

**TUMWATER HEARING EXAMINER PUBLIC HEARING
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CONVENE: 7:00 p.m.

CASE NUMBER: **LINCS Modular Building TUM-22-1544 and TUM-23-0243**

DESCRIPTION OF PROPOSAL: Applicant requests approval to construct an approximately 1,900 square foot modular building (school expansion) to serve 18-21 year-old life skills students.

PROJECT NAME: LINCS Modular Building

APPLICANT: **Tumwater School District**
Capital Projects, Mel Murray
621 Linwood Ave Swarthout
Tumwater, WA 98512

**PROJECT PROPONENT/
REPRESENTATIVE:** **Ross Jarvis**
LDC, Inc.
1411 State Ave NE
Olympia, WA 98506

PUBLIC HEARING: Hearing Examiner Andrew Reeves with Sound Law Center convened the public hearing at 7:00 p.m. to consider the applicant's request for a Conditional Use Permit and Site Plan Review to allow for the construction of an approximately 1,900 square foot modular building (school expansion) to serve 18-21 year-old life skills students with associated infrastructure on an existing 19.5 acre property owned by the Tumwater School District located at 621 Linwood Avenue SW, Tumwater.

Examiner Reeves reported the purpose of the hearing is to collect evidence in the form of exhibits and testimony to determine whether the proposal complies with the City's Comprehensive Plan, zoning ordinances, Critical Areas Ordinances, and the specific requirements for approval of a Conditional Use Permit and Site Plan Review (normally an administrative process) under the requirements of Tumwater Municipal Code (TMC).

Examiner Reeves reported that prior to the public hearing he received and reviewed the following 17 exhibits:

Exhibit 1 Staff Report
Exhibit 2 Preliminary Site Development Grading Plans
Exhibit 3 Vicinity Map
Exhibit 4 Notice of Application with Optional DNS w/attachments

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Exhibit 5 SEPA Determination of Non-significance
Exhibit 6 Public Hearing Notice
Exhibit 7 Applications & Narrative
Exhibit 8 Zoning Map
Exhibit 9 Public Notice Certification
Exhibit 10 Notice of Application with Optional DNS Comments
Exhibit 11 Transportation Concurrency Ruling
Exhibit 12 Drainage Report
Exhibit 13 Geotechnical Letter
Exhibit 14 Traffic Impact Analysis and Traffic Queuing Report
Exhibit 15 Water and Sewer Availability Letter
Exhibit 16 Gopher Administrative Determination
Exhibit 17 Formal Review Letter 03-10-2023

Examiner Reeves admitted the 17 exhibits into the record.

Examiner Reeves reported all testimony will be under oath or affirmation because if the decision should be appealed, the audio recording of the hearing, admitted exhibits, and the decision would serve as the foundation for an appeal. The order of testimony begins with the City of Tumwater providing an overview of the proposal and any recommendations, testimony by the Applicant to present any additional information, testimony from the public, and closing arguments by the City of Tumwater and the Applicant.

CITY TESTIMONY: Examiner Reeves administered the oath to Tumwater Associate Planner Alex Baruch.

Planner Baruch reported the proposal is for approval of a Conditional Use Permit for a proposed school expansion to construct an approximately 1,900 square-foot modular building to serve 19-21 year old life skill students. The current program is operating out of the New Market Skills Center located south of Tumwater City Hall. The proposed modular building would enable the program to double from eight students to sixteen students and from three staff members to five staff members. The property is located at 621 Linwood Avenue SW and is located in the Single Family Medium Density and Green Belt zone districts. The site currently includes Michael T Simmons Elementary School and the Tumwater School District Office building with fields and infrastructure associated with those uses. The property is mostly flat and includes a portion of Barnes Lake. The modular building is proposed to be located outside the critical area associated with the lake in an open field adjacent to the Tumwater School District Office building. Surrounding properties are zoned Single Family

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Medium Density, Multi Family Medium Density, and Green Belt. An Aquifer Protection Overlay zone district applies to the property and restricts hazardous uses to protect aquifer recharge areas. Schools are not a restricted land use in the Aquifer Protection Overlay zone district.

Proposed improvements are depicted on the Preliminary Site Development Grading Plan and include reconfiguring the parking spaces for bus drop off/pick up area, water and sewer connections, and minor grading. All utilities on site will be undergrounded pursuant to requirements in the Tumwater Municipal Code.

Staff reviewed the application materials and included findings in the Staff Report. The project is consistent with the Tumwater Comprehensive Plan, Parks, Recreation and Open Space Plan, and the Transportation Plan, as well as the Thurston Regional Trails Plan, and Thurston Sustainable Development Plan. The City of Tumwater Transportation Manager issued a concurrency ruling stating that no additional transportation impacts are anticipated with the proposal and impact fees would be paid at the time of issuance of the building permit.

Staff reviewed a SEPA Environmental Checklist and other information submitted by the Applicant and issued a Notice of Application with an optional Determination of Non-Significance (DNS) on March 29, 2023. The DNS was issued on May 4, 2023 and no appeals were submitted for the SEPA threshold determination. Public notification of the public hearing was mailed to property owners located within 300 feet of the subject property, various agencies, posted on-site, and published in *The Olympian* newspaper.

