November 7, 2017

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REPORT AND DECISION

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR150437**

CLAYTON AND JANELLE LITTLEJOHN
Code Enforcement Appeal

Location: 43335 SE 77th Street, 7832 North Fork Road SE, Snoqualmie

Appellants: Clayton and Janelle Littlejohn
represented by **Duana Kolousková**
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal in part, grant appeal in part

EXAMINER PROCEEDINGS:

Hearing Opened:	October 24, 2017
Hearing Closed:	October 24, 2017

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, the examiner hereby makes the following findings, conclusions, and decision.

FINDINGS AND CONCLUSIONS:

Introduction

1. In May 2015, the Department of Permitting and Environmental Review (DPER) received a complaint involving placement of a second mobile home and construction of a driveway, both within the Tate Creek buffer and both without permits. Ex. 1 at 001. On June 19, 2017, DPER served a notice and order on the property's owners, Clayton and Janelle Littlejohn, asserting (1) the second mobile home (plus later editions to that mobile home) were within the property line setbacks, on a parcel not meeting the minimum lot size for a second home, and within various critical areas, and (2) construction of a gravel road and creation of over 2,000 square feet of new impervious surface within various critical areas. Ex. 2. The Littlejohns (Appellants) timely appealed. Ex. 3. We went to hearing last week.

2. Unless directed to by law—and no special directive applies to today's case—an examiner does not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. Ours is a true *de novo* hearing. For those matters or issues raised in an appeal statement to an enforcement action, DPER bears the burden of proof. KCC 20.22.080.G; Exam. R. XV.E.3. We start with the mobile home and then tackle the driveway.

Mobile Home and Related Additions

3. Two mobile homes were placed on the subject property prior to Appellants' 2000 purchase. Exs. 8b, A4. The original one was legally added in about 1988 by the then-owner, Steve McKinney, via permit R8813474. Exs. A1, A13 at 001. Mr. McKinney applied for permit R9200645 in 1992. It is not entirely clear what exactly R9200645 was for; notes indicate it was to remove and replace the existing mobile home, but a site drawing in that permit file shows a second mobile home in addition to, and separate from, the existing mobile. Ex. 5 at 008, 006. In any event by 1994 the property had sold to Neil Dubey, and it was clear that rather than a new mobile home coming to the site to replace the original mobile home, a second mobile home had simply been added.

4. On March 14, 1994, a code enforcement complaint was lodged for placement of two mobile homes without permits and approvals. Ex. A3 at 004. On April 17, 1995, DPER cancelled permit application R9200645. Ex. 5 at 002. Twelve days later, DPER sent a letter to Mr. Dubey, explaining that DPER had received a complaint that the second mobile home had been placed without the required permits and approvals. Ex. A3 at 001. In October 1995, DPER sent a second letter to Mr. Dubey. Ex. A3 at 002. In December 1995, a code enforcement officer made some notes about observing two structures on

site, and that it was "[d]ifficult to tell if they are on same lot[; possibly] two separate lot[s]." Ex. A3 at 005. In 1996, Lamar Reed entered notes in the file that, "It is believed that both mobile homes are on separate lots. Closing case." *Id.* Mr. Reed's assessment was not accurate; with the possible exception of a tiny corner of the second home, both homes are on the same lot.

5. In approximately 1998, Mr. Dubey added a porch to the east side of the second mobile home. Ex. 8b. In 2000, Appellants' purchased the property. At points after 2005—an important threshold because this was when the Critical Areas Ordinance was passed—Appellants added more items, including a garage/carport and porch, on the west (creek-side) of the second mobile home. Exs. 1 at 002, 6B.

6. Appellants argue that Mr. Reed's enforcement case closing legalized the second mobile home such that DPER may not challenge its legality again, citing *Chelan County v. Nykreim*, 146 Wn.2d 904, 52 P.3d 1 (2002). Per *Nykreim*, once the opportunity to challenge a decision passes, it is considered irrefutably valid, even if the underlying decision was arguably "improper." 146 Wn.2d at 926, 932. *See also Habitat Watch v. Skagit Co.*, 155 Wn.2d 397, 407, 120 P.3d 56 (2005) ("even illegal decisions must be challenged in a timely, appropriate manner").

