

1 BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

2 IN RE:) HEARING NO. TUM-23-0650
3) (Site Plan Review);
4 LITTLE ROCK SELF STORAGE.) TUM-24-0108 (Conditional
5) Use Permit); and TUM-24-0119
6) (Variance)
7) FINDINGS OF FACT,
8) CONCLUSIONS OF LAW
9) AND DECISION

7 **APPLICANT:** Trevor Colby
3228 Crosby Blvd. SW
8 Tumwater, Washington 98512

9 **REPRESENTATIVE:** Brandon Johnson
10 JSA Civil, LLC
11 111 Tumwater Blvd. SE, Suite C210
Tumwater, Washington 98501

12 **SUMMARY OF REQUEST:**

13 Site Plan Review, Conditional Use Permit approval and a Variance request from setback
14 requirements to construct a 4-story 898-unit self-storage facility with leasing office. Other site
15 improvements include drive through lanes, landscaping, and a stormwater infiltration system.

16 **LOCATION OF PROPOSAL:**

17 6115 and 6199 Littlerock Road SW, Tumwater, Washington, 98512. Tax Parcel Nos.
18 12703211801 and 12703211802.

19 **SUMMARY OF DECISION:**

20 The requested Site Plan Review, Conditional Use Permit and Variance are **approved** subject the
21 conditions recommended by City Staff.

22 **BACKGROUND**

23 The Applicant seeks approval for a 4-story 898-unit self-storage facility on property
24 immediately north of the Tumwater Middle School. Additional improvements include drive
25 lanes, street frontage improvements, landscaping and a stormwater infiltration system. The

1 project site contains 1.77 acres and is zoned General Commercial. Self-storage facilities are a
2 permitted use within this zoning designation subject to a Conditional Use Permit.

3 The Applicants seeks to reduce the required setback along the site's southern boundary
4 due in large part to the existence of Bonneville Power lines restricting the use of the northerly
5 portion of the site.

6 As the matter comes before the Hearing Examiner for both Conditional Use Permit
7 approval and Variance approval, Site Plan approval is also before the Hearing Examiner.

8 City Staff recommends approval of both the Conditional Use Permit and the Variance, as
9 well as Site Plan approval, subject to 60 conditions set forth in the Staff Report. There has been
10 no public opposition and the Applicant has no objection to the proposed conditions of project
11 approval.

12 PUBLIC HEARING

13 The public hearing commenced at 6:00 p.m. on Wednesday, April 24, 2024. The hearing
14 occurred remotely utilizing the Zoom platform with the City serving as the host. The City
15 appeared through Tami Merriman, Permit Manager. The Applicant appeared through its
16 representative, Brandon Johnson, Civil Engineer. Two members of the public were in attendance
17 but did not ask to testify. Testimony was received from Ms. Merriman and Mr. Johnson. A
18 verbatim recording was made of the public hearing and all testimony was taken under oath. The
19 following exhibits were considered:

- 20 Exhibit 1 Staff Report dated April 12, 2024
- 21 Exhibit 2 Site Plan Review, Conditional Use and Variance Applications dated 01-30-
2024
- 22 Exhibit 3 Site Plans dated 12-13-2023
- 23 Exhibit 4 Zoning and Vicinity Map
- 24 Exhibit 5 Public Hearing Notice 04-12-2024
- 25 Exhibit 6 Public Notice Certification
- Exhibit 7 MDNS with attachments
- Exhibit 8 Concurrency Ruling 02-16-2024
- Exhibit 9 Public Comments
- Exhibit 10 Landscape Plans 12-05-2023

1 Exhibit 11 Water & Sewer Availability 11-21-2023
2 Exhibit 12 Preliminary Storm Drainage Report 12-13-2023
3 Exhibit 13 Draft Indemnity Agreement
4 Exhibit 14 July 17, 2023, Traffic Impact Assessment

5 The hearing began with the testimony of Tami Merriman, Permit Manager for the project.
6 Ms. Merriman's testimony relied primarily on her thorough Staff Report (Exhibit 1). The
7 Applicant proposes to construct a 4-story 898-unit self-storage facility with leasing office on two
8 parcels of property currently having addresses of 6115 and 6119 Littlerock Road SW. The
9 project site currently contains two single-family residences and associated outbuildings, all of
10 which will be demolished as part of the project. The project site is relatively flat and easily
11 developed.

12 Ms. Merriman then quickly reviewed the project in reference to the City's Comprehensive
13 Plan; Economic Development Plan; Transportation and other plans and the City's Development
14 Regulations. She confirmed that the project is consistent with all plans and regulations.

15 Notice to interested agencies that site plan review was underway led to responses from
16 DAHP and the Nisqually Tribe, concurring with the results of the Cultural Resource Assessment
17 provided by the Applicant (Exhibit 9). The City undertook SEPA review and on February 29,
18 2024, issued a Mitigated Determination of Nonsignificance (MDNS). Notice of the MDNS
19 produced additional agency comment from the Department of Ecology expressing standard
20 concerns. The MDNS conditions are incorporated into Staff's recommended conditions of
21 project approval. The MDNS was not appealed and is now final. Ms. Merriman noted that as
22 part of the project's environmental review a Mazama Pocket Gopher Study was taken and that it
23 determined that there were no pocket gophers on or near the project site.

24 Ms. Merriman next turned to transportation issues and noted that the project had been
25 reviewed by the City Engineer and approved. A number of transportation-related conditions are
imposed on the project including payment of traffic impact fees. Project approval has also been

1 conditioned upon compliance with the City's Significant Tree regulations. Based upon the
2 project site containing 1.77 acres, the project will require the planting of 22 trees but actual
3 landscape plans call for 64 trees, or well above what is required by the Significant Tree
4 Ordinance.

