

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 1**

**CONVENE:** 6:00 p.m.

**CASE NUMBER:** **Yorkshire Apartments TUM-22-1743 Preliminary Binding Site Plan & Conditional Use Permit**

**DESCRIPTION OF PROPOSAL:** The project proponent is requesting approval of a Phased Preliminary Binding Site Plan (TUM-22-1743), and a Conditional Use Permit (TUM-22-1742) to construct 1150 apartment units in a mix of high-rise structures and mixed-use buildings, including 9,000 square feet of commercial space, and mini-storage units on parcels located in the General Commercial Zone District (GC).

**PROJECT NAME:** Yorkshire Apartments.

**APPLICANT:** **Owner:**  
Grandviews Yorkshire, LLC  
127 N Olympic Avenue  
Arlington, WA 98223

**Representative:**  
Tyrell Bradley LDC Corp.  
1411 Slate Ave NE, Suite 200  
Olympia, WA 98506

**PUBLIC HEARING:** Hearing Examiner Mark Scheibmeir convened the public hearing at 6:00 p.m. to consider the Applicant's request for approval of a Phased Preliminary Binding Site Plan (TUM-22-1743), and a Conditional Use Permit (TUM-22-1742) to construct 1,150 apartment units in a mix of high-rise structures and mixed-use buildings, including 9,000 square feet of commercial space, and mini-storage units on parcels located in the GC zone district. The applicant is represented by Tyrell Bradley with LDC Corp. The City is represented by Permit Manager Tami Merriman. Prior to the hearing, he reviewed the Staff Report prepared by City staff. He was recently advised of some additional public comments received by the City prior to the hearing. One comment is from Bonnie Blessing along with photos and other documents. The second comment is from Sherry Buckner.

Examiner Scheibmeir reported that prior to the public hearing he received and reviewed the following 14 exhibits:

**Exhibits:**  
Exhibit 1. Staff Report 12-22-2023  
Exhibit 2. Binding Site Plan and Application Materials  
Exhibit 3. Vicinity Map  
Exhibit 4. Zoning Map  
Exhibit 5. Public Notice Certification 12-22-2023

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 2**

Exhibit 6. Mitigated Determination of Nonsignificance 10-19-2023  
Exhibit 7 Public Hearing Notice 12-22-2023  
Exhibit 8. Notice of Application Public Comments  
Exhibit 9. SEPA Public Comments  
Exhibit 10. Concurrency Determination 10-05-2023  
Exhibit 11. Draft Drainage Report 12-05-2022  
Exhibit 12 Water Sewer Availability 12-30-2022  
Exhibit 13 Traffic Impact Analysis 8-22-2023  
Exhibit 14 Power Undergrounding Letter 12-05-2022

Examiner Scheibmeir added the public comment from Sherry Buckner as Exhibit 15. The public comment from Bonnie Blessing was entered as Exhibit 16. Examiner Scheibmeir noted that Ms. Blessing submitted two public comments and that Exhibit 16 includes both versions of her comments.

Examiner Scheibmeir reported the purpose of the hearing is to provide City staff with an opportunity to explain its Staff Report and recommendations and any proposed conditions followed by an opportunity for the Applicant to respond to the City's presentation and either add to or subtract from the City's suggestions. Public testimony will follow. Both the City and the Applicant will have an opportunity to respond to any testimony. All testimony will be under oath or affirmation.

**CITY TESTIMONY:** Examiner Scheibmeir administered the oath to Tumwater Permit Manager Tami Merriman.

Manager Merriman reported the Applicant is requesting approval of a Phased Preliminary Binding Site Plan and a Conditional Use Permit to construct 1,150 apartment units with a mix of high-rise structures and mixed-use buildings, including 9,000 square feet of commercial space, and mini-storage units on parcels located in the GC zone district. The parcels are located between Israel Road and Tumwater Boulevard.

