

1 BEFORE THE CITY OF LAKEWOOD HEARINGS EXAMINER

2 IN RE: ) Land Use Modification  
 3 LBA OR DEVELOPMENT-COMPANY II ) Permit No. 9014  
 4 ) Conditional Use Permit Application  
 5 ) No. 3241  
 6 ) FINDINGS OF FACT,  
 7 ) CONCLUSIONS OF LAW  
 8 ) AND DECISION: (1) GRANTING  
 9 ) LAND USE MODIFICATION PERMIT  
 10 ) NO. 9014 MODIFYING PREVIOUSLY  
 11 ) GRANTED CONDITIONAL USE PERMIT  
 12 ) NO. LU-18-00222 AND (2) GRANTING  
 13 ) CONDITIONAL USE PERMIT TO  
 14 ) ESTABLISH PARKING LOT FOR  
 15 ) TRUCK/TRAILER PARKING  
 16 ) ASSOCIATED WITH ADJACENT  
 17 ) WAREHOUSE

12 **APPLICANT:** LBA OR Development-Company II

13 **REPRESENTATIVE:** Michael Gregg

14 **LOCATION OF PROPOSAL:**

15 3515 82nd Street South, Lakewood, Washington/82nd Street South.

17 **SUMMARY OF REQUEST:**

18 The Applicant has submitted two related applications: Land Use Modification Permit No. 9014  
 19 seeks to remove a restriction from the Conditional Use Permit No. LU-18-00222 which currently  
 20 prohibits semi-truck traffic on 82nd Street as part of the Conditional Use Permit allowing the  
 21 property at 3451 84th Street South to serve as a warehouse. If this request is granted, the  
 22 Applicant then seeks a Conditional Use Permit (Permit No. 3241) to allow the property at 3518  
 23 82nd Street South to serve as an enclosed parking lot for truck trailer parking associated with the  
 24 warehouse.

22 **SUMMARY OF DECISION:**

23 Both applications are **approved** subject to the conditions recommended by City Staff.

1 **BACKGROUND**

2 In 2019, the City's then Hearing Examiner granted the Applicant's request for a  
3 Conditional Use Permit (Permit No. LU-18-00222) to establish a warehouse facility at 3451 84th  
4 Street South in Lakewood. Conditional use approval was conditioned on the requirement that all  
5 truck and trailer traffic would not utilize or cross 82nd Street located immediately north of the  
6 project site, and that all traffic would instead rely upon 84th Street south of the project site.

7 In 2022, the Applicant sought a "Director Determination" from the City's Development  
8 Director, asking the Director to determine that the Applicant's proposed use of property at 3515  
9 82nd Street South for a trailer parking facility be recognized as an approved use. Instead, the  
10 Director issued his determination that the proposed use was not an allowed use under the City's  
11 regulations then in effect. The Director's decision was affirmed on appeal by the Hearing  
12 Examiner in March 2023, Application No. 3426.

13 The City has since revised its Development Regulations such that the warehouse would  
14 no longer qualify for a Conditional Use Permit at this site (and is now a legal nonconforming  
15 use) but the project site at 3515 82nd Street South now qualifies for use as a truck/trailer parking  
16 lot for the warehouse subject to a Conditional Use Permit. Such a permit is of no use, however,  
17 unless the earlier restriction prohibiting truck/trailer activity on 82nd Street South is removed,  
18 thereby allowing the movement of trailers between the warehouse and the parking area across  
19 82nd Street South.

20 City Staff recommends approval of both the modification to Conditional Use Permit LU-  
21 18-00222 to eliminate the restriction on the use of 82nd Street South for semi-truck traffic,  
22 followed then by approval of the proposed Conditional Use Permit to allow truck/trailer parking  
23 across the street from the warehouse at 3515 82nd Street South, subject to various conditions as  
24 set forth in the two Staff Reports. The Applicant does not object to any proposed conditions of  
25 approval.

1 **PUBLIC HEARING**

2 The public hearing on the two applications commenced at 10:00 a.m. on Wednesday,  
3 May 8, 2024. The hearing occurred remotely utilizing the Zoom platform with City Staff serving  
4 as the host. The City appeared through Andrea Bell, Senior Planner. The Application appeared  
5 through Michael Gregg and Bill Plautz. Several other staff members and Applicant  
6 representatives were present. There were no members of the public present. Testimony was  
7 received from Ms. Bell, Mr. Gregg and Mr. Plautz. A verbatim recording was made of the  
8 public hearing and all testimony was taken under oath. Documents considered at the time of the  
9 hearing were the following:

10 **Conditional Use Permit No. 3241**

- 11 A. Staff Report
- 12 B. Site Plan
- 13 C. Driveway Crossing Plan
- 14 D. Land Use Modification Description
- 15 E. Agency Comments from City of Lakewood Public Works Engineering  
dated February 15, 2024
- 16 F. Public Comment from Kathy Guptill received January 4, 2024
- 17 G. Combined Notice of Application
- 18 H. Notice of Public Hearing
- 19 I. Original Hearing Examiners Decision for CUP #LU-78-00222
- 20 J. SEPA Amendment #9362
- 21 K. Original Determination of Non-significance #LU-27-00221
- 22 L. Determination of Non-significance for CUP#3241
- 23 M. CUP Required Findings
- 24 N. Operational Characteristics
- 25 O. Traffic Impact Analysis Prepared by Heath & Associates, dated August  
2023
- 26 P. Approved Landscaping Plans

27 **Land Use Modification Permit No. 9014**

- 28 A. Staff Report
- 29 B. Site Plan
- 30 C. Driveway Crossing Plan
- 31 D. Land Use Modification Description
- 32 E. Agency Comments from City of Lakewood Public Works  
Engineering dated February 15, 2024
- 33 F. Public Comment from Kathy Guptill received January 4, 2024

- 1 G. Notice of Application
- H. Notice of Public Hearing
- 2 I. Original Hearing Examiners Decision for CUP -#LU-78-00222
- J. SEPA Amendment -#9362
- 3 K. Original Determination of Non-significance -#LU-27-00227
- L. Determination of Non-significance for CUP-#3247
- 4 M. CUP Required Findings
- 5 N. Operational Characteristics
- 6 O. Traffic Impact Analysis Prepared by Heath & Associates, dated August 2023
- 7 P. Approved Landscaping Plans.

8 No other exhibits were presented during the hearing.

9 At the commencement of the hearing the Hearing Examiner advised the  
10 parties that the two pending applications would be considered concurrently rather  
11 than separately. Witnesses were therefore encouraged to provide testimony  
12 applicable to both applications. Andrea Bell first testified on behalf of the City. Her  
13 testimony was brief and relied primarily upon her two Staff Reports (Exhibits 3241A  
14 and 9014A). As noted in the background section, the Applicant LBA OR  
15 Development- Company II, was granted a Conditional Use Permit in 2019 to  
16 construct and operate a warehouse facility at 3451 84th Street South in Lakewood.  
17 The warehouse site adjoins 84th Street to the south and 82nd Street South to the  
18 north. For various reasons, including the poor condition of 82nd Street, the Hearing  
19 Examiner approved the conditional use on the condition that the Applicant not utilize  
20 82nd Street for the movement of semi-truck/trailers and instead rely solely upon 84th  
21 Street.  
22

23 As use of the warehouse has grown, its tenants have found that the site lacks  
24 sufficient parking area for trucks/trailers, with an increasing need to park them  
25

1 elsewhere. The Applicant hopes to be able to park the trailers immediately across  
2 82nd Street from the warehouse but in order to do so must have its earlier  
3 Conditional Use Permit modified so that the restriction on use of 82nd Street is  
4 eliminated, thereby allowing application for a Conditional Use Permit to operate a  
5 trailer parking lot across the street from the warehouse at 3515 82nd Street South.  
6 City Staff recommends approval of both the modification to the earlier Conditional  
7 Use Permit as well as the currently requested Conditional Use Permit on the basis  
8 that the storage of trailers on this site will eliminate the need to transport them to  
9 further away sites, thereby reducing overall traffic in the neighborhood. In addition,  
10 City approval is conditioned upon the Applicant dedicating additional public right-  
11 of-way and making frontage and right-of-way improvements, all of which will  
12 significantly improve the condition of 82nd Street. Additionally, the project will  
13 involve screening and landscaping to serve as a buffer between the project and the  
14 adjoining mobile home park to the east. The project site is currently vacant,  
15 undeveloped and unattractive. The conditions imposed upon project approval will  
16 significantly improve the aesthetics of the site while also improving 82nd Street. City  
17 Staff therefore recommends approval of both applications subject to the list of  
18 conditions set forth in each application's Staff Report.  
19  
20

21 At the conclusion of Ms. Bell's direct testimony the Hearing Examiner posed  
22 several questions. The Hearing Examiner first noted that there had been one public  
23 comment submitted in opposition (Exhibit F of Permit No. 3241). This public  
24 comment expressed worries about traffic in general in the area surrounding the  
25 project site and that approval of either application might worsen traffic conditions.

1 Ms. Bell responded to this public concern by respectfully disagreeing, noting that the  
2 project will reduce overall traffic in the neighborhood and especially along Tacoma  
3 Way; will improve the condition of 82nd Street; and will not allow the warehouse to  
4 utilize 82nd Street for access to Tacoma Way but merely to get to/from the parking  
5 area.