5 Ms. Merriman next turned to development standards in the General Commercial (GC)
6 zone in which the property is located. This zone generally does not impose setback requirements
7 except when the site is adjacent to a residential zone. Here, the property to the south containing
8 the Tumwater Middle School is in a residential zone and the project therefore triggers setback
9 requirements of 10 feet plus an additional 10 feet per every story above ground floor, or a total of
10 40 feet setback along the south boundary. The Applicant is seeking a Variance from the setback
11 requirement to allow development to occur slightly less than 40 feet from the boundary line. In
12 addition to setback requirements, the project must also meet all other design guidelines for the
13 GC zone including street front improvements, landscape buffers, parking requirements, etc. As
14 designed and conditioned, this project meets all of the general design guidelines for the GC zone.

15 Ms. Merriman then turned to the City's requirements for Conditional Use Permit
16 approval. She reviewed each of the requirements found in TMC and concluded that the project,
17 as conditioned, satisfies all of these requirements for conditional use approval. The project also
18 meets the additional specific requirements for ministorage approval as set forth in TMC
19 18.56.220.

20 Ms. Merriman concluded her testimony by an analysis of the Applicant's requested
21 Variance from the setback requirements. As noted above, the location of the site next to a
22 residential zone, coupled with a proposed 4-story building, results in a required setback along the
23 site's south boundary of 40 feet. The Applicant's proposed structure is to be located 37 feet from
24 the property line, with the exception of the eastern 30 feet of the structure which is 27 feet from
25 the property line. As a result, the Applicant is seeking a 3-foot variance for much of the building

1 and a 14-foot variance for the eastern 30 feet of the building. Ms. Merriman reviewed the
2 standard for approving variances as found in TMC 2.58.040(1-5) and finds that the project
3 satisfies all requirements for a variance. In particular, Ms. Merriman noted that the project site
4 has significant building limitations along its northerly boundary due to Bonneville Power
5 transmission lines traversing the north portion of the site. At the same time, the site adjoins a
6 private road along its south boundary which, if it was a public road, would eliminate the site's
7 setback requirements, making the requested variance unnecessary. Ms. Merriman added that the
8 requested variance is relatively small (only 3 feet) for much of the building. Collectively, the
9 City Staff finds that the circumstances warrant the requested variance and ask that it be
10 approved.

11 Ms. Merriman concluded her testimony by noting that the project's proximity to the
12 Bonneville Power transmission lines traversing the northern portion of the site raise certain
13 questions about whether BPA approval is required. In response to these concerns, the Applicant
14 has proposed an Indemnity Agreement which would eliminate the need for BPA approval. The
15 City has accepted a similar Indemnity Agreement on a nearby parcel and it is anticipated that the
16 City will again to agree to the proposed Indemnity Agreement. Lastly, Ms. Merriman noted that
17 the project will require appropriate stormwater management consistent with the City's
18 regulations and that the Applicant has submitted a proposed Stormwater Plan meeting City
19 requirements.

20 Ms. Merriman summarized her direct testimony by stating that the project, as
21 conditioned, satisfies all requirements for Conditional Use Permit approval, Site Plan Review
22 and approval of the requested Variance from setback requirements.

23 At the conclusion of Ms. Merriman's direct testimony the Hearing Examiner posed
24 several questions:

1 ● The Hearing Examiner sought more information about the sidewalk and roadway
2 located immediately south of the project site and the reasons for their location there. Ms.
3 Merriman explained that the sidewalk immediately south of the project, and the road
4 immediately south of the sidewalk, were both required as part of the school project and run from
5 Littlerock Road westerly to property belonging to the City and envisioned as a future park. The
6 road is privately owned (by the School District) and built to private road standards but is
7 imposed as a permanent easement. If the road had been dedicated as a public road it would have
8 formally separated the project site from the residential zone to the south, eliminating any setback
9 requirements along the project's south boundary and the need for a variance from these setback
10 requirements. Instead, the road is a private road but yet must remain as a permanent easement,
11 making it a "semi-public" road. This status does not eliminate the setback requirements, or the
12 need for a variance, but does help justify the granting of the Variance.

13 ● The Hearing Examiner next inquired as to the project's traffic impacts, noting that
14 a copy of the Traffic Impact Assessment was not included with the Staff Report. Ms. Merriman
15 responded by providing the Hearing Examiner with a copy (Exhibit 14) and explaining that the
16 TIA concludes that the project will have very limited traffic impacts. Those impacts will be
17 addressed through a traffic impact fee along with a small additional fee due to the project having
18 at least one vehicle passing through the Tumwater Blvd. overpass and thereby triggering a
19 contribution to its improvements.

20 ● The Hearing Examiner inquired as to whether the City considered cumulative
21 impacts of like projects when viewing Conditional Use Permits, noting that this project had
22 many similarities to the recently approved self-storage facility proposed for development at the
23 northwest corner of the I-5/Tumwater Blvd. interchange. Ms. Merriman responded that the City
24 does not undertake a cumulative impact analysis. Nonetheless, by applying the City's vigorous
25

1 design standards Staff believes that the two projects can both be well designed and co-exist
2 despite their relatively close proximity to one another.

3 ● The Hearing Examiner next inquired into the project's aesthetics and expressed
4 concern about the project's close proximity to the City's Middle School. Ms. Merriman
5 acknowledged these concerns but responded that the project has been well designed to minimize
6 any aesthetic impacts, especially to the adjoining school, through the use of well placed
7 landscaping, color selections, and modulating building lines, all of which are intended to make
8 the building appear less large.

