

BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

IN RE: ) HEARING NO. TUM-25-0244 (Preliminary  
 ) Plat) and TUM-23-0604 (Site Plan  
 ) Approval)  
 )  
HENDERSON BLVD. APARTMENTS ) FINDINGS OF FACT, ANALYSIS,  
ALSO KNOWN AS HENDERSON 94. ) CONCLUSIONS OF LAW AND  
 ) DECISION  
 )

**APPLICANT:** Allito Properties, LLC  
P.O. Box 26116  
Federal Way, Washington

**OWNER'S REPRESENTATIVE:** Chris Carlson and Steve Hatton  
Hatton Godat Pantier  
30910 Martin Way East, Suite B  
Olympia, Washington 98506

**SUMMARY OF REQUEST:**

Preliminary Plat approval to construct 10 townhomes and Site Plan review to construct 84 apartments on a 9.22-acre parcel located at 7501 Henderson Blvd. SE. Parcel No. 12711110300. The project is located in the Multi-Family Medium Density (MFM) zoning designation which allows for townhomes and apartments as permitted uses.

**LOCATION OF PROPOSAL:**

9.22 acres located at 7501 Henderson Blvd. SE, in Tumwater.

**SUMMARY OF DECISION:**

The requested Preliminary Plat and Site Plan Review are **approved** subject to the conditions recommended by City Staff.

**BACKGROUND**

The project site at 7501 Henderson Blvd. SE contains 9.22 acres and is undeveloped. A large wetland is located immediately north of the project site and its buffer encroaches into the site. The Applicant proposes to develop the site into 10 townhome units and 84 apartment units. The project would extend Trails End Blvd. a short distance into the property and also establish a

*Findings of Fact, Analysis,  
Conclusions of Law  
and Decision - 1*

**CITY OF TUMWATER HEARING EXAMINER**  
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1 second public road from Henderson Blvd. with a potential connection to Durrell Road SE. The  
2 10 townhomes would be constructed along the property's western boundary in three buildings,  
3 with the 84 apartment units located in 6 buildings throughout the remainder of the site. Other  
4 site improvements include a recreation building and various open spaces intended for common  
5 use by all residents.

6 Staff recommends approval subject to a lengthy list of conditions set forth in the Staff  
7 Report. There has been some public opposition due to concerns over the City's rapid growth and  
8 the impact of this and other new development, especially on traffic, critical areas and wildlife. In  
9 addition, the Port of Olympia asks that an "Avigation Easement" be imposed over the airspace  
10 for the benefit of the Olympia Regional Airport, but both the City Staff and Applicant object to  
11 this request.

### 12 **PUBLIC HEARING**

13 The public hearing commenced at 4:00 p.m. on Wednesday, September 24, 2025. The  
14 hearing was conducted in a hybrid format allowing for both in person participation as well as  
15 remote participation utilizing the Zoom platform with the City serving as host. The City  
16 appeared through Alex Baruch, Planner, and Tami Merriman, Manager. The Applicant appeared  
17 through Chris Carlson of Hatton, Godat, Pantier. Mr. Carlson was aided by Steve Hatton,  
18 Engineer, and Curtis Wambach, Wetland Biologist. Testimony was received from Mr. Baruch  
19 on behalf of the City and from Mr. Carlson, Mr. Hatton and Mr. Wambach on behalf of the  
20 Applicant. Several members of the public were either present or appeared remotely. A verbatim  
21 recording was made of the public hearing and all testimony was taken under oath.

22 The following exhibits were considered:

23 Exhibit 1. Staff Report September 24, 2025  
24 Exhibit 2. Preliminary Plat 04-22-2025  
25

1 Exhibit 3. Preliminary Civil Plans 08-22-2025  
2 Exhibit 4. Vicinity and Zoning Map  
3 Exhibit 5. Public Notice Certification 08-22-2025  
4 Exhibit 6. Notice of Application 03-28-2025  
5 Exhibit 6a-g. Notice of Application Comments  
6 Exhibit 7. Mitigated Determination of Non-significance with SEPA Checklist 06-13-2025  
7 Exhibit 7a-d. SEPA Comments  
8 Exhibit 8. Public Hearing Notice 08-22-2025  
9 Exhibit 8a-b. Public Hearing Comments  
10 Exhibit 9. Traffic Impact Analysis 02-06-2025  
11 Exhibit 10. Concurrency Ruling 05-29-2025  
12 Exhibit 11. Critical Area Report 02-26-2025  
13 Exhibit 12. Gopher Report 02-26-2025  
14 Exhibit 13. Forester Report 02-26-2025  
15 Exhibit 14. Drainage Report 02-26-2025  
16 Exhibit 15. Geotech Report 02-26-2025  
17 Exhibit 16. Project Narrative 02-26-2025  
18 Exhibit 17. Water and Sewer Availability Letter 02-26-2025  
19 Exhibit 18. Title Report 02-26-2025  
20 Exhibit 19. Proposed Changes to Recommended Conditions of Approval  
21 Exhibit 20. Maps Indicating Safe Routes to Schools  
22 Exhibit 21. Comments and Documents Submitted by the Olympia Regional Airport

23 **City's Presentation:**

24  
25 The hearing began with the testimony of Alex Baruch, Planner for the project and author  
of the City's Staff Report. Mr. Baruch's testimony relied extensively on his Staff Report (Exhibit  
1). The Applicant proposes to construct 10 townhomes and 84 apartments on a 9.22-acre site  
located at 7501 Henderson Blvd. SE. The project site has a zoning designation of Multi-Family  
Medium Density (MFM) which allows townhomes and apartments as permitted uses subject to  
preliminary plat approval of the townhomes and site plan approval for the apartments.

The project site is rectangular, flat and undeveloped, and generally slopes to a large  
wetland to the northwest. Much of the site is currently covered in trees. Surrounding uses are  
eclectic with more intense development to the west toward Old Highway 99 and less intense,  
more rural, development to the east and north. There is a large, shallow wetland just to the  
northwest of the site and its buffer encroaches onto the project site. As noted on the Site Plan,

*Findings of Fact, Analysis,  
Conclusions of Law  
and Decision - 3*

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1 the proposed 10 townhomes would be located within 3 buildings along the westerly boundary of  
2 the project site. The proposed 84 apartments would be located within 6 buildings spread across  
3 the remainder of the site. Other improvements include a recreation building, other outdoor  
4 recreation facilities, and several areas of open space/lawn and play areas, all intended for the  
5 benefit of residents of both the townhomes and the apartments. A 150-foot buffer for the  
6 wetland to the northwest would be maintained and no development would occur within this  
7 buffer with the exception of a recreational trail. The wetland buffer would be separated by a split  
8 rail fencing while all other property boundaries would be separated from adjoining properties by  
9 cedar fencing. The project would include 2 new public roads: (1) an extension of Trails End  
10 Blvd. commencing at Henderson Blvd. and continuing northwesterly and with a connection stub  
11 to the adjoining property to the northeast; and (2) a second road near the westerly boundary of  
12 the site running northwesterly in front of the townhomes and continuing to a connection to  
13 Durrell Road SE (although not currently providing access to Durrell Road). In addition to these  
14 two new public roads, an internal drive through the center of the project will provide access to  
15 each of the apartment buildings. Other site improvements include a storm drainage system  
16 including two storm drainage facilities/open space areas. These facilities will ensure that  
17 stormwaters are properly collected and eventually disbursed to the adjoining wetland in a manner  
18 intended to preserve the wetland's hydrology.

