

BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

IN RE:) HEARING NO. TUM-23-0909
)
) FINDINGS OF FACT,
NEW MARKET LANDING) CONCLUSIONS OF LAW AND
PRELIMINARY BINDING SITE PLAN.) DECISION

APPLICANT: New Market, LLC
P.O. Box 159
Arlington, Washington 98223

OWNER'S REPRESENTATIVES: Glenn Wells, Architect, P.S.

Tyrell Bradley
LDC Corporation
324 Westbay Drive, Suite 214
Olympia, Washington 98502

SUMMARY OF REQUEST:

Phased Preliminary Binding Site Plan approval to construct 416 apartment units and 19,000 square feet of commercial space within three buildings. Other improvements include the construction of New Market Street SW between 71st and 73rd Avenues, thus completing New Market Street between Israel Road and Tumwater Blvd.; extending 71st Avenue SW east from New Market Street to Terminal Street; extending 73rd Avenue SW from New Market Street to Terminal Street; and constructing Terminal Street between 71st and 73rd Avenues. Other improvements include approximately 440 parking stalls, including both surface stalls and garage stalls, and several hundred short and long term bicycle stalls. Approximately 70,000 square feet of active and passive open space is proposed in the form of a clubhouse, numerous ground level courtyards, an above ground courtyard and a children's play area. Frontage improvements will be made to New Market Street, Terminal Street, and 71st and 73rd Avenues as these streets are constructed. Anticipated use of the commercial areas includes a daycare, gym and office space.

The application requires Phased Preliminary Binding Site Plan approval as the Applicant seeks to undertake development in three phases: Phase 1 would be primarily along New Market Street and the construction of Building 1 with 139 apartment units and 19,000 square feet of commercial space in a four-story structure. Phase 1 also includes the construction of New Market Street and the partial constructions of the extensions of 71st and 73rd Avenues. Phase 2 is located in the northeast section of the site and includes construction of a five-story structure

1 with 130 apartment units. Phase 2 would include the extended construction of 71st Avenue east
2 to its intersection with Terminal Street, and the construction of Terminal Street from that
3 intersection to a point where Phase 3 would begin. Phase 3 is located in the southeast section of
4 the lot and includes construction of a five-story apartment building with 147 apartment units.
5 Phase 3 would include completion of the construction of Terminal Street as well as 73rd Avenue
6 SW to their intersection.

7 **LOCATION OF PROPOSAL:**

8 The project is located between undeveloped New Market Street SW, to the west, and
9 undeveloped Terminal Street, to the east, and between undeveloped 73rd Avenue to the south
10 and undeveloped 71st Avenue to the north, Tax Parcel 82701500000.

11 **SUMMARY OF DECISION:**

12 The requested Phased Preliminary Binding Site Plan is **approved** subject to the conditions
13 recommended by City Staff.

14 **BACKGROUND**

15 The project site is an undeveloped block immediately south of City Hall and is
16 surrounded by an eclectic mix of municipal, educational, commercial and residential uses
17 including the public library, the New Market School, Tumwater High School, various
18 governmental agency offices and residential neighborhoods. The development would complete
19 the construction of New Market Street from Israel Road to Tumwater Boulevard while also
20 extending both 71st and 73rd Avenues to Terminal Street. It would also construct Terminal
21 Street as a north/south connector between 71st and 73rd, parallelling New Market Street. The
22 proposal seeks to construct three four-to-five-story buildings in three phases, creating more than
23 400 new apartment units and 19,000 square feet of commercial space along New Market Street.
24 The project site contains 8.11 acres, all within the Town Center zone district (TC) which
25 envisions mixed residential and commercial development such as this proposal.

City Staff recommends approval subject to a lengthy list of conditions set forth in the
Staff Report. There has been some public opposition largely centered on the proposed removal

1 of a 200-year old maple tree. The Port of Olympia has also expressed concerns relating to the
2 project's proximity to the Olympia Regional Airport.

3 **PUBLIC HEARING**

4 The public hearing commenced at 4:00 p.m. on Wednesday, August 28, 2024. The
5 hearing occurred in a hybrid format allowing for both in person participation as well as remote
6 participation utilizing the Zoom platform with the City serving as host. The City appeared
7 through Alex Baruch, Planner, and Tami Merriman, Permit Manager. The Applicant appeared
8 through its owner's representative, Tyrell Bradley, Project Manager. Several additional Staff ore
9 Applicant representatives were also in attendance. Testimony was received from Mr. Baruch
10 and Mr. Bradley. One member of the public was present, Betsy Norton, who posed several
11 questions to City Staff. A verbatim recording was made of the public hearing and all testimony
12 was taken under oath. The following exhibits were considered:

- 13 Exhibit 1. Staff Report 08-20-2024
- 14 Exhibit 2. Binding Site Plan and Application Materials
- 15 Exhibit 3. Vicinity Map
- 16 Exhibit 4. Zoning Map
- 17 Exhibit 5. Public Notice Certification 08-16-2024
- 18 Exhibit 6. Notice of Application 07-14-2023
- 19 Exhibit 7. Mitigated Determination of Non-significance with SEPA Checklist 03-29-2024
- 20 Exhibit 8 Public Hearing Notice 08-16-2024
- 21 Exhibit 9. Notice of Application Public Comments
- 22 Exhibit 10. SEPA Public Comments
- 23 Exhibit 11. Transportation Concurrency Determination 02-16-2024
- 24 Exhibit 12. Preliminary Drainage Report 01-13-2023
- 25 Exhibit 13 Water Sewer Availability 01-17-2023
- Exhibit 14 Traffic Impact Analysis 06-22-2023
- Exhibit 15 Forester Report 09-30-2022
- Exhibit 16 Gopher Report 10-14-2022
- Exhibit 17 Preliminary Civil Plans 10-27-2023
- Exhibit 18 Town Center Road Design
- Exhibit 19. Chapter 18.23 TC Town Center Zone District and Design Guidelines
- Exhibit 20. Narrative on Building Design and Guidelines 06-21-2023
- Exhibit 21. Elevations from First Building Permit Submittal

