

1 **Hearing Examiner Meeting**

2 **Minutes for April 14, 2022**

3 **CU-21-002**

4 **Washington Ave Multi-Family**

5 Staff Present: Amelia Schwartz City Planner, Erin Hillier City Attorney, Laura Fisher Permit Technician

6 Examiner: Allen Unzelman

7 Applicants present: Aaron Fuller with Fuller Design on behalf of the applicants Tom & Cara Nicholas

8 Examiner Allen Unzelman calls the meeting to order at 4:01pm. This is for CU-21-002 & ST-21-0011 for the public
9 hearing on both of these matters. Will give some introductory remarks and deal with housekeeping items. This is
10 somewhat of a formal process. It is important to understand that we are making a record. This proceeding is recorded.
11 We are going to admit and agree upon certain documents that will be marked as formal evidence of this proceeding.
12 Explains the process of approaching the stand and being placed under oath. If reference is made to certain documents, I
13 will ask that you call those out and specify. The procedure today will start off with the city to present their staff report
14 and the application. Then we will turn to the applicant and the applicant's representatives to present their application.
15 Next, we will open it up to any members of the public who wish to speak or be heard on this. Then again, we will return
16 it to the applicant and if necessary, the city to have their final word in response or rebuttal to any points or concerns
17 raised by the public. I will not issue a ruling today. The ruling will be issued subsequent to this hearing. The first item
18 will be to have the applicant or applicant's representative please step forward. Aaron Fuller approached the stand and
19 is sworn in as the Project Engineer representing the applicant. Examiner asks who are the property owners?

20 Aaron Fuller answers the Examiner, Tom and Cara Nicholas.

21 Allen Unzelman asks that before turning it over to the city to give their staff report, because there are a number of
22 documents that have been submitted to the Hearing Examiner, he wants to get a record established before going into
23 the testimony. I have been provided with today the city staff report which has exhibits A through H.

24 Aaron Fuller agrees.

25 Allen Unzelman asks if there are any objections to the city staff report and those exhibits being admitted to the record.
26 None given. Examiner admits this as exhibit 1. Each exhibit to the staff report will be exhibits to exhibit 1. I have also
27 received some prehearing testimony, a narrative from Fuller Designs submitted prior to the hearing. It was amended. I
28 have the latest version today presented to me.

29 Aaron Fuller explains that there were a couple of dates incorrect.

30 Allen Unzelman does not get the sense that Fuller wants to include the prior version.

31 Aaron Fuller agrees, just the most recent version.

32 Allen Unzelman asks if there is any objection to that information being entered into the record. None given. Will admit
33 that into the record as evidence in this hearing as exhibit 2. Will turn it over to Mrs. Schwartz. Mrs. Schwartz is sworn
34 in.

35 Amelia Schwartz introduces herself as City Planner for city of Chehalis. Will provide a quick rundown of the staff report.
36 Fuller Design on behalf of Cara and Thomas Nicholas are proposing the construction of a multi-family development that
37 includes three different types of dwellings. When they originally submitted it was 4 two story fourplexes and 4 two
38 story duplexes that has recently changed to the dwellings along side Aust Manor to be single family homes. Will try to
39 reference that plan as that seems to be the one that is set now. Aust Manor will have single family homes that will
40 eventually be split into two lots.

41 Allen Unzelman states there is a lot of information contained within all of what has been submitted to me. As I see it,
42 and I will allow Mr. Fuller to interject and both parties to speak to this, there are two applications to be ruled upon by
43 me. One is the site plan review under CMC 17.09.130 and the other is conditional use permit under CMC 17.09.185.
44 Asks if everyone is in agreement with this. A. Schwartz agrees.

45 Amelia Schwartz adds that already having 3 different types of dwelling units a little bit trickier because it is currently in
46 an R1 zone. The city is currently proposing to change part of that area to MRC which is Mixed Residential & Commercial
47 which is an entirely new zone. It will match R3 which is an existing medium density residential zone type. It will include
48 density of up to the standards of R3 so single family would be allowed. The surrounding lots are residential and also
49 some commercial. It is adjacent to the existing Safeway grocery store and parking lot. According to some of the
50 comments there are some traffic issues, ponding issues, and drainage issues on the site. That will be reflected in some
51 of the city's comments. It has already gone through a public hearing for the vacation petition to add three sections of
52 the city property that has already been approved and should be shown on the current civil plans that are in the record.
53 Skipping to page 4 of the staff report, I would like to submit to the record the site plan with clarified setbacks that I
54 received from Fuller Designs that was received April 13, 2022. It has the measured setbacks between structures on the
55 site to the edges of the property lines. We did not have an existing map of that. We had a scale version of 1 to 30 so we
56 were able to see that it did meet setbacks. It clarifies the actual footage.

57 Allen Unzelman asks if Mr. Fuller, the applicant have a copy of this.

58 Amelia Schwartz answers that it is from them, and it will be admitted to the record.

59 Allen Unzelman admits these as exhibit 3. They will stand as addendums to exhibit 1.

60 Amelia Schwartz states that the applicant is proposing lots that will be developed for multi and possibly single-family
61 residences. The site is currently zoned R1, but staff has proposed up zoning this site to a new zone classification the
62 MRC, which is mixed, residential, commercial. Based on intentions of the creation of MRC which is meant to allow for
63 residential and commercial uses to fit the area like Safeway, dentist offices, and residential lots all in that area. Staff will
64 be listing R1 which is the current and R3 which is the closest existing zone type to the proposed MRC in the staff review

65 in the staff report. We found that the proposed use of the site for single family residence is permitted under the R1
66 zoning. Duplexes are permitted if the lot size of each development portion is 10,000 square feet or larger and the lot is
67 adjacent to an arterial street otherwise it is conditional. While the proposed use for the site as multi-unit dwellings is
68 prohibited in the current zone of R1. If the proposed rezone is approved, up to MRC multiple unit dwellings would be
69 permitted, single family dwellings would be permitted as the lot size would be allowed up to the R3 category type. The
70 parcel that could possibly be the two single family homes but is currently shown on the preliminary plans as multi-unit
71 dwellings could possibly be conditional under R3 zoning. It should be with the MRC code which intentionally allows up
72 to that and would be permitted instead of conditional.

