

**CITY OF TUMWATER**  
**HEARING EXAMINER STAFF REPORT**  
**Hearing Date: May 31, 2023**

**Project Name:** LINC'S Modular Building

**Case Number:** TUM-22-1544 and TUM-23-0243

**Applicant:** Tumwater School District, Capital Projects, Mel Murray  
621 Linwood Ave SW, Tumwater, WA 98512

**Representative:** Ross Jarvis, LDC  
1411 State Ave NE, Olympia, WA 98506

**Type of Action Requested:** The applicant is requesting approval of a Conditional Use Permit to construct an approximately 1,900 square foot modular building (school expansion) to serve 18-21 year-old life skills students with associated infrastructure. (Exhibit 7).

**Project Location:** The property is located at 621 Linwood Ave SW, Tumwater, WA 98512. Parcel Number 09080004000 (Exhibit 3).

**Notice of Application and SEPA Determination:** Pursuant to the State Environmental Policy Act, the City of Tumwater Community Development Department, after review of a SEPA environmental checklist and other information, issued a Notice of Application with Optional DNS on March 29, 2023 (Exhibit 4 and 5).

**Public Notification:** Public notification for the May 31, 2023 public hearing was mailed to property owners within 300 feet of the subject property and various agencies, posted on-site and published in *The Olympian* on Friday, May 19, 2023, in conformance with Tumwater Municipal Code (TMC) 14.06 (Exhibit 6).

**Staff Recommendation:** Approval, subject to conditions identified at the end of the staff report.

**Staff Planner:** Alex Baruch, Associate Planner  
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## **I. BACKGROUND INFORMATION**

### **Application and Review Process**

The Conditional Use Permit application was submitted on December 27, 2022. The application was deemed complete on March 23, 2023 (Exhibits 4).

Under TMC 2.58.090, review authority for Conditional Use Permit applications fall under the purview of the Hearing Examiner. A consolidated approval is being requested for the Conditional Use Permit and Site Plan Review as described in 14.08.030.

### **Existing Conditions**

The proposed development site is relatively flat and used as a fenced grass play field. The rest of the property is primarily made up of the Tumwater School District Administrative Offices, Michael T Simmons Elementary School, parking and related infrastructure. A portion of the property includes Barnes Lake, however the proposed structure is located well outside all buffers and critical areas.

The site is surrounded by residential zoned property with the exception of Barnes Lake to the west which is zoned Green Belt. The property to the north is zoned Single Family Medium. The parcels to the east are zoned Single Family Low Medium and Multi Family Medium (east and south). (Exhibit 8).

### **Project Description**

The applicant is requesting approval of a Conditional Use Permit to construct an approximately 1,900 square foot modular building (school expansion) to serve 18-21 year-old life skills students with associated infrastructure.

Improvements will include installing infrastructure, reconfiguring the parking lot, adding bicycle parking, sidewalks and installing the structure.

Other infrastructure needed include, roof drain systems to properly convey storm water generated from new roof non-pollution generating impervious surfaces, and extension/relocation, of private utilities, irrigation and a sewer lateral connection to the existing onsite gravity sewer

Water and sewer will be provided by the City of Tumwater, electricity and natural gas by Puget Sound Energy, telephone and cable by Comcast and Lumen, and garbage collection by Pacific Disposal. All utilities on-site will be underground

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pursuant to Tumwater Municipal Code (TMC) 17.12.200.

## **II. REGULATORY FRAMEWORK**

The proposal is subject to the following policies and regulations:

### **Comprehensive Plan**

The site is located in Trosper Neighborhood as designated by the City's Comprehensive Plan.

The land use designations on the City-Wide Future Land Use map for the 19.15 acre site are Public Institutional and Parks/Open Space. It is anticipated that the school use will remain on this site for at least the next 20 years. The portion of the property within Barnes Lake is under the Parks/Open Space category which will remain unaffected by this project.

#### **Staff Response and Recommended Finding:**

*The project is consistent with the surrounding school and school administrative offices that exist on site and fall in line with the Comprehensive Plan Future Land Use Designations.*

*Staff finds that the proposal is in compliance with the intent of the comprehensive plan.*

### **Tumwater Parks and Recreation Plan**

The Parks and Recreation element of the Tumwater Comprehensive Plan does not identify any neighborhood or community parks at this location.

