

1 **Hearing Examiner Meeting**

2 **Minutes for October 15,2021**

3 **UGA-AC-20-005**

4 **Jackson Villa IV**

5 Staff Present: Tammy Baraconi, Trent Lougheed, Amelia Schwartz, Erin Hillier

6 Examiner: Jim Buzzard. Applicants present: Aaron Fuller, Dan Hawes

7 Examiner Jim Buzzard begins meeting at 5:15pm introducing himself as city of Centralia hearing examiner  
8 but for the purposes of this hearing, city of Chehalis hearing examiner Pro Tem due to various other  
9 conflicts. The applicant is Lakewood Investors for a site plan and conditional use permit. The property is  
10 located on the 2400 block of Jackson Highway for various multi-family dwellings. Aware this might be a  
11 point of contention in this hearing. To begin with, J. Buzzard received from the applicant some  
12 information in response to the staff report. One item brought up by developer was 17.09.130 subsection  
13 C item 7, apparently a number of items that needed to be done, and developer was working diligently to  
14 address these items in a short amount of time.

15 J. Buzzard asked the applicant if they want a continuant of today's hearing to adequately have time to  
16 address those matters. J. Buzzard calls the applicant forward to the stand addressing the fact that the  
17 developer mentioned that perhaps there wasn't enough time to adequately address all matters. J.  
18 Buzzard makes sure that applicant is afforded enough time to do that.

19 Aaron Fuller approached the stand to answer J. Buzzard's question announcing himself as the project  
20 engineer. Answers no, the developer does not need a continuance. Have worked diligently over the last  
21 few days and got it done. A. Fuller steps down from the stand.

22 J. Buzzard announces for the record how the meeting will go. First the city will present the staff report.  
23 Then the applicant will come forward to make any responses or comments. Then the hearing examiner  
24 will turn to the audience for anyone attending who is first in support of the application will have a chance  
25 to speak. Anyone in opposition to the application will then have a chance to speak as well. The examiner  
26 will return the meeting to the city for any last comments and will follow up with the applicant for last  
27 comments. Informs audience anyone coming up to the stand is giving testimony, and by doing so you do  
28 certify or declare under penalty of perjury, the laws in the state of Washington that your testimony is true  
29 and correct.

30 J. Buzzard turns the meeting over to Tammy Baraconi.

31 Tammy Baraconi with the city of Chehalis asked that the staff report, and attachments be entered into  
32 the record.

33 J. Buzzard confirmed the staff report will be entered into the record.

34 T. Baraconi passed out two other documents that were missing from the staff report. One is a chart. An  
35 attachment to the letters from Lewis County, the other the affidavit of the public hearing published in the  
36 paper. Wishes to make them part of the record as well.

37 J. Buzzard confirms receipt of the affidavit of publication for today's hearing and the daily traffic count.

38 T. Baraconi states those letters should be exhibit H in the staff report.

39 J. Buzzard admits them into the record.

40 T. Baraconi describes location of project at the 2400 block of Jackson Highway. The corner of Kennicott  
41 and Jackson Highway with Hosannah Lane a private road on the northeast end of the project. The  
42 application is for 65 units. 23-unit apartment style building and 21 duplexes for a total of 65 units.

43 J. Buzzard asked if it is for 65, 69, or 44? Sees those numbers throughout. References the plans that have  
44 44 units. The application itself calls for 23 and 21.

45 T. Baraconi confirmed that is correct.

46 J. Buzzard states that one report says 69 and another report says 65.

47 T. Baraconi explains that the city used the numbers off of the application for 23 and 21. The 44 was from  
48 preapplication conference.

49 T. Baraconi brought minutes from preapplication conference to hearing examiner to show the site plan as  
50 well where the 44 had originally come from.

51 J. Buzzard asks if it was originally planned for 44 and now up to 65.

52 T. Baraconi confirmed that is correct. The environmental issues the city had to address at this site were  
53 some slope issues, a wetland in the center of the property, and hydric soils being an indication for  
54 potential of wetland. The wetland biologist in this case determined that there were no wetlands in the  
55 area of the hydric soil. Application originally was received as a 2-phase development. Two phases because  
56 applicant was seeking permission from the Army Corps of Engineers and the Washington Department of  
57 Ecology to fill that wetland at the bottom of the site to use those areas for stormwater drainage. The  
58 applicant was going to buy mitigation banking at Trans Alta. The top end of the property where the slope  
59 is there is some fill that needs to be brought to attention. There is an unknown quantity of fill brought  
60 into that area, a mixture of rebar, concrete, organic materials, and inorganic materials. The fill is anywhere  
61 from a depth of 2 feet down to 10 feet.

62 T. Baraconi points out on page 4, number 2 of the staff report. T. Baraconi explained findings of  
63 inconsistencies within our code during her experience with the city. This is one of those inconsistencies.  
64 The residential urban growth area is allowed a maximum density of 24 units per acre. If its multifamily,  
65 then its 12,000 square feet for the first two, then 3000 square feet for each additional unit. The math  
66 leads to no way for the you to reach 24 units per acre. When looking at the intent for the urban growth  
67 area, the code reads that the intent is for low to medium density residential. The code the city has for  
68 medium residential, maximum density is 18 units per acre.

69 T. Baraconi proposes this should be the density the city has in the residential urban growth area. This  
70 application is for 14 units per acre which is under the 18 units per acre. Recommends approval.

