

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 1**

**CONVENE:** 4:05 p.m.

**CASE NUMBER:** **New Market Landing TUM-23-0909, Preliminary Binding Site Plan**

**DESCRIPTION OF PROPOSAL:** The Applicant requests approval to construct 416 apartments with over 19,000 square feet of commercial space in a phased development.

**PROJECT NAME:** New Market Apartments/Landing.

**APPLICANT:** **Grandviews New Market, LLC**  
PO Box 159  
Arlington, WA 98223

**PROJECT PROPONENT/  
REPRESENTATIVE:** Glenn Wells Architect, PS  
Tyrell Bradley, LDC Corporation  
324 West Bay Drive Ste 214  
Olympia WA, 98502

**PUBLIC HEARING:** Hearing Examiner Mark Scheibmeir convened the public hearing at 4:05 p.m. to consider the applicant's request for approval of a Phased Preliminary Binding Site Plan (TUM-23-0909). The Applicant is Grandviews New Market, LLC represented by Tyrell Bradley. The City of Tumwater is represented by Alex Baruch, Senior Planner. Prior to the hearing, he reviewed the Staff Report prepared by Planner Baruch. Examiner Scheibmeir reported he reviewed other materials posted on the City's website relating to the project to include all public comments.

Examiner Scheibmeir reported the purpose of the hearing is to enable City staff 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 Senior Planner Alex Baruch.

Planner Baruch reported the Applicant is requesting approval of a Preliminary Binding Site Plan (TUM-23-0909) to subdivide one parcel totaling approximately eight acres into three lots for phased commercial and residential development with associated infrastructure, parking, and open space. The property is located at the corner of New Market Street SW and 73rd Avenue SW, south of Tumwater City Hall within the Town Center zone district. The topography of the property is mostly flat with vegetation and trees. Surrounding properties are zoned Town

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 2**

Center. The Aquifer Protection Overlay District applies to the property. The overlay district restricts hazardous uses to protect aquifer recharge areas. Proposed uses include apartments and commercial uses, such as daycare, gym, and office space. Those uses are not restricted in the Aquifer Protection Overlay District. Proposed improvements are reflected on the preliminary binding site plan and include connection for the surrounding road network, grading, infrastructure, and open space. All new utilities on site will be undergrounded pursuant to the Tumwater Municipal Code.

The preliminary binding site plan application was submitted and a Notice of Application was published on July 14, 2023. During the notice of application comment period, the Nisqually Indian Tribe, Squaxin Island Tribe, Port of Olympia, Thurston County, and several community members commented on the project. The Nisqually Indian Tribe requested completion of a cultural resources study prior to issuance of permits for any grading. Condition 12 is included in response to the tribe's comment.

Community comments pertained to an existing tree on the property. Many of the comments requested retention of the tree. The Forester's Report stated that the tree was diseased and is proposed for removal due to site infrastructure and location of elements integral to the site.

The project was reviewed by the City's Transportation Manager who provided a transportation concurrency ruling stating that trips proposed to be sent through the Tumwater Boulevard /I-5 interchange require payment of mitigation fees or construction of required interchange improvements. The City reviewed a SEPA Environmental Checklist and other information submitted by the Applicant. A Mitigated Determination of Non-Significance (MDNS) was issued on March 29, 2024. No appeals of the MDNS were filed.

During the SEPA comment period, the Washington Department of Ecology commented on the application with specific comments related to elements of construction activities. No immediate concerns were addressed about the land use application. A public notice was sent on August 8, 2024 and no comments were received to date. Notices for all three notifications were mailed to property owners living within 300 feet of the proposed project. Public notice concerning the project was posted on the site and published in *The Olympian*.

Staff finds that the Preliminary Binding Site Plan as conditioned conforms to the Comprehensive Plan, Tumwater Municipal Code, planning standards, development standards, and policies of the City of Tumwater. Staff recommends approval of the Preliminary Binding Site Plan with the attached conditions.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 3**

Examiner Scheibmeir asked about the status of the landscaping plan as it was not in the materials. Planner Baruch explained that a landscaping plan would be prepared for each phase of development with the site grading plans. The plan is required to meet landscaping requirements in the Tumwater Municipal Code. He added that he believes preliminary civil plans included a landscaping sheet for Phase 1.

Examiner Scheibmeir advised that he did not recall any information pertaining to landscaping. He asked to receive a copy to complete the information with respect to the proposal for Phase 1. Planner Baruch confirmed the request.