6 The Hearing Examiner next questioned Ms. Bell about steps to protect the  
7 adjoining mobile home park to the east from noise and other impacts. Ms. Bell  
8 responded that the project will provide barrier fencing as well as landscaping, all of  
9 which will serve as both a visual and noise barrier. The Hearing Examiner then  
10 questioned whether use of the parking lot should be restricted to certain hours for the  
11 benefit of the adjoining mobile home park. Ms. Bell responded that the City would  
12 not object to restrictions on hours of use but also noted that City regulations (LMC  
13 8.36.010) already provide a restriction on such uses from 10:00 p.m. to 8:00 a.m.  
14 The Hearing Examiner then noted that the Applicant had indicated in its materials  
15 that it might restrict use of the lot from 8:00 a.m. to 5:00 p.m. and would the City  
16 recommend that the facility's hours be restricted to these hours? Ms. Bell again  
17 indicated the City's willingness to consider restrictions on hours of use but deferred  
18 to the Applicant for a more complete response.  
19  
20

21 At the conclusion of Ms. Bell's testimony the Applicant appeared through  
22 Michael Gregg as well as Bill Plautz. Collectively, Mr. Gregg and Mr. Plautz  
23 confirmed that the Applicant has no objection to the conditions recommended by  
24 City Staff as to either application. Mr. Plautz resisted any suggestion of restricting  
25 hours of use to 8:00 a.m. to 5:00 p.m. for the reason that future tenants may have



1 substantially different needs than the current one and that use of the parking area  
2 should not be unnecessarily restricted. Ms. Bell then responded to this suggestion  
3 and concurred, noting that the residents of the mobile home park have not sought  
4 such a restriction.

5 At the conclusion of the Applicant's presentation the hearing was opened for  
6 public comments. As noted earlier, there were no members of the public present and  
7 no public testimony was received. There has been only one public comment  
8 received in advance of the public hearing and, while in opposition to the application,  
9 expresses more generalized concerns about traffic conditions in the area rather than  
10 about any specific concern about this project.

11 I concur with City Staff that the two applications collectively provide for  
12 better, more efficient use of the warehouse facility while also resulting in valuable  
13 improvements to 82nd Street South, making the project a "win/win" for all interested  
14 parties. I therefore agree that both applications should be approved subject to the  
15 conditions recommended by City Staff but also subject to the condition that use of  
16 the parking area be restricted to 8:00 a.m. to 10:00 p.m.

17 Accordingly, I make the following:  
18

19 **FINDINGS OF FACT**

20 1. Any Findings of Fact contained in the foregoing Background and Public Hearing  
21 Sections are incorporated herein by reference and adopted by the Hearing Examiner as his  
22 Findings of Fact.

23 2. The Applicant, LBA OR Development-Company II has submitted two related  
24 applications: (a) Land Use Modification Permit No. 9014 seeks to modify a restriction found in  
25 the Conditional Use Permit LU-18-00222 which prohibits semi-truck traffic across 82nd Street.

1 South and (b) Conditional Use Permit Application No. 3241 seeks a Conditional Use Permit to  
2 establish an enclosed parking lot for truck/trailer parking associated with the adjacent warehouse  
3 approved under Conditional Use Permit LU-18-00222.

4 3. The warehouse at 3451 84th Street South is known as the "Starlite Warehouse".  
5 The proposed trailer parking site is referred to as the "Starlite Trailer Storage".

6 4. When the Starlite Warehouse was given Conditional Use Permit approval, its  
7 approval was conditioned upon there being no use of 82nd Street South for the movement of  
8 trucks and trailers. This condition was imposed for various reasons including the poor condition  
9 of 82nd Street as well as public concerns over multiple locations for trucks to be entering and  
10 exiting from Tacoma Way.

11 5. The current Application No. 9014 does not seek to use 82nd Street to gain ingress  
12 or egress from Tacoma Way but merely seeks to allow its crossing between the Starlite  
13 Warehouse and the Starlite Trailer Storage area.

14 6. The Starlite Warehouse has parking for 34 trailers at the north end of the site but  
15 is experiencing the need for additional storage, resulting in empty trailers being stored in front of  
16 dock doors or transported offsite to other locations. The offsite storage is resulting in increased  
17 vehicle trips and increased traffic along Tacoma Way. The proposed modification to the Starlite  
18 Warehouse Conditional Use Permit is anticipated to reduced external trips.

19 7. The proposed trailer parking lot is vacant, undeveloped, in somewhat poor  
20 condition and unattractive.