7. Appellants' citation to *Nykreim* is appropriate, as the Court there rejected an interpretation that the Land Use Petition Act's (LUPA's) finality requirement applies only to quasi-judicial land use decisions; the Court confirmed that ministerial decisions (even those without public notice or a hearing) can qualify. 146 Wn.2d at 927. But the action in *Nyrkeim* that allegedly made the scenario unchallengable was the county's approval of a boundary line adjustment (BLA) application, and the language the Court was applying was RCW 36.70C.020(2)(a)'s example of a "land use decision" as an "application for a project permit or other governmental approval." *Id.* at 911, 927. So *Nykreim* is not dispositive.

8. RCW 36.70C.020(2)(c) does cover the "enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property," and Mr. Reed closed an enforcement action on the subject property. But a "land use decision" must be a "final determination by a local jurisdiction's body or officer with the *highest level of authority* to make the determination." RCW 36.70C.020(2) (emphasis added). In *Nyrkeim*, the Administrator of the county planning department himself made the decision. 146 Wn.2d at 911. Conversely, we know from a previous, more factually developed case, *Bell–E0001463* (which included depositions) that in 1996 Mr. Reed was not the official with the County's requisite level of authority.[1] That would have been the manager of the Code Enforcement Section, the official who signed the 1996 notice and order and 1998 satisfaction in *Bell* and who signed the 2017 notice and order here. Ex. 2.[2] That is not dispositive, but it is another indication that Mr. Reed's two line case closing is not the type of "land use decision" LUPA intends to grant finality to.

[1] See http://www.kingcounty.gov/~/media/independent/hearing-examiner/documents/case-digest/appeals/code-enforcement/2015/E0001463_Bell_Report_Editted.ashx?la=en at 2, ¶ 3.
[2] *Id.* at Ex. 9A (exhibit on file with the Examiner's Office).

9. The issues here are similar to those we dealt with in *Bell*, a code enforcement case where DPER issued a 1996 notice and order involving conversion of the main house into three dwelling units, and later issued a 1998 notice of satisfaction (often referred to as a "compliance certificate") resolving that 1996 notice and order. Years later DPER attempted to address the same violation (involving conversion of the main house) along with an additional violation involving accessory structures. We rejected DPER's effort to re-animate the main house conversion, explaining that a

> notice and order is a different beast than a citation. A notice and order requires abatement action be taken and/or permits obtained. KCC 23.24.030.H. It allows DPER to abate the violation and charge the abatement costs as a lien against the property, as well as a personal obligation. KCC 23.24.030.I. Penalties accrue daily, doubling after the first thirty days, and are potentially assessable until full compliance is reached. KCC 23.32.020.B. Unpaid penalties may be charged as a lien against the property. KCC 23.24.030. Most importantly perhaps, it is a violation not just against the person, but one recorded against the property itself, in the official county property records. KCC 23.24.030.G. When corrected, DPER also records that compliance. KCC 23.24.040.B. Those are the types of property records outside parties rely on in determining whether, for instance, to purchase a property or to extend credit. Satisfaction of a notice and order carries much more gravitas than an officer (police or civil) tearing up a citation.[3]

10. While we interpret an agency notice and order as a final land-use decision under RCW 36.70C.020(2)(c), a code enforcement complaint that was informally closed without ever making it to the notice and order stage is different in degree, if not in kind.

11. *Chumbley v. Snohomish County*, 197 Wn. App. 346, 386 P.3d 306 (2016), post-dates *Bell* and provides some support for Appellants' argument. In *Chumbley*, the court interpreted a county closing its enforcement file as the "final determination" that triggered the LUPA appeal period. 197 Wn. App. at 349, 365. Yet the closing in *Chumbley* was preceded by several permit approvals from multiple agencies, plus a formal notice of violation—far more than the two lines here on an internal agency note sheet closing a matter for which nothing of any legal import (such as a permit approval/denial or a notice of violation) was ever issued.