1 The hearing began with the testimony of Alex Baruch, Planner for the project and author
2 of the City's Staff Report. Mr. Baruch's testimony relied extensively on his lengthy Staff Report
3 (Exhibit 1). He explained the nature of the project and the proposed three phases of its
4 development. The proposed uses are permitted uses within the site's Town Center (TC) zoning
5 designation but require the Hearing Examiner's approval of the Phased Binding Site Plan due to
6 the requested phasing of construction. Mr. Baruch then briefly described the intended uses of the
7 proposed three buildings: Phase 1 proposes the construction of a four-story structure containing
8 139 apartment units and 19,000 square feet of commercial space. The Phase 1 building will be
9 located along Market Street and would require construction of New Market Street between 71st
10 and 73rd Avenues, thus completing New Market Street between Israel Road and Tumwater
11 Boulevard. Other site improvements in Phase 1 include 157 parking stalls; 18 short term and 139
12 long term bicycle stalls; various open space amenities including a clubhouse, children's play area
13 and courtyards; and the partial extension of both 71st Avenue and 73rd Avenue. Phase 2 would
14 be located in the northeast portion of the site and include a five-story apartment building with
15 130 apartment units facing 71st Avenue. Other improvements during Phase 2 include 187
16 parking stalls, 33 short term and 130 long term bicycle stalls (or 49 centrally located bike
17 parking stalls); additional passive and active open space area including courtyards; and the
18 further extension of 71st Avenue east to its intersection with Terminal Street, coupled with the
19 construction of Terminal Street from that intersection south to where Phase 3 would begin.
20 Phase 3 is located in the southeast corner of the site and includes a five-story building with 147
21 apartment units facing 73rd Avenue. Other improvements during this phase include 199 parking
22 stalls (including 92 garage stalls), additional passive and active open space including a second
23 story courtyard, and the further extension of 73rd Avenue east to its intersection with Terminal
24 Street, together with the northerly extension of Terminal Street to the portion constructed during
25 Phase 2. In total, Phases 1-3 propose three four-to-five-story buildings containing a total of 460

1 apartment units and 19,000 square feet of commercial space, along with more than 400 parking
2 stalls and as many as 300 biking stalls. Approximately 70,000 square feet of open space is
3 proposed in the form of a large clubhouse, children's play area, numerous ground level
4 courtyards and an upper level courtyard. Four new roads (New Market Street, 71st and 73rd
5 Avenues, and Terminal Street) would be constructed/extended along with streetscapes and
6 frontage improvements with each new road. Landscaping would be required per development
7 regulations. The currently envisioned uses of the commercial space include a daycare, gym, and
8 office space.

9 Mr. Baruch then reviewed all notices given for this project and the responses received to
10 those notices.

11 Mr. Baruch acknowledged that a number of public commenters expressed dismay over
12 the proposed removal of an approximately 200-year old maple tree but pointed out that the
13 Applicant's forestry expert had identified this tree as having a fatal disease (Kretzschmaria
14 Deusta); that it was in "very poor" condition, and that it cannot be saved.

15 Mr. Baruch also acknowledged comments made by the Nisqually Indian Tribe requesting
16 a cultural survey of the site. This request has been incorporated into the conditions of project
17 approval (proposed Condition No. 12).

18 Mr. Baruch then acknowledged the comments made by the Port of Olympia expressing
19 concerns about residential development in close proximity to the regional airport. In follow-up
20 questions from the Hearing Examiner regarding this, Mr. Baruch pointed out that the Port of
21 Olympia had been an active participant in the establishment of the Town Center zoning district
22 and understood that it encourages mixed commercial/residential development on this site. Mr.
23 Baruch felt that the current Port representative may not have been knowledgeable as to this
24 history.

1 Mr. Baruch then reviewed the project with respect to transportation concurrency and
2 confirmed that the project, as conditioned, will satisfy all concurrency requirements. He then
3 concluded his direct testimony by noting that the City, as lead agency, issued a SEPA Mitigated
4 Determination of Non-significance (MDNS). The only additional comments received in
5 response to the notice of the MDNS were fairly standard comments from the Department of
6 Ecology. At the conclusion of Mr. Baruch's direct testimony the Hearing Examiner posed
7 several questions:

8 ● The Hearing Examiner inquired about the project's proposed landscaping.
9 Mr. Baruch explained that landscaping will be established on a phase-by-phase basis
10 consistent with the requirements of Chapter 18.47 TMC.

11 ● Mr. Baruch was asked whether the proposed extension of Terminal Street
12 would include an easterly extension of 71st Avenue. Mr. Baruch explained that the
13 proposed Terminal Street will provide a connection to 71st Avenue going west but not
14 going east.

15 ● Mr. Baruch was asked to more fully identify the proposed open spaces for
16 the project. He explained that these include a large internal clubhouse for use by its
17 residents; exterior courtyards in each phase; a children's play area in Phase 1; an upper
18 level courtyard in Phase 3 and water feature in the northwest corner in Phase 1. In total,
19 the proposal includes more than 69,000 square feet of active and passive open space
20 which exceeds the required minimum open space area.

21 ● Mr. Baruch was asked if children residing in these apartments would have
22 safe walking routes to schools. He responded that the project provides full perimeter
23 sidewalks connecting to existing sidewalks on adjoining properties. In addition, the
24 City's is currently widening Israel Road to include sidewalks. Collectively, the sidewalk
25

1 system will provide safe walking routes to nearby schools, while more distant schools
2 will be reached by school bus service.

3 ● Mr. Baruch was asked if the project must satisfy any affordability
4 standards for its apartments and he responded that the City does not require this.

5 ● Mr. Baruch was then asked what the expected uses of the commercial
6 areas were (in order to predict traffic counts) and he responded that the Applicant
7 anticipates the commercial areas being used for a fitness center, daycare center, deli, and
8 office space, all of which are consistent with the allowed uses in the Town Center zoning
9 designation.

10 ● Mr. Baruch was asked if the project proposed any public pedestrian
11 pathways through the project. He explained that the project does not include any such
12 pathways but that it does include a complete set of perimeter sidewalks allowing for full
13 public pedestrian traffic to the remainder of the town center area.

14 Following the conclusion of Mr. Baruch's testimony the Applicant appeared through its
15 representative, Tyrell Bradley, Project Manager. Mr. Bradley explained that he had nothing to
16 add to the City's presentation but did wish to further respond to some questions posed by the
17 Hearing Examiner to the City Staff. In response to questions the Hearing Examiner raised
18 regarding designations for the new roads to be constructed, Mr. Bradley explained that all four
19 new roads would be "local access" roads and subject to the standard conditions imposed for such
20 roads, but also all four will have eleven-foot travel lanes and parking lanes. New Market will
21 have a six-foot bike lane while the other three will have five-foot bike lanes. New Market will
22 have a ten-foot sidewalk while the remaining three have twelve-foot sidewalks. All will be
23 required to have other standard frontage improvements including streetscapes. Mr. Bradley
24 confirmed that there are no internal paths within the project but that there will be perimeter
25

1 sidewalks providing public travel along with the construction of four important street
2 connections for expanded travel within the town center area.