73 Allen Unzelman asks if this assumes a change in the zoning code that is going to be approved by the Council.

74 Amelia Schwartz replies that it does not assume anything. I try to list out both ifs. What happens if city Council doesn't
75 approve this which is R1 and only part of the project could be approved? Or, if they allow MRC which is similar to R3 but
76 more lenient, then I have also listed what could happen with that.

77 Allen Unzelman asks Amelia when the change proposal supposed to go to Council.

78 Amelia Schwartz explains that the city has completed the maps for rezoning early this year. You may see it later in the
79 applicant's report. They submitted a request for a rezone in the early half of 2021. We had to wait until 2021 to collect
80 all the rezone requests and do it all in one big push for 2022. The city finished off those maps in January of 2022.
81 They've been reviewed by the Planning Commission Tuesday of this week. They are expected to go before a public
82 hearing in May. A series of 3 public hearings will be held and this will be the second one expected in May. If it goes past
83 that, it will go to the Department of Commerce for a 60-day review. If they think it is good to go, it will go to the city
84 Council in late summer potentially late July or August and have an official vote by city Council. We should know whether
85 this will be pushed through or not by the end of August. Moving to page 7 of the staff report. Asking to add into the
86 record as well a correction. Upon transferring this from a Word document to a PDF document it cut off half of the
87 conditional use permit code 17.09.185 and the staff review of each of those. That is now online for the public to see and
88 has also been provided to the applicant and the hearing examiner.

89 Allen Unzelman speaks to the pages handed to him which addresses pages 4 through 7. Has a copy been given to Mr.
90 Fuller?

91 Amelia Schwartz says yes. Unfortunately, what is discussed in that section was already discussed in the staff report but
92 this is a compiled list essentially.

93 Allen Unzelman states that it is clear when reading throughout the contents but that helps clean it up.

94 Amelia Schwartz moves to the staff recommendations which are built on code, the SEPA decision, and comments as well
95 as the DRC (Development Review Committee) who met on February 23, 2022. Not all of the comments from DRC were
96 put into the suggested conditions because they will be better suited later in the civil process. The staff recommends

97 approval of ST-21-0011 and CU-21-002 for the development of multi-unit, duplex, and single-family dwellings with the
98 following conditions: 1. All work shall be in accordance with the site plan with improvements as approved by the DRC on
99 February 23,2022. That is not just the site plan that was submitted to the DRC on February 23rd because that wasn't
100 including the single-family homes. That is the site plan with the improvements as approved by DRC. 2. All
101 improvements shall be constructed in accordance with the approved City of Chehalis Municipal Code public road
102 standards if the applicant chooses to move forward with multi-family housing along Aust Manor Drive. Which sounds
103 like they will not be doing. 3. This says a 6-foot privacy fencing must be installed around the multi-family parcels as a
104 buffer to adjacent single-family housing prior to final approval. This came through the SEPA decision and SEPA process.
105 The SEPA (State Environmental Policy Act) that helps cities and counties, and other municipal agencies supplement their
106 code to ensure that all environmental aspects of the potential impacts are considered. There is some allowance to cities
107 if there is an environmental impact that cannot be mitigated through code, cities and agencies have some room around
108 that. The 6-foot privacy fencing was asked for on the behalf of considering neighboring tenants and landowners, who
109 were concerned about the impacts of light, noise and access from a multi-family development to their single-family
110 homes. 6 foot was decided as a general height so that any privacy concerns, noise concerns, light concerns, would be
111 some what mitigated. If the hearing examiner would like to consider a code height solid fence instead, the city believes
112 that would reduce potential impacts similarly.

113 Allen Unzelman asks for the code height.

114 Amelia Schwartz believes the code height is 42 to 48 inches. If we wanted to go ahead with the 6-foot fence, that would
115 be an administrative variance in effect with that SEPA threshold decision to make that privacy fence to work with the
116 concerns of the neighbors. The same end result is to reduce noise, lights, any potential environmental impacts. A code
117 height fence could mitigate.

118 Allen Unzelman asks if it is the city's position more or less that a code height fence of 42 to 48 inches would seemingly
119 address the concerns raised in the SEPA without substituting your judgement in for the SEPA determination. From a
120 planning standpoint, does that seem to achieve the objective?

121 Amelia Schwartz answers that it depends on the fence. A 42-chain link fence is not going to mitigate noise, or light
122 coming through.

123 Allen Unzelman asks if the code specifies the type of fence.

124 Amelia Schwartz is not sure.

125 Allen Unzelman does not know if it does. If it were a 42-48 inch fence, the city's position is more or less that if it is at
126 code height it probably needs to be a solid panel fence.

127 Amelia Schwartz agrees. Something that would equally or similarly mitigate those impacts of light and noise.

128 Aaron Fuller approaches the stand to clarify. He states that the code is written based on opacity. It has to be more than
129 50 percent opaque in order to be 42. If its less than 52 percent opaque it has to be 48 per the code. A chain link fence is
130 less than 50 percent opaque. A solid wood fence would be 100 percent opaque. If it is 6 foot or 42 or 48 for the record,
131 whatever you want we will do.

132 Amelia Schwartz adds that the purpose of speaking to the hearing examiner that is if the applicant has a design for a
133 code height opaque fence, solid wood fence, which ever, that could similarly mitigate the impacts that we believe could
134 happen from the noise and light then the city would recommend to the hearing examiner that could be considered. A
135 similar end result that we are all looking for. 4. A landscape plan prepared by a licensed landscape architect meeting
136 the requirements of 17.52.070 of the Chehalis Municipal Code shall be submitted for approval, then implemented prior
137 to final plat approval. This is also tied to the SEPA. Both of these were in the SEPA threshold decision as conditions.
138 That is also related to seeing potential environmental impacts and this is a mitigation tool we are trying to develop. The
139 city of Chehalis is over 90 percent covered in critical areas. This is something I did the mapping on. That could be
140 floodplains, wetlands, geologically hazardous areas, critical aquifer recharge areas. 90% of the city has some sort of
141 critical area on top of it. So detailed and certified knowledge of how landscaping interacts with floodplains, water ways,
142 drainage and geological conditions is crucial in ensuring that adequate landscaping doesn't add to drainage, erosion or
143 other environmental hazards that are present in the city. While a non-certified landscape designer can, hypothetically,
144 design and implement a great landscape design, they do not have the distinct training and level of expertise as a
145 certified landscape architect would have. Someone certified in Washington as a landscape architect should have the
146 knowledge, expertise, and training to design for floodplains and drainage that matches our environmental conditions.

