

**BEFORE THE HEARING EXAMINER  
FOR JEFFERSON COUNTY**

Application for Preliminary Plat )  
approval, submitted by )  
  
PLEASANT HARBOR MARINA AND )  
GOLF RESORT, LLP, )  
Applicant )  
\_\_\_\_\_)

**File No. SUB2023-00025**

**ORDER CLARIFYING DECISION  
AND DENYING RECONSIDERATION**

**I. SUMMARY.**

The Applicant’s Request for Clarification or, in the Alternative, Reconsideration is GRANTED IN PART to the limited extent that this Order clarifies Finding 106 and is otherwise DENIED.

Jefferson County’s joinder in the Applicant’s request is treated in the same manner.

The Decision is clarified to confirm that Finding 106 does not add new resort amenities, does not require amenities beyond those required by Amendment 2 to the Development Agreement, and does not alter the adopted conditions of preliminary plat approval.

However, the joint request for reconsideration is denied to the extent it seeks to remove or materially weaken the conclusion that the mandatory Phase 1 public resort amenities must be provided as part of Phase 1, before the Applicant may proceed with later phases or obtain approvals in a manner that would allow the residential portions of the MPR to move forward while the required public resort amenities remain deferred. Phase 1 means Phase 1.

**ORDER CLARIFYING DECISION – RE: PLEASANT  
HARBOR MASTER PLANNED RESORT  
PRELIMINARY PLAT DECISION – FILE NO.  
SUB2023-00025**

**JEFFERSON COUNTY HEARING EXAMINER**  
621 SHERIDAN STREET  
PORT TOWNSEND, WA 98368

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**II. RECORD ON RECONSIDERATION.**

The record on reconsideration consists of the existing record for the preliminary plat application before the Hearing Examiner, the Applicant’s Request for Clarification or, in the Alternative, Reconsideration, Jefferson County’s Joinder, the Response of The Brinnon Group, and the Examiner’s April 30, 2026 Notice and Order inviting responses.

No new evidence has been accepted or relied upon. This Order is based upon the evidence and materials already included in the record, and upon argument submitted in response to the reconsideration request.

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**III. STANDARD FOR CLARIFICATION AND RECONSIDERATION.**

Under the Hearing Examiner Rules of Procedure, clarification is available to correct obvious errors or to clarify the application of specific issues. Reconsideration is not an opportunity to reargue matters already considered, or to obtain a different result merely because a party disagrees with the Hearing Examiner’s interpretation of a confusing record or difficult governing documents. *(See Jefferson County Hearing Examiner Rules of Procedure, Rules 6.5 and 6.6).*

The Applicant has not demonstrated that the Decision contains an error of law, a misinterpretation of controlling policy, regulation, or law, or a material finding, conclusion, or condition unsupported by the record. The request does, however, identify a narrow area where clarification is appropriate so that the Decision is not misunderstood during future implementation.

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**IV. FINDINGS AND ANALYSIS.**

17 1. The Applicant seeks clarification or reconsideration of Finding 106 in the Examiner’s Decision approving the preliminary plat application, which reads:

18 “That binding Phasing Plan expressly mandates that, as part of Phase 1 – i.e.  
19 the FIRST phase of the development – certain recreational amenities must be  
20 constructed and complete. Phase 1 means phase 1, the first phase. So, Phases  
21 2 and 3 cannot receive final plat approval until after Phase 1 is complete, and  
22 Phase 1 cannot receive final plat approval until all conditions are satisfied for  
such phase, expressly including completion of the recreational amenities that  
shall be available to the general public as listed above.”

23 2. The Applicant asks that Finding 106 be revised to state that “the structures included  
24 in Phases 2 and 3” cannot be constructed until after Phase 1 is complete, rather than stating  
that Phases 2 and 3 cannot receive final plat approval until Phase 1 is complete.

1 3. The Applicant and County argue that Section 10.2.6 of the Development Agreement  
2 addresses what must be complete before a final plat may be recorded, and that Section 10.3  
3 separately requires resort amenities to be completed “in Phase 1.” The County’s Joinder relies  
4 on that same distinction, arguing that Section 10.3 contrasts with Section 10.2’s “preliminary  
5 facilities” language.

6 4. The Examiner understands the argument. Section 10.2.6 does address preliminary  
7 facilities and provides that a final plat may be recorded by lot or tract if the preliminary  
8 facilities necessary to serve the lot or tract are complete and the specific development  
9 requirements within each lot or tract are complete. (*Development Agreement/Amendment 2*  
10 *Section 10.2.6*)

11 5. But Section 10.2.6 is not the only relevant phasing provision. It must be read together  
12 with Section 10.1.2, Section 10.1.3, Section 10.3, Exhibit 4, Amendment 2, the Staff Report,  
13 and the reason Amendment 2 exists.

