

BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

IN RE:) HEARING NO. TUM-23-1327
BLOMBERG CONDITIONAL USE)
PERMIT,)
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW
) AND DECISION

APPLICANT: Blomberg, LLC
4220 S. 164th Street, Suite 101
Tukwila, Washington 98188

REPRESENTATIVE: Chris Carlson
Hatton, Godat, Pantier
3910 Martin Way E.
Olympia, Washington 98506

SUMMARY OF REQUEST:

A Conditional Use Permit to operate a marijuana producer/processor operation in an existing three building complex. Minimal exterior modifications are proposed.

LOCATION OF PROPOSAL:

9630 Blomberg Street SW., Tumwater, WA 98512. Tax Parcel No. 12721230500.

SUMMARY OF DECISION:

The requested Conditional Use Permit is **approved** subject to slightly modified conditions.

BACKGROUND

The Applicant has an existing, active Washington State License for non-retail cannabis processing at the project site previously issued by Thurston County prior to the site's annexation into the City of Tumwater. That existing operation utilizes one of three buildings located on the property. The Applicant now asks for the City's approval to expand the operation to the two other buildings on the site. The City's Development Regulations require that this use of a

1 Conditional Use Permit. Permit approval must not only satisfy all normal requirements for
2 conditional uses but also satisfy the additional requirements specific to marijuana production and
3 processing. City Staff finds that the project satisfies all of these requirements and recommends
4 approval of the requested permit. There has been no substantive opposition to the application.

5 **PUBLIC HEARING**

6 The public hearing commenced at 7:00 p.m. on Wednesday, October 25, 2023.¹ The
7 hearing occurred remotely utilizing the Zoom platform with the City serving as the host. The
8 City appeared through Tami Merriman, Permit Manager. The Applicant appeared through its
9 Project Engineer, Chris Carlson, of Hatton Godat Pantier. Additional City Staff were also in
10 attendance as well as additional owner's representatives. Testimony was received from Ms.
11 Merriman and Mr. Carlson. No members of the public were present. A verbatim recording was
12 made of the public hearing and all testimony was taken under oath. The following exhibits were
13 considered:

- 14 Exhibit 1. Staff Report, dated October 9, 2023
15 Exhibit 2. Conditional Use Permit Application with Narrative, dated August 16, 2023
16 Exhibit 3. Formal Site Plan Amended, dated August 30, 2023
17 Exhibit 4. Vicinity Map
18 Exhibit 5. Zoning Map
19 Exhibit 6. Public Notice Certification, dated October 9, 2023
20 Exhibit 7. Determination of Non-Significance with attachments, dated September 18,
21 2023
22 Exhibit 8. Public Hearing Notice, dated October 13, 2023
23 Exhibit 9. Tum-23-0794 Formal Site Plan Review Approval, dated October 9, 2023
24 Exhibit 10. Public comments
25 Exhibit 11. Tumwater Municipal Code Excerpts
Exhibit 12. Thurston County Septic Evaluation of October 3, 2023
Exhibit 13. Emails to and from the Department of Ecology and Mr. Carlson

23 ¹ The public hearing was held by the City's Hearing Examiner who, after hearing all testimony and reviewing all
24 exhibits, orally entered an order approving the Conditional Use Permit subject to slightly modified conditions.
25 Unfortunately, the Hearing Examiner has been unable to reduce his oral ruling to the required written Decision. The
Hearing Examiner Pro Tem has therefore been asked to review the record as established at the public hearing by the
Hearing Examiner and complete the process of rendering a final Decision. The Hearing Examiner Pro Tem's
Decision is consistent with the oral decision announced by the Hearing Examiner.

