



September 20, 2021

Greetings:

**Subject: Request for Reconsideration - Harrison Avenue Mixed-Use Binding Site Plan  
File Number 21-4493 (16-9112)**

The enclosed decision of the Olympia Hearing Examiner hereby issued on the above date may be of interest to you. This is a final decision of the City of Olympia.

In general, any appeal of a final land use decision must be filed in court within twenty-one (21) days. See Revised Code of Washington, Chapter 36.70C, for more information relating to timeliness of any appeal and filing, service and other legal requirements applicable to such appeal. In particular, see RCW 36.70C.040.

Please contact the City of Olympia, Community Planning and Development Department, at 601 4<sup>th</sup> Avenue East or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8314, or by email [cpdinfo@ci.olympia.wa.us](mailto:cpdinfo@ci.olympia.wa.us) if you have questions.

Sincerely,

Kenneth Haner  
Program Assistant  
Community Planning and Development

Enclosure:

# CITY OF OLYMPIA HEARING EXAMINER

299 N. W. CENTER STREET  
P. O. BOX 939  
CHEHALIS, WASHINGTON 98532  
PHONE: (360) 748-3386/ FAX: (360) 748-3387

September 15, 2021

## VIA EMAIL

Ms. Paula Smith, Associate Planner  
City of Olympia  
601 4th Avenue E., 2nd Floor  
Olympia, Washington 98501

Ms. Heather Burgess  
Phillips Burgess, PLLC  
111-21st Avenue S.W.  
Olympia, Washington 98501

Re: Harrison Avenue Mixed-Use Binding Site Plan

Dear Ms. Smith and Ms. Burgess:

Pursuant to the joint request of the parties to reconsider Findings 88 and 89, and Condition 4.b.2, enclosed please find my Order Granting Reconsideration and changing these conditions as requested.

Consistent with these changes, I have prepared an amended set of Findings of Fact, Conclusions of Law and Decision incorporating the new Findings and revised Condition.

CITY OF OLYMPIA HEARING EXAMINER

SENT WITHOUT SIGNATURE TO AVOID DELAY

Mark C. Scheibmeir  
*mark@centerstlaw.com*

MCS:klf  
Encl.

cc: Mr. Tim Smith w/encl.  
Mr. Ken Haner, w/encl.

BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER

IN RE:	)	HEARING NO. 16-9112
	)	
HARRISON AVENUE MIXED-USE	)	ORDER GRANTING
BINDING SITE PLAN,	)	RECONSIDERATION

THIS MATTER comes before the City Hearing Examiner upon the Petition of the Applicant, dated September 8, 2021, requesting proposed changes to Finding of Fact 88 and Finding of Fact 89 and corresponding Condition 4.b.2, and the City having previously reviewed the Applicant's request for reconsideration and having concurred with the Applicant's request, and the Hearing Examiner having reviewed the Applicant's request and finding good cause for the requested changes, now, therefore,

IT IS HEREBY ORDERED that Finding of Fact 88 shall be revised as follows:

"88. Accordingly, I find that the project should be conditioned on the development of a temporary Craftsman Drive during Phase 2 as proposed by the City."

Finding of Fact 89 shall be revised as follows:

"89. As the Hearing Examiner has found that the connection to 3rd Avenue should only be for the purpose of pedestrian, cyclist and emergency vehicles, it is unnecessary to construct calming devices for the road's extension into the project site."

In accordance with these modifications to Findings 88 and 89 the Conditions of Project Approval are modified as follows:


Condition 4.b.2 shall be revised as follows:

"4.b.2. Traffic calming devices shall not be required along this Local Access extension of 3rd Avenue N.W.

*Order Granting  
Reconsideration - 1*

**CITY OF OLYMPIA HEARING EXAMINER  
299 NW CENTER ST. / P.O. BOX 939  
CHEHALIS, WASHINGTON 98532  
Phone: 360-748-3386/Fax: 748-3387**

1  
2 DATED this 15 day of September, 2021.

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6 Mark C. Scheibmeir  
7 City of Olympia Hearing Examiner  
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*Order Granting  
Reconsideration - 2*

**CITY OF OLYMPIA HEARING EXAMINER  
299 NW CENTER ST. / P.O. BOX 939  
CHEHALIS, WASHINGTON 98532  
Phone: 360-748-3386/Fax: 748-3387**

BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER

IN RE: ) HEARING NO. 16-9112  
HARRISON AVENUE MIXED-USE )  
BINDING SITE PLAN, ) AMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND DECISION [SEPTEMBER 15, 2021]

**APPLICANT:** Kern Rexius  
Rexius, LLC

**REPRESENTATIVES:**

Heather Burgess  
Phillips Burgess, PLLC  
111 21st Avenue S.W.  
Olympia, WA 98501

Chris Cramer  
Patrick Harron & Associates  
8270 28th Court N.E.  
Olympia, Washington 98516

**SUMMARY OF REQUEST:**

The Applicant seeks preliminary binding site plan approval to subdivide 6.2 acres of land zoned High Density Corridor 4 (HDC-4) into five lots for mixed-use development including multi-family housing, office, retail, and restaurant, together with connecting streets and stormwater facilities. The application also includes a parking modification to reduce vehicle parking requirements.

Although this type of application is normally decided by the Director, the project was referred to the Hearing Examiner per OMC 18.60.080.C.

**LOCATION OF PROPOSAL:**

3840/4004 Harrison Avenue NW, Olympia.

**SUMMARY OF DECISION:**

The proposed preliminary binding site plan is **approved** subject to modified conditions.

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

**CITY OF OLYMPIA HEARING EXAMINER**  
299 NW CENTER ST. / P.O. BOX 939  
CHEHALIS, WASHINGTON 98532  
Phone: 360-748-3386/Fax: 748-3387

1 **BACKGROUND**

2 The subject property, located at 3840 and 4004 Harrison Avenue NW, was rezoned in  
3 2015 from Mixed-Use Residential 7-13 to High Density Corridor-4 (HDC-4), a commercial  
4 zoning district allowing for a variety of commercial and residential uses. In 2016 the Applicant  
5 submitted this request for a preliminary binding site plan to subdivide the 6.2 acres into five lots  
6 for mixed-use development including multi-family housing, office, retail and restaurant, together  
7 with connecting streets and stormwater facilities. The application has been pending for five  
8 years as the Applicant and City Staff have sought to reach agreement on a mutually agreeable  
9 layout while dealing with strong opposition from the adjoining residential neighborhood,  
10 particularly with respect to street connections to that neighborhood.

11 The application proposes to subdivide the existing parcels into five lots for mixed-use  
12 development together with associated parking, utilities, street connections and other  
13 improvements. Lot 1 is not currently proposed for development except for street improvements  
14 and is the present site for existing greenhouses and parking associated with the "Bark and  
15 Garden" business directly west of the site. Lot 2 would include a two-story mixed-use building  
16 with restaurant and retail uses on the first floor and residential units on the second floor. Lot 3  
17 contains an existing residential single-family home to be ultimately replaced with a larger  
18 commercial building allowing for retail use on the first floor and residential uses on the second  
19 floor. Lot 4 consists of a three-story mixed-use building with office space on the first floor and  
20 residential units on the second and 3rd floors. Lot 5 proposes a four-story residential multi-  
21 family building with forty units. The Binding Site Map identifying these lots is found at  
22 Exhibit 5.

23 The Applicant proposes to phase development: Phase 1 would allow for development  
24 and construction on Lots 1, 2, 3 and 4 with street improvements to include a new intersection of  
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1 Craftsman Drive and Harrison Avenue, and with Craftsman Drive constructed northward to the  
2 proposed north boundary of Lot 2. In Phase 3 Lot 5 would be developed with street  
3 improvements connecting a temporary Craftsman extension to its intersection with 3rd Avenue.  
4 Phase 3 has not yet been planned but would provide for the future development of Lot 1,  
5 including the northerly extension of Craftsman Drive to a connection with the existing Craftsman  
6 Drive at the north boundary of the project. A Phasing Map is found at Exhibit 6.

7 City Staff has held firm on requiring the development to connect to stubbed streets  
8 leading into the adjoining Grass Lake neighborhood in keeping with the City's street connectivity  
9 policies. This had led to several revisions of the project design with continued objection from  
10 the adjoining Grass Lake neighborhood.

11 Preliminary binding site plan approval is normally within the jurisdiction of the Director  
12 of Community Planning and Development, but approval of this plan was ultimately referred to  
13 the Hearing Examiner pursuant to OMC 1860.080 due to the project's complexity with respect to  
14 transportation and environmental issues.

15 There is relatively little opposition to the site plan as a whole as most agree that it would  
16 be an appropriate use of property that is presently underutilized. Instead, disagreement arises out  
17 of three transportation-related issues:

18 (1) Should the project's streets connect to the existing 3rd Avenue NW in the Grass  
19 Lake neighborhood? If so, should this connection allow for vehicular traffic or merely  
20 pedestrian, bicycle and emergency access?

21 (2) Similarly, should the project's northward extension of Craftsman Drive connect to  
22 the existing Craftsman Drive at the north boundary of the project? And, again, should this be for  
23 vehicle access or only pedestrian, cycling and emergency access?

1 (3) During Phase 2 should the temporary Craftsman Drive be extended northward to  
2 the extension of 3rd Avenue NW as proposed by City Staff? Or as proposed by the Applicant?

3 As to the first issue, there is an unusual alignment of parties as the adjoining residential  
4 neighborhood and the developer are united in opposition to the City's request that the project  
5 connect to 3rd Avenue NW to allow for vehicle access from the Grass Lake neighborhood.  
6 Neither the developer or the adjoining neighborhood wish to see this happen, although both  
7 would welcome a more limited connection to allow for pedestrian, bicycle and emergency  
8 access.

9 As to the second issue, the developer and the Grass Lake neighborhood again join in  
10 opposition to connecting the project's internal streets to the existing Craftsman Drive at the north  
11 boundary of the project. But, again, both would welcome pedestrian, bicycle and emergency  
12 access.

13 As to the 3rd issue, the developer and the City are in disagreement as to how Craftsman  
14 Drive should be extended during Phase 2 of the project. The City asks that a temporary  
15 Craftsman Drive, with a 26-foot paved width and 6-foot shoulder, be extended to the 3rd Avenue  
16 intersection as shown in Exhibit 5. The developer opposes this request and proposes instead to  
17 construct a much more temporary access that would partially incorporate parking areas for  
18 ingress/egress as shown at Tab B to Exhibit 35.

19 As will be explained more fully later on:

20 (1) I concur with the adjoining Grass Lake neighborhood and the developer that the  
21 project's connection to 3rd Avenue should be developed for the limited purpose of allowing  
22 pedestrian and cycling access as well as emergency vehicular access, and should not be approved  
23 for other vehicular access.



1 (2) The future connection to the existing Craftsman Drive, and the uses for that  
2 connection, should be deferred until such time as development of Phase 3 is proposed.

3 (3) I concur with City Staff that in Phase 2 a temporary Craftsman Drive should be  
4 constructed to its intersection with 3rd Avenue in the manner proposed by City Staff as shown on  
5 Exhibit 5.

6 **PUBLIC HEARING**

7 Prior to the public hearing I undertook an independent site visit. My visit included a walk  
8 and drive through the adjoining Grass Lake neighborhood as well as a walk into the interior of  
9 the project site.

10 As earlier noted, the project was referred by the Hearing Examiner by Keith Stahley,  
11 Assistant City Manager (and former Director of Community Planning and Development)  
12 pursuant to OMC 18.60.080.C.

13 Upon being referred to the Hearing Examiner, the matter was scheduled for public  
14 hearing at 6:30 p.m. on Monday, July 26, 2021. Due to ongoing restrictions on public gatherings  
15 as a result of the continuing COVID pandemic, the hearing took place remotely utilizing the  
16 Zoom platform, with Ken Haner of City Staff serving as the hearing host. The City appeared  
17 through Paula Smith of Planning Staff. Other members of City Staff present at the hearing  
18 included Tim Smith and Nicole Floyd of Planning Staff, Tiffany King, Engineer, Steve  
19 Thompson of Public Works, and Dave Smith, Transportation Engineer. The Applicant, Rexus,  
20 LLC, appeared through its attorney, Heather Burgess as well as through the Applicant's traffic  
21 engineer, Chris Cramer. Several members of the public participated including six who testified.  
22 A verbatim recording was made of the public hearing and all testimony was taken under oath.

23 A total of 36 exhibits have been considered, they are numbered and identified by on the  
24 City's website.

1 The City testified through Paula Smith, Planner, and Dave Smith, Traffic Engineer.  
2 Paula Smith reiterate the key points of the City's Staff Report through a Power Point  
3 demonstration (Exhibit 33) while Dave Smith explained the City's policies on street connectivity  
4 and the perceived benefits of having this project's streets connect to 3rd Avenue and Craftsman  
5 Drive in the Grass Lake neighborhood (Exhibit 29). The City confirmed its position that the  
6 project's streets should be connected to the existing stubbed streets within the Grass Lake  
7 neighborhood to allow for vehicle access. The City asks that the project be approved subject to  
8 these condition as well as the other conditions set forth in the Staff Report.

9 In response, the Applicant's Engineer, Mr. Cramer, revealed that the Applicant has been  
10 opposed to connecting the project to either 3rd Avenue or Craftsman Drive and that the project  
11 had been redesigned over the years to accommodate these connections at the City's request, not  
12 the Applicant's. The Applicant confirmed that, like the adjoining Grass Lake neighborhood, it  
13 would prefer that the project not provide vehicle access to the Grass Lake neighborhood either  
14 via 3rd Avenue or Craftsman Drive. And, like the adjoining neighborhood, it would not object  
15 to having the project's streets extended to 3rd Avenue and Craftsman Drive but only for the  
16 limited purposes of pedestrian and bicycle access as well as emergency vehicle access as shown  
17 on Exhibit 35, Tab C.

18 Mr. Cramer's testimony also revealed a disagreement with City Staff on the extension of  
19 Craftsman Drive northward during Phase 2 of the project. As proposed by the City, during  
20 Phase 2 Craftsman Drive would be extended as a temporary road in a generally northward  
21 direction to its intersection with the extension of 3rd Avenue and include a 26-foot wide road  
22 surface and 6-foot shoulder (Exhibit 5). The Applicant opposes this request. Instead, it proposes  
23 a temporary extension of Craftsman Drive northward in a manner that partially incorporates  
24 existing parking areas together with a new temporary road further east than that proposed by the  
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1 City (Exhibit 35, Tab B). The Applicant argues that its proposed temporary extension of  
2 Craftsman would be sufficient while imposing less burden on the existing business activities on  
3 Lot 1.

4 Mr. Cramer's testimony also revealed a minor disagreement with City Staff over the type  
5 of traffic calming devices that might be utilized on 3rd Avenue: The City proposes calming  
6 devices pursuant to "Standard Drawing 4-13C" during construction of Phase 2 while the  
7 Applicant proposes traffic bulb outs pursuant to "Standard Drawing 4-13B".

8 Following presentation by City Staff and the Applicant, the hearing was opened to public  
9 comment. Six residents of the Grass Lake neighborhood, David Colburn, Timothy Leadingham,  
10 Mary Morris, Brenda Vacca, Greg Knight and Joyce Neas collectively testified in opposition to  
11 the proposed connection to the existing 3rd Avenue NW for vehicle access. The neighbors also  
12 testified in opposition to the proposed connection to the existing Craftsman Drive for vehicle  
13 access. There appears to be a universally-held belief among the residents of the Grass Lake  
14 neighborhood that street connectivity allowing vehicles from the project to enter/exit through the  
15 Grass Lake neighborhood would pose undue burdens on the neighborhood from commercial  
16 traffic; would be dangerous to residents; would impair the residential quality of the  
17 neighborhood; would force a reduction in the amount of available parking; and would cause  
18 dangerous traffic conditions, especially at the 3rd Avenue/Yauger Way intersection. These  
19 witnesses had no objection to 3rd Avenue and Craftsman Drive being connected to the project  
20 but only for the limited purposes of allowing pedestrian and bicycle access as well as emergency  
21 vehicle access as suggested by the Applicant. Except for these traffic-related issues (and perhaps  
22 some concerns over the existing trees on the project), the neighbors were not opposed to  
23 approval of the preliminary binding site plan.

