

TUMWATER GENERAL GOVERNMENT COMMITTEE

MINUTES OF VIRTUAL MEETING

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CONVENE: 2:00 p.m.

PRESENT: Chair Michael Althaus and Councilmembers Joan Cathey and Leatta Dahlhoff.

Staff: Planning Manager Brad Medrud.

APPROVAL OF MINUTES: GENERAL GOVERNMENT COMMITTEE, MAY 11 2022:

MOTION: Councilmember Cathey moved, seconded by Councilmember Dahlhoff, to approve the General Government Committee meeting minutes of May 11, 2022 as published. A voice vote approved the motion unanimously.

ORDINANCE NO. O2022-006, PLANNED UNIT DEVELOPMENT Manager Medrud briefed members on proposed changes to planned unit development (PUD) codes. The Planning Commission held a public hearing and completed its review of the proposed changes.

The City's PUD regulations were last substantially updated in 2000. In other jurisdictions, PUDs provide a quantifiable public benefit in exchange for flexibility with existing regulations. PUDs provide a benefit to developers by giving flexibility in addressing existing regulations, but have not provided a quantifiable benefit to the public. The proposed amendments provide developers with the flexibility of existing regulations in exchange for requiring quantifiable public benefits.

Currently, the regulations do not clearly address the requirements for private streets as part of PUDs. The amendments would:

- Provide more specificity in regards to when and how private streets are allowed.
- Amend the definition of a private street in Tumwater Municipal Code (TMC) Title 17 to be consistent with the Tumwater Development Guide and amend the sections of the Tumwater Development Guide that address private streets as needed.
- Amend the definition of Private Street in TMC 17.04.385 to read, "Private Street" means a privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means.

The Public Works Public Committee received a briefing on the proposed ordinance.

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Other amendments include:

- Amend permitted uses:
 - a. Add “planned unit developments” as a permitted use in the Manufactured Home Park (MHP) zone district
 - b. Add “planned unit developments not including residential uses” as a permitted use in the Airport Related Industry (ARI) zone district
 - c. Remove single-family detached dwellings as part of a planned unit development as a permitted use from the Multifamily Family Medium (MFM) zone district
 - d. Remove single-family detached dwellings and duplexes as part of a planned unit development overlay as a permitted use from the Multifamily Family High (MFH) zone district
- Change the name of the chapter to remove “overlay”
- Update the intent section to establish a clear list of tangible benefits to be provided by a planned unit development to the public in exchange for flexibility in zoning regulations.
- The size of the project affects the number of tangible benefits required:
 - Projects providing 20 or more dwelling units or industrial, commercial, or institutional projects 20 acres or more in size shall provide at least 2.0 points from the list of tangible benefits
 - Projects providing less than 20 dwelling units or industrial, commercial, or institutional projects less than 20 acres in size shall provide at least 1.0 point from the list of tangible benefits

In addition to the quantifiable benefits as proposed, the ordinance also identifies areas of the City where PUDs would be allowed. Essentially, PUDs would be permitted in all zone districts except Greenbelt (GB), Open Space (OS), Residential/Sensitive Resource (RSR) due to the extreme sensitivity of the areas to environmental disturbance, and Historic Commercial (HC). The proposal amends the current code language about the effect of PUD approval on existing zone district regulations and establishing a minimum size for a PUD of one acre.

The proposal updates TMC 18.36.040 for items required in an application:

- a. A description of how the PUDs meet the requirements of TMC 18.36.010
- b. A description of how the PUD relates to the surrounding area
- c. If there is more than one underlying zone district then the application must include:
 - 1) A map showing the existing zone district locations, sizes, and densities within the PUD.
- A map showing the proposed locations of the zone districts within the PUD

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The Planning Commission discussed the quantifiable benefits and conveyed interest in ensuring smaller projects were not burdened with the same level of benefits a much larger project could provide. Staff contacted five local developers on May 16, 2022 with one developer responding. Staff incorporated some suggested changes in the ordinance.

Councilmember Cathey questioned the logic for the difference in points based on the size of the proposal if the City's intent is to seek public benefits. Manager Medrud said the concern surrounded the potential difficulty of achieving two points for smaller proposals.

