



**GENERAL GOVERNMENT COMMITTEE
MEETING AGENDA**

**Online via Zoom and In Person at
Tumwater City Hall, Council Conference
Room, 555 Israel Rd. SW, Tumwater, WA
98501**

**Wednesday, July 13, 2022
2:00 PM**

1. Call to Order
2. Roll Call
- [3.](#) Approval of Minutes: General Government Committee, May 11, 2022
- [4.](#) Ordinance No. O2022-006, Planned Unit Development (Brad Medrud)
- [5.](#) WSDOT Rights of Way Initiative Process Memorandum of Understanding (Brad Medrud)
6. Additional Items
7. Adjourn

Meeting Information

All committee members will be attending remotely. The public are welcome to attend in person, by telephone or online via Zoom.

Watch Online

<https://us02web.zoom.us/j/86161158313?pwd=cjJOSFpuZmVWOHpqdTBSaGE5M0V1dz09>

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 861 6115 8313 and Passcode 335164.

Public Comment

The public may submit comments by sending an email to council@ci.tumwater.wa.us, no later than 9:00 a.m. the day of the meeting. Comments are submitted directly to the Committee members and will not be read individually into the record of the meeting.

Post Meeting

Audio of the meeting will be recorded and later available by request, please email CityClerk@ci.tumwater.wa.us

Accommodations

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contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384. To contact the City's ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us.

**TUMWATER GENERAL GOVERNMENT COMMITTEE
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CONVENE: 2:00 p.m.

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

Staff: City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, and Planning Manager Brad Medrud.

**APPROVAL OF
MINUTES: GENERAL
GOVERNMENT
COMMITTEE, APRIL
13, 2022:**

MOTION: **Councilmember Dahlhoff moved, seconded by Councilmember Cathey, to approve the General Government Committee meeting minutes of April 13, 2022 as published. A voice vote approved the motion unanimously.**

**ORDINANCE NO.
O2022-004, BINDING
SITE PLANS:** Manager Medrud presented the recommendation from the Planning Commission to clarify requirements for binding site plans in Tumwater Municipal Code (TMC) Titles 15 Buildings and Construction and 17 Land Division.

The proposed amendment was included in the 2022 Long Range Planning Work Program. Binding site plans are an alternative method of land division authorized in RCW 58.17.035. A binding site plan provides exact locations and detail for the type of information appropriately addressed as a part of land division, such as infrastructure and other requirements typical of subdivisions. Binding site plans may only be used for land divisions for industrial or commercial uses; lease of manufactured homes – typically a manufactured home park; and condominiums.

The binding site process is intended to be more flexible. For example, in the development of a shopping center, a binding site plan process would divide the land into pads for sale and as development and changes occur, the process would be simplified through the binding site plan process rather than processing a change through a preliminary plat process. Regular subdivisions for residential uses except for condominiums would not be eligible to use a binding site plan process.

Current regulations for binding site plans have not been substantially updated since 1996. The regulations in TMC 17.08 *Binding site plans* do not clearly relate to the requirements for binding site plans found elsewhere in TMC Title 17 Land Division or to the vesting requirements contained in TMC Chapter 15.44 *Vesting of development rights*.

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Councilmember Cathey requested clarification as to the term, “binding” and the difference in the site plans. Manager Medrud explained that the larger residential subdivision process is a preliminary plat process approved by the hearing examiner for a larger parcel subdivided into individual lots for sale and tracks for stormwater and parks serving the development. A binding site plan refers to a site plan for a proposed development with locations identified for buildings, parking, landscaping, stormwater, and other development requirements. The term, “binding” essentially memorializes or records the individual lots for future uses.

Councilmember Cathey asked about circumstances where the developer wants to change the location of a building or change the size of a lot. Manager Medrud explained that if the developer forecasted a parcel to accommodate a 40,000 square-foot building on a particular lot and the tenant withdrew from the development, the developer would be required to submit an amendment to the binding site plan to make changes. Councilmember Cathey questioned the advantage of the option if any change requires an additional review and approval. Manager Medrud said that unlike preliminary plats, binding site plans are intended to be approved administratively as authorized by state law rather than undergoing a hearing examiner process to receive approval. The requirements for a development’s site plan layout are different than the preliminary plat process. The process affords more flexibility to the developer and is intended to move the proposal through the process quicker. All environmental reviews apply to a binding site plan project. The process is essentially simplified for the final approval process. The proposal must meet all other City development requirements.

Chair Althausen asked how often the binding site plan process has been used in the City. Manager Medrud said the process has not been utilized except for some smaller developments on Port of Olympia property. Other jurisdictions use binding site plans frequently. He explained how the binding site plan process would have been applied to the Fred Meyer development.

Councilmember Dahlhoff questioned whether the binding site plan process enables savings for developers. Manager Medrud said the process saves a developer time and development processes. The savings a developer achieves is during the final approval process. Any modifications to a binding site plan would also require less time.

Manager Medrud reviewed the proposed amendments:

1. Table 14.08.030 (Decision process)
 - In response to public comment received at the public hearing on phasing in TMC 17.14.090, added process for phased binding site plan approval to the decision process table.

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- Approval of binding site plans without phasing would be administrative, but phased binding site plan approval would require Hearing Examiner approval.
2. TMC 15.44 Vesting of Development Rights: Added “binding site plan” to sections that specify the type of land division that is vested to clarify how and when binding site plan applications are vested for consistency between the different development processes.
 3. TMC 17.08.010 Binding site plan:
 - Added language regarding the benefits of binding site plans and their differences from traditional land division processes
 - Clarified that binding site plans can be utilized for manufactured home parks
 - Added references to the land division processes addressed in the other portions of TMC Title 17 Land Division
 4. TMC 17.14.040 Review Criteria (Existing for all land divisions)
 - Public health, safety and general welfare
 - Utilities - water, sewer, stormwater, etc.
 - Infrastructure - streets, sidewalks, bike lanes, etc.
 - Schools, school grounds, and safe walking conditions
 - Parks and open space
 - Fire protection and other public services
 - Environment - Shoreline areas, flood hazards, etc.
 5. TMC 17.14.045 Review criteria for binding site plans (Additional new review criteria specific to binding site plans):
 - Building envelopes and land uses
 - Parking lot plans
 - Access, roads and utilities
 - Previously approved uses, open space tracts, critical areas and buffers, and utility easements
 - Uses allowed in the underlying zone district
 - Addressing development of an entire lot
 - Adjacent properties and future development
 6. TMC 17.14.050 Administrative consideration (Added findings for approval of binding site plans):
 - Consistency with the Comprehensive Plan, the Tumwater Development Guide, the Tumwater Municipal Code, and state laws
 - A statement that uses approved for the property and the conditions under which they are allowed are binding to the property

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7. TMC 17.14.050 Administrative consideration (Added findings for approval of binding site plans):
 - A statement that a binding site plan may not create new nonconforming uses or structures or increase the nonconformity of existing nonconforming uses or structures
 - Added reference to review criteria in TMC 17.14.040
8. TMC 17.14.080 Duration:
 - “Binding site plan” was added to the section to clarify that it applies to binding site plans
 - Like other land divisions, such as plats, short plats, etc., the initial period of approval is for five years and up to three additional one-year extensions are allowed
9. TMC 17.14.090 Phasing of development:
 - Residential binding site plan phasing allowed there are ten or more residential dwellings consistent with the SEPA exemption threshold for short plats
 - Commercial or industrial binding site plans over 20 acres in size are allowed to phase development
 - Phased binding site plans require Hearing Examiner approval
 - Non-phased binding site plans are administrative approval

Councilmember Dahlhoff asked whether Habitat for Humanity would be able to use a binding site plan process. Manager Medrud replied that the only configuration allowed for residential uses is a condominium development. Although there have been changes in liability laws in the state for condominiums, the level of interest has not increased for building condominiums. Councilmember Dahlhoff asked whether the process could assist in streamlining the development of desired housing in the City. Manager Medrud explained that it might be possible if further revisions to the condominium market occurred and the City pursued multifamily supportive housing. However, state laws for condominiums would need to occur for binding site plans to become a viable option. Other options are available that do not involve land divisions, which tend to complicate the development process. A single-owned multifamily development would not be required to complete a land division process.