19 Mr. Baruch then reviewed the various notices given of the project and the responses by  
20 the public and interested agencies. Notice of the application was issued in March 2025. It  
21 generated responses from both agencies and members of the public. The Squaxin Island Tribe  
22 responded by indicating that it did not have any concerns relating to cultural resources. Several  
23 members of the public responded expressing their concerns about the project's impact to traffic,  
24 impact on trees, climate impacts, housing policies, and general concerns over the rapid growth of  
25 the City (Exhibits 6a-g).



1 The City issued its SEPA Mitigated Determination of Non-Significance (MDNS) on June  
2 13, 2025. The SEPA Notice generated additional agency and public comment including fairly  
3 standard comments by the Olympia Regional Clean Air Agency (ORCAA) and Department of  
4 Ecology. In addition, the Squaxin Island Tribe again responded but this time expressed concern  
5 over cultural resources and requested that a Cultural Resource Survey be completed. City Staff  
6 has agreed and has imposed this requirement as Condition No. 7. Intercity Transit also  
7 responded by requesting an ADA-compliant bus stop along Henderson Blvd. This request has  
8 been incorporated into a revised Site Plan. Additional public comments were also received and  
9 were of a similar nature to those sent in response to the Notice of Application (Exhibits 7a-d).  
10 Notice of the public hearing before the Hearing Examiner was issued on September 24, 2025.  
11 Additional public comments were received expressing concerns about traffic, parks and the  
12 impacts of additional development (Exhibits 8a-b). The City responded to these comments by  
13 providing detailed responses.

14 Mr. Baruch then reviewed the project with respect to transportation concurrency and  
15 confirmed that the project, as conditioned, will satisfy all concurrency requirements. The  
16 Applicant submitted a Transportation Impact Analysis which was reviewed by the City's  
17 Transportation Manager and Transportation and Engineering Director who issued a  
18 Transportation Concurrency Ruling declaring that the project is concurrent in regard to  
19 transportation so long as: (1) transportation impact fees are paid; and (2) the Applicant either  
20 construct improvements at the I-5 Interchange at Tumwater Blvd. or pay mitigation fees for its  
21 estimated trips through this interchange. Mr. Baruch acknowledged that the Applicant's Traffic  
22 Impact Analysis recognizes that the intersection of Henderson Blvd. and Old Highway 99, which  
23 currently has a Level of Service (LOS) of LOS C, is projected to decline to a status of LOS E by  
24 2031. LOS E is below the City's allowed minimum standard of LOS D. Nonetheless, Mr.  
25 Baruch notes that the decline in the LOS at this intersection will occur with or without the

1 project, and that the project will not contribute significantly to the intersection's decline. At the  
2 same time, it is believed that the LOS at this intersection can improve through adjustments in the  
3 traffic signaling, and that a roundabout is intended at this intersection as part of the City's Six-  
4 Year Transportation Plan. In summary, Staff does not find that the forecasted Level of Service at  
5 the Henderson Blvd./Old Highway 99 intersection is a basis for denying the application.

6 Mr. Baruch then turned to the issue of the large wetland on adjoining property. As noted  
7 in the Applicant's Critical Areas Report (Exhibit 11) there are no wetlands located within the  
8 project but there is an 18-acre wetland located immediately north/northwest of the project site  
9 (Wetland A). Wetland A is designated as a Category III Wetland with a standard buffer of 150  
10 feet. This buffer could be reduced to 110 feet if certain conditions are met but the Applicant is  
11 not seeking to reduce the buffer and has instead designed the project to preserve the 150-foot  
12 buffer. This required buffer encroaches into the subject property to an appreciable degree along  
13 the site's northwest boundary. All together, the portion of the wetland's buffer located within the  
14 project covers 54,430 square feet or approximately 1.25 acres. This area will be left undisturbed  
15 with the exception of a trail for recreational purposes.

16 Mr. Baruch then turned to the issue of Mazama Pocket Gophers and explained that the  
17 Applicant's Biologist, Mr. Wambach, has confirmed that there are no Pocket Gophers on-site  
18 (Exhibit 12).

19 The Applicant has presented a Forestry Report (Exhibit 13) which has identified 498  
20 trees on-site. The Applicant proposes to retain 106 of these trees. City regulations require  
21 retention of 111 trees, leaving a deficiency of 5 trees. The Applicant will be required to rectify  
22 this 5-tree deficiency at a 3:1 ratio, resulting in the need to plant 15 additional trees. The  
23 Applicant's Site Plan has made provision for these required trees.

24 Mr. Baruch then addressed the project's consistency with its zoning designation of Multi-  
25 Family Medium Density (MFM) and noted that both townhomes and apartments are permitted

1 uses within this zone. The proposed use will result in 13.9 units per acre which falls within the  
2 allowed density for this zone. Staff notes that other design standards for this zone will be  
3 confirmed during final review.

4 This project is required to have 15% of the site dedicated to open space. As the site  
5 encompasses 9.22 acres, it requires 1.38 acres of open space. The Site Plan provides for 2.69  
6 acres of open space including both active and passive open space areas. This includes a walking  
7 path through the wetland buffer, pool and spa, recreation building, and several grassy areas  
8 spread throughout the site. Residents of both the townhomes and apartments will be allowed  
9 equal access to these amenities.

10 Mr. Baruch completed his direct testimony by noting that several minor amendments are  
11 proposed to the list of recommended conditions. These changes are identified in a Memorandum  
12 dated September 22, 2025 (Exhibit 19). The proposed changes are being made to Condition Nos.  
13 2, 5, 11, 25, 27 and 43. All are of a technical nature and either make minor corrections to the  
14 requirements or eliminate ones no longer felt necessary.

15 At the conclusion of Mr. Baruch's direct testimony the Hearing Examiner posed several  
16 questions. The Hearing Examiner asked Mr. Baruch whether it is likely that the public road  
17 along the west side of the project will ultimately connect to Durrell Road SE. Mr. Baruch  
18 responded that this will depend upon the choices made by the property owner to the north, Mr.  
19 Long. Should that property owner decide to develop his property then it is almost certain that he  
20 will be required to dedicate right-of-way to extend Durrell, allowing for its connection to the new  
21 public road within this development.

22 The Hearing Examiner then questioned Mr. Baruch about the traffic impacts of the  
23 project, noting that the project is anticipated to generate 63 PM peak hour trips which will add to  
24 the already-burdened intersection at Old Highway 99 and Henderson Blvd. Mr. Baruch  
25 confirmed that the Traffic Impact Analysis recognizes this intersection to be operating at an LOS



1 E by 2031 but that improvements are expected to be made to the intersection that will improve  
2 its performance. In addition, the intersection is currently projected to reach LOS E with or  
3 without this project, and this project will not be the cause of its poor LOS.

4 The Hearing Examiner then noted that the Applicant's Wetland Report suggests that the  
5 Applicant is seeking a wetland buffer reduction from 150 feet to 110 feet. Mr. Baruch confirmed  
6 that there is no buffer reduction being sought and that the buffer for Wetland A to the north of  
7 the site will be maintained at 150 feet throughout the length of the project.