1 Exhibit 14. Water/Sewer Availability Declaration dated October 3, 2023

2 The hearing began with the testimony of Tami Merriman, Permit Manager for the project
3 and author of the City's Staff Report. Ms. Merriman's testimony relied extensively on her
4 thorough Staff Report (Exhibit 1). She began by explaining that the Applicant seeks a
5 Conditional Use Permit to expand its existing marijuana production/processing facilities to the
6 second and third buildings located at 9630 Blomberg Street SW. This application was received
7 in August 2023. Notice of the application and of the optional SEPA DNS was issued in
8 September resulting in some agency comment (discussed below) and one public comment
9 regarding odors. A SEPA Determination of Non-Significance (DNS) was issued September 18,
10 2023, and was not appealed. It is now final.

11 The project site consists of 4.7 acres located on the southwestern boundary of the City's
12 Urban Growth Area. There are three warehouse buildings located on the site and the one furthest
13 east is currently approved for marijuana processing. This approval was granted by Thurston
14 County prior to the property's annexation into the City. The application seeks to expand the
15 marijuana processing activity to the two other buildings, an 18,000 square foot shell and a 25,000
16 square foot warehouse.

17 The site has a zoning designation of Light Industrial. Properties to the north, east and
18 south have the same zoning designation, while property to the west is located outside of City
19 jurisdiction and is owned by the Washington State Department of Natural Resources and is used
20 as a tree farm.

21 Ms. Merriman then examined the proposed use according to the City's standards for
22 conditional use review. She began by reviewing the application's consistency with the Goals and
23 Policies of the City's Comprehensive Plan including consistency with the Southwest Tumwater
24
25

1 Neighborhood Appendix to the Plan, and stated that the application is consistent with both the
2 Goals and Policies of the Plan as well as the Southwest Tumwater Neighborhood Appendix. The
3 project site is located within the Light Industrial zone which allows marijuana processing and
4 production as a conditional use subject to the conditions set forth in Chapter 18.24 TMC.

5 TMC 18.56.035.A.2 requires that the proposed use be found to not be materially
6 detrimental to the public health. Ms. Merriman reviewed this requirement and explained that
7 Staff finds that the proposed use is not materially detrimental as it will be fully enclosed with an
8 engineered odor control system and that all needed public services are available. She then
9 explained that the project meets all other requirements for conditional use approval including the
10 requirement that it meet or exceed performance standards required in the zone as well as any
11 additional minimum conditions for the particular use (discussed below).

12 Ms. Merriman then turned to the specific requirements imposed by the Light Industrial
13 zone relative to marijuana processing and production. The facility must be fully enclosed in a
14 secure indoor structure. The application satisfies this requirement. The project must also satisfy
15 all of the requirements set forth in TMC 18.42.080.A.a-h. Among other things, these additional
16 standards require an appropriate license for processing and production of marijuana; compliance
17 with all building, safety, health and business licensing requirements; compliance with all
18 development standards for the Light Industrial zone; signage approval; a fully enclosed structure;
19 appropriate ventilation and air filtration; compliance with all setback requirements from other
20 zoning districts; and the right to revoke the permit on noncompliance. Ms. Merriman reviewed
21 each of these additional requirements and confirmed that the application, as conditioned, will
22 satisfy all requirements of TMC 18.42.080.A.

23 Ms. Merriman then discussed all comments received from either public agencies or
24 members of the public. Comments were received from the Nisqually and Squaxin Island Tribes
25 but both merely expressed that they had no specific concerns regarding archaeological and

1 cultural resources (Exhibit 10). The Department of Ecology provided two comments. One of
2 these comments related to possible contamination on a site nearby. This concern was found to be
3 not applicable to the project. The agency's second concern had to do with potential
4 contamination from the extraction of THC oils. Ms. Merriman explained that this concern will
5 not be material as the Applicant does not seek to extract THC oils and therefore no THC waste is
6 expected. This issue is discussed further in the Applicant's response. The City also received
7 public comment from Carly Christiansen regarding existing offensive odors on or near the
8 property and concerns that the project would exacerbate these odors. Ms. Merriman explained
9 that the offensive odors are believed to be coming from offsite locations from nearby similar
10 operations, perhaps as a result of failing ventilation systems. She explained that the current
11 application is conditioned on not causing any added offensive odor. Ms. Merriman has
12 explained this to Ms. Christiansen and believes that the concern has been addressed.