71 J. Buzzard states that there are a number of things in contention here. One being whether the  
72 condominium use is permitted or its conditional. Asks T. Baraconi to speak to that.

73 T. Baraconi states that condominium is permitted, and a conditional use is permitted as well for  
74 multifamily. Processes are similar but different at the same time. For condominium there is a binding site

75 plan process required as well as a hearing in front of the hearing examiner as well as a conditional use. A  
76 lot more is involved for a condominium. T. Baraconi has heard repeatedly from the applicant during this  
77 process is that they wanted to get the project moving as quickly as possible. The applicant can still do a  
78 condominium process even after being approved for multifamily. This gets their project moving as quickly  
79 as possible and still keeps the door open for condos if that is what is wanted down the road.

80 J. Buzzard asks T. Baraconi if there is a binding site plan done in this case.

81 T. Baraconi answers J. Buzzard that there is no binding site plan done in this case.

82 J. Buzzard asks T. Baraconi if the binding site plan is recorded.

83 T. Baraconi answers J. Buzzard that it is recorded. The roads have to be surveyed in the infrastructure.  
84 Survey the corners of all of the units. There should be legal descriptions for all the units, all the amenities,  
85 HOA, etc.

86 J. Buzzard states survey and declarations and T. Baraconi agrees as well as spelled out in the RCW's.

87 J. Buzzard asks T. Baraconi if it is her understanding that all of these units are going to be condominiums?

88 T. Baraconi indicates that applicant at times tells her that they want condo's but the application in other  
89 places reads multifamily. She thinks they want condos but feels the developer will use them as multifamily  
90 in the end. This is just her opinion. One of the other areas of contention were the curb, gutter, and  
91 sidewalk requirement.

92 J. Buzzard questions CMC 12.04.110 as it speaks to curb and gutter frontage improvements. CMC says  
93 that any permit authorizing development or redevelopment within a residential or commercial zone will  
94 require that the developer or property owner be responsible for construction or installation of frontage  
95 improvements in accordance with these standards. Frontage improvements will not be required where  
96 the health, safety, or welfare of the general public or environment will be negatively impacted. The next  
97 section states select areas of the city are designated for the mandatory installation of frontage  
98 improvements with any development or redevelopment project other areas of the city have been  
99 identified for deferral of frontage improvements. The specific designations are identified. CMC goes on  
100 to list a number of streets where frontage improvements are mandatory. There doesn't seem to be any  
101 designation where the CMC identifies the other streets for deferral.

102 T. Baraconi confirms that is correct and announces that the city engineer is present and may be a better  
103 person to answer that question.

104 Trent Lougheed comes to the stand and identifies himself as Public Works Director, city Engineer.

105 J. Buzzard recaps for T. Lougheed that there is a point of contention with frontage improvement issue  
106 addressing CMC 12.04.110 the section of the code that says frontage improvements are required in  
107 residential areas listing that certain streets are designated mandatory, while other areas are designated  
108 for deferral. Next section identifies where some streets are mandatory but doesn't seem to have section  
109 where other areas are designated for deferral.

110 T. Lougheed clarifies by summarizing that all other streets have the potential for deferral. It doesn't mean  
111 that the city will automatically defer improvements that are not on those streets that are specified. Any  
112 other streets other than what is identified on that chart, deferral is allowable.

113 J. Buzzard asks T. Lougheed what the criteria is for the city to identify whether or not the deferral would  
114 be advisable or allowable.

115 T. Lougheed replies to J. Buzzard that use, density, neighboring area, traffic impact study. A variety of  
116 different components.

117 J. Buzzard asks T. Lougheed if he has any information as to this proposal.

118 T. Lougheed replies to J. Buzzard it is of medium density of 65 units. For that area looking at the traffic  
119 count with peak a.m. and p.m trips when you have a lot of units in one small area, then eventually typically  
120 there will be a bus stop. A sidewalk is a good place to start to stand and wait. That amount of people in  
121 a small area and only interior street of which the plans don't show any sidewalk or walking paths that will  
122 have a lot of people walking around on the street. Because the city will be annexing those areas in the  
123 near future the city wants the development to meet city standards so that when the city takes over those  
124 streets from Lewis County then they will be closer to our standards and won't have to do a bunch of  
125 improvements.

126 J. Buzzard asks T. Lougheed if the city plans to annex that area within the next 10 years.

127 T. Lougheed replies to J. Buzzard, yes.

128 J. Buzzard states a concern was raised by the applicant that of the seven months during this process,  
129 frontal improvements were not going to be required on Jackson highway, alleged that at the last hour  
130 they were required.

131 T. Baraconi replies that she has the minutes from the preapplication conference. Mr. Lougheed was not  
132 present for the preapplication conference so unfortunately there was not an opportunity to share that  
133 with the client at the preapplication.

134 J. Buzzard questions why the city is requiring frontage improvements on Jackson highway.

135 T. Baraconi answers J. Buzzard. When the city looks at development, we look at how people are going to  
136 get around and where they are going to go. On a development with 65 units, there will be children  
137 involved. The city wants to make sure children can move about safely. The parks and schools are a long  
138 way off. There is a need for amenities on site and to start developing it so that it can become a safe  
139 walkable area. Points out that Jackson Villa when it was first constructed for phases 1 through 3 were not  
140 required to do curb, gutter and sidewalk however since then Jackson Park has started their development  
141 and are required to do curb gutter and sidewalk and they have done curb gutter and sidewalk. This is not  
142 the first time the city has asked for it.