8 The Hearing Examiner then asked for more explanation as to the purpose of the tracts  
9 identified on the Site Plan, particularly Tract A. Mr. Baruch explained that Tract A is a  
10 secondary stormwater tract. Stormwaters will be collected at this tract along with the primary  
11 storm facility located near the center of the project to then be disbursed to the adjoining wetland.

12 **Applicant's Presentation:**

13 At the conclusion of Mr. Baruch's testimony the Applicant responded through the  
14 testimony of Chris Carlson, Project Manager, Steve Hatton, Project Engineer, and Curtis  
15 Wambach, Biologist. Their presentation began with the testimony of Mr. Carlson who  
16 confirmed that the Applicant has no objection to the conditions proposed by City Staff (as  
17 amended). Mr. Carlson then explained that the project will extend City water and sewer to the  
18 site and provide looped connections which will improve the delivery of both utilities through  
19 this area. The project will also establish two new public streets, both of which will be stubbed at  
20 adjoining properties to allow for future extension. Additional right-of-way will be dedicated to  
21 allow a future connection to Durrell Street. The project will have sidewalks on both sides of the  
22 streets as well as pedestrian connections throughout the project.

23 Anticipating concerns that the Hearing Examiner might have over safe walking routes for  
24 students walking to and from local schools, Mr. Carlson provided a copy of the Safe Walking  
25 Routes for Local Schools (Exhibit 20). These maps establish that existing walking routes are

1 some distance from the project site and the project therefore does not need to establish a safe  
2 walking route connection as it can be anticipated that students will be bused to schools.

3 Mr. Carlson went on to explain that the project will establish a homeowners' association  
4 for each type of development and that all amenities will be available to all residents, whether  
5 residing in the townhomes or apartments. He then turned to transportation issues and noted that  
6 mitigation fees will be paid for required improvements to the Tumwater Blvd. – I-5 interchange  
7 as part of the traffic concurrency requirements. In addition, signal adjustments will be made at  
8 the Henderson Blvd./Old Highway 99 intersection to improve the flow of traffic through the  
9 intersection, thus helping with traffic concurrency.

10 Following Mr. Carlson's testimony, Steve Hatton spoke to some of the engineering issues  
11 especially stormwater. Mr. Hatton noted that the site has well drained, permeable soils which  
12 will be utilized to establish a stormwater system intended to capture, filter and infiltrate  
13 stormwaters in order to maintain the hydrology of the adjoining wetland.

14 The Applicant's presentation was concluded with the testimony of Curtis Wambach who  
15 addressed the issues of Mazama Pocket Gophers and wetlands. Mr. Wambach first explained  
16 that the Pocket Gopher Report he prepared (Exhibit 12) demonstrates that the project is not  
17 suitable pocket gopher habitat and therefore no additional pocket gopher screenings are required.  
18 He then turned to his Wetland's Report (Exhibit 11) and explained that the adjoining wetland  
19 (Wetland A) has been carefully delineated and its boundaries are well established. It meets the  
20 definition of a Category III Wetland with a Habitat Score of 6 and a total score of 19, thus  
21 resulting in a required buffer of 150 feet. The Site Plan has been drawn to ensure that this 150-  
22 foot buffer is preserved on-site and that no development will occur within the buffer with the  
23 single exception of the allowed recreational trail.

1 **Public Testimony:**

2 Following the presentation by the Applicant's representatives the hearing was opened to  
3 public testimony. Three members of the public asked to speak:

4 **Robert Long.** Mr. Long is the owner of the property immediately north of the project  
5 site where the large Wetland A is located. Mr. Long first sought assurances that the project's  
6 common boundary with his property will be fenced. Mr. Baruch responded to this question by  
7 noting that City Staff had previously responded to this question through a series of emails and  
8 had confirmed that the entire boundary with Mr. Long's property will be fenced. That portion of  
9 the common boundary not affected by wetland buffers will have a standard cedar fence, while  
10 that portion along the wetland boundary will utilize a split rail fence to help announce the  
11 wetland's boundary. Mr. Long then turned to the issue of dedicating right-of-way within his  
12 property so as to allow this project's new public road to connect to Durrell. Mr. Long explained  
13 that he is not opposed to dedicating the necessary right-of-way but needs to further understand  
14 the benefits to his property of doing so. Mr. Long then concluded his testimony by noting that  
15 the Wetland A appears to be decreasing in its water levels and that parts of it are being overtaken  
16 by grass. He is concerned that this project will quicken the demise of the wetland and sought  
17 assurances that the project will not have a negative impact upon it. Steve Hatton, Engineer for  
18 the Applicant, responded by noting that the project's stormwater design has been specifically  
19 engineered to release the same amount of stormwaters to the wetland as the site has historically  
20 released to it, and that the project will not reduce the flow of water to the wetland but is instead  
21 designed to mimic existing conditions.

22 **Corey Stern.** Mr. Stern is not opposed to the project but merely had a few questions as  
23 he lives nearby. Mr. Stern wished to confirm how far the sewer mains would be extended, where  
24 sidewalks would be located, and when the project might be expected to be undertaken. Mr.



1 Stern's questions were answered by Staff or the Applicant, with Mr. Carlson explaining that the  
2 earliest project might be undertaken is the spring of 2026.

3 **Warren Hendrickson.** Mr. Hendrickson is the Director of Operations for the Port of  
4 Olympia and was testifying on behalf of the Port and, in particular, the Olympia Regional  
5 Airport operated by the Port. The purpose of Mr. Hendrickson's testimony was to encourage the  
6 Hearing Examiner to impose an "Avigation Easement" as a condition of project approval. The  
7 proposed easement, together with a written copy of Mr. Hendrickson's testimony, are found in  
8 Exhibit 21. Mr. Hendrickson's letter explains that the Port recognizes that the project site does  
9 not fall within the Airport Overlay Zone for the regional airport but, nonetheless, that the site  
10 should be regulated through the proposed Avigation Easement to ensure public safety and the  
11 best use of the airport. The Port recognizes that it does not have regulatory control over the  
12 project site and, again, that the City's Airport Overlay Zone does not include this site, but  
13 believes that the City's regulation of development near the airport is outdated and inconsistent  
14 with guidelines imposed by the State, particularly the the "Airports and Land Use Compatibility  
15 Guidebook" published by WSDOT Aviation in 2011. The Port asserts that the regulations set  
16 forth in the guidebook provide better, more comprehensive regulation of properties near airports  
17 and should be followed. If followed, the guidebook would impose the Avigation Easement  
18 requested by the Port.

19 The Port's proposed Avigation Easement is found as Attachment 6 to Exhibit 21. The  
20 proposed language of the easement would grant to the Port "a perpetual . . . easement in and over  
21 the project site, and a right-of-way for the free and unrestricted passage and flight of aircraft over  
22 the site." To accomplish this, the project would be required to demonstrate that it does not  
23 interfere in any manner with the right to fly over the site, nor create "noise, dust, turbulence,  
24 vibration, elimination, air currents, fumes, exhaust, smoke and all other effects that might affect  
25 aircraft operation", and, further, that the owner will assure "continuing and perpetual right to

1 clear and keep clear the airspace of any buildings, structures, improvements, trees, vegetation, or  
2 other objects, and grant the Port the right to remove and demolish anything deemed inconsistent  
3 with its airspace rights." Further, the Port would be granted the right to enter onto the property  
4 and identify and remove any obstruction it believes to affect navigation including buildings,  
5 structures and trees. Finally, the easement would require the owner to agree to not use the  
6 property in any manner which creates electrical or electronic interference potentially affecting  
7 airport operations. These covenants and easements would be perpetual and run with the land.