13 Ms. Merriman concluded her testimony by discussing the project's review by the City's
14 Development Review Committee. This review led to conditions of approval by that Committee
15 subject to a lengthy number of conditions including separate planning, building, fire and
16 miscellaneous conditions. An issue has arisen over Planning Condition No. 10 imposed by the
17 Development Review Committee. This condition states:

18 "10. Landscaping: A landscape plan showing proposed plantings, tree types
19 and heights, and other vegetation as required. Street trees, if required, must be
20 installed in accordance with the Tumwater Development Guide and Urban
Forestry Management Plan. TMC 18.47.050.

21 Mechanical equipment must be screened to avoid noise and visual impact to street
22 and adjoining properties."

23 Ms. Merriman explained that the Applicant has questioned these landscaping
24 requirements, noting that the site is already landscaped and no additional landscaping is currently
25

1 proposed. The project will, however, require fencing around the mechanical equipment located
2 outside of the building. Ms. Merriman acknowledged that Planning Condition No. 10 is
3 awkwardly worded relative to the requirements of this project and confirmed that a new
4 landscaping design was not required but that Staff expected to receive a design for the proposed
5 fencing. She agreed that some clarification of this requirement would be beneficial to both the
6 Applicant and the Staff.

7 At the conclusion of Ms. Merriman's direct testimony the Hearing Examiner posed
8 several questions regarding the ability to transfer any approved Conditional Use Permit and,
9 separately, whether the SEPA timelines for notice had been satisfied. Ms. Merriman confirmed
10 that the permit is transferable so long as all other licensing and other requirements are met, and
11 separately confirmed that all SEPA notice requirements had been satisfied. The Hearing
12 Examiner agreed.

13 Following the City's presentation the Applicant appeared through its representative, Chris
14 Carlson. Mr. Carlson first returned to the issue of Planning Condition No. 10 found in the
15 conditions imposed by the City's Development Review Committee. Mr. Carlson remains
16 concerned that this condition expressly requires a "detailed landscaping plan" yet the City agrees
17 that no additional landscaping is currently required. Ms. Merriman responded and confirmed
18 that the City does not expect a new landscaping design but that it does wish to see a plan for the
19 required fencing around mechanical equipment. A lengthy discussion ensued as to how to best
20 achieve all party's expectations in a manner consistent with what has been imposed by the
21 Development Review Committee. This discussion resulted in the Hearing Examiner announcing
22 an intent to slightly modify conditions of approval in a manner recognizing that the parties may
23 thereafter amend Planning Condition No 10 as imposed by the Development Review Committee.
24 In other words, the Hearing Examiner indicated an intent to amend proposed Condition No. 1 in
25 the Staff Report to read:

*Findings of Fact, Conclusions of Law
and Decision - 6*

CITY OF TUMWATER HEARING EXAMINER
299 N.W. CENTER ST. / P.O. BOX 939
CHEHALIS, WASHINGTON 98532
Phone: 360-748-3386/Fax: 748-3387

1 "1. TUM-23-0794 Formal Site Plan Review Approval with conditions, dated
2 October 13, 2023, *as may be amended*, is hereby referenced and considered
3 conditions of this approval."

4 Mr. Carlson then turned to the project's proposed septic system and explained how the
5 site is serviced by three existing septic systems, one for each building. These commercial
6 properties are serviced by septic systems as there is no sewer availability nearby. An evaluation
7 has been conducted of the existing sewage systems and reviewed by the Thurston County
8 Environmental Health Department. That agency has approved use of the existing onsite sewage
9 systems for the proposed use subject to a limit of 32 employees, and further subject to the system
10 not being used for any waste generated by the production of processing marijuana. These
11 conditions are set forth in a letter from the Department dated October 3, 2023, and introduced as
12 Exhibit 12.