During the Notice of Application and the SEPA comment period, an adjacent property owner inquired about the timing of the official SEPA determination. Staff notified the property owner and conveyed that the SEPA Determination would be mailed following the closure of the official comment period. Staff provided a copy of the Determination to the property owner at that time. Comments from the Squaxin Island Tribe and Nisqually Indian Tribe indicated both tribes had no specific comments or concerns regarding the proposal.

Based on previous proposals for development on the property, a Conditional Use Permit was approved with conditions for the Tumwater School District Office building on March 17, 2008. The project would not conflict with the conditions associated with that

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approval and it meets the Conditional Use Permit minimum conditions of 25-foot setbacks around the perimeter of the property. Staff finds that the school expansion as conditioned conforms to the Comprehensive Plan, Tumwater Municipal Code, planning standards, development standards, and policies of the City of Tumwater. Staff finds that adequate provisions have been made for public health, safety, and general welfare and that the public use and interest will be served by the proposal school expansion on the property. Staff recommends approval of the Conditional Use Permit with attached conditions.

Examiner Reeves commented that for schools or offices, SEPA is not required for buildings of 4,000 square feet or less. He asked about any particular reasons the City elected to pursue a SEPA review process for the project. Planner Baruch responded that Tumwater Municipal Code requires a SEPA review when a development proposal requires Hearing Examiner approval.

Examiner Reeves acknowledged the existing Conditional Use Permit approval for the 19.5-acre property in 2008 and asked whether the expansion of an existing use prompted the requirement for a Conditional Use Permit. Planner Baruch replied that school expansions are subject to a conditional use permit when located in a Single Family Medium zone district. Examiner Reeves questioned whether the Comprehensive Plan designation for the property was Institutional or Schools. Planner Baruch affirmed the designation for future land use on the property is Institution/School for a portion of the property and Recreation Open Space for the Barnes Lake portion of the property. Examiner Reeves asked whether the lack of amending the zoning code designating institutional uses on the property created the need to obtain a conditional use permit. Planner Baruch explained that many school properties listed on the future land use map are designated as a public use zone; however, the current zoning district map of school properties are zoned residential as a result of historic zoning.

Examiner Reeves said the Site Plan Review process is traditionally an administrative process. He asked about any specific requirements or a specific section of the code that he should consider during his review and approval of the site plan as opposed to planning staff approval. Planner Baruch said two different elements apply. The reason the Applicant combined the process was to expedite the approval process to enable the school district to initiate construction to meet the opening date of the next school year. A second component is a preliminary and

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formal site plan review completed by staff with staff compiling the formal site plan review letter as included as a condition for approval of the proposal. Staff believes the reviews adequately addressed the components required for approval of a Site Plan. Additionally, the Applicant provided Site Development Grading and Building Permit submittals to ensure the reviews occur concurrently to enable construction as soon as the Hearing Examiner decision is rendered.

Examiner Reeves cited Exhibit 17 dated March 10, 2023 as the Development Review Committee's issuance of its Formal Site Plan letter. If the proposal had not been consolidated, he believes the letter serves as a guide for his purposes of review to ensure a decision on Site Plan Review. Planner Baruch concurred with his interpretation.

Examiner Reeves asked whether there have been any significant changes to the Comprehensive Plan or zoning since the application was deemed complete that might affect the proposal. Planner Baruch confirmed there have been no changes that would affect the proposal.

**APPLICANT
TESTIMONY:**

Examiner Reeves administered the oath to Mel Murray representing Tumwater School District.

Mr. Murray reported he serves as Director of Facilities for Tumwater School District.

Mr. Murray provided additional clarification of the acronym "LINCS." LINCS is Learning Independence by Networking Community and School. It is a special education program for 18 to 21 year old youths who are typically enrolled in an Individual Education Plan (IEP) and have not received their high school diploma. The program provides youths with an opportunity to transition from the high school to the community and employment environment.

The site has housed an elementary school since the 1930s. Originally, the property contained another small building prior to the development of the Tumwater School District Office building. The district office previously occupied an old classroom building constructed in 1951 that was removed as part of the building project. Since its removal, the site has served as a small soccer field for youths.

Examiner Reeves asked Mr. Murray whether he reviewed the Staff Report and recommended conditions as well as Exhibit 17 and has any questions. Mr. Murray affirmed he reviewed all the materials and has no concerns or additional questions.

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Examiner Reeves administered the oath to Ross Jarvis representing LDC, Inc.

Mr. Jarvis said he serves as the project's civil engineer.

Examiner Reeves invited Mr. Jarvis to provide any additional information that he believes should be clarified.

Mr. Jarvis said the project meets all City standards and will have minimal to no impacts to neighboring property owners. The project is a good fit for the location.

Examiner Reeves asked Mr. Jarvis whether he reviewed the Staff Report and accompanying exhibits and has any additional concerns. Mr. Jarvis said he has no concerns.

Examiner Reeves noted that no member of the public attended the public hearing.

Examiner Reeves advised that based on his review of the record and testimony, he would likely approve the proposal for a Conditional Use Permit and Site Plan Review with the recommended conditions by staff within the next several weeks. He thanked everyone for attending the public hearing.

ADJOURNMENT: With there being no further business, Examiner Reeves adjourned the public hearing at 7:24 p.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net