21 8. A copy of the Site Plan can be found on page 2 of the Staff Report for Conditional  
22 Use Permit No. 3241. The Applicant proposes a truck trailer parking lot providing storage for 75  
23 trailers. Additional site improvements include paving, landscaping, and frontage improvements.  
24 A perimeter fencing is proposed along with landscaping.

25 9. The proposed use is intended to act as an accessory parking area for the Starlite



1 Warehouse across 82nd Street. No other purposes are intended.

2 10. There are no permanent structures currently on the site needing to be demolished  
3 and no buildings proposed to be constructed.

4 11. The property is located within the Commercial 2 (C2) zoning district. Truck  
5 trailer parking is an approved use in the C2 zoning district subject to a Conditional Use Permit.

6 12. The surrounding properties have an eclectic mix of zoning designations and uses:  
7 Property to the north is zoned Air Corridor 2 and includes a mix of residential and vacant  
8 properties. Property to the south of the Starlite Warehouse has a zoning designation of Air  
9 Corridor 2 and includes a mix of residential and vacant properties. Property to the east is zoned  
10 Air Corridor 2 and contains a mobile home park which is legally nonconforming to its zoning  
11 designation. Property to the west is zoned C2 and contains an eclectic mix of commercial  
12 activities along Tacoma Way.

13 13. The portion of 82nd Street between the Starlite Warehouse and the proposed  
14 Starlite Trailer Storage has a narrow right-of-way, minimal frontage improvements and is in  
15 generally poor condition.

16 14. If approved, the applications will require the Applicant to dedicate additional  
17 public right-of-way, make frontage improvements, and otherwise bring 82nd Street up to  
18 required standards.

19 15. The proposed use of the trailer parking area is not expected to impose hazardous  
20 conditions onsite or adversely impact properties in the general vicinity.

21 16. The proposed trailer parking is not expected to increase traffic to the warehouse  
22 but is instead expected to decrease the number of trips resulting from the transporting of trailers  
23 to offsite areas. Even if use of the parking lot increased traffic in the area, any potential increase  
24 would remain under original projections for the warehouse as explained more fully in the Traffic  
25 Impact Assessment (TIA) prepared by Heath & Associates (Exhibit O of Land Use Modification

1 Permit No. 9014).

2 17. Although the Starlite Warehouse was a permitted use under the property's zoning  
3 designation in 2019, the site zoning has since changed and the warehouse is now a legal  
4 nonconforming use in the site's current C2 zoning. Despite the warehouse becoming legally  
5 nonconforming in the current C2 zoning, this does not adversely impact the existing Conditional  
6 Use Permit nor the Applicant's right to seek modification of its conditions.

7 Finding Relating to Public Notice and to SEPA Review.

8 18. A Notice of Application with respect to Land Use Modification Permit No. 9014  
9 was issued December 6, 2023, with a 28-day comment period.

10 19. A Notice of Application with respect to Conditional Use Permit No. 3241 was  
11 issued December 6, 2023, with a 30-day comment period.

12 20. The City received agency comments to both applications from the City of  
13 Lakewood Public Works Engineering Department setting forth various requirements of project  
14 approval. Public Works' recommended conditions have been included as conditions of both  
15 permits' approval. Among other things, these conditions require a dedication of additional public  
16 right-of-way, frontage improvements and an improved road surface.

17 21. The Notices of Application generated one public comment from Kathy Guptill.  
18 As noted earlier, Ms. Guptill's comments, while in opposition to the applications, expressed a  
19 more generalized concern over truck traffic in the general vicinity of the site rather than on any  
20 specific concerns relating to either application.

21 22. The City, as Lead Agency, issued a SEPA Determination of Non-significance  
22 (DNS) for the Starlite Warehouse on January 18, 2019. City Staff determined that the  
23 application to modify conditions of approval did not alter the earlier SEPA DNS, and issued an  
24 Amendment February 13, 2024, which concludes that the project will not have a significant  
25 adverse impact. No agency or public comment was received in response.

1           23.     The City, as Lead Agency, issued a SEPA Determination of Non-significance  
2 (DNS) for Conditional Use Permit No. 3241 on May 3, 2024. No additional agency or public  
3 comment has been received in response.

4           Additional Findings Relating to Land Use Modification Permit No. 9014.

5           24.     Modifying the conditions imposed under Conditional Use Permit LU-18-00222 to  
6 allow semi-truck traffic across 82nd Street South to and from the Starlite Warehouse and the  
7 proposed Starlite Trailer Storage area:

8           ●       Will allow tractor trailers/trucks to cross 82nd Street from the existing warehouse  
9 facility to the new parking lot.