143 J. Buzzard asks if the first three phases of Jackson Villa were deferred.

144 T. Baraconi was not part of that process so is unable to answer to that but was park of the Jackson Park  
145 development for phase 2 and will be for phase 3 and they have been required to do curb gutter and  
146 sidewalk along Jackson highway.

147 J. Buzzard asks if deferrals are recorded with the auditor. T. Baraconi responds that they are not. That  
148 would be a problem. She asks how does the city make them do the deferral. The city does not ask for a  
149 cash bond, or have a way to take a cash bond if they did a deferral. If they did do a referral T. Baraconi

150 thinks that the state says it has to be within 7 years. She directs her question to T. Lougheed. Does the  
151 city have to give the cash back, is that correct?

152 T. Lougheed answers T. Baraconi's question by stating he knows for latecomer's fees it is 15 years but for  
153 deferral it is less but doesn't have an exact.

154 J. Buzzard asks about CMC 12.04.110 subsection E on deferrals it states that for all projects that are  
155 granted a deferral of any frontage improvement the property owner of record will be required to enter  
156 into an agreement with the city to install the deferred improvements at some future date (refer to  
157 subsection E4). Subsection E4 says the city will initiate deferred frontage improvements under the  
158 following specific guidelines: A) deferred frontage improvements will be initiated by the city no sooner  
159 than 3 years from the date the deferral is granted unless the property in question is part of a local  
160 improvement district formed for the purpose of.

161 J. Buzzard asks T. Baraconi what that means.

162 T. Baraconi does not know what that means and feels it is a better question for T. Lougheed.

163 T. Lougheed explains to J. Buzzard that if the city were going to be doing a construction project like the  
164 one going on now at Pacific Avenue where the city wants to reconstruct everything from sub base up, the  
165 city will go through and replace curb, gutter, sidewalks, street lights, everything. When the city is doing  
166 improvement projects in the future in that area, if there aren't already curb, gutter, sidewalks installed,  
167 the city would have to bring it up to current standards and the city will end up paying for it.

168 J. Buzzard clarifies with T. Lougheed that city initiating means that the city is going to install on its own  
169 accord frontage improvements. If those frontage improvements happen to be adjacent to the deferred  
170 property, then at that point it will trigger the property owner to do the deferred frontage improvements.

171 T. Lougheed replies to J. Buzzard or to pay their fair share, however I cant find anything where that has  
172 ever been done in the past. Doesn't see where he could enforce it even if it was deferred. Doesn't know  
173 how the city can make them do that.

174 J. Buzzard speaks to subsection 4C that says that the deferral is valid for a period of ten years. If the  
175 improvement is not initiated within that period, the deferral will lapse and the property owner will no  
176 longer be bound by the conditions of the deferral. A lapsed deferral does not exclude a property owner  
177 from participation. So the city seems to be at a loss as to how to enforce the deferral.

178 T. Lougheed states that the city would follow procedures to do this, however he can not find anything in  
179 the city code that actually gives direction or guidance on how to enforce the deferral process.

180 Erin Hillier addresses J. Buzzard hearing examiner and introduces herself as the city attorney. Asks if the  
181 city is able to supplement that information, an authority from the code to the hearing examiner, would  
182 the city be able to do that?

183 J. Buzzard answers E. Hillier that will be fine. He will give both parties a period of time to give any  
184 additional information based on what occurs here today.

185 E. Hillier tells the hearing examiner J. Buzzard that if the city does so, they will get it to all parties in a  
186 timely manner.

187 J. Buzzard recaps that frontage improvements are not required if the health, safety or welfare of the  
188 general public or the environment will be negatively impacted. Asks that T. Baraconi speak to that.

189 T. Baraconi would argue that the lack of curb, gutter, and sidewalk would contribute to the danger of the  
190 public. Curb, gutter, and sidewalk are meant to be used for safe transportation by pedestrians. Has been  
191 on Kennicott several times and there is always someone walking on the street. Imagines that 65 more  
192 units would put that many more people walking on the street in the driving lane. Addresses the traffic  
193 study. The city did receive an initial traffic study with this application done by Heath & Associates. There  
194 were some staffing issues between the city of Chehalis and Lewis county, at no fault of the applicant,  
195 there was a lack of communication when it came to getting comments back on the traffic study. The  
196 county is requesting that this traffic study be updated to reflect the current numbers. The county is  
197 concerned that the numbers were taken during the COVID epidemic and do not accurately reflect the  
198 traffic that goes through there. The county would like that traffic study updated.

199 J. Buzzard asks T. Baraconi what the date of the current traffic study. T. Baraconi answers that it was done  
200 during 2020. T. Lougheed adds December 2020.

