

BEFORE THE CITY OF TUMWATER HEARINGS EXAMINER

IN RE:) HEARING NO. TUM-25-0680 (Planned
) Unit Development) and TUM-25-0683
) (Binding Site Plan Approval)
TUMWATER BLVD. TOWNHOME)
CONDOMINIUMS.)
) FINDINGS OF FACT, ANALYSIS,
) CONCLUSIONS OF LAW AND
) DECISION

APPLICANT: Tenino Land Company, LLC
17348 Marsh Road SW
Tenino, Washington 98589

REPRESENTATIVE: Brandon Johnson
GSA Civil, LLC
111 Tumwater Blvd. SE, B203
Tumwater, Washington 98501

SUMMARY OF REQUEST:

Approval of a Planned Unit Development and Preliminary Binding Site Plan to construct 24 townhomes on two parcels totaling 10.65 acres located at 715 Dennis Street SE and 934 Tumwater Blvd. SE. Parcel Nos. 79300001100 and 79300001200. Additional site improvements include frontage improvements, parking, open space areas, and extension of utilities.

The site contains significant areas of wetlands and their buffers. The Applicant seeks a reduction in wetland buffers from 150 feet to 110 feet. The site also falls within the Airport Overlay Zone and must comply with the restrictions imposed by TMC 18.32.080.A.

LOCATION OF PROPOSAL:

10.65 acres having street addresses of 715 Dennis Street SE and 934 Tumwater Blvd. SE. Parcel Nos. 79300001100 and 79300001200. The project lies north of Tumwater Blvd. SE, south of Dennis Street, and west of Kyodi Court SE.

SUMMARY OF DECISION:

The requested Planned Unit Development and Preliminary Binding Site Plan are **approved** subject to the recommended conditions by City Staff.

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

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1 **BACKGROUND**

2 The Applicant seeks to construct 24 townhomes on 10.65 acres within the SFM zone.
3 Townhomes are a permitted use within this zone subject to Planned Unit Development approval
4 and approval of the Preliminary Binding Site Plan. Planned Unit Development approval requires
5 a demonstration of quantifiable public benefit from the development.

6 Much of the project site is covered by two wetlands (Wetlands A and B) and their buffers
7 restricting development to the southwest portion of the site. The Applicant seeks to reduce the
8 required buffer for Wetland A from 150 feet to 110 feet as allowed by City regulations.

9 The site lies within Zone 3 of the Olympia Airport Approach Zones and its development
10 is regulated under the Airport Overlay Zone. The Port of Olympia, operators of the Olympia
11 Regional Airport, have questioned whether the proposed use is an allowed use under the
12 limitations imposed by the Airport Overlay Zone. The airport also requests imposition of an
13 "Avigation Easement" as a condition of project approval.

14 There has been limited public comment in response to the application but concerns have
15 been expressed about the impacts of the project on adjoining wetlands, including the possibility
16 of unwanted deepening of these wetlands by increased discharge of stormwaters into them. City
17 Staff recommends approval subject to a lengthy list of conditions.

18 **PUBLIC HEARING**

19 The public hearing commenced at 5:30 p.m. on Wednesday, September 24, 2025. The
20 hearing was conducted in a hybrid format allowing for both in person participation as well as
21 remote participation utilizing the Zoom platform with the City serving as host. The City
22 appeared through Alex Baruch, Senior Planner, and Tami Merriman, Manager. The Applicant
23 appeared through its representative, Brandon Johnson. Several additional staff were also in
24 attendance. Testimony was received from Mr. Baruch and Mr. Johnson. Several members of the
25 public were present and asked to testify. A representative for the Port of Olympia was also

1 present and testified. A verbatim recording was made of the public hearing and all testimony
2 was taken under oath. The following exhibits were considered:

3 Exhibit 1. Staff Report September 24, 2025
4 Exhibit 2. Vicinity Map
5 Exhibit 3. Zoning map
6 Exhibit 4. Preliminary Civil Plans 06-04-2025
7 Exhibit 5. Public Notice Certification 09-12-2025
8 Exhibit 6. Notice of Application with Optional MDNS 06-27-2025
9 Exhibit 6a-c. Notice of Application Comments
10 Exhibit 7. Mitigated Determination of Non-significance with SEPA Checklist 07-25-2025
11 Exhibit 8 Public Hearing Notice 09-12-2025
12 Exhibit 9. Traffic Scoping Memo 06-10-2025
13 Exhibit 10. Concurrency Ruling 06-11-2025
14 Exhibit 11. Critical Area Report 06-04-2025
15 Exhibit 12. Gopher Report 06-04-2025
16 Exhibit 13. Arborist Report 06-04-2025
17 Exhibit 14. Drainage Report 06-04-2025
18 Exhibit 15. Regulated Prairie Absence Report 06-04-2025
19 Exhibit 16. Preliminary Floor Plan and Elevations 06-04-2025
20 Exhibit 17. Water and Sewer Availability Letter 06-04-2025
21 Exhibit 18. Project Narrative 06-04-2025
22 Exhibit 19. Title Report 06-04-2025
23 Exhibits 20-22. Emails Received from Bonnie Blessing on September 24, 2025
24 Exhibit 23. Written Statement and Associated Documents Presented by the Port of
25 Olympia on Behalf of the Olympia Regional Airport

City's Presentation:

17 The hearing began with the testimony of Alex Baruch, Senior Planner. Mr. Baruch relied
18 heavily upon his written Staff Report (Exhibit 1). He explained that the Applicant seeks to
19 construct 24 townhome units on 10.65 acres within the Single-Family Medium Density (SFM)
20 zone. Townhomes are a permitted use within this zone subject to Planned Unit Development
21 approval and an approved Binding Site Plan. The site also falls within the Airport Overlay Zone
22 and must satisfy its requirements in addition to those imposed by the SFM zone.

23 The site is currently undeveloped with the exception of a wastewater lift station located
24 along Tumwater Blvd. A large wetland complex containing two wetlands, Wetland A and

25 Wetland B, covers much of the site including all of the site's east parcel as well as both northerly
Findings of Fact, Analysis,
Conclusions of Law
and Decision - 3

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1 portions of the parcels. These wetlands and their associated buffers reduce the area of potential
2 development to the southwest portion of the west parcel along Tumwater Blvd.

3 The property has a zoning designation of Single-Family Medium Density (SFM).
4 Properties to the north and east are also zoned for residential development, while properties to
5 the west and south are zoned for commercial development. Surrounding uses are consistent with
6 these zoning designations, with residential neighborhoods located to the north and east and
7 commercial development located further west along Tumwater Blvd.

8 Mr. Baruch then explained that the project underwent SEPA Review which generated a
9 few agency comments. The Squaxin Island Tribe responded and requested a Cultural Resources
10 Study due to the site's high likelihood of cultural resources. The Department of Ecology also
11 responded with fairly standard comments. The concerns of both agencies have been addressed in
12 the conditions of approval. SEPA Review resulted in a Mitigated Determination of Non-
13 significance (MDNS) which has not been appealed and is now final. Its conditions are
14 incorporated into the City's requested conditions of approval.