147 Allen Unzelman asks if the requirement for a licensed landscape architect is something that the city staff requires as a
148 condition of approval of the project, or is it directly required by the code?

149 Amelia Schwartz answers that it is not directly required by the code. It comes from the SEPA threshold decision.

150 Allen Unzelman states that the requirements of 17.52.070 are required by the code. So, the city is asking for a licensed
151 landscape architect be a plan that be retained that meets those requirements in this instance.

152 Amelia Schwartz believes Mr. Fuller in his report did have the code number. The RCW's do have some language on what
153 qualifies as a licensed landscape architect in Washington state that the city does recognize in this process.

154 Allen Unzelman asks if that encompasses stormwater. Is that dealt with in the SEPA?

155 Amelia Schwartz answers the hearing examiner that yes, that is part of the drainage. That is part of one of the big
156 considerations with asking for a licensed landscape architect. Some of the comments the city received during the SEPA
157 process were some concerns from neighbors about pooling and drainage that happens both on the property and right
158 below the property at a lower elevation in the Safeway parking lot. A licensed landscape architect should have the
159 expertise, and certifications to design something to mitigate that stormwater runoff.

160 Allen Unzelman asks Amelia Schwartz if an Engineer would have those abilities.

161 Amelia Schwartz replies that the city does not believe so. They could, however the city has much more assurance when
162 a licensed landscape architect who is certified in the state, specifically to do that. That would be RCW 18.96. It comes
163 from the SEPA process. It was listed as a SEPA condition specifically to mitigate the environmental impacts with
164 someone who is certified and trained specifically in working with them. 5. A preliminary boundary line adjustment must
165 be approved prior to issuance of building permits. As this is part of the land use stage, plat adjustments like boundary
166 line adjustments and short plats are a land use process. The city has listed this in the land use stage so that the
167 applicant knows that is coming and will need to happen before issuance of building permits before final occupancy. 6.
168 Curb, gutter, and sidewalk, as well as half-street improvements will be required along Washington Avenue frontage. 7.
169 City Council must approve the rezone proposed by the city of Chehalis Building and Planning Department, changing the
170 site zoning from R1 to MRC, permitting this project to develop multiple-unit dwellings. If does not get approved, it
171 makes this a little bit more complicated. Not all parts of the project could be approved. For all of this to get approved,
172 we need that rezone.

173 Allen Unzelman wishes to clarification on to the extent of what the hearing examiner has authority to do. Is to issue
174 findings of fact and conclusions of law based on the applications. He can not get into making a ruling when issuing
175 findings of fact and conclusions of law that assume future changes in the code. The only thing he can do is look at the
176 application, look at the city's recommendations, hear the testimony, and issue determinations based on findings of fact
177 and conclusions of law. What happens after that, with respect to the city does, can affect what can be done with those
178 findings of fact and conclusions of law. The hearing examiners rulings has to be made based on what the facts are and
179 what the status is now. I don't think that necessarily prohibits anything going forward. The hearing examiner is not
180 making a ruling trying to view it under two lenses. I am not making my ruling that views the circumstances as they are
181 under the current code and then trying to predict hypothetically what the city Council might do. I do not engage in
182 speculation. All I can do is issue a ruling based on the way things are now. That ruling will probably be affected one way
183 or the other based on what happens in the future. Did the SEPA mitigated determination of non-significance require the
184 landscape architect?

185 Amelia Schwartz answers the hearing examiner. Yes, it is the last condition listed in the mitigated determination of non-
186 significance which was issued by the city of February 15, 2022.

187 Allen Unzelman asks because he is unsure that he has the authority to waive a requirement, a condition of the SEPA.

188 Amelia Schwartz thinks that would have to go through an appeal process. That appeal process has already passed.

189 Allen Unzelman speaks to the extent of the condition is listed, as a condition of the city's approval, to the extent of what
190 is listed in the SEPA, it is sort of in opposite, if it is still in the SEPA it is still going to be a requirement.

191 Aaron Fuller is called to the stand. He introduces himself as the owner of Fuller Designs and Project Engineer working on
192 behalf of the applicant. He has his response to the staff report as exhibit 2. It took a long time to get this process done

193 from a number of different processes. From the zoning process and the vacate and the land use process and we still
194 have the civil process to go through. Maybe way out, even the building process. That tends to be more abbreviated.
195 We are 303 days into this one. WAC 365.196.845 really talks about permitting processes and being able to look out and
196 count your cost for a project before you really start it. It is supposed to be about a 120-day process. There are a few
197 exceptions with projects that take a lot longer. He wants to get back to that. One of the things, I am sure you have
198 probably never been requested on something like this, is that the staff report has conditions and then the applicant is
199 asking for another condition. We would really like to see this project once a decision is made one way or another, that
200 we complete this process in a timely manner. After this hearing we will have to then go back in and finalize the plans for
201 construction. Then typically there is a small review that has to happen at the city level for civil approval and stormwater
202 approval. Id like to see that we start following our municipally mandated timelines. I don't know if you can talk about
203 that or have the authority on that but maybe you could start to set precedent that if the city can't do it or they don't
204 have the staff, I have had hearings examiners in the past take at least portions of the construction approval of the
205 project and bring it back in to their hands for subsequent approval. If we can't do it in a timely manner, maybe you can
206 do it. In the response to the city staff report, we agree with most of it. In the narrative he tried to say where we agree
207 and where we disagree. The landscape architect thing. 220 is exactly true. I probably know more as an engineer about
208 stormwater than any licensed landscape architect in the world. I know many licensed landscape architects that know
209 absolutely nothing about stormwater. I am a civil engineer. That is primarily what I do, stormwater mitigation, both
210 treatment, flow control, you name it, that is what I do. When it comes to landscape architect, it is an artistic form. The
211 sections in the code that they describe are about 5 or 6 sections long. It talks more about site distance and not putting
212 trees in areas where you can't see the road. It talks about backflow prevention to make sure that any irrigation or
213 chemicals that we put in the irrigation system wouldn't backflow into the water system. It talks very minimally about
214 the actual landscape. The Chehalis city code basically says you need to cover your site. You can't leave bare dirt and
215 you need to provide 20% of that cover with shrubbery. It doesn't really say too much more about that. He thinks that
216 when it comes to meeting the Chehalis code, most lay persons can. That's why section 220 in the RCW exists, RCW
217 18.96 talks about who can do landscape plans. It talks about who can't do landscape plans. It talks about irrigation
218 plans and who can and can't do those as well. On residential projects, it specifically says anyone can do it.