14 6. The record is clear that Amendment 2 was adopted because the prior Development  
15 Agreement was reversed in a LUPA proceeding for phasing problems. The adopting  
16 ordinance explains that the Kitsap County Superior Court reversed the prior approval because  
17 the phasing plan failed to provide all conditions of the PHMPR sufficient to stand alone if no  
18 later phases were developed after Phase 1, and because Phase 1 did not include amenities  
19 required for the MPR, including a 9-hole golf course, spa, sports courts, pool, water slides,  
20 community center, recreation center, conference center, staff quarters, maintenance building,  
21 and commercial space. (*See Development Agreement, Amendment 2, adopting ordinance*  
22 *recitals describing the LUPA reversal and cure*).

23 7. The adopting ordinance further explains that Amendment 2 addressed the court’s  
24 decision by amending the phasing plan so that all conditions of the PHMPR are sufficient to  
25 stand alone if no later phases are developed after completion of Phase 1, and by amending  
26 Phase 1 to include amenities required for the MPR. (*Id.*).

8. That history matters. Amendment 2 was not adopted merely to create a loose  
construction schedule. It was adopted to correct a final land use decision that failed to require  
Phase 1 to contain the resort features necessary for the MPR to stand alone.

9. The Staff Report is consistent with that interpretation. It states that the following  
public amenities must be provided in Phase 1 and made available to the general public for a  
fee: 9-hole golf course, spa services, sports courts, pool, water slides, and Community  
Center/Recreation Center. (*See Staff Report, on page 91*).

10. The Decision relied on that same un rebutted Staff Report analysis. Findings 100

1 through 106 explain that phasing is optional, but if the Applicant chooses to develop the  
2 preliminary plat in phases, the sequencing and contents of each phase must follow the binding  
3 Phasing Plan in Amendment 2.

4 11. The Applicant's own hearing materials recognized that the minimum recreational  
5 amenities must be provided for the project to function as a master planned resort, and that the  
6 Applicant's ability to move on to subsequent phases of residential development depends on  
7 including those minimum recreational amenities in the first phase of development. (*Decision,*  
8 *Finding 104; Ex. 75, Applicant's Response to Staff Report on page 1*).

9 12. The Brinnon Group correctly identifies the practical concern that would arise if the  
10 Applicant's interpretation were accepted too broadly: final plat approval could allow lots to  
11 be sold and residential units built while the destination resort facilities remain indefinitely  
12 deferred. That concern is not speculative in the context of an MPR approval that depends  
13 upon resort facilities and a binding phasing plan.

14 13. The Applicant's proposed wording would materially narrow the Decision by  
15 changing the consequence from "cannot receive final plat approval" to "cannot be  
16 constructed." That proposed change is rejected. Construction is not the only relevant act in  
17 phased subdivision development. Final plat approval, recording of lots or tracts, issuance of  
18 later development permits, sale or transfer of residential lots, and other approvals can all  
19 affect whether the PHMPR proceeds as a true phased master planned resort or instead as  
20 residential development with required resort amenities deferred.

21 14. At the same time, the Examiner recognizes the Applicant's and County's point that  
22 Section 10.2.6 of the Development Agreement, as amended, addresses final plat recording by  
23 lot or tract. The Examiner does not read the Decision, or Finding 106, to require an impossible  
24 or unlawful sequencing result. If a required public resort amenity must be located within a  
25 lot or tract that cannot legally support permanent building permits until final plat approval  
26 and recording, the Applicant may seek County review of a lawful final plat, lot, tract, phase,  
or sub-phase sequencing mechanism under Section 10.2.6 and other applicable requirements.

15 15. That clarification is important because Section 10.2.6 provides that a final plat for a  
16 phase may be recorded by lot or tract if all preliminary facilities necessary to serve the lot or  
17 tract are complete and the specific development requirements within each lot or tract are  
18 complete. The Applicant and County are correct that Section 10.2.6 focuses on "preliminary  
19 facilities," while Section 10.3 separately addresses "Public Amenities and Access." The  
20 Applicant's reconsideration request makes that distinction directly.