Manager Medrud reviewed the points assigned to a series of tangible benefits provided to the public. Provisions for the point value in the ordinance require both the City and the applicant to reach an agreement on the value of a particular benefit. Tangible benefits can range from one to two points or a range of points dependent upon the amount of the benefit received:

- Provide superior useable parks and open space – *Councilmember Dahlhoff recommended replacing “superior” with another descriptive word that denotes the benefit beyond a minimum requirement. Manager Medrud affirmed staff would review the terminology as it is important to denote that the City wants a benefit that is beyond the current code requirement. Councilmember Dahlhoff suggested considering some of the terminology in some of the City’s strategies and priorities that speak to livable, inclusive, and accessible open spaces and parks for consistency.*
- Provide significant public facilities or other public amenities that could not be required by the City for development of the subject property without a planned unit development.
- Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers.
- Dedication of a site containing a historic landmark – *Councilmember Cathey asked whether the City has another code that addresses the preservation of a historic site or landmark. Manager Medrud said the provision provides an opportunity for a developer to dedicate something as an historic landmark that has never received a designation because of the lack of agreement by a previous property owner. He offered to conduct additional research on issue.*
- Incorporation of energy systems that produce energy from nondepletable energy sources that would result in at least fifty percent of the energy needs for the development being achieved.
- For residential developments, building passive homes, which meet the Passive Home Institute US (PHIUS) standard resulting in fifty percent or more of the total dwelling units qualifying as passive

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homes – *Manager Medrud reported the benefit was suggested by a developer.*

- Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the development.
- The provision of at least twenty percent of the total dwelling units as permanently affordable housing.
- Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section.

In addition to the quantifiable benefits as proposed, the ordinance also identifies areas of the City where PUDs would be allowed. Essentially, PUDs would be permitted in all zone districts except Greenbelt (GB), Open Space (OS), Residential/Sensitive Resource (RSR) due to the extreme sensitivity of the areas to environmental disturbance, and Historic Commercial (HC). The proposal amends current code language about the effect of PUD approval on existing zone district regulations and establishing a minimum size for a PUD of one acre.

The proposal updates TMC 18.36.040 for items required in an application:

- d. A description of how the PUD meets the requirements of TMC 18.36.010.
- e. A description of how the PUD relates to the surrounding area.
- f. If there is more than one underlying zone district then the application must include:
 - 1) A map showing the existing zone district locations, sizes, and densities within the PUD.
 - 2) A map showing the proposed locations of the zone districts within the PUD - the PUD cannot modify the sizes or densities of Comprehensive Plan land use designations or zone districts without an amendment approved through TMC 18.60 *Text Amendments and Rezones*.
- g. How the PUD is accessed and how internal circulation will be addressed.
- h. The location and size of critical areas and their buffers on or within 300 feet of the project site.
- i. The location and size of open space, parks, and landscaped areas and how they serve the development.
- j. Identify the location of stormwater facilities.
- k. SEPA environmental review.
- l. Covenants for ongoing maintenance of common areas and stormwater facilities.
- m. If phased, a map of proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development in each phase.
- n. How the application relates to adjacent properties under similar ownership.

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- o. How the application allows for future development or redevelopment of neighboring properties.

Other proposed code modifications would create a new section explaining how an application cannot modify requirements in TMC Title 16 *Environment* and a new section explaining that the creation of new lots shall follow the requirements in TMC Title 17 Land Division.

Manager Medrud reviewed a list of code modifications that would be allowed and not allowed for PUDs:

Code Modifications Allowed	Description
Environment	The provisions in TMC Title 16 may not be modified, except modification consistent with TMC 18.36.01(B)(3)
Zone Districts	The type and size of the underlying zone districts designated by the zoning map shall not be modified. Some individual development standards of the underlying zone districts may be modified.
Planned unit developments with multiple underlying zone districts	A planned unit developments with multiple underlying zone districts A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C). Some individual development standards of the underlying zone districts may be modified.
Setbacks	Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development. May modify internal setbacks within the planned unit development.
Lot sizes	Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent, either larger or smaller, provided the densities of the underlying zone district are met.
Land coverage	Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent.

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Structure height	Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent.
Yards	Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent, provided the land coverage requirements of the underlying zone district are met.
Parks and open space area	In addition to the park and open space dedication requirements of TMC 17.12.210 or TMC 18.42.130, as applicable, provide additional park and open space areas consistent with TMC 18.36.010.

Manager Medrud reviewed modifications not allowed:

Code Modifications Not Allowed	Description
Densities	Densities established by the underlying zone districts shall not be altered. <i>Densities, unlike setbacks and heights, are factored within the Tumwater Comprehensive Plan for specific zone districts and land use designations.</i>
Uses	Limited to the permitted, accessory, or conditional uses established by the underlying zone districts. If a proposed use requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56 Conditional Use Permits.
Setbacks	Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development. May modify internal setbacks within the planned unit development.
Parking	Parking requirements shall not be modified.
Landscaping	Landscaping requirements shall not be modified.
Citywide Design Guidelines	Citywide Design Guidelines shall not be modified.
Tumwater Development Guide	Requirements of the Tumwater Development Guide shall not be modified, except as noted in TMC 18.36.080.
Signage	Signage requirements shall not be modified.