9 At the conclusion of Ms. Merriman's testimony the Applicant's representative, Brandon
10 Johnson, spoke briefly in support of the application. Mr. Johnson began his testimony by first
11 noting that the Applicant has no objection to any of the conditions recommended by City Staff.
12 He then more fully responded to the Hearing Examiner's questions regarding traffic impacts and
13 noted that the Traffic Impact Assessment concludes that the project will have a net PM Peak
14 Hour impact of 15 vehicles and thus will have little or no impact along this section of Littlerock
15 Road. He added that the project has been imposed a traffic impact assessment of \$172,836 plus
16 an additional Tumwater Blvd. assessment of \$4,219, or more than \$176,000 in total traffic fees.

17 Mr. Johnson then turned to questions posed by the Hearing Examiner regarding the
18 project's proposed stormwater system. Mr. Johnson explained that the system is designed to
19 collect, treat and then infiltrate all of the project's stormwater, all within a stormwater system
20 located onsite and below ground. This facility has been designed to satisfy all City requirements
21 for stormwater management and treatment.

22 Following Mr. Johnson's testimony the hearing was opened for public testimony. Two
23 members of the public were in attendance but neither asked to testify. There has been no public
24 opposition to this application.

1 The City Staff has carefully reviewed this application and finds that, as conditioned, it
2 meets all requirements for Conditional Use approval as well as for the requested Variance, and
3 that the Site Plan should be approved. The Applicant does not object to any of the requested
4 conditions of project approval and there has been no public opposition. I concur with City Staff
5 that the project, as conditioned, satisfies all City requirements for Conditional Use approval,
6 Variance approval, and Site Plan approval.

7 I therefore make the following:

8 **FINDINGS OF FACT**

9 **General Findings.**

10 1. The Applicant, Trevor Colby, requests a Conditional Use Permit to construct a 4-
11 story 898-unit self-storage facility with leasing office.

12 2. The Applicant also requests a Variance from setback requirements along the
13 project site's south boundary,

14 3. As the Conditional Use Permit and requested Variance require Hearing Examiner
15 approval, the project also requires Site Plan Review by the Hearing Examiner.

16 4. Any Findings of Fact contained in the foregoing Background and Public Hearing
17 Sections are incorporated herein by reference and adopted by the Hearing Examiner as his
18 Findings of Fact.

19 5. The project proposes to construct a single 4-story building containing 898 self-
20 storage unit along with a leasing office. Additional site improvements include a drive lane
21 surrounding the building; frontage improvements along Littlerock Road; landscaping, including
22 perimeter landscaping, parking lot landscaping and other internal landscaping; fencing and
23 stormwater facilities.

24 6. The project site is located across two existing parcels, 6115 and 6119 Littlerock
25 Road SW. Collectively, these properties contain 1.77 acres and each currently has a single-

1 family residence and associated outbuildings. All existing site improvements are intended to be
2 demolished.

3 7. The site is located on the west side of Littlerock Road SW, just south of the
4 Kingswood Drive SW intersection. The project proposes the construction of a 4-story self-
5 storage facility containing 113,367 square feet. The new building would be accessed by
6 driveways via Littlerock Road SW. The northern-most driveway will support right in/right out
7 movement allowing access into the property. The southern, gated access, is intended as exit only
8 and will only support right-only turns.

9 8. The access off of Littlerock Road will allow entry into the site along its north
10 boundary. Vehicle traffic will travel westerly, past parking areas to a commercial loading zone
11 along the north portion of the building. Traffic will then continue around the perimeter of the site
12 eventually reaching its south boundary and then continuing east to the gated exit.

13 9. The project contains a leasing office located at the southeast corner of the
14 building near Littlerock Road. The remainder of the building is devoted entirely to self-storage
15 facilities located across 4-stories.

16 10. The project proposes perimeter landscape buffers of 8 feet in width along the
17 north and west boundaries and 10 feet along the southern boundary, closest to the Middle
18 School. More extensive landscaping is located along the east boundary around the leasing office,
19 entrance areas, parking areas, and picnic areas, all as depicted on the preliminary Landscape Plan
20 (Exhibit 10).

21 11. Eight-foot security fencing is proposed around the entirety of the project's
22 perimeter and entrance/exit points will also be gated for security reasons.

23 12. The project has been conditioned upon standard street frontage improvements
24 including curbs, gutters, sidewalks, lighting and landscaping along Littlerock Road SW.

1 13. The project site is partially encumbered by a Bonneville Power (BPA)
2 transmission line easement. Elevated transmission lines traverse the northeast corner of the site
3 while the BPA easement extends diagonally across the northerly portion of the project site. The
4 BPA easement encroaches approximately 20 feet at the northwest corner of the site and perhaps
5 40 feet at the northeast corner.

6 14. The site is generally flat and does not contain any wetlands or other crucial areas.

7 15 The project site contains two significant trees near the southwest corner. There
8 are no other significant trees on the site. The two existing trees are proposed to be removed. The
9 project will require the planting of at least 22 trees but the Applicant has proposed planting 64
10 trees, or well more than is required by the City's Significant Tree Ordinance.

11 16. As noted earlier, the project site is located west of Littlerock Road and southwest
12 of the Kingswood Drive/Littlerock Road intersection. The project site has a zoning designation
13 of General Commercial or GC. Property to the south has a zoning designation of Single-Family
14 Low (SFL). Property to the east has the same General Commercial zoning designation as the
15 project site. The property to the north has a zoning designation of OS.

16 17. The project site is surrounded by an eclectic mix of uses. Immediately south is
17 the Tumwater Middle School. East of the project, across Littlerock Road, are a variety of
18 properties transitioning from historic residential uses to general commercial uses as well as
19 higher density residential. Immediately north of the project are BPA transmission lines and,
20 further north, a cemetery, followed by additional commercial properties. Properties further south
21 and west are largely single-family residential. The area, in general, is transitioning to a more
22 intensive commercial/high density residential area as envisioned by the City's Comprehensive
23 Plan.