13 Mr. Carlson then turned to concerns expressed by the Department of Ecology regarding
14 the possible production of toxic waste resulting from the extraction of THC oils. The Applicant
15 has notified Ecology that it does not plan to extract THC oils and will not produce dangerous
16 waste. This has been confirmed through a series of emails between the Applicant and Ecology
17 presented as Exhibit 13.

18 Mr. Carlson conclude his testimony by noting that the City has provided a written letter
19 of water availability for up to 6,000 gallons per day and that the project has been approved for
20 32.8 water ERU's pursuant to Chapter 13.04 TMC (Exhibit 14).

21 Mr. Carlson summarized the Applicant's testimony by stating that the Applicant has no
22 objection to the conditions proposed by City Staff subject to amendment of Planning Condition
23 No. 10 imposed by the Development Review Committee, requiring slight modification to
24 proposed Condition 1 in the Staff Report. City Staff concurred.

1 As noted earlier, there were no members of the public present and no public testimony
2 was received. The only public comment was the earlier concern by Mr. Christiansen regarding
3 odors. City Staff believes that this concern is fully addressed.

4 The application has been carefully reviewed by City Staff and found to meet all
5 requirements for conditional use approval, including the heightened requirements for the
6 processing/production of marijuana, and recommends approval of the requested Conditional Use
7 Permit. The Applicant concurs with the proposed conditions subject to the understanding that
8 the Applicant and Staff will hereafter work to find the requirements of Planning Condition No.
9 10 imposed by the Development Review Committee with respect to landscaping/fencing. There
10 is no public opposition to the application. The Hearing Examiner concurs that all requirements
11 have been met and that the requested permit should be approved subject to the conditions
12 imposed in the Staff Report, with a minor adjustment to proposed Condition No. 1 to allow for
13 the future amendment of Planning Condition No 10 imposed by the Development Review
14 Committee.

15 The Hearing Examiner Pro Tem therefore makes the following:

16 **FINDINGS OF FACT**

17 **General Findings.**

18 1. The Applicant, Blomberg, LLC, LLC, requests a Conditional Use Permit to
19 expand an existing marijuana production/processing operation from its existing building to the
20 two additional existing buildings located on the same project site at 9630 Blomberg Street SW.

21 2. Any Findings of Fact contained in the foregoing Background and Public Hearing
22 Sections are incorporated herein by reference and adopted by the Hearing Examiner Pro Tem as
23 his Findings of Fact.

24 3. The project proposes to rely on existing buildings consisting of an 18,000 square
25 foot shell and a 25,000 square foot warehouse previously used for manufacturing and storage of

1 wall panel systems/lumber. No additional building are proposed and all activities will be internal
2 to these buildings. The project site has an existing connection to the City water system, existing
3 parking and landscaping; and three existing sewage systems, one for each of these existing three
4 buildings.

5 4. The Applicant is currently operating a marijuana production/processing operation
6 at one of the existing buildings. This operation was previously approved by Thurton County
7 prior to the site's annexation into the City. The Applicant has an approved and active
8 Washington State License 417201 for non-retail cannabis processing at this location.

9 5. The project site has a zoning designation of Light Industrial. Properties to the
10 north, east and south have a similar zoning designation. Property to the west is located outside
11 of the City and its Urban Growth Area and is instead within Thurton County regulation.
12 Property to the west is owned by the Washington State Department of Natural Resources and is
13 used as a tree farm.

14 6. The project site contains 4.74 acres. Surrounding land uses are an eclectic mix if
15 agricultural, timber, commercial and industrial uses. The site is in close proximity to 93rd
16 Avenue SW which leads to the nearby interchange with Interstate 5.

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

19 7. The Staff Report, commencing at page 2, undertakes an analysis of the project's
20 consistency with the Tumwater Comprehensive Plan and various other planning documents,
21 including the Zoning Code.

