



**CITY OF TUMWATER
OFFICE OF THE HEARING EXAMINER
REPORT AND DECISION**

FILE NO: TCUA #DSD-07-000050

APPLICANT: Tumwater School District

SUMMARY OF REQUEST:

A request for approval of a Conditional Use Permit to allow construction of a new one-story 22,700 square-foot administration building to replace the existing Tumwater School District administration building. The proposed new administrative office building would be located on the same site as the existing office building.

LOCATION:

621 Linwood Avenue SW, Tumwater, Washington.

DECISION OF THE EXAMINER:

The request for a Conditional Use Permit is approved, subject to conditions.

PUBLIC HEARING:

After reviewing the City of Tumwater Development Services report and viewing the site, the Examiner conducted a public hearing on the application on March 12, 2008.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Tumwater School District (“hereinafter District”) is requesting the issuance of a Conditional Use Permit (hereinafter “CUP”) to allow construction of a new one-story 22,700 square-foot administration building to replace the existing District administration building. The proposed new administrative office building would be located on the same site as the existing office building which is located at 621 Linwood Avenue SW in Tumwater.
2. The new administrative office building is proposed to be constructed west of the District’s current administrative offices which are planned to be demolished. Initially, the District had planned to renovate and upgrade the existing office building but determined that the cost of such work would exceed the cost of construction of a new building. Off-street parking to serve the new District offices would be developed to the north and east of the proposed new building. A new access to Linwood Avenue SW is proposed. Additionally, the District proposes to construct a covered play area associated with the adjacent Michael T. Simmons Elementary School and to make bus stop improvements on Linwood Avenue SW.
3. The overall school site, which would be shared with the District offices, is irregular in shape and encompasses 19.7 acres. A Category 2 wetland/lake system extends onto the southwest portion of the school site, which requires a 100-foot wide buffer. The proposed project lies well outside the wetland/lake system and its required buffer.
4. Surrounding land uses include single-family residential uses to the north, west, and portions of the area south of the school site. Immediately to the east of the site of the proposed District office building is a city fire station. Single-family, multi-family and office uses are also located to the east.
5. All utilities necessary to serve the proposed office building are currently available to the site.
6. The City’s Comprehensive Plan locates the school site in the “Trospen Neighborhood” and applies a “Public/Institutional” land use designation to the site. The proposed District administrative office use is consistent with the Comprehensive Plan provisions applicable to the property.
7. Zoning of the property is Single-Family Medium-Density “SFM”, Greenbelt zone, and Aquifer Protection Overlay (AQP) zone. Public and private schools are permitted within the SFM zone with the issuance of a CUP. *Tumwater Municipal Code (TMC) 18.12.040.E*. The proposed office building and other associated and planned improvements would be located outside the Greenbelt zone,

which encompasses the wetland/lake system that extends onto the southwest corner of the school site. Offices are not a use prohibited in the AQF overlay zone.

8. The City's zoning regulations also set forth minimum standards for siting school facilities within the SFM zone. *TMC 18.56.110*. The evidence establishes that the proposed District office development either satisfies the referred-to standards or would be required to satisfy the requirements through operation of the City's development regulations. Exhibit 1 at 4.

9. The District's proposal has been subject to a series of project reviews that establish that the proposal, as proposed to be conditioned, would satisfy the City's development regulations; the proposal is consistent with the City's Comprehensive Plan; and it is also compatible with the level of intensity of existing land uses in the area; it is further consistent with the level of development authorized under the SFM zone for school facilities; and services and facilities necessary to serve the proposed development are currently available. Exhibit 1 at 3 and 4.

10. The requested CUP and proposed development plans have been reviewed by a number of governmental agencies and service providers. None object to granting of the CUP. The Washington State Department of Ecology presents comments regarding solid waste disposal and financial assistance, and Intercity Transit has submitted comments and recommendations regarding bus stop improvements.