15 Mr. Baruch then turned to the issue of transportation. The Applicant has submitted a
16 Transportation Concurrency Application as well as a Traffic Impact Analysis. These were
17 reviewed by City Staff and a Transportation Concurrency Ruling was issued subject to the
18 contribution of mitigation fees toward the Tumwater Blvd. – I-5 Interchange and traffic impact
19 fees. Subject to these fees, the concurrency ruling finds that the project will not adversely affect
20 Levels of Service and is consistent with the Tumwater Transportation Plan.

21 Mr. Baruch then turned to the issue of critical areas. As noted earlier, the site contains
22 two wetlands, Wetland A and Wetland B. Wetland B is located almost entirely within the east
23 half of the project site. The waters of Wetland B discharge to Wetland A, located across the
24 northern portion of the project site as well as adjoining properties to the north. Wetland B is a
25 Category III Wetland and requires a buffer of 150 feet unless it qualifies for a buffer reduction.

1 Wetland A is a Category II Wetland and also requires a buffer of 150 feet which can be reduced
2 to 110 feet if all requirements for buffer reduction are met. The Applicant does not seek to
3 reduce the buffer of Wetland B and the project has been designed to avoid any encroachment
4 into its 150-foot buffer. The Applicant does, however, seek to reduce the buffer to Wetland A
5 from 150 feet to 110 feet. In return, the Applicant proposes to undertake substantial
6 rehabilitation and enhancement of prairie and wetland habitats surrounding Wetland A, both on-
7 site and off-site. In addition, various other steps will be taken to protect the wetland from
8 lighting, noise, unwanted discharge of water, etc. Staff has reviewed the Applicant's requested
9 buffer reduction and finds that the proposed mitigation will satisfy all City requirements.

10 Mr. Baruch then turned to the issue of Mazama Pocket Gophers and explained that the
11 Applicant has provided a Gopher Report (Exhibit 12) which finds no evidence of Pocket
12 Gophers on-site.

13 The Applicant has also provided a Arborist's Report (Exhibit 13) which finds that there
14 are 447 existing trees on the site. The proposed development requires the retention of 126 of
15 these trees. The Applicant will actually retain 407 trees, well exceeding the required retention.

16 Mr. Baruch then turned to the development standards for the SFM zone and explained
17 that the project, as conditioned, will satisfy all development standards.

18 As a Planned Unit Development, the project must satisfy the requirements of Chapter
19 18.36 TMC for such development. TMC 18.36.110 sets forth the various requirements for
20 Planned Unit Development approval, including the demonstration of "quantifiable public
21 benefit" from the project. For projects having more than 20 residential units, it must be
22 demonstrated that the project will provide "two points of public benefit". Mr. Baruch explains
23 that this application's two points of public benefit are: (1) enhanced usable parks and open
24 space, and (2) critical area protections which go significantly beyond those required.

1 Mr. Baruch then turned to the project's compliance with the requirements of the Airport
2 Overlay Zone. The site lies within Zone 3 of the Airport Overlay and must comply with TMC
3 18.32.080.A. Among other things, it must be demonstrated that the proposed development is as
4 far away from the runway centerline as possible, and that open space areas are provided that are
5 suitable for emergency landing of aircraft. Staff finds that these requirements have been
6 satisfied.

7 Mr. Baruch concluded his direct testimony by noting that City water and sewer services
8 are available to the site. Staff finds that the project, as conditioned, satisfies all requirements for
9 both Planned Unit Development approval and Binding Site Plan approval and asks that the
10 project be approved subject to the 53 conditions found in the Staff Report.

11 At the conclusion of Mr. Baruch's direct testimony the Hearing Examiner noted that just
12 prior to the hearing Ms. Bonnie Blessing had submitted a series of emails (Exhibits 20-22)
13 expressing concern that the project could alter the discharge of stormwater to the adjoining
14 wetlands and affect their hydrology. Ms. Blessing explains that there is evidence that the
15 wetland are increasing in size and deepening, neither of which is necessarily desirable. She
16 expresses concern that this project's concentration of stormwater could exacerbate these
17 changing conditions. Mr. Baruch responded to these concerns by noting that the project must
18 fully satisfy all requirements of the most recent version of the Stormwater Manual, and that the
19 manual assures that the project's discharge of stormwater will mimic natural conditions to the
20 fullest extent possible.

21 **Applicant's Presentation:**

22 The Applicant appeared through Brandon Johnson of JSA Civil. Mr. Johnson's testimony
23 was brief. He explained that the Applicant has worked very closely with City Staff on all issues
24 relating to the project and that careful attention has been given to satisfy all requirements for
25

1 development. The Applicant has no objection to any of the 53 conditions of approval
2 recommended by City Staff.

3 Mr. Johnson then turned to the concerns expressed by Bonnie Blessing regarding
4 stormwater discharge. He explained that the soils on-site are highly permeable and allow for the
5 use of stormwater infiltration systems located at multiple discharge points to achieve full
6 dispersion of stormwaters in a manner that resembles the natural discharge of stormwater as
7 closely as possible.

8 **Public Testimony:**

9 At the conclusion of Mr. Johnson's testimony the hearing was opened for public
10 testimony. Several members of the public were present either in person or remotely and asked to
11 testify:

12 **James Sundahl.** Mr. Sundahl explained that he had no opposition to the project but had
13 some questions as to its possible impact on the adjoining wetlands as he lives just to the north of
14 these wetlands. He noted that the wetlands appear to be increasing in size recently and wondered
15 if the project would encroach upon any of the wetland areas. Staff and the Applicant responded
16 by noting that the project will not encroach upon any wetlands and, instead, will preserve the
17 wetlands and their required buffers.

18 **Karen Sundahl.** Mr. Sundahl's spouse, Karen Sundahl, asked for further information as
19 to the planned surface of the proposed recreational trail. Staff responded by noting that the Site
20 Plans identify the trail surface as crushed gravel intended to provide a permeable trail surface.

21 **Steve Venables.** Mr. Venables owns property just to the west of the site and indicated
22 that he has no objection to the development and instead believes it to be a positive thing. Mr.
23 Venables was interested in knowing more about the intended perimeter fencing. City Staff
24 responded by again noting that the Site Plans identify cedar fencing along the boundary with his
25 property as well as at other locations where the development does not touch upon wetland

1 buffers. Those areas of the project which touch wetland buffers will instead have split rail
2 fencing to help announce the boundary to the wetlands. Staff also noted that significant natural
3 vegetation will be retained along the west boundary to aid in providing a buffer to his property.