#### **Staff Response and Recommended Finding:**

*Staff finds the project consistent with the Comprehensive Parks Plan.*

### **Tumwater Transportation Plan**

The Tumwater Transportation Plan contemplates a modernized network of streets, sidewalks and bicycle routes. The Transportation Plan anticipates that such facilities will be provided through a combination of development-related improvements and City improvements funded by impact fees, grants, SEPA based mitigation fees, and general funds.

#### **Staff Response and Recommended Finding:**

*Staff finds that the proposal is consistent with the Tumwater Transportation Plan.*

### **Thurston Regional Trail Plan**

The City of Tumwater is a participating member of the Thurston Regional Planning Council (TRPC). TRPC adopted the Thurston Regional Trail Plan in December 2007.

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The Regional Trails Plan defines a trail network blueprint and a set of guidelines and recommendations for all of Thurston County and its cities, towns and communities. The Goals and Policies section of the Plan serves to link local trail planning efforts within the broader context of planning the regional transportation network. The plan charts a systematic path creating interconnected corridors that improve access to community destinations.

**Staff Response and Recommended Finding:**

*The project site is not affected by the regional trail network outlined in the Thurston Regional Trail Plan.*

*Staff finds that approval of the project will not affect implementation of the Thurston Regional Trail Plan.*

**Sustainable Development Plan for Thurston Region**

The Plan indicates that the regional community has set a target to reduce vehicle miles traveled and to preserve sensitive areas, farmland, forest land, prairies and rural lands.

*The Plan has a target goal stating that by 2035, 72 percent of all (new and existing) households in our cities, towns, and unincorporated growth areas will be within a half-mile (comparable to a 20-minute walk) of an urban center, corridor, or neighborhood center with access to goods and services to meet some of their daily needs.*

*The site is located more than a half-mile from an urban center, however is located in area designated for residential growth. The Plan also includes a goal of preserving environmentally sensitive lands, farmlands, forest lands, prairies, and rural lands and develop compact urban areas.*

*The project meets this goal by providing compact development in the urban area, and protecting environmentally sensitive lands.*

*Staff finds the project is consistent with the Sustainable Development Plan for Thurston Region.*

**Hearing Examiner TMC 2.58**

The Hearing Examiner has the authority to review Conditional Use Permit requests.

**Staff Response and Recommended Finding:**

*Conditional Use Permits require a public hearing and decision by the Tumwater Hearing Examiner.*

## **Tumwater Municipal Code TMC 14.06 – Public Notice Requirements**

TMC Chapter 14.06 requires the City to provide public notification of certain application types by issuing a Notice of Application (TMC 14.06.010) and a Notice of Open Record Hearing. (TMC 14.06.070).

### **Staff Response and Recommended Finding:**

*The application was deemed complete on December 27, 2022. Public notice for the application indicating that the application was submitted and deemed complete was mailed to property owners within 300 feet of the subject property, affected agencies, posted on-site, and published in the Olympian on March 23, 2023 (Exhibit 4).*

*Public notice for the May 31, 2023 open record hearing was mailed to property owners within 300 feet of the subject property, affected agencies, posted on-site on; and published in The Olympian on May 19, 2023 (Exhibit 6).*

### **COMMENTS FROM OTHER AGENCIES/CITIZENS:**

Three comments were received from the Notice of Application and SEPA Determination (Exhibit 10).

Comment from the Squaxin Island Tribe and Nisqually Indian Tribe stating they had no specific comments or concerns with this proposal.

*Staff comment: Inadvertent Discovery note will be required to be added to the Site Development Grading permit to ensure compliance with Tumwater Municipal Code 18.40.065.*

A comment from a surrounding community members (James Geluso) requested a copy of the SEPA checklist.

*Staff comment on similar concerns;*

*Staff provided the requested documentation and let them know that they would be provided with a copy of the SEPA Determination when it was issued. The SEPA Determination was issued on May 4, 2023 and sent to properties within 300’.*

## **Transportation Concurrency TMC 15.48**

In accordance with TMC 15.48, the City's Transportation Manager issued a transportation concurrency ruling for the project on March 22, 2023. The concurrency ruling indicates that the project meets concurrency. Required transportation impact fees shall be paid per the fee resolution current at the time of building permit issuance (Exhibit 11).

### **Staff Response and Recommended Finding:**

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*Staff finds that the project meets concurrency.*

**Tumwater Environment Code Title 16**

Environmental Policy: The City of Tumwater Community Development Department reviewed a SEPA Environmental Checklist and other information submitted by the applicant and issued a Determination of Non-significance (DNS) on May 4, 2023 through the Optional Notice of Application with DNS process.