8 Both the City and Applicant are opposed to the Port's requested Avigation Easement.  
9 Similar requests have been made by the Port with respect to earlier projects in the same general  
10 vicinity and have been denied. The City is concerned that imposing such an easement on  
11 individual projects, rather than through area-wide zoning, would result in its piecemeal  
12 imposition in a manner that would be regarded as arbitrary. Instead, City Staff believes that any  
13 such regulations should be imposed by the City Council through comprehensive zoning or land  
14 use regulations rather than through individual project approval.

### 15 ANALYSIS

16 This project is relatively straightforward with a few exceptions: There are  
17 understandable concerns as to how this and other pending projects are affecting the City's  
18 transportation system, with concerns that the City's growth is outpacing its streets' capacity for  
19 added traffic. As to this project, the greatest concern is with its added burden to the nearby  
20 intersection at Henderson Blvd. and Old Highway 99 which, even without this project, is  
21 currently projected to fall to LOS E by 2031. But as Staff has explained, improvements are  
22 planned for the intersection to restore it to an acceptable Level of Service. It has been  
23 demonstrated that this project will not cause a failed Level of Service on its own. For these  
24 reasons, together with the Applicant's payment of appropriate mitigation fees, the Transportation  
25 Manager and Engineering Director have made a Transportation Concurrency Determination. I

*Findings of Fact, Analysis,  
Conclusions of Law  
and Decision - 12*

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1 concur with this determination and find that transportation issues have been adequately  
2 addressed.

3 The site adjoins an 18-acre wetland immediately to the north. Several members of the  
4 public and the owner of that wetland property are concerned with the future of the wetland and  
5 its protection. The Applicant's materials demonstrate careful consideration of the wetland and its  
6 protection. The wetland has been carefully delineated and a 150-foot buffer will be maintained  
7 along its perimeter, with no development within that buffer except for an allowed recreational  
8 trail. Meanwhile, stormwater systems have been carefully designed to mimic the nature  
9 discharge of stormwaters to the wetland to ensure its hydrology consistent with the City's most  
10 current Stormwater Manual. I find that the wetland has been carefully considered throughout  
11 this application and appropriate provisions have been made for its protection.

12 The other unusual aspect of this application is the request by the Olympia Regional  
13 Airport to impose an "Avigation Easement" on the property. It is important to note that this  
14 request comes at the last minute with no prior discussion by the Port with either the City or the  
15 Applicant regarding the proposed easement. This approach is highly unusual and unfortunate. It  
16 suggests that the Port does not expect the easement to be granted and is making this request more  
17 to express its frustration with the City's current airport zoning. If the Port had truly believed that  
18 the easement would be granted it would have provided it to the City and to the Applicant in  
19 advance of the hearing to review, discuss and negotiate its terms. Instead, the Port presents a  
20 take-it-or-leave-it, complex document with highly controversial terms seeking extraordinary  
21 extractions from the property owner in return for simply developing the property in a manner  
22 permitted by its zoning. Again, the approach being taken by the Port is unfortunate. I concur  
23 with City Staff that the regulation of airspace near the airport is best addressed on a large scale  
24 basis, not a piecemeal one, and decided upon by the City Council and not the Hearing Examiner.  
25



1 In summary, I concur with City Staff that the project, as conditioned, has satisfied all  
2 requirements for Preliminary Plat approval and Site Plan approval.

3 Accordingly, I make the following:

4 **FINDINGS OF FACT**

5 **General Findings.**

6 1. The project proposes the construction of 10 townhomes and 84 apartments on a  
7 9.22 acre site located at 7501 Henderson Blvd. SE. Construction of the townhomes requires  
8 Preliminary Plat approval while construction of the apartments requires Site Plan Review.

9 2. Any Findings of Fact contained in the foregoing Background, Public Hearing or  
10 Analysis Sections are incorporated herein by reference and adopted by the Hearing Examiner as  
11 his Findings of Fact.

12 3. The project site has a zoning designation of Multi-Family Medium Density  
13 (MFM). Townhomes and apartments are both permitted uses within this zoning designation.

14 4. Additional site improvement include two new public roads to be extended to the  
15 property's boundaries to allow future extensions to adjoining properties. Othe improvements  
16 include extension of City water and sewer mains, frontage improvements, landscaping, open  
17 space and recreational areas, and stormwater management. The Site Plan can be found in  
18 Exhibits 2 and 3.

19 5. As shown on the Site Plan, key components of the project include the following:

- 20 ● 10 townhomes are to be constructed along the westerly boundary of the  
21 site. The townhomes are to be grouped into three buildings.
- 22 ● 84 apartment units are to be constructed in six buildings spread across the  
23 remainder of the project site, with individual parking areas for each apartment building.
- 24 ● 2 new public roads are to be constructed: (a) a northerly extension of  
25 Trails End Blvd. commencing at Henderson Blvd. and running northerly and then

1 easterly, terminating at the property's boundary and allowing for future extension when  
2 the adjoining property is developed; and (b) a second public road commencing near the  
3 westerly boundary of the project site commencing at Henderson Blvd. and running  
4 northerly to the project's north boundary and its intersection with Durrell Road SE. This  
5 road is also intended to connect to Durrell Road in the future once appropriate right-of-  
6 way has been dedicated by the property owner to the north.

7 • A wetland buffer along the northerly boundary of the property, 150 feet in  
8 width, protecting the off-site wetland (Wetland A) to the north. No development will  
9 occur within this buffer with the exception of a recreational trail.

10 • Various recreational facilities including a recreation building, pool, spa,  
11 walking trail and open lawn areas containing playground equipment. All active open  
12 space areas will be available to residents of both the townhomes and apartments.

13 • Internal driveways will provide connections to all of the apartment  
14 buildings as well as pedestrian access.

15 • Street frontage improvements will be required along the property's  
16 boundary with Henderson Blvd. Additional frontage requirements will be required for  
17 the two new public roads within the development, all as identified on the final Landscape  
18 Plan.

19 • 106 existing trees will be retained and 15 additional trees will be planted  
20 in order to meet tree requirements. These trees are in addition to the required street trees.

21 6. The project proposes total open space, including both active and passive open  
22 space of 2.69 acres. Staff notes that the minimum required open space for this project is 1.38  
23 acres of open space. The project therefore complies with open space requirements. As noted in  
24 earlier Findings, open spaces will be used as walkways, pool and spa recreation building, and  
25 grassy areas with playground equipment.

1           7.       A map of the vicinity surrounding the site and its zoning is found at Exhibit 4.  
2 Uses of adjoining properties are eclectic, with properties southerly and westerly of the project  
3 having a more intense, commercial use and properties easterly and northerly of the site having a  
4 less intense, residential use. A short distance to the southwest is the Olympia Regional Airport.

5           8.       The property is vacant, generally flat and mostly covered in trees. It generally  
6 slopes to the wetland to the north. There are no wetlands on-site but there is a large (18 acre)  
7 wetland to the north (Wetland A). The buffer of Wetland A extends into the northerly portion of  
8 the project site.