10          ●       Will enhance operational efficiency of the warehouse, streamline logistics and  
11 reduce traffic congestion in the area.

12          ●       The Applicant has worked closely with the City's Public Works and Engineering  
13 Department to assess the impacts of the proposed modification and have agreed upon specific  
14 road and frontage improvements, including street dedication, to ensure that the modifications to  
15 the Conditional Use Permit is beneficial to all concerned.

16          ●       The Planning Department has reviewed the requirements imposed by Public  
17 Works and has determined that, subject to these requested conditions, there are no identifiable  
18 adverse impacts from the proposed modification.

19          ●       The proposed modification will only allow for trucks and trailers to cross 82nd  
20 Street. It does not allow trailer traffic to travel along 82nd Street South.

21          ●       The subject site is not located within a critical area or near a designated shoreline.

22           Additional Findings Relating to Conditional Use Permit No. 3241.

23           25.     Pursuant to LMC 18A.30.130, the granting of a requested Conditional Use Permit  
24 must not conflict with the requirements of Subsections A-G.

25           26.     Pursuant to LMC 18A.3.130.A.1, the granting of the Conditional Use Permit must

1 not adversely effect the established character of the surrounding vicinity.

2 27. The Applicant asserts, and the City agrees, that the proposed use will not  
3 adversely effect the character of the surrounding vicinity. The area surrounding the project site  
4 has a mix of both highly intensive commercial as well as legally nonconforming residential uses,  
5 all of which have been long established. Permit approval has been conditioned upon establishing  
6 screening fencing as well as landscaping to buffer any adverse impacts upon adjoining  
7 properties. These improvements, as well as frontage improvements along 82nd Street, will  
8 provide aesthetic enhancement to the area without any adverse impact upon surrounding uses.

9 28. As conditioned, the requirements of LMC 18A.30.130.A.1 has been met.

10 29. Pursuant to LMC 18A.30.130.A.2, the proposed use must not be detrimental to  
11 the public health, safety or general welfare.

12 30. The Applicant asserts, and the City Staff agrees, that the proposed use of the site  
13 for trailer parking has been adequately conditioned so as to ensure that the project is not  
14 detrimental to the public health, safety and general welfare.

15 31. Pursuant to LMC 18A.30.130.A.3, the project must not be injurious to the  
16 property or improvements adjacent to, and in the vicinity of, the project site. The Applicant and  
17 City Staff agree that the proposed use will improve the aesthetics of the site as well as the public  
18 right-of-way along 82nd Street South, and that the proposed site improvements, landscaping,  
19 road improvements, paving and fencing will all enhance the value of nearby properties.

20 32. Pursuant to LMC 18A.30.130.A.B, the granting of the proposed conditional use  
21 must be consistent and compatible with the goals and policies of the City's Comprehensive Plan  
22 and any code, ordinance, regulation, or standard in effect to implement the Plan.

23 33. City Staff has carefully reviewed the proposed conditional use with respect to  
24 consistency with the City's Comprehensive Plan and finds the application to be consistent with  
25 the Plan in general and with Goal LU16 and Policy LU16.1; and Goal LU18 and Policy LU18.1

1 in particular. Staff notes that the proposed activities are compatible with surrounding  
2 development and will not create any significant noise, aesthetic or other adverse impacts that  
3 would impact surrounding properties.

4 34. The Hearing Examiner concurs that the project, as conditioned, is consistent and  
5 compatible with the goals and policies of the Comprehensive Plan and the City's land use  
6 regulations.

7 35. Pursuant to LMC 18A.30.130.C, the proposed use must be properly located in  
8 relation to other land uses, transportation and public facilities and services in the vicinity and,  
9 further, that the capacity of the transportation system and other public facilities and services will  
10 be adequately served by the proposed use without placing an undue burden on such systems,  
11 facilities and services.

12 36. The Applicant has provided a Traffic Impact Assessment demonstrating that the  
13 proposed use will not have any negative impacts on traffic in the area. The TIA concludes that  
14 the proposal is not expected to generate higher traffic volumes and will not place an undue  
15 burden on the local transportation system or public facilities and services. No additional  
16 buildings are proposed to be constructed and site improvements are limited to those necessary to  
17 allow the safe parking of trailers; appropriate screening and landscaping to buffer the project  
18 from adjoining uses; and improvements to the 82nd Street right-of-way. The Hearing Examiner  
19 finds that the project satisfies the requirements of LMC 18A.30.130.C.

20 37. Pursuant to LMC 18A.30.130.D, the intensity and character of the proposed use  
21 must be compatible with the intensity and character of adjoining and nearby properties.

