

1 BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

2 IN RE: ) HEARING NO. TUM-22-1743  
3 ) (Preliminary Binding Site Plan)  
4 YORKSHIRE APARTMENTS. ) and TUM-22-1742 (Conditional  
5 ) Use Permit)  
6 ) FINDINGS OF FACT,  
7 ) CONCLUSIONS OF LAW  
8 ) AND DECISION

7 **APPLICANT:** Grandview Yorkshire, LLC  
127 N. Olympic Avenue  
Arlington, Washington 98223

9 **REPRESENTATIVE:** Glenn Wells

10 **OWNER'S REPRESENTATIVE:** Tyrell Bradley  
11 LDC Corporation  
12 1411 Slate Avenue NE, Suite 200  
Olympia, Washington

13 **SUMMARY OF REQUEST:**

14 Phased Preliminary Biding Site Plan approval and a Conditional Use Permit to construct 1,150  
15 apartment units, 9,000 square feet of commercial space, and 324 self-storage units in a mix of  
16 high-rise structures and mixed-use buildings. Other improvements include the construction of  
17 Tyee Drive from Israel Road south to Tumwater Boulevard; approximately 1,300 parking stalls;  
18 a roundabout at the intersection of Tyee Drive and Tumwater Boulevard; frontage improvements  
to Tumwater Boulevard and to Tyee Drive; stormwater facilities, recreational facilities, and open  
space areas.

19 The application requires Phased Preliminary Binding Site Plan approval as the Applicant seeks  
20 to undertake development in four phases. The application also requires a Conditional Use Permit  
as the proposed high-rise apartments and mini-storage facilities are not permitted outright in the  
General Commercial (GC) zone and must have conditional use approval.

21 **LOCATION OF PROPOSAL:**

22 The project is located between Israel Road and Tumwater Boulevard, and between Interstate 5  
23 and Littlerock Road, on unaddressed vacant parcels bearing Tax Parcel Nos. 12704440103,  
24 12704431300, and 12704440100.

1 **SUMMARY OF DECISION:**

2 The requested Phased Preliminary Binding Site Plan and Conditional Use Permit are **approved**  
3 subject to slightly modified conditions.

4 **BACKGROUND**

5 In what may be the largest project of its kind in the City, the Applicant seeks Phased  
6 Preliminary Binding Site Plan approval and Conditional Use Permit approval for seven 5-story  
7 apartment buildings, a mixed-use 4-story building with 9,000 square feet of commercial space  
8 and 42 apartments, and a 5-story 324-unit self-storage facility along with approximately 1,300  
9 parking stalls, to be constructed in four phases. Additional improvements include the  
10 construction of Tyee Drive from Israel Road south to Tumwater Boulevard, a roundabout at  
11 Tumwater Boulevard, frontage improvements along both Tumwater Boulevard and Tyee Drive,  
12 stormwater facilities, recreational facilities and open space areas. The project site contains 21.73  
13 acres and is mostly zoned General Commercial (GC) with a small area zoned Mixed Use (MU).

14 The GC zone allows mixed-use structures as a permitted use but the inclusion of high-rise  
15 apartments and mini-storage facilities requires approval of a Conditional Use Permit. In  
16 addition, the proposal to phase construction across four phases triggers the need for approval of a  
17 Phased Preliminary Binding Site Plan.

18 City Staff recommends approval of both permits subject to a lengthy list of conditions set  
19 forth in the Staff Report. There has been relatively little public opposition but concerns have  
20 been expressed regarding the project's impact to regional traffic, stormwater/flooding and the  
21 aesthetics of this large development. The adjoining property owner has also expressed concerns  
22 over appropriate buffering between this development and proposed senior housing on property to  
23 the west.

1 **PUBLIC HEARING**

2 The public hearing commenced at 6:00 p.m. on Wednesday, January 3, 2024. The  
3 hearing occurred remotely utilizing the Zoom platform with the City serving as the host. The  
4 City appeared through Tami Merriman, Permit Manager and Jared Crews, Design Engineer. The  
5 Applicant appeared through its owner's representative, Glenn Wells, and Project Manager, Tyrell  
6 Bradley. Several additional City Staff were also in attendance. Testimony was received from  
7 Ms. Merriman, Mr. Crews and Mr. Wells and Mr. Bradley. A few members of the public may  
8 have been present but the only one wishing to testify was Craig Chance, Executive Director of  
9 the Housing Authority of Thurston County County, owner of property immediately to the  
10 southwest of the project site. A verbatim recording was made of the public hearing and all  
11 testimony was taken under oath. The following exhibits were considered:

- 12 Exhibit 1. Staff Report 12-22-2023  
13 Exhibit 2. Binding Site Plan and Application Materials  
14 Exhibit 3. Vicinity Map  
15 Exhibit 4. Zoning Map  
16 Exhibit 5. Public Notice Certification 12-22-2023  
17 Exhibit 6. Mitigated Determination of Nonsignificance 10-19-2023  
18 Exhibit 7. Public Hearing Notice 12-22-2023  
19 Exhibit 8. Notice of Application Public Comments  
20 Exhibit 9. SEPA Public Comments  
21 Exhibit 10. Concurrency Determination 10-05-2023  
22 Exhibit 11. Draft Drainage Report 12-05-2022  
23 Exhibit 12. Water Sewer Availability 12-30-2022  
24 Exhibit 13. Traffic Impact Analysis 02-22-2023  
25 Exhibit 14. Power Undergrounding Letter 12-05-2022  
Exhibit 15. A January 3, 2024, email from Sherry Buckner  
Exhibit 16. Emails from Bonnie Blessing (two versions)  
Exhibit 17. A January 6, 2024, email from Tami Merriman  
Exhibit 18. Site Elevations  
Exhibit 19. 3-D Renderings of Project

23 The hearing began with the testimony of Tami Merriman, Permit Manager for the project.  
24 Ms. Merriman's testimony relied extensively on her lengthy Staff Report (Exhibit 1). She  
25

1 explained that the project proposes 1,150 apartment units along with 9,000 square feet of  
2 commercial space as well as a 5-story mini-storage facility in an area regarded as the City's new  
3 commercial core. Ms. Merriman began her presentation by reviewing it in relation to the City's  
4 Comprehensive Plan and other planning and confirms that the Staff regards the project as  
5 consistent with the City's Comprehensive Plan; its Transportation Plan; the Sustainable  
6 Development Plan for Thurston County; the Thurston Regional Trail Plan; and the Littlerock  
7 Subarea Plan.

8 Notice of the application was properly issued and resulted in comments from concerned  
9 tribes; the Tumwater School District and several public comments. The tribal comments led to a  
10 cultural survey and concurrence by the tribes that no action was needed other than imposition of  
11 an Inadvertent Discovery Plan. The Tumwater School District requested four bus stops along the  
12 proposed extension of Tyee Drive. Public comments expressed concern over affordable housing,  
13 traffic impacts, impacts to schools, tree retention and impacts to the City's other services  
14 including emergency services.

15 The City issued a SEPA Mitigated Determination of Non-Significance (MDNS) which  
16 led to additional comments from the Department of Ecology, the Black Hills Audubon Society  
17 and from members of the public. These comments expressed similar concerns over groundwater  
18 impacts, tree retention, traffic impacts, gopher protection, and the aesthetics of the large  
19 buildings.

20 Ms. Merriman then addressed the project's traffic impacts and explained that the  
21 Applicant had submitted a Transportation Impact Analysis (TIA) which then underwent  
22 significant City review and led to project approval being conditioned upon a series of traffic-  
23 related obligations including impact fees, mitigation fees, limited access during Phase I; the  
24 construction of Tyee Drive from Israel Road to Tumwater Boulevard, and a new roundabout on  
25 Tumwater Boulevard

1 Ms. Merriman briefly addressed the City's tree protection and replacement requirements  
2 and noted that required construction will remove a significant number of trees, leaving a shortfall  
3 of 215 trees from that required by ordinance. The Applicant will be required to plant at least  
4 three times this shortfall, or at least 655 trees to replace those being lost. Important trees will be  
5 placed within protected tree tracts to ensure their preservation.

6 Staff then discussed issues regarding the Mazama Pocket Gopher and explained that a  
7 Pocket Gopher Screening Report had been prepared and concluded that there were no mound  
8 formations onsite.