4 **Bonnie Blessing.** As noted earlier, Ms. Blessing provided a series of emails just prior to
5 the commencement of the hearing (Exhibits 20-22) expressing concerns that the project could
6 impact the hydrology of the adjoining wetlands. Ms. Blessing's testimony expanded upon these
7 concerns. She began by noting her approval of the design of the stormwater system, that is, she
8 approved its reliance upon dispersion of stormwater rather than its retention, and that no
9 retention ponds are proposed. Even so, she remains concerned that the adjoining wetlands show
10 evidence of changing conditions as best demonstrated by the death of cedar trees along the
11 perimeters. She remains concerned that the project will cause further disruptions to the natural
12 discharge of waters into these wetlands, especially in the form of more sudden, concentrated
13 discharges. Ms. Blessing recognized that the project must satisfy all requirements of the most
14 recent Stormwater Manual but hoped that additional steps might be taken beyond those imposed
15 by the manual to ensure wetland stability. Mr. Johnson responded to Ms. Blessing's testimony
16 by again noting that the project will satisfy all requirements of the current manual and that,
17 contrary to Ms. Blessing's concerns, the stormwater system is designed to disburse stormwaters
18 to as many places as possible so that concentration of stormwater does not occur and the
19 wetlands are not affected.

20 **Lisa Riener.** Ms. Riener lives nearby and said that she and several neighbors are
21 concerned that the wetlands appear to be changing as evidenced by the dying trees along the
22 boundary of the wetlands. Neighbors believe that this is due to increasing waters being sent to
23 the wetlands from other sources. She understands that this project will be required to satisfy all
24 requirements for stormwater management but remains concerned that the project's stormwater
25

1 design fails to recognize changing climate conditions. She also is concerned over the area's rapid
2 development and does not want to see the City "turn into Tacoma".

3 **Warren Hendrickson.** Mr. Hendrickson is the Director of Operations for the Port of
4 Olympia and testified in opposition to the application due to its perceived negative impacts upon
5 the nearby Olympia Regional Airport. Mr. Hendrickson acknowledged that the City has
6 reviewed the application in consideration of the site's location within the Airport Overlay Zone
7 but disagrees with the City's findings that the project satisfies the requirements for being located
8 within that zone. Mr. Hendrickson notes that the site is in close proximity to the airport and it is
9 a quarter mile from the runway approach centerline. As set forth in his written testimony
10 (Exhibit 23) he asserts that the development has been placed too close to the runway's centerline
11 and that it should be relocated further away from the centerline, even though this would require
12 the project to be relocated into regulated wetlands. He also asserts that the development is
13 inconsistent with the zone's prohibition on multi-family dwellings and, alternatively, is in
14 violation of State guidance prohibiting single-family dwellings in airport zones (acknowledging
15 that these State guidelines are not controlling). Finally, Mr. Hendrickson asks that an "Avigation
16 Easement" be imposed on the project that would significantly restrict development of the site and
17 use of its airspace in order to improve airport safety. The proposed Avigation Easement was not
18 presented to the City or to the Applicant in advance of the hearing. Mr. Hendrickson's testimony
19 regarding the Avigation Easement is nearly the same testimony as was provided in an earlier
20 hearing on the same evening (*In Re Henderson Blvd. Apartments a/k/a Henderson 94*, Case No.
21 TUM-25-0244 and TUM-23-0604).

22 As with similar requests by the Port to establish Avigation Easements on development
23 projects, City Staff opposes this request as it believes that development is best regulated by the
24 zoning and development standards rather than by piecemeal imposition of restrictive easements.
25 The City also disagrees with the Port's interpretation of the City's zoning requirements and

*Findings of Fact, Analysis,
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1 explains that the project is not "multi-family dwelling" but is instead attached single-family
2 development and thus appropriate for the airport zone.

3 ANALYSIS

4 The issues raised in this land use application are nearly identical with those addressed in
5 another land use application having a public hearing on the same day (*In Re Henderson Blvd.*
6 *Apartments a/k/a Henderson 94*, Case No. TUM-25-0244 and TUM-23-0604). Just as in the
7 *Henderson 94* project, this application: (1) raises concerns that the proposed development could
8 affect the hydrology and health of an adjoining wetland complex, and (2) includes a request by
9 the Olympia Regional Airport to restrict (or in this case, deny) development to better assure
10 airport safety.

11 Whereas in the *Henderson 94* application members of the public were concerned that the
12 proposed development might *reduce* the flow of water to adjoining wetlands and cause them to
13 shrink, here the public is concerned that the proposed development could cause adjoining
14 wetlands to *increase* in size and deepen in depth, neither of which is necessarily desirable for the
15 wetland's health. The Applicant has demonstrated to the City's satisfaction that the project's
16 proposed stormwater system will mimic natural conditions as close as possible so as to avoid a
17 significant change in the wetland's hydrology and also avoid surges of stormwater into the
18 wetlands.

19 As with the *Henderson 94* application, the Olympia Regional Airport asks that an
20 Avigation Easement be imposed on the project as a condition of its approval. I am unwilling to
21 impose this easement for the same reasons it was not imposed in the *Henderson 94* application,
22 and my Analysis in that matter is incorporated into this decision. I would only again note that it
23 is surprising for the airport to suggest this controversial, complex easement without consultation
24 with the City and without advance notice to the Applicant.

1 The airport also asserts that the entire project should be shifted on the site so as to be
2 located a short distance further away from the centerline of the runway, even though this shifting
3 would place the development entirely within a regulated wetland. This is a surprisingly
4 unrealistic suggestion. The airport also argues that the proposed development is in violation of
5 the types of housing allowed within the Airport Overlay Zone (that is, that it constitutes multi-
6 family housing) but the City responds that the proposed townhouse development falls within the
7 allowed single-family residential development in the Airport Overlay Zone.

8 In summary, I conclude that the project has made appropriate provisions to ensure that
9 there is no net loss of ecological functions and values of adjoining wetlands, and that proper
10 consideration has been given to the project's compliance with the Airport Overlay Zone. As a
11 result, I conclude that the project, as conditioned, meets all requirements for approval.

12 I therefore make the following:

13 **FINDINGS OF FACT**

14 **General Findings.**

15 1. The Applicant, Tenino Land Company, LLC, requests approval of a Planned Unit
16 Development and Preliminary Binding Site Plan to construct 24 townhomes on two parcels
17 totaling 10.65 acres at 715 Dennis Street SE and 934 Tumwater Blvd. SE, Parcel Nos.
18 79300001100 and 79300001200.

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

22 3. The project proposes to construct 24 townhomes on both sides of a new public
23 road (Road A) terminating in a cul-de-sac. Other site improvements include street frontage
24 improvements along Tumwater Blvd. and the new Road A, various recreational facilities within
25 a large open space area, and utility extensions. In addition, the project proposes significant

*Findings of Fact, Analysis,
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1 restoration and improvement to wetland and prairie complexes on or near the site. Site Plans are
2 found in Exhibit 2.

3 4. The project site consists of two parcels totaling 10.65 acres. All proposed
4 development will take place on the west parcel, as the east parcel falls entirely within regulated
5 wetlands or their buffers.