1 Just prior to the public hearing, a number of Grass Lake residents asked that the hearing  
2 be continued until such date as the hearing could be held in-person (Exhibit 24). They argued  
3 that many of the Grass Lake residents are elderly and ill-prepared to participate in a remote  
4 hearing, and that due process required an opportunity for in-person participation. The Hearing  
5 Examiner declined the neighbors' request to delay the hearing but granted an extended  
6 opportunity for public participation by allowing written public comment for another two weeks  
7 following the hearing (to Friday, August 6, 2021) and then allowed the City and Applicant an  
8 additional week to respond (to Friday, August 13, 2021).

9 During the additional time allowed for members of the public to provide written  
10 testimony, approximately sixty residents of the Grass Lake neighborhood co-signed a statement  
11 expressing their continued opposition to connecting either 3rd Avenue NW or Craftsman Drive  
12 for vehicle access (Exhibit 34). This collective declaration identifies a number of reasons for the  
13 neighborhood's opposition including: potential use by commercial truck traffic on streets ill-  
14 prepared for this use; impacts to existing, limited parking within the Grass Lake neighborhood;  
15 poor site lines at the 3rd Avenue intersection with Yauger; and impacts to resident safety. The  
16 neighbors instead recommend that 3rd Avenue be opened for the limited purpose of allowing  
17 pedestrian and bicycle access with removable posts placed to bar vehicle travel except for  
18 emergency purposes. The neighborhood also recommends the removal of the center median in  
19 Harrison Avenue along the front of the project and its replacement with a two-way turn lane.  
20 They also recommend a left turn signal north onto Yauger at Harrison Avenue.

21 At the conclusion of the extended period for public comment both the Applicant and City  
22 responded. The Applicant's response (Exhibit 35) noted:  
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1 (1) The Hearing Examiner's authority for review of this binding site plan is governed  
2 by OMC 17.34.070.A, allowing the Hearing Examiner the same authority as the Director to  
3 "approve, approve with conditions, deny or return for correction".

4 (2) The Applicant reiterates that it prefers that the project's streets not provide for  
5 vehicle connection to the existing stubbed streets in the Grass Lake neighborhood. To the  
6 contrary, the Applicant argues that the City has failed to establish why these connections are  
7 reasonably necessary. The Applicant therefore does not object to either connection being  
8 eliminated as project requirements, but with connection to 3rd Avenue for pedestrian/emergency  
9 access only as identified on the schematic labeled Tab B to Exhibit 35.

10 (3) If the Hearing Examiner requires connectivity to 3rd Avenue for vehicle use, the  
11 Applicant would propose a stop sign at the 3rd Avenue/Yauger Way intersection to improve  
12 traffic safety. This, in turn, would require the elimination of parking within thirty feet of the stop  
13 sign, resulting in the elimination of several existing parking stalls on both 3rd Avenue and  
14 Yauger Way.

15 (4) On the issue of traffic calming devices along 3rd Avenue, the Applicant repeated  
16 its earlier suggestion that any such devices be done pursuant to Standard Drawing 4-13B rather  
17 than 4-13C.

18 (5) The Applicant opposes the City's request that the northward extension of  
19 Craftsman Lane during Phase 2 include the proposed standard 26-foot wide road with 6-foot  
20 shoulder as set forth on the City's plans. Instead, the Applicant proposes temporary access for  
21 Phase 2 that would have traffic travel eastward through the parking area for Lot 2, then turn left  
22 (north) along a temporary road without shoulder to its intersection with the 3rd Avenue  
23 extension, all as identified on Tab C to Exhibit 35.  
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1 City Staff responded to public comment and the Applicant's Response through its own  
2 Memo (Exhibit 36). Staff reiterates its support for connections to 3rd Avenue and Craftsman  
3 Drive allowing for vehicle access. Staff also continues to request that the extension of Craftsman  
4 Drive during Phase 2 be as identified in the Site Plan (Exhibit 5), including a 26-foot paved  
5 roadway and 6-foot shoulder to allow for pedestrian and bicycle traffic. City Staff is opposed to  
6 the Applicant's suggestion of an alternate route as identified at Tab C to the Applicant's  
7 Response. The City believes that this proposed route would pose unnecessary safety risks to its  
8 users as it would force motorists, pedestrians and cyclists to interact with parking lot traffic in a  
9 manner that would be hazardous to all. Finally, City Staff acknowledges that the Applicant's  
10 proposed traffic calming devices pursuant to Standard Drawing 4-13B are appropriate and  
11 therefore joins in the Applicant's recommendation that these devices be installed pursuant to  
12 Standard Drawing 4-13B instead of 4-13C.

13 After consideration of the testimony and exhibits described above the Hearing Examiner  
14 makes the following:

15 **FINDINGS OF FACT**

16 **General Description**

17 1. Any Findings of Fact contained in the foregoing Background section are  
18 incorporated herein by reference and adopted by the Hearing Examiner as his own Findings of  
19 Fact.

20 2. The Applicant seeks preliminary binding site approval to subdivide 6.2 acres of  
21 land with a zoning designation of High Density Corridor-4 into five lots for mixed-use  
22 development, consisting of multi-family housing, office, retail, and restaurant uses with  
23 connecting streets and stormwater facilities. The proposal also includes a parking modification  
24 to reduce vehicle parking by 20%.

1           3.       The project site is located at 3840/4004 Harrison Avenue NW in Olympia. The  
2 site is bounded on the south by Harrison Avenue. To the west is the Bark and Garden Center and  
3 other businesses and properties owned by the Applicant. To the north and east is Grass Lake  
4 Village, a mixed housing development consisting of four subdivision phases built in the early  
5 2000s. It includes a mix of single-family homes, townhomes and small multi-family complexes.  
6 A map of the project site and surrounding properties is included in the Staff Report.

7           4.       The project has a zoning designation of High Density Corridor-4 and lies within  
8 the Pedestrian Overlay "Street A" District. It is designated as Urban Corridor (UC) in the  
9 Comprehensive Plan.

10          5.       In 2015 the site's zoning designation was changed from Mixed-Use Residential 7-  
11 13 to HDC-4 to allow greater opportunity for commercial development along Harrison Avenue.  
12 Surrounding properties to the east and north in the Grass Lake neighborhood retain residential  
13 zoning designations.

14          6.       The site is flat and largely undeveloped. Much of it contains temporary  
15 greenhouses, other storage units and parking for the adjoining Bark and Garden Center to the  
16 west. At the southeast corner of the project site is an existing residence. The site plan proposes  
17 its eventual removal and replacement with a commercial building. The remainder of the site is  
18 covered in unmaintained vegetation and includes a stand of trees that appear to be in somewhat  
19 poor health.

20          7.       The site is a short distance west of the Harrison Avenue/Yauger Way intersection.  
21 Traffic at this intersection is signal-controlled. From this intersection, Yauger Way continues  
22 north, paralleling the east boundary of the project, to an intersection with 3rd Avenue NW. From  
23 this intersection, 3rd Avenue extends a brief distance west, terminating at the project site's  
24 boundary.

1           8.       Yauger Way continues north from 3rd Avenue to an intersection with Fourth  
2 Avenue NW. From this intersection Fourth Avenue runs westerly, paralleling the north boundary  
3 line of the project site, to an intersection with Craftsman Drive NW. At this intersection, a short  
4 spur of Craftsman Drive runs south, terminating at the north boundary of the project site.

5           9.       The Staff Report contains various maps identifying the surrounding streets  
6 including those found in the Traffic Impact Analysis (Attachment 16).

7           10.      The project site currently has two entrances onto Harrison Avenue. The primary  
8 entrance is used to gain access to the parking lot for the Bark and Garden business next door. It  
9 allows for entrance from both the east and westbound traffic along Harrison and also allows  
10 vehicles leaving the site to turn either left or right onto Harrison Avenue. This entrance is  
11 proposed as the primary entrance for the project.

12          11.      The existing residence at the southeast corner of the site has its own entrance onto  
13 Harrison. Due to a median barrier in the center of Harrison Avenue, entering traffic can only  
14 enter from the east via a right turn, and can only depart traveling west via a right turn. The  
15 median barrier prevents a left turn into this driveway or a left turn exit onto Harrison.

16          12.      The most recently revised Binding Site Plan Map is Attachment 5 to the Staff  
17 Report. As the map indicates, the Applicant proposes to subdivide the existing parcels into five  
18 lots for mixed-use development with associated parking, utilities, street connections and other  
19 improvements. The five lots have the following intended purposes:

20           •       Lot 1 has no presently planned development except for any required street  
21 improvements for the use of the other lots. This lot contains temporary greenhouses, storage  
22 areas and parking areas for the adjoining Bark and Garden business.



1           ●       Lot 2 consists of a two-story, 10,250 square foot mixed-use building with  
2 restaurant and retail uses on the first floor and eight residential units on the second floor. A  
3 pedestrian courtyard lies between the building and Harrison Avenue.

4           ●       Lot 3 contains the existing single-family residence. It was earlier permitted to be  
5 converted into a commercial retail use. In the future it is proposed to be removed and replaced  
6 with a 3,972 square foot building allowing retail use on the first floor and three residential units  
7 on the second floor. A pedestrian courtyard is proposed between this building and Harrison  
8 Avenue.

9           ●       Lot 4 consists of a three-story mixed-use building with 4,675 square feet of office  
10 space on the first floor and ten residential units on the second and 3rd floors.

11          ●       Lot 5 consists of a four-story, 58,712 square foot residential multi-family building  
12 allowing for forty residential units.

13          13.     The Applicant proposes to develop the five lots in three phases described more  
14 fully in the Phasing Plan identified as Attachment 6 to the Staff Report. Under this Phasing Plan:

15          ●       Phase 1 would allow development and construction on Lots 1, 2, 3 and 4.  
16 Associated street improvements include a new intersection at Craftsman Drive and Harrison  
17 Avenue at the location of the existing parking lot entrance. Craftsman Drive would be extended  
18 northward up to the point where it lines up with the north boundary line of Lot 2.

19          ●       Phase 2 would allow development of Lot 5. City Staff proposes that as part of this  
20 phase 3rd Avenue NW would be extended westerly from its current terminus to the west  
21 boundary of Lot 5, while Craftsman Drive would be extended northerly (in a temporary location)  
22 to a connection with the extended 3rd Avenue NW  
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1           ●       Phase 3 has not currently been planned. It would involve the future development  
2 of Lot 1 including continued extension of Craftsman Drive northerly to connect to its current  
3 terminus at the project's north boundary.

4           14.     As will be discussed in later Findings:

5           ●       The residents of the adjoining Grass Lake neighborhood, as well as the Applicant,  
6 oppose the City's request that the extended 3rd Avenue NW be used for vehicle access into or out  
7 of the project site, and propose instead that its use be limited to pedestrian and bicycle access as  
8 well as emergency vehicle use.

9           ●       Similarly, the residents of Grass Lake and the Applicant oppose the City's request  
10 that the extension/connection of Craftsman Drive in Phase 3 also be limited to pedestrian,  
11 bicycle and emergency use.

12          ●       The Applicant opposes the City's request that, during Phase 2, Craftsman Drive be  
13 developed in the manner proposed by the City, including a 26-foot wide road surface and 6-foot  
14 shoulder, and proposes instead that a more temporary road be constructed further east which  
15 incorporates parking areas in lieu of streets for ingress and egress as depicted in Tab C to  
16 Exhibit 35.

17           Findings Relating to City Review

18          15.     The Applicant's preliminary binding site plan application was submitted and  
19 deemed complete on November 30, 2016. The application has undergone lengthy review since  
20 then with several modifications.

21          16.     As noted in the Staff Report at page 4, the City held two neighborhood meetings  
22 on the project, the first on January 4, 2017 and the second on August 22, 2019. Substantial  
23 changes to the project resulted from these neighborhood meetings. Residential neighbors  
24 objected to aspects of the application including the proposed vehicle connections to streets  
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1 within the Grass Lake development at 3rd Avenue and Craftsman Drive. Comments from the  
2 neighborhood meetings are included in Attachment 8 to the Staff Report.

3 17. Following neighborhood meetings, City Staff determined that additional  
4 modifications were needed to the application with amendments continuing into 2021.

5 18. As the project was amended, City Staff has received considerable public comment  
6 as shown in Attachment 8, 10, 11, 12 and 13 to the Staff Report, followed by the Applicant's  
7 responses (Attachment 14). As noted in the Staff Report, members of the public have expressed  
8 concerns about increased traffic; connections to 3rd Avenue and Craftsman Drive; pedestrian  
9 safety; management of stormwater and the use of residential streets for commercial traffic.  
10 These concerns continue to the present.

11 Findings Relating to Land Use Regulations

12 A. Findings Relating to the Comprehensive Plan

13 19. The Staff Report at pages 5-7, contains Staff Findings relating to the project's  
14 consistency with the City Comprehensive Plan. Staff finds that the project is consistent with the  
15 following Goals and Policies contained in the Plan:

16 • Goal GL1: "Land use patterns, densities, and site design are sustainable and  
17 support decreasing automobile reliance" together with Policy PL16.1.

18 • Goal GT4: "The street network is a well connected system of small blocks,  
19 allowing short, direct trips for pedestrians, bicyclists, transit users, motorists, and service  
20 vehicle" together with Policies PT4.3, 4.7 and 4.10.

21 • Goal GT5: "Street connections to existing residential areas and in  
22 environmentally sensitive areas will be carefully examined before decision is made to create a  
23 connection for motor vehicle traffic" together with Policy PT5.2 and PT 10.3.

1           20.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
2 own Findings of Fact.

3           B.     Findings Relating to SEPA

4           21.     Pursuant to the State Environmental Policy Act, the City, as Lead Agency, issued  
5 a Determination of Non-Significance (DNS) on June 2, 2021. The SEPA Determination was not  
6 appealed.

7           C.     Findings Relating to Chapter 16.60 OMC Relating to Tree, Soil and Native  
8 Vegetation Protection and Replacement

9           22.     The project is subject to the standards in OMC 16.60 regarding tree densities and  
10 tree protection. The project is required to meet the minimum density of thirty tree units per acre.  
11 To verify compliance, a Level V Soils and Vegetation Plan is required (OMC 16.60.050.B) and  
12 must satisfy the requirements of the Urban Forestry Manual.

13          23.     In response, the Applicant provided a Soils and Vegetation Plan from 2002 from  
14 an earlier project. That report does not include all parcels involved in the current project nor  
15 does it reflect current conditions. The Staff therefore finds that the requirements of Chapter  
16 16.60 have not yet been verified. Staff has requested a condition of project approval that all  
17 requirements of Chapter 16.60 be satisfied. The Applicant acknowledges that its tree inventory  
18 is twenty years old but that conditions have not changed in the years since. The Applicant takes  
19 the position that the earlier tree inventory shows adequate trees are available, at least for  
20 preliminary review.

21          D.     Findings Relating to Chapter 17.34 OMC, Binding Site Plan Requirements

22          24.     The Staff Report, at pages 7-12, contains Findings relating to the project's  
23 compliance with the requirements of Chapter 17.34 OMC for binding site plans. Staff finds that  
24 the project, as conditioned:

1           ●       Satisfies all of the review criteria set forth in OMC 17.34.060 and that appropriate  
2 provisions are made for streets, utilities, water, sewer, sanitary waste, and associated building  
3 and fire codes. The parcel is not known to flood or have any wetland conditions and the  
4 proposal will serve the public use and interest. At this point the application has received only  
5 preliminary review for compliance with the zoning ordinance. All other zoning compliance  
6 review will be conducted during the land use review process for each development. Land use  
7 review will be required for any construction of any nonresidential building. OMC 18.60.040

8           ●       Agency comment has been received from Thurston County Health Department,  
9 Intercity Transit, Department of Ecology, and the Nisqually and Squaxin Island Tribes. Staff has  
10 reviewed all agency comments and has incorporated them into conditions of approval to the  
11 extent appropriate, while any remaining agency comments will be addressed during land use  
12 review.