Chair Althaus asked why the policy only applies to manufactured home parks and not to cottage housing. Manager Medrud said the restrictions are within state law.

Councilmember Cathey asked about the finding by staff that binding site plans have not been used frequently in the City. Manager Medrud replied that staff researched the last 25 years and was unable to find any

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developments for commercial, industrial, or other types of development other than for several Port of Olympia projects. Councilmember Cathey asked about circumstances triggering the need to amend the code. Manager Medrud said the Port of Olympia and Panattoni discussion prompted the review as that process initially proposed a binding site plan process for future development. Staff examined existing codes against a proposed Port development proposal and identified some issues that required changes.

Manager Medrud reported the Planning Commission reviewed the proposal and conducted a public hearing in March. The Planning Commission recommended the City Council consider and approve the ordinance as presented. Several issues were resolved by the Commission as outlined during the presentation. The proposed next step is to refer the proposal to the Council's worksession on May 24, 2022 followed by the Council's consideration on June 7, 2022.

MOTION: Councilmember Dahlhoff moved, seconded by Councilmember Cathey, to recommend approval of Ordinance No. O2022-004 and forward to the City Council for review during its worksession on May 24, 2022. A voice vote approved the motion unanimously.

ADJOURNMENT: With there being no further business, Chair Althausser adjourned the meeting at 2:29 p.m.

Prepared by Valerie L. Gow, Puget Sound Meeting Services, psmsoly@earthlink.net

TO: General Government Committee
FROM: Brad Medrud, Planning Manager
DATE: July 13, 2022
SUBJECT: Ordinance No. O2022-006, Planned Unit Development

1) Recommended Action:

Conduct a briefing on Ordinance No. O2022-006 and schedule a worksession with the City Council for July 26, 2022 on Ordinance No. O2021-006.

2) Background:

The City's current regulations for planned unit developments in TMC 18.36 *PUD Planned Unit Development Overlay* have not been substantially updated since 2000. To date, planned unit developments in the City have provided a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but have provided no quantifiable benefit to the City or the public.

Planned unit developments in other jurisdictions typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations. The amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

In addition, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit development chapter will provide more specificity in regards to when and how private streets are allowed. The definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the *Tumwater Development Guide*. The proposed amendments will amend the definition of a private street in the Tumwater Municipal Code so it is consistent the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed.

3) Policy Support:

Economic Development Plan Goal 1: "Establish a development climate that stimulates economic activity and desirable investment."

Economic Development Plan Strategy 1.D: "Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater."

Land Use Element Implementation Policy 11 of Section 3.3: "Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to ensure predictability and allow processing of development permits in a timely and fair manner."

4) Alternatives:

- ☐ Modify and recommend the City Council approve Ordinance No. O2022-006
 - ☐ Recommend the City Council reject Ordinance No. O2022-006
-

5) Fiscal Notes:

This is an internally funded work program task.

6) Attachments:

- A. Staff Report
- B. Ordinance No. O2022-006
- C. Development Guide Amendments Staff Report
- D. Presentation



City Hall
555 Israel Road SW
Tumwater, WA 98501-6515
Phone: 360-754-5855
Fax: 360-754-4138

**PLANNED UNIT DEVELOPMENT AMENDMENTS
(ORDINANCE NO. O2022-006)
STAFF REPORT**

GENERAL GOVERNMENT COMMITTEE – JULY 13, 2022 BRIEFING

Issue

The City's regulations for planned unit developments in TMC Chapter 18.36 *PUD Planned Unit Development Overlay* have not been substantially updated since 2000. To date, planned unit developments in the City have provided a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but have not provided a quantifiable benefit to the City or the public.

In other jurisdictions, planned unit developments typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations. The amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

In addition, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit development chapter will provide more specificity in regards to when and how private streets are allowed. The definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the Tumwater Development Guide. The proposed amendments will amend the definition of a private street in the Tumwater Municipal Code so it is consistent the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed.

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Summary

The proposed amendments are intended to establish clear requirements for the type of development that can utilize a planned unit development, an updated list of submittal requirements for a planned unit development application, and updated criteria and process for review and approval of a planned unit development.

Background

Planned unit developments are intended to allow for flexibility in addressing existing development regulations in exchange for a quantifiable public benefit to allow for superior development than would be allowed under the zoning code or development of sites that may be challenging because of critical areas or other constraints.

The amendments are a part of the approved 2022 Long Range Planning work program.

Planned Unit Development Amendments

The following is a summary of the proposed amendments related to planned unit developments found in Ordinance No. O2022-006:

1. Private Streets
 - a. Amended 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.
 - b. Amendments to the *Tumwater Development Guide* (See Attachment C *Development Guide Amendments Staff Report*).
2. Permitted uses for planned unit development:
 - a. Added “planned unit developments” as a permitted use in the Manufactured Home Park (MHP) zone district.
 - b. Removed Single-family detached dwellings as part of a planned unit development as a permitted use from the Multifamily Family Medium (MFM) zone district.

PLANNED UNIT DEVELOPMENTS (O2022-006)

- c. Removed “Single-family detached dwellings and duplexes are permitted only as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 *PUD Planned Unit Development Overlay* if the site to be developed has more than one zone district” as a permitted use from the Multifamily Family High (MFH) zone district.
- d. Added “planned unit developments not including residential uses” as a permitted use in the Airport Related Industry (ARI) zone district.
- 3. Substantially revised TMC Chapter 18.36 *PUD Planned Unit Development Overlay*. Amendments included the following:
 - a. Changed the name of the chapter from *PUD Planned Unit Development Overlay* to *PUD Planned Unit Development*.

Based on input from the development community, staff updated the intent section to establish a clear list of tangible benefits to be provided by a planned unit development to the City and the public in exchange for flexibility addressing in zoning regulations and addressed how the scale of the project affects the number of tangible benefits required for a planned unit development. See Appendix A – Tangible Benefits and Flexibility.

The updated section reads as follows:

18.36.010 Intent.

The intent of a planned unit development is to offer flexibility to the applicant in exchange for tangible benefits to the city and the public.

A. Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

B. In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are twenty acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than twenty acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public:

- 1. 1.0 point: Provide superior useable parks and open space as a result of the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space;*

PLANNED UNIT DEVELOPMENTS (O2022-006)

2. *1.0 point to 2.0 points: 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. Both the applicant and the city shall agree upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development;*
3. *1.0 point: Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers in the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation;*
4. *1.0 point: Dedication of a site containing a historic landmark to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;*
5. *2.0 points: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources that will result in at least fifty percent or more of the energy needs for the planned unit development being met. Both the applicant and the city shall agree upon the type and conditions for the energy systems provided;*
6. *2.0 points: For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes. Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed;*
7. *1.0 point: Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development. Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements;*
8. *2.0 points: The provision of at least twenty percent or more of the total dwelling units in the planned unit development as permanently affordable housing consistent with TMC 18.42.140(D)-(K); and*

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9. *1.0 point to 2.0 points: Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section. Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.*

C. *For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.*

- b. Updated the section to establish where planned units would be allowed, which modified the list in the current section, amended the current code language about the effect of a planned unit development approval on existing zone district regulations, and establishes a minimum size for a planned unit development, which does not currently exist.

The updated and new section reads as follows:

18.36.020 Planned unit development and zoning.

A. *Planned unit developments are 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).*

B. *The approval of a final planned unit development shall modify and supersede the regulations of the underlying zone district, as outlined in this chapter, in accordance with the requirements and allowances of the Tumwater municipal code.*

C. *The minimum project size for a planned unit development is one gross acre. Planned unit developments must still meet applicable development requirements such as minimum density, parking standards, land coverage limits, and stormwater regulations, subject to the requirements and allowances of this chapter.*

- c. Updated the section to about who can initiate an application and moved the application process to an updated section TMC 18.36.040.

The updated section reads as follows:

18.36.030 Initiation.

A preliminary planned unit development may be initiated by any owner or group of owners of property acting jointly, or as a developer authorized to act as agent for an owner or group of owners.

- d. Updated the section to establish the items that need to be included in a planned unit development application.

The updated section reads as follows:

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18.36.040 Application.