6 5. The site is currently undeveloped with the exception of a wastewater lift station at
7 the southeast corner of the west parcel, adjacent to Tumwater Blvd. The remainder of the west
8 parcel, which totals 5.86 acres, is vacant and contains large grass fields with some tree cover
9 along its perimeter. The east parcel, containing 4.63 acres, is heavily wooded with a dense
10 understory and is largely covered by wetlands or their buffers. These wetlands and their buffers
11 preclude development of the east parcel and the northern portion of the west parcel.

12 6. The project site is located along the north side of Tumwater Blvd. and is zoned
13 Single-Family Medium Density (SFM). Properties to the west and south have commercial
14 zoning designations and contain an eclectic mix of commercial and residential uses, while
15 properties to the east and north have residential zoning designations and contain several
16 residential neighborhoods.

17 7. The project also lies within Zone 3 of the Airport Overlay Zone.

18 8. The project site is within the Bush Prairie Neighborhood in the Land Use Element
19 of the City's Comprehensive Plan. The Comprehensive Plan Neighborhood Appendix, at Section
20 3.4, discourages the use of this property for any activity that would induce large gatherings or
21 strong light but encourages residential development so long as its potential impact on airport
22 operations has been carefully considered.

1 Findings Relating to Notice of Application and Public Comments.

2 9. Notice of the application with the optional MDNS were mailed to property
3 owners within 300 feet of the subject property and to affected agencies; posted on-site; and
4 published in the Olympian on June 27, 2025.

5 10. Notice of the application generated a response from the Squaxin Island Tribe as
6 well as the Department of Archaeology and Historic Preservation (DAHP), both of which
7 recommended a Cultural Resources Study as the site has a high potential for cultural resources.
8 The City responded to these requests by imposing a requirement that a Cultural Resources Study
9 be completed and approved prior to any land disturbance.

10 11. The Department of Ecology provided fairly standard comments regarding water
11 quality, solid waste management and toxic cleanup. These concerns will be addressed during the
12 site development grading permit.

13 12. The City, as lead agency, issued a SEPA Mitigated Determination of Non-
14 significance (MDNS) on July 25, 2025 (Exhibit 7). No additional agency or public comments
15 were received in response to the MDNS and no appeal was filed. The conditions imposed in the
16 MDNS have been incorporated into the City's recommended conditions of project approval.

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

20 14. Shortly before the public hearing three written comments were received from a
21 member of the public, Bonnie Blessing (Exhibits 20-22), and a written comment was received
22 from the Port of Olympia on behalf of the Olympia Regional Airport during the public hearing
23 (Exhibit 23). Ms. Blessing's comments were directed toward ensuring the health of the adjoining
24 wetland complexes, while the Port of Olympia expresses a concern over the project's potential
25 impact to airport safety as discussed in later Findings.

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

3 15. As noted in earlier Findings, the project site is located in the Bush Prairie
4 Neighborhood within the Land Use Element of the City's Comprehensive Plan. Lower density
5 residential development is encouraged within this area so long as careful consideration is given
6 to the development's potential impact on airport operations.

7 16. Staff also finds that the project, as conditioned, serves as single-family residential
8 development appropriate for this area and not in conflict with airport operations. The project
9 also proposes important community open space areas and rehabilitation of wetlands, all
10 consistent with the goals and policies of the Comprehensive Plan. Staff therefore finds that the
11 project, as conditioned, is consistent with the Comprehensive Plan. The Hearing Examiner
12 concurs.

13 17. Staff finds that the project, as conditioned, is consistent with the Tumwater
14 Transportation Plan. The Applicant has provided a Traffic Scoping Memo and a Transportation
15 Concurrency Application. These have been reviewed and incorporated into the SEPA MDNS.
16 As set forth in the MDNS, mitigation measures to achieve concurrency include payment of
17 mitigation fees toward the Tumwater Blvd. – I-5 Interchange improvements. Staff finds that
18 with the required mitigation the project will not adversely affect Level of Service standards and
19 is consistent with the Tumwater Transportation Plan. The Hearing Examiner concurs.

20 18. Staff finds that the project, as conditioned, does not conflict with the Sustainable
21 Development Plan for Thurston Region. Staff notes that although the project is more than a half
22 mile from an urban center, it is located within a half mile of the intersection of Tumwater Blvd.
23 and Capital Blvd., a major intersection. The project is also consistent with the plan's goals of
24 preserving environmentally sensitive lands and prairies while developing compact urban areas.

1 Staff finds that the project, as conditioned, does not conflict with the Sustainable Development
2 Plan. The Hearing Examiner concurs.

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

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

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

9 21. As earlier noted, the Applicant submitted a Traffic Scoping Memo (Exhibit 9) for
10 the project along with its Transportation Concurrency Application.

11 22. The Traffic Scoping Analysis concludes that the project will generate 7 AM peak
12 hour trips and 10 PM peak hour trips.

13 23. Due to the low volume of PM peak hour trips, a fuller Traffic Impact Analysis
14 was not required.

15 24. The analysis was reviewed by the City's Transportation Manager and
16 Transportation and Engineering Director and resulted in a concurrency ruling (Exhibit 10)
17 finding that the project is concurrent in regards to transportation subject to payment of mitigation
18 fees or construction of the required interchange improvements at Tumwater Blvd. – I-5
19 Interchange and construction of a temporary signal, together with standard traffic impact fees.

20 25 The Hearing Examiner concurs that the project, as conditioned, complies with
21 traffic concurrency requirements.

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

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

1 27. The Applicant has provided a professional Forester Report (Exhibit 13) including
2 a tree inventory and tree protection plan. The report finds that the site contains 447 trees.

3 28. The project is required to retain 20% of existing trees, or 12 trees per acre,
4 whichever is greater. These standards require the Applicant to retain 126 trees on-site.

5 29. The application proposes to retain 407 trees which is well in excess of the
6 required number of trees to be retained.

7 30. Additional trees will be planted as part of site landscaping.

8 31. The property immediately west of the project site has a zoning designation of
9 Light Industrial. Development regulations require that an increased buffer be established along
10 the project's west boundary where it abuts Light Industrial zoning. The Landscape Plan must
11 provide for preservation of mature vegetation wherever possible along this buffer, and
12 supplement where necessary to achieve a denser buffer between these two land uses. Staff finds
13 that the proposed Landscaping Plan proposes to preserve mature vegetation along the project's
14 west boundary and otherwise ensure a denser buffer between the project and the adjoining Light
15 Industrial zoned property to the west. The Hearing Examiner concurs.

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

17 32. The project site contains soils preferred by the Mazama Pocket Gopher.

18 33. The Applicant has provided a Mazama Pocket Gopher Screening Report
19 (Exhibit 12). The report concludes that there are no mound formations exhibiting characteristic
20 of gopher presence.

21 34. There are no other wildlife-related issues associated with the site.