13           ●       The proposed uses set forth in the Binding Site Plan Map are all permitted uses in  
14 the HDC-4 zoning district.

15           ●       The requirements of 18.06.080, Commercial Development Standards, Table 6.02  
16 are satisfied as described in detail at page 9-11 of the Staff Report. Staff finds that all of these  
17 requirements are satisfied.

18           ●       The Staff Report notes that all paved surfaces within the binding site plan, except  
19 for public streets, will be of pervious asphalt. Staff adds that even if these areas were of an  
20 impervious material the lots would still be in compliance with the maximum impervious  
21 allowances except for Lot 2 which would exceed the allowed by 500 square feet. Actual  
22 impervious totals will be reviewed and confirmed at time of land use review.

23           ●       Staff finds that the project, as conditioned, satisfies all requirements of Chapter  
24 17.34 OMC for binding site plans.

1           25.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
2 own Findings of Fact.

3           E.     Findings Relating to Historic Preservation

4           26.     The Staff Report, at page 12, contains Findings relating to the project's  
5 compliance with Chapter 18.12 OMC, Historic Preservation and Cultural Resources. The Staff  
6 Report notes that the location is considered low to moderate risk for the discovery of archeologic  
7 or cultural resources. Staff has conditioned project approval on an Inadvertent Discovery Plan  
8 prior to the issuance of any construction permit.

9           F.     Findings Relating to Chapter 18.16 Pedestrian Street Overlay District

10          27.     The project site is along a Pedestrian "A" Street and is therefore subject to the  
11 criteria found in Chapter 18.16 OMC for Pedestrian Street Overlay Districts.

12          28.     The Staff Report, at page 12, contains Findings relating to the project's  
13 compliance with Chapter 18.16. Compliance with this chapter is generally examined during land  
14 use review process rather than at this time. Nonetheless, Staff finds that the project appears to  
15 provide adequate space for the improvements and pedestrian amenities required by Chapter  
16 18.16 OMC and that the project, as conditioned, complies with this ordinance.

17          G.     Findings Relating to Chapter 18.36 - Landscaping

18          29.     Based upon the intended uses of the project site, a Landscaping Plan will be  
19 required at time of land use review.

20          30.     The Staff Report, at page 12, contains Findings relating to the project's  
21 preliminary compliance with the landscaping statute. Staff finds that at this preliminary stage the  
22 project appears to be in compliance with Chapter 18.36 but that more detailed review for  
23 compliance will occur during land use review.

1           H.     Findings Relating to Chapter 18.38 - Parking and Loading

2           31.     The Staff Report, at pages 12-14, contain Findings relating to the parking and  
3 loading requirements of Chapter 18.38 OMC.

4           32.     The Staff Report, at page 13, provides a calculation of the required vehicle  
5 parking stalls for the intended uses. As shown in the City's calculations, the presumptive number  
6 of required vehicle parking stalls is 183 stalls.

7           33.     Pursuant to OMC 18.38.160.A, the location of the site within the High Density  
8 Corridor-4 zoning district allows for a ten percent reduction in the number of required parking  
9 stalls. This reduces the required number of stalls from 183 to 165 stalls.

10          34.     Pursuant to OMC 18.38.080, the Applicant may request an additional twenty  
11 percent reduction if the Applicant can provide a report supporting the requested reduction and  
12 satisfying all of the requirements of OMC 18.38.080.

13          35.     The Applicant requests a modification to the required parking pursuant to OMC  
14 18.38.080 and asks that the full twenty percent additional reduction be allowed. The Applicant's  
15 request is supported by a report from Heath & Associates, Transportation Engineer  
16 (Attachment 21).

17          36.     The Parking Modification Report concludes that the requested reduction in  
18 parking is justified as: (a) the development has a variety of uses with varying peak parking  
19 activities, with residential uses during the night and commercial uses during the day; (b) shared  
20 parking opportunities allow for proposed parking needs to be met without impacting adjacent  
21 residential neighborhood streets even during peak parking periods; (c) the subject property has  
22 convenient access to local transit adjacent to the site, internal sidewalks and bike lanes that will  
23 support alternate modes of travel.

1           37.     In addition, existing parking on Lot 1 will be available for the project until such  
2 time as Lot 1 is developed.

3           38.     Staff recommends approving the requested 20% reduction in parking.

4           39.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
5 own Findings of Fact and approves the requested 20% reduction.

6           40.     The twenty percent reduction will reduce the number of required stalls from 165  
7 to a final total of 132 stalls. Staff also recommends removal of one vehicle stall to provide space  
8 for a required landscape island. Even with the elimination of this space the project will continue  
9 to comply with OMC 18.38.080.

10          41.     The building proposed for Lot 2 will require one loading berth. It has been  
11 provided for in the plan and is identified on the plan map.

12          42.     Bicycle parking requirements will be determined during land use review. The  
13 project has been conditioned to require compliance during land use review.

14           Findings Relating to EDDS

15          43.     The Staff Report, at pages 14-16, contains Findings relating to the project's  
16 compliance with the Engineering Design and Development Standards (EDDS) as well as the  
17 Drainage Design and Erosion Control Manual (DDECM).

18           A.     Sewer

19          44.     The developer must install sewer facilities in accordance with provisions of  
20 Chapter 7 of the EDDS. City Staff finds that there is capacity for this development's anticipated  
21 sanitary sewage discharge. The project must extend a sewer main on the internal street network  
22 as shown on the binding site plans. Accordingly, the proposed sanitary sewer main extensions  
23 and connections comply with the EDDS.  
24  
25



1           B.     Water

2           45.     The developer must install water facilities in accordance with the provisions of  
3 Chapter 6 of the EDDS. City Staff finds that the City has capacity for this development's water  
4 requirements. The project will be required to extend a water main on the internal street network  
5 as shown in the binding site plans. As proposed, the project complies with Chapter 6 of the  
6 EDDS.

7           C.     Streets and Alleys

8           46.     Streets and alleys must be designed and constructed in conformance with the  
9 provisions of Chapter 4 of the EDDS. The proposed construction of internal streets, and their  
10 connection to external streets, has been highly controversial and has met with opposition with  
11 respect to connections to the existing 3rd Avenue and Craftsman Drive (by the Grass Lake  
12 neighborhood and by the Applicant) and with respect to the extension of Craftsman Drive during  
13 Phase 2 (by the Applicant). Each of these issues will be separately addressed below.

14          D.     Solid Waste

15          47.     The project must comply with the requirements for the management of solid  
16 waste pursuant to Chapter 8 of the EDDS. Waste resources provides for collection and disposal  
17 of all solid waste and recycling generated from all residential and commercial properties in the  
18 area. There is capacity for this development's anticipated solid waste generation.

19          48.     Residents of the Grass Lake neighborhood have expressed concern as to the  
20 proposed location of solid waste dumpsters for the residential unit building proposed for Lot 5.  
21 The City and the Applicant have both responded to the neighbor's concern and explained that the  
22 location of these dumpsters on the site plan is identified for preliminary approval, with the final  
23 location to be identified and reviewed at time of land use development.

1 E. Storm Drainage

2 49. The project must provide for the treatment, storage and disposal of surface  
3 drainage through a storm drainage system designed to the DDECM and Chapter 5 of the EDDS.

4 50. If the Applicant has not started construction by January 1, 2022, the project must  
5 comply with the DDECM in place at time of engineering permit application.

6 51. In the earlier design of the project, stormwater runoff was designed to discharge  
7 to the nearby Yauger stormwater facility. This design was found to be problematic and was  
8 abandoned. Other options to direct stormwater to other offsite locations was investigated and  
9 found to be equally problematic. The Applicant has therefore revised its Storm Drainage Report  
10 (Attachment 23) to provide for infiltration of stormwater onsite. This proposal must meet the  
11 Core Requirements 1-10 of the DDECM.

12 52. The Storm Drainage Report finds that: (a) onsite soils will support shallow  
13 infiltration to allow stormwater to be treated and detained onsite; (b) parking lot pavement will  
14 be porous and the proposed paving section is sized to handle all runoff from paving, landscaping  
15 and building roof areas; (c) stormwater collected from 3rd Avenue will be treated to a vault and  
16 then infiltrated on Lot 5 using an infiltrated trench under the proposed parking lot; (d)  
17 stormwater collected from Craftsman Drive NW will be treated in a vault and then infiltrated on  
18 Lot 2 using an infiltrated trench under the proposed parking lot.

19 53. City staff finds that the Storm Drainage Report and Stormwater Site Plan are in  
20 compliance with the 2009 DDECM and Staff accepts the proposed design.

21 54. The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
22 own Findings of Fact.

1           55.     Approval of the design only applies to Phase 1 and 2 of the binding site plan and  
2 does not establish an approved plan for future development in Phase 3. Phase 3 will be required  
3 to comply with regulations and ordinances in place at the time of application.

4           Finding Relating to Vehicle Connection to the Existing 3rd Avenue NW

5           56.     The adjoining Grass Lake neighborhood to the east and north of the project site  
6 was constructed in the early 2000's.

7           57.     At the time Grass Lake Village was constructed, the developer was required to  
8 extend 3rd Avenue NW west from its intersection with Yauger Way to the property line of the  
9 project site where the street currently terminates.

10          58.     The stubbed portion of 3rd Avenue was constructed for the purpose of continuing  
11 the street into the subject property at such time as it was developed.

12          59.     At the time Grass Lake Village was developed, the subject property had the same  
13 residential zoning designation as the Grass Lake neighborhood and was envisioned for  
14 residential development. As a result, the stubbed portion of 3rd Avenue was designed to receive  
15 adjoining neighborhood residential traffic, not commercial traffic.

16          60.     3rd Avenue was designed and constructed as a Local Access Street with a total  
17 paved width of 20 feet. City standards allow for parking on only one side of a local street but the  
18 3rd Avenue stub currently allows parking on both sides (in conflict with City standards),  
19 presumably due to the fact that the additional parking does not interfere with traffic. 3rd Avenue  
20 has no stop sign at its intersection with Yauger Way and no posted speed limit.

21          61.     In the vicinity of 3rd Avenue, Yauger way was designed and constructed as a  
22 Neighborhood Collector/Boulevard with 11 foot lanes and 7 foot parking strips on each side of  
23 the street, together with curbs and gutters, planter strips and sidewalks on both sides of the street.  
24  
25

1 The posted speed limit is 25 miles per hour. There is no dedicated left turn lane for northbound  
2 traffic turning left onto 3rd Avenue.

3 62. There are no signs prohibiting parking in the vicinity of the Yauger Way/3rd  
4 Avenue intersection. As a result, residents park their vehicles within feet of the intersection.  
5 Residents of the neighborhood complain that parking is very limited and that parking stalls are  
6 in high demand especially near 3rd Avenue/Yauger due to its proximity to several multi-family  
7 units. The Hearing Examiner observed this during his site visit.

8 63. In April 2019, Thomas Hansen, Professional Civil Engineer, prepared a Street and  
9 Traffic Analysis for the area near the Yauger Way/3rd Avenue intersection at the request of the  
10 Grass Lake neighborhood (Exhibit 10). Mr. Hansen calculated that existing sight distances for  
11 drivers on 3rd Avenue wishing to enter onto Yauger Way have only 69 feet of sight distance if a  
12 car is parked on Yauger Way just to the north of the intersection. Mr. Hansen noted that City  
13 standards at an uncontrolled intersection require 115 feet of sight distance. As noted earlier, 3rd  
14 Avenue does not have a stop sign (that is, is uncontrolled) at its intersection with Yauger Way.  
15 Thus, the 3rd Avenue/Yauger Way intersection does not currently comply with the City  
16 standards.

17 64. Similarly, Mr. Hansen observed that the sight distance for a driver intending to  
18 turn left (and therefore looking right), with a car parked just south of 3rd Avenue on Yauger,  
19 would be 96 feet which, again, is deficient under City standards.

20 65. Mr. Hansen reached the following conclusions about the project's impact on  
21 traffic in Grass Lake Village:

22 A. The proposed connection to 3rd Avenue would significantly increase the  
23 amount of traffic using a local access street, to a point beyond its design limits, rendering the  
24 street unsafe and inadequate.

1           B.     The intersection's sight distance does not currently meet City standards. It  
2 therefore would not meet the added burden of increased traffic coming from the project site.

3           C.     3rd Avenue has insufficient road width to be used as a fire apparatus  
4 access road unless drastic changes are made, including elimination of street parking on 3rd  
5 Avenue (Exhibit 10).

6           66.    Mr. Hansen's findings were prepared prior to the most recent version of the  
7 project design and preceded the Traffic Impact Analysis for the project (Exhibit 16). His  
8 findings were not updated to address either of these later of these and are therefore not  
9 necessarily entirely accurate. In particular, Mr. Hansen's traffic counts on 3rd Avenue exceed  
10 the counts as determined by the Traffic Impact Analysis.

11          67.    During my visit I confirmed Mr. Hansen's findings relating to poor sight distance  
12 at the 3rd Avenue/Yauger Way intersection. This is largely due to the current parking of  
13 vehicles along the west side of Yauger Way within feet of the intersection, making it difficult to  
14 see over or around these parked vehicles to observe oncoming traffic.

15          68.    The City's Traffic Engineer, Dave Smith, and the Applicant's Traffic Engineer,  
16 Greg Heath, agree that the sight distance problems at 3rd Avenue and Yauger Way could be  
17 significantly improved by installing a stop sign at 3rd Avenue which, in turn, would require the  
18 elimination of all parking within 30 feet of the sign. While this would improve traffic safety at  
19 the intersection, it would come at the cost of a substantial number of badly needed parking stalls  
20 in the Grass Lake neighborhood.

21          69.    The Applicant's Traffic Engineer, Greg Heath, also concludes that traffic  
22 functionality for the project does not require a vehicle connection to 3rd Avenue (Exhibit 35,  
23 Tab A). Mr. Heath adds that the project could extend 3rd Avenue for pedestrian/emergency  
24 access only as shown on a concept layout attached as Tab B to Exhibit 35.

1           70.     The concerns expressed earlier by Mr. Hansen, and more recently by Mr. Heath,  
2 echo the many concerns the residents of Grass Lake have voiced since the project was first  
3 proposed, and continue to the present. As their recent letter (Exhibit 34) indicates, the residents  
4 of Grass Lake are united in the belief that the introduction of project-related traffic, especially  
5 commercial and truck traffic, would overwhelm their residential streets and pose significant risk  
6 to motorists, pedestrians and residents, especially children.

7           71.     City Staff is well aware of the neighbor's concerns and has sought means to  
8 minimize the project's traffic impacts on the Grass Lake neighborhood while still allowing street  
9 connectivity as encouraged by City policies. As noted by Dave Hansen, Traffic Engineer, as  
10 well as Paula Smith, Planner, the City's Comprehensive Plan strongly encourages street  
11 connectivity. See Goals GT4 and GT5. Dave Smith adds that the EDDS further encourage  
12 connectivity for purposes of a well-functioning street network/grid.

13          72.     Dave Smith testifies that allowing a vehicle connection to 3rd Avenue would  
14 allow local traffic from the Grass Lake neighborhood to reach the interior of the project site in  
15 40% less travel time and distance while increasing safety. It would also reduce the amount of  
16 traffic entering onto Harrison at the unsignaled intersection with Craftsman Drive and instead  
17 allow this traffic to enter Harrison from the signaled intersection with Yauger Way.

18          73.     Mr. Smith concludes that a vehicle connection to the existing 3rd Avenue would  
19 allow: (a) short, direct routes; (b) shorter driving trips; (c) an easier route to walk, bike and  
20 access transit; (d) better emergency and service vehicle access; (e) more route options during  
21 construction and street closures; and (f) slower speeds. As a result, Mr. Smith urges that the  
22 project allow vehicle access through the existing 3rd Avenue.