24 Findings Relating to Notice and to Agency/Public Comment.

1 18. The Notice of Application was mailed to property owners within 300 feet of the
2 subject property and affected agencies, posted onsite and published in The Olympian on
3 February 9, 2024 (Exhibit 6). This notice generated agency comments from DAHP and the
4 Nisqually Indian Tribe. Both responded to the Applicant's Cultural Resource Assessment
5 (Exhibit 9) and expressed support for the report's findings.

6 19. The City, as lead agency, issued Mitigated Determination of Nonsignificance
7 (MDNS) on February 29, 2024 (Exhibit 7). No appeals of the SEPA Determination were filed.
8 Ecology responded to the MDNS but only with standard responses.

9 20. As part of its SEPA review, Staff found that there was no evidence of Mazama
10 Pocket Gophers onsite; that a Cultural Survey Report found no evidence of cultural resources
11 onsite; that all traffic impacts had been recognized and mitigated; and that there are no
12 endangered species or habitat on or near the site.

13 21. Public notice of the hearing before the Hearing Examiner was mailed to property
14 owners within 300 feet of the subject property and affected agencies, posted onsite, and
15 published in The Olympian on April 12, 2024. No public comments were received in response
16 to the notice and no members of the public sought to testify during the hearing.

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

19 22. The project site is located within the Littlerock Neighborhood within the land use
20 element of the City's Comprehensive Plan. The project site's land use designation is General
21 Commercial (GC).

22 23. The Staff Report, commencing at page 2, undertakes an analysis of the project's
23 consistency with the Tumwater Comprehensive Plan and various other regional documents.
24 Staff finds that the project, as conditioned, is consistent with the Comprehensive Plan and its
25 goals to:

- 1 ● Support and implement the goals of the Tumwater economic development
2 element.
- 3 ● Establish a new commercial center for Tumwater.
- 4 ● Preserve areas for commercial facilities in close proximity to Interstate 5.
- 5 ● Minimize the undesirable impacts of such uses on the residential neighborhoods
6 which they serve.

7 24 City Staff further finds that the project, as conditioned, is consistent with Section
8 5.8, General Commercial in the Littlerock Neighborhood section of the Neighborhood Appendix
9 of the land use element and its goal to develop commercial properties in this neighborhood in a
10 manner which takes advantage of its proximity to the freeway and recognizing the existing,
11 intense commercial development in the neighborhood while creating as little impact as possible
12 to existing residential uses nearby.

13 25. Staff therefore finds that the project, as conditioned, is consistent with the
14 Comprehensive Land Use Plan. The Hearing Examiner concurs.

15 26. Staff finds that the project, as conditioned, is consistent with the Tumwater
16 Economic Development Plan for the reasons set forth in page 3 of the Staff Report. The Hearing
17 Examiner concurs.

18 27. Staff finds that the project, as conditioned, is consistent with the Tumwater
19 Transportation Plan. The Applicant has provided a Traffic Impact Assessment (TIA) (Exhibit
20 14) along with a Transportation Concurrency Application and Trip Distribution Diagram, all of
21 which was incorporated into the City's Transportation Concurrency and SEPA MDNS. The TIA
22 concludes that the project will result in a net increase of 15 PM Peak Hour trips including one
23 trip to be sent through the Tumwater Blvd./I-5 Interchange. These traffic impacts have been
24 taken into consideration and appropriate traffic impact fees have been imposed as discussed
25 earlier in the Public Hearing. Staff finds that the project, as conditioned, has been imposed

1 appropriate mitigation for traffic impacts; that the project will not adversely affect levels of
2 service standards; and that the project is consistent with the Tumwater Transportation Plan. The
3 Hearing Examiner concurs.

4 28. Staff finds that the project does not conflict with the Thurston Regional Trail Plan
5 as it does not interfere with any proposed trails in the area.

6 Findings Relating to the Project's Compliance with Transportation Concurrency
7 Requirements of Chapter 15.48 TMC.

8 29. The project must comply with the City's Transportation Concurrency test set forth
9 in Chapter 15.48 TMC.

10 30. As earlier noted, the Applicant submitted a Transportation Impact Assessment for
11 the project (Exhibit 14). The TIA concludes that the project will have the following traffic
12 impacts:

- 13 ● The project will result in a net increase of 15 PM Peak Hour trips.
- 14 ● The project will not impact levels of service at any nearby interchanges.
- 15 ● The project is concurrent with transportation requirements so long as: (1)
16 transportation impact fees are paid, and (2) a mitigation fee is paid for one trip through the
17 Tumwater Blvd./I-5 Interchange. These requirements have been imposed as conditions of
18 project approval and transportation concurrency is therefore met.

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

20 31. Chapter 16.08 regulates the removal and preservation of existing trees on the site.
21 Pursuant to TMC 16.08.070.R, when land clearing is performed in conjunction with development
22 not less than 20% of the trees, or not less than 12 trees per acre (whichever is greater) shall be
23 retained. Where a parcel of land does not meet the retention standards in an undeveloped state,
24 the Applicant shall be required to reforest the site to meet these standards as a condition of
25 project approval.

1 32. The site is currently developed as residential and does not meet the minimum
2 requirements for tree retention in its current state. It is therefore necessary that replacement trees
3 be planted. Staff finds that the site will require 22 replacement trees based upon it consisting of
4 1.77 acres.

5 33. The Applicant proposes to plant 64 trees (Exhibit 10) or well above the number
6 required by the City's Tree Protection and Replacement Ordinance.

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

8 34. The Applicant has provided a Critical Areas Report demonstrating that there is no
9 evidence of Mazama Pocket Gophers on or near the site (Exhibit 7).

10 35. There are no other wildlife-related issues associated with the site.

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

12 36. As noted in previous Findings, the project is located in the General Commercial
13 zone.

14 37. Mini-storage facilities are a permitted use in the GC zone subject to a Conditional
15 Use Permit. TMC 18.22.040.