22 8. Staff finds that the project, as conditioned, is consistent with the Comprehensive
23 Plan and its Goals for areas intended for light industrial use.

24 9. Staff finds that the project, as conditioned, is also consistent with the
25 Neighborhood Appendix to the Comprehensive Plan. The site is located within the area

1 designated as the Southwest Tumwater Neighborhood in the Comprehensive Plan. The
2 Neighborhood Appendix envisions this area to be used for light industrial purposes consistent
3 with the proposed use.

4 10. Staff also finds that the proposed use is consistent with its zoning designation of
5 Light Industrial, Chapter 18.24 TMC. More specifically, TMC 18.24.040.D allows marijuana
6 processing as a permitted use so long as the activity is within a fully enclosed secure indoor
7 structure and is granted a Conditional Use Permit. Similarly, TMC 18.24.040.E allows for
8 marijuana production so long as it is located within a fully enclosed secure indoor structure and
9 is granted a Conditional Use Permit. The proposed use is within a fully enclosed secure structure
10 and, subject to being granted a Conditional Use Permit, is consistent with the permitted uses
11 allowed in the Light Industrial zoning designation.

12 Findings Relating to the Project's Compliance with Other Conditional Use Requirements.

13 11. Conditional Use Permit approval requires compliance with all requirements of
14 TMC 18.56.035.

15 12. TMC 18.56.035 requires that the proposed use must be in keeping with the Goals
16 and Policies of the City's Comprehensive Plan, including Subarea Plans, and all applicable
17 ordinances. As set forth in the Findings above, Staff finds that the project is consistent with the
18 Goals and Policies of the Tumwater Comprehensive Plan, the Southwest Tumwater
19 Neighborhood Appendix, and the project's zoning designation of Light Industrial. The Hearing
20 Examiner concurs.

21 13. TMC 18.56.035.A.2 requires Findings that the proposed use shall not be
22 materially detrimental to the public health or welfare, the environment, or injurious to the
23 property or improvements near the proposed use or in the zone district in which the subject
24 property is situated.

1 14. In reaching this determination, TMC 18.56.035.A.2.a requires consideration of
2 whether the project will generate detrimental noise, noxious or offensive odors or omissions,
3 light, glare, traffic, surface water or groundwater pollution, electronic interference,
4 environmental impacts, impacts to historic or cultural resources, or other impacts or nuisances
5 injurious to the public health or welfare, or to property or improvements nearby.

6 15. The Staff Report, at page 3, examines each of these considerations and finds that
7 the project, as conditioned, satisfies all requirements. More particularly:

8 • The project will be entirely enclosed with existing structures and will not emit
9 noise or noxious or offensive odors or omissions, light, or glare.

10 • Approval has been conditioned on an engineered odor control system. The
11 HVAC equipment will be located outside of the building and fenced.

12 • The project has approval from the Thurston County Health Department for use of
13 the existing septic systems subject to various conditions (Exhibit 12).

14 • The project will not produce any toxic waste as it is not intended for the
15 extraction of THC oils (Exhibit 13).

16 • The proposed use is similar to existing surrounding uses and will have limited
17 traffic.

18 • Staff does not envision any impacts to environmentally sensitive areas or species.

19 16. TMC 18.56.035.A.2.b requires evidence that public services are available as may
20 be necessary for the proposed use. City Staff finds that all necessary public facilities are
21 available for use. The site will be served by the City's water service as well as by its police and
22 fire services. The Applicant has been approved for use of the onsite septic system by the
23 Thurston County Health Department.

24 17. TMC 18.56.035.A.2.c requires proof of adequacy of landscaping and screening
25 necessary to mitigate the impact of the use upon neighboring properties. City Staff finds that the

1 project, as conditioned, will satisfy this requirement. The site has existing perimeter landscaping
2 and currently does not require additional landscaping.