23          74.     Mr. Smith acknowledges that the 3rd Avenue stub has a very narrow design and  
24 cannot likely be widened due to a limited right of way. Nonetheless, he believes that the road  
25

1 can accommodate the expected increase in traffic from the project by means of traffic calming  
2 devices which would both slow and restrict the movement of cars, thus minimizing their added  
3 burden.

4 75. City Staff also proposes to mitigate the traffic impacts to 3rd Avenue by  
5 restricting its use by commercial trucks (although delivery vehicles would be allowed).

6 76. In summary, the City makes a compelling argument for a vehicle connection to  
7 3rd Avenue:

- 8 ● It would be consistent with the well-reasoned policies in the City's  
9 Comprehensive Plan for the establishment of a well-connected system of streets.
- 10 ● It would comply with the EDDS.
- 11 ● It would reduce travel times.
- 12 ● It would allow a secondary exit from the project.
- 13 ● It would allow some of the project's traffic to enter onto Harrison Avenue at the  
14 controlled intersection with Yauger Way instead of the uncontrolled intersection at Craftsman  
15 Drive.
- 16 ● City Staff believes it would increase traffic safety.

17 77. Nonetheless, I find that the benefits of a vehicle connection to 3rd as articulated  
18 by City Staff are outweighed by the burdens it imposes, particularly upon the residents of the  
19 Grass Lake neighborhood. These include:

- 20 ● The 3rd Avenue stub is very narrow, allowing for only one lane of travel. It was  
21 designed to be extended into a similar residential neighborhood and not a commercial  
22 development.
- 23 ● The existing 3rd Avenue/Yauger Way intersection has substandard sight distance.  
24 Sight distance would be significantly improved by installing a stop sign on 3rd Avenue but,  
25

1 unfortunately, this would eliminate a substantial number of parking stalls on both 3rd Avenue  
2 and Yauger Way - parking stalls that are heavily relied upon due to the number of multi-family  
3 units in close proximity to this intersection.

4       • Project-related traffic traveling north on Yauger Way and attempting to turn left  
5 onto 3rd does not have a dedicated turn lane and will cause traffic to back up, perhaps to the  
6 Harrison interchange.

7       • Grass Lake residents have legitimate concerns over pedestrian and resident safety  
8 from the significant increase in traffic caused by the project.

9       • The Applicant's Traffic Engineer, has concluded that a vehicle connection is not  
10 essential to achieve traffic functionality for the project.

11       78. I therefore find that a vehicle connection to 3rd Avenue is not required. The  
12 project will, however, benefit from a connection to 3rd Avenue for pedestrian, bicycle and  
13 emergency use in the manner depicted by Mr. Heath in the map attached as Tab 2 to Exhibit 35.

14       Findings Relating to Vehicle Connection to Craftsman Drive

15       79. The existing Craftsman Drive, located north of the project site, was also  
16 constructed around 2000 as part of the Grass Lake Village development. From its intersection  
17 with Fourth Avenue, Craftsman Drive extends a short distance south where it is stubbed at the  
18 project site boundary. And like the 3rd Avenue stub, the Craftsman Drive stub was intended to  
19 extend Craftsman Drive south into the subject property once developed.

20       80. An extension of Craftsman Drive through the project site to its current location at  
21 the north boundary is not proposed until Phase 3 of the project's development.

22       81. Phase 3 of the project is for the future development of Lot 1. Lot 1 is currently  
23 being used as part of the operation of the Bark and Garden center. The Applicant indicates that  
24  
25



1 this use will continue for the foreseeable future. It is unclear when, or even if, Phase 3 of the  
2 project will be developed.

3 82. The benefits and burdens of a vehicle connection to the existing Craftsman Drive  
4 are currently unknown. Much will depend on the future use of Lot 1 and, equally importantly,  
5 the future development of currently undeveloped areas north and west of the project site. It is  
6 possible that by the time Phase 3 occurs the benefits of a vehicle connection are clear and  
7 outweigh any burdens.

8 83. I therefore find that any decision to establish a vehicle connection to the existing  
9 Craftsman Drive at the north boundary of the project site should be deferred until Phase 3 of the  
10 project.

11 Findings Relating to the Construction of a Temporary Craftsman Drive During Phase 2

12 84. Phase 2 of the project calls for the development of Lot 5 through the construction  
13 of a four-story, 58,712 square foot residential multi-family building with 40 units. In order to  
14 access this building, Craftsman Drive must be extended northward during Phase 2 from its Phase  
15 1 terminus (at the north boundary of Lot 2) northeasterly to the new terminus of 3rd Avenue at  
16 the west boundary of Lot 5.

17 85. The City and Applicant agree that the northerly extension of Craftsman Drive in  
18 Phase 2 is intended to be temporary, with the permanent location of Craftsman Drive to be  
19 determined during Phase 3 of the project.

20 86. The City and the Applicant disagree as to the form and location of the temporary  
21 Craftsman Drive extension:

22 • The City proposes a northerly extension of the 26-foot road surface and 6-foot  
23 shoulder arcing across the southeast corner of Lot 1 and then running parallel to Lot 4 to its  
24 intersection with the 3rd Avenue stub (see Exhibit 5).

1           ●       The Applicant proposes a much different route: vehicles would turn right (east)  
2 into the parking lot for Lot 2, travel through much of the parking lot, and then turn left (north) on  
3 a temporary road without shoulders on a line parallel to Lot 4 to the intersection with the 3rd  
4 Avenue stub. The Applicant's plan is shown at Tab B to Exhibit 35.

5           ●       The City argues that its proposed extension of Craftsman Drive is a logical and  
6 necessary extension of the road and maintains proper road width and shoulders for the benefit of  
7 motorists, pedestrians and cyclists going to and from the 40-unit residential building as well as  
8 pedestrians and cyclists from Grass Lake Village. The City adds that the Applicant's proposal,  
9 which relies upon parking lots for travel and has no amenities for pedestrians and cyclists, is  
10 unsafe to all who would have to use it.

11           ●       The Applicant counters that, since the extension is only temporary, it should not  
12 burden the ongoing business activities on Lot 1 any more than is necessary. Its proposal would  
13 have the least impact on current activities on Lot 1 while still providing a means of access to the  
14 residential units on Lot 5.

15           87.     I find the City's arguments far more compelling than the Applicant's especially  
16 since the Applicant admits that it is unknown when, or even if, the development of Lot 1 in  
17 Phase 3 will occur. The "temporary" extension of Craftsman Drive for the benefit of the 40-unit  
18 residential building on Lot 5 may be long term, or, possibly, permanent. As such, appropriate  
19 provisions must be made for normal and safe passage for motorists, pedestrians and cyclists.  
20 The Applicant's proposal does not offer these protections and, instead, would be unsafe to all  
21 users.

22           88     Accordingly, I find that the project should be conditioned on the development of a  
23 temporary Craftsman Drive during Phase 2 as proposed by the City.  
24  
25

1           Findings Relating to Calming Devices

2           89.     As the Hearing Examiner has found that the connection to 3rd Avenue should  
3 only be for the purpose of pedestrian, cyclist and emergency vehicles, it is unnecessary to  
4 construct calming devices for the road's extension into the project site.

5           Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

6                           **CONCLUSIONS OF LAW**

7           1.     The Hearing Examiner has jurisdiction over the parties and the subject matter  
8 through the authority given to him by the Director pursuant to OMC 18.60.080.C.

9           2.     The Hearing Examiner's authority is the same as what the Director's authority  
10 would have been pursuant to OMC 17.34.070.A. The Hearing Examiner has the authority to  
11 approve, approve with conditions, deny or return to the Applicant for correction.

12          3.     Any Conclusions of Law contained in the foregoing Background, Public Hearing  
13 or Findings Sections are incorporated herein by reference and adopted by the Hearing Examiner  
14 as his Conclusions of Law.

15          4.     The plan, as conditioned, is consistent with the Olympia Comprehensive Plan.

16          5.     The plan is in compliance with Chapter 17.34 OMC regulating binding site plans.

17          6.     The binding site plan conforms with requirements of all City and State  
18 ordinances, codes, standards and policies including those found in the zoning ordinance, the  
19 building code, the fire code, public works standards, the State Environment Policy Act, and the  
20 Comprehensive Plan.

21          7.     Appropriate provisions have been made for streets, utilities, drainage ways, water  
22 supplies and sanitary waste.

23          8.     The physical characteristics of the site are not subject to flooding inundation or  
24 swamp conditions.

- 1           9.     The public use and interest will be served by the plan.
- 2           10.    For purposes of preliminary binding site plan approval, the project is in  
3 compliance with Chapter 16.60 OMC relating to tree, soil and native vegetation protection and  
4 replacement. The project has been sufficiently conditioned to address any deficiencies in tree  
5 density requirements.
- 6           11.    The plan, as conditioned, is in compliance with Chapter 18.06 OMC relating to  
7 commercial districts and commercial development standards.
- 8           12.    The plan is in compliance with Chapter 18.12 OMC relating to historic  
9 preservation.
- 10          13.    The plan, as conditioned, is in compliance with Chapter 18.16 relating to  
11 Pedestrian Street Overlay Districts. Full compliance with this chapter will be examined during  
12 land review process.
- 13          14.    The plan, as conditioned, is in compliance with Chapter 18.36 OMC relating to  
14 landscaping. Full compliance with this chapter shall be determined at time of land use review.
- 15          15.    The plan, as conditioned, is in compliance with Chapter 18.38 relating to parking  
16 and loading.
- 17          16.    Pursuant to OMC 18.38.080 the Applicant qualifies for a 20% reduction in total  
18 parking stalls, resulting in 132 stalls less one additional stall to allow for a required landscape  
19 island, or a final total of 131 stalls. This final number of parking stalls complies with the parking  
20 requirements of Chapter 18.38.
- 21          17.    The plan, as conditioned, complies with the Engineering Design and Development  
22 Standards (EDDS), as well as the Drainage Design and Erosion Control Manual (DDECM).
- 23          18.    If the Applicant has not started construction by January 1, 2022, the project must  
24 comply with the DDECM in place at the time of engineering permit application.
- 25

19. The civil engineering permit application for Phase 3 will be required to comply with the DDECM in place at the time of engineering permit application.

20. The preliminary binding site plan should be approved subject to the conditions as modified by the Hearing Examiner.

## DECISION

The Applicant's request for a Preliminary Binding Site Plan is approved subject to the following conditions:

1. **Preliminary Approved Map.** The Final Binding Site Plan shall be substantially in conformance with the Preliminary Map (Exhibit 5) as modified by the conditions of approval herein.
2. **Final Binding Site Plan.** A final binding site plan application meeting requirement of OMC 17.34.090 shall be filed within two years from the date of the approval by the Hearing Examiner. The phasing plan shall be included as part of the final binding site plan map as a separate sheet.
3. **Binding Site Plan Notes.**  
**Add the following under plat notes section on the face of the map:**
  - a. The use and development of the property must be in accordance with the binding site plan as represented herein or as hereafter amended, and in accordance with the provisions of the binding site plan regulations of the City.
  - b. If the roads and utilities shown on this plan were not constructed and installed at the time that the property subject to this plan was divided, any permit required to develop any portion of the property will not be issued until the roads and utilities necessary to serve that portion of this property have been constructed and installed or until arrangements acceptable to the City of Olympia have been made to ensure that the construction and installation of such roads and utilities will be accomplished.
  - c. Any vacant or redeveloped lot within the approved binding site plan shall comply with the standards in place at the time the development application for the site is made.

- d. Land Use Review is required for each building development on each lot or each phase. Any project elements not specified on the binding site plan must comply with the applicable regulations and ordinances in place at the time of a complete land use review application. These include items such as, but not limited to, design review, site design details, and landscaping features.
- e. A 20% parking modification (reduction) has been approved and has been applied to the development shown within the binding site plan. Modifications to building size, site layout, or anticipated use will require recalculation of the total onsite parking required. At such a time, the 20% reduction would remain applicable.
- f. In accordance with OMC Title 15, City of Olympia impact fees for transportation, parks, and schools shall be paid at time of each building permit issuance.
- g. Following the Land Use Review process for each building or phase, a civil engineering permit application shall be submitted for review and approval prior to construction for that portion of the project. For Phases 1 and 2, the engineering permit application shall comply with the 2016 Engineering Design and Development Standards (EDDS) and the 2009 Drainage Design and Erosion Control Manual (DDECM); provided that where an engineering permit has been issued for Phases 1 and 2, and where the Applicant has not started construction by January 1, 2022, the project must comply with the most current DDECM. As the binding site plan does not establish details for future development in Phase 3 (Lot 1), the civil engineering permit application for Phase 3 will be required to comply with regulations and ordinances in place at the time of application.
- h. If contamination of soil or groundwater is encountered during site work and construction, the Applicant shall notify the Department of Ecology's Environmental Report Tracking System Coordinator for the Southwest Regional Office.

**4. The following requirements shall be listed on the phasing plan:**

**A. Phase 1 Requirements**

1. Construct that portion of the new Commercial Collector Street connection with Harrison Avenue (Craftsman Drive) located on Lot 1 but within the Phase 1 boundary.
2. Reconstruct the access to Harrison Avenue on Lot 3, restricting it to right-in, right-out only, consistent with Standard Drawing 4-39.
3. Provide a bus pad and shelter on Lot 3.

1           B.     Phase 2 Requirements


- 2           1.     Construct a Local Access Street extending 3rd Avenue NW to Lot 1. The  
3                 3rd Avenue extension shall not be opened for vehicle access except for  
4                 emergency vehicle access. The 3rd Avenue extension shall be for the  
5                 purpose of pedestrian, bicycle and emergency vehicle access and shall be  
6                 designed in accordance with Exhibit 35, Tab B.
- 7           2.     Traffic calming devices shall not be required along this Local Access  
8                 extension of 3rd Avenue N.W.
- 9           3.     From the west end of this Local Access extension of 3rd Avenue  
10                NW, construct a temporary access lane to the Commercial  
11                Collector section of Craftsman Drive to the south constructed  
12                portion under Phase 1. This temporary access lane shall be  
13                constructed with the following attributes:
- 14                a.     The access lane shall provide the apartments included in Lots 4  
15                        and 5 equal access to Harrison Avenue via Craftsman Drive.
- 16                b.     The access lane will require an easement across Lot 1. This  
                      easement shall be replaced with right of way dedication and full  
                      street construction when Lot 1 develops in Phase 3.
- c.     The temporary access lane shall be constructed to allow a paved  
                      surface for vehicular/pedestrian/bicycle traffic. The total asphalted  
                      pavement width shall be 26 feet and include a striped 6-foot  
                      shoulder for people biking and walking.

17          C.     Phase 3 Requirements

- 18          1.     Construct the remaining section of Craftsman Drive in Lot 1, to meet the  
19                 Collector Street Standard replacing the temporary access lane in Lot 1  
20                 constructed under Phase 2, and extending it north to the existing  
21                 Craftsman Drive on the northern property line. A determination as to  
22                 whether the extended Craftsman Drive shall provide vehicle access to  
23                 neighborhoods to the north shall be determined as part of Phase 3  
24                 approval.
- 25          2.     Construct traffic calming devices, consistent with Standard Drawing  
                      4-13B, at the northern connection of Craftsman Drive in Lot 1 at the Grass  
                      Lake Village frontage.