22 Findings Relating to Wetlands.

23 35. The Applicant has submitted a Critical Areas Report (Exhibit 11).

24 36. The report concludes that there are two wetlands affecting the property:
25

1 "Wetland B" is located almost entirely within the east parcel of the project, with some minor
2 extension into adjoining property to the east.

3 37. "Wetland A" is a much larger wetland extending over all of the north portion of
4 the east parcel of the project site, and portions of the west parcel. A map identifying the general
5 location of Wetlands A and B is found as Figure 3 to Exhibit 11.

6 38. Wetland B is a depressional seasonally flooded wetland covering 1.06 acres. It is
7 designated as a Category III Wetland with a Habitat Score of 5. The standard buffer is 150 feet.

8 39. The required 150-foot buffer for Wetland B could be reduced to 110 feet if all
9 requirements for buffer reduction were met. The Applicant does not seek to reduce the required
10 buffer and the Site Plan has been designed to maintain a 150-foot buffer for Wetland B.

11 40. Wetland A covers approximately 15.77 acres both on and off-site. It is a mostly
12 undisturbed depressional wetland naturally draining much of the area north of Tumwater Blvd.
13 and south of Dennis Street and west of Henderson Blvd.

14 41. There is some anecdotal evidence that the hydrology of Wetland A is changing as
15 cedar trees along its perimeter have been dying recently, although no stormwaters are currently
16 being directed toward the wetland.

17 42. Wetland A is a Category II Wetland with an overall score of 20 and Habitat Score
18 of 7. Its standard buffer is 150 feet.

19 43. The required 150-foot buffer for Wetland A may be reduced to 110 feet so long as
20 all of the requirements of TMC 16.08.170.C are met.

21 44. Since the habitat score for Wetland A is more than 5 points, the required buffer
22 can only be reduced if the criteria set forth in TMC 16.08.170.C.1(a and b) are satisfied:

- 23 a. The Applicant must demonstrate that a relatively undisturbed vegetated
24 corridor at least 100 feet wide is protected between the wetland and any other priority
25 habitats as defined by WDFW, and the corridor must be protected for the entire distance

1 between the wetland and the priority habitat via some type of legal protection such as a
2 conservation easement; and

3 b. The Applicant must propose measures to minimize impacts of different
4 land uses on wetlands such as those suggested by Table 16.08.170.5 TMC.

5 45. The Applicant's Critical Areas Report finds, and City Staff concurs, that the
6 requirements for wetland buffer reduction as imposed by TMC 16.08.170 have been met:

7 • There will be a 110-foot buffer along the length of the wetland. This
8 buffer will be preserved through a conservation easement.

9 • The Applicant will undertake measures to minimize impacts of different
10 land uses on wetlands including: directing lights away from wetlands; locating activities
11 that generate noise away from the wetlands; designing stormwater management to ensure
12 the proper hydrology of the wetlands; and avoiding interference by pets or humans by
13 maintaining fencing or dense vegetative screening and placing the wetlands and their
14 buffers in protected tracts.

15 • All wetland buffers will have signs every 50 feet and will have continuous
16 split rail fencing across their buffers. These requirements will apply during construction
17 as well as during permit review. Covenants and restrictions will be added to ensure that
18 wetlands are protected in perpetuity.

19 46. A map identifying the 150-foot and 110-foot buffers for both Wetland A and B is
20 found as Figure 4 to Exhibit 11. As noted in earlier Findings, the Applicant does not propose
21 any buffer reduction to the 150-foot buffer for Wetland B but does seek a reduction of the buffer
22 for Wetland A from 150 feet to 110 feet.

23 47. The Hearing Examiner concurs with Staff's Findings that the Applicant has
24 satisfies the requirements for a wetland buffer reduction for Wetland A from 150 feet to 110 feet.

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

3 48. 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-.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 49. As noted on pages 12 and 13 of the Staff Report, the Hearing Examiner must
16 make Findings that appropriate provisions have been made for public health, safety and general
17 welfare and for open spaces, drainage ways, streets or road, alleys or other public ways, other
18 grounds, transit stops, potable water supplies, sanitary waste, parks and recreation playgrounds,
19 schools and schoolgrounds, fire protection and other public facilities; and shall consider all other
20 relevant facts to determine whether the public interest will be served by the land division and
21 dedication. Consideration must also be given for sidewalks and other planning features to ensure
22 safe walking conditions for students who only walk to and from school.

23 50. The Staff Report, commencing at page 13, contains Findings that adequate
24 provisions have been made for the public health, safety and general welfare including the
25 following:

*Findings of Fact, Analysis,
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and Decision - 19*

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1 A. The project includes both passive and active open spaces. The project
2 requires at least 1.62 acres of open space. This amount of acreage has been included as
3 open space and a combination of active and passive open space areas. Active open space
4 areas include a walking path, basketball court, playground, benches, and disc golf basket
5 along with grassy areas.

6 B. The project proposes a storm drainage system complying with the City's
7 most recent Drainage Design and Erosion Control Manual, with final design to be
8 approved as part of site development.

9 C. Construction of frontage improvements and road extensions will occur
10 during the initial part of development. Traffic impact fees and mitigation fees will be due
11 at building permit issuance.

12 D. The City has issued a Water and Sewer Availability Ruling indicating that
13 the City has the ability to serve the development with water and sewer connections.

14 E. The site is within the Tumwater School District and will pay school
15 impact fees at time of building permit issuance.

16 F. The City of Tumwater fire department has found that its facilities are
17 adequate to service the proposed project.

18 G. No portion of the property is located within the shoreline of the State or
19 any known flood hazard areas.

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

22 52. As noted in previous Findings, the project is located in the Single-Family Medium
23 Density (SFM) zone district.

24 53. Townhomes are a permitted use within the SFM zone subject to an approved
25 Planned Unit Development.

*Findings of Fact, Analysis,
Conclusions of Law
and Decision - 20*

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1 54. Development standards allow for a minimum of 6 dwelling units per acre and a
2 maximum of 8 dwelling unit per acre. Staff finds that the project will comply with maximum
3 density requirements.

4 55. Staff also finds that the project will comply with minimum lot size requirements,
5 maximum lot coverage, maximum structure height and setbacks for the SFM zone.

6 56. Staff concludes that the proposed Plat and Site Plan are consistent with permitted
7 uses and development standards in the SFM zone. The Hearing Examiner concurs.

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

13 Findings Relating to the Requirements for Planned Unit Development, Chapter 18.36
14 TMC.

15 58. Pursuant to TMC 18.36.110, the Hearing Examiner's decision to approve or deny
16 a Planned Unit Development shall take into consideration the criteria set forth in TMC
17 18.36.110.A-H.

18 59. Pursuant to TMC 18.36.110.A, the project must substantially conform to the
19 Tumwater Comprehensive Plan. As noted in earlier Findings, Staff finds that the project, as
20 conditioned, conforms to the City's Comprehensive Plan. The Hearing Examiner Concur.