Examiner Scheibmeir referenced approximately 10 comments from the public about the remorse over the loss of a very large maple tree located along the boundary of the project site. Although staff noted the tree is diseased, he suggested a more detailed discussion surrounding the tree as it is a concern to many community members.

Planner Baruch responded that based on the Forester's Report, the tree is located within the bounds of right-of-way of 73<sup>rd</sup> Avenue, which is reflected as a connection on the Town Center Street Plan connecting several streets for the buildout of the network of streets within the area. The tree is diseased and dying. The tree was not designated as a tree to be retained as part of the Forester's Report.

Examiner Scheibmeir recommended designating some common street identifiers as the information changes between each plan. One set of plans describe the north/south connector on the eastside of the project as Terminal Street while a map describes the street as 73<sup>rd</sup>. Other information describes the street at 71<sup>st</sup>. He asked about the preferred identifier for that specific street.

Planner Baruch advised that Terminal Street would be the preferred identity of the street.

Examiner Scheibmeir clarified that the tree is located along the south boundary of property or along the extension of 73<sup>rd</sup> Street.

Examiner Scheibmeir noted that the intersection from the east from 71<sup>st</sup> sometimes appear to be a straight line in some plans and sometimes appears to be from a point further south than the proposed extension of 71<sup>st</sup> Street in other plans. He asked for information on the final alignment planned for 71<sup>st</sup> Street. Planner Baruch identified the anticipated alignment as 71<sup>st</sup> Street, which curves toward Terminal Street with no connection further east. The area currently serves as a

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 4**

fire lane with no plan for a public road north or south extending to Terminal Street.

Examiner Scheibmeir asked about the plan connecting Terminal Street to the east. Planner Baruch replied that Terminal Street would connect to 73<sup>rd</sup> Avenue continuing south to Tumwater Boulevard after the development of adjacent Port of Olympia property. There is no planned easterly connection to 71<sup>st</sup> Avenue.

Examiner Scheibmeir referred to the Port of Olympia's concerns regarding agreements to the Avigation Easement. The Port of Olympia expressed concerns in earlier responses to the notice that the property is near or in close proximity to the Olympia Regional Airport. Although the property does not fall within any zones of impact, it has some potential for some impacts. The Port is recommending the Applicant as well as each resident sign some form of agreement acknowledging the avigation easement and the risk associated with living in that area. He asked how staff intends to respond to the Port of Olympia's concerns.

Planner Baruch responded that since the area is not within the Airport Overlay zone, no conditions are included in the City's ordinance to impose any requirements. The City proposes that the Port and the Applicant coordinate those details about avigation easements or agreements with property owners rather than involving the City.

Examiner Scheibmeir asked about the Port's concerns about residential development in the neighborhood as dictated in the City's Comprehensive Plan for that area. He asked whether staff is aware of any concerns conveyed by the Port of Olympia at the time when the Town Center was established which encourages residential development in the area of concern by the Port of Olympia.

Planner Baruch said the process for developing the Town Center zone district involved a lengthy process involving stakeholder discussions. The Port of Olympia was a participant in the process as the Town Center intersected with many Port properties to the east, west, and south of the subject property. The Port of Olympia was a participant in the planning process. As different individuals assume various Port positions over time, Warren Hendrickson was not a member of the Town Center planning committee and addressed concerns based on his personal job experience.

Examiner Scheibmeir questioned the provision of open space, as the Staff Report indicates the project meets the requirements for total square footage of open space given the size of the project. The plan acknowledges some areas of open space of three internal courtyards, a

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 5**

play area, a pond, and a second story courtyard. He asked for a description of how open space is achieved for the project.

Planner Baruch said open space is a combination of different mechanisms of internal clubhouses for recreation areas as reflected in Phase 1 and courtyards in Phases 1, 2 and 3. The intent is that all open space uses would be available to any resident within the area. Additionally, other amenities could be proposed within Building 2 and Building 3 that are not specifically reflected on the plan but identified during the building permit review and overall site grading review for each individual lot.

Examiner Scheibmeir asked whether the proposed clubhouse at the southwest location at the end of Phase 1 is considered open space or commercial space.

Planner Baruch advised that the clubhouse is considered open space as it was specifically separated from commercial space. The 4,300 square-foot clubhouse is for the residential component of the project.