9 Ms. Merriman then reviewed the General Binding Site Plan Design Standards found in  
10 Title 17 of the Municipal Code. She summarized the lengthy findings in her Staff Report that all  
11 Binding Site Plan Design Standards are met. She then examined the project's compliance with  
12 the City's Binding Site Plan standards and again confirmed that all requirements are met subject  
13 to the conditions imposed by Staff. Ms. Merriman also confirmed that the project satisfies all  
14 requirements for Conditional Use Permits under Chapter 18.56 of the Municipal Code. Ms.  
15 Merriman concluded her direct testimony by stating that Staff's Site Plan review assured that the  
16 proposal meets all requirements of the City's code with respect to zoning, design, building, fire  
17 and engineering and that the public use and interests are served by its approval. City Staff  
18 therefore recommends approval of the Phased Preliminary Binding Site Plan as well as the  
19 Conditional Use Permit subject to the 73 conditions found in the Staff Report. It is important to  
20 note that these conditions incorporate the conditions imposed by the SEPA MDNS. Conditions  
21 of project approval also include requirements for EV parking; ADA qualified residential units;  
22 appropriate fire access and fire lanes; and the imposition of special assessments.

23 At the conclusion of Ms. Merriman's direct testimony the Hearing Examiner posed  
24 several questions. He noted that during Phase I the only ingress/egress will be via a right-

1 in/right-out access along Tyee Drive. The Hearing Examiner inquired as to whether this access  
2 would be continued once Tyee Drive was constructed and connected to the Israel Road  
3 roundabout. Staff confirmed that this access would continue after roundabout access was  
4 established.

5 The Hearing Examiner posed questions regarding stormwater management and high  
6 groundwater tables as these concerns had been expressed by members of the public. Ms.  
7 Merriman turned to Jared Crews to answer many of these questions. Mr. Crews acknowledged  
8 that the project site was recognized to being in a high groundwater area but that its construction  
9 would be in accordance with the City's High Groundwater Ordinance and would be required to  
10 meet all requirements of that Ordinance. Meanwhile, all stormwater will be required to be  
11 managed in accordance with the most recent version of the City's Stormwater Manual. All  
12 stormwater from the site will be conveyed to onsite stormwater management facilities to be  
13 stored, treated and infiltrated.

14 The Hearing Examiner questioned both Ms. Merriman and Mr. Crews regarding the  
15 construction of Tyee Drive and whether the Applicant would be required to construct all of Tyee  
16 Drive from Tumwater Boulevard to Israel Road. The Hearing Examiner posed this question as  
17 some of the Site Plans suggest that the more northerly portion of Tyee Drive would instead be  
18 conducted by the owner of property to the east. City Staff responded that it would be the  
19 responsibility of this Applicant to construct all of Tyee Drive from Israel Road to Tumwater  
20 Boulevard but that the adjoining landowner may take responsibility for its construction in order  
21 to accelerate its completion.

22 The Hearing Examiner noted that at least one of the residential buildings proposed a  
23 rooftop courtyard and questioned Staff as to whether that courtyard was a required condition of  
24 approval or merely something proposed by the developer. Staff confirmed that it was not  
25

1 required as a condition of approval but that it may be necessary in order for the Applicant to  
2 satisfy open space requirements.

3 The Hearing Examiner then noted that the project proposes a series of tall, large buildings  
4 in an area where such structures currently do not exist, and questioned Staff as to what  
5 conditions were being imposed to ensure an appropriate buffer between these uses and adjoining  
6 uses. Ms. Merriman responded that the project requires an 8-foot perimeter landscape buffer to  
7 assist in its aesthetics. The Hearing Examiner then asked whether a fence might be considered  
8 between the project and properties to the west. Staff noted that this was not included in their  
9 conditions of project approval but that Staff would not oppose such a condition.

10 Once the City's presentation was completed, the Applicant made its presentation through  
11 one of its owners, Glenn Wells. Mr. Wells began his testimony by explaining that the site is  
12 eligible for tax exemptions if the residential units are sufficiently affordable, and that the  
13 project's goal is to provide for affordable housing within a larger mix of apartment units intended  
14 to provide a broad array of housing opportunities. He then responded to the Hearing Examiner's  
15 questions regarding perimeter fencing and stated that the Applicant would be opposed to any  
16 fencing if it was required to be placed anywhere other than along the boundary line. He then  
17 responded to the Hearing Examiner's questions about the rooftop courtyard and noted that it is  
18 partially intended to satisfy the project's open space requirements but also that it is a great  
19 amenity and improves the project's livability. Other projects undertaken by the Applicant have  
20 had similar courtyards and have proven to be important additions to those projects.

21 Ms. Wells then responded to the City's earlier discussion about construction of Tyee  
22 Drive and confirmed that the Applicant understands its responsibility to construct the road from  
23 Israel Road south to Tumwater Boulevard but that this requirement does not include frontage  
24 improvements along the east side of Tyee Drive where it would adjoin neighboring property. As  
25

1 to this portion of Tyee Drive, the Applicant would be responsible for the frontage improvements  
2 on the west side of Tyee Drive as well as an acceptable travel surface, but any remaining  
3 frontage improvements along the east side would be the responsibility of that property owner.

4 City Staff agreed with Mr. Wells' understanding.

5 In response to some of the Hearing Examiner's earlier questioning regarding site  
6 aesthetics, Mr. Wells confirmed that the Applicant hopes to maintain a high level of aesthetics by  
7 incorporating tree tracts into the landscape, thus allowing the site's existing tall trees to vertically  
8 offset some of the construction. Mr. Wells added that the project is designed to be aesthetically  
9 pleasing and to not be viewed as a "monstrosity" relative to the surrounding property uses.

10 Ms. Wells' testimony concluded with a discussion of the proposed mini-storage facility  
11 and concerns expressed by the Hearing Examiner that this facility may not be as aesthetically  
12 pleasing as other aspects of the project. Mr. Wells explained that its construction is many years  
13 out and that its design has not yet been determined but that it will be well designed and  
14 aesthetically pleasing, both to the residents as well as to traffic along Tumwater Boulevard

15 Following Mr. Wells' testimony the Project Manager, Tyrell Bradley, spoke briefly. Mr.  
16 Bradley wished to add to Mr. Wells' testimony that the proposed mini-storage facility will be  
17 separated from Tumwater Boulevard by the heavily forested strip of land currently owned by the  
18 City as unopened right-of-way. This forested strip will effectively buffer the mini-storage  
19 facility (and the remainder of the project) from Tumwater Boulevard

20 At the conclusion of the Applicant's presentation the hearing was opened for public  
21 testimony. The only person wishing to speak was Craig Chance, Executive Director of the  
22 Housing Authority of Thurston County. The Housing Authority owns two properties  
23 immediately southwest of the project site, one of which is already developed while the second  
24 project is envisioned for senior housing. Mr. Chance expressed the hope that the Applicant



1 would be a "good neighbor" and provide appropriate fencing or other buffering along the  
2 property's common boundary.

3 At the conclusion of Mr. Chance's testimony the City was provided an opportunity for  
4 response. Ms. Merriman confirmed that the City would be willing to take a closer look at  
5 possible fencing between the project and the properties to the west. She also confirmed Ms.  
6 Wells' earlier testimony that the final design of the mini-storage facility will undergo careful  
7 design review by City Staff to ensure that it is aesthetically pleasing and consistent with the other  
8 development.

9 At the conclusion of all testimony the Hearing Examiner asked the City Staff and the  
10 Applicant to give further consideration to a possible agreement for the construction of fencing  
11 along the southwest boundary to provide a better buffer between the project and properties to the  
12 southwest along Littlerock Road. Staff was asked to provide any additional response by Friday,  
13 January 5, 2024. In response, Ms. Merriman provided an email dated January 5, 2024  
14 (Exhibit 17) confirming that City Staff and the Applicant would have no objection to a condition  
15 requiring construction of a solid fence along the southwest boundary line together with an 8 foot  
16 perimeter landscape. Ms. Merriman also provided proposed elevations for the buildings  
17 (Exhibit 18) as well as artists renderings of the site (Exhibit 19) to assist the Hearing Examiner in  
18 his review.

19 Despite the project's large scale it has encountered relatively little public opposition.  
20 Staff has been responsive to public concerns and have proposed an extensive list of conditions of  
21 project approval to ensure that the project is well designed and serves the public use and interest.  
22 The Applicant agrees to all conditions proposed by City Staff. City Staff and the Applicant have  
23 subsequently agreed to one additional condition requiring solid fencing along the southwest  
24 boundary to provide a better buffer between the project and the properties owned by the Housing  
25

1 Authority of Thurston County. I agree that, as conditioned, the project satisfies all requirements  
2 for the requested Phased Preliminary Binding Site Plan as well as the requested Conditional Use  
3 Permit.

4 I therefore make the following:

5 **FINDINGS OF FACT**

6 **General Findings.**

7 1. The Applicant, Grandview Yorkshire, LLC, requests a Conditional Use Permit to  
8 allow high-rise apartments and mini-storage facilities within a proposed mixed-use development.