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Stormwater	Stormwater requirements shall not be modified.
Provisions of this chapter	The requirements of TMC 18.36 shall not be modified.
Procedural requirements	Procedural requirements in TMC shall not be modified.

Councilmember Cathey referred to different types of adjacent land uses and configurations and the proposed modifications allowing for height or setback changes. She asked about any restraints that the City could impose if the height of the PUD conflicts with surrounding land uses, as well as lighting requirements to ensure light pollution does not occur. Manager Medrud explained that lighting requirement of a PUD would not change and the requirements for light trespassing beyond the property boundary would not change. The purpose of not allowing the modification of setbacks along the property boundary is to ensure there is sufficient space between new PUDs and existing development to reduce the level of impacts. The proposal takes advantage of the setbacks to ensure that changes between lot sizes and heights include a buffer between existing and planned unit developments.

Councilmember Cathey responded that construction of a large building next to an existing home regardless of the setback often changes sun patterns for existing uses. An article she recently reviewed spoke to the construction of a large multifamily complex in an existing neighborhood that totally blocked the sun in neighboring property backyards affecting gardens and the impacted quality of life of the residents. Manager Medrud said there are some provisions in particular zone districts that have allowed some considerations to prevent the blocking of sunlight. It is possible for staff to review how height could intersect and propose any necessary changes.

Manager Medrud reported public streets are required in a PUD, except private streets are allowed when serving 4 or fewer residential dwelling units, unless all of the dwelling units are low income, then private streets may serve up to 9 detached single family dwellings or up to 25 attached single family or multifamily dwelling units, except when private streets serve up to 4 businesses on separate parcels, or up to 4 businesses situated on 1 parcel, and that private streets must meet the minimum design standards and requirements for private streets in the Tumwater Development Guide.

Councilmember Cathey commented on problems encountered by the City concerning private roads and the lack of maintenance by property owners and requests to the City to maintain those roads. She suggested more conversation is necessary to determine whether private roads could be allowed because of past situations encountered by the City. Manager Medrud explained that the provisions were included as a consideration for smaller levels of development that may not have similar issues that have occurred in the past; however, the proposal is currently under review and

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could be revised through the review process. Additionally, the Planning Commission is discussing the need for an educational component that should be addressed concerning private streets, as many residents are often not aware they live on a private street and that they incur maintenance responsibility for those streets.

Manager Medrud reported the proposal allows for phasing development of a PUD under the following conditions:

- a. For applications with more than 100 dwelling units or commercial or industrial PUDs covering more than 20 acres
- b. Phased approval is limited to 2 but not more than 4 phases
- c. Applications shall show the number of phases, the area each phase encompasses, and the sequence for development of the various phases
- d. How transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed needs to be addressed for all phases of the development

The proposal updates the hearing examiner approval process and criteria used to approve or deny an application:

- a. Substantial conformance to the Tumwater Comprehensive Plan
- b. Conformance to the Tumwater Municipal Code and Tumwater Development Guide
- c. The quantifiable public benefits required by TMC 18.36.010
- d. The public health, safety, and general welfare
- e. The adequacy of the size of the project to accommodate the contemplated developments
- f. Adequate access to the project site for all users of the project including the public, if applicable
- g. Appropriate access for public safety such as fire protection and police services
- h. Adequate mitigation measures for impacts associated with the physical characteristics of the site such as groundwater, stormwater, floodplains, critical areas, steep slopes, and critical habitat

Chair Althausen asked about the exacting standards for “substantial conformance” or “conformance” and whether it pertains to a bare minimum or it requires 100 percent conformance to the code and development guide. Manager Medrud replied that “substantial conformance” is a higher standard based on his research of code language and is a step beyond conformance of a specific standard. Chair Althausen replied that his assumption of “substantial conformance” means less than complete “conformance.” Manager Medrud offered to provide additional information as to the interpretation for a future discussion during the Council’s review.

The proposal moves and updates the appeal process and creates new sections for:

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- a. Final PUD approval
- b. Minor modifications
- c. Major modifications
- d. How applications vest
- e. How long a preliminary approval is valid

The proposal also updates the section on bonding.

The Planning Commission recommends approval of the proposed amendments as shown in Ordinance No. O2022-006. Next steps include a Council worksession on July 26, 2022 with consideration of the ordinance by the Council on Monday, August 1, 2022.