201 T. Baraconi says there is concern that it does not have the most accurate numbers because people were  
202 in quarantine at that time. Rather than asking the applicant to go back and do another study, the county  
203 has provided numbers from 2019. The county is willing to accept the numbers from the 2019 study if the  
204 work is done using those numbers. At the end of the conditions on the staff report, condition number 5  
205 does address the need for the traffic impact analysis. She adds that the county has changed their  
206 procedures on how they will accept traffic impact studies. The county asks that they be submitted at the  
207 counter and charge a fee of \$200. The applicant can either take it in themselves and bring the city the  
208 letter that shows the city what the county has come up with on that traffic study, or the applicant can  
209 bring it to the city and the city can take it over. The traffic study does need to go to the county. There  
210 are 2 other conditions of approval on the 16 that were asked for. T. Baraconi recommends a 1 year  
211 approval period for this permit base off of the site plan approval conditions which are 1 year. The other  
212 condition is on the permit processing and when they would have to start work. This project came to the  
213 city at the end of January. They submitted an application to get their project vested under the 2015  
214 International Building Code. The city did vest their project, however it can't go on indefinitely and at some  
215 point the city has to say that they have to meet the current code that has been adopted by the city. The  
216 city would request that there be a 90 day period from the date of the hearing examiners decision that  
217 they have building permits in hand and begin work within in 180 days. The city can extend this by staff if  
218 they need it. That would come to the 1 year period. If they haven't started work by that 1 year mark, the  
219 city wants to sunset their vesting on the 2015 IBC.

220 E. Hillier the city attorney addresses the hearing examiner J. Buzzard to refer back to your question on  
221 deferrals and the city's ability to enforce those. That is by recorded document and agreement executed  
222 with the city and covenant placed upon the property. You can find that under 12.04.110 subsection E  
223 number 1. Hopefully that answers your question. If not we can supplement additional material.

224 J. Buzzard references the code and sees that when you enter into an agreement, the agreement will be  
225 recorded with the property to ensure the city's ability to enforce the deferral regardless of changes in  
226 property ownership and will be enforceable as allowed by law. The property owner will execute and  
227 record a covenant document as supplied by the city ensuring participation of subject property owners in  
228 the construction of frontage improvements. The agreement will be affective for a total of 10 years. The

229 specific question is what is the triggering event that allows the city to demand the frontage improvements  
230 be constructed. It makes sense that if the city is doing its own work adjacent to or in the vicinity of then  
231 that would trigger the subject property to have to do the frontage improvements. Can the city at any  
232 time, for any reason, for instance at year 7 require the frontage improvements? I do not have the answer  
233 to that and I don't think the parties have the answer to that either but maybe that is something that can  
234 be addressed after today. J. Buzzard then asks Aaron Fuller to come to the stand.

235 A. Fuller approaches the stand and introduces himself as project engineer.

236 J. Buzzard speaks to A. Fuller that it is his turn to present and if there is someone here that is with you and  
237 would like to speak with you on your behalf bring them up.

238 A. Fuller tells J. Buzzard that Mr. Hawes the project manager will come up later. Addresses the TIA. A.  
239 Fuller had Heath & Associates write a memo that was presented to J. Buzzard this morning. Speaks to the  
240 interesting factors that COVID affects and one being traffic. The state of Washington has identified about  
241 an 8% drop on traffic cases due to COVID. On page 6 of the traffic report, it states that due to the 8% drop  
242 we increased our traffic count numbers that we observed by over ten percent. We thought that was  
243 conservative at the time and appropriate. That was included in the original traffic report. When the  
244 county supplied the information to us based on traffic counts, we've reanalyzed it. We have about a 2.7%  
245 change if we were to use the counts that the county did.

246 J. Buzzard confirms that what he has been handed are the 2019 numbers. A. Fuller confirms that.

247 A. Fuller reiterates that it was within 2.7%. J. Buzzard asks to clarify that Heath & Associates analysis is  
248 2.7% less than what is represented in the 2019 county counts. A. Fuller agrees and explains the numbers  
249 on Kennicott are 5.5% over the 2019 counts. That is well within the 10% allowable for variation. Traffic  
250 counts are subjective. Explains how traffic studies go. There are a number of other items in that memo  
251 that talk about frontage improvements. Curb, gutter, and sidewalk on Jackson highway. He is interested  
252 to see as to why no curb, gutter, and sidewalk on Jackson highway is detrimental. There is no curb, gutter,  
253 and sidewalk on 99.9% of Jackson highway. The traffic engineer's decisions are not based on just opinion,  
254 there are traffic/pedestrian interactions, how many people have been hit on that road, how many  
255 fatalities, how many injuries, how many motor vehicle accidents. We try to be objective. The licensed  
256 professional engineer has provided a memo that says that yes, curb, gutter, and sidewalk is an obstruction  
257 on high-speed roads. The speed limit in that area is starting to come down at 35 miles an hour. Actual  
258 speeds in that area are observed as in excess of 50 miles an hour. Traffic engineer says that curb, gutter,  
259 and sidewalk is detrimental. Multiple times during the DRC meeting, initially on the preapplication, as  
260 well as in the most recent staff report there is discussion about how busy Jackson highway is. The need  
261 for a park in the application was discussed as the city saying we don't want people to try crossing Jackson  
262 highway, so the city wants a park inside of the development. We agree and will comply. By putting  
263 frontage improvements down through Jackson highway would promote pedestrians to walk out on  
264 Jackson highway. His recordings from the DRC meetings have clips of staff speaking that was not wanted.  
265 Confirms that T. Lougheed was not at the meeting. We did not receive requirements for frontage  
266 improvements until approximately 8 days ago in the DRC meeting. While Trent was not in the DRC  
267 meetings, the city has had the application for over 7 months. There are curb, gutter, and sidewalk on  
268 every single street internal to the development. They do have a bus pullout along Kennicott road with a  
269 widened shoulder about 110 feet long. The original conceptual plan has changed drastically. The 44, 69,  
270 and 65 unit system was a progression. In the beginning we had a phase development because of the

271 wetland. The wetland is right against Jackson highway. Initially we were not going to impact that wetland  
272 in the conceptual, during discussions we talked about if we were to do wetland banking, we would be  
273 allowed to fill that in then do a phase 2. The wetland banking approval takes about 18 months to get.  
274 Decided to build phase 1 up above the wetland making sure we are out of it and then build phase 2. We  
275 did not talk about a phased application during the concept. Initial application on 03/11/2021 did show  
276 both phases.