22 38. The Applicant anticipates that use of the parking area will be limited to 8:00 a.m.  
23 5:00 p.m. but nonetheless asks that its allowed hours be consistent with those allowed under  
24 LMC 8.36.010 (8:00 a.m. to 10:00 p.m.). Based upon these allowed hours, the proposed use will  
25 be compatible with the intensity and character of adjoining and nearby properties, including both

1 the eclectic mix of commercial activities to the west and residential uses to the east. City Staff  
2 notes that commercial businesses to the south and west operate in a very similar manner in  
3 intensity. Very little noise is expected to be generated from the site's use, while screening,  
4 fencing and landscaping will help buffer any noise, especially with the site's use prohibited  
5 during nighttime hours. The Hearing Examiner concurs and finds that the requirements of LMC  
6 18A.30.130.D have been met.

7 39. Pursuant to LMC 18A.30.130.E, it must be demonstrated that the site is of  
8 sufficient size to accommodate the proposed use and that all yards, opens spaces, landscaping,  
9 walls, and fences, parking, loading and other necessary features are properly provided to assure  
10 the proposed use will be compatible with adjacent uses and the character of the vicinity.

11 40. The proposed use contains 2.2 acres and is sufficiently sized to accommodate the  
12 proposed trailer parking as more clearly shown in the project's Site Plan. The proposed parking  
13 area, along with all necessary internal movements and emergency vehicle access can be  
14 accomplished within the proposed site. The Site Plan demonstrates that there is adequate area  
15 for all required fencing, landscaping and other site improvements. The Applicant asserts, and  
16 Staff agrees, that the project has been sufficiently conditioned so as to ensure that the proposed  
17 use will be compatible with adjacent uses and the character of the vicinity. The Hearing  
18 Examiner concurs.

19 41. Pursuant to LMC 18A.30.130.F, the proposed use must not introduce hazardous  
20 conditions at the site that cannot be mitigated so as to protect adjacent properties, the vicinity and  
21 the public health, safety and welfare of the community from such hazards.

22 42. The Applicant asserts, and City Staff agrees, that the proposed use of the site for  
23 trailer parking will not introduce hazardous conditions endangering neighbors or the public.

24 Project approval has been conditioned upon compliance with all applicable development  
25 regulations intended to ensure the publics health, safety and general welfare. The Hearing



1 Examiner concurs.

2 43. Pursuant to LMC 18A.30.130.G, the conditions necessary to mitigate the impacts  
3 of the proposed use must be capable of reasonable monitoring and enforcement.

4 44. Both the Applicant and City concur that, given the limited scope and minimal  
5 anticipated impacts of the project, any mitigation measures will be easily capable of reasonable  
6 monitoring and enforcement. The City additionally finds that its proposed conditions of approval  
7 will ensure that the impacts of the proposed conditional use are mitigated and can be reasonably  
8 monitored and enforced. The Hearing Examiner concurs.

9 45. City Staff recommends approval of the requested Land Use Modification Permit  
10 No. 9014 subject to the three conditions found at page 16 of the Staff Report for that application.

11 46. City Staff recommends approval of the requested Conditional Use Permit No.  
12 3241 subject to the five conditions set forth in the Staff Report for that Conditional Use Permit  
13 application, commencing at page 8.

14 47. The Hearing Examiner finds that the recommended conditions of approval should  
15 be jointly imposed on both projects in order to ensure full compliance.

16 48. The Hearing Examiner finds that an additional condition of project approval  
17 should be imposed which restricts hours of use of the trailer parking lot to 8:00 a.m. to 10:00  
18 p.m.

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

20 **CONCLUSIONS OF LAW**

- 21 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.  
22 2. Any Conclusions of Law contained in the foregoing Background and Public  
23 Hearing Sections or contained in the foregoing Findings of Fact are hereby incorporated by  
24 reference and adopted by the Hearing Examiner as his Conclusions of Law.  
25

- 1           3.     All public notice requirements for either application have been met.
- 2           4.     All SEPA requirements for either application have been met.
- 3           5.     The proposed uses are not prohibited under the City's Comprehensive Plan and  
4 are consistent with the Plan.
- 5           6.     The proposed uses, as conditioned, are consistent with the City's land use  
6 ordinances.
- 7           7.     The proposed modification of CUP No. LU-18-00222 will not adversely impact  
8 the permit and it will remain consistent with the City's Comprehensive Plan and municipal code.
- 9           8.     The proposed modification of CUP LU-18-00222 meets all of the requirements  
10 for approval of a land use modification permit.
- 11           9.     The proposed use will remain compatible with the surrounding commercial land  
12 uses. Mitigation measures and on and off-site improvements will assist in mitigating any  
13 potential adverse impacts to the surrounding nonconforming residential uses.
- 14           10.    The proposed trailer park, as conditioned, is consistent with all other City land use  
15 ordinances.
- 16           11.    The proposed trailer park, as conditioned, is consistent with the site's C2 zoning  
17 designation.
- 18           12.    The proposed conditional use, as conditioned, satisfies all requirements of LMC  
19 18A.30.130.A.1-3.
- 20           13.    The proposed conditional use, as conditioned, satisfies all requirements of LMC  
21 18A.30.130.B.
- 22           14.    The proposed conditional use, as conditioned, satisfies all requirements of LMC  
23 18A.30.130.C.
- 24           14.    The proposed conditional use, as conditioned, satisfies all requirements of LMC  
25 18A.30.130.C.