Examiner Scheibmeir asked whether the southerly and last parcel of the old public right-of-way is included within the project. Manager Merriman said the area is public right-of-way and is not included within the project. Examiner Scheibmeir said that the basis of the question pertained to one of the schematics that references a land swap with the City for that parcel. Manager Merriman explained that at the beginning of the project review, there was some discussion about a potential land swap for the parcel. However, staff could not include the right-of-way as part of the development without first processing a vacation of right-of-way request. At that time, the Applicant withdrew the request and did not include the proposal in subsequent project application materials.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 3**

Staff reviewed the project for consistency with the Tumwater Comprehensive Plan and other City documents. The Staff Report provides analysis for the different plans that apply to the proposed project. The Comprehensive Plan identifies the area as part of the new commercial core and that mixed-use development should be considered as well as promoting affordable housing. The site is included in the Littlerock Road Subarea Plan, which identifies residential development anticipated for the area. The plan identifies 75% of any anticipated residential growth to be multifamily units. The proposal along with other findings is consistent with the Comprehensive Plan.

As part of transportation concurrency, the Applicant submitted a Transportation Impact Analysis. The detail for transportation mitigation is described in the SEPA Conditions. The concurrency determination was based on frontage improvements and any transportation mitigation would align with the Transportation System Plan. The project also aligns with the Sustainable Development Plan for the Thurston Region providing affordable housing and varied housing. Apartments are considered a varied housing type, which provides different types of living and affordability as opposed to single-family homes.

The Thurston Region Trail Plan does not apply to the proposed development as no trail plans would be impacted by the development.

Within the City's municipal code, the Hearing Examiner has authority to review Conditional Use Permits and Phased Preliminary Binding Site Plans.

Chapter 14 of Tumwater Municipal Code (TMC) requires the City to provide public notice of the proposal. The notice of application was originally submitted in December 2022. Following submittal of the application, staff identified the need for additional information within the Transportation Impact Analysis and the Phasing Plan. Further analysis was requested of the Applicant. The Applicant resubmitted documentation and a revised binding site plan in June 2023. Due to changes in the application, the City reissued an amended notice of application. The notice was posted on the site, mailed to property owners located within 300 feet of the subject property and to various agencies, and published in The Olympian. The City received comments on the notice of application from the Nisqually Indian Tribe requesting a cultural survey. A cultural survey was completed and provided to the tribe. The tribe concurred with the conclusions and recommendations of the cultural survey. The tribe requested the City require adding an inadvertent discovery plan to civil construction

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 4**

plans. The request is also codified in the TMC as a requirement.

Thurston County did not provide comments on the Transportation Impact Analysis. Tumwater School District requested the Applicant provide bus stops on the extension of Tyee Drive. The Applicant added the request to the revised site plans.

Several citizen comments were received and are included in Exhibit 8. Many comments spoke in support of apartments and providing affordable housing. Some comments expressed concerns about traffic impacts, impacts to the schools, and the need for transit stops, tree retention, and impacts to emergency services. The concerns are addressed within the City's development standards and critical areas codes.

Staff issued a SEPA Mitigated Determination of Non-Significance on October 19, 2023. The notice was posted on-site, mailed to property owners located within 300 feet of the site, mailed to affected agencies, and posted on the City's website. Comments were received on the SEPA determination. The Squaxin Island Tribe conveyed no concerns regarding cultural issues. The Nisqually Tribe reviewed the cultural survey and offered no additional comments. The Department of Ecology submitted comments surrounding solid waste and toxic clean-up regulations. The Black Hills Audubon Society expressed concerns about groundwater contaminants. Some citizens expressed concerns about tree retention, traffic impacts, high groundwater, building heights, and gopher protection. The concerns from the public were similar concerns by the City. The City's critical areas ordinance provides for the protection of habitat species, critical areas, and trees. Traffic impacts and mitigation were reviewed by staff. The Mitigated Determination of Non-significance outlines traffic impacts and required mitigation. Schools are also affected. The Tumwater School District will receive transportation impact fees. Groundwater protection is addressed by the City's Drainage Design and Erosion Control Manual. Designs for site planning, building design, and building heights are reviewed under TMC 18 and Citywide Design Guidelines. A qualified biologist completed a survey on the Mazama Pocket gopher and determined there was no presence of mounds or formations that exhibited gopher activity or gopher habitat.

Public notification for the January 3, 2024 public hearing was mailed to property owners located within 300 feet of the subject property and to various agencies, posted on-site, and published in *The Olympian* in conformance with TMC 14.06.