16 38. Development within the GC zone must satisfy requirements for maximum
17 impervious surface; maximum building height and minimum required setbacks. The Staff
18 Report, at page 7, examines each of these requirements and finds that the project, as conditioned,
19 satisfies the general requirements of the GC zone with the exception of the required setback from
20 the south boundary line. The Applicant is seeking a variance from this requirement.

21 39. The project is also located within the Aquifer Protection Overlay (AOP) zone.
22 Chapter 18.39 TMC. Staff finds that the purpose of the AOP Overlay zone is to protect
23 vulnerable land or critical aquifer recharge areas. Staff finds that the project, as conditioned,
24 complies with the requirements of the AOP Overlay zone and that the proposed uses are not
25 prohibited land uses in this overlay zone district.

1 40. The project is subject to the environmental standards set forth in TMC 18.40 for
2 exterior illumination. Staff finds that the project, as conditioned, will satisfy all restrictions on
3 exterior illumination and will comply with Chapter 18.40 TMC.

4 41. The project is subject to the Citywide design guidelines set forth in Chapter 18.43
5 TMC. The Applicant has provided a narrative stating how these design standards are being met
6 (Exhibit 2). Staff concurs with the Applicant that Citywide design guidelines will be satisfied.
7 Final design review is a component of building permit submittal.

8 42. Chapter 18.44 TMC regulates proposed signage for the project. All proposed
9 signs must comply with Chapter 18.44 TMC and will require separate permits.

10 43. Chapter 18.46 TMC regulates fence height for this type of project. The Applicant
11 is proposing an eight foot fence surrounding the perimeter of the site to provide necessary
12 security for stored items. The proposed fence must satisfy all requirements of Chapter TMC
13 18.46.

14 44. The project must satisfy all requirements of Chapter 18.47 for landscaping. The
15 Applicant has provide a proposed Landscape Plan (Exhibit 10). This plan must satisfy the
16 requirements of Chapter 18.47 TMC including a ten-foot perimeter landscape between
17 commercial and residential zones and an eight-foot perimeter between nonconflicting zones as
18 well as for parking lots. The plan must also include any required tree mitigation. Staff finds that
19 the conceptual landscape plan presented by the Applicant satisfies all of these requirements. A
20 detailed Landscape Plan will be required as part of site development permit submittal.

21 45. The project must comply with Chapter 18.50 TMC for parking. Mini-storage
22 facilities require one space for every 100 storage units along with two spaces for permanent
23 onsite managers and with a minimum of three spaces for all facilities regardless of size. Parking
24 areas and vehicle maneuvering areas must be hard surfaced with appropriate striping. Staff finds
25

1 that the project's conceptual site plans meet all of these requirements and that the project
2 proposes more parking than is required.

3 Findings Relating to Requirements for Conditional Use Permit.

4 46. As noted earlier, mini-storage facilities are allowed in the GC zone as a
5 conditional use, subject to a Conditional Use Permit.

6 47. A Conditional Use Permit is permitted upon findings that the proposed use is
7 consistent with the intent of the Comprehensive Plan and the zoning requirements. TMC
8 18.56.035.

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

11 49. Pursuant to TMC 18.56.035.A.1, the proposed use should be in keeping with the
12 goals and policies of the Tumwater Comprehensive Plan, including Subarea Plans, and
13 applicable ordinances. Staff finds that the proposed mini-storage use is consistent with the Goals
14 and Policies of the Tumwater Comprehensive Plan, including the Littlerock Subarea Plan, and
15 with applicable ordinances as discussed in earlier Findings. The Hearing Examiner concurs.

16 50. Pursuant to TMC 18.56.030.A.2, the proposed use shall not be materially
17 detrimental to the public health or welfare, the environment, or injurious to the property or
18 improvements near the proposed use or in the zone in which the subject property is situated. In
19 reaching this determination, the Hearing Examiner shall consider the proposed use's generation
20 of noise, noxious or offensive odors or omissions, light, glare, traffic, surface water or
21 groundwater pollution, electronic interference, impacts to environmentally sensitive areas or
22 protected species, impacts to historical cultural resources, or other impacts or nuisances that may
23 be injurious to the public health or welfare or to property or improvements in the vicinity of the
24 proposed use or in the district in which the subject property is situated. Consideration must also
25 be given to the availability of public services which may be necessary or desirable for the

1 support of the proposed use, including utilities, transportation systems, education, police and fire
2 facilities, and social and health services. Consideration must also be given to the adequacy of
3 landscaping and screening consistent with Chapter 18.47 TMC and for required setbacks, open
4 spaces or other development characteristics necessary to mitigate the impact of the proposed use
5 upon neighboring properties.

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

1 52. 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 and the
4 Aquifer Protection Overlay Zone District. The Hearing Examiner concurs.

5 53. Pursuant to TMC 18.56.035.A.4, consideration must also be given to any
6 additional minimum conditions identified for a particular type of proposed use as set forth in
7 TMC 18.56.100 through TMC 18.56.350. There are specific conditions to be met for conditional
8 use approval of mini-storage facilities including:

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

14 54. Staff has reviewed these specific requirements for mini-storage facilities and finds
15 that they are satisfied:

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

20 55. The Hearing Examiner adopts Staff's Findings as his own.

21 Findings Relating to the Applicant's Requested Variance from Setback Requirements

22 56. As noted in earlier Findings, the minimum required setbacks for the General
23 Commercial Zone are as follows:

- 24 a. Zero feet along all public street frontages except where any structures or
25 portions of structures are adjacent to any residential zoning district, the minimum structural

1 setback shall be 20 feet. Where structures are constructed over one story, the setback of the
2 structure from the adjacent property line or lines shall be increased by 10 feet for every story
3 above ground level of the proposed new building, and shall be screened from view in accordance
4 with Chapter 18.47 TMC.