1           15.     The proposed conditional use, as conditioned, satisfies all requirements of LMC  
2 18A.30.130.D.

3           16.     The proposed conditional use, as conditioned, satisfies all requirements of LMC  
4 18A.30.130.E.

5           17.     The proposed conditional use, as conditioned, satisfies all requirements of LMC  
6 18A.30.130.F.

7           18.     The proposed conditional use, as conditioned, satisfies all requirements of LMC  
8 18A.30.130.G.

9           19.     The requested modification of CUP LU-18-00222 should be granted subject to the  
10 conditions set forth in the Staff Reports for both applications, together with the additional  
11 condition imposed by the Hearing Examiner.

12           20.     The requested Conditional Use Permit should be granted subject to the conditions  
13 set forth in the Staff Reports for both applications, together with the additional condition  
14 imposed by the Hearing Examiner.

15  
16           NOW, THEREFORE:

17           Land Use Modification Permit No. 9014, modifying CUP LU-18-00222 and Conditional  
18 Use Permit No. 3241 are approved subject to the following conditions:

19           1.     The applicant shall abide by all conditions set forth in the Hearing Examiners  
20 original approval of CUP #LU-18-00222 which include the following:

- 21                   1)     Minor modifications to the plans will require Community Development  
22                             and Public Works Departments approval, and major modifications will  
23                             require an amended or new Conditional Use Permit.
- 24                   2)     The Applicant shall be required to obtain Design Review approval, a  
25                             Boundary Line Adjustment, a Site Development permit with Drainage  
                              Review and all necessary building permits through the City of Lakewood.  
                              In addition, outside permitting through various agencies may apply.

- 1           3)     The Applicant shall abide by all mitigating conditions provided in the  
2           SEPA DNS issued on January 18, 2019.
- 3           4)     The Applicant shall dispose of demolition material in accordance with  
4           Board of Health Resolution 2004-3550 and WAC 173-350. Any hazardous  
5           material found during demolition must be appropriately handled and  
6           disposed.
- 7           5)     Temporary construction fencing and safety signage shall be in place  
8           during construction and/or demolition.

9           2.     The applicant shall abide by the agency comments from the City of Lakewood  
10          Public Works Engineering Department dated February 15, 2024 which details the following  
11          requirements:

12           a.     A dedication of fourteen (14) feet (+/- based on survey) of frontage for  
13          Right-of-way use is required.

14           b.     The 24' wide section at the proposed crossing location must be improved  
15          to a 6" HMA over 4" CSTC. This can be accomplished at the same time the new parking lot is  
16          being improved. A Right of Way permit will be required at that time.

17           3.     Noncompliance with the conditions of the permit shall be grounds for rehearing  
18          before the Hearing Examiner, in addition to fines and penalties. The Hearing Examiner may  
19          suspend or revoke a conditional use permit pursuant to this section and/or impose penalties for  
20          violation of any of the provisions of this title or original conditions of approval.

21           4.     The Starlite trailer parking yard and site improvements shall be constructed in  
22          substantial compliance with this staff report and all conditions of approval. Minor modifications  
23          to the plans will require Community Development and Public Works Departments approval, and  
24          major modifications will require a land use modification permit.

25           5.     All necessary permits from outside agencies including but not limited to  
            Lakewood Water District and Pierce County Sewer shall be obtained prior to construction  
            activities.

            6.     The applicant shall abide by the agency comments from City of Lakewood Public  
            Works Engineering Department dated May 1, 2024 which has the following  
            requirements:

- Site development (LMC 12.10)  
       Site Development Permit and plans will be required.
  - Application for Site Development Permit is available on-line.
  - The submittal requirements can be found in LMC 12.04.040 and 12.10.080 and the ESM.