The transportation concurrency ruling identified specific mitigation measures to achieve concurrency that include frontage improvements,

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 5**

payment of transportation impact fees, extension of Tyee Drive from Israel Road to Tumwater Boulevard, and a roundabout at the intersection of Tyee Drive and Tumwater Boulevard. Tyee Drive begins at the north end of the property off Israel Road and would be extended through the binding site plan connecting to Tumwater Boulevard.

Examiner Scheibmeir commented that the schematics reflect that the project would only construct a portion of Tyee Drive and the northerly section would be reserved for construction by an adjoining property owner located to the east. He asked whether the schematic was an earlier iteration of the concept. Manager Merriman explained that the Tyee Drive extension begins at Israel Road and extends to the south connecting to Tumwater Boulevard. The City received an application for an apartment complex on the east side of the new extension of Tyee Drive. The developer plans to construct a portion of Tyee Drive. Frontage improvements for the Yorkshire Apartments include a sidewalk, pathway, and landscape strip on a portion of Tyee Drive. The phasing plan speaks to different transportation improvements and phasing. Phase 1 of the development is the apartment complex of 240 units, which requires frontage improvements and access on Israel Road, as well as fire access extending to Tumwater Boulevard.

Examiner Scheibmeir referred to Phase 2, which speaks to constructing the entire length of Tyee Drive from Israel Road to Tumwater Boulevard. He asked how the two projects marry in terms of completing the extension of Tyee Drive. Manager Merriman responded that Phase 2 of the transportation improvements require construction of the full extension of Tyee Drive either by the Applicant or the adjoining property owner in order for the project to receive a Certificate of Occupancy on any phase of development after Phase 1. Any Certificate of Occupancy after completion of Phase 1 requires the completion of the Tyee Drive extension and the roundabout at Tumwater Boulevard.

Tree protection was reviewed as part of the environmental review. The City's critical areas ordinance in TMC 16 requires protection of trees at the time of development. A minimum requirement requires retention of 20% of existing trees or a minimum of 12 trees per acre. A forester's report was submitted. To construct the development, the project was unable to retain the minimum number of trees. The ordinance allows mitigation for replacement of trees at a ratio of 3:1. The development proposes to retain approximately 91 trees resulting in a shortfall of 215 trees. With 3:1 mitigation, 655 additional trees will be planted. The development includes several tree tracts throughout the site.

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 6**

TMC 17 requires minimum standards for the binding site plan. The Staff Report documents 18 minimum standards. Manager Merriman reviewed several of the required standards. The binding site plan is also subject to other TMC 17 subdivision regulations. The project requires the appropriate provisions for public health, welfare, open space, drainage, transportation, water, and sewer. The Staff Report includes findings for each requirement. However, one error in the Staff Report is located on page 14 addressing Land Division (L). The language should reflect that the analysis complies with City of Tumwater's 2022 Drainage Design and Erosion Control Manual rather than the 2021 manual.

The phased binding site plan requires a subdivision of more than 10 residential dwelling units and that at least two but not more than four phases. Phase 1 includes 240 residential apartments in a five-story structure that includes parking, short-term and long-term bicycle stalls, tree tracts, open space, recreation, and a portion of the Tyee Drive frontage completed. Phase 2 proposes to complete two five-story structures with 333 residential units, parking, short- and long-term bicycle stalls, and completion of Tyee Drive. Phase 3 includes two five-story apartment buildings containing 320 residential apartment units, a mixed-use four-story structure with 9,000 square feet of commercial floor space, and a self-storage unit. Phase 4 includes two five-story structures with apartments and parking stalls. Phasing begins after approval of the Preliminary Binding Site Plan for a period of five years. Applications for final Binding Site Plan for each successive phase must be submitted within three years of the submittal of the Final Plat for the first phase.

The Conditional Use Permit would allow high-rise apartments, as well as the mini-storage units. Specific criteria are outlined in TMC 18.56 that must be achieved to receive a Conditional Use Permit. The analysis is included in the Staff Report. No minimum standards are included in TMC 18.56 for high-rise apartment buildings. Staff finds that following the City's design standards, environmental determinations and review, as well as mitigation measures would enable approval of the Conditional Use Permit for the high-rise apartments. Mini-storage units are subject to minimum conditions, such as off-street parking not located in any required yard areas and that screening is installed along all property lines to lessen visual impacts, and that minimum side areas are adequate to provide for the required parking in the yards. The proposed layout meets the requirements.