Applications for a preliminary planned unit development shall be made on the forms provided by the community development department. Applications shall include all the items on the application checklist, together with an application fee as established by resolution of the city council, no part of which is refundable. Additions or deletions to the contents of the application may be made by the community development director. The application for a preliminary planned unit development shall also include and address all these items:

- A. A description of how the development meets the requirements of TMC 18.36.010;*
- B. How the planned unit development relates to the surrounding area. This would include a description of any existing adjacent development and address how the proposed development would be consistent with existing adjacent development. If the existing adjacent development is not consistent with the existing comprehensive plan designations and zone districts then a comparison of the proposed development with the intent of the adjacent comprehensive plan designations and zone districts is acceptable;*
- 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 planned unit development. This can be augmented with a table or description in addition to a map; and*
 - 2. A map showing the proposed locations of the zone districts within the planned unit development. The borders, areas with sizes in acres, and proposed locations of the zone districts shall be shown graphically on the site plan. The borders shall follow the proposed tract or lot lines and the centerlines of streets and alleys of the planned unit development in a balanced, cohesive, and interrelated manner that does not create irregular areas.*
 - a. The planned unit development process cannot modify the sizes of the original comprehensive plan designations on the comprehensive plan land use designation map or the zone districts on the zoning map without an amendment approved by the process in TMC 18.60.*
 - b. The planned unit development process cannot modify the densities of the original comprehensive plan designations and zone districts without an amendment approved by the process in TMC 18.60;*

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D. How the planned unit development is being accessed and how internal circulation will be addressed. This shall include multimodal considerations;

E. The location and size of critical areas and their buffers on or within 300 feet of the project site. Protection measures shall be described or shown on a map;

F. The location and size of open space, parks, and landscaped areas and how they serve the development;

G. The location of stormwater facilities;

H. SEPA environmental review;

I. Covenants for ongoing maintenance of common areas and stormwater facilities;

J. If the planned unit development will be phased, a map of the proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development to occur in each phase consistent with TMC 18.36.090;

K. How the planned unit development relates to adjacent properties under similar ownership. This can include future development plans, if known; and

L. How the planned unit development allows for future development or redevelopment of neighboring properties. This should address, but it is not limited to, access, circulation, sizing and location of utilities, type and locations of stormwater facilities, and locations of structures.

- e. Staff created a new section to explain that a planned unit development application cannot modify requirements in TMC Title 16 *Environment*. See Appendix A – Tangible Benefits and Flexibility.

The new section reads as follows:

18.36.050 Environment.

The provisions of TMC Title 16 may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).

- f. Created a new section to explain that if a planned unit development application involves the creation of new lots, it would need to follow the requirements in TMC Title 17 *Land Division*.

The new section reads as follows:

18.36.060 Land division and review process.

If a planned unit development involves land division then it shall be subject to the platting and procedural requirements of TMC Title 17 and the restrictions and allowances of this chapter.

- g. Moved from TMC 18.36.080 and updated the section to establish what development requirements in TMC Title 12 *Streets, Sidewalks and Public Ways* and TMC Title 18 *Zoning* can be modified by a planned unit development and what cannot be modified. See Appendix A – Tangible Benefits and Flexibility.

The updated section reads as follows:

18.36.070 Modification of development requirements.

A planned unit development may only modify the development requirements of TMC Title 12 and TMC Title 18 consistent with this section. If a development requirement is not addressed in this section, it shall not be modified by a planned unit development.

A. Zone Districts.

- 1. The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development.*
- 2. Some individual development standards of the underlying zone districts may be modified by this section.*

B. Planned unit developments with multiple underlying zone districts.

- 1. 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).*
- 2. Some individual development standards of the underlying zone districts may be modified by this section.*

C. Densities. Densities established by the underlying zone districts shall not be altered by a planned unit development.**D. Uses.**

- 1. A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.*

2. *If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56.*

E. Setbacks.

1. *Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.*

2. *A planned unit development may modify internal setbacks within the planned unit development.*

F. Lot sizes. Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.

G. Land Coverage. Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.

H. Structure height. Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.

I. Yards. Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

J. 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, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

K. Parking. Parking requirements shall not be modified by a planned unit development.

L. Landscaping. Landscaping requirements shall not be modified by a planned unit development.

M. Citywide design guidelines. Citywide design guidelines shall not be modified by a planned unit development.

N. Tumwater development guide. Requirements of the Tumwater development guide shall not be modified by a planned unit development, except as noted in TMC 18.36.080.

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O. Signage. Signage requirements shall not be modified by a planned unit development.

P. Stormwater. Stormwater requirements shall not be modified by a planned unit development.

Q. Provisions of this chapter. The requirements of this chapter shall not be modified by a planned unit development.

R. Procedural requirements. Procedural requirements shall not be modified by a planned unit development.

- h. Created a new section to establish the process for when public or private streets can be used in a planned unit development.

The new section reads as follows:

18.36.080 Public and private streets.

A. Public streets shall be required in a planned unit development except as allowed in TMC 18.36.080(B).

B. Private streets.

1. A private street may only serve four or fewer residential dwelling units, unless all of the dwelling units meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units.

2. A private street may serve up to four businesses on separate parcels, or up to four businesses situated on one parcel.

3. The private street must meet the minimum design standards and requirements for private streets in the Tumwater development guide.

- i. Created a new section to establish the process for phasing a planned unit development.

The new section reads as follows:

18.36.090 Phasing of planned unit developments.

A. Planned unit developments containing more than one hundred dwelling units or commercial or industrial planned unit developments covering more than twenty acres are eligible to attain preliminary planned unit development approval in phases. Phased approval of preliminary planned unit developments is limited to developments with at least two but not more than four phases.

B. The application shall show the number of phases, the area each phase encompasses, and the sequence for development of the various

phases. A submittal for a phased development shall demonstrate how transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed for all phases of the development.

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).

2. At the hearing, the hearing examiner shall consider and may alter any part of the proposed phased development.

3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

D. The period between the date of the preliminary approval of the phased planned unit development by the hearing examiner and the date of filing for final approval for the first phase shall be consistent with TMC 18.36.170.

E. Construction plans for each phase of a phased development shall include transportation, utilities, and stormwater management facilities that comply with all state and local requirements in effect at the beginning of the period allotted for that phase.

F. Applications for approval for each successive phase must be submitted within three years of the submittal for final approval on the previous phase and within the other timelines as established by the Tumwater municipal code and TMC 18.36.170.

- j. Moved from TMC 18.36.050 and updated the section describing the hearing examiner approval process.

The updated section reads as follows:

18.36.100. Public hearing – Preliminary planned unit development

A. Upon receipt of the recommendation from the development review committee, a public hearing shall be set before the hearing examiner on the preliminary planned unit development. At the conclusion of the public hearing, the hearing examiner may approve, approve with conditions, deny, or continue the matter. A preliminary planned unit development shall only be approved if it meets the criteria in TMC 18.36.110.

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B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

- k. Moved from TMC 18.36.050 and updated the section describing the criteria the hearing examiner would use to approve or deny an application.

The updated section reads as follows:

18.36.110 Public hearing – Criteria for decision.

In determining whether to approve or disapprove the proposed preliminary planned unit development project, the hearing examiner shall determine if the preliminary planned unit development provides for and meets all these criteria:

- 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 proposed planned unit development 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; and*
- 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.*

- l. Moved from TMC 18.36.050 and updated the section about the appeal process for a planned unit development.

The updated section reads as follows:

18.36.120 Appeal.

The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.

- m. Created a new section to establish how a final planned unit development approval is achieved.

The new section reads as follows:

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18.36.130 Final planned unit development approval.

Final approval of the planned unit development will not be issued until all requirements listed in the hearing examiner decision have been met. Certificate(s) of occupancy shall not be issued until final approval unless the community development director, or their designee, determines it is in the best interest of the city. The city and the applicants must agree on a reasonable deadline for obtaining final approval for the planned unit development. Failure of the applicants to obtain final approval prior to the agreed upon date shall result in revocation of the certificate(s) of occupancy.

- n. Created a new section to establish the process for minor modifications to a planned unit development.