9           9.       The project is located in the Bush Prairie Neighborhood as designed by the Land  
10 Use Element in the City's Comprehensive Plan. The plan recognizes this area as intended for  
11 multi-family residential medium density development with a goal of providing a connection  
12 between Henderson Blvd. and Durrell Road through this property. The project's proposed use is  
13 consistent with its land use designation.

14           Findings Relating to Notice of Application and Public Comments.

15           10.      Notice of the application was mailed to property owners within 300 feet of the  
16 property and to affected agencies, public on-site and published in the Olympian on March 28,  
17 2025. This initial notice generated both agency and public comment. The Squaxin Island Tribe  
18 responded by indicating that it did not have any specific cultural resource concerns for the  
19 project but recommended an Inadvertent Discovery Plan. The owner of property immediately to  
20 the north, Robert Long, sought assurances that the common boundary with his property would be  
21 fenced. Other members of the public expressed concerns over traffic, protection of trees, bus  
22 routes and the general impacts of additional residential development on the neighborhood and  
23 the City. These comments are found in Exhibit 6a-g.



1           11.     The City, as lead agency, issued a SEPA Mitigated Determination of Non-  
2 Significance on June 13, 2025 (Exhibit 7). Notice of the SEPA Determination was mailed to  
3 property owners within 300 feet and to agencies, poses on-site and published in the Olympian.

4           12.     The SEPA Notice generated additional agency and public comment: Fairly  
5 standard comments were submitted by the Olympia Regional Clean Air Agency (ORCAA), as  
6 well as by the Department of Ecology. The Squaxin Island Tribe responded and altered its  
7 earlier recommendation that no cultural resources survey was necessary. Instead, the tribe  
8 requested that a Cultural Resource Survey be completed as it is located within an area of high  
9 potential for cultural resources. City Staff responded by requiring a Cultural Resources Study  
10 prior to any land disturbance (Proposed Condition No. 7). Intercity Transit responded by  
11 requesting an ADA compliant bus stop along Henderson Blvd. Site Plans have been revised  
12 accordingly. Additional public comments were received consistent with the ones earlier received  
13 and expressed continued concern over traffic, wetland impacts, impacts to wildlife and other  
14 impacts resulting from continued City growth.

15           13.     Notice of the public hearing before the Hearing Examiner was mailed to property  
16 owners within 300 feet of the subject property and to affected agencies as well as to those who  
17 provided earlier comment, posted on-site, and published in the Olympian on September 12,  
18 2025.

19           14.     Additional public comments were received and expressed concerns similar to  
20 those previously expressed regarding traffic, recreational facilities and other general impacts of  
21 increased development.

22           15.     City Staff has responded to public comments received in response to all notices  
23 by either making modifications to the project's approval or providing explanations as to how  
24 these concerns have been addressed.  
25

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

3           16.     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 including the Plan's goals and policies for the Bush Prairie Neighborhood. The Hearing  
7 Examiner concurs with these Findings.

8           17.     Staff also finds that the project, as conditioned, is consistent with the Tumwater  
9 Transportation Plan. The Applicant has provided a Transportation Concurrency Application  
10 along with a Traffic Impact Analysis which were then reviewed by the Transportation Manager  
11 and the Transportation and Engineering Director and then incorporated into the Transportation  
12 Concurrency and SEPA MDNS. The Transportation Concurrency ruling identifies specific  
13 mitigation measures to achieve concurrency including improvements and/or payment of  
14 mitigation fees for the Tumwater Blvd. – I-5 Interchange together with traffic impact fees.  
15 These requirements have been incorporated into the MDNS. Staff therefore finds that, with the  
16 required mitigation proposed in the Transportation Concurrency and SEPA MDNS, the project  
17 will not adversely affect Level of Service standards and is consistent with the Tumwater  
18 Transportation Plan. The Hearing Examiner concurs.

19           18.     Staff further finds that the project, as conditioned, does not conflict with the  
20 Sustainable Development Plan for Thurston Region. Staff finds that the project is located in an  
21 area designated for residential growth and includes goals of preserving environmentally sensitive  
22 lands while developing in a compact urban manner. The project also meets the goals of the  
23 Sustainable Development Plan by maximizing density as allowed by its zoning district while at  
24 the same time protecting environmentally sensitive lands. The Hearing Examiner concurs.

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

3           Findings Relating to the Project's Compliance with Transportation Concurrency  
4 Requirements of Chapter 15.40 TMC.

5           20.     The project must comply with the City's Transportation Concurrency Test set  
6 forth in Chapter 15.40 TMC.

7           21.     As earlier noted, the Applicant submitted a Transportation Impact Analysis for  
8 the project (Exhibit 9). The TIA concludes that the project will have the following traffic  
9 impacts at full buildout:

- 10                   •     The project is anticipated to generate 63 PM peak hour trips.
- 11                   •     With the exception of the Interstate 5 north bound and south bound ramps  
12 on Tumwater Blvd., and the Henderson Blvd./Old Highway 99 intersection, all nearby  
13 intersections are anticipated to operated at LOS D or better with or without the addition  
14 of the projected generated traffic.
- 15                   •     Although the Tumwater Blvd. SW and I-5 ramps are found to operate with  
16 LOS F conditions, this status exists with or without the proposed development. The  
17 City's Transportation Plan provides for improvements to this intersection which, when  
18 completed, are expected to result in LOS A conditions. As such, no additional mitigation  
19 is recommended beyond the payment of mitigation fees.
- 20                   •     The intersection of Henderson Blvd. and Old Highway 99 is forecast to  
21 operate at an LOS E level by 2031. This reduction in LOS will occur with or without the  
22 project. Improvements to the intersection are planned including adjustments to the  
23 timing of traffic signals and, on a longer term, a new roundabout intersection as provided  
24 for in the City's Six-Year Transportation Plan. Staff therefore finds that no additional  
25 mitigation is required.



1                   ●       As noted earlier, the Transportation Impact Analysis was reviewed by the  
2       City's Transportation Manager and the Transportation and Engineering Director and  
3       incorporated into the Transportation Concurrency and SEPA MDNS. The Transportation  
4       Concurrency Ruling finds that the project is concurrent in regards to transportation  
5       subject to the following conditions: (a) all transportation impact fees are paid; and (b)  
6       payment of mitigation fees for trips through the Tumwater Blvd. – I-5 Interchange.

7       22       The Hearing Examiner concurs that the project, as conditioned, complies with  
8       traffic concurrency requirements.

9       Findings Relating to Tree Protection and Replacement, Chapter 16.08 TMC.

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

12       24.       The Applicant has provided a professional Forester Report including tree  
13       inventory and tree protection plan (Exhibit 13). The report finds that there are 498 trees located  
14       on-site. Chapter 16.08 TMC requires retention of 20% of existing trees, or 12 trees per acre,  
15       whichever is greater. Here, the greater number is 111 trees to be retained.

16       25.       The Applicant proposes to retain 106 of the existing trees within required tree  
17       tracts. This will leave a shortfall of 5 required trees. When development cannot meet the  
18       retention standards, any shortfall in trees must be replaced at a ratio of 3:1. The anticipated  
19       shortfall of 5 trees must therefore be addressed through planting of 15 additional trees.