- 1 5. **Level 5 Soil and Vegetation Report.** Shall be submitted at the time of Final Binding  
2 Site Plan application and shall meet the standards per OMC 16.60 and the Urban Forestry  
3 Manual. If an area for tree protection and preservation of existing trees to serve the entire  
4 development is desired, the area shall be depicted or designated as a separate tract and  
5 noted on the binding site plan map.
- 6 6. **Landscaping Island.** Provide a landscaping island on the west side of Lot 2 adjacent to  
7 the drive aisle to Craftsman Drive.
- 8 7. **Building Setback.** The building on future Lot 3 shall have a 10-foot setback.
- 9 8. **Building Height Note.** Remove the note on the face of the map on Lot 4 indicating the  
10 maximum height is 35 feet.
- 11 9. **Off Site Well.** The existing off-site well to the west of the project site must be shown on  
12 the final map with its 100-foot sanitary control area. The Applicant must grant a non-  
13 public restrictive covenant for the portion of the sanitary control area that encroaches on  
14 the project site. The covenant must be submitted to Thurston County Environmental  
15 Health for review prior to being filed with the Thurston County Auditor's Office.
- 16 10. **On-site Well.** The existing well must be properly decommissioned by a licensed well  
17 driller per Washington State Department of Ecology standards. A copy of the  
18 decommissioning report must be submitted to Thurston County Environmental Health.  
19 Should the well remain for irrigation purposes it must be shown on the site plan with its  
20 100-foot sanitary control area and properly labeled, have a pump installed, be wired for  
21 power, and have a protective covenant recorded with the Thurston County Auditor to  
22 provide adequate protection of the sanitary control area. This would also require  
23 demonstrating that through the design of the project the well will be adequately protected  
24 from contamination, including stormwater runoff and infiltration, refuse storage, and  
25 sanitary sewer lines.
11. **On-site Septic System.** An on-site sewage system abandonment permit application shall  
be submitted to Thurston County Environmental Health prior to final binding application.  
There will be no additional fees associated with the abandonment permit as it will be part  
of the final binding site plan review.

DATED this 15 day of September, 2021.

  
\_\_\_\_\_  
Mark C. Scheibmeir  
City of Olympia Hearing Examiner





September 1, 2021

Greetings:

**Subject: Harrison Avenue Mixed-Use Binding Site Plan  
File Number 16-9112**

The enclosed decision of the Olympia Hearing Examiner hereby issued on the above date may be of interest to you. This is a final decision of the City of Olympia.

In general, any appeal of a final land use decision must be filed in court within twenty-one (21) days. See Revised Code of Washington, Chapter 36.70C, for more information relating to timeliness of any appeal and filing, service and other legal requirements applicable to such appeal. In particular, see RCW 36.70C.040.

Please contact the City of Olympia, Community Planning and Development Department, at 601 4<sup>th</sup> Avenue East or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8314, or by email [cpdinfo@ci.olympia.wa.us](mailto:cpdinfo@ci.olympia.wa.us) if you have questions.

Sincerely,

Kenneth Haner  
Program Assistant  
Community Planning and Development

Enclosure:

BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER

IN RE: ) HEARING NO. 16-9112  
HARRISON AVENUE MIXED-USE )  
BINDING SITE PLAN, ) FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND DECISION

**APPLICANT:** Kern Rexius  
Rexius, LLC

**REPRESENTATIVES:**

Heather Burgess  
Phillips Burgess, PLLC  
111 21st Avenue S.W.  
Olympia, WA 98501

Chris Cramer  
Patrick Harron & Associates  
8270 28th Court N.E.  
Olympia, Washington 98516

**SUMMARY OF REQUEST:**

The Applicant seeks preliminary binding site plan approval to subdivide 6.2 acres of land zoned High Density Corridor 4 (HDC-4) into five lots for mixed-use development including multi-family housing, office, retail, and restaurant, together with connecting streets and stormwater facilities. The application also includes a parking modification to reduce vehicle parking requirements.

Although this type of application is normally decided by the Director, the project was referred to the Hearing Examiner per OMC 18.60.080.C.

**LOCATION OF PROPOSAL:**

3840/4004 Harrison Avenue NW, Olympia.

**SUMMARY OF DECISION:**

The proposed preliminary binding site plan is **approved** subject to modified conditions.

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

**CITY OF OLYMPIA HEARING EXAMINER**  
299 NW CENTER ST. / P.O. BOX 939  
CHEHALIS, WASHINGTON 98532  
Phone: 360-748-3386/Fax: 748-3387

1 **BACKGROUND**

2 The subject property, located at 3840 and 4004 Harrison Avenue NW, was rezoned in  
3 2015 from Mixed-Use Residential 7-13 to High Density Corridor-4 (HDC-4), a commercial  
4 zoning district allowing for a variety of commercial and residential uses. In 2016 the Applicant  
5 submitted this request for a preliminary binding site plan to subdivide the 6.2 acres into five lots  
6 for mixed-use development including multi-family housing, office, retail and restaurant, together  
7 with connecting streets and stormwater facilities. The application has been pending for five  
8 years as the Applicant and City Staff have sought to reach agreement on a mutually agreeable  
9 layout while dealing with strong opposition from the adjoining residential neighborhood,  
10 particularly with respect to street connections to that neighborhood.

11 The application proposes to subdivide the existing parcels into five lots for mixed-use  
12 development together with associated parking, utilities, street connections and other  
13 improvements. Lot 1 is not currently proposed for development except for street improvements  
14 and is the present site for existing greenhouses and parking associated with the "Bark and  
15 Garden" business directly west of the site. Lot 2 would include a two-story mixed-use building  
16 with restaurant and retail uses on the first floor and residential units on the second floor. Lot 3  
17 contains an existing residential single-family home to be ultimately replaced with a larger  
18 commercial building allowing for retail use on the first floor and residential uses on the second  
19 floor. Lot 4 consists of a three-story mixed-use building with office space on the first floor and  
20 residential units on the second and 3rd floors. Lot 5 proposes a four-story residential multi-  
21 family building with forty units. The Binding Site Map identifying these lots is found at  
22 Exhibit 5.

23 The Applicant proposes to phase development: Phase 1 would allow for development  
24 and construction on Lots 1, 2, 3 and 4 with street improvements to include a new intersection of  
25

1 Craftsman Drive and Harrison Avenue, and with Craftsman Drive constructed northward to the  
2 proposed north boundary of Lot 2. In Phase 3 Lot 5 would be developed with street  
3 improvements connecting a temporary Craftsman extension to its intersection with 3rd Avenue.  
4 Phase 3 has not yet been planned but would provide for the future development of Lot 1,  
5 including the northerly extension of Craftsman Drive to a connection with the existing Craftsman  
6 Drive at the north boundary of the project. A Phasing Map is found at Exhibit 6.

7 City Staff has held firm on requiring the development to connect to stubbed streets  
8 leading into the adjoining Grass Lake neighborhood in keeping with the City's street connectivity  
9 policies. This had led to several revisions of the project design with continued objection from  
10 the adjoining Grass Lake neighborhood.

11 Preliminary binding site plan approval is normally within the jurisdiction of the Director  
12 of Community Planning and Development, but approval of this plan was ultimately referred to  
13 the Hearing Examiner pursuant to OMC 1860.080 due to the project's complexity with respect to  
14 transportation and environmental issues.

15 There is relatively little opposition to the site plan as a whole as most agree that it would  
16 be an appropriate use of property that is presently underutilized. Instead, disagreement arises out  
17 of three transportation-related issues:

18 (1) Should the project's streets connect to the existing 3rd Avenue NW in the Grass  
19 Lake neighborhood? If so, should this connection allow for vehicular traffic or merely  
20 pedestrian, bicycle and emergency access?

21 (2) Similarly, should the project's northward extension of Craftsman Drive connect to  
22 the existing Craftsman Drive at the north boundary of the project? And, again, should this be for  
23 vehicle access or only pedestrian, cycling and emergency access?

1           (3)     During Phase 2 should the temporary Craftsman Drive be extended northward to  
2 the extension of 3rd Avenue NW as proposed by City Staff? Or as proposed by the Applicant?

3           As to the first issue, there is an unusual alignment of parties as the adjoining residential  
4 neighborhood and the developer are united in opposition to the City's request that the project  
5 connect to 3rd Avenue NW to allow for vehicle access from the Grass Lake neighborhood.  
6 Neither the developer or the adjoining neighborhood wish to see this happen, although both  
7 would welcome a more limited connection to allow for pedestrian, bicycle and emergency  
8 access.

9           As to the second issue, the developer and the Grass Lake neighborhood again join in  
10 opposition to connecting the project's internal streets to the existing Craftsman Drive at the north  
11 boundary of the project. But, again, both would welcome pedestrian, bicycle and emergency  
12 access.

13           As to the 3rd issue, the developer and the City are in disagreement as to how Craftsman  
14 Drive should be extended during Phase 2 of the project. The City asks that a temporary  
15 Craftsman Drive, with a 26-foot paved width and 6-foot shoulder, be extended to the 3rd Avenue  
16 intersection as shown in Exhibit 5. The developer opposes this request and proposes instead to  
17 construct a much more temporary access that would partially incorporate parking areas for  
18 ingress/egress as shown at Tab B to Exhibit 35.

19           As will be explained more fully later on:

20           (1)     I concur with the adjoining Grass Lake neighborhood and the developer that the  
21 project's connection to 3rd Avenue should be developed for the limited purpose of allowing  
22 pedestrian and cycling access as well as emergency vehicular access, and should not be approved  
23 for other vehicular access.

1 (2) The future connection to the existing Craftsman Drive, and the uses for that  
2 connection, should be deferred until such time as development of Phase 3 is proposed.

3 (3) I concur with City Staff that in Phase 2 a temporary Craftsman Drive should be  
4 constructed to its intersection with 3rd Avenue in the manner proposed by City Staff as shown on  
5 Exhibit 5.

6 **PUBLIC HEARING**

7 Prior to the public hearing I undertook an independent site visit. My visit included a walk  
8 and drive through the adjoining Grass Lake neighborhood as well as a walk into the interior of  
9 the project site.

10 As earlier noted, the project was referred by the Hearing Examiner by Keith Stahley,  
11 Assistant City Manager (and former Director of Community Planning and Development)  
12 pursuant to OMC 18.60.080.C.

13 Upon being referred to the Hearing Examiner, the matter was scheduled for public  
14 hearing at 6:30 p.m. on Monday, July 26, 2021. Due to ongoing restrictions on public gatherings  
15 as a result of the continuing COVID pandemic, the hearing took place remotely utilizing the  
16 Zoom platform, with Ken Haner of City Staff serving as the hearing host. The City appeared  
17 through Paula Smith of Planning Staff. Other members of City Staff present at the hearing  
18 included Tim Smith and Nicole Floyd of Planning Staff, Tiffany King, Engineer, Steve  
19 Thompson of Public Works, and Dave Smith, Transportation Engineer. The Applicant, Rexius,  
20 LLC, appeared through its attorney, Heather Burgess as well as through the Applicant's traffic  
21 engineer, Chris Cramer. Several members of the public participated including six who testified.  
22 A verbatim recording was made of the public hearing and all testimony was taken under oath.

23 A total of 36 exhibits have been considered, they are numbered and identified by on the  
24 City's website.

1 The City testified through Paula Smith, Planner, and Dave Smith, Traffic Engineer.  
2 Paula Smith reiterate the key points of the City's Staff Report through a Power Point  
3 demonstration (Exhibit 33) while Dave Smith explained the City's policies on street connectivity  
4 and the perceived benefits of having this project's streets connect to 3rd Avenue and Craftsman  
5 Drive in the Grass Lake neighborhood (Exhibit 29). The City confirmed its position that the  
6 project's streets should be connected to the existing stubbed streets within the Grass Lake  
7 neighborhood to allow for vehicle access. The City asks that the project be approved subject to  
8 these condition as well as the other conditions set forth in the Staff Report.

9 In response, the Applicant's Engineer, Mr. Cramer, revealed that the Applicant has been  
10 opposed to connecting the project to either 3rd Avenue or Craftsman Drive and that the project  
11 had been redesigned over the years to accommodate these connections at the City's request, not  
12 the Applicant's. The Applicant confirmed that, like the adjoining Grass Lake neighborhood, it  
13 would prefer that the project not provide vehicle access to the Grass Lake neighborhood either  
14 via 3rd Avenue or Craftsman Drive. And, like the adjoining neighborhood, it would not object  
15 to having the project's streets extended to 3rd Avenue and Craftsman Drive but only for the  
16 limited purposes of pedestrian and bicycle access as well as emergency vehicle access as shown  
17 on Exhibit 35, Tab C.

18 Mr. Cramer's testimony also revealed a disagreement with City Staff on the extension of  
19 Craftsman Drive northward during Phase 2 of the project. As proposed by the City, during  
20 Phase 2 Craftsman Drive would be extended as a temporary road in a generally northward  
21 direction to its intersection with the extension of 3rd Avenue and include a 26-foot wide road  
22 surface and 6-foot shoulder (Exhibit 5). The Applicant opposes this request. Instead, it proposes  
23 a temporary extension of Craftsman Drive northward in a manner that partially incorporates  
24 existing parking areas together with a new temporary road further east than that proposed by the  
25

1 City (Exhibit 35, Tab B). The Applicant argues that its proposed temporary extension of  
2 Craftsman would be sufficient while imposing less burden on the existing business activities on  
3 Lot 1.

4 Mr. Cramer's testimony also revealed a minor disagreement with City Staff over the type  
5 of traffic calming devices that might be utilized on 3rd Avenue: The City proposes calming  
6 devices pursuant to "Standard Drawing 4-13C" during construction of Phase 2 while the  
7 Applicant proposes traffic bulb outs pursuant to "Standard Drawing 4-13B".

8 Following presentation by City Staff and the Applicant, the hearing was opened to public  
9 comment. Six residents of the Grass Lake neighborhood, David Colburn, Timothy Leadingham,  
10 Mary Morris, Brenda Vacca, Greg Knight and Joyce Neas collectively testified in opposition to  
11 the proposed connection to the existing 3rd Avenue NW for vehicle access. The neighbors also  
12 testified in opposition to the proposed connection to the existing Craftsman Drive for vehicle  
13 access. There appears to be a universally-held belief among the residents of the Grass Lake  
14 neighborhood that street connectivity allowing vehicles from the project to enter/exit through the  
15 Grass Lake neighborhood would pose undue burdens on the neighborhood from commercial  
16 traffic; would be dangerous to residents; would impair the residential quality of the  
17 neighborhood; would force a reduction in the amount of available parking; and would cause  
18 dangerous traffic conditions, especially at the 3rd Avenue/Yauger Way intersection. These  
19 witnesses had no objection to 3rd Avenue and Craftsman Drive being connected to the project  
20 but only for the limited purposes of allowing pedestrian and bicycle access as well as emergency  
21 vehicle access as suggested by the Applicant. Except for these traffic-related issues (and perhaps  
22 some concerns over the existing trees on the project), the neighbors were not opposed to  
23 approval of the preliminary binding site plan.



1 Just prior to the public hearing, a number of Grass Lake residents asked that the hearing  
2 be continued until such date as the hearing could be held in-person (Exhibit 24). They argued  
3 that many of the Grass Lake residents are elderly and ill-prepared to participate in a remote  
4 hearing, and that due process required an opportunity for in-person participation. The Hearing  
5 Examiner declined the neighbors' request to delay the hearing but granted an extended  
6 opportunity for public participation by allowing written public comment for another two weeks  
7 following the hearing (to Friday, August 6, 2021) and then allowed the City and Applicant an  
8 additional week to respond (to Friday, August 13, 2021).

9 During the additional time allowed for members of the public to provide written  
10 testimony, approximately sixty residents of the Grass Lake neighborhood co-signed a statement  
11 expressing their continued opposition to connecting either 3rd Avenue NW or Craftsman Drive  
12 for vehicle access (Exhibit 34). This collective declaration identifies a number of reasons for the  
13 neighborhood's opposition including: potential use by commercial truck traffic on streets ill-  
14 prepared for this use; impacts to existing, limited parking within the Grass Lake neighborhood;  
15 poor site lines at the 3rd Avenue intersection with Yauger; and impacts to resident safety. The  
16 neighbors instead recommend that 3rd Avenue be opened for the limited purpose of allowing  
17 pedestrian and bicycle access with removable posts placed to bar vehicle travel except for  
18 emergency purposes. The neighborhood also recommends the removal of the center median in  
19 Harrison Avenue along the front of the project and its replacement with a two-way turn lane.  
20 They also recommend a left turn signal north onto Yauger at Harrison Avenue.