3 Mr. Bradley concluded his testimony by stating that the Applicant has no objection to the
4 proposed conditions recommended by City Staff.

5 Following Mr. Bradley's testimony the hearing was opened for public comments. Only
6 one member of the public was present, Betsy Norton, who posed several questions to City Staff:

7 ● Ms. Norton asked about the number of trees being left onsite. Mr. Baruch
8 explained that this is fully discussed in the Applicant's Forestry Report which identifies
9 23 trees onsite as having the potential to be saved. Actual tree retention will be
10 determined during construction. If the 23 trees are retained, the Applicant must account
11 for a shortfall of 95 trees per Chapter 16.08 TMC. To replace this shortfall, the Applicant
12 will be required to plant not less than 3 trees for each unaccounted-for tree, or 285 new
13 trees to be planted onsite. This number will increase if less than 23 trees are retained.

14 ● Ms. Norton inquired as to the total area of impervious surface. Mr.
15 Baruch explained that the project proposes 75% impervious surface. The maximum
16 allowed in the Town Center zone is 85%.

17 ● Mr. Baruch was asked if the clubhouse qualifies as "open space" even
18 though it is not open to the public. He explained that it does qualify for open space so
19 long as it is benefiting the residents of the apartments.

20 ● Ms. Norton asked for assurances that the stormwater system will properly
21 manage all stormwater from the site. Mr. Baruch deferred to Mr. Bradley for a fuller
22 response. He explained that the stormwater management system is designed to meet all
23 requirements of the most recent Stormwater Manual for the City and includes a two-
24 phased design involving both bioretention soils and mechanical treatment systems, with
25 stormwaters infiltrated to a rock gallery. The system is designed to meet 100% of the

1 100 year storm event, but if there is any failure the system has backup mechanisms to
2 ensure safe management of stormwater.

3 ● Ms. Norton expressed concerns about the possibility of Mazama Pocket
4 Gophers being on the site as there has been some evidence of their presence on nearby
5 sites. Mr. Baruch responded that the Applicant's professional Gopher Report prepared
6 October 14, 2022 (Exhibit 16) demonstrates that there is no evidence of a mountain
7 pocket gopher presence on the site.

8 Although members of the public and others have expressed understandable concerns
9 about certain impacts of this project (tree retention, public pathways, wildlife, stormwater) these
10 concerns have been fully responded to by either City Staff or the Applicant. Staff have also
11 provided a thorough examination of the project and have recommended a significant number of
12 conditions of approval. The Applicant has no objection to the many conditions imposed by the
13 City. I concur with City Staff that the project, as conditioned, satisfies all requirements for
14 Phased Preliminary Binding Site Plan approval and therefore make the following:

15 **FINDINGS OF FACT**

16 **General Findings.**

17 1. The Applicant, Grandviews New Market, LLC, requests approval of a Phased
18 Preliminary Binding Site Plan to construct 416 apartment units within three buildings together
19 with 19,000 square feet of commercial space. The application requires Hearing Examiner
20 approval to allow all proposed development to occur over three phases.

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 as his
23 Findings of Fact.

24 3. The project proposes to construct 416 apartment units and 19,000 square feet of
25 commercial space along with parking stalls, long term and short term bicycle stalls, a clubhouse,

1 passive and active open space areas, stormwater facilities, the extension of New Market Street
2 from 73rd Avenue north to 71st Avenue, the construction of 73rd Avenue from New Market
3 Street east to Terminal Street, the construction of 71st Avenue from New Market Street east to
4 Terminal Street, and the construction of Terminal Street between 73rd and 71st Avenues,
5 together with frontage improvements along all four streets.

6 4. A general description of the project is as follows:

7 ● Phase 1 is located along the west portion of the project site from 73rd
8 Avenue north to 71st Avenue. Phase 1 involves construction of New Market Street
9 between 73rd Avenue and 71st Avenue along with frontage improvements. 73rd Avenue
10 and 71st Avenue would both be extended east from their intersections with New Market
11 Street to the east boundary of Phase 1, along with associated frontage improvements. A
12 four-story structure containing 139 residential apartment units and 19,000 square feet of
13 commercial space would be constructed together with 157 parking stalls and 18 short
14 term and 139 long term bicycle stalls. Other improvements during this phase include a
15 clubhouse, other passive and active open space, landscaping, stormwater systems and
16 sidewalks within the area contained in Phase 1.

17 ● Phase 2 is located in the northeast section of the project site and includes a
18 five-story structure with 130 apartment units along with 187 parking stalls, 33 short term
19 and either 130 in unit long term bicycle stalls or 49 centrally located bicycle stalls. Other
20 site improvements during this phase contain the continued extension of 71st Avenue east
21 to its intersection with Terminal Street, together with the construction of Terminal Street
22 from that intersection south to the southerly boundary of Phase 2. Other site
23 improvements during this phase include passive and active open space, landscaping for
24 Phase 2, frontage improvements and sidewalks for the Phase 2 area.

1 ● Phase 3 would complete the project and is located in the southeast portion
2 of the project site. It includes the construction of a five-story apartment building with
3 147 apartment units together with 199 parking stalls including 87 surface stalls and 92
4 garage stalls. This phase would complete construction of Terminal Street south to the
5 intersection with 73rd Avenue, and the completion of 73rd Avenue from that intersection
6 west to Phase 1.

7 ● A site plan identifying improvements during each phase is included as
8 Exhibit 2.

9 ● Applications for final plat or Binding Site Plan approval for each
10 successive phase must be submitted within three years of the submittal for final plat or
11 Binding Site approval on the previous phase.

12 ● Construction for each phase shall include stormwater management
13 facilities that comply with all State and local requirements in effect at the beginning of
14 the time period for that phase.

15 ● Landscaping will be required for each phased development in accordance
16 with Chapter 18.47 TMC, to be submitted as part of site development grading submittal.

17 5. The project proposes total open space, including both active and passive open
18 space, of 69,195 square feet. Staff notes that the minimum required open space for this project is
19 66,125 square feet per TMC 17.12.210. The application therefore exceeds the required
20 minimum amount of open space. Areas of open space are identified on the site plan, Exhibit 2.
21 Among other areas they include:

22 ○ A 4,300 square foot clubhouse located along the southern portion of the
23 Phase 1 building near 73rd Avenue SW.

24 ○ A fenced outdoor children's play area immediately west of the clubhouse
25 in the southwest corner of Phase 1.