5 b. Zero feet along the other boundaries.

6 57. The property immediately south of the project site is zoned Single-Family Low
7 Density Residential (SFL). As such, its proximity to the project triggers the heightened setback
8 requirements set forth above and requires the project to have a setback of 40 feet from the south
9 boundary line.

10 58. The Applicant seeks a variance from the setback requirement and asks that the
11 required setback be reduced to 37 feet, with the exception of the eastern most 30 feet of the
12 proposed building where the setback would be reduced to 26 feet. Stated differently, the
13 Applicant requests a variance to reduce the required setback buffer to 37 feet along the southerly
14 border but to 26 feet for the eastern 30 feet of the building.

15 59. Staff notes that zones separated by public streets are not considered abutting.
16 Thus, if the street located immediately south of the project site was a public street the SFL zone
17 to its south would not be an abutting residential zone to the project site and the project would not
18 have any setback requirements and therefore not require a setback variance. Instead, the road
19 immediately south of the project site is a private road owned by the Tumwater School District
20 but has been imposed as a permanent easement as part of the conditions of development of the
21 Middle School site. As such, the road immediately south of the project site is nearly the
22 equivalent of a public road. This status does not eliminate the requirement of a variance but it
23 does give added support to the requested variance.

1 60. All applications for variance fall within Chapter 18.58 TMC. Pursuant to TMC
2 18.58.040, a variance may be granted only if the five requirements of TMC 18.58.040.1-5 have
3 been proven to be met.

4 61. Pursuant to TMC 18.58.040.1, special conditions must exist which are peculiar to
5 the land, such as size, shape, topography or location, not applicable to other lands in the same
6 district, and that literal interpretation of the provisions of the Development Regulations would
7 deprive the property owners of rights commonly enjoyed by other properties similarly situated in
8 the same district.

9 62. Staff finds that the project satisfies the requirements of TMC 18.58.040. A
10 powerline easement granted to Bonneville Power is located along the northern side of the parcel
11 and limits the amount of construction allowed along the site's northern boundary, thus requiring
12 more intensive development further south. Staff also finds that there is no actual residential
13 development occurring near the south boundary as all adjoining property is part of the Tumwater
14 Middle School grounds and that the school itself is some distance from the project site's south
15 boundary. Stated differently, the Applicant is restricted in its development of its northerly
16 portion of the site and moving the project further south has no appreciable impact upon the
17 adjoining school property as the school facilities are located a substantial distance to the south.
18 The school-owned property is likely to remain in school use in perpetuity and no residential
19 development is likely. City Staff therefore finds that these circumstances are not applicable to
20 other lands in the same district and that a literal interpretation of the setback requirement would
21 deprive the Applicant of rights commonly enjoyed by others. The Hearing Examiner concurs.

22 63. Pursuant to TMC 18.58.040.2, the special conditions and circumstances must not
23 be the result of actions of the Applicant. Staff finds that the conditions identified above are not
24 the result of any actions by the Applicant. The Hearing Examiner concurs.

1 64. Pursuant to TMC 18.58.040.3, granting the requested variance must not confer a
2 special privilege to the property that is denied other lands in the same district. Staff finds that
3 granting the requested variance will not confer a special privilege on this Applicant that has been
4 denied others and merely reflects the unusual site conditions and the need to accommodate for
5 those conditions. The Hearing Examiner concurs.

6 65. Pursuant to TMC 18.58.040.4, granting of the variance must not be materially
7 detrimental to the public welfare or injurious to the property or improvements of the vicinity and
8 zone in which the subject property is situated. Staff finds that the requested variance will not be
9 materially detrimental to the public welfare or injurious to the surrounding properties for the
10 reasons noted earlier, including, in particular, the fact that the property to the south is being used
11 as a school; that there are no residential properties nearby; and that the school facilities are
12 separated from the project site by a street and parking areas such that reducing the setback
13 between the proposed building and the project's southern boundary.

14 66. Pursuant to TMC 18.58.040.5, it must be demonstrated that the requested variance
15 is the minimum variance necessary to make reasonable use of the Applicant's land. Staff finds
16 that the Applicant has adequately demonstrated that the requested variance is the minimum
17 necessary to make effective use the building site, taking into consideration all other site
18 requirements including required landscaping, drive lane widths, etc. The Hearing Examiner
19 concurs.

20 67. Staff therefore finds that the Applicant's requested variance from the setback
21 requirements have satisfied all requirements of TMC 18.598.040.1-5. The Hearing Examiner
22 concurs.

23 Other Findings.

24 68. As discussed in the Public Hearing Section and as noted on page 13 of the Staff
25 Report, a portion of the project site is encumbered by a Bonneville Power Administration (BPA)

1 transmission easement. City Staff notes that BPA has several easements running through the
2 City and that, as a result, BPA must first approve development plans. The Applicant has assured
3 the City that the BPA easement affecting this property does not have the same requirements.
4 Nonetheless, the Applicant is providing an Indemnity Agreement in lieu of requiring approval
5 from BPA. The City is willing to accept such an Indemnity Agreement in lieu of BPA approval.

6 69. The project site currently contain two tax parcels. Chapter 17.06 TMC requires
7 that where multiple lots or parcels are being used for one building site they must first be
8 consolidated into one lot. City Staff therefore has imposed a condition of project approval that
9 the two current lots be consolidated into one lot.

10 70. The project must comply with the 2022 Drainage Design and Erosion Control
11 Manual. The Applicant has submitted a preliminary Storm Drainage Report (Exhibit 12)
12 providing for stormwater infiltration below the project site. Staff finds that this preliminary
13 design complies with the 2022 Manual.

14 71. Staff recommends approval of the requested Conditional Use Permit and Variance
15 subject to the conditions set forth in the Staff Report commencing at page 14. The Applicant
16 does not object to the proposed conditions.