11. The District concurs in the comments and recommendations submitted by reviewing agencies, including those related to bus stop improvements, and agrees to follow such recommendations. Exhibit 1 at 5 and Attachments U, V, W and X.

12. No one appeared at hearing expressing opposition to approval of the requested CUP.

13. In accordance with *WAC 197-11 (SEPA Rules)*, the Responsible Official for the District has completed environmental review for the project. A Determination of Non-significance (DNS) was issued for the project on January 23, 2008, followed by a comment period that ended on February 7, 2008, followed by an appeal period that ended on February 13, 2008. No appeals were filed.

14. The report of the Development Services Department, designated as Exhibit 1, to the extent that it sets forth the issues, general findings of fact, applicable policies and provisions and departmental recommendations of this matter, is incorporated herein by reference as though fully set forth.

15. A Notice of Land Use Application was issued on January 7, 2008 and distributed to property owners within 300 feet of the project site, posted on the site and published in *The Olympian* newspaper. The public hearing notice was distributed to

property owners within 300 feet of the proposal, posted on the site and published in *The Olympian* newspaper.

16. Any conclusion hereinafter stated which might be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction in the matter. *TMC 18.56.030.*
2. A CUP may be granted upon a showing of consistency with the intent of the City's Comprehensive Plan and applicable zoning requirements. *TMC 18.56.010.*
3. Findings entered herein, based on substantial and un rebutted evidence in the hearing record, support a conclusion that the proposed CUP, if conditioned as recommended herein, satisfies the requirements for the issuance of a CUP.
4. Accordingly, the CUP requested by the District for development of its new administrative office building should be approved, subject to the conditions set forth below:
 - A. The project is bound by the conditions of approval of the preliminary site plan review (DSD-07-000045) letter dated March 4, 2008. (Exhibit 1 at Attachment Y). The applicant must complete the site plan review process and will be bound by the conditions outlined in a final formal site plan review letter issued by the Development Review Committee.
 - B. The existing School District office building shall be demolished within 90 days of the issuance of the Certificate of Occupancy for the new office building (subject proposal).
 - C. The District shall coordinate with Intercity Transit and install accessible bus stop(s) per the requirements of Intercity Transit.
5. Any finding hereinbefore stated which might be deemed a conclusion herein is hereby adopted as such.

From these Conclusions is made the following:

DECISION:

The CUP request is hereby approved, subject to the conditions listed in Conclusion 4 herein.

DATED this 17th day of March 2008.

A handwritten signature in black ink, appearing to read 'Rodney M. Kerlake', is written over a solid horizontal line.

**RODNEY M. KERSLAKE
HEARING EXAMINER**

POST-DECISION PROCEDURES

Reconsideration: A party may request reconsideration by filing a written request with the Department of Development Services within five working days of the Examiner's written decision. The request must state the grounds therefore. The Examiner has ten working days to render a final decision. TMC 2.58.135.

Appeals: The Examiner's decision will become final and conclusive in fourteen days unless appealed to the Tumwater City Council. The appeal must be in writing and contain all grounds on which error is claimed. TMC 2.58.150. TMC 2.58.150 provides in part:

In cases where the examiner's jurisdictional authority is to render a decision (following an open record pre-decision hearing), the decision of the examiner shall be final and conclusive unless within fourteen days following rendering of such decision an appeal there from is filed with the Director of Development Services by the applicant, a department of the city, county, or other agency or a party of record defined in Section 2.58.140. Person not in attendance at the hearing but who submit written information prior to the hearing that becomes a part of the record of the hearing shall also have appeal rights. Such appeal shall be in writing, shall contain all grounds on which error is assigned to the examiner's decision and shall be accompanied by a fee as established by resolution of the city council; provided, that such appeal fee shall not be charged to a department of the city or to other than the first appellant.

The Examiner's decision that is timely appealed comes before the City Council within thirty days after the final day upon which an appeal may be filed. TMC 2.58.160 and 2.58.180 describe the time limits for appeals.