The City of Tumwater conducts preliminary and formal site plan review meetings. The meetings are to ensure the application and materials meet all design standards of the zoning code, critical areas

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 7**

ordinance, Citywide Design Guidelines, and assurance that the plan moving forward would meet all minimum standards. The Applicant completed both preliminary and formal site plan reviews prior to the issuance of the Notice of Application. The Staff Report includes 79 conditions. Manager Merriman reviewed conditions that are specific to mitigation required for the project. Staff recommends approval of the Preliminary Binding Site Plan and the Conditional Use Permit.

Examiner Scheibmeir asked a series of questions. During Phase 1, the property will exit to the north of Israel Road requiring a right-in and right-out onto Israel Road. He asked whether the turning direction is permanent or remains for some time as phases are completed. Manager Merriman said the turning direction is intended to be permanent as exiting from Tyee Drive onto Israel Road is through a roundabout. Another roundabout not reflected in the Staff Report is located on Littlerock Road.

Examiner Scheibmeir said the diagram identifies the leave tree areas throughout the site. He asked how the City addresses leave tree areas in terms of accountability and the future of the areas. Manager Merriman explained that the critical areas code requires a specific percentage of the land be allocated (5%) for tree tracts. The tracts are separate and owned by the homeowners or an association. The tracts must be maintained and protected. The tracts can be used for open space as well if the areas include pathways or benches. The tracts are required to remain for the protection of trees in the future.

Examiner Scheibmeir noted that the Tree Protection Plan does not identify the location of leave trees. He asked whether those trees are located within tree protection tracts. Manager Merriman said the forester's plan was completed earlier in the process. The specific location of tree tracts has changed from the original proposal. The number of trees has not changed in terms of retention and replacement trees. Examiner Scheibmeir asked whether the tree tract located near Building 1 consists of existing older trees. Manager Merriman deferred to the Applicant to respond to the question.

Examiner Scheibmeir commented on the lack of any elevations within the materials other than schematics of the plans rather than from a side elevation. He asked whether staff has a sense of the proposed development in terms of views of the proposed development from adjoining properties from Littlerock Road, Tumwater Boulevard, Interstate 5, and other adjoining properties. Manager Merriman responded that staff did not include elevations that were submitted for the project, as staff understood the Applicant would include the elevations as part of the full application package. Examiner Scheibmeir said the question is prompted because the proposed project

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 8**

is a large-scale tall project that will be built within an area of existing forested land with surrounding properties of limited development. The proposal will be large and new to that specific area of the City, which has also been noted in public comment. His intent is to obtain a sense of the development and its visual impact for those driving by or for residents who reside along Littlerock Road in terms of the visual impact of the proposed development.

Further discussion ensued with Examiner Scheibmeir agreeing to defer to the Applicant to obtain a better understanding of the project scope and visual impact.

Examiner Scheibmeir pointed out that many storage facilities are required to screen its aesthetics through either extended setbacks or additional screening requirements to enable the use to coexist within a surrounding area. He cited the minimum requirements by the City and asked whether any additional requirements were considered for mini-storage facilities to minimize the impact of the use.

Manager Merriman responded that the City has Citywide Design Guidelines that require building modulation and limiting blank walls. The zoning is commercial and the use will be reviewed under the Commercial Citywide Design Guidelines, which require aesthetic measures to avoid large blank walls and requires building modulation and articulation.

Examiner Scheibmeir asked about any potential implications caused by the project to the Thurston Region Trail Plan. Manager Merriman advised that the regional trail plan oversees the regional trail system. In Tumwater those trails are located along the Deschutes River and the golf course. The City coordinates new development to ensure no impacts occur to the regional trail system. The proposed project does not affect the regional trail system other than for continuation of an existing trail system that will be extended throughout the development.

Examiner Scheibmeir referred to public comments that speak to concerns about high groundwater existing in the location of the proposed project and the potential of flooding occurring in the area. The City's response has cited the City's stormwater manual to meet all requirements for building in an area experiencing high groundwater. He asked for additional clarification for the benefit of the public in terms of how stormwater is managed for the project site.

Examiner Scheibmeir administered the oath to City of Tumwater Design Engineer Jared Crews.