12. We do not definitively decide today whether closing a code enforcement case (in the absence of some formal document such as a recorded compliance certificate overwriting a recorded notice and order) can ever have binding effect. But we are reticent to go there, for two very opposite reasons.

13. First, we noted in *Bell* the harm to the public interest from allowing an informal employee enforcement conclusion (there, Mr. Reed's erroneous statement to the property owner that dwelling units in the *accessory* buildings were okay) to carry the same binding finality as a formal agency decision. We explained that such a rule would necessitate a

[3] *Id.* at 4, ¶ 14.

bizarre explanation to a future neighbor who might complain about the violation, something like:

> "Sorry, using those buildings as dwellings isn't legal, was never legal, and no formal government decision you could have appealed ever legalized that usage. But because in 1998 an officer erroneously told the property owner it would be OK, the property owner can continue renting them out indefinitely." It seems highly unlikely a court would go there. For a more thorough explanation, see *City of Mercer Island v. Steinmann*, 9 Wn. App. 479, 481-83, 513 P.2d 80 (1973).[4]

14. Second, even from the opposite, private property rights perspective, adopting an interpretation that an informal enforcement case closing has the same permanent and preclusive effect as a formal land use decision would likely create harmful, unwanted results. DPER would, out of necessity, need to become *more* stringent and exacting, lest its exercise of prosecutorial discretion not to zealously pursue a potential violation (say, perhaps, closing a file where the original complainant no longer wished to pursue the complaint) be interpreted as an official and binding stamp of approval for a given activity. One would expect to see *more* zealous enforcement, not less.[5] Thus, the first property owner to successfully advance such a theory would be free and clear, but other property owners would suffer the consequences of that "win."

15. While we concluded in *Bell* that the 1998 satisfaction definitively resolved the conversion of the main house into three dwelling units, we clarified that "the 1998 Satisfaction did not completely resolve all issues for the main house beyond the acceptability of multiple dwelling units."[6] In today's case, at most the 1996 closing answered the land use question—that the second mobile home was allowed, by virtue of Mr. Reed's erroneous assumption that the homes were on separate lots. Mr. Reed did not, for example, weigh in on habitability, or on the drinking water or septic implications of new construction (issues handled not by DPER, but by Public Health).

16. *Chumbley* is again instructive, holding that, as between Public Health and the planning agency, permission from one agency is no substitute for permission from the other. 197 Wn. App. at 349. Additionally, *Chumbley* reminds us that even for a formal approval like a permit, the approval only covers what it covers, and must memorialize in a tangible, accessible way any terms, such that a diligent citizen reviewing the file would learn the import of the decision. 197 *Id.* at 349, 359. If Mr. Reed's pronouncement was final and binding, to borrow *Chumbley*'s verbiage "the most it may have implied" was that placement of the second mobile home did not violate any land use restrictions; he did not "memorialize or imply" that other reviews or permits were unnecessary. *Cf. id.* at 364.

17. The Court's even more recent pronouncement that certain stormwater drainage ordinances—despite such ordinances exerting a restraining influence over land use—do not qualify as "land use control ordinances," *Snohomish County v. Pollution Control*

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[4] *Id.* at 9, ¶ 30.
[5] That is not to take a political position on how much enforcement is appropriate, only to explain why an expansive view on finality here would likely lead to unintended and (from a libertarian's perspective) unwanted results.
[6] *Bell* at 5, ¶¶ 17–18.

Hearings Board, 187 Wn. 2d 346, 386 P.3d 1064 (2017), teaches us that "land use" has a narrower scope and reach than what we had previously thought. Again, at most Mr. Reed's closing gave consent to locate the second mobile home in the footprint in which it rested as of 1996.

18. We need not definitively answer even whether Mr. Reed's closing was binding as to the land use review associated with placement of the mobile home, because we reach that same result from a different angle. An owner of property is ultimately responsible for code violations on her property, even if she was not the one who actually created the violation. *See, e.g.*, KCC 23.020.010.K. But where an owner, as Appellants here, "affirmatively demonstrated that the violation was caused by another person or entity not the agent of the property owner and without the property owner's knowledge or consent," the code allows an examiner to waive "[s]trict compliance with permit requirements" to "avoid doing substantial injustice to a non-culpable property owner." KCC 23.36.030.B. The operative word is "strict" compliance, not "all" compliance.