21 At the conclusion of the extended period for public comment both the Applicant and City  
22 responded. The Applicant's response (Exhibit 35) noted:

1           (1)     The Hearing Examiner's authority for review of this binding site plan is governed  
2 by OMC 17.34.070.A, allowing the Hearing Examiner the same authority as the Director to  
3 "approve, approve with conditions, deny or return for correction".

4           (2)     The Applicant reiterates that it prefers that the project's streets not provide for  
5 vehicle connection to the existing stubbed streets in the Grass Lake neighborhood. To the  
6 contrary, the Applicant argues that the City has failed to establish why these connections are  
7 reasonably necessary. The Applicant therefore does not object to either connection being  
8 eliminated as project requirements, but with connection to 3rd Avenue for pedestrian/emergency  
9 access only as identified on the schematic labeled Tab B to Exhibit 35.

10          (3)     If the Hearing Examiner requires connectivity to 3rd Avenue for vehicle use, the  
11 Applicant would propose a stop sign at the 3rd Avenue/Yauger Way intersection to improve  
12 traffic safety. This, in turn, would require the elimination of parking within thirty feet of the stop  
13 sign, resulting in the elimination of several existing parking stalls on both 3rd Avenue and  
14 Yauger Way.

15          (4)     On the issue of traffic calming devices along 3rd Avenue, the Applicant repeated  
16 its earlier suggestion that any such devices be done pursuant to Standard Drawing 4-13B rather  
17 than 4-13C.

18          (5)     The Applicant opposes the City's request that the northward extension of  
19 Craftsman Lane during Phase 2 include the proposed standard 26-foot wide road with 6-foot  
20 shoulder as set forth on the City's plans. Instead, the Applicant proposes temporary access for  
21 Phase 2 that would have traffic travel eastward through the parking area for Lot 2, then turn left  
22 (north) along a temporary road without shoulder to its intersection with the 3rd Avenue  
23 extension, all as identified on Tab C to Exhibit 35.

1 City Staff responded to public comment and the Applicant's Response through its own  
2 Memo (Exhibit 36). Staff reiterates its support for connections to 3rd Avenue and Craftsman  
3 Drive allowing for vehicle access. Staff also continues to request that the extension of Craftsman  
4 Drive during Phase 2 be as identified in the Site Plan (Exhibit 5), including a 26-foot paved  
5 roadway and 6-foot shoulder to allow for pedestrian and bicycle traffic. City Staff is opposed to  
6 the Applicant's suggestion of an alternate route as identified at Tab C to the Applicant's  
7 Response. The City believes that this proposed route would pose unnecessary safety risks to its  
8 users as it would force motorists, pedestrians and cyclists to interact with parking lot traffic in a  
9 manner that would be hazardous to all. Finally, City Staff acknowledges that the Applicant's  
10 proposed traffic calming devices pursuant to Standard Drawing 4-13B are appropriate and  
11 therefore joins in the Applicant's recommendation that these devices be installed pursuant to  
12 Standard Drawing 4-13B instead of 4-13C.

13 After consideration of the testimony and exhibits described above the Hearing Examiner  
14 makes the following:

### 15 **FINDINGS OF FACT**

#### 16 **General Description**

17 1. Any Findings of Fact contained in the foregoing Background section are  
18 incorporated herein by reference and adopted by the Hearing Examiner as his own Findings of  
19 Fact.

20 2. The Applicant seeks preliminary binding site approval to subdivide 6.2 acres of  
21 land with a zoning designation of High Density Corridor-4 into five lots for mixed-use  
22 development, consisting of multi-family housing, office, retail, and restaurant uses with  
23 connecting streets and stormwater facilities. The proposal also includes a parking modification  
24 to reduce vehicle parking by 20%.

1           3.       The project site is located at 3840/4004 Harrison Avenue NW in Olympia. The  
2 site is bounded on the south by Harrison Avenue. To the west is the Bark and Garden Center and  
3 other businesses and properties owned by the Applicant. To the north and east is Grass Lake  
4 Village, a mixed housing development consisting of four subdivision phases built in the early  
5 2000s. It includes a mix of single-family homes, townhomes and small multi-family complexes.  
6 A map of the project site and surrounding properties is included in the Staff Report.

7           4.       The project has a zoning designation of High Density Corridor-4 and lies within  
8 the Pedestrian Overlay "Street A" District. It is designated as Urban Corridor (UC) in the  
9 Comprehensive Plan.

10          5.       In 2015 the site's zoning designation was changed from Mixed-Use Residential 7-  
11 13 to HDC-4 to allow greater opportunity for commercial development along Harrison Avenue.  
12 Surrounding properties to the east and north in the Grass Lake neighborhood retain residential  
13 zoning designations.

14          6.       The site is flat and largely undeveloped. Much of it contains temporary  
15 greenhouses, other storage units and parking for the adjoining Bark and Garden Center to the  
16 west. At the southeast corner of the project site is an existing residence. The site plan proposes  
17 its eventual removal and replacement with a commercial building. The remainder of the site is  
18 covered in unmaintained vegetation and includes a stand of trees that appear to be in somewhat  
19 poor health.

20          7.       The site is a short distance west of the Harrison Avenue/Yauger Way intersection.  
21 Traffic at this intersection is signal-controlled. From this intersection, Yauger Way continues  
22 north, paralleling the east boundary of the project, to an intersection with 3rd Avenue NW. From  
23 this intersection, 3rd Avenue extends a brief distance west, terminating at the project site's  
24 boundary.

1           8.       Yauger Way continues north from 3rd Avenue to an intersection with Fourth  
2 Avenue NW From this intersection Fourth Avenue runs westerly, paralleling the north boundary  
3 line of the project site, to an intersection with Craftsman Drive NW At this intersection, a short  
4 spur of Craftsman Drive runs south, terminating at the north boundary of the project site.

5           9.       The Staff Report contains various maps identifying the surrounding streets  
6 including those found in the Traffic Impact Analysis (Attachment 16).

7           10.      The project site currently has two entrances onto Harrison Avenue. The primary  
8 entrance is used to gain access to the parking lot for the Bark and Garden business next door. It  
9 allows for entrance from both the east and westbound traffic along Harrison and also allows  
10 vehicles leaving the site to turn either left or right onto Harrison Avenue. This entrance is  
11 proposed as the primary entrance for the project.

12          11.      The existing residence at the southeast corner of the site has its own entrance onto  
13 Harrison. Due to a median barrier in the center of Harrison Avenue, entering traffic can only  
14 enter from the east via a right turn, and can only depart traveling west via a right turn. The  
15 median barrier prevents a left turn into this driveway or a left turn exit onto Harrison.

16          12.      The most recently revised Binding Site Plan Map is Attachment 5 to the Staff  
17 Report. As the map indicates, the Applicant proposes to subdivide the existing parcels into five  
18 lots for mixed-use development with associated parking, utilities, street connections and other  
19 improvements. The five lots have the following intended purposes:

20           •       Lot 1 has no presently planned development except for any required street  
21 improvements for the use of the other lots. This lot contains temporary greenhouses, storage  
22 areas and parking areas for the adjoining Bark and Garden business.

1           ●       Lot 2 consists of a two-story, 10,250 square foot mixed-use building with  
2 restaurant and retail uses on the first floor and eight residential units on the second floor. A  
3 pedestrian courtyard lies between the building and Harrison Avenue.

4           ●       Lot 3 contains the existing single-family residence. It was earlier permitted to be  
5 converted into a commercial retail use. In the future it is proposed to be removed and replaced  
6 with a 3,972 square foot building allowing retail use on the first floor and three residential units  
7 on the second floor. A pedestrian courtyard is proposed between this building and Harrison  
8 Avenue.

9           ●       Lot 4 consists of a three-story mixed-use building with 4,675 square feet of office  
10 space on the first floor and ten residential units on the second and 3rd floors.

11          ●       Lot 5 consists of a four-story, 58,712 square foot residential multi-family building  
12 allowing for forty residential units.

13          13.     The Applicant proposes to develop the five lots in three phases described more  
14 fully in the Phasing Plan identified as Attachment 6 to the Staff Report. Under this Phasing Plan:

15          ●       Phase 1 would allow development and construction on Lots 1, 2, 3 and 4.  
16 Associated street improvements include a new intersection at Craftsman Drive and Harrison  
17 Avenue at the location of the existing parking lot entrance. Craftsman Drive would be extended  
18 northward up to the point where it lines up with the north boundary line of Lot 2.

19          ●       Phase 2 would allow development of Lot 5. City Staff proposes that as part of this  
20 phase 3rd Avenue NW would be extended westerly from its current terminus to the west  
21 boundary of Lot 5, while Craftsman Drive would be extended northerly (in a temporary location)  
22 to a connection with the extended 3rd Avenue NW

1           ●       Phase 3 has not currently been planned. It would involve the future development  
2 of Lot 1 including continued extension of Craftsman Drive northerly to connect to its current  
3 terminus at the project's north boundary.

4           14.     As will be discussed in later Findings:

5           ●       The residents of the adjoining Grass Lake neighborhood, as well as the Applicant,  
6 oppose the City's request that the extended 3rd Avenue NW be used for vehicle access into or out  
7 of the project site, and propose instead that its use be limited to pedestrian and bicycle access as  
8 well as emergency vehicle use.

9           ●       Similarly, the residents of Grass Lake and the Applicant oppose the City's request  
10 that the extension/connection of Craftsman Drive in Phase 3 also be limited to pedestrian,  
11 bicycle and emergency use.

12          ●       The Applicant opposes the City's request that, during Phase 2, Craftsman Drive be  
13 developed in the manner proposed by the City, including a 26-foot wide road surface and 6-foot  
14 shoulder, and proposes instead that a more temporary road be constructed further east which  
15 incorporates parking areas in lieu of streets for ingress and egress as depicted in Tab C to  
16 Exhibit 35.

17           Findings Relating to City Review

18          15.     The Applicant's preliminary binding site plan application was submitted and  
19 deemed complete on November 30, 2016. The application has undergone lengthy review since  
20 then with several modifications.

21          16.     As noted in the Staff Report at page 4, the City held two neighborhood meetings  
22 on the project, the first on January 4, 2017 and the second on August 22, 2019. Substantial  
23 changes to the project resulted from these neighborhood meetings. Residential neighbors  
24 objected to aspects of the application including the proposed vehicle connections to streets  
25

1 within the Grass Lake development at 3rd Avenue and Craftsman Drive. Comments from the  
2 neighborhood meetings are included in Attachment 8 to the Staff Report.

3 17. Following neighborhood meetings, City Staff determined that additional  
4 modifications were needed to the application with amendments continuing into 2021.

5 18. As the project was amended, City Staff has received considerable public comment  
6 as shown in Attachment 8, 10, 11, 12 and 13 to the Staff Report, followed by the Applicant's  
7 responses (Attachment 14). As noted in the Staff Report, members of the public have expressed  
8 concerns about increased traffic; connections to 3rd Avenue and Craftsman Drive; pedestrian  
9 safety; management of stormwater and the use of residential streets for commercial traffic.  
10 These concerns continue to the present.

11 Findings Relating to Land Use Regulations

12 A. Findings Relating to the Comprehensive Plan

13 19. The Staff Report at pages 5-7, contains Staff Findings relating to the project's  
14 consistency with the City Comprehensive Plan. Staff finds that the project is consistent with the  
15 following Goals and Policies contained in the Plan:

16 • Goal GL1: "Land use patterns, densities, and site design are sustainable and  
17 support decreasing automobile reliance" together with Policy PL16.1.

18 • Goal GT4: "The street network is a well connected system of small blocks,  
19 allowing short, direct trips for pedestrians, bicyclists, transit users, motorists, and service  
20 vehicle" together with Policies PT4.3, 4.7 and 4.10.

21 • Goal GT5: "Street connections to existing residential areas and in  
22 environmentally sensitive areas will be carefully examined before decision is made to create a  
23 connection for motor vehicle traffic" together with Policy PT5.2 and PT 10.3.



1           20.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
2 own Findings of Fact.

3           B.     Findings Relating to SEPA

4           21.     Pursuant to the State Environmental Policy Act, the City, as Lead Agency, issued  
5 a Determination of Non-Significance (DNS) on June 2, 2021. The SEPA Determination was not  
6 appealed.

7           C.     Findings Relating to Chapter 16.60 OMC Relating to Tree, Soil and Native  
8 Vegetation Protection and Replacement

9           22.     The project is subject to the standards in OMC 16.60 regarding tree densities and  
10 tree protection. The project is required to meet the minimum density of thirty tree units per acre.  
11 To verify compliance, a Level V Soils and Vegetation Plan is required (OMC 16.60.050.B) and  
12 must satisfy the requirements of the Urban Forestry Manual.

13          23.     In response, the Applicant provided a Soils and Vegetation Plan from 2002 from  
14 an earlier project. That report does not include all parcels involved in the current project nor  
15 does it reflect current conditions. The Staff therefore finds that the requirements of Chapter  
16 16.60 have not yet been verified. Staff has requested a condition of project approval that all  
17 requirements of Chapter 16.60 be satisfied. The Applicant acknowledges that its tree inventory  
18 is twenty years old but that conditions have not changed in the years since. The Applicant takes  
19 the position that the earlier tree inventory shows adequate trees are available, at least for  
20 preliminary review.

21          D.     Findings Relating to Chapter 17.34 OMC, Binding Site Plan Requirements

22          24.     The Staff Report, at pages 7-12, contains Findings relating to the project's  
23 compliance with the requirements of Chapter 17.34 OMC for binding site plans. Staff finds that  
24 the project, as conditioned:

1           •       Satisfies all of the review criteria set forth in OMC 17.34.060 and that appropriate  
2 provisions are made for streets, utilities, water, sewer, sanitary waste, and associated building  
3 and fire codes. The parcel is not known to flood or have any wetland conditions and the  
4 proposal will serve the public use and interest. At this point the application has received only  
5 preliminary review for compliance with the zoning ordinance. All other zoning compliance  
6 review will be conducted during the land use review process for each development. Land use  
7 review will be required for any construction of any nonresidential building. OMC 18.60.040

8           •       Agency comment has been received from Thurston County Health Department,  
9 Intercity Transit, Department of Ecology, and the Nisqually and Squaxin Island Tribes. Staff has  
10 reviewed all agency comments and has incorporated them into conditions of approval to the  
11 extent appropriate, while any remaining agency comments will be addressed during land use  
12 review.

13           •       The proposed uses set forth in the Binding Site Plan Map are all permitted uses in  
14 the HDC-4 zoning district.

15           •       The requirements of 18.06.080, Commercial Development Standards, Table 6.02  
16 are satisfied as described in detail at page 9-11 of the Staff Report. Staff finds that all of these  
17 requirements are satisfied.

18           •       The Staff Report notes that all paved surfaces within the binding site plan, except  
19 for public streets, will be of pervious asphalt. Staff adds that even if these areas were of an  
20 impervious material the lots would still be in compliance with the maximum impervious  
21 allowances except for Lot 2 which would exceed the allowed by 500 square feet. Actual  
22 impervious totals will be reviewed and confirmed at time of land use review.

23           •       Staff finds that the project, as conditioned, satisfies all requirements of Chapter  
24 17.34 OMC for binding site plans.

1           25.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
2 own Findings of Fact.

3           E.     Findings Relating to Historic Preservation

4           26.     The Staff Report, at page 12, contains Findings relating to the project's  
5 compliance with Chapter 18.12 OMC, Historic Preservation and Cultural Resources. The Staff  
6 Report notes that the location is considered low to moderate risk for the discovery of archeologic  
7 or cultural resources. Staff has conditioned project approval on an Inadvertent Discovery Plan  
8 prior to the issuance of any construction permit.

