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

**FILE NO:** TUM -11-0023

**APPLICANT:** Tumwater School District

**SUMMARY OF REQUEST:**

A request for approval of a Conditional Use Permit to locate a two-room portable classroom at Tumwater Hill Elementary School in order to provide additional space for existing school programs.

**LOCATION:**

The project site is situated south of Barnes Boulevard SW and on the west side of Ridgeview Court SW (3120 Ridgeview Court 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 's community Development Department report and viewing the site, the Examiner conducted a public hearing on the application on March 9, 2011.

## **FINDINGS, CONCLUSIONS AND DECISION:**

### **FINDINGS:**

1. The Tumwater School District (TSD) is requesting approval of a Conditional Use Permit (CUP) to locate a two-room portable classroom at Tumwater Hill Elementary School in order to provide additional space for existing school programs.

2. Tumwater Hill Elementary School is situated south of Barnes Boulevard SW and on the west side of Ridgeview Place West in Tumwater (3120 Ridgeview Court SW). The proposed portable classroom building would be located west of the school's existing Building A and north of Building B. Exhibit 1 at Attachment C.

3. The school site is irregular in shape, contains 12.9 acres, and is occupied by Tumwater Hill Elementary School, which is comprised of two buildings, parking, and outside activity areas. Vehicular access to the school is provided from Ridgeview Court SW.

4. Land uses surrounding the school's site consist of multiple family residential, office, and undeveloped property to the north; undeveloped lands to the west and south; and a residential subdivision to the east across Ridgeview Court SW.

5. The school site is currently served by adequate utility services.

6. Tumwater's Comprehensive Plan locates the school site within the "Tumwater Hill Neighborhood" and identifies the site as being suitable for "public/institutional" use. Exhibit 1 at 2. The Comprehensive Plan land use designation reflects the current and continued use of the site for school purposes. Id. The addition of a small portable classroom building to the Tumwater Hill Elementary School site is consistent with the City's Comprehensive Plan.

7. The zoning of the TSD's site is Single-Family Low-Density (SFL) Residential with an Aquifer Protection (AQP) Overlay. Public and private schools are permitted in a SFL zone with the issuance of a CUP.

8. TSD's CUP application has been subject to a four-phase staff review process which determines consistency with applicable City regulations, environmental impact review, comprehensive plan consistency review, and, finally, CUP review. Exhibit 1 at 2 thru 4. The City's Community Development Department and other City staff have completed the application review and have provided the TSD with comments concerning regulatory and policy requirements that apply to the proposal, and determined that the proposal is consistent with the City's Comprehensive Plan, and satisfies, or will satisfy, through compliance with applicable City regulations,

specific City requirements for schools, including the site area, setback requirements, parking, and screening.

9. The TSD's application CUP has been reviewed by a number of governmental agencies. None have expressed any objections or concerns with the proposal. However, several conditions have been recommended by reviewing agencies. Exhibit 1 at 5 and 6.

10. The TSD concurs with the conditions recommended and agrees to comply with the same.

11. No one appeared at hearing expressing opposition to the TSD's proposal.

12. The report of the Community Development 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.

13. In accordance with WAC 197-11, the *State Environmental Policy Act (SEPA)* rules, the Responsible Official for the TSD has completed the environmental review for the project. A Determination of Non-Significance (DNS) was issued for the project on January 24, 2011, followed by a comment period that ended on February 7, 2011. No appeals were filed.

14. A Notice of Application was issued on January 26, 2011 and distributed to property owners within 300 feet of the project site, posted on the site, and published in *The Olympian* newspaper. Exhibit 1 at Attachment N. The public hearing notice was issued on February 25, 2011, distributed to property owners within 300 feet of the proposal, posted on the site, and published in *The Olympian* newspaper. Exhibit 1 at Attachment Q.

15. 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.*
2. Applications for CUP's must be reviewed for consistency with the intent of the City's Comprehensive Plan and applicable zoning regulations (*MC 18.56.010.*) and must meet minimum conditions set forth at *TMC 18.56.*
3. Findings entered herein, based on substantial and un rebutted evidence in the hearing record, support a conclusion that TSD's application for a CUP, if

conditioned as recommended herein, satisfies the requirements for the issuance of a CUP.

4. Accordingly, the requested CUP should be granted, subject to the following conditions:

- A. The project is bound by the conditions of approval of the preliminary site plan review letter dated March 2, 2011. Exhibit 1 at Attachment T. The TSD 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. A Building Permit will be required for the proposed classroom.

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 15<sup>th</sup> day of March 2011.

  
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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.