277 J. Buzzard asks A. Fuller if they are still planning on doing phase 1 and phase 2. A. Fuller replies, yes. J.  
278 Buzzard asks how many units are in phase 1. A. Fuller answers 44. J. Buzzard clarifies that 23 and 21 are  
279 all phase 1 now because what he saw on the application was phase 1 phase 2 and the total was 23  
280 duplexes and 21 apartment style building. Is phase 1 now all 44 and then the additional? A. Fuller states  
281 no. A. Fuller states that the project is still broken into 2 phases. There was initially 69 dwelling units, one  
282 23 plex all condominiums and then 23 duplexes which would be 46 units. 69 dwelling units total. In order  
283 to accommodate the city's request for a park they got rid of 2 duplexes which brought the number back  
284 down to 65. The set of plans provided here is only 2 sheets. There is an 8 sheet set of plans which is a  
285 60% preliminary set which is the most current. Can provide a copy for the hearing examiner if it wasn't  
286 entered in already. The reason why it is still phased, is because we have not received Army Corps approval  
287 to fill that wetland in, however we are imminent, we are told that by early December we should have that  
288 approval. Explains to the hearing examiner J. Buzzard how wetland banking works and how in depth the  
289 process is. They expected this project to be approved within a couple of months of application. It took  
290 so long that we are in the process of unphasing the project because our construction season is over at this  
291 point and will start building as soon as we can next year. A. Fuller states that he just heard another  
292 recommendation for a requirement for the 90 or 180 days.

293 J. Buzzard explains that the city is requesting that the building permit be obtained within 90 days and then  
294 construction start within 180. A. Fuller would have loved to have started the project 6 months ago when  
295 they had time to build but right now is not the construction season. A. Fuller asks that if we do something  
296 like that, the hearing examiner would take that into account as well.

297 J. Buzzard explains that the city's concern is that you are vested under 2015 rules. The city does not want  
298 this to be delayed for a prolonged period of time. Asks A. Fuller what a reasonable amount of time to  
299 begin construction. A. Fuller responds as soon as possible when the rains stop next year, late spring in  
300 May. J. Buzzard responds to A. Fuller that is about 180 days.

301 A. Fuller explains that would be right when starting civil construction. Building construction wouldn't be  
302 started until some of the grading was done, some of the curb, gutter, and sidewalk was put in. Describes  
303 constructing from the ground up.

304 J. Buzzards asks T. Baraconi if the city requests for building to be in. T. Baraconi responds to J. Buzzard  
305 that she requested they have the building permit in hand and begin construction.

306 A. Fuller is happy to start submitting building permits. They were told by the city to get the application in  
307 before February 1 and you can be vested. We worked diligently to do that and paid over \$20,000 in permit  
308 fees already in order to get that vesting. Until today we have never heard this comment. They would  
309 have like to have had the building already built. Feels that any delays they are seeing right now is from  
310 the city.



311 J. Buzzard states that the city is requesting that development begin, meaning groundwork, within 180  
312 days. Is that reasonable to you or do you need longer than that?

313 A. Fuller wants to make it clear that if we are moving dirt within 180 days, he would love that.

314 J. Buzzard asks A. Fuller if that is feasible. A. Fuller turns to Dan Hawes in the audience. Dan Hawes says  
315 no. J. Buzzard asks what is feasible to Dan Hawes. D. Hawes speaks from audience with no microphone.  
316 T. Baraconi suggests to the hearing examiner that the city get his name for the record. J. Buzzard asks  
317 that D. Hawes come to the stand. D. Hawes approaches stand and introduces himself as owner of  
318 Sunquest Construction and representative of Lakewood Investor LLC. D. Hawes explains that they paid  
319 the permit fees to get vested under the 2015 energy code. We are seven months down the road and have  
320 a meeting last week and all of this new stuff has come up. The city has had the plans for seven months.  
321 As a builder, I need to know what the rules are.

322 J. Buzzard hearing examiner explains that we are going to have some type of decision moving forward.  
323 The city is saying 6 months. Asks D. Hawes if that is feasible, when?

324 D. Hawes replies to hearing examiner June. J. Buzzard suggests that July would give D. Hawes more wiggle  
325 room and the dry season to come. D. Hawes agrees that July would be reasonable. As a builder and  
326 developer, he wants to know what the rules are and will comply. Asking for clear answers from  
327 municipality for builders to have guidelines.