19. We have invoked that authority (and ordered DPER to apply something other than the normal permit requirements as a remedy for code violations caused by a previous owner) sparingly, typically where the current owners have attempted to apply for permits to rectify the violation but have run into a wall, a prohibition against legalizing the previous work through the permit process.[7]

20. It is possible that the second mobile home could have been permitted, in its current location, in the early 1990s.[8] The best evidence in the record is that at the time the second mobile home was placed on the property, it was outside the 1990 Sensitive Areas Ordinance's 100-foot stream buffer and at the outer the edge of the 15-foot (additional) building setback. Exs. A12, A13 at 002, A6 at 001. DPER notes that its current practice is to review Already Built Construction (ABC) residential permit applications based on the regulations in effect at the time the work was substantially completed. Ex. 1 at 002. That may be a user-friendly, cooperative, common-sense, problem-solving practice, but it may not hold water, if push came to shove and, say, the neighbor who complained in 2015 really wanted the mobile home gone.

21. The County's vesting rules are broader than the State's in terms of what it covers; while the State's only covers building permits, subdivision applications, and development agreements, the County's covers the majority of land use applications. *Compare Snohomish County*, 187 Wn. 2d at 358 *with* KCC 20.20.070.A. But, as with the State's, the County's rules only vest to the regulations in effect at the time a complete application was filed. *Id.*

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[7] For example, in *Larson-ENFR 120330*, a parcel size requirement and maximum square footage limitations on detached ADUs prevented the current owner from legally permitting the ADU constructed by a previous owner. We ordered the current owner to follow the usual rules for submitting an already-built-construction (ABC) pre-screening meeting request, for applying to the Health Department to legalize the water and septic, and for applying for (and obtaining) a building permit for the accessory dwelling unit (ADU), but we ordered DPER to waive the parcel and square footage restrictions when it reviewed the building permit application. See http://www.kingcounty.gov/~/media/independent/hearing-examiner/documents/case-digest/appeals/code-enforcement/2014/ENFR120330_Larson.ashx?la=en at 4, ¶ 13.

[8] It is not entirely clear whether, parcel size-wise, a detached second dwelling unit would have been allowed in the early 1990s. Exs. 1 at 002, 7, 10, A14A–D. Given our decision today, it is not necessary for us to reach that issue.

22. Mr. McKinney did file a permit application in 1992, but it was cancelled in 1995. A previously-canceled permit application cannot be revived, once the appeal window for challenging the cancellation closes. *Graham Neighborhood Ass'n v. F. G. Assocs.*, 162 Wn. App. 98, 117–18, 252 P.3d 898 (2011). In fact, *Graham* is instructive because that county agency had a similar-sounding work-around as DPER. That county agency could revive an application, essentially "re-vesting" it to the land use ordinances in place at the date of original application. *Graham* soundly rejected that approach. If a neighbor here challenged DPER's review-a-current-application-per-regulations-in-place-at-the-time-of-the-*original*-construction practice, the neighbor might well win.[9] And there is no dispute that the mobile home is within the 165-foot buffer plus 15-foot building setback applicable under the 2005 Critical Areas Ordinance (which replaced the 1990 Sensitive Areas Ordinance).

23. Thus, we turn to whether we should waive strict compliance with the land use restrictions that would currently bar the mobile home in its current location, a discretionary act which requires us to balance public harm from not requiring strict adherence to the harm to a non-culpable owner from requiring it. At the time the mobile home was placed, it was not in violation of the then-applicable Sensitive Areas Ordinance. In fact that—and not the review-a-current-application-per-regulations-in-place-at-the-time-of-the-original-construction practice—would probably be the strongest argument, if the dispute were litigated, for legalizing it via a 2017 application: the mobile home was not placed in (or an incursion into) a protected buffer; a critical area buffer later enveloped the footprint already occupied by the mobile home.

