision and SEPA Threshold Determination, dated August 16, 2022
Exhibit no. D3	SEPA Determination of Non-Significance, dated August 16, 2022
Exhibit no. D4	SEPA Environmental Checklist, dated July 16, 2021
Exhibit no. D5	Approved septic extension and supporting documents, dated January 28, 2022
Exhibit no. D6	Critical Area Alteration Exception Proposal
Exhibit no. D7	Floodplain Study, dated June 23, 2021
Exhibit no. D8	Technical Information Report, dated July 11, 2021
Exhibit no. D9	Notice of Application and SEPA Notice, dated October 15, 2020

The following exhibits were offered and entered into the record by the appellants:

Exhibit no. A1	Aerial Map
Exhibit no. A2	MicroFAST Septic Complaint
Exhibit no. A3	Email between Hans Hahne and Brian Lee, dated September 19, 2022
Exhibit no. A4	FAST Owner’s Manual

Exhibit no. A5	KC Application Permit Package
Exhibit no. A6	Seattle precipitation charts
Exhibit no. A7	Septic workshop correspondence, dated October 26, 2022
Exhibit no. A8	Septic System Permit Plan, approved October 23, 2019
Exhibit no. A9	Email between Liana Criscuolo and Jim Westcott, dated January 7, 2021
Exhibit no. A10	Septic System Permit Plan, approved October 26, 2022
Exhibit no. A11	Video of Southwest corner, dated February 28, 2022
Exhibit no. A12	Video of North edge of site, dated February 28, 2022
Exhibit no. A13	Video of North side of property, dated January 7, 2021
Exhibit no. A14	Video of Stream
Exhibit no. A15	Video of Stream, dated February 28, 2022
Exhibit no. A16	KC CARA website
Exhibit no. A17	Greg Brady and Katy Ellis appeal, dated September 4, 2022

December 2, 2022

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **CAEX200002**

HANS HAHNE CRITICAL AREAS ALTERATION EXCEPTION

Alteration Exception and SEPA Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED December 2, 2022.



Jessica Oscoy
Office Manager

Amman, Jeff

Beasley, Camille

Department of Local Services

Criscuolo, Liana

Public Health-Environmental Health

Dobkins, Doug

Department of Local Services

Fitts, Kevin

Department of Local Services

Gao, Clara

Department of Local Services

Gregonise, Kristine

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