328 J. Buzzards suggests to D. Hawes for legislative concerns to contact commissioner Sean Swope and  
329 Centralia council person Kelly Smith Johnson who are putting together a housing summit for December  
330 2<sup>nd</sup> to talk about streamlining all municipalities in the county to make it easier for development in the  
331 area. D. Hawes comments that there are already RCW's in force that seem to be up to interpretation. We  
332 need some of those things nailed down so that we know as developers what to do, or should we go to  
333 another municipality where we can get clear guidelines as to what to do. They have lots of plans that they  
334 would like to do for this community. The port has pulled in many people with all of the jobs available but  
335 there is no place for people to live. We would like to work together to take care of the people for the jobs  
336 that are coming into the community. Feels that this seems very adversarial the way the system works  
337 with this Jackson Villa IV. D. Hawes steps down from stand.

338 A. Fuller approaches the stand to speak to the points about whether or not this is a condominium or multi  
339 family development. Explains the definition of a condominium as a permitted use within the zone of the  
340 UGA under the use section of the Chehalis municipal code listed as R313. He cannot remember exactly  
341 what use code multi family is stating they are two different things.

342 J. Buzzard asks A. Fuller, are they in this situation condominiums? A. Fuller explains that apartments don't  
343 have individual utilities. In the 8-page set of plans we have a robust utility plan that shows individual  
344 meters for each dwelling unit as well as a sewer system with a lateral for each dwelling unit. On page 3  
345 of the set of plans each condominium has its own parcel around it and is on a zero-lot line. The HOA owns  
346 the common areas. Down the walls of the building that is where your lot line is. The survey plan there  
347 shows all the internal lot lines. One of the recommendations that the staff gave the hearing examiner  
348 was to put fences on the internal lot lines. He doesn't know that putting a fence in is probably the best.  
349 J. Buzzard notifies A. Fuller that he had read that. The hearing examiner questions the RCW defining  
350 condominium as real property, portions of which are designated for separate ownership and the

351 remainder of which is designated for common ownership solely by the owners of the portions. Real  
352 property is not a condominium unless the undivided interests and the common elements are vested in  
353 the unit owners, unless a declaration and survey map and plans have been recorded. J. Buzzard continues  
354 by stating that the question going back and forth here is whether this is a condominium process that we  
355 are going through or is it not. J. Buzzard asked has there been a site plan, a survey map, and the  
356 declarations recorded, and they have not. What the hearing examiner gathered from the comments from  
357 T. Baraconi was that you elected to do the conditional use procedure rather than doing the condominium  
358 procedure. No, A. Fuller answers. During the application and resubmission meeting, you can read the  
359 comments that say that multifamily is a conditional use permit and condos are not. We chose to do  
360 condos. During the application, the city asked where the conditional use permit was, and we answered  
361 that we were doing condos and that we didn't need it. At that time, we were just trying to comply, so I  
362 went ahead and filled out the application and brought it back. I think maybe that was a mistake. We  
363 haven't submitted any survey documents yet because we want to make sure that they are going to get  
364 approved. Once we can submit, we will quickly prepare the maps and go record them. We will also record  
365 all the HOA's and put all the administrative stuff in place. We want to sell these individually for home  
366 ownership and create legal, taxable lots on each dwelling unit. J. Buzzard asks A. Fuller if that is the intent  
367 for all 65 units would be individually owned. Yes, that is the intent A. Fuller answers. J. Buzzard confirms  
368 that the city does not have the survey and declarations, and this is a conditional use hearing. Sites the  
369 condo definition according to the municipal code as a single-family dwelling unit in a multi-unit dwelling  
370 or residential structure separately owned and combined with undivided interest in common area, that  
371 follows the RCW. Defines multi-unit dwelling by the Chehalis municipal code as a building designed for  
372 occupancy of 3 or more families that may or may not contain common spaces. So, we are calling these  
373 condominiums and it is the intent for them to separately owned, but we are not in the condominium  
374 process. It appears that the city is attempting to apply some standards to this process. If there was a  
375 survey map and declarations, all of that would have taken place and the conditions would have been  
376 talked about then, but they weren't. Now in a conditional use hearing the city is trying to address those  
377 issues that would have been addressed at a different time during a condominium process.

378 I'm not sure why that wasn't done answers A. Fuller. There was a survey done. A very robust survey was  
379 done spending 3 months surveying the property establishing the lot lines. The survey is on page 3 of the  
380 application we turned in on 03/11/2021. Things just aren't recorded yet. In the city's staff report narrative  
381 paragraph one, sentence one talks about the condominium process. The narrative I submitted on  
382 03/11/2021 it talks about the condominium process. Feels that this might be a legislative thing. They are  
383 specifically separated in the Chehalis municipal code, one being multi-family dwelling and one being  
384 condominium. We wanted to go with condominiums. We tried to be accommodating as much as possible.  
385 We've had multiple conversations as to why this is even a conditional use permit or why we are not going  
386 through a binding site plan process. We submitted a site plan and submitted for site plan review. We  
387 submitted a conditional use permit because the city wanted it. Wants to make sure the city is making  
388 decisions based on code. If I need to file something I will. This is for condominiums.

389 Hearing examiner J. Buzzard asks A. Fuller Is it your position that as a condominium development, the city  
390 doesn't have the right to attach any conditions? A. Fuller responds not necessarily. We have already  
391 complied with multiple conditions that are outside of the code like a park.

392 J. Buzzard speaks to A. Fuller for the ones you've stipulated to of course you are doing but there are some  
393 that are in contention. Is it your position that the city does not have the right to attach those?