219 Allen Unzelman asks A. Fuller how to get around the requirement even if I rule for you. You're still stuck with it as a
220 condition from the SEPA aren't you?

221 Aaron Fuller gets that. We are looking for here is precedents. If we have to do something on this project because we
222 did not appeal the SEPA decision it is what it is. My intent is to follow both city and state code on this. He thinks state
223 code is extremely clear. If you wanted to, we could look into the language in the SEPA itself. It says that a landscape
224 architect in accordance with section 18.96 of the RCW. He thinks he could use that as its own fodder towards removing
225 that requirement because section 220 is listed in 18.96. Someone that does not meet a licensed landscape architect
226 status is in line with 18.96 per section 220. It is 18.96.220 specifically subsections 8 and 9. We are really interested in
227 decoupling this project from a future process.

228 Allen Unzelman asks Aaron Fuller what he means by that.

229 Aaron Fuller speaks to a future rezone process. This rezone process has been going on for a very long time. It is coupled
230 with other things, like growth management, and things that could potentially delay this. He thinks that a ruling here that
231 you are not necessarily looking at it through 2 lenses, but if it was an appropriate zoning, then it could be approved.
232 Then it could subsequently be put on a docket list for the next city Council meeting to ask if this could be a variance to
233 allow this development in the current zoning. I just want to decouple it. When is the zoning amendment going to
234 happen? That is kind of immeasurable right now.

235 Allen Unzelman agrees with Mr. Fuller from a standpoint of, it is difficult to, impossible for the hearing examiner to
236 assume changes to the zoning code. He has to look at it as what it is right now. He can not make his determination
237 based on what might be. He has to make his ruling purely based on what is in place right now.

238 Aaron Fuller expects that based on the letter of the law we are actually exceeding the zoning density. There are two
239 things. We are proposing 22 dwelling units spread over 3 acres. 22 divided by 3 is 7.3. For R1 zoning, 6 dwelling units is
240 the maximum. We have a gross density of 7.3. Talking about net density where we are removing undevelopable areas
241 like the storm pond and the roads, the density is actually going to increase. It will be well within R3 or MRC zoning right
242 there. In R3 it is 6 to 18. We would be right around 14. He doesn't know if this were a different zoning that would allow
243 the multi-family and the higher density it would be approved, however at the current zoning it would be denied. He
244 thinks that would be an appropriate recommendation. Then perhaps we could take that to a city Council meeting to get
245 special approval on that.

246 Allen Unzelman has never encountered that. He thinks that he needs to consider that a little further.

247 Aaron Fuller states that this is happening through out the city. A lot of different projects, we are waiting on a rezone.
248 We are doing some work on the historic schools downtown, changing that from a school to residences. Those things are
249 in the works but are tied up.

250 Allen Unzelman thinks that however he rules, that ruling would be impacted if a zoning change occurred. He has not
251 decided to what extent he can proactively issue a decision based on that.

252 Aaron Fuller moves to speak of the fences, walls and hedges. It does not matter in their opinion if it is 42 or 48 or 72
253 inches, we will do whatever we think is prudent. If the city wants 6-foot fences, he thinks that is a pretty standard size.
254 One additional item in the February 23rd DRC voted on recommendations but was not listed in the italicized final
255 conditions recommended. He believes Mrs. Schwartz intends to talk about that in the civil section of the approval. Item
256 6 conditions, a travel width inside the complex must be 26 feet, access to the site must be 26 foot wide. We disagree
257 with that statement. The recommendation is not based on a municipal code that we can find. It says all internal roads
258 in the development including the access are private roads. Road sections are described in table 1 under CMC
259 12.04.280B private roads are required to be 20 feet wide not 26 feet wide. We have currently designed the project to
260 meet Chehalis Municipal Code. This request was initially voted on in DRC meeting but was later removed and the actual

261 recommendations were forwarded as shown in italics. It seemed like it wasn't based on Municipal Code. I was
262 speculating as to that is why it was removed. However, it is very clear that 20ft wide road does meet the requirements.
263 I've done many 20-foot travel width roads throughout the entire last 20 years in Chehalis. I am not sure why on this one
264 we are being requested that we go to a more public road standard. I think that would be more consistent with the
265 widening we are going to be doing on Washington Street but not the internal roads themselves. That was about it.
266 Pretty much everything else we are agreeing to.

267 Amelia Schwartz adds a clarification. The city is not asking for the 26-foot road there. That is not part of our
268 recommendations. Please note on the fences, that 42 and 48-inch height is for fences within a street setback area.
269 Fences that are not located within any street setback area are allowed up to 7 feet high.

270 Aaron Fuller thinks that is true. He thinks the fences that we are talking about would go on the property line. It will
271 definitely be in the street setback area.

272 Allen Unzelman speaks to the roads. Amelia indicates that they are not going to require that.

273 Aaron Fuller feels that is great. It was written in the staff report under the items that were voted on, but they weren't in
274 the italicized. I was agreeing that I think that she is not requiring it. I just have a feeling that down the road I might get
275 that so we should probably set precedent with it that we are going to meet municipal code there.

276 Allen Unzelman speaks to item 3. You indicate we are confused with staff recommendations.

277 Aaron Fuller replies that it was the discussion on fencing. There was a condition earlier in the report that said that we
278 would meet municipal code with 42-inch fence, then it was asked for 6-foot fence, so we were confused on what they
279 wanted.

280 Amelia Schwartz adds clarification on that. The fence is not mapped yet on the site plan. That is where that comes in.
281 we are not sure where it is going to go.

282 Allen Unzelman would like to review. He wants to go through the elements of site plan review and the elements of
283 conditional use permits. As he sees it, with respect to conditional use permits, under 17.09.185, there are 7 specific
284 factors that this turns on. The first is that the use is listed as a conditional use in the master use table in Chapter 17.78
285 CMC. It appears that both parties agree that it is a conditional use. Is that correct?