The new section reads as follows:

18.36.140 Minor modifications.

Minor modifications to a planned unit development may be administratively approved provided they meet all these conditions:

A. The modification will not have the effect of reducing required landscaped area, or reducing or encroaching into required buffer areas or reducing the amount of required open space or parks in the planned unit development;

B. The modification will not have the effect of increasing the residential density of the planned unit development;

C. The modification will not have the effect of increasing the area devoted to nonresidential uses in the planned unit development; and

D. The modification will not increase any adverse impacts or undesirable effects of the project, or that the modification in no way significantly alters the project.

- o. Created a new section to establish the process for major modifications to a planned unit development.

The new section reads as follows:

18.36.150 Major Modifications.

A. Modifications to planned unit developments that do not meet the all the conditions of TMC 18.36.140 shall be considered major modifications.

B. A public hearing shall be required before the hearing examiner and follow the requirements of TMC 18.36.100 and TMC 18.36.110.

- p. Created a new section to establish the process for how planned unit development applications vest.

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The new section reads as follows:

18.36.160 Vesting of planned unit developments.

A. Planned unit developments that involve land division are vested when a complete land division application has been submitted to the community development department.

B. Planned unit developments that do not involve land division vest when a complete building permit application has been submitted to the community development department after preliminary planned unit development approval is granted consistent with TMC 18.36.100.

- q. Created a new section to establish how long an approved preliminary approval for a planned unit development is valid.

The new section reads as follows:

18.36.170 Duration of approval for planned unit developments.

A. Preliminary approval of a planned unit development by the hearing examiner is valid for a period of five years.

B. An initial one-year extension, which has been filed at least thirty days prior to the expiration of the period of approval, may be granted by the community development director or his/her designee upon a finding that the applicant has attempted in good faith to complete the final planned unit development within the period of approval. Submittal of complete engineering plans for the project and the start of construction prior to the expiration of the approval period time limit shall constitute a good faith effort.

C. Two additional one-year extensions may be administratively granted, which shall be reviewed for compliance with these criteria:

- 1. The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;*
- 2. There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without significantly altering the project as originally approved by the hearing examiner; and*

3. *There are no other significant changed conditions that would render the planned unit development contrary to the public health, safety, or general welfare.*

- r. Moved from TMC 18.36.070 and updates the section on the standards for bonding required facilities for a planned unit development.

The updated section reads as follows:

18.36.180 Standards – Bond.

A. Planned unit development projects shall be complete developments and may be required to include facilities such as, but not limited to, streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.

B. The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.

Planning Commission Discussion

After the Planning Commission briefing on April 26, 2022, staff added Appendix A – Tangible Benefits and Flexibility to the staff report, which provides tables on the tangible benefits that would be allowed by a planned unit development and sections of the development code that a developer would or would not have flexibility to address.

At their May 10, 2022 meeting, staff suggested that the Planning Commissioners focus on their evaluation on the following:

1. The type of tangible benefits proposed. Should more be added or should some be taken off?
2. The points assigned for each benefit. Are points too many or too few?
3. The total number of tangible benefits points required. Is the number of points required balanced by the sections of the development code where the developer has flexibility?
4. Code modifications allowed. Should more be added or should some be taken off? Are the code modifications allowed balanced by the tangible benefits required?
5. Code modifications not allowed. Should more be added or should some be taken off?

At the Planning Commission May 10, 2022 meeting, the Commission asked staff to reach out to local residential, commercial, and industrial developers to get their input on the quantifiable public benefits that would be required in exchange for flexibility in existing bulk and dimensional regulations in the ordinance. Staff contacted five local developers who do a lot of work in the City on May 16, 2022, explained the project, provided them with the list of quantifiable public benefits and code modification allowed, and asked that they consider the following questions while reviewing the tables:

1. For the type of tangible benefits that are proposed, what tangible benefits should be added or taken off?
2. What are your suggestions on the points assigned for each tangible benefit?
3. How should the size of a planned unit development scale with the tangible benefits required?
4. Are the tangible benefits required balanced by the flexibility in the code modifications?
5. Should more code modifications be added or be taken off?
6. How should the size of a planned unit development scale with the code modifications allowed?
7. Are the code modifications allowed balanced by the tangible benefits required?

Staff heard back from one developer on May 26, 2022, incorporated their suggestions into the ordinance, and modified Appendix A – Tangible Benefits and Flexibility. Staff also addressed how the scale of the project affects the number of tangible benefits required for a planned unit development. Staff presented their findings at the Planning Commission's June 14, 2022 worksession.

Public Approval Process

The Planning Commission held a briefing on the proposed amendments on April 26, 2022 and its first worksession on May 10, 2022. The Planning Commission held a second worksession on June 14, 2022.

An Environmental Checklist for a non-project action was prepared on April 5, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance was issued later on April 28, 2022.

The ordinance was sent to the Washington State Department of Commerce on April 5, 2022 for the required 60-day review before the proposed text amendments were adopted, in accordance with RCW 36.70A.106.

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A Notice of Public Hearing for the Planning Commission was issued on June 17, 2022 prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in *The Olympian*.

The Planning Commission held a public hearing for the proposed amendments on June 28, 2022. Following the public hearing and deliberations, the Planning Commission recommended that Council approve the proposed amendments.

The Public Works Committee held a briefing on the proposed private streets amendments to the *Tumwater Development Guide* on July 7, 2022.

The General Government Committee will review the proposed amendments in a briefing on July 13, 2022 and recommend that the ordinance be discussed at a City Council worksession. The City Council is scheduled to review the amendments at a worksession on July 26, 2022 and consider the amendments on August 1, 2022.

Public Notification

A Notice of Public Hearing for the Planning Commission was issued, posted, mailed to interested parties, and published in *The Olympian* on June 17, 2022, after the Planning Commission set the public hearing date on June 14, 2022.

Staff Conclusions

1. The proposed text amendments are consistent with the goals of the Washington State Growth Management Act.

- a. This ordinance is consistent with Goal 7 of the Growth Management Act which states:

“Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.”

The Ordinance establishes concise requirements for the application, review process, and approval of planned unit developments.

2. The proposed amendments are consistent with the Economic Development Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of planned unit developments.

- a. Goal #1 of the Economic Development Plan states:

“Establish a development climate that stimulates economic activity and desirable investment.”

- b. The text of the Economic Development Plan states that one of the ways to support Goal #1 is:

PLANNED UNIT DEVELOPMENTS (O2022-006)

“...by making ongoing improvements to existing development regulations, systems, and processes.”

c. Action item 1.D. of the Economic Development Plan states:

“Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater.”

This Ordinance improves the existing regulations for the application, review process, and approval of planned unit developments.

3. Based on the above review and analysis, staff concludes that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

Planning Commission Recommendation

The Planning Commission recommends approval of the proposed amendments as shown in Ordinance No. O2022-006.

Effects of the Proposed Amendments

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-006.

Staff Contact

Brad Medrud, Planning Manager
City of Tumwater Community Development Department
360-754-4180
bmedrud@ci.tumwater.wa.us

Appendix A – Tangible Benefits and Flexibility

Tangible Benefits (Amended Section TMC 18.36.010)

Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are 20 acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than 20 acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public.

For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

#	Points	Tangible Benefit	Notes
1	1.0	Provide superior useable parks and open space.	Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space.
2	1.0 to 2.0	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.	Both the applicant and the city shall agree upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development.

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#	Points	Tangible Benefit	Notes
3	1.0	Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers.	Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation.
4	1.0	Dedication of a site containing a historic landmark.	Dedication would be to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation.
5	2.0	Incorporation of energy systems that produce energy from nondepletable energy sources will result in at least fifty percent of the energy needs for the planned unit development being met.	Both the applicant and the city shall agree upon the type and conditions for the energy systems provided. "Energy systems" are defined in TMC 18.04.050.
6	2.0	For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes.	Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed.
7	1.0	Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development.	Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements.

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#	Points	Tangible Benefit	Notes
8	2.0	The provision of at least twenty percent of the total dwelling units as permanently affordable housing.	Consistent with TMC 18.42.140(D)-(K).
9	1.0 to 2.0	Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section.	Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.