1 ° A pond and surrounding recreational area in the northwest corner of
2 Phase 1.

3 ° Ground level courtyards on the east and west sides of the Phase 1
4 building.

5 ° Large courtyard areas north and west of the Phase 2 building.

6 ° A second floor courtyard in the Phase 3 building.

7 6. The extensions of New Market Street, Terminal Street, 73rd Avenue SW and 71st
8 Avenue SW will be to "neighborhood collector" status together with any additional requirements
9 imposed on these streets in the Town Center zoning district. A more complete description of the
10 proposed improvements to these streets is contained in the Public Hearing Section.

11 7. As noted in later Findings, the Applicant proposes to retain 23 trees onsite. This
12 will leave a shortfall of 95 trees required for the project pursuant to Chapter 16.08 TMC. These
13 trees must be replaced at a ratio of not less than 3 trees for each tree cleared, requiring an
14 additional planting of 285 trees as discussed more fully in the Tree Report, Exhibit 15.

15 8. The site contains 8.11 acres and consists of an entire city block bordered by the
16 New Market Street right-of-way to the west, the Terminal Street right-of-way to the east, 71st
17 Avenue SW right-of-way to the north, and the 73rd Avenue SW right-of-way to the south.

18 9. The entire site is located within the Town Center (TC) zoning designation. A
19 zoning map identifying all surrounding areas in the TC zone is included as Exhibit 4.

20 10. The site is bordered by an eclectic mix of properties: To the north is the
21 Tumwater City Hall and, further north, Israel Road and Tumwater High School; to the northwest
22 is the Tumwater Public Library; to the west is the New Market Skills Academy; to the east are
23 government offices; to the south is undeveloped property and, further south, Tumwater
24 Boulevard. A short distance to the southeast is the Olympia Regional Airport.

1 11. As notes in earlier Findings, the Applicant will be required to construct frontage
2 improvements along those portions of New Market Street, 73rd Avenue SW, Terminal Street,
3 and 71st Avenue SW where they adjoin the project. The Applicant will also be required to
4 provide perimeter landscaping and perimeter sidewalks.

5 12. The property is vacant, generally flat, and partially forested. There are no
6 wetlands or associated buffers or any other critical areas located onsite.

7 13. The project site is is located in the New Market Neighborhood as designated by
8 the land use element in the City's Comprehensive Plan. The purpose of this land use designation
9 is "for a mix of public and privately owned developments that will realize Tumwater's vision of a
10 new City Center. It is envisioned to include State and local government facilities, private
11 commercial developments of office, retail, and service businesses, residential; educational; civic
12 services, support facilities and services, such as childcare, and public assembly facilities and
13 outdoor spaces." The project's proposed mix of commercial and residential uses is consistent
14 with its land use designation.

15 Findings Related to Notice of Application and Public Comments.

16 14. Notice of the Preliminary Binding Site Plan application was mailed to property
17 owners within 300 feet of the subject property, affected agencies, posted onsite, and published in
18 The Olympian, on July 14, 2023 (Exhibits 5 and 6).

19 15. Notice of the application generated several public and agency responses:

- 20 ● The Nisqually Indian Tribe requested a Cultural Survey be undertaken.

21 This request has been incorporated into the conditions of project approval.

- 22 ● The Squaxin Island Tribe responded but expressed no specific concerns.

- 23 ● Thurston County requested a copy of the Transportation Impact Analysis

24 and, following review, had no further comments.

1 ● The Port of Olympia expressed concerns regarding residential
2 development in close proximity to the regional airport.

3 ● A number of citizens expressed concern regarding the removal of the old,
4 large maple tree, as noted in the Public Hearing Section. Citizen comments also
5 expressed concerns about best planning practices and the accuracy of the Mazama Pocket
6 Gopher study.

7 16. Citizen and agency comments to the notice of application are set forth in
8 Exhibit 9.

9 17. The City, as lead agency, issued a SEPA Mitigated Determination of Non-
10 significance (MDNS) on March 29, 2024. The SEPA Determination was mailed to property
11 owners within 300 feet, affected agencies, posted onsite, and published in The Olympian.
12 (Exhibit 7)

13 18. Notice of the SEPA Determination generated several additional tribal and agency
14 comments:

- 15 ● The Nisqually Tribe again requested a Cultural Survey.
- 16 ● The Department of Ecology issued fairly standard comments regarding
17 solid waste management and toxic cleanup.

18 19. All public comments received in response to the SEPA Determination are found
19 in Exhibit 10.

20 20. Public notice of the hearing before the Hearing Examiner was mailed to property
21 owners within 300 feet of the subject property, to affected agencies, and to those who provided
22 earlier comment. It was also posted onsite and published in The Olympian on August 16, 2024.
23 (Exhibits 5 and 8). No additional comments were received.

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

3 21. The Staff Report, commencing at page 2, undertakes an analysis of the project's
4 consistency with the Tumwater Comprehensive Plan and various other regional planning
5 documents. Staff finds that the project, as conditioned, is consistent with the Comprehensive
6 Plan and its goals to:

7 ● Provide for a mix of public and privately owned developments within the
8 New Market Town Center area that will realize the City's vision of a new City Center,
9 including commercial and residential development.

10 ● Encourage multi-family development to support varied housing types,
11 lifestyles and household incomes.

12 ● Provides for apartments and mixed use structures (commercial and
13 residential) consistent with the the goals and policies for the New Market Neighborhood
14 including community open space and other infrastructure improvements identified in the
15 Town Center Plan.

16 ● Inculcates adopted city-wide design guidelines to ensure compatibility
17 with surrounding areas.

18 Staff therefore finds that the project, as conditioned, is consistent with the
19 Comprehensive Plan. The Hearing Examiner concurs.

20 22. Staff also finds that the project, as conditioned, is consistent with the Tumwater
21 Transportation Plan. The Applicant has provided a Transportation Concurrency Application
22 along with a Traffic Impact Analysis (Exhibit 14) which was then reviewed by the
23 Transportation Manager and the Transportation and Engineering Director and then incorporated
24 into the Transportation Concurrency and SEPA MDNS. The Transportation Concurrency Ruling
25 identifies specific mitigation measures to achieve concurrency including frontage improvements

1 and payment of transportation impact fees. These Findings/requirements are incorporated into
2 the MDNS (Exhibit 7). Staff therefore finds that, with the required mitigation proposed in the
3 Transportation Concurrency and SEPA MDNS, the project will not adversely affect Levels of
4 Service standards and the project is consistent with the Tumwater Transportation Plan. The
5 Hearing Examiner concurs.