Engineer Crews described the process the City utilizes using the



**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 9**

Drainage Design and Erosion Control Manual based on the Department of Ecology's 2019 Stormwater Manual. The manual provides specific criteria for projects meeting specific thresholds, sizes, and impervious surface, etc. Requirements are based on appropriate best management practices for stormwater infiltration basins, permeable pavement, and other recommendations based on feasibility. Additionally, the City is guided by the 2005 high groundwater ordinance that established an additional area of review for sites within the City that require an additional level of in-depth analysis for development projects. Although the project site is not located within the area that has experienced groundwater flooding, the site is located in a high groundwater control area that was established by the ordinance. That area requires additional screening and draining requirements as included in the formal site plan review approval letter. The improvements will be implemented and reviewed during the site development grading project.

The City requires a project to collect both on-site and off-site stormwater and convey it on-site and construct private stormwater facilities to store, treat, and infiltrate all stormwater generated by the project.

Examiner Scheibmeir referred to references to a roof courtyard as part of one of the buildings. He asked whether the courtyard is a requirement or an addition proposed by the Applicant.

Manager Merriman said the courtyard is not a requirement by the City; however, the City can consider those types of courtyards to be used as open space. She believes the project meets the requirement for open space at the ground level. The Applicant is providing a clubhouse and a pool providing different forms of open space components.

Examiner Scheibmeir asked whether the project's approval is based on the maps presented or whether the maps are only for informational purposes with details to be determined during the time of final approval. If the maps reflect the presence of a clubhouse or a sport court or courtyard, he questioned whether those components are now requirements or simply added by the Applicant. Manager Merriman advised that the components are requirements as the Applicant is proposing the options to meet the open space requirements for passive and active open space. Through the Binding Site Plan Review, staff considers the overall development. The plan reflects the proposed location of the buildings and the type of development on the site. Amendments are possible. However, staff is not in receipt of the exact building plans or the elevations for each building on the site as those plans would be reviewed individually. The Binding Site Plan serves as a preapproval for the site planning.

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 10**

Examiner Scheibmeir commented that it appears the distinction that speaks to the roof courtyard may fall outside of the mandatory obligations and may be added based on the decision by the developer rather than as a requirement by the City. Manager Merriman affirmed the observation.

Examiner Scheibmeir referred to the traffic impact study. He asked for confirmation that the study considered a number of public comments received following the initial notice of application and was updated accordingly. Manager Merriman advised that the interpretation is correct.

Examiner Scheibmeir referred to the Mazama Pocket gopher study and its findings of evidence of pocket gophers on a number of properties located near the project site. He asked whether that situation would trigger a heightened review of the study, such as a third-party review given that nearby properties have had some evidence of pocket gophers. Manager Merriman replied that following completion of the gopher survey, the biologist must check the priority habitat species maps produced by the U.S. Fish and Wildlife Service to document whether the species have been discovered or identified on the property and/or the surrounding properties. The biologist follows the protocol of the City and the U.S. Fish and Wildlife Service to complete a standard survey of two visits between June and October. Generally, the City does not require a third party review and in this case, staff was satisfied with the results of the study.

Examiner Scheibmeir remarked that although not mentioned, it is assumed that phasing is sequential and that there is no right to pursue Phase 1 and then move to construct Phase 4 bypassing Phases 2 and 3. Manager Merriman said the observation points out the lack of guidance in the City's code. The intent by staff is to ensure that any development sequence of the phases completes any mitigation measures required for the entire project. Essentially, the Applicant would not be allowed to complete Phase 1 and proceed to construct Phase 4 without completing the extension of Tyee Drive.

Examiner Scheibmeir referred to existing high voltage lines. The aerial maps reflect that they are located along the eastern boundary of the site. He asked whether the City has considered any measures that might warrant consideration for aesthetics, access to the lines, or potential public risks of lines falling.

Manager Merriman said staff reviewed the power lines to prevent public access. The power lines are subject to easement requirements between the company and the Applicant. No other additional

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 11**

development requirements were required for the power lines.

Examiner Scheibmeir asked about the buffer requirements between the property site and the properties to the west along Littlerock Road. Manager Merriman said the parcel requires a Type II 8-foot landscape buffer. Examiner Scheibmeir asked whether the buffer includes fencing. Manager Merriman replied not necessarily but that it could be included. Fencing is not a requirement. Examiner Scheibmeir asked whether the City's policy includes a requirement for fencing where appropriate to screen properties.