20       26.       Subject to the replanting of trees as required, City Staff finds that the project is  
21       consistent with the tree protection and replacement requirements of Chapter 16.08 TMC. The  
22       Hearing Examiner concurs.

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

24       27.       The Applicant has provided a Mazama Pocket Gopher Report (Exhibit 12) which  
25       concludes that the site is unlikely for Mazama Pocket Gophers due to its forestry cover and dense



under story. As a result, no additional screenings are required. City Staff concurs with the findings of this report. The Hearing Examiner also concurs.

28. There are no other wildlife related issues associated with the site.

Findings Relating to Wetlands and Their Buffers.

29. The Applicant has presented a Critical Areas Report for the project site (Exhibit 11). The report concludes that there are no wetlands on-site. There is, however, a large wetland (Wetland A) located immediately off-site to the northwest of the property. This wetland extends across 18 acres and is described as a shallow lake dominated by aquatic bed with scrub shrub periphery. It is a shallow depression containing permanent water. An unnamed stream flows into its western portion.

30. Wetland A is categorized as a Category III Wetland with a Habitat Score of 6 and total rating score of 19. Based upon these wetland scores, Wetland A requires a buffer of 150 feet.

31. If certain conditions are satisfied the wetland's buffer can be reduced to 110 feet but the Applicant is not requesting a wetland buffer and is instead designing the project to ensure a 150-foot buffer from Wetland A.

32. The 150-foot buffer for Wetland A has been shown on Site Plans. This buffer will be physically represented by a split rail fence to ensure its recognition and protection. No development will occur within the designated buffer with the exception of a recreational trail.

33. The wetland buffer will have signs every 50 feet and have continuous rail fencing across its length. The only gap in the fencing will be for the 5-foot wide woodchip trail.

34. Staff therefore finds that the project, as conditioned, satisfies all requirements for the protection of wetlands as imposed by Chapter 16.08 TMC. The Hearing Examiner concurs.

1           Findings Relating to Compliance with the Preliminary Plat Design Standards, Title 17

2   TMC.

3           35.     The application must comply with all design and development standards set forth  
4 in TMC 17.12.010-.210. The Staff Report, commencing at page 7 and continuing to page 12,  
5 contains extensive Findings relating to compliance with each of these design standards. Staff  
6 finds that the project, as conditioned, satisfies each requirement of TMC 17.12.010-I-5.210. This  
7 includes all requirements for future subdivision and access; minimum lot size; residential lot  
8 building sites; nature vegetation and features; clearing and grading; wetlands and drainage;  
9 hazards; streets; driving surfaces and rights-of-ways; cul-de-sacs; street signs; topography;  
10 maximum street grades; street names; lot access private streets; underground utilities; and park  
11 and open space areas. The Hearing Examiner has carefully considered all of these Findings and  
12 adopts Staff's Findings as his own.

13           Findings Relating to Requirements for Land Division, Chapter 17.14 TMC and Chapter  
14 58.17 RCW.

15           36.     The Hearing Examiner must make Findings that appropriate provisions have been  
16 made for public health, safety and general welfare and for open spaces, drainage ways, streets or  
17 road, alleys or other public ways, other grounds, transit stops, potable water supplies, sanitary  
18 waste, parks and recreation playgrounds, schools and schoolgrounds, fire protection and other  
19 public facilities and shall consider all other relevant facts to determine whether the public interest  
20 will be served by the land division and dedication. Consideration must also be given for  
21 sidewalks and other planning features to ensure safe walking conditions for students who only  
22 walk to and from school.

23           37.     The Staff Report, commencing at page 12, includes the Staff's Findings that  
24 adequate provisions have been made for public health, safety and general welfare including the  
25 following:

*Findings of Fact, Analysis,  
Conclusions of Law  
and Decision - 22*

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

1           A.     The project includes both passive and active open spaces including a  
2 clubhouse, pool and spa, walking path and grassy areas with playground equipment as  
3 well as other open spaces.

4           B.     The project proposes a storm drainage system complying with the City's  
5 most recent Drainage Design and Erosion Control Manual, with final design to be  
6 approved as part of site development. A Preliminary Storm Drainage Report, including a  
7 Geotechnical Investigation, has been submitted to support the preliminary design with  
8 final storm drainage to be approved as part of the site development/grading permit  
9 (Exhibit 14).

10          C.     The Applicant will be required to construct frontage improvements and  
11 road extensions. Traffic impact fees and mitigation fees for the identified Level of  
12 Service failure at the Tumwater Blvd. – I-5 Interchange will be due at building permit  
13 issuance.

14          D.     The City of Tumwater Water Resources and Sustainability Department  
15 has issued a water and sewer availability ruling indicating that water and sewer are  
16 available.

17          E.     The project will be required to pay school impact fees to the Tumwater  
18 School District at time of building permit issuance.

19          F.     The City finds that its fire department facilities are adequate to service the  
20 project.

21        38.     The Hearing Examiner has reviewed these Findings and adopts them as his own.  
22        Finding Relating to the Zoning Code, Title 18 TMC.

23        39.     As noted in previous Findings, the project is located in the Multi-Family Medium  
24 Density (MFM) zone. It is also located in the Bush Prairie Subarea in the Comprehensive Plan.



1           40.     Townhomes and apartments are permitted uses in the MFM zone and the Bush  
2 Prairie Subarea.

3           41.     Staff notes that the development standards allow a minimum of 9 dwelling units  
4 per acre with a maximum of 14 dwelling units per acre in this zoning designation. Staff  
5 calculates the project's density at below 14 dwelling units per acre and thus complying with the  
6 requirements of TMC 18.14.020 for development density.

7           42.     Staff further finds that the Preliminary Plat and Site Plan demonstrate consistency  
8 with permitted use and development standards in the Multi-Family Medium Density zone. At  
9 time of building permit submittal, the Applicant will be required to demonstrate compliance with  
10 all development standards.

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

16           44.     The project is located within Zone 6 of the Airport Overlay Zone. Properties  
17 within Zone 6 are not restricted in their development.

18           45.     The Olympia Regional Airport requests imposition of Avigation Easement as a  
19 condition of project approval. The terms of the proposed easement are set forth in Exhibit 21  
20 (Attachment 6).

21           46.     The Analysis Section contains a discussion of the proposed easement and  
22 Findings s to why it should not be required. Those Findings are incorporated herein.



1           Findings Relating to Site Plan Review.

2           47.     As noted in the Staff Report at page 14, Site Plan Review approval assures that  
3 the proposal meets all requirements of the Tumwater Municipal Code pertaining to zoning,  
4 design, building, fire and engineering.

5           48.     Staff finds that the Multi-Family component of the proposed Site Plan meets all  
6 zoning requirements for density, lot coverage and open space. Bike parking, landscaping and  
7 other infrastructure requirements will be shown on the site development grading and building  
8 permits and reviewed at time of permit review. Staff therefore recommends approval of the Site  
9 Plan Review for the apartment component subject to the conditions set forth in the Staff Report.

10          49.     Staff recommends that the requested Preliminary Plat and Site Plan approval be  
11 approved subject to the 59 conditions found in the Staff Report commencing at page 14, but that  
12 several of these conditions be amended for the reasons set forth in the Staff's Memorandum of  
13 September 22, 2025, wherein amendments are proposed for Condition Nos. 2, 5, 11, 25, 27, and  
14 43 (Exhibit 19). The Hearing Examiner has reviewed these proposed amendments and concurs  
15 with them.