394 A. Fuller responds that frontage improvements were initially brought up 8 days ago the city said it may  
395 defer. The word may does not actually apply. The code says shall and are identified for deferral the roads  
396 that are not listed in there. The city has the right to require things that are listed in the code, if it's not  
397 listed in the code, they don't. Having a fence on property along Kennicott road doesn't show up anywhere.  
398 It isn't identified as mitigating any type of. We have a permitted use within the zone so there is no  
399 mitigation that is needed for adjacent property owners. Why are we asked to do a bunch more extra  
400 stuff?

401 J. Buzzard understands that is the question whether this is a permitted use or a conditional use at this  
402 point. From looking at that area, this is a much more high-density area compared to across the street.

403 A. Fuller wants to provide a fence for privacy. If the property is well built, we can sell the property for  
404 more. We do plan on putting a fence in, but the condition is for it to be a solid fence. Define what that  
405 means. How tall is it, what is it made out of? Let the developer pick that out.

406 J. Buzzard speaks to A. Fuller that if it is stipulated that a fence is going to be there, and everybody wants  
407 the fence, would it be an appropriate solution to put off that and have you address the fence later? If the  
408 fence is required, but as far as the details of it can you deal with that later? Yes, answers A. Fuller and  
409 asks for more specifics otherwise they are hard to identify and price then move on with and feels they are  
410 not needed. We have already talked about MDNS for landscaping. There are six-line items in the Chehalis  
411 municipal code that do with landscaping. There are six lines of code in six different zoning classifications,  
412 one being the UGA. One of the city's requirements is that a landscaping architect put landscaping in. The  
413 RCW allows engineers, biologists, private homeowners, to do their own landscaping.

414 J. Buzzard asks A. Fuller if the Chehalis municipal code calls for a landscape architect to submit plans.

415 A. Fuller answers that it does not. That was a condition of SEPA approval. Doesn't know if that was  
416 mitigating. Usually, conditions put in a SEPA are to help mitigate some kind of offense that I am creating.  
417 Doesn't feel that they have created any offense so he doesn't understand why the mitigating factors are  
418 there. There was a requirement by the city to as built the landscaping. To have a surveyor put a stick on  
419 every single plant out there seems ridiculous. J. Buzzard hearing examiner asks A. Fuller if there are any  
420 plans or proposals for landscaping. A. Fuller answers no and explains that usually those come during the  
421 civil approval period. That comes at the next stage. They have a set of 60% plans. The condition typically  
422 comes after that as having the landscaping architect do whatever, then we will have the landscape  
423 architect provide plans. T. Loughheed will then finalize and give civil approval. The details are not yet done.  
424 No we have not submitted a landscaping plan.

425 J. Buzzards reads 17.52.100 special provisions and believes that is where the density requirements are in  
426 the municipal code. There seems to be some disagreement there and wants explanation. Understands  
427 that the city is quoting from a different section of the code but is attempting to reconcile and give you A.  
428 Fuller what you want. A. Fuller replies to hearing examiner that the disagreement the city is talking about  
429 is, this is a condominium project, the city is talking about 2 items in 17.52.100 section of the code. The  
430 city quotes the R3 zone, and multifamily dwelling. We are disagreeing that is a multifamily dwelling and  
431 that it is an R3 zone. We don't know why those items were brought into the record.

432 J. Buzzard asks A. Fuller for his take on the frontage improvements and deferring them.

433 A. Fuller's professional opinion as a licensed engineer in the state of Washington is that it is ridiculous that  
434 we are talking about frontage improvements on a highway. The D. O. T. would have my license if I even  
435 proposed of something of this size that they owned. Thinks that the objective opinions, and traffic  
436 interactions out there speak for themselves. How many people in the last 10 years have been run over  
437 on Jackson highway because there are no sidewalks? People don't walk on Jackson highway because  
438 there are no sidewalks. Driving 50 miles an hour down Jackson highway, if you were to hit the curb or  
439 sidewalk, now you have an obstruction.

440 J. Buzzard expresses that Jackson highway seems to be evolving from more of a rural highway into a more  
441 residential center with all of the multi-family units that are going up around the area. A. Fuller agrees.

442 J. Buzzard adds that he personally sees people walking their dogs down that highway or jogging or the  
443 high school cross country team running down Jackson highway. It does seem to be used more than  
444 somewhere like Kresky or State Avenue as far as pedestrians go. Asks A. Fuller about the traffic impact  
445 study done in December 2020 during COVID. The other multi-family dwelling units within that vicinity,  
446 were they occupied at that time? A. Fuller states that not all of them had yet been applied for. Explains  
447 to the hearing examiner how the traffic studies are done as a pipeline process and other projects were  
448 included in on the December 2020 study. The projects that they knew about at that time were  
449 incorporated. A growth rate is applied to the city as a whole to see that in case something is concurrent.  
450 Those projects are added to the overall growth rate. We are looking at the entire city and what is going  
451 to go through there. This is an area that is growing. The city is talking about maybe even annexing that  
452 area. The city does not have anything in the budget for moving sidewalks out there. Over the next 10 to  
453 20 years, he feels that would be appropriate. Feels that putting sidewalks out there over 2 miles away  
454 from the nearest sidewalk is in his opinion inappropriate. He feels that is should be deferred. That spot  
455 out there with sidewalks is an obstruction. As the city grows, he does imagine that there will be sidewalks  
456 out there in the future, but not now. The bus stop that we are putting in is designed to keep pedestrians  
457 away from Jackson highway. Wants the people in the development who don't have a car be able to get  
458 back into town quickly. We do not want people walking on the road out there.