286 Aaron Fuller agrees.

287 Amelia Schwartz asks which part is a conditional use.

288 Allen Unzelman responds to Amelia. The proposed use.

289 Amelia Schwartz answers, the entire proposal, yes.

290 Allen Unzelman speaks to number 2. The proposed use is suitable for the proposed site considering size, shape,
291 location, topography, and existence of improvements in natural features. It appears that both parties agree that is true.

292 Aaron Fuller and Amelia Schwartz agree.

293 Allen Unzelman speaks to number 3. Is timely considering the adequacy of transportation systems, public facilities and
294 services existing, or planned for the area affected by the use. Do both parties agree?

295 Aaron Fuller and Amelia Schwartz agree.

296 Allen Unzelman speaks to number 4. The location, size, and functional characteristics of the proposal are such that it
297 can be made reasonably compatible with and have minimal impact on the livability and development opportunities in
298 the neighboring area. From the information that is presented, I presume that is agreed upon.

299 Amelia Schwartz agrees with mitigations.

300 Aaron Fuller agrees. He thinks there is less of an impact than it will improve.

301 Allen Unzelman speaks to number 5. Is consistent with the applicable goals and policies of Chehalis Comprehensive Plan
302 and the purpose of the underlying zone. Asks if Aaron and Amelia agree.

303 Aaron Fuller and Amelia Schwartz agree.

304 Allen Unzelman speaks to number 6. Applies with all applicable site plan review requirements. He presumes it is agreed
305 with conditions.

306 Aaron Fuller and Amelia Schwartz agree.

307 Allen Unzelman speaks to number 7. Does not have significant environmental consequences when compared with other
308 permitted uses in the underlying zone which can not be mitigated through conditions of approval. Presumes that is a
309 yes.

310 Amelia Schwartz and Aaron Fuller agree.

311 Allen Unzelman moves to the site plan review provisions. Under 17.09.130 that states the city may approve if all of the
312 following findings of fact can be made in an affirmative manner. 1. The project is consistent with the City of Chehalis
313 Comprehensive Plan and meets the requirements and intent of the Chehalis Municipal Code including the type of land
314 use and the intensity, density of the proposed development. I presume that is yes from both.

315 Amelia Schwartz answers not quite due to that zone issue because currently multi-family is prohibited in the existing
316 zone. So, the city cannot recommend multi-family.

317 Allen Unzelman states that under R1 the project is not consistent.

318 Amelia Schwartz agrees. Due to the multi-family.

319 Allen Unzelman states that is where the multi-family would come in. Is it a conditional use?

320 Amelia Schwartz responds that no, it is prohibited.

321 Allen Unzelman asks for Mr. Fuller's opinion.

322 Aaron Fuller agrees with that. In the current R1 zoning, yes multi-family dwelling units are prohibited. Also, it has a
323 density of somewhere between 1 and 6. One is the minimum dwelling unit per acre and six is the max dwelling units per
324 acre. We are at 7.33.

325 Allen Unzelman moves to number 2. The physical location, size and placement of the development on the site and
326 location of the proposed uses within the project minimize impacts to any critical resource or floodplain area to the
327 greatest extent possible where are compatible with the character and intended development pattern of the surrounding
328 properties.

329 Amelia Schwartz agrees with mitigations. Aaron Fuller agrees.

330 Allen Unzelman speaks to number 3. The project makes adequate provisions to water supply, storm drainage, sanitary
331 sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be
332 detrimental to public health and safety.

333 Amelia Schwartz and Aaron Fuller agree.

334 Allen Unzelman speaks to number 4. Public access and circulation including non-motorized access is appropriate and are
335 adequate to and on the site.

336 Amelia Schwartz and Aaron Fuller agree.

337 Allen Unzelman speaks to number 5. Adequate setbacks and buffering have been provided. Any reduction to setbacks
338 or buffer widths is the minimum necessary to allow for reasonable economic public use of the lot and the lot does not
339 adversely impact the functional value of the critical resources area or adjoining land uses.

340 Amelia Schwartz and Aaron Fuller agree.

341 Allen Unzelman speaks to number 6. The physical location, size, and placement of proposed structures on the stie and
342 the location of proposed uses within the project are compatible with and relate harmoniously to the surrounding area.

343 Amelia Schwartz and Aaron Fuller agree.

344 Allen Unzelman moves to number 7. The project adequately mitigates impacts identified through the SEPA review
345 process, if required.

346 Amelia Schwartz answers with the submitted plans and conditions met. Agrees.

347 Aaron Fuller agrees.

348 Allen Unzelman speaks to number 8. The project would not be detrimental to the public interest, health, safety, or
349 general welfare.

350 Amelia Schwartz and Aaron Fuller agree.

351 Allen Unzelman asks if there is anything further from the city or the applicant.

352 Amelia Schwartz and Aaron Fuller do not believe so at this time.

353 Allen Unzelman turns the meeting over to hear from the public, if anyone has any specific comments or issues they want
354 to raise. Please come forward.

355 Jerald Durr approaches the stand and is sworn in. He would like to speak about the traffic situation in the area between
356 11th street and 16th street and Washington Avenue. He lives at 1411 SE Washington Avenue up a very steep hill above
357 Safeway. 12th street is very short between Washington Avenue and Market Street. When he comes down the hill
358 toward 12th he has to go past the professional building where there are many vehicles parked on Washington Avenue. It
359 is very difficult to see around those vehicles to see if any traffic is coming up from 12th Street onto Washington Avenue.
360 When he goes up the hill, turn on to 12th street from Market Street he has to look very carefully to see if any traffic is
361 coming down Washington Avenue. It is a steep street. It has gravel on it. Anyone coming down that street would have
362 a very hard time stopping if they didn't see anyone coming up the hill. That is a difficulty. He is a resident there. He has
363 learned to be very careful. When he tries to turn onto Market Street, the 13th Street stop light is only 30 feet to the left
364 of the exit from 12th. It is difficult to see around the corner. Market street is 30 miles an hour on the south side. As
365 those cars come around the corner and he tries to turn right, sometimes they honk at him because he wasn't able to see
366 them coming. 13th Street stoplight is about 30 feet away. If cars are stopped on Market Street going south, stopped at
367 the stop light, he can not turn left. He has to turn right. If there are 22 new units in the apartment building, there will
368 probably be about 22 more cars who drivers need to use 12th Street or 11th Street to get out. It is a dangerous street.