Examiner Scheibmeir questioned a thin perimeter designation on the plan surrounding the entirety of the project.

Planner Baruch explained that the path is a sidewalk surrounding the entire development, as well as a five-foot wide landscape buffer between the sidewalk and parking area. Certain applications of screening are required as part of the landscape plan for the project.

Examiner Scheibmeir commented on the extensive massing of parking along the outer edges of the site. He asked about the type of landscaping to buffer and soften impacts of the mass parking area.

Planner Baruch replied that in this circumstance, it likely would include a three-foot high architectural wall along the edge of the parking with landscaping adjacent to the sidewalk.

Examiner Scheibmeir asked about any concerns for ensuring students can safely walk to the high school and New Market Skills Center.

Planner Baruch advised that the City is completing a sidewalk project along Israel Road that will widen existing sidewalks and improve ADA accessibility along Israel Road. The project connects north through New Market Street. The project will improve sidewalks and intersections to enable easier accessibility to the library, City Hall, and Tumwater High School. Middle and grade school students would be bused to schools.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 6**

Examiner Scheibmeir asked about any housing affordability requirements for the project of this particular size and whether the City has any requirements in the Comprehensive Plan or development regulations that impose some consideration for affordability.

Planner Baruch advised that the City does not require any affordability component associated with the project.

Examiner Scheibmeir asked the road status assigned to the four streets proposed for improvement.

Planner Baruch deferred the question to the Applicant.

Examiner Scheibmeir added that he believes the City's code determines the type of street frontage improvements required based on the type of street status.

Planner Baruch said each road status is identified in the New Market Street Plan for each road through the Town Center.

Examiner Scheibmeir asked whether parking along the improved streets would be allowed.

Planner Baruch said he believes parking would be allowed along New Market Street but is unsure if parking would be allowed along 73<sup>rd</sup>, 71<sup>st</sup>, or Terminal Street although there are bulb outs for some parking along 73<sup>rd</sup> Avenue and 71<sup>st</sup> Street towards New Market Street.

Examiner Scheibmeir asked about any other recreational facilities for residents other than those previously mentioned.

Planner Baruch said the proposal calls for the courtyard and outdoor seating areas in different areas of the site. Some concepts were reviewed during the site plan review for other possibilities, but those details would be included on the building plans and the site development grading plans if other playgrounds or other structures are proposed for the areas.

Examiner Scheibmeir commented on the chicken and egg quality of projects that include commercial uses and the uncertainty by the applicant as to future commercial uses; however, from a planning perspective, some estimating is necessary to account for accurate traffic counts. For purposes of traffic counting, he asked about the City's vision for the types of commercial uses on the site.

Planner Baruch explained that as part of the Preliminary Binding Site Plan, the Applicant proposes a 24-hour fitness area, a daycare, and some

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 7**

office spaces along with deli as part of the commercial uses within the development.

Examiner Scheibmeir asked whether those commercial uses would be consistent with the City's comprehensive planning for the Town Center zone.

Planner Baruch affirmed the commercial uses would be consistent with Town Center zone district requirements.

Examiner Scheibmeir said that in addition to concerns about the older maple, some public comments spoke fondly of the area for walking. He asked whether the project plans to retain any pathways for walking through the site.

Planner Baruch said sidewalks will be constructed throughout the site as well as connections throughout the development for residents and commercial uses. He acknowledged that the area is often used for walking routes.

**APPLICANT  
TESTIMONY:**

Examiner Scheibmeir administered the oath to Tyrell Bradley.

Tyrell Bradley said he has no additional comments to add to the City's presentation. However, in terms of roadway classifications, the classification is listed as local access for the four streets. Town Center guidelines expand on the classification because each adjacent street has on-street parking on all four sides of the project.

Examiner Scheibmeir cited the Town Center guidelines and local access standards and requested information on the expected streetscape and street frontage improvements.

Mr. Bradley said all four streets have a minimum lane width of 11 feet and a six-foot wide bike lane on New Market Street and a five-foot wide bike lane on the remaining three streets. All streets will have a seven-foot parking lane. Three streets will have a 12-foot wide sidewalk with a 10-foot wide sidewalk on New Market Street. The 12-foot wide sidewalks include cutouts for street trees.

Examiner Scheibmeir asked about any public pathway through the project site in addition to internal sidewalks.