Code Modifications Allowed (Amended Sections TMC 18.36.050 and TMC 18.36.070)

A planned unit development may only modify the development requirements of TMC Title 12 *Streets, Sidewalks and Open Spaces*, 16 *Environment*, and TMC Title 18 *Zoning* consistent with TMC 18.36.050 and TMC 18.36.070. If a development requirement is not addressed in TMC 18.36.070, it shall not be modified by a planned unit development.

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 <i>Environment</i> may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development. Some individual development standards of the underlying zone districts may be modified by this section

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Planned unit developments with multiple underlying zone districts	<p>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).</p> <p>Some individual development standards of the underlying zone districts may be modified by this section.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>A planned unit development may modify internal setbacks within the planned unit development</p>
Lot sizes	Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, 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 by a planned unit development.
Structure height	Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.
Yards	Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
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, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

Code Modifications Not Allowed (Amended Sections TMC 18.36.050 and TMC 18.36.070)

A planned unit development may only modify the development requirements of TMC Title 12 *Streets, Sidewalks and Public Ways* and TMC Title 18 *Zoning* consistent with TMC 18.36.070. If a development requirement is not addressed in TMC 18.36.070, it shall not be modified by a planned unit development. The provisions of TMC Title 16 *Environment* may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 <i>Environment</i> may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development. Some individual development standards of the underlying zone districts may be modified by this section
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 by this section.

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Densities	Densities established by the underlying zone districts shall not be altered by a planned unit development.
Uses	<p>A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.</p> <p>If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC Chapter 18.56 <i>Conditional Use Permits</i>.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>A planned unit development may modify internal setbacks within the planned unit development</p>
Parking	Parking requirements shall not be modified by a planned unit development.
Landscaping	Landscaping requirements shall not be modified by a planned unit development.
Citywide design guidelines	Citywide design guidelines shall not be modified by a planned unit development.
<i>Tumwater Development Guide</i>	Requirements of the <i>Tumwater Development Guide</i> shall not be modified by a planned unit development, except as noted in TMC 18.36.080.
Signage	Signage requirements shall not be modified by a planned unit development.
Stormwater	Stormwater requirements shall not be modified by a planned unit development.
Provisions of this chapter	The requirements of this chapter shall not be modified by a planned unit development.

PLANNED UNIT DEVELOPMENTS (O2022-006)

Code Modifications Allowed	Notes
Procedural requirements	Procedural requirements shall not be modified by a planned unit development.

ORDINANCE NO. O2022-006

AN ORDINANCE of the City Council of the City of Tumwater, Washington updating planned unit development requirements by amending Tumwater Municipal Code (TMC) Title 17 *Land Division* and TMC Title 18 *Zoning* as more particularly described herein.

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* contains requirements for planned unit developments that have not been substantially updated since 2000; and

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provides a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets and has provided no quantifiable benefit to the public; and;

WHEREAS, planned unit developments in other jurisdictions typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* revise the criteria for the Hearing Examiner decision; and

WHEREAS, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments; and

WHEREAS, the amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide more specificity in regards to when and how private streets are allowed; and

WHEREAS, the definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the Tumwater Development Guide; and

WHEREAS, the amendments amend the definition of a private street in the Tumwater Municipal Code so it is consistent the Tumwater Development Guide; and

WHEREAS, the City is required to plan under Chapter 36.70A RCW, the Growth Management Act; and

WHEREAS, Goal #7 of the Growth Management Act states “...applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability”; and

WHEREAS, this ordinance establishes concise requirements for the application, review process, and approval of planned unit developments; and

WHEREAS, this ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, the City has adopted a Comprehensive Plan, in accordance with the Growth Management Act; and

WHEREAS, the Economic Development Plan and the Land Use Element are elements of the Comprehensive Plan; and

WHEREAS, Goal 1 of the Economic Development Plan is “Establish a development climate that stimulates economic activity and desirable investment”; and

WHEREAS, the Economic Development Plan mentions that one of the ways to support Goal 1 is “...by making ongoing improvements to existing development regulations, systems, and processes”; and

WHEREAS, Strategy 1.D of the Economic Development Plan is “Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater”; and

WHEREAS, clear and consistent development regulations support Goal 1 and Strategy 1.D of the Economic Development Plan; and

WHEREAS, the proposed amendments to TMC Title 17 *Land Division* and TMC Title 18 *Zoning* improve the clarity and specificity of the regulations for the submission, review process, decision making, and approval for planned unit developments; and

WHEREAS, the proposed amendments to TMC Title 17 *Land Division* and Title 18 *Zoning* are consistent with the Economic Development Plan; and

WHEREAS, Implementation Policy 11 of Section 3.3 of the Land Use Element states, “Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to ensure

predictability and allow processing of development permits in a timely and fair manner”; and

WHEREAS, this ordinance is consistent with Implementation Policy 11 of Section 3.3 of the Land Use Element because it clarifies and refines the process for reviewing and approving planned unit developments; and

WHEREAS, this ordinance is consistent with the Comprehensive Plan; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies on April 5, 2022 to allow for a sixty-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (Chapter 43.21C RCW) on April 5, 2022, pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance (DNS) was issued on April 28, 2022; and

WHEREAS, the Attorney General *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property* (September 2018) was reviewed and utilized by the City in objectively evaluating the proposed amendments; and

WHEREAS, the Planning Commission received a briefing on the proposed code amendments on April 26, 2022, held worksessions on May 10, 2022 and June 14, 2022, and held a public hearing on June 28, 2022; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended the proposed code amendments to the Tumwater Municipal Code to the City Council; and

WHEREAS, the General Government Committee held a briefing on the proposed code amendments on July 13, 2022; and

WHEREAS, the Public Works Committee held a briefing on the proposed amendments to the Tumwater Development Guide on July 7, 2022; and

WHEREAS, the City Council discussed the proposed code amendments in a worksession on July 26, 2022 and considered the proposed code amendments on August 1, 2022; and

WHEREAS, the City Council finds that the provisions of this ordinance are in the best interest of and protect the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.04.385 of the Tumwater Municipal Code is hereby amended to read as follows:

17.04.385 Private street.

“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~~roadway owned and maintained by five or more individuals or businesses for the purpose of providing vehicular access to their properties.~~

(Ord. 1308, Added, 10/15/1991)

Section 2. Section 17.04.390 of the Tumwater Municipal Code is hereby amended to read as follows:

17.04.390 Public facilities.

“Public facilities” includes s, but is not limited to, streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and open space, recreational facilities, schools, school bus stops, ~~and~~ transit centers, and transit stops.

(Ord. 1308, Added, 10/15/1991)

Section 3. Section 18.07.010 of the Tumwater Municipal Code is hereby amended to read as follows:

18.07.010 Residential zone districts permitted and conditional uses.

If there are any inconsistencies between Table 18.07.010 and the specific requirements in the underlying zoning district, the requirements in the underlying zoning district shall be followed.

TABLE 18.07.010
RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFH	MHP	Applicable Regulations
Adult family homes, residential care facilities	P	P	P	P		18.53
Agriculture up to 30 acres in size	P	P	P			18.42.070
Animals (the housing, care and keeping of)	P	P	P			6.08
Attached wireless communication facilities	P	P	P	P		11.20
Bed and breakfasts	C ¹	C ¹	C ¹	P		18.56
Cemeteries	C	C	C	C	C	18.56
Child day care center	C	C	C	C	C	18.56
Churches	C	C	C	C	C	18.56
Community garden	P	P	P	P		
Cottage housing	P	P	P			18.51
Designated manufactured home parks				P		18.48; 18.49
Designated manufactured homes	P	P	P		P	18.48
Duplexes	P ²	P ²	P ³	P		
Emergency communication towers or antennas	C	C	C	C	C	18.56; 11.20

TABLE 18.07.010
RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Family child care home, child mini-day care center	P	P	P	P	P	P	18.52
Fourplexes				P	P		
Group foster homes	C	C	C	C	C	C	18.56
Inpatient facilities				C	C		18.56
Medical clinics or hospitals				C	C		18.56
Mental health facilities				C	C		18.56
Multifamily dwellings				P	P		
Manufactured home parks in accordance with the provisions of TMC Chapter 18.48						P	18.48
Mobile home parks which were legally established prior to July 1, 2008						P	18.48
Neighborhood community center	C	C	C	C	C	C	18.56
Neighborhood-oriented commercial center		C	C	C	C	C	18.56
Parks, trails, open space areas and recreational facilities	P	P	P	P	P	P	