9 2. The Applicant requests approval of a Phased Preliminary Binding Site Plan to  
10 allow all proposed development to occur over four phases.

11 3. Any Findings of Fact contained in the foregoing Background and Public Hearing  
12 Sections are incorporated herein by reference and adopted by the Hearing Examiner as his  
13 Findings of Fact.

14 4. The project proposes to construct 1,150 apartment units, 9,000 square feet of  
15 commercial space and 324 self-storage units, along with long-term and short-term bicycle stalls,  
16 a clubhouse, tree tracts, both passive and active open space areas, stormwater facilities, the  
17 construction of Tyee Drive from Israel Road south to Tumwater Boulevard, frontage  
18 improvements along both Tumwater Boulevard and Tyee Drive, and a roundabout at the  
19 intersection of Tyee Drive and Tumwater Boulevard. These various uses will require  
20 approximately 1,300 parking stalls.

21 5. A general description of the project is as follows:

22 ● The project proposes seven 5-story, residential-only apartment buildings:  
23 Building 1 has 240 apartments, Building 2 has 179 apartments, Building 3 has 154 apartments,  
24 Building 5 has 160 apartments, Building 6 has 160 apartments, Building 8 has 142 apartments,  
25 and Building 9 has 76 apartments.

*Findings of Fact, Conclusions of Law  
and Decision - 10*

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1           ●       An additional 4-story building, Building 4, will provide 42 apartments plus 9,000  
2 square feet of commercial area.

3           ●       A final, 5-story building (Building 7), will be dedicated to 324 self-storage units.

4           ●       These nine buildings will be located along an extension of Tyee Drive from Israel  
5 Road south to Tumwater Boulevard as shown on Site Plans.

6           ●       The project site is irregular in shape and extends from Israel Road south to  
7 Tumwater Boulevard. There is currently no road system within the property. There is an  
8 existing roundabout at the northeast corner of the site currently servicing Israel Road and the  
9 northerly extension of Tyee Drive. The project requires the extension of Tyee Drive from this  
10 roundabout southwesterly along and through the project site to a new roundabout at Tumwater  
11 Boulevard.

12          ●       The southerly extension of Tyee Drive will run along the east boundary of the  
13 project site for approximately half of its length, then turns westerly and then southerly until its  
14 connection to Tumwater Boulevard at a new roundabout. As a result, project development in the  
15 northerly half will lie west of the new Tyee Drive extension, while development in the southern  
16 portion will be located on both sides of the Tyee Drive extension.

17          ●       The Applicant will be required to construct Tyee Drive from its current terminus  
18 at the Israel Road roundabout south to the new roundabout at Tumwater Boulevard. It is possible  
19 that a portion of this new roadway will have already been constructed by the adjoining  
20 landowner to the east as part of proposed development of that property. In either case, the  
21 Applicant will be responsible for frontage improvements along the westerly portion of the new  
22 Tyee Drive in areas where the new road lies along the east boundary of the project site, and for  
23 frontage improvements on both sides of the new road where it runs through the project site.

24          ●       In addition to the nine major buildings, the project includes a variety of ancillary  
25 structures for active open space including a clubhouse, swimming pool, outdoor recreation areas,

1 a rooftop courtyard (on Building 8), grassy areas and a 10-foot pedestrian pathway paralleling  
2 the new Tyee Drive. All together, the project proposes 3.25 acres of open space including  
3 172,500 square feet of active and passive open space.

4 ● As noted in other Findings, the project will require retention of 91 trees within  
5 various tree tracts located throughout the site as shown on Site Plans. An additional 645 or more  
6 trees must be planted within the tree tracts or as part of the site landscaping.

7 ● The project requires approximately 1,300 parking stalls to be located throughout  
8 the project site as shown on Site Plans.

9 ● The project site is bordered on the north by Israel Road and, further north, areas  
10 of increasing commercial development. It is bordered on the east by mostly undeveloped  
11 properties intended for commercial development and, further east, by Interstate 5. It is bordered  
12 on the south by Tumwater Boulevard and, to the southeast, by a strip of public right-of-way  
13 between the development and Tumwater Boulevard. This strip is undeveloped, forested, and  
14 likely to remain forested. South of Tumwater Boulevard are vacant properties expected to be  
15 developed commercially.

16 ● The site is bordered on the west by an eclectic mix of properties located along  
17 Littlerock Road including multi-family residential, commercial (veterinary services), and a  
18 number of currently vacant properties awaiting commercial development. West of Littlerock  
19 Road is an area of low density residential.

20 ● The project will be required to construct onsite stormwater facilities consistent  
21 with the current Stormwater Manual. The project will rely upon City water and sewer services.  
22 The City finds these services adequate to service the intended development.

23 ● Provisions are made for transit stops along the Tyee Drive extension; bicycle  
24 paths, and a pedestrian walking path.

1           ●       The Applicant is required to construct frontage improvements along Tyee Drive  
2 as noted above, and along Tumwater Boulevard. The Applicant is also required to provide  
3 perimeter landscaping.

4           6.       The project is proposed to be constructed in four phases:

5                   **Phase I.** Phase I involves the construction of the first residential building  
6 (Building 1) to include 240 apartments and 268 associated parking stalls and 30 short-term and  
7 90 long-term bicycle stalls. During Phase I, the new Tyee Drive extension will not yet have been  
8 constructed. Access to Building 1 will be by an internal road leading north to Israel Road and a  
9 right-in/right-out access on Israel Road. Other project improvements during Phase I include  
10 several tree tracts as noted on the Site Plans; passive and active open space areas; construction of  
11 a portion of the Tyee Drive extension, and bonding for future sidewalk improvements along the  
12 west portion of Tyee Drive.

13                   **Phase II.** Phase II is arguably the most important of the phases. It requires the  
14 construction of Tyee Drive from the existing roundabout on Israel Road south and through the  
15 project site to a new roundabout at Tumwater Boulevard. No building permits will be issued  
16 until the Tyee Drive extension has been constructed. Construction of the Tyee Drive extension  
17 includes frontage improvements along Tyee Drive as well as frontage improvements along  
18 Tumwater Boulevard. This phase proposes two additional 5-story apartment buildings: Building  
19 2 will provide 179 apartments while Building 3 will provide an additional 154 apartments. An  
20 additional 397 parking stalls will be constructed to service these apartments together with 43  
21 short-term and 125 long-term bicycle stalls. This phase also imposes additional passive and  
22 active open space areas and tree tracts, all as noted on Site Plans. In addition, Phase II proposes  
23 the construction of the more significant open space areas including a clubhouse with swimming  
24 pool to be located between Buildings 2 and 3.

1           **Phase III.** Phase III introduces important commercial aspects to the project in  
2 the form of a mixed-use building as well as a self-storage facility. This phase proposes the  
3 construction of two additional 5-story apartment buildings: Building 5 will have 160 apartments  
4 and Building 6 will have 160 apartments. In addition, it proposes construction of a 4-story  
5 mixed-use building containing 9,000 square feet of commercial space and an additional 42  
6 apartment units. It also proposes a 5-story, 324-unit self-storage facility (Building 7). 437  
7 additional parking stalls are proposed for this phase to be centrally located among these new  
8 buildings. As with other phases, Phase III provides additional active and passive open space  
9 areas and tree tracts.

10           **Phase IV.** The final phase proposes the construction of two additional 5-story  
11 apartment buildings: Building 8 will have 142 apartments and Building 9 will provide an  
12 additional 76 units. 339 additional parking stalls are proposed between these two buildings  
13 along with 28 short-term and 82 long-term bicycle stalls. Building 8 is proposed to include a  
14 rooftop courtyard as an additional open space amenity.

15           7.       Site Plans identifying the above-described improvements can be found in  
16 Exhibit 2. Elevation drawings describing the exterior appearance of the building can be found in  
17 Exhibit 19. Conceptual drawings of the project can be found at Exhibit 20.

18           8.       The site contains 21.73 acres. The majority of the site is zoned General  
19 Commercial (GC) with a small portion zoned Mixed Use (MU). A map of the project's zoning is  
20 found at Exhibit 4.

21           9.       The property is vacant, generally flat, and is mostly forested. There are no  
22 wetlands or associated buffers or any other critical areas located onsite.

23           10.      The site is within the Littlerock Neighborhood in the Land Use Element of the  
24 City's Comprehensive Plan.

1 11. Notice of the public hearing was mailed to property owners within 300 feet of the  
2 subject property, to various agencies, posted onsite, and published in The Olympian on  
3 December 22, 2023, in conformance with TMC 14.06 (Exhibits 5 and 7).