Manager Merriman said the requirement is not in the code; however, if fencing is provided along the landscaping area, the landscape plants must be located outside the perimeter of the fence.

Examiner Scheibmeir asked about staff's position if he were to require a fence along the westerly boundary. Manager Merriman said the City's code does not require fencing; however, the Examiner could rule that a fence is necessary to protect privacy or improve aesthetics. Examiner Scheibmeir conceded that the question is likely unfair for such a quick response. His goal is to be transparent when considering all options and that all parties are aware of his concerns with some issues. This particular application is a large development relative to surrounding developed uses that tilts the scale of development of all nearby properties. If completed with aesthetics considered then the development would likely be acceptable. However, if the development is a monstrosity, the community would likely wonder how the development was approved. His goal is to obtain a sense of how the development might interact with nearby properties.

Manager Merriman advised that because high-rise apartments are allowed through the Conditional Use Permit process, the Examiner has the right to provide additional mitigation measures to prevent impacts to adjoining property owners.

**APPLICANT  
TESTIMONY:**

Examiner Scheibmeir administered the oath to Glenn Wells.

Mr. Wells reported the site is eligible for a 12-year property tax exemption as long as 20% of the housing units are designated for median income households. The Applicant applied for the exemption. The company has completed other projects in Tumwater and has received approval of the exemption for those projects. The company's business model is housing in the medium range of pricing. The company has constructed other affordable housing projects, such as a large 82-unit affordable housing project at 60% to 80% median income in Olympia, Washington. The company is very familiar with the requirements for verification for the exemption program. The project

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 12**

in Olympia is located on Martin Way near Lilly Road.

Mr. Wells responded to a list of questions from the Examiner. The power lines require a 50-foot easement by Puget Sound Energy to access poles and lines. The proposal does not intrude on any requirements of the easement.

Typically, the company provides fencing for properties but opposes a fence along the curb line. Any fencing would require landscaping on the adjoining neighbor side and the fence construction would need to be unique as placement of a fence along parking stalls would not be a preferable option.

The project is providing a generous amount of open space with more than the required open space. If the rooftop courtyard is not included, the project would need to accommodate some space at ground level. Some of the rooftop courtyard is applicable to open space requirements. Other approved projects have utilized rooftop courtyards as open space. Typically, the space is active recreation with pickleball courts and other types of recreational uses. The rooftop courtyards serve as a great amenity for tenants and are considered as valuable as clubhouses.

The properties reside within a forested area. Habitat for pocket gophers is located in fields with soft soils. Some fields are located next to the property with no trees. That area is occupied with gophers but it does not mean the forested area would be affected by the gophers because they tend to remain within the fields.

The development of Tyee Drive to Israel Road during Phase 2 is required. Mr. Wells explained that based on his understanding, when the project initiates Phase 2, the project is obligated to extend the connection. The construction entails building half of the frontage plus a lane of travel. Frontage improvements on the opposite side of the road would not be completed. The improvements would not entail a full road but only half plus a lane of travel.

The tree tract is fenced during construction activity. Following completion of the building, temporary fencing would be removed. The tree tract assists in mitigating the height of the building, which is why the Applicant prefers to retain mature trees near the buildings. It is possible as the courtyards are large enough to accommodate the trees

Mr. Wells advised that the Applicant submitted full building plans for Building 1 to include all elevations, and complete building plans in June. He offered to forward 3D plans to the Examiner to provide views of the project.

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 13**

Based on the company's experience, the provision of storage units typically enables 15% to 20% of the tenants to lease storage space. The company is estimating that 75% of the storage units would serve tenants living in the buildings. The company does not envision renting a majority of the storage units to the public as they are typically leased by tenants. At this time, he has not reviewed the design of the storage facility as the proposal is for a seven-year build out as Building 1 will take two years to complete.

The company plans to provide solar power on each building.

The apartment buildings contain a wide range of apartment sizes and unit types. The goal is to attract a variety of different types of apartment dwellers. Many of the units will be three-bedroom apartments with the site containing many play areas for children, as well as many studio apartments. The Applicant believes the project will provide a mix of apartment types.