6 23. Staff further finds that the project, as conditioned, does not conflict with the
7 Sustainable Development Plan for Thurston Regions. The proposal includes multi-family
8 housing and proposes to complete several important road connections, including the completion
9 of New Market Street and the extensions of 73rd and 71st Avenues along with Terminal Street.
10 The project will also provide important connections between new residential areas and
11 surrounding public facilities including the City Hall and library. Staff therefore finds that the
12 project is not in conflict with the Sustainable Development Plan for Thurston Regions. The
13 Hearing Examiner concurs.

14 24. Staff also finds that the project does not conflict with the Thurston Regional Trail
15 Plan as it does not interfere with any proposed trails in the area. The Hearing Examiner concurs.

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

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

20 26. As earlier noted, the Applicant submitted a Transportation Impact Analysis for the
21 project (Exhibit 14). The TIA concludes that the project will have the following traffic impacts
22 at full buildout:

- 23 ● The project is anticipated to generate 200 primary AM peak hour trips
24 together with an additional 26 AM pass by trips, for total of 226 AM peak hour trips.

1 ● The project is anticipated to generate 244 "primary" PM peak hour trips
2 and an additional 25 "pass by" trips, for a total PM hour trips of 269.

3 ● Full buildout of the project is estimate to generate approximately 2,681
4 daily weekday trips with 226 occurring in the AM peak hour and 269 trips in the PM
5 peak hour.

6 ● With the exception of the Interstate 5 northbound and southbound ramps
7 on Tumwater Boulevard, and Tumwater Boulevard SW and Linderson Way SW, all
8 nearby intersection as anticipated to operate at LOS D or better with or without the
9 addition of the project generated traffic.

10 ● Although the Tumwater Boulevard SW and I-5 ramps are found to operate
11 with LOS F conditions, this status exists with or without the proposed development. The
12 City's Transportation Plan provides for improvements to this intersection which, when
13 completed, are expected to result in LOS A conditions. As such, no additional mitigation
14 is recommended beyond the payment of mitigation fees.

15 ● During AM peak hour conditions, the intersection as Tumwater Boulevard
16 SW and Linderson Way SW/Center Street, operates at LOS E with or without the project.
17 It is estimated that this intersection is actually operated at a better status than reported.
18 This intersection has been identified as being in the Tumwater Strategy Corridor and, as
19 such, allows for delays exceeding LOS D. No additional mitigation is required.

20 ● The TIA identifies the Tumwater Boulevard SE and Bonniewood Drive
21 SW intersection to operate at LOS F with or without the project. This intersection may
22 actually be operating at a much better status today. The City agrees to monitor this
23 intersection to determine whether future improvements are needed.

1 ● The TIA also recognizes that the Tumwater Boulevard SE and Henderson
2 Boulevard SE intersection operates at LOS E with or without the proposed development.
3 This intersection is outside the City's control.

4 27. As noted earlier, the Transportation Impact Analysis was reviewed by the City's
5 Transportation Manager and the Transportation and Engineering Director and incorporated in the
6 Transportation Concurrency and SEPA MDNS. The Transportation Concurrency Ruling finds
7 that the project is concurrent in regards to transportation subject to the following conditions:

- 8 a. All transportation impact fees are paid; and
9 b. Payment of mitigation fees for trips through the Tumwater Boulevard/I-5
10 Interchange (Exhibit 11).

11 28. The Hearing Examiner concurs that the project, as conditioned, complies with
12 traffic concurrency requirements.

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

14 29. Chapter 16.08 TMC regulates the removal and preservation of existing trees on
15 the site and also requires a tree tract of at least 5% of the buildable area.

16 30. The Applicant has provided a professional Forester Report including tree
17 inventory and tree protection plan (Exhibit 15). The report finds that there are a total of 137
18 trees currently located onsite. Chapter 16.08 TMC requires retention of 20% of existing trees, or
19 12 trees per acre, whichever is greater. Here, the greater number is 118 trees to be retained.

20 31. The Applicant proposes to retain 23 of the existing trees within required tree
21 tracts. This will leave a shortfall of 95 required trees. Staff notes that TMC 16.08.070.R allows
22 for the tree retention standards to be waived or modified when the tree retention standards cannot
23 be achieved because of the necessity of complying with zoning and development requirements.

24 City Staff finds that these requirements are met.

1 32. The anticipated shortfall of 95 trees must be addressed through planting of new
2 trees. The City requires a minimum of 3 trees to be replanted for each tree cleared. This results
3 in a requirement of 285 trees (95 x 3) to be replanted as part of project approval.

4 33. Subject to the replanting of trees as required, City Staff finds that the project is
5 consistent with the tree protection and replacement requirements of Chapter 16.08 TMC. The
6 Hearing Examiner concurs.

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

8 34. As noted in the Staff Report at page 6, the project site contains soils preferred by
9 the Mazama Pocket Gopher.

10 35. The Applicant has provided a Mazama Pocket Gopher Screening Report dated
11 October 20, 2022 (Exhibit 16) which concludes that there are no mound formations exhibiting
12 characteristics of pocket gopher presence. City Staff concurs with the Findings of this Report.
13 The Hearing Examiner also concurs.

14 36. There are no other wildlife-related issues associated with the site.

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

17 37. The application must comply with all design and development standards set forth
18 in TMC 17.12.010 - .210. The Staff Report, commencing at page 7 and continuing to page 11,
19 contains extensive Findings relating to compliance with each of these design standards. Staff
20 finds that the project, as conditioned, satisfies each requirement of TMC 17.12.010 - .210. The
21 Hearing Examiner concurs and adopts Staff's Findings as his own.

22 Findings Relating to Requirements for Land Division, Chapter 17.14 TMC and RCW
23 58.17.

24 38. As noted on page 12 of the Staff Report, the Hearing Examiner must make
25 findings that appropriate provisions have been made for public health, safety and general welfare

1 and for open spaces, drainage ways, streets or roads, alleys, or other public ways, other grounds,
2 transit stops, potable water supplies, sanitary waste, parks and recreation playgrounds, schools
3 and schoolgrounds, fire protection and other public facilities; and shall consider all other relevant
4 facts to determine whether the public interest will be served by the land division and dedication.
5 Consideration must also be given for sidewalks and other planning features to ensure safe
6 walking conditions for students who only walk to and from school.