4 12. The City, as Lead Agency, issued a SEPA Mitigated Determination of Non-  
5 Significance (MDNS) on October 19, 2023 (Exhibit 6). The SEPA Determination was not  
6 appealed and is final.

7 Findings Relating to the Project's Consistency with the City's Comprehensive Plan and  
8 Other Planning Documents.

9 13. The Staff Report, commencing at page 2, undertakes an analysis of the project's  
10 consistency with the Tumwater Comprehensive Plan and various other regional planning  
11 documents. Staff finds that the project, as conditioned, is consistent with the Comprehensive  
12 Plan and its goals to:

13 ● Allow mixed-use structures in order to promote development that provides  
14 affordable housing, has a transit orientation, is pedestrian friendly, offers community open space  
15 and provides a sense of community due to quality design.

16 ● Increases housing choices to support all ranges or lifestyle, household incomes,  
17 abilities and ages.

18 ● Ensures that housing is compatible in quality design and density with surrounding  
19 land uses by establishing design standards and requiring open space.

20 ● Meets the Littlerock Neighborhood Appendix of the land use element which  
21 anticipates 86 acres of new residential development with most of it intended to be multi-family  
22 and also incorporates a pedestrian trail system.

23 14 Staff finds that the project, as conditioned, is consistent with the Tumwater  
24 Transportation Plan. The Applicant has provided a Traffic Impact Analysis for City review.

1 Relying on this analysis, City Staff undertook a Transportation Concurrency Review which  
2 identified various mitigation measures required to achieve concurrency. These include frontage  
3 improvements; impact fees; the construction of Tyee Drive from Israel Road to Tumwater  
4 Boulevard; a roundabout at the intersection of Tyee Drive and Tumwater Boulevard; mitigation  
5 fees or other interchange improvements and construction of a temporary signal, all of which are  
6 reflected in the conditions imposed in the SEPA MDNS and incorporated into conditions of  
7 project approval.

8 15. Subject to this mitigation, Staff finds that the project will not adversely affect  
9 Level of Service (LOS) standards and that the project is consistent with the Tumwater  
10 Transportation Plan.

11 16. Staff finds that the project, as conditioned, does not conflict with the Sustainable  
12 Development Plan for Thurston Regions. It provides multi-family housing as well as mixed-use  
13 commercial/residential buildings along with pedestrian pathways, bicycle lanes, transit and  
14 school bus stops, all within close proximity to the Regional Commercial Core.

15 17. Staff finds that the project does not conflict with the Thurston Regional Trail Plan  
16 as it does not interfere with any proposed trails in the area.

17 Findings Relating to Public Comment.

18 18. Public notice of the Phased Binding Site Plan and Conditional Use Permit  
19 application were mailed to property owners within 300 feet of the subject property, affected  
20 agencies, posted onsite and published in The Olympian on December 30, 2022. Following  
21 receipt of additional information, an Amended Notice of Application was issued on June 28,  
22 2023, in a similar manner. The Amended Notice was also sent to those who provided comment  
23 on the first Notice.

24 19. In response to this Notice, the Nisqually Indian Tribe requested a Cultural Survey.  
25 The Survey was performed and concluded that the site did not contain any culturally significant



1 items. The Tribe concurs with the conclusions and recommendations of the Cultural Survey and  
2 asks that an Inadvertent Discovery Plan be imposed as a condition of project approval. City  
3 Staff concurs.

4 20. The Tumwater School District requests four bus stops along the Tyee Drive  
5 extension. The City concurs.

6 21. Several public comments were received. While some expressed support for the  
7 project, others expressed concern about impacts to traffic, schools, emergency services, transit  
8 stops, and tree retention (Exhibit 8). City Staff believes that these concerns have been  
9 adequately addressed through the conditions imposed on permit approval.

10 22. As earlier noted, the City issued a SEPA MDNS which was mailed to property  
11 owners within 300 feet and to affected agencies, posted onsite and published in The Olympian on  
12 October 19, 2022 (Exhibit 6). This Notice resulted in additional comments by affected agencies  
13 and members of the public:

- 14 ● The Department of Ecology provided comments regarding solid waste and toxic  
15 cleanup.
- 16 ● The Black Hills Audubon Society expressed concern over groundwater impacts  
17 and the property's location within a watershed assessment area.
- 18 ● Other public comments expressed concerns over impacts to traffic, high  
19 groundwater, gopher protection, tree retention, as well as concerns over the project's aesthetics,  
20 especially the proposed height of buildings. (Exhibit 9).

21 23. City Staff again believes that it has responded to these concerns through the  
22 proposed conditions of permit approval.

23 24. Two additional comments were received just prior to commencement of the  
24 public hearing (Exhibits 15 and 16). These comments expressed similar concerns as earlier ones  
25 regarding the aesthetics of the project in its size and its impacts upon schools, traffic, emergency

1 services, and wildlife, as well as additional concerns over groundwater impacts, possible  
2 flooding, and the need for affordable housing.

3 25. During the public hearing additional comments were received from Craig Chance,  
4 Executive Director of the Housing Authority of Thurston County. The Housing Authority owns  
5 the two properties adjacent to the project site along its southwest boundary. The southern most  
6 of these two properties contains an existing multi-family residential facility while the property to  
7 its north is currently vacant but is anticipated to be used for senior housing. The Housing  
8 Authority asks that appropriate buffering, in the form of a fence, be required between its  
9 properties and the project site. City Staff and the Applicant concur with this request and agree  
10 that an additional condition should be imposed which establishes this requirement. More  
11 specifically, City Staff and the Applicant agree for an additional condition requiring a solid fence  
12 along the boundary with these properties together with 8 feet of perimeter landscaping between  
13 the fence and project improvements.

14 26. Staff finds that, while the concerns expressed by members of the public are well  
15 reasoned, these concerns have been fully addressed through the extensive conditions imposed on  
16 project approval. The Hearing Examiner concurs.

17 Findings Relating to the Project's Compliance with Transportation Concurrency

18 Requirements of Chapter 15.48 TMC.

19 27. The project must comply with the City's Transportation Concurrency Tests set  
20 forth in Chapter 15.48 TMC.

21 28. As earlier noted, the Applicant submitted a Transportation Impact Analysis for the  
22 project (Exhibit 10). The TIA concludes that the project will have the following traffic impacts  
23 as a result of Phase I and as a result of full buildout:

- 24 ● Phase I is anticipated to generate 1,090 new average weekday daily trips with 89  
25 AM peak hour trips and 94 PM peak hour trips.

1           ● Full buildout of the project is anticipated to generate 5,409 new average weekday  
2 daily trips with 445 AM peak hour trips and 475 new PM peak hour trips.

3           ● With the exception of the Interstate 5 northbound and southbound ramps on  
4 Tumwater Boulevard, all nearby intersections are anticipated to operate at LOS D or better with  
5 or without the addition of the project-generated traffic. The TIA concludes that, as conditioned,  
6 no operational deficiencies are identified as a result of either Phase I or full buildout.

7           ● The TIA further concludes that a three-lane cross section of Tyee Drive between  
8 Israel Road and Tumwater Boulevard will satisfy forecast capacity and operational demands.

9           29. The analysis was reviewed by the City's Transportation Manager and led to a  
10 Transportation Concurrency Ruling that the project is concurrent in regards to transportation  
11 subject to the following conditions:

- 12           a. All transportation impacts fees are paid.
- 13           b. Payment of mitigation fees for trips through the Tumwater Boulevard/I-5  
14 Interchange.
- 15           c. A limited right-in/right-out access onto Israel Road in Phase I.
- 16           d. Extension of Tyee Drive from Israel Road to Tumwater Boulevard prior to  
17 any development under Phase II or later.

18           30. The Hearing Examiner concurs that the project, as conditioned, complies with  
19 traffic concurrency requirements.

20           Findings Relating to Tree Protection and Replacement. Chapter 16.08 TMC.

21           31. Chapter 16.08 regulates the removal and preservation of existing trees on the site  
22 and also requires a tree tract of at least 5% of the buildable area.

23           32. The Applicant has provided a professional Forester Report including tree  
24 inventory and tree protection plan. The inventory reveals that the site contains 1,215 trees. The  
25 project is required to retain 20% of existing trees, or 12 trees per acre, whichever is greater.

1 These standards require the Applicant to retain 306 trees and provide a tree tract of at least 1.09  
2 acres.

3 33. The Applicant proposes to retain 91 trees within required tree tracts, leaving a  
4 shortfall of 215 required trees.

5 34. TMC 16.08.070.R allows modification from tree retention standards when  
6 necessary to comply with zoning and development requirements. City Staff finds that  
7 modification is necessary in this instance. In return, project approval is conditioned on the  
8 Applicant planting not less than 3 trees for each tree removed, or a minimum of 645 new trees.  
9 As conditioned, Staff finds that the project complies with the tree protection and replacement  
10 ordinance. The Hearing Examiner concurs.