24. Moreover for "sites that have been degraded under prior ownerships," the term "remediate" means to "restore to a condition that does not pose a probable threat to the environment or to the public health, safety or welfare." KCC 23.02.010.M. The mobile home has been in its current location for approximately a quarter century, it has been two decades since DPER decided the enforcement case did not warrant pursuit, and the Critical Areas Ordinance has been in place for a dozen years. The second mobile home, along with the porch added by the previous owner in approximately 1998, Exhibit 8b, can stay where they are.

25. As noted above, Mr. Reed's 1996 closing answered at most the siting question, that the second mobile home was fine where it was; he did not weigh in on habitability, or on the areas in Public Health's domain like compliance with drinking water or septic requirements. Similarly, in *Skirvin–E0700414* we denied a non-culpable property owner's request that we exercise our KCC 23.36.030.B authority to excuse him from the need to obtain a building permit, which required Public Health approval. We clarified

[9] That is not to criticize DPER's approach to ABC permitting, a sensible way to resolve and bring old construction into some semblance of compliance. It is a more exacting approach, in fact, than the previous unwritten policy regarding old construction, discussed in *Bell*, that code enforcement would not tackle activity older than 15 years. *Bell* at 2, ¶¶ 5–6. But "sensible" is not necessarily synonymous with "would withstand legal scrutiny."

that we are never the ultimate decision-maker as it relates to such matters; such calls are made first by Public Health and on appeal by the Sewage Review Committee (SRC).[10]

26. We answer today's dispute the same way: Appellants must apply for a building permit (which requires Public Health approval before a completed building permit application can be submitted to DPER) to legalize the second mobile home. And when they do, DPER should treat the mobile home (and 1998 porch addition) as in compliance, land use-wise. We leave up to DPER's discretion how exactly to treat the building itself—life/safety, habitability, other requirements for occupancy, etc.—because the Washington State Department of Labor and Industries, not DPER, typically handles such matters.[11]

27. The above, or course, only covers the mobile home itself and the eastern porch added before Appellants purchased the property. Appellants do not qualify for nonculpable owner status for the western porch they added in approximately 2007, garage/carport they added after 2009, and other outbuilding(s) they placed, all in the buffer to Tate Creek and all after the 2005 Critical Areas Ordinance came into existence. Exs. 8b, 6b at 002. Those additions may or may not be allowed to remain, and may or may not require buffer mitigation even if they are removed. We have nothing to add. The normal permit process applies.

28. Similarly a detached accessory dwelling unit is only allowed if the owner lives in one of the structures. KCC 21.080.030.B.7.a.3. In the *Larson-ENFR 120330* case discussed in footnote 7, because the owner had moved off the property, continuing to rent out both units would create a new violation (i.e., not one attributable to the past owner), and so we cabined Ms. Larson retaining the second unit on her not renewing the lease on the second unit.[12] Currently, Mr. Littlejohn is living in the original mobile home. But if he moves out, that home may not be occupied by a non-owner.

Driveway

29. The second alleged violation involves Appellants' construction of a driveway. Aerial photos from 2002 and 2009 show that there was little or no impervious surface in that area. Ex. 6B at 002. By 2013, some tire tracks are visible on the grass, but in 2015 a large area, estimated to be 8,680 square feet, was graveled. Ex. 6B at 001. Even if there was some rudimentary "road" there that predated Appellants' purchase—and the photographic evidence does not show this—the 2015 gravel surface is significantly more impervious than whatever proceeded it. KCC 16.82.051.C.2 & KCC 9.04.020.KK. ("'New impervious surface' means the creation of impervious surface or the addition of a more compacted surface such as the paving of existing dirt or gravel.") Imperviousness aside, graveling over the grassy area qualified as "grading." KCC 16.82.020.O & Q. For that portion of the road within the aquatic area buffer, there is no threshold level under which grading is exempt from the need to apply for a permit. KCC 16.82.050.B, .051.B.