21 16. But Section 10.2.6 does not stand alone and does not repeal the rest of Section 10.  
22 The Staff Report explains that the revised phasing plan allows development in phases or sub-  
23 phases, but that each primary phase must be constructed in the order set forth in Section 10

1 of the Development Agreement. The Staff Report also explains that Section 10.1.2 requires  
2 each phase to contain adequate infrastructure, open space, recreational facilities, landscaping,  
3 and all other conditions sufficient to stand alone if no subsequent phases are developed. (*Staff  
4 Report, pages 89-91*).

5 17. Thus, a final plat application for a lot or tract that contains, supports, or is necessary  
6 for a required public resort amenity may be considered through a lawful lot, tract, phase, or  
7 sub-phase mechanism. But such an application must still be reviewed in context. It must  
8 comply with Section 10.1.2, Section 10.2.6, Section 10.3, Exhibit 4, Amendment 2, the  
9 preliminary plat conditions, and all applicable County, state, and federal requirements. It may  
10 not be used to isolate a lot or tract from the mandatory phasing requirements that apply to the  
11 PHMPR.

12 18. The Examiner therefore clarifies that Finding 106 does not mean that every Phase 1  
13 public resort amenity must be physically constructed before the County may record any final  
14 plat document for any Phase 1 lot or tract, where such recording is shown to be lawfully  
15 necessary to create the lot or tract on which a required public amenity will be constructed.  
16 The Decision does not prohibit lawful Phase 1 lot, tract, phase, or sub-phase implementation  
17 under Section 10.2.6.

18 19. The point of Finding 106 is different. Finding 106 means that final plat approval, lot  
19 or tract recording, development permits, sales, transfers, or other approvals may not be used  
20 to advance residential development, or any Phase 2 or Phase 3 component, in a manner that  
21 avoids, delays, or defeats the mandatory requirement that the Phase 1 public resort amenities  
22 be provided as part of Phase 1 and made available to the public.

23 20. Amendment 2 was adopted in response to a final LUPA decision that reversed the  
24 prior phasing plan because it failed to provide conditions sufficient for the PHMPR to stand  
25 alone if no subsequent phases were developed after Phase 1, and because Phase 1 did not  
26 include amenities required for the MPR. The adopting ordinance then found that Amendment  
27 2 addressed those issues by amending the phasing plan so that all conditions of the PHMPR  
28 are sufficient to stand alone if no subsequent phases are developed after completion of Phase  
29 1, and by amending Phase 1 to include required MPR amenities.

30 21. That history remains central to the clarification. Section 10.2.6 may provide a  
31 mechanism for lot- or tract-level final plat recording within a lawful phase or sub-phase. It  
32 does not authorize the Applicant to treat the Phase 1 public resort amenities as optional,  
33 indefinite, or separable from Phase 1 residential development in a way that recreates the  
34 phasing defect Amendment 2 was adopted to cure.

35 22. Accordingly, Finding No. 106 is clarified as follows:

1 A. Finding 106 does not require construction of amenities beyond the mandatory  
2 public resort amenities identified in Amendment 2, the Staff Report, and Condition 6.  
3 It does not require the go-kart track, hockey rink, or other additional amenities  
4 discussed in the record but not required as minimum MPR amenities. It does not alter  
5 Condition 16's separate requirement addressing preliminary facilities under Section  
6 10.2 of Amendment 2.

7 B. Finding 106 does not prohibit the Applicant from seeking County review of a  
8 lawful lot, tract, phase, or sub-phase final plat recording mechanism under Section  
9 10.2.6, including for a lot or tract needed to support future construction permits for a  
10 required public resort amenity, provided that all applicable requirements are satisfied.

11 C. Any such proposal must demonstrate compliance with the preliminary facilities  
12 requirements applicable to the lot or tract, the specific development requirements  
13 applicable to the lot or tract, and the broader phasing requirements applicable to the  
14 phase or sub-phase in which the lot or tract is located.

15 D. Finding 106 is intended to give effect to the mandatory phasing requirements in  
16 Amendment 2, including the requirement that the minimum public resort amenities  
17 be provided as part of Phase 1 and made available to the general public. Neither  
18 Section 10.2.6 nor any lot- or tract-level final plat mechanism may be used to allow  
19 Phase 2 or Phase 3 components, or Phase 1 residential development, to proceed in a  
20 manner that avoids, delays, or defeats the required Phase 1 public resort amenities.

21 23. To the extent the Applicant seeks clarification that Finding 106 should not be read to  
22 prohibit any final plat recording before construction of any required public resort amenity  
23 under all circumstances, clarification is granted as stated above.