11 Findings Relating to the Project's Compliance with Fish and Wildlife Protection.

12 35. As noted in the Staff Report at page 7, the project site contains soils preferred by  
13 the Mazama Pocket Gopher.

14 36. The Applicant has provided a Mazama Pocket Gopher Screening Report dated  
15 October 2022 (Exhibit 6) which concludes that there are no mound formations exhibiting  
16 characteristics.

17 37. There are no other wildlife-related issues associated with the site.

18 Findings Relating to Compliance with the General Binding Site Plan Design Standards,  
19 Title 17 TMC.

20 38. The application must comply with all design and development standards set forth  
21 in TMC 17.12.010.1-18. The Staff Report, commencing at page 7 and continuing to page 12,  
22 contains extensive Findings relating to compliance with each of these design standards. Staff  
23 finds that the project, as conditioned, satisfies each requirement of TMC 17.12.010.1-18. The  
24 Hearing Examiner concurs and adopts Staff's Findings as his own.

1 Findings Relating to Requirements for Land Division, Chapter 17.14 TMC and RCW

2 58.17.

3 39. As noted on page 13 of the Staff Report, the Hearing Examiner must make  
4 findings that appropriate provisions have been made for public health, safety and general welfare  
5 and for open spaces, drainage ways, streets or roads, alleys, or other public ways, other grounds,  
6 transit stops, potable water supplies, sanitary waste, parks and recreation playgrounds, schools  
7 and schoolgrounds, fire protection and other public facilities; and shall consider all other relevant  
8 facts to determine whether the public interest will be served by the land division and dedication.  
9 Consideration must also be given for sidewalks and other planning features to ensure safe  
10 walking conditions for students who only walk to and from school.

11 40. The Staff Report, at page 13, finds that adequate provisions have been made for  
12 the public health, safety and general welfare including the following:

13 a. The project includes both passive and active open spaces including lawns,  
14 clubhouse, pool, patios, tree tracts and rooftop courtyard.

15 b. The project proposes a storm drainage system complying with the City's  
16 most recent drainage Design and Erosion Control Manual, with final design to be approved as  
17 part of site development.

18 c. The Applicant must extend Tyee Drive from Israel Road south to  
19 Tumwater Boulevard The Applicant must also pay traffic impact fees as well as mitigation fees  
20 for the identified Level of Service failure at the Tumwater Boulevard - I-5 Interchange, due at  
21 building permit issuance.

22 d. The City has determined that it has the water and sewer availability  
23 needed for the project.

24 e. The Applicant will construct transit stops along Tyee Drive as requested  
25 by Intercity Transit and by the school district

1 f. The Applicant will pay school impact fees at time of building permit  
2 issuance to the Tumwater School District.

3 g. The City Fire Department has found that its facilities are adequate to  
4 service the proposed project.

5 41. The Hearing Examiner has revised these Findings and adopts them as his own.

6 Findings Relating to Binding Site Plan Approval, Including Phased Development. TMC  
7 17.14.090.

8 42. As noted earlier, the Applicant has presented a Preliminary Binding Site Plan  
9 application seeking phasing of the development into four phases. TMC 17.14.090 allows for  
10 phased approval of Binding Site Plans for developments with at least two but not more than four  
11 phases. The Applicant proposes to complete the project in four phases and thus qualifies.

12 43. The proposed four phases of development are set forth in earlier Findings.

13 44. Construction of each phase must include stormwater management facilities that  
14 comply with all State and local requirements in effect at the beginning of the time allotted for  
15 that phase.

16 45. Each successive phase must be submitted within three years of Binding Site Plan  
17 approval on the previous phase.

18 46. Staff finds that the project, as conditioned, is consistent with the Tumwater  
19 Comprehensive Plan and complies with all Binding Site Plan regulations. Staff therefore finds  
20 that the project satisfies all requirements for Phased Binding Site Plan approval. The Hearing  
21 Examiner concurs.

22 Findings Relating to Compliance with the Zoning Code, Title 18 TMC.

23 47. As noted in previous Findings, the project is located primarily in the General  
24 Commercial (GC) zone (Exhibit 4), with a small portion in the Mixed Use (MU) zone.

1 48. Mixed-use structures are a permitted use in the GC zone.

2 49. High-rise residential and mini-storage facilities are conditional uses in the GC  
3 zone. The project therefore requires a Conditional Use Permit.

4 50. Development within the GC zone must satisfy requirements for: maximum  
5 impervious surface; maximum building height; and minimum required setbacks. The Staff  
6 Report, at page 15, examines each of these requirements and finds that the project, as  
7 conditioned, satisfies the general requirements for the GC zone. The Hearing Examiner concurs.

8 51. The project site is also located in the General Commercial Overlay zone (GCO).  
9 TMC 18.35.060 prohibits commercial buildings to exceed 125,000 square feet on the ground  
10 floor. The project satisfies this requirement.

11 52. Similar to the GC zone, the GCO Overlay District allows high-rise residential and  
12 mini-storage facilities as conditional uses.

13 53. A small portion of the property is located in the Mixed Use zone (MU)  
14 (Exhibit 4). This area will be set aside as a tree tract for passive open space. Staff finds that this  
15 use is consistent with the MU zone. The Hearing Examiner concurs.

16 54. The project site is also located within the Aquifer Protection Overlay (AOP) zone,  
17 Chapter 18.39 TMC. Staff finds that the purpose of the AOP Overlay zone is to protect  
18 vulnerable land or critical aquifer recharge areas. Staff finds that the project, as conditioned,  
19 complies with the requirements of the AOP Overlay zone, and that the proposed uses are not  
20 prohibited land uses in this overlay zone district.

21 Findings Relating to Requirements for Conditional Use Permit.

22 55. The project's proposed high-rise apartments and mini-storage facility are allowed  
23 in the GG zone but only as conditional uses, subject to a Conditional Use Permit.

24 56. A conditional use is permitted upon findings that the proposed use is consistent  
25 with the intent of the Comprehensive Plan and the zoning requirements. TMC 18.56.035.

1           57.     In determining whether a Conditional Use Permit should be granted, the Hearing  
2 Examiner shall be guided by the criteria set forth in TMC 18.56.035.A.1-4.

3           58.     Pursuant to TMC 18.56.035.A.1, the proposed use should be in keeping with the  
4 goals and policies of the Tumwater Comprehensive Plan, including Subarea Plans, and  
5 applicable ordinances. Staff finds that the proposed use is consistent with the Goals and Policies  
6 of the Tumwater Comprehensive Plan, including the Littlerock Subarea Plan, and with applicable  
7 ordinances. Staff finds that the proposed use is consistent with the Plan's Goals for encouraging  
8 multi-family development to support varied housing types, lifestyles and household incomes.  
9 The GC zone supports these same Goals. The proposed use also provides for community open  
10 spaces and a 10-foot pedestrian path, all of which are consistent with the Littlerock  
11 Neighborhood Appendix of the Land Use Element. The Hearing Examiner concurs with these  
12 Findings.

13           59.     Pursuant to TMC 18.56.030.A.2, the proposed use shall not be materially  
14 detrimental to the public health or welfare, the environment, or injurious to the property or  
15 improvements near the proposed use or in the zone in which the subject property is situated. In  
16 reaching this determination, the Hearing Examiner shall consider the proposed uses generation of  
17 noise, noxious or offensive odors or omissions, light, glare, traffic, surface water or groundwater  
18 pollution, electronic interference, impacts to environmentally sensitive areas or protected  
19 species, impacts to historical cultural resources, or other impacts or nuisances that may be  
20 injurious to the public health or welfare or to property or improvements in the vicinity of the  
21 proposed use or in the district in which the subject property is situated. Consideration must also  
22 be given to the availability of public services which may be necessary or desirable for the  
23 support of the proposed use, including utilities, transportation systems, education, police and fire  
24 facilities, and social and health services. Consideration must also be given to the adequacy of  
25 landscaping and screening consistent with Chapter 18.47 TMC and for yard setbacks, open



1 spaces or other development characteristics necessary to mitigate the impact of the proposed use  
2 upon neighboring properties.