16          50.     The Applicant does not object to the proposed conditions as amended.

17          Having entered his Findings of Fact, the Hearing Examiner makes the following:

18                           **CONCLUSIONS OF LAW**

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

20          2.     Any Conclusions of Law contained in the foregoing Background, Public Hearing  
21 and Analysis Sections or Findings of Fact are hereby incorporated by reference and adopted by  
22 the Hearing Examiner as his Conclusions of Law.

23          3.     The requirements of SEPA have been met.

24          4.     All notice requirements have been met.  
25

1           5.       The project's proposed townhomes are a permitted use in the MFM zoning district  
2 subject to Preliminary Plat approval, while the project's proposed apartments are a permitted use  
3 with the MFM zoning district subject to Site Plan approval.

4           6.       The Preliminary Plat, as conditioned, is consistent with the Tumwater  
5 Comprehensive Plan, the Tumwater Transportation Plan, the Sustainable Development Plan for  
6 Thurston Regions and the Thurston Regional Trail Plan.

7           7.       The project, as conditioned, is consistent with all applicable performance  
8 standards for the Multi-Family Medium Density zoning district as well as the Aquifer Protection  
9 Overlay Zone.

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

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

14          10.      The project, as conditioned, satisfies all requirements for Fish and Wildlife  
15 Habitat Protection pursuant to Chapter 16.32 TMC.

16          11.      The project, as conditioned, satisfies all general binding site plan design standards  
17 imposed under Title 17 TMC including all specific requirements imposed under TMC  
18 17.12.010.210.

19          12.      The project, as conditioned, complies with all requirements of TMC 17.14.040  
20 and RCW 58.17.110. Adequate provisions have been made for public health, safety and general  
21 welfare, and for such open spaces, drainage ways, streets, sanitary waste, parks and recreations,  
22 schools, sidewalks, and the public use and interest will be served by the subdivision of the  
23 property.

13. The project, as conditioned, complies with all of the requirements for Site Plan approval.

14. The project, as conditioned, complies with all development standards imposed under the Multi-Family Medium Density zoning district, Chapter 18.14 TMC.

15. The project, as conditioned, complies with the requirements of the Aquifer Protection Overlay zone district. The proposed uses are not restricted land uses in the Aquifer Protection Overlay zone district.

16. The project does not fall within the regulations imposed by the Airport Overlay Zone.

17. The project should be approved subject to the 59 conditions set forth in the Staff Report, as amended.

## DECISION

Now, therefore, the Applicant's request for Preliminary Plat approval to construct 10 townhomes and Site Plan Review to construct 84 apartments, shall be **approved** subject to the following conditions:

## CONDITIONS

1. Wetland Sensitive Resource Tract:

a. The location of the outer extent of the wetland buffer and the areas to be disturbed pursuant to an approved permit shall be marked in the field, and such field marking shall be approved by the city prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

b. The site development grading plans for the project shall include a wetland buffer fence along the edge of the wetland buffer to be installed prior to site development grading final inspection approval. It shall consist of a four foot tall wood split rail fence or alternative approved by the Community Development Director. Wetland buffer signs shall be installed every 50'.

2. Compliance with the required design guidelines will be reviewed at the time of building permit submittal. Design guideline language is vested at the time of a complete preliminary plat application.

3. Parks and Open Space:

a. All open space elements shall be useable by the townhome units (Lots 1-10) as the open space elements are necessary to meet the open space requirements of the plat and site plan approval. This shall be described in the CC&Rs and shall be noted on the face of the plat.

b. The site development grading plan shall include an open space sheet showing the total amount of open space meeting or exceeding the amount shown on the preliminary site development grading plans (Exhibit 3). The open space sheet shall include details of proposed equipment/infrastructure meeting the requirements in 17.12.210.G and design guidelines. The open space sheet can be combined with the landscape plan if desired. The approved equipment/infrastructure shown on the plans shall be installed prior to site development grading final inspection approval or as allowed through alternative arrangements approved by the Community Development Director.

4. Consolidated postal drop-off facilities shall be provided for the site. The location must be coordinated and approved by the U.S. Postal Service with location shown on the civil engineering plans.

5. Two off-street parking spaces are required for each townhome lot. Apartments require 1.5 stalls per 1-2 Bedroom unit; 2 stalls per 3 Bedroom unit and 1 guest stall per 10 units. Driveways and off-street parking spaces must be hard surfaced (asphalt, concrete or turnstone). No parking will be allowed in a cul-de-sac turnaround and shall be posted accordingly.

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

7. The project proponent shall complete a cultural resource study for the property which shall be reviewed and approved by the Department of Archeological and Historic Preservation (DAHP), Squaxin Island Tribe and Nisqually Indian Tribe prior to any permit



1 approval for land disturbance for this project. After the study has been approved, the applicant  
2 shall follow the findings in the study along with the procedures in the City of Tumwater Standard  
3 Inadvertent Archaeological and Historic Resources Discovery Plan. If any archaeological or  
4 cultural resources are uncovered during construction, the project proponent shall stop work in the  
5 area of discovery and follow the procedures in TMC 18.40.065 Inadvertent Discovery of  
6 Archaeological and Cultural Resources.

7  
8 8. Conditions listed in the Mitigated Determination of Non-Significance dated  
9 June 13, 2025, are hereby referenced and incorporated. If the applicant decides to pay mitigation  
10 fees for the Tumwater Blvd – I-5 intersection, the fee shall be paid prior to issuance of the initial  
11 building permit.

12 9. The following condition will be required to be noted on the Final Plat: All  
13 landscaped areas in public rights-of-way shall be maintained by the Home Owners Association,  
14 owner(s) and his/her successor(s) and may be reduced or eliminated if deemed necessary for or  
15 detrimental to City road purposes.

16 10. Impact fees for traffic, parks and schools will be assessed to each dwelling unit in  
17 the subdivision as Building Permits are issued. The impact fees will be in accordance with the  
18 most current fee resolution adopted by the City at the time complete Building Permit applications  
19 are submitted.

20 11. Site Plan Approval for the apartment component of the project shall follow the  
21 approval duration for the preliminary plat.

22 12. A Site Development/grading permit will be required for this site. The permit  
23 application shall be accompanied by the application checklist and digital plans and specifications  
24 and supporting data consisting of a soils engineering report and engineering geology report  
25

1 prepared and signed by a licensed soils engineer. Inspection of the grading shall be provided by  
2 the civil engineer and Geotechnical engineer. In addition, special inspectors approved by the  
3 building official shall perform inspections of fill placement, compaction testing, and blasting. All  
4 special inspections are to be performed by WABO registered labs and inspectors who have  
5 expertise in grading and earthwork.

6 13. All lots will show buildable lot pads to verify that the lots proposed will be  
7 buildable. If retaining walls are required please show them on civils and submit engineering  
8 details.

9 14. Separate building permits are required for retaining walls or rockeries over four  
10 feet in height, measured from the bottom of the footing to the top of the wall or walls supporting  
11 a surcharge. A licensed structural engineer shall design the rockeries or retaining walls. In  
12 addition to the engineers' design full time inspection by a WABO Special Inspector is required.  
13 Proposed rockeries shall be shown on the engineering and grading plans.