7 39. The Staff Report, commencing at page 12, includes the Staff's Findings that
8 adequate provision has been made for the public health, safety and general welfare including the
9 following:

10 a. The project includes both passive and active open spaces including
11 courtyards, clubhouse, fenced playground, and other open space areas.

12 b. The project proposes a storm drainage system complying with the City's
13 most recent drainage Design and Erosion Control Manual, with final design to be
14 approved as part of site development. A preliminary Storm Drainage Report, including a
15 Geotechnical Investigation, has been submitted to support the preliminary design with
16 final storm drainage to be approved as part of the site development/grading permit.

17 (Exhibit 12)

18 c. The Applicant must extend New Market Street during Phase 1, with
19 extensions of 73rd and 71st Avenues and Terminal Street proposed during Phases 2 and
20 3. Traffic impact fees and mitigation fees for the identified Level of Service failure at the
21 Tumwater Boulevard/ I-5 Interchange will be due at building permit issuance.

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

24 e. The site is within the Tumwater School District and the Applicant will be
25 required to pay school impact fees at building permit issuance.

1 f. The City Fire Department has found that its facilities are adequate to
2 service the proposed project.

3 40. The Hearing Examiner has revised these Findings and adopts them as his own.
4 Findings Relating to Binding Site Plan Approval, Including Phased Development. TMC
5 17.14.090.

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

10 42. The proposed three phases of development are set forth in earlier Findings. They
11 are also more fully described at page 13 of the Staff Report.

12 43. As noted earlier, construction of each phase must include stormwater
13 management facilities that comply with all State and local requirements in effect at the beginning
14 of the time allotted for that phase.

15 44. As also noted earlier, each successive phase must be submitted within three years
16 of Binding Site Plan approval on the previous phase.

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

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

22 46. As noted in previous Findings, the project is located entirely in the Town center
23 (TC) zone. It is also located in the Town Center Mixed Use Subdistrict in the Comprehensive
24 Plan.

1 47. Mixed-use commercial/residential developments are a permitted use in the Town
2 Center Mixed Use Subdistrict (TMC 18.23.020).

3 48. For properties fronting on main streets, first floor uses and commercial and
4 residential developments must provide a minimum 20% of the gross floor area on the first floor
5 to be dedicated to a commercial use as listed in TMC 18.23.050.E. The development proposes to
6 include all of the required commercial uses within Phase 1. As explained on page 14 of the Staff
7 Report, the three buildings collectively contain 90,814 square feet of first floor development,
8 resulting in 20% being 18,162.8 square feet. The project proposes 19,047 square feet of first
9 floor commercial space within the Phase 1 building, fully satisfying the project's requirement for
10 first floor commercial area.

11 49. The TC zone district does not have a maximum impervious surface standard.
12 TMC 18.23.030.E but adequate space must be provided for parking, yards, landscaping, and
13 open space.

14 50. The maximum building height in the TC zone is 65 feet. The project satisfies this
15 maximum height requirement and also is found to not penetrate any air space surface that would
16 impact the Olympia Regional Airport.

17 51. Staff finds that the project, as conditioned, will satisfy all required setbacks for
18 the Town Center zone, including those required along main streets.

19 52. The project is otherwise subject to all Town Center design guidelines as well as
20 the Commercial/Mixed Use and Multi-Family design guidelines as set forth in TMC 18.23.040
21 and .050.

22 53. Staff therefore finds that the Preliminary Binding Site Plan is consistent with the
23 permitted uses in the Town Center zone as well as with all required development standards for
24 the Town Center zone. The Hearing Examiner concurs.

1 54. The project site is also located within the Aquifer Protection Overlay (AOP) zone
2 (Chapter 18.39 TMC). Staff finds that the purpose of the AOP Overlay Zone is to protect
3 vulnerable land or critical aquifer recharge areas. Staff finds that the project, as conditioned,
4 complies with the requirements of the AOP Overlay Zone and that none of the proposed uses are
5 prohibited land uses in this overlay zone district. The Hearing Examiner concurs.

6 55. Staff recommends that the requested Phased Binding Site Plan be approved
7 subject to the 70 conditions found in the Staff Report, commencing at page 15. The Applicant
8 agrees with all proposed conditions of approval.

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

10 **CONCLUSIONS OF LAW**

- 11 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.
- 12 2. Any Conclusions of Law contained in the foregoing Background, Public Hearing
13 or Findings Sections are hereby incorporated by reference and adopted by the Hearing Examiner
14 as his Conclusions of Law.
- 15 3. The requirements of SEPA have been met.
- 16 4. All notice requirements have been met.
- 17 5. The proposed phasing of the Preliminary Binding Site Plan must be approved by
18 the Hearing Examiner.
- 19 6. The project, as conditioned, is consistent with the Tumwater Comprehensive Plan;
20 the Tumwater Transportation Plan; the Sustainable Development Plan for Thurston Regions; and
21 the Thurston Region Trail Plan.
- 22 7. The project, as conditioned, is consistent with all applicable performance
23 standards for the Town Center zoning district and and the Aquifer Protection Overlay Zone
24 District.
25

1 8. The project, as conditioned, satisfies the City's Transportation Concurrency Test
2 as set forth in Chapter 15.48 TMC.

3 9. The project, as conditioned, satisfies all requirements of the Tree Protection and
4 Replacement Ordinance, Chapter 16.08 TMC.

5 10. The project, as conditioned, satisfies all requirements for fish and wildlife habitat
6 protection pursuant to Chapter 16.32 TMC.

7 11. The project, as conditioned, satisfies all general binding site plan design standards
8 imposed under Title 17 TMC including all specific requirements imposed under TMC 17.12.010-
9 .210.

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

18 13. The project, as conditioned, complies with all requirements for Binding Site Plans
19 including phased development, Chapter 17.08 TMC and TMC 17.14.090.

20 14. The project, as conditioned, complies with all development standards imposed
21 under Town Center Zone District, Chapter 18.23 TMC.
22
23
24
25

1 15. The project, as conditioned, complies with the requirements of the Aquifer
2 Protection Overlay Zone District. The proposed uses are not restricted land uses in the Aquifer
3 Protection Overlay Zone District.

4 16. The project should be approved subject to the 70 conditions set forth in the Staff
5 Report.