The DNS was posted on-site, mailed to property owners within 300 feet of the subject property and agencies, and published in "The Olympian" newspaper on May 4, 2023 (Exhibit 5).

**Staff Response and Recommended Finding:**

*The City's SEPA threshold determination was issued on May 4, 2023. No appeals of the SEPA threshold determination were filed.*

**COMMENTS FROM OTHER AGENCIES/CITIZENS:**

None.

**Tree Protection:** The portion of the property where the structure is proposed to be placed does not have. No trees are proposed to be removed. .

**Staff Response and Recommended Finding:**

*Staff finds that due to the existing conditions no trees are required to be planted with this project.*

**Fish and Wildlife Habitat Protection:**

TMC Chapter 16.32 regulates fish and wildlife habitat and species.

**Staff Response and Recommended Finding:** *The geographic area of the subject property does not have soils preferred by the Mazama Pocket Gopher. The Gopher is listed as a protected species under both Washington State and Federal threatened and endangered species lists.*

*No Mazama Pocket Gopher report was required per Section 3.B.1 of the 2018 Administrative Determination due to evidence of previous land disturbance occurring on this property (Exhibit 16).*

**Tumwater Zoning Code Single-Family Medium Density (SFM) residential zone district TMC 18.12.**

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The subject property is located within the Single Family Medium Density Residential zone district and Aquifer Protection Overlay zone district. Conditional Uses listed in TMC 18.12.040 may be permitted upon granting of a Conditional Use Permit by the Hearing Examiner after notice and public hearing per TMC 18.56.010. The Hearing Examiner may impose appropriate restrictions and conditions on the use, which may include time limits, increased setbacks, suitable landscaping, off-street parking and any other restriction, conditions or safeguards that would uphold the spirit and intent of the zoning requirements and mitigate any adverse effects upon neighborhood properties per 18.56.040. The zoning code places minimum conditions on siting a public school: Twenty-five foot setback on front, side and rear yards. No off-street parking or loading area will be allowed in any required yard area (TMC 18.56.280).

Front yard setbacks are 25 feet, side yard is 25 feet, and rear yard is 25 feet.

**Staff Response and Recommended Finding:**

*Staff finds the proposal to be in line with the existing school development on the property and meets the base setback requirements of this parcel.*

**Aquifer Protection Overlay (AQP) zone district - TMC 18.39 – Restricted Land Uses**

The AQP zone restricts hazardous uses to protect aquifer recharge areas.

**Staff Response and Recommended Finding:**

*The intent of the aquifer protection (AQP) overlay zone district is to identify, classify and protect vulnerable and/or critical aquifer recharge areas within the city and urban growth area. Protection is to be accomplished by controlling the use and handling of hazardous substances. The proposed school expansion is not a restricted land use in the AQP overlay.*

**IV. STAFF ANALYSES:**

Pursuant to 14.04.010, Community Development staff conducted a review to determine consistency between the proposal and the Comprehensive Plan and applicable development regulations. A finding of consistency with the Comprehensive Plan is a pre-requisite to approval of a Conditional Use Permit by the Hearing Examiner.

Staff reviewed the consistency of the land use proposal with applicable regulations and the Comprehensive Plan in four topic areas: 1) land use; 2) level of development; 3) adequacy of infrastructure and public facilities; and 4) character of development.

1. Land Use Consistency: Staff finds that the proposed project is consistent with

the intent of the Comprehensive Plan and is compatible with the existing land uses in the area.

2. Level of Development: Staff finds that the level of development for the proposal is consistent with the underlying zone district's standards.
3. Adequacy of Infrastructure and Public Facilities: Staff finds that the infrastructure and public facilities are provided for at the site. The applicant provided a water and sewer availability letter dated December 20, 2022 (Exhibit 15) which states there is availability for this project.
4. Character of Development such as development standards: As stated in 1 and 3 above, the proposed project is consistent with the intent of the Comprehensive Plan and infrastructure and public facilities will be provided at the site in accordance with applicable development standards for the City of Tumwater.

#### FINDINGS OF FACT:

1. The applicant is requesting approval of a Conditional Use Permit, to add a two-room modular classroom to support school-programs, at the Administrative Services and Michael T Simmons Elementary School property. The property is located in a Single-Family Medium-Density Residential zone district requiring a Conditional Use Permit.
2. The Conditional Use Permit request can be considered to be consistent with the intent of the Comprehensive Plan. The location of the new classroom as shown on the Site Plan (Sheet C.4 Exhibit 2) is appropriate.
3. The proposal can be considered to be consistent with the intent of the Single-Family Medium-Density (SFM) zone district.
4. There are no significant adverse environmental impacts anticipated as a result of the proposal. A Determination of Non-Significance (Exhibit 5) was issued by the responsible official on May 4, 2023, in compliance with WAC 197-11.
5. The City of Tumwater Transportation Manager reviewed the Transportation Concurrency Application (Exhibit 11), and ruled that no significant impacts are foreseen, because this proposal is serving a limited student population.
6. The City of Tumwater Water Resources Specialist has concluded that the existing water and sewer service is adequate for this proposal (Exhibit 15).