9           F.     Findings Relating to Chapter 18.16 Pedestrian Street Overlay District

10          27.     The project site is along a Pedestrian "A" Street and is therefore subject to the  
11 criteria found in Chapter 18.16 OMC for Pedestrian Street Overlay Districts.

12          28.     The Staff Report, at page 12, contains Findings relating to the project's  
13 compliance with Chapter 18.16. Compliance with this chapter is generally examined during land  
14 use review process rather than at this time. Nonetheless, Staff finds that the project appears to  
15 provide adequate space for the improvements and pedestrian amenities required by Chapter  
16 18.16 OMC and that the project, as conditioned, complies with this ordinance.

17          G.     Findings Relating to Chapter 18.36 - Landscaping

18          29.     Based upon the intended uses of the project site, a Landscaping Plan will be  
19 required at time of land use review.

20          30.     The Staff Report, at page 12, contains Findings relating to the project's  
21 preliminary compliance with the landscaping statute. Staff finds that at this preliminary stage the  
22 project appears to be in compliance with Chapter 18.36 but that more detailed review for  
23 compliance will occur during land use review.

1           H.     Findings Relating to Chapter 18.38 - Parking and Loading

2           31.     The Staff Report, at pages 12-14, contain Findings relating to the parking and  
3 loading requirements of Chapter 18.38 OMC.

4           32.     The Staff Report, at page 13, provides a calculation of the required vehicle  
5 parking stalls for the intended uses. As shown in the City's calculations, the presumptive number  
6 of required vehicle parking stalls is 183 stalls.

7           33.     Pursuant to OMC 18.38.160.A, the location of the site within the High Density  
8 Corridor-4 zoning district allows for a ten percent reduction in the number of required parking  
9 stalls. This reduces the required number of stalls from 183 to 165 stalls.

10          34.     Pursuant to OMC 18.38.080, the Applicant may request an additional twenty  
11 percent reduction if the Applicant can provide a report supporting the requested reduction and  
12 satisfying all of the requirements of OMC 18.38.080.

13          35.     The Applicant requests a modification to the required parking pursuant to OMC  
14 18.38.080 and asks that the full twenty percent additional reduction be allowed. The Applicant's  
15 request is supported by a report from Heath & Associates, Transportation Engineer  
16 (Attachment 21).

17          36.     The Parking Modification Report concludes that the requested reduction in  
18 parking is justified as: (a) the development has a variety of uses with varying peak parking  
19 activities, with residential uses during the night and commercial uses during the day; (b) shared  
20 parking opportunities allow for proposed parking needs to be met without impacting adjacent  
21 residential neighborhood streets even during peak parking periods; (c) the subject property has  
22 convenient access to local transit adjacent to the site, internal sidewalks and bike lanes that will  
23 support alternate modes of travel.  
24  
25

1           37.     In addition, existing parking on Lot 1 will be available for the project until such  
2 time as Lot 1 is developed.

3           38.     Staff recommends approving the requested 20% reduction in parking.

4           39.     The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
5 own Findings of Fact and approves the requested 20% reduction.

6           40.     The twenty percent reduction will reduce the number of required stalls from 165  
7 to a final total of 132 stalls. Staff also recommends removal of one vehicle stall to provide space  
8 for a required landscape island. Even with the elimination of this space the project will continue  
9 to comply with OMC 18.38.080.

10          41.     The building proposed for Lot 2 will require one loading berth. It has been  
11 provided for in the plan and is identified on the plan map.

12          42.     Bicycle parking requirements will be determined during land use review. The  
13 project has been conditioned to require compliance during land use review.

14           Findings Relating to EDDS

15          43.     The Staff Report, at pages 14-16, contains Findings relating to the project's  
16 compliance with the Engineering Design and Development Standards (EDDS) as well as the  
17 Drainage Design and Erosion Control Manual (DDECM).

18           A.     Sewer

19          44.     The developer must install sewer facilities in accordance with provisions of  
20 Chapter 7 of the EDDS. City Staff finds that there is capacity for this development's anticipated  
21 sanitary sewage discharge. The project must extend a sewer main on the internal street network  
22 as shown on the binding site plans. Accordingly, the proposed sanitary sewer main extensions  
23 and connections comply with the EDDS.

1           B.     Water

2           45.     The developer must install water facilities in accordance with the provisions of  
3 Chapter 6 of the EDDS. City Staff finds that the City has capacity for this development's water  
4 requirements. The project will be required to extend a water main on the internal street network  
5 as shown in the binding site plans. As proposed, the project complies with Chapter 6 of the  
6 EDDS.

7           C.     Streets and Alleys

8           46.     Streets and alleys must be designed and constructed in conformance with the  
9 provisions of Chapter 4 of the EDDS. The proposed construction of internal streets, and their  
10 connection to external streets, has been highly controversial and has met with opposition with  
11 respect to connections to the existing 3rd Avenue and Craftsman Drive (by the Grass Lake  
12 neighborhood and by the Applicant) and with respect to the extension of Craftsman Drive during  
13 Phase 2 (by the Applicant). Each of these issues will be separately addressed below.

14          D.     Solid Waste

15          47.     The project must comply with the requirements for the management of solid  
16 waste pursuant to Chapter 8 of the EDDS. Waste resources provides for collection and disposal  
17 of all solid waste and recycling generated from all residential and commercial properties in the  
18 area. There is capacity for this development's anticipated solid waste generation.

19          48.     Residents of the Grass Lake neighborhood have expressed concern as to the  
20 proposed location of solid waste dumpsters for the residential unit building proposed for Lot 5.  
21 The City and the Applicant have both responded to the neighbor's concern and explained that the  
22 location of these dumpsters on the site plan is identified for preliminary approval, with the final  
23 location to be identified and reviewed at time of land use development.

1 E. Storm Drainage

2 49. The project must provide for the treatment, storage and disposal of surface  
3 drainage through a storm drainage system designed to the DDECM and Chapter 5 of the EDDS.

4 50. If the Applicant has not started construction by January 1, 2022, the project must  
5 comply with the DDECM in place at time of engineering permit application.

6 51. In the earlier design of the project, stormwater runoff was designed to discharge  
7 to the nearby Yaeger stormwater facility. This design was found to be problematic and was  
8 abandoned. Other options to direct stormwater to other offsite locations was investigated and  
9 found to be equally problematic. The Applicant has therefore revised its Storm Drainage Report  
10 (Attachment 23) to provide for infiltration of stormwater onsite. This proposal must meet the  
11 Core Requirements 1-10 of the DDECM.

12 52. The Storm Drainage Report finds that: (a) onsite soils will support shallow  
13 infiltration to allow stormwater to be treated and detained onsite; (b) parking lot pavement will  
14 be porous and the proposed paving section is sized to handle all runoff from paving, landscaping  
15 and building roof areas; (c) stormwater collected from 3rd Avenue will be treated to a vault and  
16 then infiltrated on Lot 5 using an infiltrated trench under the proposed parking lot; (d)  
17 stormwater collected from Craftsman Drive NW will be treated in a vault and then infiltrated on  
18 Lot 2 using an infiltrated trench under the proposed parking lot.

19 53. City staff finds that the Storm Drainage Report and Stormwater Site Plan are in  
20 compliance with the 2009 DDECM and Staff accepts the proposed design.

21 54. The Hearing Examiner has reviewed the Staff's Findings and adopts them as his  
22 own Findings of Fact.

1           55.     Approval of the design only applies to Phase 1 and 2 of the binding site plan and  
2 does not establish an approved plan for future development in Phase 3. Phase 3 will be required  
3 to comply with regulations and ordinances in place at the time of application.

4           Finding Relating to Vehicle Connection to the Existing 3rd Avenue NW

5           56.     The adjoining Grass Lake neighborhood to the east and north of the project site  
6 was constructed in the early 2000's.

7           57.     At the time Grass Lake Village was constructed, the developer was required to  
8 extend 3rd Avenue NW west from its intersection with Yauger Way to the property line of the  
9 project site where the street currently terminates.

10          58.     The stubbed portion of 3rd Avenue was constructed for the purpose of continuing  
11 the street into the subject property at such time as it was developed.

12          59.     At the time Grass Lake Village was developed, the subject property had the same  
13 residential zoning designation as the Grass Lake neighborhood and was envisioned for  
14 residential development. As a result, the stubbed portion of 3rd Avenue was designed to receive  
15 adjoining neighborhood residential traffic, not commercial traffic.

16          60.     3rd Avenue was designed and constructed as a Local Access Street with a total  
17 paved width of 20 feet. City standards allow for parking on only one side of a local street but the  
18 3rd Avenue stub currently allows parking on both sides (in conflict with City standards),  
19 presumably due to the fact that the additional parking does not interfere with traffic. 3rd Avenue  
20 has no stop sign at its intersection with Yauger Way and no posted speed limit.

21          61.     In the vicinity of 3rd Avenue, Yauger way was designed and constructed as a  
22 Neighborhood Collector/Boulevard with 11 foot lanes and 7 foot parking strips on each side of  
23 the street, together with curbs and gutters, planter strips and sidewalks on both sides of the street.



1 The posted speed limit is 25 miles per hour. There is no dedicated left turn lane for northbound  
2 traffic turning left onto 3rd Avenue.

3 62. There are no signs prohibiting parking in the vicinity of the Yauger Way/3rd  
4 Avenue intersection. As a result, residents park their vehicles within feet of the intersection.  
5 Residents of the neighborhood complain that parking is very limited and that parking stalls are  
6 in high demand especially near 3rd Avenue/Yauger due to its proximity to several multi-family  
7 units. The Hearing Examiner observed this during his site visit.

8 63. In April 2019, Thomas Hansen, Professional Civil Engineer, prepared a Street and  
9 Traffic Analysis for the area near the Yauger Way/3rd Avenue intersection at the request of the  
10 Grass Lake neighborhood (Exhibit 10). Mr. Hansen calculated that existing sight distances for  
11 drivers on 3rd Avenue wishing to enter onto Yauger Way have only 69 feet of sight distance if a  
12 car is parked on Yauger Way just to the north of the intersection. Mr. Hansen noted that City  
13 standards at an uncontrolled intersection require 115 feet of sight distance. As noted earlier, 3rd  
14 Avenue does not have a stop sign (that is, is uncontrolled) at its intersection with Yauger Way.  
15 Thus, the 3rd Avenue/Yauger Way intersection does not currently comply with the City  
16 standards.

17 64. Similarly, Mr. Hansen observed that the sight distance for a driver intending to  
18 turn left (and therefore looking right), with a car parked just south of 3rd Avenue on Yauger,  
19 would be 96 feet which, again, is deficient under City standards.

20 65. Mr. Hansen reached the following conclusions about the project's impact on  
21 traffic in Grass Lake Village:

22 A. The proposed connection to 3rd Avenue would significantly increase the  
23 amount of traffic using a local access street, to a point beyond its design limits, rendering the  
24 street unsafe and inadequate.

1           B.       The intersection's sight distance does not currently meet City standards. It  
2 therefore would not meet the added burden of increased traffic coming from the project site.

3           C.       3rd Avenue has insufficient road width to be used as a fire apparatus  
4 access road unless drastic changes are made, including elimination of street parking on 3rd  
5 Avenue (Exhibit 10).

6           66.     Mr. Hansen's findings were prepared prior to the most recent version of the  
7 project design and preceded the Traffic Impact Analysis for the project (Exhibit 16). His  
8 findings were not updated to address either of these later of these and are therefore not  
9 necessarily entirely accurate. In particular, Mr. Hansen's traffic counts on 3rd Avenue exceed  
10 the counts as determined by the Traffic Impact Analysis.

11          67.     During my visit I confirmed Mr. Hansen's findings relating to poor sight distance  
12 at the 3rd Avenue/Yauger Way intersection. This is largely due to the current parking of  
13 vehicles along the west side of Yauger Way within feet of the intersection, making it difficult to  
14 see over or around these parked vehicles to observe oncoming traffic.

15          68.     The City's Traffic Engineer, Dave Smith, and the Applicant's Traffic Engineer,  
16 Greg Heath, agree that the sight distance problems at 3rd Avenue and Yauger Way could be  
17 significantly improved by installing a stop sign at 3rd Avenue which, in turn, would require the  
18 elimination of all parking within 30 feet of the sign. While this would improve traffic safety at  
19 the intersection, it would come at the cost of a substantial number of badly needed parking stalls  
20 in the Grass Lake neighborhood.

21          69.     The Applicant's Traffic Engineer, Greg Heath, also concludes that traffic  
22 functionality for the project does not require a vehicle connection to 3rd Avenue (Exhibit 35,  
23 Tab A). Mr. Heath adds that the project could extend 3rd Avenue for pedestrian/emergency  
24 access only as shown on a concept layout attached as Tab B to Exhibit 35.

1           70.     The concerns expressed earlier by Mr. Hansen, and more recently by Mr. Heath,  
2 echo the many concerns the residents of Grass Lake have voiced since the project was first  
3 proposed, and continue to the present. As their recent letter (Exhibit 34) indicates, the residents  
4 of Grass Lake are united in the belief that the introduction of project-related traffic, especially  
5 commercial and truck traffic, would overwhelm their residential streets and pose significant risk  
6 to motorists, pedestrians and residents, especially children.

7           71.     City Staff is well aware of the neighbor's concerns and has sought means to  
8 minimize the project's traffic impacts on the Grass Lake neighborhood while still allowing street  
9 connectivity as encouraged by City policies. As noted by Dave Hansen, Traffic Engineer, as  
10 well as Paula Smith, Planner, the City's Comprehensive Plan strongly encourages street  
11 connectivity. See Goals GT4 and GT5. Dave Smith adds that the EDDS further encourage  
12 connectivity for purposes of a well-functioning street network/grid.

13          72.     Dave Smith testifies that allowing a vehicle connection to 3rd Avenue would  
14 allow local traffic from the Grass Lake neighborhood to reach the interior of the project site in  
15 40% less travel time and distance while increasing safety. It would also reduce the amount of  
16 traffic entering onto Harrison at the unsignaled intersection with Craftsman Drive and instead  
17 allow this traffic to enter Harrison from the signaled intersection with Yauger Way.

18          73.     Mr. Smith concludes that a vehicle connection to the existing 3rd Avenue would  
19 allow: (a) short, direct routes; (b) shorter driving trips; (c) an easier route to walk, bike and  
20 access transit; (d) better emergency and service vehicle access; (e) more route options during  
21 construction and street closures; and (f) slower speeds. As a result, Mr. Smith urges that the  
22 project allow vehicle access through the existing 3rd Avenue.

23          74.     Mr. Smith acknowledges that the 3rd Avenue stub has a very narrow design and  
24 cannot likely be widened due to a limited right of way. Nonetheless, he believes that the road  
25

1 can accommodate the expected increase in traffic from the project by means of traffic calming  
2 devices which would both slow and restrict the movement of cars, thus minimizing their added  
3 burden.

4 75. City Staff also proposes to mitigate the traffic impacts to 3rd Avenue by  
5 restricting its use by commercial trucks (although delivery vehicles would be allowed).

6 76. In summary, the City makes a compelling argument for a vehicle connection to  
7 3rd Avenue:

8 • It would be consistent with the well-reasoned policies in the City's  
9 Comprehensive Plan for the establishment of a well-connected system of streets.  
10 • It would comply with the EDDS.  
11 • It would reduce travel times.  
12 • It would allow a secondary exit from the project.  
13 • It would allow some of the project's traffic to enter onto Harrison Avenue at the  
14 controlled intersection with Yauger Way instead of the uncontrolled intersection at Craftsman  
15 Drive.

16 • City Staff believes it would increase traffic safety.

17 77. Nonetheless, I find that the benefits of a vehicle connection to 3rd as articulated  
18 by City Staff are outweighed by the burdens it imposes, particularly upon the residents of the  
19 Grass Lake neighborhood. These include:

20 • The 3rd Avenue stub is very narrow, allowing for only one lane of travel. It was  
21 designed to be extended into a similar residential neighborhood and not a commercial  
22 development.