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[10] See http://www.kingcounty.gov/~/media/independent/hearing-examiner/documents/case-digest/appeals/code-enforcement/2017/2017%20august/E0700414_Skirvin_OrderOnSubmittingAddtlDocumentsForTheRecord.ashx?la=en at 9.

[11] http://www.lni.wa.gov/TradesLicensing/FAS/FeePermitInsp/default.asp.

[12] *See* http://www.kingcounty.gov/~/media/independent/hearing-examiner/documents/case-digest/appeals/code-enforcement/2014/ENFR120330_Larson.ashx?la=en at 4 ¶ 14.

And regardless of critical area status, the grading was well beyond the 2,000 square feet of new impervious surface threshold, triggering the need for a permit. KCC 16.82.051.C.2.

30. But that is not really the dispute here. Appellants do not challenge the need for a permit to legalize the driveway. Instead the hurdle is that the Critical Areas Ordinance only allows certain alterations to an aquatic area buffer. KCC 21A.24.045.B.5. A driveway or private access road is allowed (with a permit), but both mobile homes already have access to the north, so KCC 21A.24.045.C.28 is not an avenue. Ex. 6b. Instead the exception Appellants point to is that a farm field access drive is allowed if in compliance with a farm management plan, in accordance with K.C.C. 21A.24.051. KCC 21A.24.045.C.29. And Appellants have started the farm plan ball rolling. Ex. A10.

31. DPER disputes that a farm plan could legalize the road, because it saw no evidence of a farm on the subject property, and because the impetus for Appellants to gravel the area was to provide alternative access to the mobile home. We do not look at the tiny subject parcel in isolation. The parcel is contiguous to Appellants' larger holding, on which they operate a working farm. Ex. A15. And a spur of the 2015 graveled driveway was to an outbuilding containing a feeding station with hay and small farm implements.

32. Ultimately, the call is not ours to make, at least not now. First, the King Conservation District (KCD)—which despite the name, is not a County agency—will need to see if a farm plan is feasible. And even if KCD does, a farm plan is not effective until approved by the County's Department of Natural Resources and Parks (DNRP); it is at least theoretically possible an approved farm management plan could be appealed back to us, but we have yet to see one. KCC 20.22.040.V; KCC 21A.24.051.E; KCC 21A.30.045.E. While we potentially could be engaged at the back end, we agree with Appellants that it would be putting the cart before the horse for us to wade in now. It may be that the gravel has to come out, or it may be that the gravel can stay. But Appellants have started the farm plan process with the KCD, Exhibit A10, and we will not prejudge the end result.

33. The only complication is that, as DPER wrote in its notice and order, an application for the driveway can be combined with a permit application for the mobile home and for the mobile home's additions and outbuildings. Ex. 2 at 002. Even if Appellants diligently pursue a farm plan, KCD may not finish for some time, and DNRP would take some time on top of that to review any completed farm plan. So while we can reinstitute the 30-day deadline the notice and order set for Appellants to submit a complete permit pre-screening meeting request, the next applicable deadline is a little tougher to predict.

34. DPER might not want to accept permit application for the driveway if or until it is approved in a farm plan. On the other hand, there seems no need for Appellants to put off starting the Public Health application process to legalize the second mobile home, as this would need to be done whether or not the gravel road remains. There are several potential permutations and combinations—including whether DPER or Labor and Industries will handle the mobile home as a structure—and it seems a fool's errand for us to try to write detailed alternatives and timelines for each possible course. Instead, we leave it to DPER, at or after the pre-screening meeting, to provide written instructions for what (and by when and perhaps in what sequence) it expects as a "next step" or alternative "next

steps." And if an unsolvable conflict erupts in terms of deadlines or other permitting requirements, we will allow the parties to return to us for more definitive direction.

DECISION:

1. The appeal is DENIED as to the violations and GRANTED IN PART as to the remedy.

2. Appellants shall apply for a pre-screening meeting request to address both violations by **December 8, 2017**. The second mobile home and the eastern porch are allowed (from a land-use perspective) to remain as is, without the need for further land use review. Appellants shall—by a reasonable date DPER provides in writing at or after the pre-screening meeting—take any "next step(s)," including applying for Health Department approval.