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

18 16. The owner will need to submit the name of the WABO registered firm who will  
19 conduct the special inspections, to the Building Official, prior to issuance of the site  
20 development/grading permits.

21 17. That no vertical or combustible construction will be allowed on the site until the  
22 fire hydrants and paved roads are installed, tested and approved by the City of Tumwater. Note:  
23 testing will also include verification of fire flow by the fire department.

1 18. The Fire Department requires two exits to a public road for this development.

2 19. If pool is not covered then a system shall be designed to go into storm/sewer  
3 when drained and left unfilled.

4 20. The required fire flow for this project is derived from Appendix B of the  
5 International Fire Code. Type 5B Townhouse buildings of this size are required to have a fire  
6 flow of 1000 gallons per minute at 20 psi. Type 5B R-2 buildings of this size are required to have  
7 a fire flow of 1500 gallons per minute at 20 psi. Please provide calculations to support the  
8 design.

9  
10 21. The Fire hydrant locations shall be shown on plans that will meet hydrant spacing  
11 per IFC Appendix D.

12 22. Fire hydrants and paved access roads shall be installed, tested for fire flow by the  
13 Fire Department and made serviceable by the Transportation and Engineering Department prior  
14 to any building permits being issued. IFC 503.2.3

15 23. The buildings are proposed to be R3/R2 single family occupancies and of type V-  
16 B construction. IBC Chapter 3 & IBC Chapter 6. The walls are required to be of 1- hour fire-rated  
17 construction when less than 5 feet to the property line. No openings are permitted less than 3 feet  
18 to the property line. IBC 704.5.

19 24. Addresses for this plat will be assigned before final plat approval by the  
20 Building & Fire Official. Street/private lanes shall have names provided by this time.

21  
22 25. Existing water wells on adjoining properties have protective radius that encroach  
23 on lots in this plat. A determination regarding building on these lots from Thurston County  
24 Health will be required prior to final plat approval or issuance of any building permits.

1           26.     A permit from the Department of Ecology is required if existing on-site water  
2 wells are being abandoned. Copies of the permit shall be submitted to the building official prior  
3 to issuance of grading permits.

4           27.     The applicant shall be responsible for providing the City with all costs associated  
5 with the installation of water, sewer, street, and storm drainage systems that are dedicated to the  
6 City of Tumwater.

7           28.     All designs/construction shall comply with the City of Tumwater's Development  
8 Guide and WSDOT standards.

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

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

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

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

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

23           34.     Provide all easements and bills-of-sale documents with the engineered plans.



1           35. All legal descriptions must be accompanied with an appropriate drawing that the  
2 City Surveyor can use to verify the legal description. All engineering drawings will be on 24" x  
3 36" paper sheets.

4           36. The owner or owner's representative is also responsible for furnishing the City  
5 with electronic files, compatible with release 2019 or newer Auto-CAD format. Provide  
6 individual drawings independent of x-refs. Include all non-standard font files and plot files. Also,  
7 please furnish PDF files printed from the Auto-CAD files 300 DPI or greater. A storm water  
8 maintenance agreement, utility maintenance agreement, easements and bills-of-sale will also be  
9 required.

10           37. Site plan modifications may occur as a result of the engineering review process.  
11 For engineering issues, the approved engineering plans take precedence over the approved site  
12 plan.

13           38. Please note on the plans that the PLS responsible for the surveying of the project  
14 must obtain a permit from DNR before any monuments are disturbed.

15           39. The City vertical and horizontal control datum is NGVD 29 and  
16 NAD 83(HARN) / Washington South U.S. Survey Feet respectively.

17           40. Testing shall be required at the developer or contractor's expense. The testing  
18 shall be ordered by the developer or contractor, and the chosen testing lab shall be approved by  
19 the City Construction inspector. Testing shall be done on all materials and construction as  
20 specified in the WSDOT/APWA Standard Specifications and with frequency as specified in the  
21 current City of Tumwater Development Guide.

22           41. Frontage improvements are required per Tumwater Municipal Code 12.12.010.

23           42. Henderson Blvd is a future three lane corridor. The full build out section is 1-12'

1 center turn lane, 2-12' vehicle lanes, 7' bike lanes, concrete curb and gutter, 6' planters, street  
2 trees, street lighting, and 6' sidewalk. Dedication as necessary to contain the improvements. The  
3 project is responsible for half of this section and shall ensure one additional 12' vehicle lane for  
4 two-way traffic. Street lighting on Henderson Blvd shall have a mounting height of 35' and 10'  
5 arms, spacing is at every intersection and then 150'

6 43. Internal roads shall provide 2-11.5' vehicle lanes, 2-6' parking lanes if desired,  
7 concrete curb and gutter, 6' planter, street trees, street lighting, 6' sidewalk. Dedication as  
8 necessary to contain the improvements. Street lighting on the internal public roads shall have a  
9 mounting height of 25' and 6' arms, spacing is at every intersection and then 120'.

10 44. This project shall coordinate alignment of Trails End Dr extension with the  
11 project directly north. The new public road shall align with the centerline of existing Trails End  
12 Dr on Henderson Blvd.

13 45. This project shall construct an extension to Durrell Rd to the maximum extent  
14 feasible. A roadway barricade will be required at the termination of this project's road extension.  
15 Proposed roadway grades shall match existing to the extent feasible to reduce future conflicts.

16 46. The private access road/drive should access the public right-of-way via a concrete  
17 driveway. The driveway may be at level with the pavement.

18 47. The private access road/drive shall meet applicable standards for parking drive  
19 aisle and emergency vehicle access.

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

21 49. ADA ramps at the intersections will need to meet current standards.

22 50. A drainage design and erosion control plan will be required according to City's  
23 2022 Drainage Design and Erosion Control Manual.

1           51.     The project will address stormwater runoff for on-site and off-site improvements.

2           52.     Maintenance of the on-site stormwater system will be the responsibility of the  
3 property owner and a maintenance agreement will be recorded against the property.

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

7           54.     Off-site sewer main extension is required for the project. Sewer main on  
8 Henderson Blvd and Trails End Dr extension shall be 10" diameter. Manhole spacing is every  
9 300' and at every intersection. Currently the Four Lakes project directly north is proposing off-  
10 site sewer extensions that will serve this development. If the Four Lakes project is abandoned,  
11 then this project will need to complete additional off site sewer extension to serve this  
12 development. This project shall coordinate the off site sewer extension with the Four Lakes  
13 project and the City to ensure sizing and the extension route meets City standards.

14           55.     All other sewer main extension will require a minimum of an 8" system. The main  
15 size will depend on the requirements for this project. The system shall be designed per the City  
16 of Tumwater Development Guide and current Sewer Comprehensive Plan.

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

20           57.     Off-site water main extension is required for the project. Water main on  
21 Henderson Blvd shall be 12" diameter per the City Water System Plan. All other water main  
22 extension will require a minimum of an 8" diameter system. The main size will depend on the  
23 fire flow requirements for this project.

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

Mark C. Scheibmeir  
City of Tumwater Hearing Examiner

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

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

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

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

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

**CITY OF TUMWATER HEARING EXAMINER**  
**299 N.W. CENTER ST. / P.O. BOX 939**  
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