3         60. Staff finds that all requirements of TMC 18.56.035.A.2 have been satisfied and  
4 that the proposed use is not materially detrimental to the public health or welfare, the  
5 environment, or injurious to properties or improvements near the proposed use. In reaching this  
6 Finding, Staff also finds that the project will not generate excessive noise, noxious or offensive  
7 odors, or other emissions, or excessive light or glare; that all traffic impacts have been addressed  
8 and mitigated; that all surface water groundwater impacts have been addressed and mitigated  
9 through a stormwater plat; that impacts to environmentally sensitive areas or protected species  
10 have been addressed and mitigated through the SEPA MDNS; that impacts to historic or cultural  
11 resources have been addressed and mitigated by requiring a Cultural Resource Study and  
12 imposing an Inadvertent Discovery Plan as a condition of project approval; and that other  
13 impacts or nuisances that may be injurious to the public health or to nearby properties have been  
14 fully considered and addressed through appropriate conditions of project approval. Staff further  
15 finds that necessary public services are available for the proposed use including utilities,  
16 transportation systems, education, police and fire facilities and other social and health services,  
17 and that the project has been conditioned on providing these services and/or paying appropriate  
18 impact fees. Staff also finds that the proposed landscaping and screening is adequate and  
19 consistent with the requirements of Chapter 18.47 TMC, especially with additional screening  
20 provided between the project site and the adjoining properties owned by the Housing Authority  
21 of Thurston County as noted in the Public Hearing Section. Staff also finds that setbacks, open  
22 spaces and other development characteristics will mitigate the impact of the proposed use on  
23 neighboring properties. The Hearing Examiner has reviewed Staff's Findings with respect to  
24 compliance with TMC 18.56.035.A.2 and adopts the Staff's Findings as his own.

1           61. Pursuant to TMC 18.56.035.A.3, the proposed use shall meet or exceed the  
2 performance standards required in the GC zone. Staff finds that the project, as conditioned, is  
3 consistent with all applicable performance standards outlined in the GC Zone District, the  
4 General Commercial Overlay district and the Aquifer Protection Overlay Zone District. The  
5 Hearing Examiner concurs.

6           62. Pursuant to TMC 18.56.035.A.4, consideration must also be given to any  
7 additional minimum conditions identified for a particular type of proposed use as set forth in  
8 TMC 18.56.100 through TMC 18.56.350. There are no specific criteria for high-rise apartments  
9 but under TMC 18.56.220 there are specific conditions to be met for conditional use approval of  
10 mini-storage facilities including:

- 11           a. No off-street parking or loading areas within any required yard area;
- 12           b. Screening located along all property lines shall be provided to lessen  
13 visual impacts to neighboring properties and street rights-of-way; and
- 14           c. The minimum site area shall be adequate to provide for the required  
15 parking and yards.

16           63. Staff has reviewed these specific requirements for mini-storage facilities and finds  
17 that all are satisfied:

- 18           a. There are no off-street parking or loading areas proposed;
- 19           b. Screening will be provided on all property lines to lessen visual impacts to  
20 other properties and to streets; and
- 21           c. The Site Plan provides for required parking and minimum yard areas.

22           64. The Hearing Examiner adopts Staff's Findings as his own.

23           65. Staff recommends that the requested Conditional Use Permit and the Phased  
24 Binding Site Plan be approved subject to the 73 conditions set forth in the Staff Report  
25 commencing at page 19, together with one additional condition requested by the adjoining

1 property owner, Housing Authority of Thurston County, to impose a solid wood fence along  
2 their common boundary. The Applicant agrees with all proposed conditions of approval  
3 including the additional condition requested by the Housing Authority.

4 Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

5 **CONCLUSIONS OF LAW**

6 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.  
7 2. Any Conclusions of Law contained in the foregoing Background, Public Hearing  
8 or Findings Sections are hereby incorporated by reference and adopted by the Hearing Examiner  
9 as his Conclusions of Law.

10 3. The requirements of SEPA have been met.

11 4. All notice requirements have been met.

12 5. A Conditional Use Permit is required in order to allow the proposed development  
13 to include high-rise apartments and mini-storage facilities within the GC zone.

14 6. The proposed phasing of the Preliminary Binding Site Plan must also be approved  
15 by the Hearing Examiner.

16 7. The project, as conditioned, is consistent with the Tumwater Comprehensive Plan;  
17 the Tumwater Transportation Plan; the Sustainable Development Plan for Thurston Region; and  
18 the Thurston Region Trail Plan.

19 8. The project, as conditioned, is consistent with all applicable performance  
20 standards for the General Commercial zoning district; the General Commercial Overlay district;  
21 and the Aquifer Protection Overlay Zone District.

22 9. The project, as conditioned, satisfies the City's Transportation Concurrency Test  
23 as set forth in Chapter 15.48 TMC.  
24  
25

1           10.     The project, as conditioned, satisfies all requirements of the Tree Protection and  
2 Replacement Ordinance, Chapter 16.08 TMC.

3           11.     The project, as conditioned, satisfies all requirements for fish and wildlife habitat  
4 protection pursuant to Chapter 16.32 TMC.

5           12.     The project, as conditioned, satisfies all general binding site plan design standards  
6 imposed under Title 17 TMC including all specific requirements imposed under TMC 17.12.010-  
7 .210.

8           13.     The project, as conditioned, complies with all requirements of TMC 17.14.040  
9 and RCW 58.17.110. Adequate provisions have been made for public health, safety and general  
10 welfare, for open spaces, drainage ways, streets or roads, alleys, or other public ways, other  
11 grounds, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds,  
12 schools and schoolgrounds, fire protection and other public facilities, and the public interest will  
13 be served by the land division and dedication. Consideration has also been given for sidewalks  
14 and other planning features to assure safe walking conditions for students who only walk to and  
15 from school.

16           14.     The project, as conditioned, complies with all requirements for Binding Site Plans  
17 including phase development, Chapter 17.08 TMC and TMC 17.14.090.

18           15.     The project, as conditioned, complies with all development standards imposed  
19 under General Commercial Zone District, Chapter 18.22 TMC.

20           16.     The project, as conditioned, complies with all requirements of the General  
21 Commercial Overlay District, Chapter 18.35 TMC.

22           17.     The small portion of the project site located within the Mixed Use Zone District is  
23 consistent with the permitted uses and development standards of that district.

1 18. The project, as conditioned, complies with the requirements of the Aquifer  
2 Protection Overlay Zone District. The proposed use is not a restricted land use in the Aquifer  
3 Protection Overlay Zone District.

4 19. The project, as conditioned, complies with all requirements for a Conditional Use  
5 Permit as set forth in Chapter 18.56 TMC. The Hearing Examiner has taken into consideration  
6 all criteria set forth in TMC 18.56.035.A.1-4 in rendering this determination.

7 20. The project, as conditioned, satisfies all specific criteria for Conditional Use  
8 Permit of a mini-storage facility as imposed by TMC 18.56.220.1-3.

9 21. The project should be approved subject to the 73 conditions set forth in the Staff  
10 Report together with the following additional condition:

11 "74. A solid wood fence together with eight feet of perimeter  
12 landscaping shall be installed along the common boundary with the adjoining  
13 properties to the southwest of the project site."

14  
15 **DECISION**

16 Now, therefore, the Applicant's request for a Conditional Use Permit and for approval of  
17 a Phased Binding Site Plan are approved subject to the following:

18 **CONDITIONS**

- 19 1. Minimum density of 14 dwelling units per acre is required.
- 20 2. Maximum impervious lot coverage is 85 percent.
- 21 3. Maximum building height is 65 feet.
- 22 4. Open space shall be provided at a minimum of 15 percent of the site. Park and  
23 open space areas shall be separate and distinct from required yards, setbacks, and landscaped  
24 areas. At least 50% of open space must be active recreation.
- 25 5. Site development and structures shall be designed to meet the Citywide Design  
Guidelines Chapter 2 - design standards for Multi-family.

1           6. Consolidated postal drop-off facilities shall be provided for the site. The location  
2 must be coordinated and approved by the U.S. Postal Service with location shown on the civil  
3 engineering plans.

4           7. Parking shall be provided at 1 stall for each studio, 1 and 2 bedroom, and 1.5  
5 stalls for each 3-bedroom dwelling unit, in addition, 1 guest stall is required for each 10 units.

6           8. Parking to meet the minimum design criteria found in TMC Chapter 18.50, and  
7 the Citywide Design Guidelines. Any proposed modification of the parking standards shall be  
8 considered under TMC 18.50.075.

9           9. Bicycle parking shall be provided at a rate of 1 bike stall per 4 dwelling units.  
10 Bicycle facilities shall meet the requirements of TMC 18.50.120 for both short-term and long-  
11 term. Any proposed modifications to the parking requirements shall be considered under TMC  
12 18.50.120(E).

13           10. A photometric plan meeting the requirements of section TMC 18.40.035 and  
14 section 2.F.1 of the City's Design Guidelines is required as part of building permit submittal.

15           11. A landscape and irrigation plan meeting the requirements of TMC 18.47 shall be  
16 submitted as part of site development grading submittal.