459 J. Buzzard asks A. Fuller if the traffic impact study indicates which projects were in the pipeline at that  
460 time? A. Fullers answers that there are a couple in there and is also described in the memo which projects  
461 are in there along with the growth rate.

462 J. Buzzard asks for the opportunity to turn the meeting over to the public. A. Fuller steps down from the  
463 stand.

464 The hearing examiner speaks to the audience that if there is anybody in this hearing that wants to come  
465 forward and speak in support of this application may come to the stand. None come forward.

466 J. Buzzard asks the audience if there is anyone in opposition to this application. None come forward.  
467 Asks T. Baraconi to speak. T. Baraconi clarifies that the condition of fencing on the interior lot is referring  
468 to the lot as it is adjacent to single family homes. The purpose of the fence is to mitigate the impacts of  
469 medium density development directly adjacent to the single-family homes on Kennicott and Hossanah  
470 Lane. That is why. She did not specify what kind of fence, just a solid fence and would leave it up to the  
471 applicant as to what works for them. Fences are a typical requirement to buffer medium density from  
472 single family homes. The RCW's require that there be a landscape architect. The as builts for landscaping  
473 are very different than the as builts for engineering plans. As builts for landscaping are done by the

474 landscaper who does the installation. They lay down where irrigation lines go in. They identify the  
475 number of plants they put in and the approximate location where they put those plants. Nothing is  
476 surveyed. That is the difference between landscaping as built and engineering as built. Mr. Fuller  
477 indicated that the closest sidewalk to this project would be a few miles away, and she disagrees. Jackson  
478 Park is less than three quarters of a mile from this development. Jackson Park is putting in curb, gutter,  
479 and sidewalk. T. Baraconi points out that the updates to the traffic impact analysis, frontage  
480 improvements along Kennicott and Jackson highway come from Lewis County. Lewis county has  
481 jurisdiction over Jackson highway and Kennicott. The city does not have jurisdiction over them. If the  
482 developer is going to do a condominium project, they need to follow the RCW's and do a binding site plan  
483 and follow CMC 17.09 for the procedures for a binding site plan that the city identifies in the code.

484 J. Buzzard asks the city attorney E. Hillier for any further comments. She answers the hearing examiner  
485 no thank you.

486 J. Buzzard asks A. Fuller for any closing comments. A. Fuller comes to the stand and refers to the county's  
487 comment in addition to using a field study conducted during shutdown, the TIA does not take into  
488 consideration impacts or traffic projects that have either been approved since 2020 or are currently in the  
489 pipeline. A. Fuller continues to read Lewis County's comments that Cosser tiny homes came in for permits  
490 after Jackson Villa IV and there for would not be included in the traffic study. A. Fuller then refers to Heath  
491 and Associates comments that state our firm has no knowledge that Jackson Park II, however our analysis  
492 applied an annual 1.5 percent background growth rate, consistent with the city's comprehensive plan that  
493 accounts for miscellaneous growth. Heath and Associates also evaluated out to a 5-year horizon of 2025  
494 using this growth rate. A. Fuller states that the growth rate would include any kind of miscellaneous  
495 projects there. The Cosser tiny home project was turned in after this project was turned in but was  
496 approved months ago. That developer is already building. We are not. We've been in the pipeline much  
497 longer. That is why our traffic counts don't include that project because it didn't exist when we turned it  
498 in. We are only 3 percent off on Jackson highway and 5 percent off on Kennicott road. While the plans  
499 have been updated to come from 69 units to 65 units, we did not update the traffic report for 65 units. It  
500 still shows 69 units. We felt that was conservative by leaving a higher density in our traffic report. We  
501 feel that it is just white noise to require a bunch more information on the traffic analysis. It is conservative  
502 at best. Lastly, the RCW that talks about landscaping. A. Fuller says he has read the entire RCW and can  
503 submit it to the hearing examiner afterwards. A. Fuller says the RCW that T. Baraconi is talking about  
504 discusses what a landscape architect is and not when it is required to be one. The RCW talks about a  
505 wetland biologist that can practice landscape architecture by specifying plants in a wetland, a homeowner  
506 can draw up a set of plans, a licensed engineer can put plants on a set of plans. The RCW doesn't say  
507 anything about requiring a landscape architect on certain projects of certain sizes, and local municipalities.  
508 We are not in disagreement. Wants that put in the record. A. Fuller steps down from the stand.

509 J. Buzzard hearing examiner states the rules that say he must have a decision made within 10 days. He  
510 will leave this hearing open until Thursday the 21<sup>st</sup> of October for either party to give additional  
511 information. On end of business day at 5pm next Thursday the 21<sup>st</sup> of October this hearing will be closed,  
512 and no further information will be accepted. If any information is given to the hearing examiner it must  
513 also be submitted to the other party. Starting next week, the 10 days will start for the hearing examiner  
514 to prepare a decision. On the close of the 21<sup>st</sup> the 10 days will start where the hearing examiner must put  
515 together his decision.

516 J. Buzzard adjourns the meeting at 6:35pm.

517

518

519 Recorded by: Laura Fisher

520 Laura Fisher, Permit Technician