6 **DECISION**

7 Now, therefore, the Applicant's request for a Phased Binding Site Plan is approved
8 subject to the following:

9 **CONDITIONS**

- 10
- 11 1. Minimum and maximum floor area ratio per 18.23.030.B.1.
 - 12 2. No maximum impervious lot coverage except adequate space must be provided for
13 required parking, yards, landscaping and open space.
 - 14 3. Maximum building height is 65 feet.
 - 15 4. Open space shall be provided at a minimum of 150 sf per unit. Park and open space areas
16 shall be separate and distinct from required yards, setbacks, and landscaped areas. At least 50%
17 of open space must be active recreation.
 - 18 5. Site development and structures shall be designed to meet the Citywide Design
19 Guidelines Chapter 2 - design standards for Multifamily and TMC Chapter 18.23, Town Center
20 Design Guidelines.
 - 21 6. Consolidated postal drop-off facilities shall be provided for the site. The location must be
22 coordinated and approved by the U.S. Postal Service with location shown on the civil
23 engineering plans.
 - 24 7. Parking shall be provided at 1 stall for each studio, 1 and 2 bedroom unit, and 2 stalls for
25 each 3-bedroom dwelling unit, in addition, 1 guest stall is required for each 10 units.
 8. Parking shall meet the criteria found in TMC Chapter 18.23 and 18.50, and the Citywide
Design Guidelines. Any proposed modification of the parking standards shall be considered
under TMC 18.50.075.
 9. Short-term bicycle parking shall be provided at a rate of 1 bike stall per 4 dwelling units.
Long term bicycle parking shall be accessible to all units and provided at a rate of 1 bike stall per
4 dwelling units or one stall inside each unit. Bicycle facilities shall meet the requirements of
TMC 18.50.120 for both short-term and long-term bicycle parking. Any proposed modifications
to the parking requirements shall be considered under TMC 18.50.120(E).

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

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

5 12. The project proponent shall complete a cultural resource study for the property which
6 shall be reviewed and approved by the Department of Archeological and Historic Preservation
7 (DAHP), Squaxin Island Tribe and Nisqually Indian Tribe prior to any permit approval for land
8 disturbance for this project. After the study has been approved, the applicant shall follow the
9 findings in the study along with the procedures in the City of Tumwater Standard Inadvertent
10 Archaeological and Historic Resources Discovery Plan. If any archaeological or cultural
11 resources are uncovered during construction, the project proponent shall stop work in the area of
12 discovery and follow the procedures in TMC 18.40.065 Inadvertent Discovery of Archaeological
13 and Cultural Resources.

14 13. Conditions listed in the Mitigated Determination of Non-Significance dated March 29,
15 2024, are hereby referenced and incorporated.

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

20 15. Special inspectors may be required for the following types of work: concrete, bolts
21 installed in concrete, special moment-resisting concrete, reinforcing steel and pre-stressing steel
22 tendons, structural welding, high strength bolting, structural masonry, reinforced gypsum
23 concrete, insulating concrete fill, spray-applied fireproofing, piling, drilled piers and caissons,
24 shot-crete, special (engineered) grading, excavation and filling, soils compaction testing,
25 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

16 16. The proposed building's occupancy is R-2 of type V-A (1 Hour) construction. Or IIIB for
17 6 stories IBC Section 3. 5-story wood construction will require exit stairs to be pressurized per
18 the WAC. Shall provide engineered mechanical plans showing system for all shafts.

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

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

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

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

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

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

5 23. The proposed buildings require automatic fire alarm systems, including pull stations
throughout. Separate permits required.

6 24. The proposed buildings require NFPA 13 fire sprinkler systems throughout. IBC 903.2.8.
7 Pressurized stairs per WAC if wood construction.

8 25. The applicant shall show the location of the Fire Department connection, post indicator
9 valve, remote annunciator panel and key box on the engineering plans. Ductile iron pipe is
required from the fire apparatus into the structures. Fire access shall meet TMC with access on
exterior wall and from parking lot side of all buildings.

10 26. The required fire flow for this project is derived from Appendix B of the International
11 Fire Code. Type 5A buildings of this size are required to have a fire flow of 4,500 gallons per
minute at 20 psi. However, based on the approval of the Fire Chief, a 50% reduction for fully
12 sprinkled buildings allowed in Section 105.2 will be allowed for this site. Therefore, the required
fire flow will be 2,250 gallons per minute at 20 psi for 4 hours. IFC 903

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

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

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

19 30. Each building will have a physical street address off New Marke Street. SW and 73rd
20 Ave, SW. Buildings will not have letter or single number identifiers. Each apartment will be
identified as Unit #.

21 Example: XXXX New Market Street SW, unit 100 for 1st floor apartments.
200 for 2nd floor apartments.
22 XXXX 72nd Ave. SW, unit 100 for 1st floor apartments.
200 for 2nd floor apartments.
23 XXXX 73rd Ave. SW, unit 100 for 1st floor apartments.
200 for 2nd floor apartments.

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

- 1 32. Fire stopping required to be inspected by WABO third party inspector.
- 2 33. Arial fire apparatus access road is required for this project per IFC D105. The building
3 shall not be more than 30' away or 10' closer to the fire access road.
- 4 34. Prior to the preconstruction meeting, the contractor shall provide a plan for review on
5 how the project will be meeting fire lane requirements for vertical construction.
- 6 35. Multi-family projects over 200 dwelling units are required to have two fire access roads
7 which shall be not more than one half the length of maximum diagonal dimension of the property
8 served.
- 9 36. All building permit applications shall include architectural, structural, plumbing,
10 mechanical and energy plans and specifications. No exceptions, and no deferrals. Fire sprinkler
11 and fire alarm permits and plans may be submitted separately from the main permit application
12 but must be submitted before the main building permit is issued.
- 13 37. Digital set of plans and specifications shall be submitted along with application and plan
14 review fees.
- 15 38. The commercial area will be required to meet the min. code requirements for "shell
16 areas" for Certificate of Occupancy for the building permit. Each tenant space shall submit
17 application for Tenant approvments and will receive separate certificate of occupancies. The
18 daycare proposed will need to meet requirements for multiple exiting from each room.
- 19 39. Retaining walls require separate permits and WABO special inspection.
- 20 40. Fire Sprinklers and Fire alarms are the only separate permit that is allowed to be
21 Deferred, Sprinkler application shall be submitted prior to building permit issuance.
- 22 41. This project is required to provide for the storage of recycled materials and solid waste.
23 The storage area shall be designed to meet the needs of the occupancy, efficiency of pick-up, and
24 shall be available to occupants and haulers. The location of this facility shall be shown on the site
25 plan.
42. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not
be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof
eaves lines unless the area is protected by an approved automatic sprinkler system. IFC Section
304.3.3
43. The applicant shall be responsible for providing the City with all costs associated with the
installation of water, sewer, street, and storm systems that are dedicated to the City of Tumwater.
44. All designs/construction shall comply with the City of Tumwater's Development Guide
and WSDOT standards.
45. The site development grading plans shall show all existing and proposed utilities and
easements including streetlights, street trees, water, sewer, storm, gas, cable, power, telephone,
signage, and striping. Show all properties involved in the project and identify them with the
parcel numbers and owners. Show all existing rights-of-way and proposed right of way
dedications. All rockeries proposed shall also be shown on the plans. Show phasing plan.