369 Allen Unzelman asks for clarification. Do you mean it is a dangerous street or is it the combination of the streets and the
370 intersection? Is there one street you are more concerned of or is it just the intersection and vitality of the roads in that
371 area as a whole given this proposed development?

372 Jerald Durr responds to the hearing examiner. 12th Street is so narrow that two cars can not pass each other when there
373 are vehicles parked at the professional building. One vehicle would have to stop in the driveway of the professional
374 building to let the other vehicle get by. The same on Washington Avenue going toward 12th street. He sometimes has to
375 move his car into the parking lot of the brick building there in order to let another vehicle get by. If a vehicle is coming
376 out of the professional building at the top of the hill, it is very dangerous. They can't see around the corner. He is trying
377 to accelerate up the hill because it is a steep hill, and when he sees a vehicle coming out of that parking lot he has to put
378 on the breaks and stop. He hopes they will stop also. Traffic is bad. Since Safeway was built there has been a lot more
379 traffic going up Washington Avenue because it is very difficult to turn left from the Safeway parking lot onto Market
380 Street. The drivers choose to come onto Washington Avenue and up over the hill to get to 16th Street where it is much

381 easier to turn onto Market Street. That makes more traffic. Washington Avenue is very narrow. His driveway is very
382 steep. It is difficult for him to get onto Washington Avenue if there is any traffic. It would be nice if Washington Avenue
383 could be widened. If not, he thinks that the extra traffic from the multi-family dwelling units would make traffic far
384 worse and far more dangerous.

385 Allen Unzelman has heard what Mr. Durr's concerns are relative to traffic. He asks Mr. Durr what he thinks could be
386 done in his view. Is there anything additional mitigation wise that could be done to condition the project to mitigate the
387 concerns Mr. Durr has?

388 Jerald Durr answers yes. The professional building has some landscaping between the inner parking lot and the street
389 parking. If they could move their parking into that landscaping area a little bit more, it would make the street wider.

390 Allen Unzelman asks Jerald Durr if there is anything that could be done with the development of this project?

391 Jerald Durr answers yes, make the traffic better. If they could only use the 11th street to get out. He thinks that 12th
392 street is a dangerous street because of the traffic, because of the parking lot for the professional building, the
393 narrowness of the street, and the Market Street traffic.

394 Allen Unzelman asks for clarification. When he says 11th street to get out, does he mean to get to Market?

395 Jerald Durr replies yes to the hearing examiner. He steps down from the stand.

396 Mike Dwyer approaches the stand and is sworn in. He has property at 1135 SE Adams directly adjacent north. He was
397 given an exhibit by the city staff. It is exhibit C6.1.

398 Allen Unzelman asks Mr. Dwyer if that is one of the plat maps.

399 Mike Dwyer says it is one of them. It has a scale on it. He has two issues that he wants to address. Mr. Durr brought up
400 something and answered to your question, what of this development proposed, can be changed or modified to reduce
401 traffic issues on Washington. He sees that is the only possibility. If Washington was widened directly west of this
402 project it would reduce traffic issues. He understands there is very little that can be done about traffic management
403 further away. Here to answer your question, a possibility of widening Washington, he sees that there is a pond on the
404 exhibit C6.1. The pond could be valuable but if Washington was widened into that area, then we would have truly
405 reduced impacts to traffic. He wanted to address that as one issue. His property is directly adjacent north at 1135 SE
406 Adams. There is a property 1136 SE Washington directly north. His property is directly behind that. The property 1136
407 SE Washington is a 3,000 square foot brick home. Directly behind it is a shop property that is his property. We are
408 directly impacted by this proposal. He shares a little bit about his background as he feels it might be helpful. He was the
409 real estate manager for the city of Tacoma. He was on the city of Tacoma Planning Commission. He has seen a lot of
410 these issues wrestled out in a practical way. He understands the developer is asking for a change from R1 to Mixed
411 Residential Commercial that provides a lot of opportunities that they don't have now. We are asking the hearings
412 examiner to consider as part of this approval some careful conditions. As an example, on exhibit C6.1 we see a

413 proposed trash area against the lot at 1136 SE Washington and the lot of 1135 SE Adams. Two trash areas are both
414 directly down wind from the prevailing wind in this area out of the southwest or northeast. During a hot summer day
415 when the garbage hasn't been picked up in a week, you can get some very ripe smells downwind from those trash areas.
416 We ask that those trash areas be relocated any place on their development. Garbage trucks would have to go into the
417 development, go north, and around that loop in order to pick up their trash. It seems like there could be a condition
418 asking that those trash dumpsters be moved anywhere else. Another important issue to him is setbacks. Gives personal
419 background on a home he had in Bellingham directly adjacent to a television station. The city of Bellingham required
420 that the commercial development between his single-family residential property and the commercial property develop a
421 15-foot permanent green belt buffer. Nothing was to be built on it. That is a common experience. His job as a real
422 estate manager of the city of Tacoma, that was also common when you have R1 residential directly adjacent to
423 commercial. He is asking for some consideration of a minimum 15-foot buffer. The exhibit C6.1 in the lower corner says
424 scale 1-30. He asks how far is it from his property line to the first building? The developer says 15 feet. This shows
425 closer to 10 feet. He is asking for a 15-foot buffer between any buildings. There is a survey stake that the developer put
426 in the front yard of 1136 SE Washington on the south side. There is another survey stake at 1135 SE Adams. If these
427 buildings are set back 15 feet, that would be an important consideration for him. He asks that the hearing examiner
428 keep in mind that these are multi-story buildings. Without that 15-foot buffer, if there is a 5 foot or 10-foot setback for
429 structures on his properties, if those multi-story buildings are any closer than 15 feet, those people are looking directly
430 down into our bedrooms. We are asking the hearings examiner to consider a 15- foot buffer. We understand that city
431 staff has had a discussion with Mr. Fuller in regard to this. He thinks Mr. Fuller said that the 15-foot buffer or setback is
432 the minimum of any of the buildings in the development. Even though this scale is to something over 10 feet, they
433 made that comment. He understands city staff sent an email to the hearing examiner regarding this topic. Number 1
434 we are asking for a fifteen-foot buffer created by the developer that can't be built on. Number 2, we are asking that the
435 trash units be any other place on the development. He understands that it may not be to the hearing examiners
436 capacity. The impacts to the residents directly to the north are extensive. Number 3,

437 Allen Unzelman interrupts. The concern expressed relative to the trash unit, it is almost as though what you are tangibly
438 asking for is a setback, might be a setback with respect to trash facilities as well.