21 60. Pursuant to TMC 18.36.110.B, the Planned Unit Development must conform to
22 the Municipal Code and development guidelines. Previous Findings confirm that the project
23 does conform to the Municipal Code as well as to the development guidelines.

24 61. Pursuant to TMC 18.36.110.C, the project must identify quantifiable public
25 benefits as are required by TMC 18.36.010. This project requires two points of public benefit.

1 62. TMC 18.36.010.B.1, allows one point for enhanced usable parks and open space.
2 The Applicant proposes a walking path through open space areas, a viewing platform with
3 informational wetland signage, benches, disc golf basket targets, a half court basketball area and
4 children's play structures within open space areas.

5 63. Staff agrees that these proposed amenities are enhanced facilities over what would
6 normally be required of similar development and qualify as enhanced usable parks and open
7 space pursuant to TMC 18.36.010.B.1. and qualify for one point. The Hearing Examiner
8 concurs.

9 64. TMC 18.36.010.B.3 allows an additional point if the project goes significantly
10 beyond the minimum requirements for critical areas protection to preserve, enhance or
11 rehabilitate critical areas and buffers in the Planned Unit Development.

12 65. The Applicant proposes to enhance prairie and wetland habitat in the vicinity of
13 Wetland A including a one-time removal of a large area of Himalayan Blackberry and Scotch
14 Broom, English Holly and English Hawthorne, all invasive plant species. The area of
15 rehabilitation is off-site but near the project site. Native plants will be added where invasive
16 species have been removed in order to improve wetlands and their function. On-site areas
17 immediately next to the Wetland A will have dense native plantings with a ten year monitoring
18 plan for maintenance and contingencies. Areas beyond the wetland enhancement area will be
19 reserved for a prairie restoration area which will also have a plan for maintenance and
20 contingencies for up to ten years. Additionally, habitat features will be installed near Wetland A
21 to include three wood duck boxes, three bat boxes, and two Martin houses to be installed in the
22 trees at the edge of Wetland A to enhance wildlife habitat. Outside of the prairie rehabilitation
23 area, an open space area with walking paths, interpretive signage and viewing platforms will
24 provide opportunities to observe a South Sound Prairie habitat.

1 66. Staff finds that these proposed wetland and prairie enhancements go significantly
2 beyond the minimum requirements for critical areas protection and satisfy the requirements of
3 TMC 18.36.010.B.3 for an additional point. The Hearing Examiner concurs. The Applicant has
4 therefore established two points of public benefit.

5 67. Pursuant to TMC 18.36.110.D, it must be demonstrated that the project provides
6 for public health, safety and general welfare. Earlier Findings include this Finding.

7 68 Pursuant to TMC 18.36.110.E, it must be demonstrated that the size of the
8 Planned Unit Development is adequate to accommodate the contemplated development. Staff
9 finds that the proposed development has provided for appropriate civil plans demonstrating the
10 ability to accommodate all elements of the proposed design. The Hearing Examiner concurs.

11 69. Pursuant to TMC 18.36.110.F, adequate access to the project site for all users of
12 the project must be demonstrated, including access by the public if applicable. The project
13 provides a new public road and sidewalks for community members to use. Staff finds that these
14 roads and sidewalks are adequate to serve the proposed development. The Hearing Examiner
15 concurs.

16 70. Pursuant to TMC 18.36.110.G, appropriate access for public safety must be
17 assured. The preliminary civil plans have been reviewed by the Building Department as well as
18 the fire official and there are no concerns.

19 71. Pursuant to TMC 18.36.110.H, adequate mitigation measures for impacts
20 associated with the physical characteristics of the site must be considered, including impacts to
21 groundwater, stormwater, flood plains, critical areas, steep slopes and critical habitat. As earlier
22 noted, the Applicant has provided a Critical Areas Report with mitigation for all impacts to
23 critical areas. These mitigation requirements have been incorporated into conditions of project
24 approval.

1 72. Staff finds that the development therefore meets the requirements found in
2 Chapter 18.36 TMC for Planned Unit Development and recommends approval subject to the
3 conditions found in the Staff Report. The Hearing Examiner concurs with the Staff's Findings.

4 Findings Relating to Compliance with the Airport Overlay Zone, Chapter 18.32 TMC.

5 73. The Airport Overlay Zone is intended to protect the viability of the Olympia
6 Regional Airport by assuring compatible land uses and densities, and by reducing hazards to
7 aviation.

8 74. The project site is located within Zone 3 of the Airport Overlay Zone. Any site
9 development must therefore comply with the residential standards set forth in TMC 18.32.080.A.

10 75. According to information provided by the Regional Airport, the project site lies
11 1,362 feet from the runway approach centerline, and lies 4,000 from the runway landing
12 threshold and is underneath the standard flight landing pattern for arriving aircraft.

13 76. The Airport Overlay Zone prohibits multi-family dwelling development in
14 Zone 3. The airport asserts that the proposed development constitutes multi-family dwellings and
15 is therefore in violation of this prohibition. City Staff disagrees and explains that the project
16 consists of attached single-family development, not multi-family development, and that the
17 project is in compliance with allowed residential development. The Hearing Examiner concurs
18 with Staff's Findings.

19 77. The project must also satisfy the requirements of TMC 18.32.080.A.1 and .2.

20 78. Pursuant to TMC 18.32.080.A.1, land development must be clustered
21 development with residential lots located as far away from the runway centerline as possible.

22 79. As noted in earlier Findings, the entirety of the east parcel of the project site, as
23 well as the north portion of the west parcel of the project site, are encumbered by wetlands and
24 their associated buffers where no development can occur. All development has therefore been
25 restricted to the southwest portion of the west parcel in developable upland areas.

1 80. The airport has suggested that the development could be relocated to other areas
2 of the project site impacted by wetlands as a means of locating the development as far away from
3 the runway centerline as possible. This suggestion is not reasonable as such development is
4 prohibited under the City's Critical Areas Regulations.

5 81. Staff finds that the Applicant's Site Plan has located all development as far away
6 from the runway centerline as possible. The Hearing Examiner concurs with Staff's Findings.

7 82. Pursuant to TMC 18.32.080.A.2, open space must be provided on the project site
8 that is suitable for emergency landing of aircraft. This open space must be at least one-half acre
9 or 10% of the gross site areas, whichever is greater. The open space area may be used for other
10 purposes such as active open space provided that recreational facilities and above ground
11 stormwater ponds are not located in the designated area.

12 83. The Applicant proposes the use of the site's wetland areas and associated buffers,
13 together with adjoining open spaces, as satisfying this requirement. Collectively, the site
14 contains 8.51 acres of open space, most of which is contained in wetlands and associated buffers.
15 These areas will remain undeveloped.

16 84. Staff finds that, although wetlands are not an ideal location for emergency plane
17 landings, they do meet the City's requirement for an available open space area as required by
18 TMC 18.32.080.A.2. The Hearing Examiner concurs.