TABLE 18.07.010

RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFMM	MFH	MHP	Applicable Regulations
Planned unit developments		P	P	P	P	<u>P</u>	18.36
Private clubs and lodges			C	C	C		18.56
Recreational vehicle parks				C			18.56
Schools	C	C	C	C	C	C	18.56
Senior housing facilities, assisted				C	C		18.56
Senior housing facilities, independent				P	P		
Single-family detached dwellings	P	P	P			P	
Single-family detached dwellings existing prior to April 15, 2021				P ⁴			
Single-family detached dwellings and duplexes as part of a PUD planned unit development overlay					P⁵		18.36
Support facilities	P	P	P	P	P	P	
Temporary expansions of schools, such as portable classrooms	C	C	C	C	C	C	18.56
Townhouses and rowhouses			P ⁶	P	P		18.16.050(F)(1)(a)

TABLE 18.07.010
RESIDENTIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL
USES

RESIDENTIAL DISTRICTS Note: See Figure 18.23.020 for residential uses allowed in the TC town center zone district; and Table 18.27.040 for residential uses allowed in the BD brewery district zone	RSR	SFL	SFM	MFM	MFH	MHP	Applicable Regulations
Triplexes				P	P		
Wildlife refuges and forest preserves	P	P	P	P	P		
Wireless communication towers	C	C	C	C	C	C	11.20; 18.56

LEGEND

P = Permitted Use

C = Conditional Use

RSR = Residential/Sensitive Resource

SFL = Single-Family Low Density Residential

SFM = Single-Family Medium Density Residential

MFM = Multifamily Medium Density Residential

MFH = Multifamily High Density Residential

MHP = Manufactured Home Park

Table 18.07.010 Footnotes:

(1) “Bed and breakfasts” with only one guest room are a permitted use, but are subject to the notice of application requirements in TMC Chapter 14.06 to allow for public notice for neighbors and an appeal of the administrative decision to the hearing examiner.

(2) “Duplexes” are allowed in the residential/sensitive resource (RSR) and single-family low density residential (SFL) zone districts. Such uses shall not occupy more than twenty percent of the total lots in a new short plat or subdivision, which was legally established after April 15, 2021. In such cases, the community development director shall have the discretion to alter the percentage in order to allow the new

short plat or subdivision to meet minimum required densities due to topography or other special conditions related to the site, such as critical areas.

(3) “Duplexes” are allowed in the single-family medium density residential (SFM) zone district. Such uses shall not occupy more than thirty percent of the total lots in a new short plat or subdivision, which was legally established after April 15, 2021. In such cases, the community development director shall have the discretion to alter the percentage in order to allow the new short plat or subdivision to meet minimum required densities due to topography or other special conditions related to the site, such as critical areas.

(4) Single-family detached dwellings constructed after April 15, 2021, are not allowed in the multifamily medium density residential (MFM) zone district, ~~except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

~~(5) Single family detached dwellings and duplexes are not allowed in the multifamily high density residential (MFH) zone district, except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

(56) “Townhouses and rowhouses” are allowed within a residential planned unit development in the single family medium density residential (SFM) zone district.

Table 18.07.010 Explanatory Notes:

1. If the box is shaded, the use is not allowed in that zone district.
2. Accessory uses are listed in each zoned district chapter.

(O2020-005, Amended, 03/16/2021; Ord. O2020-003, Amended, 09/15/2020; Ord. O2019-007, Amended, 09/03/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Added, 07/18/2017)

Section 4. Section 18.07.030 of the Tumwater Municipal Code is hereby amended to read as follows:

18.07.030 Industrial zone districts permitted and conditional uses.

If there are any inconsistencies between Table 18.07.030 and the specific requirements in the underlying zoning district, the requirements in the underlying zoning district shall be followed.

TABLE 18.07.030**INDUSTRIAL ZONE DISTRICTS PERMITTED AND CONDITIONAL USES**

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Agriculture	P		P	
All industrial activities involving the manufacture, assembly, bulk storage, processing, repair, recycling or servicing of goods or products		P		
Animal clinics or hospitals	P	C		18.56
Attached wireless communication facilities	P	P	P	11.20
Automobile repair facilities	P		P	
Automobile service stations	P	P	P	
Aviation, aviation related uses, aviation fueling facilities			P	18.34.020(A); 18.34.020(F)
Breweries, wineries, distilleries, and associated restaurants	P		P	
Cemeteries	C	C		18.56
Child day care center	P	C	P	18.52; 18.56
Child mini-day care center	P	C	P	18.52
Community gardens	P	P	P	
Crematories	P	P	P	
Cross-dock facilities, 50,000 square feet or smaller in size	P	P	P	
Electric vehicle infrastructure	P	P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Emergency communication towers or antennas	C	C	C	18.56
Emergency housing			P	18.42.150
Emergency shelter			P	18.42.150
Energy systems			P	
Equipment rental and sales	P	P	P	
Family child care home	P	C		18.52; 18.56
Farmers markets	P	P	P	
Food truck or trailer courts	P	P	P	18.42.120
Food trucks or trailers	P	P	P	18.42.120
Hotel/motel and conference facilities			P	
Kennels	P		P	
Marijuana retailer	P		P	18.42.080
Marijuana processor, within a fully enclosed secure indoor structure only	C		C	18.42.080
Marijuana producer, within a fully enclosed secure indoor structure only	C		C	18.42.080
Mineral extraction		P		
Mini-storage	P		P	
Motor freight terminals, 50,000 square feet or smaller in size	P	P	P	
Motor pool and equipment parking	P		P	
Motor vehicle sales facilities	P		P	18.42.090

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Motorsports facility – Indoor	P		P	
Motorsports sales facility	P		P	
Nurseries, retail or wholesale	P		P	18.24.020(P)
Offices	P		P	
Off-site hazardous waste treatment and storage facilities	P	P	C	18.24.020(L); 18.56
Park and ride facilities	P	P	P	
Parks, open space areas and recreational facilities	P	C	P	18.56
Permanent supportive housing			P	18.42.150
Personal and professional services	P		P	
Planned unit developments not including residential uses	P	P	P	18.36
Post offices, museum, library, art gallery	P		P	
Prisons, jails or other correctional facilities	C	C	C	18.56
Private post-secondary education facilities			C	18.56
Recycling collection centers	C	P		18.25.020(A); 18.56
Residential care facilities	P		P	18.34.020(O)
Restaurants	P		P	
Retail sale of goods or products manufactured on the premises, or utilized in manufacturing, repairing, or		P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
servicing activities which are permitted in the same zoning district				
Schools, other than through the eighth grade	P			
Schools on parcels abutting residential zones and outside of air hazard areas			P	
Secure community transition facilities	C			18.56
Sewage treatment facilities	C	C	C	18.56
Sexually oriented businesses	P		P	18.04; 18.42.050
Solid waste handling facilities	C	C	C	18.56
State education facilities	C		C	18.56
Storage, manufacture or sale of highly volatile or extremely hazardous substances or materials other than airport fueling facilities			C	18.56
Support facilities	P	P	P	
Taverns, cocktail lounges	P			
Temporary expansions of schools, such as portable classrooms	P		P	
The raising of crops, including trees			P	18.34.020(J)
Transit facilities	P		P	
Transitional housing			P	18.42.150
Transportation facilities, large scale or regional	C	C	C	18.56
Transportation terminal facilities	P	P	P	

INDUSTRIAL DISTRICTS Note: See Table 18.27.040 for industrial uses allowed in the BD brewery district zone	LI	HI	ARI	Applicable Regulations
Truck stops or travel centers ³	P ³			
Uses having to do with buying, selling, and personal and professional services or offices, or of a general commercial nature	P			
Warehouse distribution centers ⁴	P		P	18.42.110
Warehouses, nondistribution, 200,000 sq. ft. or smaller in size	P	P	P	
Warehouses, nondistribution, larger than 200,000 sq. ft. in size ⁴	P		P	18.42.110
Wholesaling, manufacturing, assembling, repairing, fabricating, or other handling of products and equipment	P	P	P	
Wildlife refuges and forest preserves	P		P	
Wireless communication towers	P	P	P	11.20
Wrecking yards and junk yards		C		18.56

LEGEND

P = Permitted Use

C = Conditional Use

LI = Light Industrial

HI = Heavy Industrial

ARI = Airport Related Industrial

Table 18.07.030 Explanatory Notes:

1. If the box is shaded, the use is not allowed in that zone district.
2. Accessory uses are listed in each zoned district chapter.
3. Truck stops or travel centers are limited to an area within one-half mile of the Interstate 5 and 93rd Avenue SW interchange.