439 Mike Dwyer responds that is true. The trash facilities are closer than even 10 feet. They look to be about 5 feet back on
440 this exhibit C6.1

441 Allen Unzelman asks Mike Dwyer if 15 feet would be a sufficient setback for that.

442 Mike Dwyer answers the hearing examiner that if the trash dumpsters were moved to a different part of the site,
443 because being downwind on a hot summer day, 15 feet isn't enough. We are not asking that structures be relocated
444 more than 15 feet. We are just referring to those trash dumpsters.

445 Allen Unzelman states that the trash dumpsters appear on the map Mr. Dwyer has referenced. Asks him if he would
446 want the trash moved to a different side of the property.

447 Mike Dwyer answers exactly. Not on the north side. If it was on the north side, it would have impacts on us, if it was on
448 the southside of the development, not so much. Mr. Durr asked that something be done within the scope of this project
449 on the east side of Washington to create a wider street there. Mike Dwyer states the traffic is brutal. Safeway does not
450 have enough parking. He previously lived at 1136 SE Washington. Because the parking was so bad at Safeway, a
451 Safeway customer pulled into his driveway. He pulled in right about the same time. He tried to get into his garage. The
452 customer said I'll be back in a while. He just wanted to get into his garage. The customer said I'll be right back. He told
453 the customer the tow truck will be here before you get back. The traffic is that bad on Washington. Within the scope of
454 this development, if there could be some proposed improvements. Between Washington and the development there is
455 a rectangular area called pond. If somehow that pond wasn't there, which translates to property owners a mosquito
456 breeder. With the prevailing winds blowing towards our property, we would have a lot more opportunity for mosquitos.
457 Right now, it is not an issue. We are asking for consideration from the city, from the hearing examiner, and from the
458 developer, to make this development more friendly between an R1 zone and property that is currently R1 that they are
459 asking for an up zone to Mixed Residential Commercial, put a tiny bit more burden on them to make it as impact free as
460 possible for the R1 properties directly adjacent.

461 Allen Unzelman has heard three primary concerns. The last one was raised with respect to the pond and mostly with
462 respect to the mosquitos. He has heard Mr. Dwyer discuss residential setback requirements and the specific request
463 that the buildings have 15 feet set back from the boundary lines. Also, a specific request with respect to the garbage,
464 that it not be preferably within proximity of a residential area, specifically concerned about the northern boundary. He
465 does not know to what extent he will or can deal with any of those. He has the luxury of a city staff report and a
466 response from applicant. He does not have that from members of the public. He wants to make sure he has adequately
467 captured what Mr. Dwyer said.

468 Mike Dwyer thanks the hearing examiner. He would appreciate it if some of these items can be incorporated.

469 Allen Unzelman promises to give them consideration.

470 Mike Dwyer speaks to another thought regarding a binding site plan. In his experience, sometimes these discussions
471 and agreements become not part of a binding site plan, but as part of discussions that everybody agrees to. We would
472 ask that all the requirements be part of a binding site plan so that if there is going to be a modification there be another
473 public hearing. As opposed to negotiating to this or that in order to get the best agreement possible.

474 Allen Unzelman asks Mr. Dwyer to bring forward the exhibit C6.1. He believes this is in the staff report.

475 Amelia Schwartz states that it is in exhibit C. She spoke with Samantha San Souci with Fuller Designs. The setbacks Mr.
476 Fuller got from her verbally are different than the setbacks she was given yesterday by Mrs. San Souci which are what
477 Amelia had asked to add to the record earlier today. It has 18 feet 9 inch and 19 feet 1 & ¾ inch setbacks from the
478 buildings at the smallest.

479 Allen Unzelman hands Mr. Dwyer what has been marked as exhibit 3.

480 Mike Dwyer adds that if in the binding site plan there is some specification about this setback or a minimum of 15 feet,
481 that would be appreciated.

482 Cynthia Bayard approaches the stand. She is sworn in. She is the property owner of 1136 Washington right in front of
483 Mike Dwyer. She bought it from him last year. She agrees with everything Mr. Dwyer has said. She would like the trash
484 moved away from their side of the property and the setback being at least 15 feet. Her husband and herself agree with
485 regards to moving the trash cans. They did not get to see what the plans were until coming to this meeting. She wants
486 to agree with that.

487 Allen Unzelman clarifies that Cynthia Bayard is referencing the northern boundary.

488 Cynthia Bayard agrees and steps down from the stand.

489 Scott Amrine approaches the stand and is sworn in. He shares a lot of concerns. He knows traffic has been talked
490 about. He received this notice because he owns 200 SE Prospect. He has not seen current plans that have been shown
491 here. His concern would be any kind of mitigation that may move traffic to and extension of Adams or something going
492 out toward Prospect. That is going to be a lot of new traffic coming into a relatively small area. He does not offer a
493 solution other than a light at 11th and Market to alleviate a lot of problems for him to get down the hill. He then steps
494 down from the stand.

495 Jean Durr approaches the stand and is sworn in. Her son spoke earlier. She wants to reiterate the traffic problem. She
496 sits at the corner of Washington and 11th three times a day to meet a school bus. 11th and Washington are very busy.
497 Her son mentioned traffic going out to 11th. That is a very, very busy street. People are going up and down that hill,
498 coming out of Safeway and turning left on 11th to go down to Market. 12th street is very narrow, and two cars can not
499 pass each other. Parking is on one side and there is a bank down to Safeway's parking lot on the other side. If
500 somebody gets too close to the bank, they are going to just fall into the parking lot. She hopes that street can be
501 improved somehow. With all of these new people needing some place to go, the streets as they are now, are not
502 adequate. She steps down from the stand.