3 18. There must be screening of outdoor mechanical equipment. The parties have
4 agreed to refine this requirement in a manner generally consistent with Planning Condition No.
5 10 imposed by the Development Review Committee in its letter dated October 9, 2023.

6 19. TMC 18.56.035.A.3 requires that the proposed use meet or exceed all
7 performance standards in the zone district. City Staff finds that the project, as conditioned by the
8 Site Plan Review Approval dated October 9, 2023 (Exhibit 9), meets all zoning requirements of
9 Chapter 18.24 TMC. The Hearing Examiner concurs.

10 20. TMC 18.56.035.A.4 requires compliance with any additional minimum conditions
11 identified for a particular type of proposed use. The proposed use triggers the additional
12 minimum conditions for marijuana processing and production set forth in TMC 18.42.080.A.
13 City Staff finds that these additional minimum conditions are satisfied as set forth more fully in
14 Findings below. The Hearing Examiner concurs.

15 21. City Staff finds that the project, as conditioned, satisfies all requirements of TMC
16 18.56.035.A.1-4. The Hearing Examiner concurs.

17 Findings Relating to Compliance with the Specific Requirements for Marijuana
18 Production and Processing. TMC 18.24.080.A

19 22. In addition to satisfying the general requirements for Conditional Use Permits
20 found in TMC 18.56.035, conditional use approval for marijuana production and processing also
21 requires compliance with the additional conditions imposed by TMC 18.24.080.A.

22 23. Pursuant to TMC 18.24.080.A.a, the Applicant must meet all Washington State
23 licensing requirements. The Applicant has an existing active State License No. 417201 for non-
24 retail cannabis processing at this location. This requirement has been met.

1 24. Pursuant to TMC 18.24.080.A.b, the project must comply with all building, fire
2 safety, health code and business licensing requirements. The Applicant has a current City
3 Business License No. 87378. The Applicant will be required to obtain additional building
4 permits as needed for any required improvements to the additional structures and receive a
5 certificate of occupancy. As conditioned, this requirement has been met.

6 25. Pursuant to TMC 18.24.080.A.c, the project must comply with all lot size,
7 building size, setbacks and lot coverage imposed by the Light Industrial zone. City Staff finds
8 that all existing structures comply with all other site standards.

9 26. TMC 18.24.080.A.d requires that any signs conform to Chapter 18.44 TMC. No
10 signage is proposed.

11 27. TMC 18.24.080.A.e requires that all activities be within a fully enclosed secure
12 indoor structure. This requirement is met.

13 28. TMC 18.24.080.A.f requires that all buildings be equipped with ventilation/air
14 filtration systems so that no odors are detectable at the property line. The project, as
15 conditioned, will satisfy this requirement through use of an engineered odor control system.

16 29. Pursuant to TMC 18.24.080.A.g, all buildings must be setback a minimum of 300
17 feet from other zone districts. This requirement is met.

18 30. Pursuant to TMC 18.24.080.A.h, the City may suspend or revoke the Conditional
19 Use Permit if required conditions have not been met. The project approval has been conditioned
20 on this requirement.

21 Findings Relating to Public Notice and to Comment.

22 31. Combined notice of the application with optional DNS was mailed to property
23 owner within 300 feet of the subject property and various agencies, posted onsite and on the
24 City's website on August 31, 2023, and published in The Olympian on September 1, 2023
25 (Exhibit 6).

1 32. This notice solicited comments from the Nisqually Indian Tribe and the Squaxin
2 Island Tribe. As noted in the earlier Public Hearing Section, neither tribe had specific concerns
3 regarding archaeological and cultural resource (Exhibit 10).

4 33. Comments were received from the Department of Ecology as noted in the earlier
5 Public Hearing Section. Most notably, these comments included concerns over the possible
6 extraction of THC oils and potential hazardous waste. This issue has been resolved to the
7 satisfaction of Ecology as noted in Exhibit 13.