Councilmember Dahlhoff commented that many Councilmembers have met individually with the Thurston Climate Action Team on its proposed budget request addressing actions on climate change. She referred to the ninth provision stating, “Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section,” and asked whether installation of EV charging stations would be considered a tangible benefit. Manager Medrud affirmed installation of EV charging stations could qualify dependent upon the number of stations and if the installation exceeded the current requirements in the Building Code or other existing City codes. It is likely points could be assessed for the value EV charging stations.

The committee discussed the challenges of encouraging or requiring the energy retrofits of existing and new residential structures without affecting rental rates.

Chair Althaus asked whether existing codes for large multifamily developments require a specific number of EV stations. Manager Medrud confirmed that for new larger multifamily, office, and commercial development, a specific number of EV stations are required to serve the development.

WSDOT RIGHTS OF WAY INITIATIVE PROCESS MEMORANDUM OF UNDERSTANDING:

Manager Medrud reported the proposal was initiated by the Governor’s Office and through the Department of Commerce, Washington State Department of Transportation, and Washington State Patrol in May 2022. Staff members from all four local jurisdictions have been working on the initiative.

Efforts by the jurisdictions were initiated following the Governor’s Executive Order for state agencies to explore processes for transitioning specific rights-of-way housing homeless people within five counties in the state (Thurston, King, Pierce, Snohomish, and Spokane). Four rights-of-way were identified within Thurston County to focus efforts on as part of the process. All four of the locations reside within the City of Olympia and

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include the I-5 interchanges at Pacific Avenue, Lilly Road, Sleater-Kinney Road, and right-of-ways surrounding the State Capitol freeway entrances. The Cities of Lacey and Tumwater are involved in the process because of the potential action resulting in transferring the problems to nearby jurisdictions and the potential of unintended consequences of homeless encampments moving to other areas along I-5. It is important during the examination of the issues to consider resolutions holistically while understanding that the jurisdictions have an imposed timeline to address the issues.

The proposed Memorandum of Understanding (MOU) is between Thurston County, the three larger cities, and the state agencies to identify the basic groundwork for moving forward to address the issues. The MOU is not representative of the end of any other agreement or the process but is intended to serve as a starting point as the process moves forward. It is likely there will be additional adjustments to the MOU as the process moves forward.

The Lilly Road right-of-way has been recently cleared. Four individuals living in the right-of-way were relocated to housing. The Governor's order was specific and it requires housing for up to three years for affected individuals moved from state rights-of-way.

The MOU enables City staff to continue working with the state and other jurisdictions through the process. Staff recommends reviewing the attached Memorandum of Understanding – Transitioning People Out of State Rights of Way in Thurston County and recommend the placement of the MOU as a consent item for the July 19, 2022 City Council meeting.

Chair Althausen noted that the options are limited for the City other than it is important to participate and exert some influence on the process that will affect the City or not participate and possibly be affected by the consequences of actions. In this particular case, there are complexities involved with Thurston County and the cities faced with the potential transformative amount of funding available for the region's homeless funding system to provide shelter and housing for people experiencing homelessness as opposed to not employing best practices by just removing people from their site to housing. It is important to recognize the issue as a choice resulting in difficult questions and options.

Councilmember Cathey commented that the issue has been discussed extensively during Regional Housing Council meetings. She agreed with the Chair's assessment.

Councilmember Dahlhoff asked how the process aligns with the recent development of the Community Action Council not renewing its Coordinated Entry Program with the Family Support Center. Today, there

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are no intake services available to individuals. She asked how that situation plays into the dynamic of the state's rights-of-way process. Manager Medrud said the short answer essentially results in more simultaneous emergencies with the loss of services for homeless individuals. State staff members have discovered that the process requires the ability to identify and work with individuals and refer them to proper housing, which takes time. The City of Olympia's efforts for outreach to the encampments has been extraordinary with the jurisdictions working with individuals living in and around the Pacific Avenue interchange (10-20 individuals). However, when larger encampments are addressed surrounding the Capitol, more systemic assistance will be required to support efforts by the jurisdictions.

Chair Althausser added that another contract not renewed by the Community Action Council was the Housing & Essential Needs (HEN) contract that could lead to more disruption and could affect the state's rights-of-way process. The HEN program represents the most at-need group of people receiving state benefits and services, as they are individuals with permanent long-term disabilities.

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Cathey, to recommend the placement of the Memorandum of Understanding – Transitioning People Out of State Rights of Way in Thurston County as a consent item for the July 19, 2022 City Council meeting. A voice vote approved the motion unanimously.

ADJOURNMENT:

With there being no further business, Chair Althausser adjourned the meeting at 3:05 p.m.