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

18 **CONCLUSIONS OF LAW**

- 19 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.
20 2. Any Conclusions of Law contained in the foregoing Background, Public Hearing
21 or Findings Sections are hereby incorporated by reference and adopted by the Hearing Examiner
22 as his Conclusions of Law.
23 3. The requirements of SEPA have been met.
24 4. All notice requirements have been met.
25

1 5. A Conditional Use Permit is required in order to allow the proposed development
2 of mini-storage facilities within the GC zone.

3 6. The project, as proposed, must obtain a Variance from setback requirements of
4 the GC zone. The requested Variance must comply with all requirements of TMC 18.58.040.1-5.

5 7. The project, is consistent with the Tumwater Comprehensive Plan including the
6 Littlerock Neighborhood Subarea Plan; the Tumwater Economic Development Plan; the
7 Tumwater Transportation Plan and the Thurston Region Trail Plan.

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

11 9. The project, as conditioned, satisfies the City's Transportation Concurrency Test
12 as set forth in Chapter 15.48 TMC.

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

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

17 12. The project, as conditioned, complies with all development standards imposed on
18 the General Commercial zone district, Chapter 18.22 TMC.

19 13. The project, as conditioned, complies with the requirements of the Aquifer
20 Protection Overlay Zone District. The proposed use is not a restricted land use in the Aquifer
21 Protection Overlay Zone District.

1 5. A photometric plan showing meeting the exterior lighting requirements of TMC
18.40 shall be submitted with building permit submittal.

2 6. A detailed landscape plan meeting the minimum requirements of TMC 18.47 and
3 showing minimum tree mitigation planting at 1:1 is required as part of the Site Development
Grading submittal.

4 7. Any signage shall be permitted under separate permits.

5 8. A lot consolidation is required prior to the issuance of the building permit.

6 9. An indemnity agreement shall be agreed upon and approved by the City to be
7 recorded by the applicant against the subject property prior to site development grading permit
issuance.

8 10. Barrier free van accessible parking space shall be provided in compliance with
9 IBC Section 1106. Note: the stalls can't block the fire department equipment located on the
building.

10 All barrier free parking stalls shall be identified by a sign at the head of the parking
11 space, 60 inches minimum above grade measured to the bottom of the sign. The sign shall be
12 marked with the international symbol of access and shall bear the words: "State Disabled Parking
Permit Required." Van stalls shall also state "VAN" ANSI A117.1 Chapter 502.6 & IBC Section
1101.2.9

13 11. The building and site are required to be accessible. An accessible route of travel
14 shall be provided to all portions of the building, to accessible building entrances, and connecting
the building and the public way.

15 12. A Site Development/Grading Permit will be required for this site. The permit
16 application shall be accompanied by the application checklist and three sets of plans and
17 specifications and supporting data consisting of a soils engineering report and engineering
18 geology report prepared and signed by a licensed soils engineer. Inspection of the grading shall
be provided by the civil engineer and Geotechnical engineer. In addition, special inspectors
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.

19 13. When the grading work is complete and ready for final inspection the civil
20 engineer of record is responsible for providing a final inspection report which will include the
geotechnical engineers and special inspector's reports. In addition, as-built drawings for the site
will be submitted in a PDF format. IBC Appendix J

21 14. Special inspectors may be required for the following types of work: concrete,
22 bolts installed in concrete, special moment-resisting concrete, reinforcing steel and pre-stressing
23 steel tendons, structural welding, high strength bolting, structural masonry, reinforced gypsum
24 concrete, insulating concrete fill, special wood design, spray-applied fireproofing, piling, drilled
piers and caissons, shot-crete, special (engineered) grading, excavation and filling, soils
25 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 15. Separate building permits are required for retaining walls or rockeries over four
2 feet in height, measured from the bottom of the footing to the top of the wall or walls supporting
3 a surcharge. A licensed structural engineer shall design the rockeries or concrete retaining walls.
4 In addition to the engineers' design a full-time inspection by a WABO Special Inspector is
5 required. Proposed walls shall be shown on the engineering and grading plans.

6 16. Please place the following note on the site development and grading plans:

7 "The City of Tumwater requires that the firm providing the soils report (YOUR FIRM)
8 conduct the site inspections as defined in the report. The City also requires that in addition to the
9 soils engineering firm, a WABO registered special inspector with experience with soil grading be
10 employed, by the owner, to conduct compaction testing for the building pads and the required
11 fire lanes. The special inspector shall not be the geotechnical firm, the civil engineer of record or
12 an employee of the contractor.

13 All grading work shall be conducted in accordance with the soils report prepared by
14 (YOUR FIRM). Compaction testing of the souls under the fire lanes and the building
15 foundations and utility trenches shall be verified by (YOUR FIRM) and the WABO special
16 inspector.

17 17. The owner will need to submit the name of the WABO registered firm who will
18 conduct the special inspections, to the Building Official, prior to issuance of the site
19 development/grading permits. That no vertical or combustible construction will be allowed on
20 the construction site until the fire hydrants and paved roads are installed, tested and approved by
21 the City of Tumwater. Note: testing will also include verification of fire flow by the fire
22 department.

23 18. Construction of a III-B building limits combustible material used in the interior
24 structure per IBC 603.1.

25 19. Demolition permits are required. A separate demolition permit is required for
each structure.

20 20. Onsite hydrant(s) are required.

21 21. Buildings S-1 occupancy over 7,500 square feet in area are required to have a fire
22 alarm system installed.

23 22. Buildings S-1 occupancy over 7,500 square feet or do not meet the requirements
24 of IFC 503.1 are required to have a fire sprinkler system installed.

25 23. The required fire flow for this building is derived from Appendix B of the
International Fire Code. Type II-B buildings of this size are required to have a fire flow of 1,750
gallons per minute at 20 psi.