1 46. All main installation, road design and storm drainage work require engineered plans
2 certified by a professional engineer.

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

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

5 49. The applicant shall be responsible for the maintenance and timely repair of all public
6 improvements for a period of 30 months following final certification by the City and shall submit
7 a surety for maintenance equal in value to fifteen (15) percent of the total value of the required
8 public improvements certified by the Transportation and Engineering Director. Please refer to
9 Chapter 3 of the Development Guide for further clarification.

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

11 51. All legal descriptions must be accompanied with an appropriate drawing that the City
12 Engineering Department can use to verify the legal description. All engineering drawings will be
13 on 24" x 36" paper sheets or provided as otherwise requested.

14 52. The owner or owner's representative is also responsible for furnishing the city with
15 electronic files compatible with release 2018 or newer Auto-CAD format. Drawings shall be in
16 TCHPN (Thurston County High Precision Network) horizontal datum. Provide individual
17 drawings independent of x-refs. Include all non-standard font files and plot files. Also, please
18 furnish PDF files printed from the Auto-CAD files at 300 DPI or greater. A storm water
19 maintenance agreement, utility maintenance agreement, easements and bills-of-sale will also be
20 required.

21 53. Show all existing wells impacted by the proposal including groundwater monitoring
22 wells and domestic water wells. Coordinate to provide any protection during construction and
23 relocation or decommissioning to DOE standards as required.

24 54. Modifications may occur as a result of the engineering review process. For engineering
25 issues, the approved engineering plans take precedence over the approved site plan.

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

56. The City vertical and horizontal datum required to be used is NGVD29 and NAD
83(HARN) / Washington South U.S. Survey Feet respectively.

57. Frontage improvements are required per Tumwater Municipal Code 12.12.010. including
sidewalks, ADA access and crossings, curb and gutter, street patch, street lighting, bike lanes,
street trees/landscaping and any storm drainage necessary to take care of the impervious area in
the right-of-way. The applicant is responsible to the centerline of the right-of-way plus one lane.
Dedication of additional right-of-way to contain the improvements is required. Overall roadways
need to match the designation for each section as outlined in the Tumwater Town Center Street
Design Plan (Exhibit 18).

1 58. Tumwater Town Center Street Design Plan Roadways (Exhibit 18):

- 2 ● New Market Street (MS 2) – Section A-A
(This section has been designed to facilitate ROW dedication for roadway design
3 constraints and access needs for the New Market School to the west)
 - 4 ○ Finalize coordination with Tumwater School District for ROW
needed and impacts to their parking lot and site access.
 - 5 ○ West Side (School Side) to be 1-12' Lane/ East Side (Frontage
Side) to be 1-12' Lane, 6' Bike Lane, 7' Parking, 10' Sidewalk
(including curb), 1' behind back of walk to new ROW.
- 6 ● 71st Avenue (MS 3 – Section B-B / GS 2 – Section C-C)
 - 7 ○ MS-3: 2-11 Lanes, 5' Bike Lane, 7' Parking, 12' Sidewalk
(including curb), 1' behind back of walk to new ROW.
 - 8 ○ GS-2: 2-11' Lanes, 5' Bike Lane, 0.5 Curb, 6' Planter, 6'
Sidewalk, 1' behind the back of walk to new ROW.
 - 9 ○ Coordinate with City of Tumwater for Right of Way dedication
and subsequent relocation of City maintenance yard features in the
10 vicinity of the dedication and those improvements.
- 11 ● 73rd Avenue (MS 3 – Section B-B / GS 4 – Section C-C)
 - 12 ○ MS-3: 2-11 Lanes, 5' Bike Lane, 7' Parking, 12' Sidewalk
(including curb), 1' behind back of walk to new ROW.
 - 13 ○ GS-4: 2-11' Lanes, 5' Bike Lane, 0.5 Curb, 6' Planter, 6'
Sidewalk, 1' behind the back of walk to new ROW.
 - 14 ○ Eliminate street parking east of the Phase 1 driveway access.
- 15 ● Eastern North-South Roadway (CS 3 – Section D-D)
 - 16 ○ 2-11' Lanes, 7' Parking, 12' Sidewalk (including curb), 1' behind
the back of walk to new ROW.
 - 17 ○ Future development to the south will be responsible for their half
to the south for CS-5.

18 59. Detailed intersection designs including ADA access and pedestrian crossings need to be
19 addressed for each leg of all new and intersecting roadways.

20 60. Overhead Utilities / Telecommunications Site

- 21 ● Identify and address all overhead utility lines and poles including power on all
22 frontages. City code and the development guide require undergrounding and/or
23 relocation. If a deviation from that is desired, please contact City engineering for
24 these steps.
- 25 ● The existing telecommunications structure at the southeast corner of the site is to
remain protected and undisturbed. Coordinate with the utility company as
required any measures needed to ensure no disturbance will take place and any
compromise to safety or adverse impacts will take place as part of this proposal.
- Verify the location will not be a site distance issue.

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

3 62. All accesses will meet city standards. Sight distance is a concern on several access points
4 shown on the plans. Provide sight distance triangles at all access points on site development
grading plans.

5 63. Coordinate all construction phasing and access plans as required. Phases shall be
6 constructed in increasing numerical order (Phase 1 first, Phase 2 second and Phase 3 third) unless
otherwise agreed upon by the Community Development Director in writing.

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

8 65. Maintenance of the on-site storm water system will be the responsibility of the property
9 owner; a maintenance agreement will be recorded against the property.

10 66. 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.

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

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

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

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

18 DATED this 4 day of September, 2024.

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

1

2 **HEARING EXAMINER**
3 **POST-DECISION PROCEDURES**

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

6 **2.58.135 Reconsideration.**

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

11 **2.58.140 Notice of examiner's decision.**

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

16 **2.58.150 Appeal from examiner's decision.**

17 In cases where the examiner's jurisdictional authority is to render a decision, the decision of the examiner shall be
18 final and conclusive unless appealed to superior court within the applicable appeal period as set forth in TMC
19 2.58.180.

20 **2.58.180 Judicial appeals.**

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