Mr. Bradley said the site includes only internal sidewalks. The project will complete four new street sections with major completion of the New Market Street connection from Tumwater Boulevard to Israel Road near City Hall and the Tumwater Library.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 8**

Examiner Scheibmeir asked whether the Applicant has any objections to the proposed conditions for the project.

Mr. Bradley advised that the Applicant has no objections to any of the conditions.

**PUBLIC  
TESTIMONY:**

Examiner Scheibmeir invited members of the public to provide testimony.

Permit Manager Tami Merriman affirmed that no member of the public attended the public hearing in person; however, virtual attendance would require activation of the microphone to enable public testimony.

Planner Baruch advised of one person attending virtually.

Examiner Scheibmeir administered the oath to Betsy Norton.

Betsy Norton said she has several questions.

Examiner Scheibmeir reviewed the typical process for addressing questions from the public. However, as only one member of the public is present, he invited Ms. Norton to ask her questions directly to receive a response.

Ms. Norton asked about the percentage of trees retained on the site.

Examiner Scheibmeir noted that the Staff Report outlines the specific tree counts. Planner Baruch added that the site includes 23 trees along the perimeter of the site that could potentially be retained. The number of trees retained/required on the site is identified as the project proceeds through civil engineering plans.

Ms. Norton said her review of the drawing did not reflect any trees. She asked about the percentage of impervious surface on the lot.

Planner Baruch reported that 75% of the site would be impervious surface with the maximum impervious surface within the Town Center zone district of 85%.

Ms. Norton said she also curious about the 4,300 square foot recreation center. She asked whether the recreation center is a private enclosed building that could be classified as open space.

Planner Baruch advised that the enclosed building would be used to satisfy part of the open space and recreational uses for residents of the site. Ms. Norton asked whether that is how the City defines open space.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 9**

Planner Baruch replied that there are multiple options as part of the definition of open space. A recreational building is one of the options.

Ms. Norton said her concerns are about stormwater management and run-off, as she views development proposals from a wildlife perspective and it appears a very limited amount of habitat would remain. The Applicant's report states that no gophers were present; however, the area houses prime gopher soils. She is concerned about the analysis and is hopeful the stormwater management system as designed is fully scaled and filters effectively to avoid any damage to wildlife.

Examiner Scheibmeir asked Mr. Bradley to describe the proposed stormwater system.

Mr. Bradley said that currently, the project meets City of Tumwater's 2022 Stormwater Design requirements, which requires enhanced treatment for the site. The project meets the specification in two ways. The first is through bio-retention soils engineered to remove pollutants comprised of 18-inch thick composted and amended soil that will process a portion of the stormwater and infiltrate the discharge to a sand layer below. The second treatment is through a mechanical treatment system providing enhanced water quality treatment and filtration system and infiltrated in underground rock galleries. All stormwater systems have been sized to handle and infiltrate 100% of the 100-year storm event. Outlined in detail in the stormwater manual are requirements if the facilities fail for rerouting stormwater. The manual requires that development cannot impact downstream systems or neighboring properties. All those factors have been accounted for in the design of the system.

Ms. Norton asked about the location of stormwater if it overflows. Mr. Bradley said the flow would travel south on New Market to Tumwater Boulevard.

No other members of the public were present.

Examiner Scheibmeir asked Planner Baruch if had any response to Ms. Norton's questions.

Planner Baruch said the gopher report completed by the applicant did not reflect the presence of any Mazama pocket gophers or endangered species on the property, which is a requirement of the Mazama Pocket Gopher Administration Determination for the proposal to move forward. The development does not pose any impact to any endangered species.

**TUMWATER HEARING EXAMINER PUBLIC HEARING  
MINUTES OF VIRTUAL MEETING  
August 28, 2024 Page 10**

Mr. Bradley advised of no further comments at the invitation of Examiner Scheibmeir.

Examiner Scheibmeir concluded the public hearing. He advised of approval of the application for Preliminary Binding Site Plan subject to the conditions outlined in the Staff Report. The list of conditions is lengthy and it is unlikely he could improve the list as 70 conditions are imposed. City staff did an excellent job of reviewing the application and considering all potential impacts. Despite its complexities, he does not find anything problematic about the proposal and the proposed phasing. He plans to submit his written decision promptly to the City. He thanked everyone for attending and participating in the meeting.

**ADJOURNMENT: With there being no further business, Examiner Scheibmeir adjourned the public hearing at 4:52 p.m.**

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