503 Allen Unzelman is a resident of the area and goes to Safeway. He understands. He has first-hand experience of the
504 traffic in the area. He asks that Mr. Fuller approach the stand. He will turn the meeting back over to the city and Mr.
505 Fuller to talk about some of the concerns that have been raised. With respects to the setbacks, he thinks that the new
506 map as exhibit 3 addresses a lot of the concerns that have been raised.

507 Aaron Fuller agrees. The multi-family portion of this site, minimum setback is about 18 feet from the property line. 18
508 to 19 feet on the side closes to 11th street.

509 Allen Unzelman asks Mr. Fuller about the garbage.

510 Aaron Fuller states the garbage meets current municipal code. There isn't a lot that talks about that. He did consider
511 the placement of that based on the circulation of a garbage truck. The grade is not clear on a site like this. We have a

512 good size grade. He does not want a garbage truck stopping in the middle of a hill in order to pick up a dumpster. Once
513 they come on to the development, they are going to have to circulate throughout the entire development in order to get
514 back out. It does not matter what side of the development he places the dumpster on. The garbage trucks are going to
515 circulate through the development. He wants to make sure the trucks are not stopping in the middle of a hill. We have
516 on the access line and the north boundary line a little section of road that to be an alley. Those are the two steepest
517 portions of the site. We used daylight basement homes on both sides for the multi-family in order take up some grade
518 there. We also try to keep the parking areas flat just for a drainage issue. They try to put those garbage containers
519 where a garbage man doesn't have to break his back to pull a guy up the hill. He will look at it and defer to the owner
520 and their wishes. Will comply with municipal code. It will be a dumpster with 3 masonry or solid sides of an enclosure
521 as well as an opaque fence in the front. If there are some small things they can do to help, they would like to. Wants to
522 work with the community but will defer to the owner. He thinks the intent of the middle section is to be a play area.
523 Still yet to be determined. It is sloped. They want it to remain a gathering area in the center of the development where
524 people can see their children playing. He doesn't want to put a dumpster in the middle of that. Will definitely look at
525 things. He is not prepared at this point to promise anything.

526 Amelia Schwartz is in agreement with Mr. Fuller. She believes most garbage trucks have to pick up from the right side.

527 Aaron Fuller clarifies that this will be a dumpster so it would be picked up from the back.

528 Amelia Schwartz agrees that it may be a great difficulty with the slope and design with the small amount of road space
529 to have many other options. She appreciates that Mr. Fuller is willing to look into other options for it.

530 Allen Unzelman asks Mr. Fuller if there is additional fencing or barrier that can go between. He understands the truck
531 situation. If the trash is located so proximate to the line that it could create a smell or other types of emission that
532 becomes a nuisance, is there mitigation in terms of plants etc?

533 Mr. Fuller responds to the hearing examiner that there might be something where a landscape architect comes in. He
534 has a lot of experience in it. Something like a Juniper tree, something that has a type of smell, that could perhaps absorb
535 the smell might be something they could do between the back of the dumpsters. Possibly a mitigating fence. The
536 applicant and owner are in the room. He does not want to agree to anything without her input. Offers to bring her to
537 the stand.

538 Allen Unzelman asks Mr. Fuller what the setback would be for the dumpster facility.

539 Aaron Fuller replies that they have building setbacks but there isn't really a setback from dumpsters. They currently
540 have it 10 feet away from the property the back of the dumpster. In exhibit 3 there is a 5-foot dashed line. It is roughly
541 double that. To the building it was measured to almost 19 feet. The back of the dumpster would be about 10 feet.
542 There is some room in there for some trees that could perhaps do something like that.

543 Amelia Schwartz wonders if a small enclosure around the area, maybe 6 feet or more, could be a wind break. A Cedar
544 fence wind break could be a possibility.

545 Aaron Fuller agrees that they would be outside of the building setback. They can go up that 72-inches. Will want to
546 make sure and coordinate with the owner before. He thinks that something small like that could be done to work with
547 everybody.

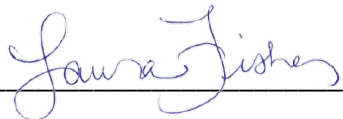
548 Allen Unzelman speaks to the traffic being sort of outside of the scope.

549 Aaron Fuller shares that a traffic study was done. He believes it is one of the exhibits. Heath and Associates prepared it.
550 They looked at the intersections at 11th and Washington, 12th and Washington, and 12th and Market. All three
551 intersections were fully evaluated. A video study was done, counting vehicles coming through there. They got an
552 objective opinion about traffic in the area. We looked at multiple days such as off days like a Sunday and also during the
553 week and a pretty typical day. The mitigation came back that we are going to widen Washington Street. Half street
554 improvements and curb, gutter, sidewalk. They would be done to a local access public standard which is the 26-foot
555 wide paving and another half of a foot for curb, and a 5 foot sidewalk. That would be in the right of way. It would be in
556 front of that pond. He would love to not have that pond, but unfortunately that is based on stormwater runoff. That is
557 the size of the pond that we need which is located completely on site. He would love to move it as much as everybody
558 else, but he has to comply with the Department of Ecology. The traffic study did recommend that stop signs be placed
559 at the intersection of 12th and Washington. We will be placing those as part of the mitigation on the project.

560 Amelia Schwartz asks for clarification. Will that come during the civil permitting stage later on?

561 Aaron Fuller answers Amelia yes. Regarding the gentleman who talked about pushing traffic towards Adams, we
562 vacated Adams. Adams actually came on to our property at one point. That was part of the vacation process. There
563 was a small alley. It was Adams and a portion of 12th that were vacated all on our property right now. They've not been
564 completely vacated yet. We still have to do the BLA and pay for the property transfer. The vacate was approved by the
565 City Council. They will not be pushing any traffic towards Adams at all. The two single family residences would come
566 out of Aust Manor. 20 dwelling units will come out on the intersection of 12th and Washington.

567 Allen Unzelman has 10 business days to issue his ruling. There are some considerations that need to be thought through
568 carefully. There is always the possibility they could have additional questions that need to be answered. He doubts
569 there will be another public hearing. If there are additional questions that he needs to submit to the parties he will and
570 solicit answers from both parties and submit those in writing. If so, he will reference those in his ruling and provide
571 information on where those can be provided. Meeting is adjourned at 5:39pm.

572
573 Recorded by:  _____

574 Laura Fisher, Permit Technician