Mr. Wells advised that he served on the City's ad hoc committee approximately 20 years ago that studied the likelihood that New Market would become the downtown center for the City. However, it is not likely to occur because the downtown has shifted near the project. The Applicant is in negotiations with Costco and other commercial uses. Placement of residential uses next to commercial uses would likely encourage more live, work, and play opportunities in close proximity.

Mr. Wells offered to address questions from Examiner Scheibmeir.

Examiner Scheibmeir suggested there might be a minor impasse in terms of the status of extending Tyee Drive as the statement by Mr. Wells declared an expectation that the road extension would be a half-built roadway on the northerly portion, which is not reflected in the City's report or the City's requirements. Based on the information contained in the Staff Report, the requirement would impose more than a half-built roadway within the westerly half of Tyee Drive north of the midway point. The requirement actually requires the full construction of Tyee Drive but not necessarily the full improvements along the opposite side of the roadway. He asked about any potential misunderstanding of the requirement.

Mr. Wells said he does not believe there are any misunderstandings as his comments reflected that the project would construct the project's half of the road plus a lane. The road would be constructed to be operational to Israel Road; however, the project is not constructing frontage improvements on the east side of the road.

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 14**

Examiner Scheibmeir said his questions regarding mini-storage were not suggestive that the use would be a third-party use. He fully envisions that the mini-storage facility would be a primary component of the proposed development. His concern surrounded the aesthetics of the use especially along Tumwater Boulevard to ensure the use is aesthetically pleasing as a condition of the project moving forward. He asked for a response to that concern rather than to the tenants of future storage units.

Mr. Wells advised that the mini-storage facility is not of importance at this time. He offered to re-present the storage facility proposal to the Examiner after it has been designed to ensure the aesthetic concerns are mitigated. He has no problem deferring the proposal until the project is initiated. At this time, he is not prepared to design the facility. His main concern is obtaining a permit to construct Building 1. Deferral of the mini-storage facility to a later date because it requires a Conditional Use Permit is understandable as it would be important for the Examiner to have access to the design of the facility, which he is not prepared to present at this time.

Examiner Scheibmeir asked Manager Merriman whether the construction of the commercial/retail area in Phase 3 is required prior to initiating Phase 4. In multiple cities, he is considering village concepts in which commercial portions have not been constructed and the village development is failing as a result. He asked whether commercial uses are requirements or could be adjusted to enable moving forward with other planned phases.

Manager Merriman advised that for this particular project, the commercial component is not a required portion of the development; however, to satisfy requirements for a mixed-use building with residential, commercial/retail uses must be a component of the mixed-use structure, which is why a majority of the buildings are five stories.

Mr. Wells said he understands that because the Applicant elected not to pursue a five-story building at the site of the corner building, the commercial use component would be required, which the Applicant believes is an appropriate location for mixed-use, which is why the building is only four stories high and not five stories because the intent was to locate commercial on that particular corner. If the Applicant elected to construct a five-story building on the corner, a commercial component is not required as mixed-use is included on the first floor of the five-story building.

Examiner Scheibmeir administered the oath to Tyrell Bradley with LDC Corp.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 15**

Mr. Bradley offered some comments to assist in clarifying several of the Examiner's questions.

The triangular property located in the southeast corner labeled as unopen Robinson Road and a small triangle by City Center Land Company are both heavily forested land with mature trees and understory. Unless the City approves vacation of the parcels or the property owner clears the land and the City vacates the properties, those properties would provide a heavily vegetated buffer between Tumwater Boulevard and the future five-story building and three-story mini-storage building.

Additionally, in addition to the testimony by Manager Crews regarding stormwater on the site, the development proposes adding up to six feet of fill on much of the southern portion of the property in Phase 3 and Phase 4 to increase the distance between the high groundwater hazard area and the stormwater facilities, which is required by the stormwater manual. The developer is pursuing great care to increase the separation to maintain water quality in the area.

In terms of a fence along the western property line, the Housing Authority of Thurston County owns two parcels located to the southwest, which are multifamily apartments. Between the two properties, three parcels are located of which two parcels are forested with the third comprised of a vacant field. The uses located in that area would not necessarily drive the need for a fence in most city codes as the visual disparity concerns of adjacent single-family uses does not currently exist.

Mr. Wells added that he was unaware of the requirement for a landscaping barrier placed on the outside of a fence. He questioned the requirement as it could create a 16-foot wide area of landscaping if buffers are required on both sides of the fence.