17           12. The project proponent shall follow the procedures in the City of Tumwater  
18 Standard Inadvertent Archaeological and Historic Resources Discovery Plan. If any  
19 archaeological or cultural resources are uncovered during construction, the project proponent  
20 shall stop work in the area of discovery and follow the procedures in TMC 18.40.065 Inadvertent  
21 Discovery of Archaeological and Cultural Resources.

22           13. Conditions listed in the Mitigated Determination of Non-Significance dated  
23 October 19, 2023, are hereby referenced and incorporated.

24           14. A site development/grading permit is required for this site. Special inspectors  
25 approved by the building official shall perform inspections of fill placement, compaction testing,  
and blasting. All special inspections are to be performed by WABO registered labs and  
inspectors who have expertise in grading and earthwork.

          15. Special inspectors may be required for the following types of work: concrete,  
bolts installed in concrete, special moment-resisting concrete, reinforcing steel and pre-stressing  
steel tendons, structural welding, high strength bolting, structural masonry, reinforced gypsum  
concrete, insulating concrete fill, spray-applied fireproofing, piling, drilled piers and caissons,  
shot-crete, special (engineered) grading, excavation and filling, soils compaction testing,  
retaining walls and smoke-control systems. All special inspections are to be performed by  
WABO registered inspectors and at the expense of the owner. IBC Section 1704.1

1 16. The proposed building occupancy is R-2 of type V-A (1 Hour) construction. On  
2 IIIB for 6 stories IBC Section 3. 5-story wood construction will require exit stairs to be  
pressurized per the WAC.

3 17. A minimum of (12) barrier-free parking stalls and (4) van accessible barrier-free  
4 parking stalls and one garage parking space shall be provided for this site. IBC Section 1106.

5 18. The building and site are required to be accessible. An accessible route of travel  
6 shall be provided to all portions of the building, to accessible building entrances, and connecting  
the building and the public way. The accessible route of travel shall be shown on the  
7 engineering plans WAC 51-30

8 19. Where parking provides more than 20 required parking spaces for R-2, B  
9 occupancies, five percent of parking spaces shall be provided with electric vehicle charging  
infrastructure in compliance with Sections 429.3, 429.4 and 429.5.

10 20. Exterior walls are required to be of 1-hour fire-rated construction when less than  
11 10 feet to the property line. Protected openings are required when less than 5 feet to the property  
line. No openings are permitted less than 3 feet to the property line. IBC Section 704.8.

12 21. Back flow prevention is required on all fire services and irrigation services and in  
13 accordance with the AWWA Cross Connection Control Manual. A reduced pressure backflow  
assembly is required on all commercial domestic services per WAC 246-290-490. Please contact  
14 maintenance at 754-4150 for more information.

15 22. If water pressure at the meter exceeds 80 psi, a pressure-reducing valve will be  
required to be installed on the private side of the water line.

16 23. The proposed buildings require automatic fire alarm systems, including pull  
17 stations throughout.

18 24. The proposed buildings require NFPA 13 fire sprinkler systems throughout. IBC  
19 903.2.8. Sprinklers/alarms required over 2,500 square feet.

20 25. The applicant shall show the location of the Fire Department connection, post  
indicator valve, remote annunciator panel and key box on the engineering plans. Ductile iron  
21 pipe is required from the fire apparatus into the structures.

22 26. The required fire flow for this project is derived from Appendix B of the  
23 International Fire Code. Type 5A buildings of this size are required to have a fire flow of 8,000  
24 gallons per minute at 20 psi. However, based on the approval of the Fire Chief, a 50% reduction  
for fully sprinkled buildings allowed in Section 105.2 will be allowed for this site. Therefore, the  
required fire flow will be 4,000 gallons per minute at 20 psi for 4 hours. IFC 903

1           27.     At least 5 percent, but not less than one of the units shall be a Type A unit. All  
2 Group R-2 units on a site shall be considered to determine the total number of units and the  
3 required number of Type A units. Type A units shall be dispersed among the various classes of  
4 units. Where the sleeping units are grouped into suites, only one sleeping unit in each suite shall  
5 count towards the number of required Type A units.

6           28.     Fire lane signs and yellow striping shall be provided on-site to identify Fire  
7 Department access roads and prohibit the obstruction thereof. IFC 503.3

8           29.     Fire hydrants and paved access roads shall be installed, tested for fire flow by the  
9 Fire Department and made serviceable by the Public Works Department prior to any vertical or  
10 combustible construction. No exceptions. IFC 503

11           30.     Each building will have a physical street address off Tyee Rd. SW. Buildings will  
12 not have letter or single number identifiers. Each apartment will be identified as Unit #.

13           31.     Building plans and specifications shall be prepared and stamped by an architect  
14 and engineer licensed to practice in the State of Washington.

15           32.     Fire stopping required to be inspected by WABO third party inspector.

16           33.     Aerial fire apparatus access road is required for this project per IFC D105. The  
17 building shall not be more than 30' away or 10' closer to the fire access road.

18           34.     Prior to the preconstruction meeting, the contractor shall provide a plan for review  
19 on how the project will be meeting fire lane requirements for going vertical construction.

20           35.     Multi-family projects over 200 dwelling units are required to have two fire access  
21 roads which shall be not more than one half the length of maximum diagonal dimension of the  
22 property served.

23           36.     Show on plans all septic and water wells for neighboring properties.

24           37.     All building permit applications shall include architectural, structural, plumbing,  
25 mechanical and energy plans and specifications. No exceptions, and no deferrals. Fire sprinkler  
and fire alarm permits and plans may be submitted separately from the main permit application  
but must be submitted before the main building permit will be issued.

          38.     Digital set of plans and specifications shall be submitted along with application  
and plan review fees.

          39.     Signs require separate permit.

          40.     Swimming pools require separate permits.



1 41. Retaining walls require separate permits and WABO special inspection.

2 42. This project is required to provide for the storage of recycled materials and solid  
3 waste. The storage area shall be designed to meet the needs of the occupancy, efficiency of pick-  
4 up, and shall be available to occupants and haulers. The location of this facility shall be shown  
5 on the site plan.

6 43. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more  
7 shall not be stored in buildings or placed within 5 feet of combustible walls, openings or  
8 combustible roof eaves lines unless the area is protected by an approved automatic sprinkler  
9 system. IFC Section 304.3.3

10 44. The applicant shall be responsible for providing the City with all costs associated  
11 with the installation of water, sewer, street, and storm systems that are dedicated to the City of  
12 Tumwater.

13 45. All designs/construction shall comply with the City of Tumwater's Development  
14 Guide and WSDOT standards.

15 46. The site plan shall show all existing and proposed utilities and easements  
16 including streetlights, street trees, water, sewer, storm, gas, cable, power, telephone, signage, and  
17 striping. Show all properties involved in the project and identify them with the parcel numbers  
18 and owners. Show all existing rights-of-way. Show phasing plan.

19 47. All main installation, road design and storm drainage work requires engineered  
20 plans certified by a professional engineer.

21 48. The applicant is responsible for all plan check, inspection, and connection fees.

22 49. Any private or public utility relocation is the responsibility of the applicant.

23 50. The applicant shall be responsible for the maintenance and timely repair of all  
24 public improvements for a period of 30 months following final certification by the City and shall  
25 submit a surety for maintenance equal in value to fifteen (15) percent of the total value of the  
required public improvements certified by the Public Works Director. Please refer to Chapter 3  
of the Development Guide for further clarification.

51. Provide all easements and bills-of-sale documents with the engineered plans.

52. All legal descriptions must be accompanied with an appropriate drawing that the  
City Surveyor can use to verify the legal description. All engineering drawings will be on 24" x  
36" paper sheets.

1 53. The owner or owner's representative is also responsible for furnishing the city  
2 with electronic files compatible with release 2014 or newer Auto-CAD format. Drawings shall  
3 be in TCHPN (Thurston County High Precision Network) horizontal datum. Provide individual  
4 drawings independent of x-refs. Include all non-standard font files and plot files. Also, please  
5 furnish a flash drive with PDF files printed from the Auto-CAD files. A storm water  
6 maintenance agreement, utility maintenance agreement, easements and bills-of-sale will also be  
7 required.

8 54. Site plan modifications may occur as a result of the engineering review process.  
9 For engineering issues, the approved engineering plans take precedence over the approved site  
10 plan.

11 55. Please note on the plans that the PLS responsible for the surveying of the project  
12 must obtain a permit from DNR before any monuments are disturbed.

13 56. The vertical datum required to be used is NGVD29. No exceptions.