24 24. To the extent the Applicant seeks reconsideration so that required Phase 1 resort  
25 amenities need only be completed at some later point before construction of later-phase  
26 structures, or may be separated from Phase 1 residential development in a manner that  
weakens the stand-alone Phase 1 requirement, reconsideration is denied.

27 25. To the extent the County joins the Applicant's request to clarify the role of Section  
28 10.2.6, the clarification above addresses that concern. To the extent the County's Joinder  
29 could be read to support the broader deferral of required Phase 1 public resort amenities  
beyond the phasing requirements imposed by Amendment 2, that request is denied.

30 26. Nothing in this Order prevents the Applicant from seeking future County review of  
31 specific implementation questions, permit sequencing issues, or lot/tract recording proposals,  
32 provided that any such proposal complies with the Decision, the adopted conditions,  
33 Amendment 2, the Development Agreement, the preliminary plat approval, and all applicable

1 County, state, and federal requirements.

2 27. Nothing in this Order authorizes later-phase residential development, later-phase final  
3 plat approval, or any other approval that would allow the required Phase 1 public resort  
4 amenities to be avoided, indefinitely postponed, or separated from the MPR phasing  
5 obligations that Amendment 2 was adopted to impose.

#### 6 V. CONCLUSIONS OF LAW.

7 1. The Applicant's Request for Reconsideration was timely filed.

8 2. Jefferson County submitted a Joinder in the Applicant's timely request. Because the  
9 County's Joinder raises no independent grounds for reconsideration or clarification, and  
10 instead joins the Applicant's request, it has been considered to the extent it supports the  
11 Applicant's request.

12 3. The Brinnon Group's response was authorized by the Examiner's April 30, 2026  
13 Scheduling Order and has been considered.

14 4. The Applicant has not demonstrated that the Decision contains an error of law,  
15 misinterprets controlling law, policy, or regulation, or contains findings, conclusions, or  
16 conditions unsupported by substantial evidence in the record.

17 5. Section 10.2.6 of the Development Agreement, as amended, addresses preliminary  
18 facilities and allows final plat recording by lot or tract when all preliminary facilities  
19 necessary to serve the lot or tract are complete and the specific development requirements  
20 within each lot or tract are complete.

21 6. Section 10.2.6 does not nullify the separate phasing requirements found in Section  
22 10.1.2, Section 10.1.3, Section 10.3, Exhibit 4, or the purpose and effect of Amendment 2.

23 7. Amendment 2 was adopted to cure phasing defects identified in prior litigation,  
24 including the failure of Phase 1 to include required MPR amenities and the failure to ensure  
25 that the PHMPR could stand alone if no subsequent phases were developed.

26 8. The minimum public resort amenities required by Amendment 2 are mandatory Phase  
1 requirements.

9. Finding 106 is supported by the record and by the governing Development  
Agreement, as amended, but clarification is appropriate to confirm that Finding 106 does not  
prohibit lawful Phase 1 lot, tract, phase, or sub-phase implementation under Section 10.2.6.

1 10. Clarification is appropriate to confirm that Finding 106 does not add new amenities,  
2 does not modify the list of adopted conditions, does not require amenities beyond the  
3 minimum public resort amenities required by Amendment 2 and identified in the Staff Report  
4 and Decision, and does not require unlawful or impossible sequencing.

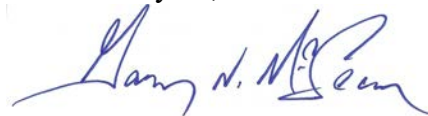
5 11. Reconsideration is not warranted except to the limited extent clarification is provided  
6 in this Order.

7 **VI. ORDER.**

8 The Applicant's Request for Clarification or, in the Alternative, Reconsideration  
9 is GRANTED IN PART to the limited extent that this Order clarifies Finding 106 as stated  
10 above. The Applicant's Request for Reconsideration is otherwise DENIED. Jefferson  
11 County's Joinder is treated in the same manner.

12 The April 17, 2026 Findings of Fact, Conclusions of Law and Decision Approving  
13 Preliminary Plat remains in full force and effect, subject only to the clarification provided in  
14 this Order.

15 Issued: May 18, 2026.

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17 Gary N. McLean  
18 Hearing Examiner for Jefferson County  
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**FINALITY AND APPEAL RIGHTS**

This Order resolves the pending request for clarification or reconsideration. A new appeal period of the underlying Preliminary Plat Decision shall run from the date of this Order. Any appeal must be filed and served in the time and manner required by applicable law, including JCC 18.40.340, Chapter 36.70C RCW, and Hearing Examiner Rule 6.7.