19 85. Staff therefore finds that the project, as conditioned, satisfies all requirements
20 imposed under the Airport Overlay Zone. The Hearing Examiner concurs.

21 85. Staff recommends approval of the proposed Planned Unit Development and
22 Preliminary Binding Site Plan subject to the 53 conditions set forth in the Staff Report. The
23 Applicant does not object to any of these conditions.

24 Having entered his Findings of Fact, the Hearing Examiner makes the following:
25

1 **CONCLUSIONS OF LAW**

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

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

6 3. The requirements of SEPA have been met.

7 4. All notice requirements have been met.

8 5. A Planned Unit Development approval and Preliminary Binding Site Plan
9 approval is required for townhome development in the SFM zone.
10

11 6. The project, as conditioned, is consistent with the Tumwater Comprehensive Plan,
12 the Tumwater Transportation Plan, the Sustainable Development Plan for Thurston Region and
13 the Thurston Regional Trail Plan.

14 7. The project, as conditioned, is consistent with all applicable performance
15 standards for the Single-Family Medium Density (SFM) zoning district; for the Airport Overlay
16 Zone; and for the Aquifer Protection Overlay Zone.

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

19 9. The project, as conditioned, satisfies all requirements of the Tree Protection and
20 Replacement Ordinance, Chapter 16.08 TMC.
21

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

24 11. The project, as conditioned, satisfies all requirements for protection of wetland
25 and other critical areas imposed under Chapter 16.08 TMC.

*Findings of Fact, Analysis,
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1 12. The project, as conditioned, satisfies all general binding site plan design standards
2 imposed under Title 17 TMC including all specific requirements imposed under
3 TMC 17.12.010-.210.

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

9 14. The project, as conditioned, complies with all of the requirements for Binding Site
10 Plan approval, Chapter 17.08 TMC.

11 15. The project, as conditioned, complies with all development standards imposed
12 under the SFM zoning district, Chapter 18.12 TMC.

13 16. The project, as conditioned, complies with the requirements of the Aquifer
14 Protection Overlay zone district. The proposed use is not a restricted land uses in the Aquifer
15 Protection Overlay zone district.

16 17. The project, as conditioned, complies with all requirements for Planned Unit
17 Development, Chapter 18.36 TMC.

18 18. The project, as conditioned, satisfies all requirements of the Airport Overlay
19 Zone, Chapter 18.32 TMC.

20 19. The project should be approved subject to the 53 conditions set forth in the Staff
21 Report, as amended.

1 **DECISION**

2 Now, therefore, the Applicant's request for Planned Unit Development and Preliminary
3 Binding Site Plan approval to construct 24 townhomes, shall be **approved** subject to the
4 following conditions:

5 **CONDITIONS**

6 1. Wetland Sensitive Resource Tract:

7 a. Protection of Sensitive Area Tracts/Easements. The city shall require, as a
8 condition of any permit issued pursuant to this section, that the sensitive area tract or
9 tracts created pursuant to this section be protected by one of the following methods:

10 i. The permit holder shall convey an irrevocable offer to dedicate to
11 the city of Tumwater or other public or nonprofit entity specified by the city an
12 easement for the protection of native vegetation within a wetland and/or its buffer;
13 or

14 ii. The permit holder shall establish and record a permanent and
15 irrevocable deed restriction on the property title of all lots containing a sensitive
16 area tract or tracts created as a condition of this permit. Such deed restriction(s)
17 shall prohibit, as long as wetland function exists, the development, alteration, or
18 disturbance of vegetation within the sensitive area except for purposes of habitat
19 enhancement as part of an enhancement project which has received prior written
20 approval from the city of Tumwater, and any other agency with jurisdiction over
21 such activity.

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

c. 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. The most current design guidelines shall apply to the proposed structures at the
time of building permit application.

1 3. Parks and Open Space:

2 a. The site development grading plan shall include an open space sheet
3 showing the total amount of open space meeting or exceeding the amount shown on the
4 preliminary site development grading plans. The open space sheet shall include details of
5 proposed equipment/infrastructure meeting the requirements in 17.12.210.G and design
6 guidelines. The open space information can be combined on the landscape plan sheets if
7 desired. The equipment/infrastructure shown on the approved plans shall be installed
8 prior to site development grading final inspection approval or as allowed through
9 alternative arrangements approved by the Community Development Director.

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

13 5. Two off-street parking spaces are required for each townhome. Driveways and
14 off street parking spaces must be hard surfaced (asphalt, concrete or turnstone). No parking will
15 be allowed in a cul-de-sac turnaround and shall be posted accordingly.

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

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

1 8. Conditions listed in the Mitigated Determination of Non-Significance dated
2 July 25, 2025, are hereby referenced and incorporated. If the applicant decides to pay mitigation
3 fees for the Tumwater Blvd – I-5 intersection, the fee shall be paid prior to issuance of the initial
4 building permit.

5 9. The following condition will be required to be noted on the Final Binding Site
6 Plan: All landscaped areas in public rights-of-way shall be maintained by the Condo Association,
7 owner(s) and his/her successor(s) and may be reduced or eliminated if deemed necessary for or
8 detrimental to City road purposes.

9 10. Impact fees for traffic, parks and schools will be assessed to each dwelling unit in
10 the binding site plan as Building Permits are issued. The impact fees will be in accordance with
11 the most current fee resolution adopted by the City at the time complete Building Permit
12 applications are submitted.

13 11. Two points of public benefit are required for approval of the Planned Unit
14 Development. Verification that two points of public benefit have been met shall be completed
15 prior to issuance of the first building permit for the project.

16 12. A Site Development/grading permit will be required for this site. The permit
17 application shall be accompanied by the application checklist and digital plans and
18 specifications, and supporting data consisting of a soils engineering report and engineering
19 geology report prepared and signed by a licensed soils engineer. Inspection of the grading shall
20 be provided by the civil engineer and Geotechnical engineer. In addition, special inspectors
21 approved by the building official shall perform inspections of fill placement, compaction testing,
22 and blasting. All special inspections are to be performed by WABO registered labs and
23 inspectors who have expertise in grading and earthwork.

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

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

10 15. The owner will need to submit the name of the WABO registered firm who will
11 conduct the special inspections, to the Building Official, prior to issuance of the site
12 development/grading permits

13 16. No vertical or combustible construction will be allowed on the site until the fire
14 hydrants and paved roads are installed, tested and approved by the City of Tumwater. Note:
15 testing will also include verification of fire flow by the fire department.

16 17. The required fire flow for this project is derived from Appendix B of the
17 International Fire Code. Type VB Townhouse buildings of this size are required to have a fire
18 flow of 1000 gallons per minute at 20 psi.