14 57. Frontage improvements are required per Tumwater Municipal Code 12.12.010.  
15 These improvements include separated sidewalks, curb and gutter, street patch, street lighting,  
16 bike lanes, street trees/landscaping, and any storm drainage necessary to take care of the  
17 impervious area in the right-of-way. The applicant is responsible to the centerline of the right-  
18 of-way. Dedication of additional right-of-way to contain the improvements is required.

19 **Overhead Utilities / Power**

20 • Identify and address all overhead utility lines and poles including power on all  
21 frontages. City code and the development guide require undergrounding and/or relocation. If a  
22 deviation from that is desired, please contact City engineering for those steps. It is understood  
23 the lines running north south through the site, that cross the new Tye Drive extension, are  
24 located within an easement.

25 **Israel Road**

• Irrigation, landscaping and street trees are required on the frontage.

**Tye Drive**

• Corridor shall be five lanes per the Transportation Master Plan, however the City  
will consider three lanes pending adequacy demonstrated by a traffic engineer. A three-lane  
option will require roundabout nodes and a landscaped center median at least 12' in width.

• Design to the requirements outlined in the Chapter 4 Amendment to the  
Development Guide. This includes 7' bike lanes.

• Storm drainage for the roads will need to be addressed outside of the right-of-  
way.

• Provide a design that reduces the number of access points on Tye Drive or  
eliminates most of the left turn lane storage by utilizing the roundabouts. There shall be no more  
than two access points on each side of Tye Drive through the project limits, one each full access  
and right-in right-out. Access rights will be right-in right-out only and the City reserves the right

1 to eliminate all lefts once Tyee Drive connects all the way from the Israel Rd roundabout to the  
2 Tumwater Blvd roundabout.

- Historical streetlights are required.

### 3 Tumwater Boulevard

4 • Improvements will be required from Littlerock Road to the east property line  
(approx. 110' from center of Interstate 5 SB on/off ramps) of the property being developed.

5 • Tumwater Boulevard will be a five-lane road section, landscaped center median  
6 similar to east of Interstate 5. A minimum of this projects "half" plus two lanes of five-lane  
7 corridor (four lanes plus landscaped median matching Tumwater Blvd section just west of New  
8 Market St roundabout) shall be constructed with this project.

9 • A roundabout is to be constructed where Tyee Drive intersects Tumwater  
10 Boulevard.

11 • The access on Tumwater Blvd shall be right-in right-out with a median on  
12 Tumwater Blvd preventing lefts. The access on Tumwater Boulevard might be too close to the  
13 RAB. Please show the dimension on the plan.

- The TIA for this project might require additional improvements.
- Historical streetlights are required.
- Show the street section on the site plan.

### 12 Trail System

13 • A trail extending from Israel Rd to Tumwater Blvd is required. The city will  
14 consider using the sidewalk on the west side of Tyee Drive as meeting the trail system  
15 requirement provided the sidewalk is designed as an ADA compliant shared use path. The path  
16 shall consist of a 10' wide concrete sidewalk, 2' wide crushed rock "running" shoulders, trail  
17 signage/markings and approach warnings, a 12' wide min. landscaped buffer from the street, a  
18 narrow landscape buffer from site improvements, and pedestrian level lighting.

19 58. Full lane overlays will be required after patching. Additional improvements might  
20 be required on the opposing frontage, such as widening, realigning the crown to centerline of  
21 right-of-way or feathering to meet City of Tumwater standards.

22 59. All accesses will meet city standards. Sight distance is a concern on several access  
23 points shown on the plans. Provide sight distance triangles at all access points on site  
24 development grading plans.

25 60. Coordinate all construction phasing and access plans as required.

61. There are two street special assessment fees for those parcels fronting Tyee Drive.  
The assessments are \$30,992.00 and \$16,824.23 and are required to be paid at the issuance of  
any site development permit.

62 A drainage design and erosion control plan will be required according to City's  
2022 Drainage Design and Erosion Control Manual.

1           63     Maintenance of the on-site storm water system will be the responsibility of the  
2 property owner and a maintenance agreement will be recorded against the property.

3           64.     This project will be paying a monthly storm water utility fee based on the amount  
4 of impervious surface per Tumwater Municipal Code 13.12.060.

5           65     If the depth from the bottom of the proposed storm facility to the high  
6 groundwater elevation or other restrictive layer is less than 6-feet, a mounding analysis will be  
7 required. In no case can the separation be less than 3-feet. The applicant will be responsible for  
8 the cost of a third-party review of the onsite and off-site storm water impacts and mitigations.

9           66.     No storm drainage treatment or storage will be allowed in the right-of-way.

10          67.     Show all existing wells impacted by the proposal including groundwater  
11 monitoring wells and domestic water wells. Coordinate to provide any protection during  
12 construction and relocation or decommissioning to DOE standards as required.

13          68.     Extension of the sewer main across all frontages is required. This includes  
14 Tumwater Boulevard.

15          69.     There are two sewer special assessment fees for those parcels fronting Tyee  
16 Drive. The assessments are \$13,960.63 and \$13,369.63 and are required to be paid at issuance of  
17 the final binding site plan or any certificate of occupancy, whichever comes first.

18          70.     Any water main extension will require a minimum of an 8" system. The main size  
19 will depend on the fire flow requirements for this project. The system shall be designed for a  
20 maximum velocity of 8 feet per second.

21          71.     Water meters need to be placed in the public right-of-way or clustered on site  
22 within an easement. The professional engineer will need to provide calculations on the  
23 maximum instantaneous water demand and size of the meter for the project.

24          72.     Extension of the 24" water main within the Tyee Drive alignment is required.

25          73.     There is a water special assessment fee for those parcels fronting Tyee Drive. The  
assessment is \$3,010.00 and is required to be paid at issuance of the final binding site plan or any  
certificate of occupancy, whichever comes first.

          74.     A solid wood fence together with eight feet of perimeter landscaping shall be  
installed along the common boundary with the adjoining properties to the southwest of the  
project site.

1 DATED this 12 day of January, 2024.



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4 Mark C. Scheibmeir  
City of Tumwater Hearing Examiner

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7 **HEARING EXAMINER**  
**POST-DECISION PROCEDURES**

8 The following sections of the Tumwater Municipal Code outline procedures for requesting  
9 reconsideration of a decision by the Tumwater Hearing Examiner and appealing a decision made by the  
Tumwater Hearing Examiner.

10 **TMC 2.58.135 Reconsideration.**

11 Upon the written request of a party of record filed with the city clerk within five working days of the  
12 hearing examiner's written decision, such decision may be reconsidered at the discretion of the hearing  
13 examiner. The request for reconsideration must state the grounds upon which the request is made. In the  
event reconsideration is granted, the hearing examiner shall have an additional 10 working days to render  
a written final decision.

14 **TMC 2.58.150 Appeal from examiner's decision.**

15 A. In cases where the examiner's jurisdictional authority is to render a decision, the decision of the  
16 examiner shall be final and conclusive unless appealed to superior court within the applicable appeal  
period as set forth in TMC 2.58.180.

17 B. In cases where the hearing examiner decision is appealable to the city council, the decision of the  
18 examiner shall be final and conclusive unless appealed within the applicable appeal period as set forth in  
this section.

19 C. Appeals to the city council must be filed with the city clerk by the applicant or other party of record, a  
20 department of the city, county or other agency within 14 calendar days following rendering of such  
decision. Persons not in attendance at the hearing but who submit written information prior to the hearing  
which becomes a part of the record of the hearing shall also have appeal rights. Such appeal shall be in  
writing, shall contain all grounds on which error is assigned to the examiner's decision and shall be  
21 accompanied by a fee as established by resolution of the city council; provided, that such appeal fee shall  
not be charged to a department of the city or to other than the first appellant.

22 D. In the event an apparent prevailing party files an appeal to preserve appeal rights and no opposing  
appeals are filed, said party may, by giving written notice thereof to the city clerk, abandon their appeal  
and in such event shall be refunded their filing fee.

23 E. The timely filing of an appeal shall stay the effective date of the examiner's decision until such time as  
the appeal is adjudicated by the city council or is withdrawn.

24 F. Within five days after the final day upon which an appeal may be filed, notice thereof and of the date,  
time and place for city council consideration shall be mailed to the applicant, all other parties of record  
and anyone who submitted written information prior to the hearing. Such notice shall additionally indicate  
25 the deadline for submittal of written arguments as prescribed in TMC 2.58.160.

1 **TMC 2.58.180 Judicial appeals.**

2 Final decisions (after exhausting administrative remedies) may be appealed by a party of record with  
3 standing to file a land use petition in the Thurston County superior court, except shoreline permit actions  
4 which may be appealed to the shoreline hearings board. Such petition must be filed within 21 days of  
5 issuance of the decision as provided in Chapter 36.70C RCW.

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25 Updated: June 10, 2013