- Survey and construction site controls must be clearly indicated on the plans and on site during construction.
- Per LMC 12.10.070 gates on commercial properties shall be set back from the Right-of-way line by sixty (60) feet.
- Take extra care to look for abandoned wells, septic systems and buried fuel tanks. All were common during prior development.
- A pre-construction meeting shall be conducted on-site prior to groundbreaking to assure that all permits are approved and in-hand, all plans are approved and on-site and that the site has been properly prepared with TESC in place.
- Paving of parking areas to protect groundwater from contaminants is required per LMC 18A.80.040.
- Temporary and permanent erosion / sediment controls shall be designed, implemented, and maintained per LMC 12.10.040.

- Stormwater (LMC 12.11)  
A Stormwater Pollution Prevention Plan (SWPPP) update will be required in the Site Development permit.
  - All onsite storm water runoff shall be addressed and remain onsite (infiltration). The Stormwater Management Manual for Western Washington, published by the Washington State Department of Ecology (Ecology Manual) shall be used for storm drainage design.
  - Use the flowcharts in LMC 12.11.030 to determine minimum surface water and storm water requirements.
  - The City emphasizes the use of low impact development stormwater management and treatment. Compliance with these standards shall be noted within the drainage review.
  - A letter of certification for the storm system shall be submitted by the project engineer per LMC 12.06.020
  - A Stormwater Maintenance Agreement consisting of an Operations and Maintenance Manual and a Source Control Plan will be required by the City and will be recorded through the County.

- Right of way dedication (LMC 12.05.060)  
82nd Street S. is designated as Local Access and per ESM Appendix 2, Table 2 requires a sixty (60) foot Right-of-way. An additional 15' right of way dedication will be required. The City will assist you with the required recording documents.

- Title report
  - Submit a title report obtained within 6 months prior to development to verify the existence of any easements or encumbrances.
  - Existing easements, covenants, conditions, and restrictions must be respected or extinguished as required for development.

- Frontage and Offsite Improvements (LMC 12.09)  
Frontage improvements will be required per LMC 12.09.031 and will conform to

1 LMC 12.09.031.B *Scope of improvements*. Including but not limited to curb,  
2 gutter, sidewalk, storm drainage, street lighting, traffic signal equipment, utility  
3 installation or relocation, landscaping strip, street trees and landscaping,  
4 irrigation, street widening, pavement overlay or reconstruction, and  
5 channelization.

6 - Half-street pavement reconstruction shall be required when: the existing  
7 pavement rating is at or below 40, based on the City of Lakewood Pavement  
8 Management System; crown slope is greater than three percent; is light  
9 bituminous pavement; and/or was built with no base structure. Pavement  
10 coring and/or subsurface investigation shall be required to determine base  
11 condition.

12 - Half-street asphalt overlay (two-inch minimum) shall be required when the  
13 existing pavement rating is at or below 60 based on the City of Lakewood  
14 Pavement Management System. Pre-leveling and/or grinding may be required  
15 to create a uniform two percent crown slope.

16 - Additional improvement of the pavement at the proposed crossing location is  
17 required due to potential heavier loads and maneuvering. The crossing path  
18 must have 6" HMA over 4" CSTC or load bearing equivalent.

19 - Trailers and other tractor/trailer related equipment shall not travel along 82nd  
20 street.

21 - Additional improvements offsite may be required by LMC 12.09.032 for traffic  
22 safety/risk mitigation identified by the TIA.

23 ● Record (As-Built) Drawings (LMC 12.06.010)

24 Record drawings shall be required in digital AutoCAD format and shall contain  
25 the information required by LMC 12.06.010.

● One year guarantee period (LMC 12.06.040)

The applicant shall be responsible for correcting all defects of work in the public  
right-of-way for one year after final acceptance.

7. A complete application of all required construction level permits shall have been  
submitted to the City for approval within three (3) years of the date of conditional use  
permit approval.

8. Noncompliance with the conditions of the permit shall be grounds for rehearing  
before the Hearing Examiner, in addition to fines and penalties. The Hearing Examiner may  
suspend or revoke a conditional use permit pursuant to this section and/or impose penalties for  
violation of any of the provisions of this title or original conditions of approval.

9. The hours of use of the trailer parking lot shall be restricted to to 8:00 a.m. to  
10:00 p.m.



1 DATED this 15<sup>th</sup> day of May, 2024.

2  
3   
Mark C. Scheibmeir  
City of Lakewood Hearing Examiner

4 **Appeal Right and Valuation Notices**

5 Final decision of the Hearing Examiner are subject to appeal to superior court. Appeals  
6 of final land use decisions to superior court are governed by the Land Use Petition Act  
7 ("LUPA"), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict service  
requirements. Persons wishing to file LUPA appeals should consult with an attorney to ensure  
that LUPA appeal requirements are correctly followed.

8 Affected property owners may request a change in valuation for property tax purposes  
9 notwithstanding any program of revaluation.