19 18. Fire hydrants and paved access roads shall be installed, tested for fire flow by the
20 Fire Department and made serviceable by the Transportation and Engineering Department prior
21 to any building permits being issued. IFC 503.2.3

1 19. The buildings are proposed to be R3 Townhouse single family occupancies and of
2 type V-B construction. IBC Chapter 3. The walls are required to be of 2- hour fire-rated
3 construction.

4 20. Addresses for this binding site plan will be assigned before final binding site plan
5 approval by the Building & Fire Official. Street/private lanes shall have names provided by this
6 time.

7 21. The applicant shall be responsible for providing the City with all costs associated
8 with the installation of water, sewer, street, and storm drainage systems that are dedicated to the
9 City of Tumwater.

10 22. All designs/construction shall comply with the City of Tumwater's Development
11 Guide and WSDOT standards.

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

17 24. All street construction, main installation, and storm drainage work requires
18 engineered plans certified by a professional engineer.

19 25. The applicant is responsible for all plan check, inspection and connection fees.

20 26. Any private or public utility relocation is the responsibility of the applicant.

21 27. The applicant shall be responsible for the maintenance and timely repair of all
22 public improvements for a period of 30 months following final certification by the City and shall
23 submit a surety for maintenance equal in value to fifteen (15) percent of the total value of the
24

1 required public improvements certified by the Transportation and Engineering Director. Please
2 refer to Chapter 3 of the Development Guide for further clarification.

3 28. Provide all easements and bills-of-sale documents with the engineered plans.

4 29. All legal descriptions must be accompanied with an appropriate drawing that the
5 City Surveyor can use to verify the legal description. All engineering drawings will be on 24" x
6 36" paper sheets.

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

13 31. Site plan modifications may occur as a result of the engineering review process.
14 For engineering issues, the approved engineering plans take precedence over the approved site
15 plan.

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

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

20 34. Testing shall be required at the developer or contractor's expense. The testing
21 shall be ordered by the developer or contractor, and the chosen testing lab shall be approved by
22 the City Construction inspector. Testing shall be done on all materials and construction as
23
24
25

1 specified in the WSDOT/APWA Standard Specifications and with frequency as specified in the
2 current City of Tumwater Development Guide.

3 35. Frontage improvements are required per Tumwater Municipal Code 12.12.010.
4 These improvements include separated sidewalks, curb and gutter, street patch, street lighting,
5 bike lanes, street trees/landscaping, and any storm drainage necessary to take care of the
6 impervious area in the right-of-way. The applicant is responsible to the centerline of the right-of-
7 way. Dedication of additional right-of-way to contain the improvements is required.
8

9 a. Tumwater Blvd is a future three lane section. The project shall complete
10 pavement widening to ensure 23' of pavement from CL of existing right-of-way to face
11 of curb (12' vehicle lane, 11' widened shoulder), concrete curb and gutter, 6' planter,
12 street trees, street lighting, 6' sidewalk, and any dedication necessary to contain the
improvements. Street lighting on Tumwater Blvd shall have a 35' mounting height with
8' arms. Street lighting will be provided at every intersection and then every 150'. The
structural section of the road shall be 0.50' HMA, 0.20' CSTC, 1.50' CSBC.

13 b. The internal roads meeting the local access standard shall provide 32' of
14 pavement, concrete curb and gutter, 6' planters with street trees and streetlights, 6'
15 sidewalks. The structural section of the internal roads shall be 0.33' HMA, 0.20' CSTC,
0.80' CSBC. Streetlight spacing shall be 120' and at every intersection, streetlights shall
be 25' poles with 6' arms.

16 c. The road shall terminate in a cul-de-sac with a radius not less than 35'
17 from center to face of curb.

18 36. All access to the property will be consistent with City standards and policies.

19 37. The project will rechannelization the portion of Tumwater Blvd across its
20 frontage to provide a center turn lane and two vehicle lanes to the maximum extent feasible.

21 38. All access to the property will be consistent with City standards and policies.

22 39. The project will rechannelization the portion of Tumwater Blvd across its
23 frontage to provide a center turn lane and two vehicle lanes to the maximum extent feasible.
24
25

1 40. A drainage design and erosion control plan will be required according to City's
2 2022 Drainage Design and Erosion Control Manual.

3 41. The project will address stormwater runoff for on-site and off-site improvements.

4 42. Maintenance of the on-site stormwater system will be the responsibility of the
5 property owner and a maintenance agreement will be recorded against the property.

6 43. Test pits conducted for stormwater design will comply with the 2022 Drainage
7 Design and Erosion Control Manual for location and frequency. Test pits will be conducted
8 between December and April to accommodate for seasonal high groundwater.
9

10 44. The project shall complete a stormwater scoping meeting with City engineering
11 staff.

12 45. Sewer is available on Tumwater Blvd, the project shall connect to the City sewer
13 and extend services to all newly created lots.

14 46. Any sewer main extension will require a minimum of an 8" system. The main size
15 will depend on the requirements for this project. The system shall be designed per the City of
16 Tumwater Development Guide and current Sewer Comprehensive Plan. Max spacing between
17 manhole shall be 300 feet and at every intersection.

18 47. One 6" lateral should be extended to serve two units with a 6" cleanout at the
19 common property line/corner. This cleanout will be the City owned portion of the lateral.
20

21 48. The project shall coordinate with the City on alterations to the existing lift station
22 access. One concrete driveway 30' in width shall be provided for access, additional pavement
23 work will be necessary to provide a hammerhead-style turnaround and eliminate the additional
24 existing pavement that is no longer necessary. Removable bollards shall be installed off the back
25

1 of future walk to restrict access. A water meter service line and setter shall be extended to the lift
2 station from the new water main in Tumwater Blvd.

3 49. The project must meet minimum fire flow requirements.

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

7 51. Off-site water main extension is required, water main in Tumwater Blvd shall be a
8 16" diameter main per the Water Comprehensive plan.

9 52. All other water main extensions will require a minimum of an 8" system. Water
10 shall be extended to all newly created lots. The main size will depend on the fire flow
11 requirements for this project. The system shall be designed per the City of Tumwater
12 Development Guide and current Water Comprehensive Plan. Hydrants will be set per the
13 Building Department.

14 53. Water meters need to be placed in the public right-of-way or clustered on site
15 within an easement.

16 DATED this 30 day of September, 2025.

17
18
19
20 Mark C. Scheibmeir
City of Tumwater Hearing Examiner

21
22
23 **HEARING EXAMINER**
24 **POST-DECISION PROCEDURES**

25 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.

*Findings of Fact, Analysis,
Conclusions of Law
and Decision - 36*

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 **2.58.135 Reconsideration.**

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

6 **2.58.140 Notice of examiner's decision.**

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

11 **2.58.150 Appeal from examiner's decision.**

12 In cases where the examiner's jurisdictional authority is to render a decision, the decision of the examiner shall be
13 final and conclusive unless appealed to superior court within the applicable appeal period as set forth in TMC
14 2.58.180.

15 **2.58.180 Judicial appeals.**

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