23 • The existing 3rd Avenue/Yauger Way intersection has substandard sight distance.  
24 Sight distance would be significantly improved by installing a stop sign on 3rd Avenue but,  
25

1 unfortunately, this would eliminate a substantial number of parking stalls on both 3rd Avenue  
2 and Yauger Way - parking stalls that are heavily relied upon due to the number of multi-family  
3 units in close proximity to this intersection.

4       • Project-related traffic traveling north on Yauger Way and attempting to turn left  
5 onto 3rd does not have a dedicated turn lane and will cause traffic to back up, perhaps to the  
6 Harrison interchange.

7       • Grass Lake residents have legitimate concerns over pedestrian and resident safety  
8 from the significant increase in traffic caused by the project.

9       • The Applicant's Traffic Engineer, has concluded that a vehicle connection is not  
10 essential to achieve traffic functionality for the project.

11       78. I therefore find that a vehicle connection to 3rd Avenue is not required. The  
12 project will, however, benefit from a connection to 3rd Avenue for pedestrian, bicycle and  
13 emergency use in the manner depicted by Mr. Heath in the map attached as Tab 2 to Exhibit 35.

14       Findings Relating to Vehicle Connection to Craftsman Drive

15       79. The existing Craftsman Drive, located north of the project site, was also  
16 constructed around 2000 as part of the Grass Lake Village development. From its intersection  
17 with Fourth Avenue, Craftsman Drive extends a short distance south where it is stubbed at the  
18 project site boundary. And like the 3rd Avenue stub, the Craftsman Drive stub was intended to  
19 extend Craftsman Drive south into the subject property once developed.

20       80. An extension of Craftsman Drive through the project site to its current location at  
21 the north boundary is not proposed until Phase 3 of the project's development.

22       81. Phase 3 of the project is for the future development of Lot 1. Lot 1 is currently  
23 being used as part of the operation of the Bark and Garden center. The Applicant indicates that  
24  
25

1 this use will continue for the foreseeable future. It is unclear when, or even if, Phase 3 of the  
2 project will be developed.

3 82. The benefits and burdens of a vehicle connection to the existing Craftsman Drive  
4 are currently unknown. Much will depend on the future use of Lot 1 and, equally importantly,  
5 the future development of currently undeveloped areas north and west of the project site. It is  
6 possible that by the time Phase 3 occurs the benefits of a vehicle connection are clear and  
7 outweigh any burdens.

8 83. I therefore find that any decision to establish a vehicle connection to the existing  
9 Craftsman Drive at the north boundary of the project site should be deferred until Phase 3 of the  
10 project.

11 Findings Relating to the Construction of a Temporary Craftsman Drive During Phase 2

12 84. Phase 2 of the project calls for the development of Lot 5 through the construction  
13 of a four-story, 58,712 square foot residential multi-family building with 40 units. In order to  
14 access this building, Craftsman Drive must be extended northward during Phase 2 from its Phase  
15 1 terminus (at the north boundary of Lot 2) northeasterly to the new terminus of 3rd Avenue at  
16 the west boundary of Lot 5.

17 85. The City and Applicant agree that the northerly extension of Craftsman Drive in  
18 Phase 2 is intended to be temporary, with the permanent location of Craftsman Drive to be  
19 determined during Phase 3 of the project.

20 86. The City and the Applicant disagree as to the form and location of the temporary  
21 Craftsman Drive extension:

22 • The City proposes a northerly extension of the 26-foot road surface and 6-foot  
23 shoulder arcing across the southeast corner of Lot 1 and then running parallel to Lot 4 to its  
24 intersection with the 3rd Avenue stub (see Exhibit 5).

1           •       The Applicant proposes a much different route: vehicles would turn right (east)  
2 into the parking lot for Lot 2, travel through much of the parking lot, and then turn left (north) on  
3 a temporary road without shoulders on a line parallel to Lot 4 to the intersection with the 3rd  
4 Avenue stub. The Applicant's plan is shown at Tab B to Exhibit 35.

5           •       The City argues that its proposed extension of Craftsman Drive is a logical and  
6 necessary extension of the road and maintains proper road width and shoulders for the benefit of  
7 motorists, pedestrians and cyclists going to and from the 40-unit residential building as well as  
8 pedestrians and cyclists from Grass Lake Village. The City adds that the Applicant's proposal,  
9 which relies upon parking lots for travel and has no amenities for pedestrians and cyclists, is  
10 unsafe to all who would have to use it.

11          •       The Applicant counters that, since the extension is only temporary, it should not  
12 burden the ongoing business activities on Lot 1 any more than is necessary. Its proposal would  
13 have the least impact on current activities on Lot 1 while still providing a means of access to the  
14 residential units on Lot 5.

15       87.     I find the City's arguments far more compelling than the Applicant's especially  
16 since the Applicant admits that it is unknown when, or even if, the development of Lot 1 in  
17 Phase 3 will occur. The "temporary" extension of Craftsman Drive for the benefit of the 40-unit  
18 residential building on Lot 5 may be long term, or, possibly, permanent. As such, appropriate  
19 provisions must be made for normal and safe passage for motorists, pedestrians and cyclists.  
20 The Applicant's proposal does not offer these protections and, instead, would be unsafe to all  
21 users.

22       88     Accordingly, I find that the project should be conditioned on the development of a  
23 temporary Craftsman Drive during Phase 2 as proposed by the City (Exhibit 5).

1           Findings Relating to Calming Devices

2           89.     As the Hearing Examiner has found that the connection to 3rd Avenue should  
3 only be for the purpose of pedestrian, cyclist and emergency vehicles, it is unclear whether  
4 calming devices remain necessary for the road's extension into the project site. To the extent that  
5 they remain necessary, the parties are in agreement that they will be constructed pursuant to  
6 Standard Drawing 4-13B.

7           Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

8                           **CONCLUSIONS OF LAW**

9           1.     The Hearing Examiner has jurisdiction over the parties and the subject matter  
10 through the authority given to him by the Director pursuant to OMC 18.60.080.C.

11          2.     The Hearing Examiner's authority is the same as what the Director's authority  
12 would have been pursuant to OMC 17.34.070.A. The Hearing Examiner has the authority to  
13 approve, approve with conditions, deny or return to the Applicant for correction.

14          3.     Any Conclusions of Law contained in the foregoing Background, Public Hearing  
15 or Findings Sections are incorporated herein by reference and adopted by the Hearing Examiner  
16 as his Conclusions of Law.

17          4.     The plan, as conditioned, is consistent with the Olympia Comprehensive Plan.

18          5.     The plan is in compliance with Chapter 17.34 OMC regulating binding site plans.

19          6.     The binding site plan conforms with requirements of all City and State  
20 ordinances, codes, standards and policies including those found in the zoning ordinance, the  
21 building code, the fire code, public works standards, the State Environment Policy Act, and the  
22 Comprehensive Plan.

23          7.     Appropriate provisions have been made for streets, utilities, drainage ways, water  
24 supplies and sanitary waste.



1           8.     The physical characteristics of the site are not subject to flooding inundation or  
2 swamp conditions.

3           9.     The public use and interest will be served by the plan.

4           10.    For purposes of preliminary binding site plan approval, the project is in  
5 compliance with Chapter 16.60 OMC relating to tree, soil and native vegetation protection and  
6 replacement. The project has been sufficiently conditioned to address any deficiencies in tree  
7 density requirements.

8           11.    The plan, as conditioned, is in compliance with Chapter 18.06 OMC relating to  
9 commercial districts and commercial development standards.

10          12.    The plan is in compliance with Chapter 18.12 OMC relating to historic  
11 preservation.

12          13.    The plan, as conditioned, is in compliance with Chapter 18.16 relating to  
13 Pedestrian Street Overlay Districts. Full compliance with this chapter will be examined during  
14 land review process.

15          14.    The plan, as conditioned, is in compliance with Chapter 18.36 OMC relating to  
16 landscaping. Full compliance with this chapter shall be determined at time of land use review.

17          15.    The plan, as conditioned, is in compliance with Chapter 18.38 relating to parking  
18 and loading.

19          16.    Pursuant to OMC 18.38.080 the Applicant qualifies for a 20% reduction in total  
20 parking stalls, resulting in 132 stalls less one additional stall to allow for a required landscape  
21 island, or a final total of 131 stalls. This final number of parking stalls complies with the parking  
22 requirements of Chapter 18.38.

23          17.    The plan, as conditioned, complies with the Engineering Design and Development  
24 Standards (EDDS), as well as the Drainage Design and Erosion Control Manual (DDECM).

18. If the Applicant has not started construction by January 1, 2022, the project must comply with the DDECM in place at the time of engineering permit application.

19. The civil engineering permit application for Phase 3 will be required to comply with the DDECM in place at the time of engineering permit application.

20. The preliminary binding site plan should be approved subject to the conditions as modified by the Hearing Examiner.

## DECISION

The Applicant's request for a Preliminary Binding Site Plan is approved subject to the following conditions:

1. **Preliminary Approved Map.** The Final Binding Site Plan shall be substantially in conformance with the Preliminary Map (Exhibit 5) as modified by the conditions of approval herein.
2. **Final Binding Site Plan.** A final binding site plan application meeting requirement of OMC 17.34.090 shall be filed within two years from the date of the approval by the Hearing Examiner. The phasing plan shall be included as part of the final binding site plan map as a separate sheet.
3. **Binding Site Plan Notes.**

**Add the following under plat notes section on the face of the map:**

- a. The use and development of the property must be in accordance with the binding site plan as represented herein or as hereafter amended, and in accordance with the provisions of the binding site plan regulations of the City.
- b. If the roads and utilities shown on this plan were not constructed and installed at the time that the property subject to this plan was divided, any permit required to develop any portion of the property will not be issued until the roads and utilities necessary to serve that portion of this property have been constructed and installed or until arrangements acceptable to the City of Olympia have been made to ensure that the construction and installation of such roads and utilities will be accomplished.
- c. Any vacant or redeveloped lot within the approved binding site plan shall comply with the standards in place at the time the development application for the site is made.

- d. Land Use Review is required for each building development on each lot or each phase. Any project elements not specified on the binding site plan must comply with the applicable regulations and ordinances in place at the time of a complete land use review application. These include items such as, but not limited to, design review, site design details, and landscaping features.
- e. A 20% parking modification (reduction) has been approved and has been applied to the development shown within the binding site plan. Modifications to building size, site layout, or anticipated use will require recalculation of the total onsite parking required. At such a time, the 20% reduction would remain applicable.
- f. In accordance with OMC Title 15, City of Olympia impact fees for transportation, parks, and schools shall be paid at time of each building permit issuance.
- g. Following the Land Use Review process for each building or phase, a civil engineering permit application shall be submitted for review and approval prior to construction for that portion of the project. For Phases 1 and 2, the engineering permit application shall comply with the 2016 Engineering Design and Development Standards (EDDS) and the 2009 Drainage Design and Erosion Control Manual (DDECM); provided that where an engineering permit has been issued for Phases 1 and 2, and where the Applicant has not started construction by January 1, 2022, the project must comply with the most current DDECM. As the binding site plan does not establish details for future development in Phase 3 (Lot 1), the civil engineering permit application for Phase 3 will be required to comply with regulations and ordinances in place at the time of application.
- h. If contamination of soil or groundwater is encountered during site work and construction, the Applicant shall notify the Department of Ecology's Environmental Report Tracking System Coordinator for the Southwest Regional Office.

**4. The following requirements shall be listed on the phasing plan:**

**A. Phase 1 Requirements**

1. Construct that portion of the new Commercial Collector Street connection with Harrison Avenue (Craftsman Drive) located on Lot 1 but within the Phase 1 boundary.
2. Reconstruct the access to Harrison Avenue on Lot 3, restricting it to right-in, right-out only, consistent with Standard Drawing 4-39.
3. Provide a bus pad and shelter on Lot 3.

1           B.     Phase 2 Requirements


- 2           1.     Construct a Local Access Street extending 3rd Avenue NW to Lot 1. The  
3                 3rd Avenue extension shall not be opened for vehicle access except for  
4                 emergency vehicle access. The 3rd Avenue extension shall be for the  
5                 purpose of pedestrian, bicycle and emergency vehicle access and shall be  
6                 designed in accordance with Exhibit 35, Tab B.
- 7           2.     Construct traffic calming devices consistent with Standard  
8                 Drawing 4-13B, at both the east and west ends of this Local Access  
9                 extension of 3rd Avenue NW.
- 10          3.     From the west end of this Local Access extension of 3rd Avenue  
11                 NW, construct a temporary access lane to the Commercial  
12                 Collector section of Craftsman Drive to the south constructed  
13                 portion under Phase 1. This temporary access lane shall be  
14                 constructed with the following attributes:
- 15                 a.     The access lane shall provide the apartments included in Lots 4  
16                         and 5 equal access to Harrison Avenue via Craftsman Drive.
- 17                 b.     The access lane will require an easement across Lot 1. This  
18                         easement shall be replaced with right of way dedication and full  
19                         street construction when Lot 1 develops in Phase 3.
- 20                 c.     The temporary access lane shall be constructed to allow a paved  
21                         surface for vehicular/pedestrian/bicycle traffic. The total asphalted  
22                         pavement width shall be 26 feet and include a striped 6-foot  
23                         shoulder for people biking and walking.

24           C.     Phase 3 Requirements

- 25           1.     Construct the remaining section of Craftsman Drive in Lot 1, to meet the  
Collector Street Standard replacing the temporary access lane in Lot 1  
constructed under Phase 2, and extending it north to the existing  
Craftsman Drive on the northern property line. A determination as to  
whether the extended Craftsman Drive shall provide vehicle access to  
neighborhoods to the north shall be determined as part of Phase 3  
approval.
- 2           2.     Construct traffic calming devices, consistent with Standard Drawing  
4-13B, at the northern connection of Craftsman Drive in Lot 1 at the Grass  
Lake Village frontage.

- 1 5. **Level 5 Soil and Vegetation Report.** Shall be submitted at the time of Final Binding  
2 Site Plan application and shall meet the standards per OMC 16.60 and the Urban Forestry  
3 Manual. If an area for tree protection and preservation of existing trees to serve the entire  
4 development is desired, the area shall be depicted or designated as a separate tract and  
5 noted on the binding site plan map.
- 6 6. **Landscaping Island.** Provide a landscaping island on the west side of Lot 2 adjacent to  
7 the drive aisle to Craftsman Drive.
- 8 7. **Building Setback.** The building on future Lot 3 shall have a 10-foot setback.
- 9 8. **Building Height Note.** Remove the note on the face of the map on Lot 4 indicating the  
10 maximum height is 35 feet.
- 11 9. **Off Site Well.** The existing off-site well to the west of the project site must be shown on  
12 the final map with its 100-foot sanitary control area. The Applicant must grant a non-  
13 public restrictive covenant for the portion of the sanitary control area that encroaches on  
14 the project site. The covenant must be submitted to Thurston County Environmental  
15 Health for review prior to being filed with the Thurston County Auditor's Office.
- 16 10. **On-site Well.** The existing well must be properly decommissioned by a licensed well  
17 driller per Washington State Department of Ecology standards. A copy of the  
18 decommissioning report must be submitted to Thurston County Environmental Health.  
19 Should the well remain for irrigation purposes it must be shown on the site plan with its  
20 100-foot sanitary control area and properly labeled, have a pump installed, be wired for  
21 power, and have a protective covenant recorded with the Thurston County Auditor to  
22 provide adequate protection of the sanitary control area. This would also require  
23 demonstrating that through the design of the project the well will be adequately protected  
24 from contamination, including stormwater runoff and infiltration, refuse storage, and  
25 sanitary sewer lines.
11. **On-site Septic System.** An on-site sewage system abandonment permit application shall  
be submitted to Thurston County Environmental Health prior to final binding application.  
There will be no additional fees associated with the abandonment permit as it will be part  
of the final binding site plan review.

1 DATED this 22<sup>nd</sup> day of August, 2021.

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5 Mark C. Scheibmeir  
6 City of Olympia Hearing Examiner  
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