4. All warehouse distribution centers regardless of size and nondistribution warehouses that are larger than 200,000 sq. ft. in size are subject to the requirements of TMC 18.42.110.

(O2021-019, Amended, 01/18/2022; Ord. O2019-020, Amended, 11/19/2019; Ord. O2019-007, Amended, 09/03/2019; Ord. O2019-019, Amended, 07/23/2019; Ord. O2019-018, Amended, 04/02/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2018-007, Amended, 10/16/2018; Ord. O2017-023, Amended, 07/17/2018; Ord. O2017-022, Amended, 12/05/2017; Ord. O2017-006, Added, 07/18/2017)

Section 5. Section 18.14.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.14.020 Permitted uses.

Permitted uses in the MFM district are as follows:

- A. Single-family detached dwellings which were legally established prior to April 15, 2021;*
- B. Duplexes;
- C. Triplexes;
- D. Fourplexes;
- E. Townhouses and rowhouses;
- F. Multifamily dwellings;
- G. Cottage housing;
- H. Designated manufactured homes on single lots of record, and in designated manufactured home parks, in accordance with the provisions of TMC Chapter 18.48;
- I. Designated manufactured home parks;
- J. Senior housing facilities, independent;
- K. Parks, trails, open space areas, and recreational facilities;
- L. Support facilities;
- M. Planned unit developments;
- N. Family child care home; child mini-day care center, subject to TMC Chapter 18.52;
- O. Adult family homes, residential care facilities;
- P. Any combination of the permitted uses listed in this section may be combined on one site, in accordance with the provisions of TMC 18.14.050;
- Q. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;**

R. Bed and breakfasts;

S. Agriculture uses up to thirty acres in size, which were established prior to January 1, 2011, subject to TMC 18.42.070;

T. Community gardens;

U. The housing, care and keeping of animals consistent with the requirements of TMC Chapter 6.08;

V. Wildlife refuges and forest preserves;

W. Permanent supportive housing, subject to TMC 18.42.150;

X. Transitional housing, subject to TMC 18.42.150.

*Single-family detached dwellings constructed after April 15, 2021, are not allowed in the multifamily medium density residential (MFM) zone district, ~~except as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district.~~

**Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2020-005, Amended, 03/16/2021; Ord. O2020-003, Amended, 09/15/2020; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2010-029, Amended, 06/07/2011; Ord. O2011-002, Amended, 03/01/2011; Ord. O2010-005, Amended, 09/07/2010; Ord. O2005-011, Amended, 07/05/2005; Ord. O2001-012, Amended, 03/19/2002; Ord. O2000-004, Amended, 07/18/2000; Ord. O97-019, Amended, 06/17/1997; Ord. O95-035, Added, 12/19/1995)

Section 6. Section 18.16.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.16.020 Permitted uses.

Permitted uses in the MFH district are as follows:

~~A. Single family detached dwellings and duplexes are permitted only as part of a PUD planned unit development overlay as regulated by TMC Chapter 18.36 if the site to be developed has more than one zone district;~~

AB. Triplexes;

BC. Fourplexes;

CD. Multifamily dwellings;

DE. Parks, trails, open space areas, and recreational facilities;

EF. Support facilities;

FG. Planned unit developments;

GH. Family child care home; child mini-day care center, subject to TMC Chapter 18.52;

HI. Adult family homes, residential care facilities;

IJ. Senior housing facilities, independent;

JK. Any combination of the permitted uses listed in this section may be combined on one site, in accordance with the provisions of TMC 18.16.050;

KL. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;*

LM. Townhouses and rowhouses;

MN. Community gardens;

NO. Wildlife refuges and forest preserves;

OP. Permanent supportive housing, subject to TMC 18.42.150;

PQ. Transitional housing, subject to TMC 18.42.150.

*Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2020-005, Amended, 03/16/2021; Ord. O2018-025, Amended, 12/18/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2010-029, Amended, 06/07/2011; Ord. O2011-002, Amended, 03/01/2011; Ord. O2010-005, Amended, 09/07/2010; Ord. O98-001, Amended, 09/15/1998; Ord. O97-019, Amended, 06/17/1997; Ord. O95-035, Added, 12/19/1995)

Section 7. Section 18.34.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.34.020 Permitted uses.

Permitted uses in the ARI district are as follows:

A. Aviation and aviation-related uses;

B. Wholesaling, manufacturing, assembling, repairing, fabricating, or other handling of products and equipment;

C. Warehouse distribution centers, subject to the requirements of TMC 18.42.110;

D. General retail, personal and professional services;

E. Offices;

- F. Aviation fueling facilities;
- G. Motor pool and equipment parking;
- H. Park and ride facilities;
- I. Transit facilities;
- J. The raising of crops, including trees;
- K. Hotel/motel and conference facilities;
- L. Support facilities;
- M. Parks, open space areas, and recreational facilities;
- N. Post offices;
- O. Child day care center, child mini-day care center;
- P. Schools on parcels abutting residential zones and outside of the airport hazard area subject to the provisions of TMC Chapter 18.56;
- Q. Sexually oriented businesses subject to the provisions of TMC 18.42.050;
- R. Retail and wholesale nurseries or greenhouses;
- S. Museums, libraries, art galleries;
- T. Transportation terminal facilities;
- U. Restaurants;
- V. Automobile service stations;
- W. Attached wireless communication facilities, except that it is prohibited to attach a nonaccessory wireless communication antenna on a single-family or two-family dwelling;*
- X. Wireless communication towers;*
- Y. Motor vehicle sales facilities, subject to the requirements set forth in TMC Chapter 18.42;
- Z. Equipment rental and sales facilities;
- AA. Motorsports facility – indoor;
- BB. Motorsports sales facility;
- CC. Auto repair facilities;

- DD. Crematories;
- EE. Electric vehicle infrastructure;
- FF. Agriculture;
- GG. Community gardens;
- HH. Farmers markets;
- II. Marijuana retailer;
- JJ. Breweries, wineries, distilleries;
- KK. Kennels;
- LL. Mini-storage;
- MM. Wildlife refuges and forest preserves;
- NN. Temporary expansions of schools, such as portable classrooms;
- OO. Cross-dock facilities, fifty thousand square feet or smaller in size;
- PP. Motor freight terminals, fifty thousand square feet or smaller in size;
- QQ. Warehousing, nondistribution, two hundred thousand square feet or smaller in size;
- RR. Warehousing, nondistribution, larger than two hundred thousand square feet in size, subject to the requirements of TMC 18.42.110;
- SS. Energy systems;
- TT. Food trucks or trailers in accordance with TMC 18.42.120;
- UU. Food truck or trailer courts in accordance with TMC 18.42.120;
- VV. Permanent supportive housing, subject to TMC 18.42.150;
- WW. Transitional housing, subject to TMC 18.42.150;
- XX. Emergency housing, subject to TMC 18.42.150;
- YY. Emergency shelter, subject to TMC 18.42.150;
- ZZ. Planned unit developments not including residential uses.

*Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval, and furthermore are subject to provisions for

wireless communication facilities in TMC Chapter 11.20, Wireless Communication Facilities.