Examiner Scheibmeir said that in some jurisdictions, such as Lakewood, a 16-foot wide landscaping buffer is often required.

**PUBLIC  
TESTIMONY:**

Examiner Scheibmeir invited members of the public to provide testimony.

Planner Alex Baruch advised of one individual wishing to testify.

Examiner Scheibmeir administered the oath to Craig Chance.

**Craig Chance, Director, Housing Authority of Thurston County,** said the organization owns several properties adjacent to the subject

**TUMWATER HEARING EXAMINER PUBLIC HEARING**  
**MINUTES OF VIRTUAL MEETING**  
**January 3, 2024 Page 16**

site. Although the phases of developing the properties located near the organization's properties are several years in the future, he would appreciate a conversation with the Applicant about some type of appropriate landscaping or fencing along the property lines. The Housing Authority currently has a 40-unit apartment complex in the most southern area of the property built over a decade ago. North of that site, is an undeveloped parcel. The Housing Authority is engaged in preliminary discussions for planning for senior housing on the site, which raises the issues of seniors living near properties that generate noise and traffic, which speaks to an interest of pursuing conversations about some type of reasonable barrier without complicating the project. He is appreciative of the comments by Mr. Wells as he has been generous with the development of affordable housing. He is appreciative that the applicant is providing a number of affordable units for people of modest income.

Examiner Scheibmeir closed the public hearing.

Examiner Scheibmeir invited Manager Merriman to address his concerns regarding aesthetics and compatibility and the applicant's responses, as well as comments from an adjoining landowner.

Manager Merriman responded that a City code section speaks to fencing and landscaping in relationship to fencing. She plans to follow up on the code because there are likely some options. However, the regulation might only apply for frontage fencing between streets, which she wants to confirm if the Examiner contemplates adding it another condition. Additionally, the elevations were included with the building permit. She apologized for not including them within the Staff Report. The elevations can be provided following the meeting and added as an exhibit.

Additionally, because the mini-storage facility is located within the commercial zone, the use is subject to the City's commercial citywide design guidelines. The guidelines include stringent requirements for the aesthetics of developments especially larger buildings.

Manager Merriman added that she would like to ensure the completion of Tyee Drive is clear in terms of the expectation for completion of Tyee Drive.

Design Manager Crews advised that Mr. Wells and Manager Merriman are correct with respect to Tyee Drive. In instances of phased developments or along an existing corridor that straddles different properties, the intent is to create a new road network that can handle two-way traffic. Mr. Wells is correct in that the proposal includes construction of his half of the improvements plus a 12-foot



**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
January 3, 2024 Page 17**

vehicle lane to accommodate traffic in both directions. The proposal accommodates the City's request that the vehicular connection of Tyee Drive between Israel Road and Tumwater Boulevard would be completed with any additional phase other than Phase 1 of the development and that additional improvements such as a bike lane, shoulder, curb and gutter, and sidewalk on the opposite side of the developing property would be completed by the development occurring on that side of the roadway at a later time when the property develops.

Examiner Scheibmeir conveyed appreciation for the explanation and agreed that it was his interpretation from both presentations by the parties. However, the additional information helped clarify the requirement.

Examiner Scheibmeir advised that he would not be rendering a decision based on additional public comment received prior to the hearing that he did not have an opportunity to review. He most likely will approve the requested Binding and Conditional Use Permit with some uncertainty surrounding the sufficiency of the buffering under the requirements of the Conditional Use Permit. He asked staff to forward the building design elevations. By close of business on Friday, January 5, 2024, he would like to receive any final comments or recommendations by staff or the applicant relative to buffering. Although appreciative of Mr. Wells offer to defer the request for the Conditional Use Permit, he agrees with Manager Merriman that given the City's design requirements, deferral is an unnecessary burden on the development and should be addressed at this time. He recognizes that the final design of the mini storage facility is pending a determination by the City that is well equipped to address through its other design requirements. He asked that City staff and the Applicant engage in a final conversation prior to the end of the week to agree to any adjustments to the recommended conditions.

Examiner Scheibmeir thanked everyone for their time and efforts.

**ADJOURNMENT:**      **With there being no further business, Examiner Scheibmeir adjourned the public hearing at 7:46 p.m.**