7. This proposal meets the conditional use permit requirements listed in 18.56.280.

### **III. RECOMMENDATION**

Pursuant to TMC 2.58.110, staff recommends approval of the Conditional Use Permit described herein with the following conditions:

1. The project is bound by the conditions of approval of the formal site plan review letter dated March 10, 2023 (Exhibit 17).
2. A Site Development Grading and Building Permit are required for the proposed school expansion.
3. Stormwater from impervious surfaces associated with the project shall be managed in accordance with the City of Tumwater 2022 Storm Drainage Manual.
4. Erosion and sediment control measures that comply with the City of Tumwater 2022 Storm Drainage Manual shall be implemented during construction of the project to prevent sediment laden runoff from entering surface waters.
5. Should contaminated soils be encountered during construction, all of the following shall apply:
  - a. Construction activity shall be immediately suspended;
  - b. The contractor shall immediately notify the Washington State Department of Ecology;
  - c. Contaminated materials shall be properly handled, characterized, and disposed of consistent with applicable regulations.
6. If any archaeological or cultural resources are uncovered during construction, the project proponent shall stop work in the area of discovery; follow the procedures in TMC 18.40.065 Inadvertent Discovery of Archaeological and Cultural Resources; and contact the City of Tumwater, the Washington State Department of Archaeology and Historic Preservation, Nisqually Indian Tribe, beach.brad@nisqually-nsn.gov and the Squaxin Island Tribe's Archaeologist, Shaun Dinubilo via email at sdinubilo@squaxin.us.
7. Fill for the project shall be clean material, void of solid waste or organic debris.
8. Disposal of construction debris and overburden associated with construction and grading activity that is not suitable for fill is required to be disposed of at an

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approved location.

9. A final geotechnical engineering report shall be submitted for the grading and site work. The report shall include conclusions and recommendations for grading procedures, soil design criteria for structures or embankments required to accomplish the proposed grading and recommendations and conclusions regarding the site geology.
  - a. All grading and filling work shall be conducted in accordance with the approved geotechnical report. Compaction testing of the soils under the building foundations and utility trenches shall be verified by the geotechnical engineer of record and the Washington Association of Building Officials (WABO) registered special inspection agency and inspectors.
10. All engineering designs and construction will need to be in accordance with the City of Tumwater's Development Guide and WSDOT standards (where applicable).
11. All street construction, utility installation and storm drainage work requires engineered plans certified by a professional engineer licensed to practice in the State of Washington. The plans shall be submitted for review and approval by the City.
12. Any public or private utility relocation necessary to construct the project is the sole responsibility of the project proponent.
13. Back flow prevention is required on all irrigation services in accordance with the AWWA Cross Connection Control Manual.
14. All legal descriptions on documents submitted to the City must be accompanied with an appropriate drawing that the City can use to verify the legal description if needed.

**Submitted on Behalf  
Of the Community  
Development  
Department by/**

**Staff Contact:**

**Alex Baruch, Associate Planner**

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**Report Issue Date:** May 19, 2023

**List of Exhibits:**

Exhibit 1 Staff Report  
Exhibit 2 Preliminary Site Development Grading Plans  
Exhibit 3 Vicinity Map  
Exhibit 4 Notice of Application with Optional DNS w/attachments  
Exhibit 5 SEPA Determination of Non-significance  
Exhibit 6 Public Hearing Notice  
Exhibit 7 Applications & Narrative  
Exhibit 8 Zoning Map  
Exhibit 9 Public Notice Certification  
Exhibit 10 Notice of Application with Optional DNS Comments  
Exhibit 11 Transportation Concurrency Ruling  
Exhibit 12 Drainage Report  
Exhibit 13 Geotechnical Letter  
Exhibit 14 Traffic Impact Analysis and Traffic Queuing Report  
Exhibit 15 Water and Sewer Availability Letter  
Exhibit 16 Gopher Administrative Determination  
Exhibit 17 Formal Review Letter 03-10-2023