3. We retain jurisdiction to re-enter the fray, should an unsolvable conflict erupt in terms of applying this Report and Decision to deadlines or other permitting requirements.

4. No penalties shall be assessed against Appellants or the subject property if the applicable deadlines are met. If not, DPER may assess penalties retroactive to today.

ORDERED November 7, 2017.

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 OCTOBER 24, 2017, HEARING IN THE APPEAL OF CLAYTON AND JANELLE LITTLEJOHN, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. ENFR150437

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin, Duana Kolousková, Clayton Littlejohn, and Bill Moffet.

The following exhibits were offered and entered into the record:

Exhibit no. 1	Department of Permitting and Environmental Review staff report to the Hearing Examiner for file no. ENFR150437
Exhibit no. 2	Notice and order, issued June 19, 2017

Exhibit no. 3	Notice and statement of appeal, received July 13, 2017
Exhibit no. 4	Codes cited in the notice and order
Exhibit no. 5	Permit no. R9200645 documentation with cancellation
Exhibit no. 6	
	A. Aerial map of subject property
	B. Aerial maps of subject property, dated 2015, 2013, 2009, and 2002
Exhibit no. 7	King County Code 21A.08.030
Exhibit no. 8	
	A. Photographs of subject property, dated March 3, 2009
	B. Aerial photograph of subject property
Exhibit no. 9	
	A. Site plan for permit no. B10L0636
	B. Letter from DPER to Clayton Littlejohn with critical areas designation no. L10SA175 status, dated December 9, 2010
Exhibit no. 10	King County Code 21.21A.070
Exhibit no. A-1	Permit no. R8813474 compilation of all comments
Exhibit no. A-2	Permit no. R9200645 documentation with cancellation *(duplication of Exhibit 5)*
Exhibit no. A-3	Notice of violation no. E9400356, dated April 29, 1994; Notice of violation no. E9400356, dated October 26, 1995; Case no. E9400356 documentation
Exhibit no. A-4	Statutory warranty deed, dated September 1, 2000
Exhibit no. A-5	Mobile home insurance info
Exhibit no. A-6	Letter from DPER with critical areas codes, dated October 26, 2016
Exhibit no. A-7	Zoning code information bulletin no. 17A, dated January 31, 2014
Exhibit no. A-8	King County Code 21A.24.045
Exhibit no. A-9	Email from Department of Natural Resources and Parks to Bill Moffet with construction of farm roads information, dated September 19, 2017
Exhibit no. A-10	Email from DNRP to Bill Moffet acknowledging planning assistance request, dated October 9, 2017
Exhibit no. A-11	Department of Assessments for parcel no. 2724089020
Exhibit no. A-12	Aerial map of subject property
Exhibit no. A-13	Memorandum from Bill Moffet to Duana Kolouskova with summary of exhibits, dated October 10, 2017
Exhibit no. A-14	
	A. Existing zoning map of Snoqualmie Valley, dated 1989; Proposed zoning map of Snoqualmie Valley, implemented 1990; Ordinance no. 9118
	B. King County Code Article 9
	C. King County Code 21.21A.020
	D. King County Code 21.08.030B
Exhibit no. A-15	Aerial map of subject property

DS/ed

November 7, 2017

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR150437**

CLAYTON AND JANELLE LITTLEJOHN
Code Enforcement Appeal

I, Vonetta Mangaoang, 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.

☒ caused to be 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 November 7, 2017.

Vonetta Mangaoang

Vonetta Mangaoang
Senior Administrator

Deraitus, Elizabeth
Department of Permitting and Environmental Review

Kolousková, Duana
Johns Monroe Mitsunaga Kolousková
Hardcopy

Littlejohn, Clayton-Janelle
Hardcopy

Lux, Sheryl
Department of Permitting and Environmental Review

Moffet, Bill
Hardcopy

Sawin, Holly
Department of Permitting and Environmental Review

Williams, Toya
Department of Permitting and Environmental Review