26 24. Provide location of exits on plans and show landings and access (sidewalks) to the
27 public way.

28 25. Aerial fire apparatus access shall be provided.

1 26. Gates blocking access to the site for fire department equipment shall be provided
2 with a Knox Padlock. (Main entrance gate, fence at front of building restriction access to the rear
of structure for fire fighters).

3 27. Restrooms will be required to meet the min. fixture count per WAC 51-50-2900
4 for the proposed structure due to office space.

5 28. The address for this site will be addressed by the Building Official before site
6 development and grading permit is issued.

7 29. Building plans and specifications shall be prepared and stamped by an architect
8 and engineer licensed to practice in the State of Washington. Steel structure will require separate
9 engineered foundation to be added to plans.

10 30. A building permit application (including shell permits) shall include architectural,
11 structural, plumbing, mechanical and energy plans and specifications. **No exceptions.** Fire
12 sprinkler and fire alarm permits and plans may be submitted separately from the main permit
13 application.

14 31. Fire sprinkler, fire alarm, sign and retaining walls require separate permits.

15 32. All new building projects are required to provide for the storage of recycled
16 materials and solid waste. The storage area shall be designed to meet the needs of the
17 occupancy, efficiency of pick-up, and shall be available to occupants and haulers. The location
18 of this facility shall be shown on the site plan.

19 33. The applicant shall be responsible for providing the City with all costs associated
20 with the installation of water, sewer, street and storm drainage systems that are dedicated to the
21 City of Tumwater.

22 34. All designs/construction shall comply with the City of Tumwater's Development
23 Guide and WSDOT standards.

24 35. The site plan shall show all existing and proposed utilities and easements
25 including streetlights, street trees, water, sewer, storm, gas, cable, power, telephone, signage and
striping. Provide street sections showing dimensions of existing and proposed improvements.
Include the line sizes on the water and sewer mains and services. All rockeries proposed shall
also be shown on the site plan.

 36. All street construction, main installation and storm drainage work requires
engineered plans certified by a professional engineer.

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

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

 39. The applicant shall be responsible for the maintenance and timely repair of all
public improvements for a period of 30 months following final certification by the City and shall
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.

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

2 41. All legal descriptions must be accompanied with an appropriate drawing that the
City Surveyor can use to verify the legal description.

3 42. The owner or owner's representative is also responsible for furnishing the city
4 with electronic files, compatible with release 2018 or newer Auto-CAD format. Provide
individual drawings independent of x-refs. Include all non-standard font files and plot files.
5 Also, please furnish PDF files printed from the Auto-CAD files 300 DPI or greater.

6 43. A storm water maintenance agreement, utility maintenance agreement, easements
and bills-of-sale are required.

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

9 45. All improvements are to be completed before a certificate of occupancy can be
issued.

10 46. The city vertical and horizontal control datum is NGVD 29 and NAD 83(HARN)
/ Washington South U.S. Survey Feet respectively.

11 47. Testing shall be required at the developers or contractor's expense. The testing
12 shall be ordered by the developer or contractor and chosen testing lab shall be approved by the
City Construction inspector. Testing shall be done on all materials and construction as specified
13 in the WSDOT/APWA Standard Specifications and with frequency as specified in the current
City of Tumwater Development Guide.

14 48. All access to the property will be consistent with City standards and policies.

15 49. Street patching shall be per City of Tumwater standard detail.

16 50. This project is in an area of high groundwater review. The project shall confirm
the max historic high groundwater elevation for the site. 6' of separation shall be required from
17 the bottom of the stormwater facility to high groundwater or other low permeability layer. This
separation may be reduced down to 3' with a successful mounding analysis reviewed and
18 approved by the City designated third party reviewer.

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

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

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

23 54. Test pits conducted for stormwater design will comply with the 2022 Drainage
Design and Erosion Control Manual for location and frequency. Test pits will be conducted
24 between December and April to accommodate for seasonal high groundwater.

1 55. The professional engineer will need to provide calculations of the maximum
2 monthly sanitary sewer discharge from the site. The City reserves the right to check the actual
3 use in the future and charge additional connection fees if the actual use is greater than the
4 estimated amount.

5 56. Any sewer main extension will require a minimum of an 8" system. The main size
6 will depend on the requirements for this project. The system shall be designed per the City of
7 Tumwater Development Guide and current Sewer Comprehensive Plan.

8 57. The project must meet minimum fire flow requirements.

9 58. Back flow prevention is required on all fire services and irrigation services and in
10 accordance with the AWWA Cross Connection Control Manual. A reduced pressure backflow
11 assembly is required on all commercial domestic services per WAC 246-290-490.

12 59. Any water main extension will require a minimum of an 8" system. The main size
13 will depend on the fire flow requirements for this project. The system shall be designed per the
14 City of Tumwater Development Guide and current Water Comprehensive Plan.

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

18 DATED this 29 day of APRIL, 2024.

19 
20 _____
21 Mark C. Scheibmeir
22 City of Tumwater Hearing Examiner

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24
25
**HEARING EXAMINER
POST-DECISION PROCEDURES**

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

2.58.135 Reconsideration.

Upon the written request of a party of record filed with the city clerk within five working days of the hearing examiner's written decision, such decision may be reconsidered at the discretion of the hearing 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 ten working days to render a written final decision.

2.58.140 Notice of examiner's decision.

Not later than five working days following the rendering of a written decision, copies thereof shall be mailed to the applicant, other parties of record in the case, and all other persons who specifically request notice of decision by signing a register provided for such purpose at the public hearing. The original of the decision shall be transmitted to the city clerk.

*Findings of Fact, Conclusions of Law
and Decision - 29*

**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 **2.58.150 Appeal from examiner’s decision.**

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

5 **2.58.180 Judicial appeals.**

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