8 34. Comment was received from one member of the public, Carly Christiansen,
9 expressing concern about increased offensive odors in the area. This concern is addressed in the
10 earlier Public Hearing Section. City Staff finds that this concern has been resolved through the
11 conditions imposed on project approval.

12 35. Staff finds that all agency and public comments have been fully addressed
13 through the conditions imposed on project approval. The Hearing Examiner concurs.

14 Findings Relating to Site Plan Review by the Development Review Committee.

15 36. The application underwent formal site plan review with the City Development
16 Review Committee. The City provided formal site plan review approval subject to a list of
17 conditions set forth in its letter of October 9, 2023 (Exhibit 9). These conditions have been
18 incorporated into the proposed conditions of conditional use approval as proposed Condition
19 No. 1.

20 37. As discussed during the public hearing, an issue has arisen between the Applicant
21 and City Staff with respect to application of Planning Condition No. 10 relating to required
22 landscaping and fencing. City Staff and the Applicant have agreed to revise this minor
23 disagreement through a later amendment of Planning Condition No. 10. Accordingly, proposed
24 Condition No. 1 found in the Staff Report should be revised as follows:
25

1 "1. TUM-23-0794 Formal Site Plan Review Approval with conditions, dated
2 October 13, 2023, as may be amended, is hereby referenced and considered
3 conditions of this approval."

4 38. Staff recommends that the requested Conditional Use Permit be approved subject
5 to the eight conditions found in the Staff Report (with minor modification to proposed Condition
6 No. 1 as noted above). The Applicant concurs.

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

8 **CONCLUSIONS OF LAW**

9 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.

10 2. Any Conclusions of Law contained in the foregoing Background, Public Hearing
11 or Findings Sections are hereby incorporated by reference and adopted by the Hearing Examiner
12 as his Conclusions of Law.

13 3. The requirements of SEPA have been met.

14 4. All notice requirements have been met.

15 5. A Conditional Use Permit is required in order to allow the proposed marijuana
16 production and processing at the project site.

17 6. The project, as conditioned, is consistent with the Tumwater Comprehensive Plan;
18 the Southwest Tumwater Neighborhood Appendix to the Comprehensive Plan and the intent of
19 the Light Industrial zoning designation.

20 7. The project, as conditioned, complies with all requirements of TMC 18.56.035 for
21 conditional use permit approval.

22 8. The proposed use will not be materially detrimental to the public health or
23 welfare, the environment, or injurious to the property or improvements near the proposed use or
24 in the zoning district in which the subject property is situated.

1 9. Proper consideration has been given to all additional requirements imposed by
2 TMC 18.56.035.2.a, b and c.

3 10. The proposed use shall meet or exceed the performance standards required in the
4 Industrial District zone.

5 11. The proposed use, as conditioned, will satisfy any additional minimum conditions
6 identified for the particular type of proposed use. In particular, the project, as conditioned, will
7 satisfy all of the additional requirements for marijuana processing and production within a fully
8 enclosed secure indoor structure as imposed by Chapter 18.24 TMC (including all requirements
9 of TMC 18.24.080.A.a-h).

10 12. The project, as conditioned, complies with any other requirements that may be
11 imposed for a Conditional Use Permit.

12 13. The project should be approved subject to the eight conditions set forth in the
13 Staff Report with minor modification of proposed Condition No 1 as noted in the Findings.

14 **DECISION**

15
16 Now, therefore, the Applicant's request for a Conditional Use Permit is **approved** subject
17 to the following:

18 **CONDITIONS**

19 1. TUM-23-0794 Formal Site Plan Review Approval with conditions, dated October
20 13, 2023, as may be amended, is hereby referenced and considered conditions of this approval.

21 2. The applicant or his successor(s) shall meet Washington State licensing
22 requirements (WAC 314-55). A copy of the most current license shall be submitted to the City of
23 Tumwater, prior to issuance of a certificate of occupancy.
24

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

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

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

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

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

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

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

24 **TMC 2.58.180 Judicial appeals.**

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

Updated: June 10, 2013