(Ord. O2021-019, Amended, 01/18/2022; Ord. O2019-020, Amended, 11/19/2019; Ord. O2019-007, Amended, 09/03/2019; Ord. O2018-025, Amended, 12/18/2018; Ord. O2018-007, Amended, 10/16/2018; Ord. O2017-023, Amended, 07/17/2018; Ord. O2017-006, Amended, 07/18/2017; Ord. O2016-023, Amended, 01/03/2017; Ord. O2016-006, Amended, 06/07/2016; Ord. O2014-012, Amended, 08/19/2014; Ord. O2013-025, Amended, 01/07/2014; Ord. O2013-013, Amended, 10/01/2013; Ord. O2010-029, Amended, 06/07/2011; Ord. O2010-015, Amended, 09/07/2010; Ord. O2008-017, Amended, 10/21/2008; Ord. O2008-016, Amended, 09/16/2008; Ord. O2006-037, Amended, 03/04/2008; Ord. O2003-001, Amended, 02/18/2003; Ord. O2000-004, Amended, 07/18/2000; Ord. O98-009, Amended, 10/20/1998; Ord. O97-019, Amended, 06/17/1997; Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Added, 12/19/1995)

Section 8. Chapter 18.36 of the Tumwater Municipal Code is hereby amended to read as follows:

Chapter 18.36

PUD PLANNED UNIT DEVELOPMENT ~~OVERLAY~~

18.36.010 Intent.

~~A.—The intent of the a planned unit development (PUD) overlay zoning district is to offer flexibility to the applicant in exchange for tangible benefits to the city and the public.~~

A. Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

B. In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public for projects that provide twenty or more residential dwelling units or industrial, commercial, or institutional projects that are twenty acres or more in size. For projects that provide less than twenty residential dwelling units or industrial, commercial, or institutional projects that are less than twenty acres in size, the applicant shall provide at least one point from the following list of tangible benefits to the city and the public:

1. 1.0 point: Provide superior useable parks and open space as a result of the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space;

2. 1.0 point to 2.0 points: 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. Both the applicant and the city shall agree

upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development;

3. 1.0 point: Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers in the planned unit development. Both the applicant and the city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation;

4. 1.0 point: Dedication of a site containing a historic landmark to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;

5. 2.0 points: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources that will result in at least fifty percent or more of the energy needs for the planned unit development being met. Both the applicant and the city shall agree upon the type and conditions for the energy systems provided;

6. 2.0 points: For residential developments, building passive homes that meet the Passive Home Institute US (PHIUS) standards, which will result in fifty percent or more of the total dwelling units in the planned unit development qualifying as passive homes. Both the applicant and the city shall agree whether the PHIUS standards for passive homes are addressed;

7. 1.0 point: Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the planned unit development. Both the applicant and the city shall agree upon how the project goes beyond the minimum required energy efficiency requirements;

8. 2.0 points: The provision of at least twenty percent or more of the total dwelling units in the planned unit development as permanently affordable housing consistent with TMC 18.42.140(D)-(K); and

9. 1.0 point to 2.0 points: Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section. Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.

C. For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

~~encourage new development not limited by the strict application of this title. The hearing examiner may approve, disapprove or modify the proposal submitted by an applicant.~~

~~B. More specifically, it is the purpose of this chapter to:~~

- ~~1. Encourage flexibility in design and development that will result in a more efficient and desirable use of land;~~
- ~~2. Permit flexibility of design, placement of buildings, use of required open spaces, circulation facilities, off-street parking areas, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape;~~
- ~~3. Provide for maximum efficiency in layout of streets, utility networks, and other public improvements;~~
- ~~4. Produce an integrated or balanced development of mutually supportive uses that might otherwise be inharmonious or incongruous; and~~
- ~~5. Provide a guide for developers and city officials who review and approve developments meeting the standards and purposes of this chapter.~~

(Ord. O2000-004, Amended, 07/18/2000; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.020 Overlay Planned unit development and zoning.

~~Planned unit development, approved in accordance with the procedures of this chapter, shall be an overlay zone and the uses are limited to those which are allowed in the underlying zone district. Planned unit developments shall be required where this overlay zone appears on the Tumwater zoning map.~~

A. Planned unit developments ~~also~~ are permitted in all ~~zoning~~ 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), ~~and airport related industry (ARI).~~

B. The approval of a ~~final~~ planned unit development shall modify and supersede the regulations of the underlying zone district, ~~as outlined in this chapter, in accordance with the requirements and allowances of the Tumwater municipal code, except in the case of allowable uses.~~

C. The minimum project size for a planned unit development is one gross acre. Planned unit developments must still meet applicable development requirements such as minimum density, parking standards, land coverage limits, and stormwater regulations, subject to the requirements and allowances of this chapter.

(Ord. O96-022, Amended, 12/17/1996; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.030 Procedure for Initiation—Application—Fee.

~~A preliminary p~~Planned unit development-~~projects~~ may be initiated by any owner or group of owners of property acting jointly, or as a developer authorized to act as agent for an owner or group of owners. ~~Such application shall be made on the forms provided by the community development department, together with a filing fee as established by resolution of the city council, no part of which is refundable.~~

(Ord. O2011-002, Amended, 03/01/2011; Ord. O2000-004, Amended, 07/18/2000; Ord. O95-035, Amended, 12/19/1995; Ord. 1147, Amended, 12/15/1987; Ord. 883, Added, 05/06/1984)

18.36.040 ~~Application—Supporting documentation~~Application.

Applications for a preliminary planned unit development shall be made on the forms provided by the community development department. Applications shall include all the items on the application checklist, together with an application fee as established by resolution of the city council, no part of which is refundable.

Additions or deletions to the contents of the application may be made by the community development director. The application for a preliminary planned unit development shall also include and address all these items:

A. A description of how the development meets the requirements of TMC 18.36.010;

B. How the planned unit development relates to the surrounding area. This would include a description of any existing adjacent development and address how the proposed development would be consistent with existing adjacent development. If the existing adjacent development is not consistent with the existing comprehensive plan designations and zone districts then a comparison of the proposed development with the intent of the adjacent comprehensive plan designations and zone districts is acceptable;

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 planned unit development. This can be augmented with a table or description in addition to a map; and

2. A map showing the proposed locations of the zone districts within the planned unit development. The borders, areas with sizes in acres, and proposed locations of the zone districts shall be shown graphically on the site plan. The borders shall follow the proposed tract or lot lines and the centerlines of streets and alleys of the planned unit development in a balanced, cohesive, and interrelated manner that does not create irregular areas.

a. The planned unit development process cannot modify the sizes of the original comprehensive plan designations on the comprehensive plan land use designation map or the zone districts on the zoning map without an amendment approved by the process in TMC 18.60.

b. The planned unit development process cannot modify the densities of the original comprehensive plan designations and zone districts without an amendment approved by the process in TMC 18.60;

D. How the planned unit development is being accessed and how internal circulation will be addressed. This shall include multimodal considerations;

E. The location and size of critical areas and their buffers on or within 300 feet of the project site. Protection measures shall be described or shown on a map;

F. The location and size of open space, parks, and landscaped areas and how they serve the development;

G. The location of stormwater facilities;

H. SEPA environmental review;

I. Covenants for ongoing maintenance of common areas and stormwater facilities;

J. If the planned unit development will be phased, a map of the proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development to occur in each phase consistent with TMC 18.36.090;

K. How the planned unit development relates to adjacent properties under similar ownership. This can include future development plans, if known; and

L. How the planned unit development allows for future development or redevelopment of neighboring properties. This should address, but it is not limited to, access, circulation, sizing and location of utilities, type and locations of stormwater facilities, and locations of structures.

~~An application for a planned unit development shall be accompanied by the following:~~

~~(Note: See TMC Chapter 15.44 for complete information on vesting of development rights.)~~

~~A.—A vicinity sketch showing location of the site and its relationship to surrounding areas, including existing streets, driveways, major physiographic features such as railroads, lakes, streams, shorelines, schools, parks and other prominent features;~~

~~B.—A map or maps of the site at a scale not smaller than one hundred feet to the inch, showing at least, but not limited to, the following items:~~

- ~~1.—Site boundaries,~~
- ~~2.—Streets bounding or abutting the site,~~
- ~~3.—Proposed buildings, including dimensions, identification of types, and the number of dwelling units in each residential type,~~
- ~~4.—Location and dimension of all common open space,~~

~~5.—Location, dimension and design of off-street parking facilities showing points of ingress to and egress from the site,~~

~~6.—Existing buildings and indication of future use or disposition,~~

~~7.—Landscaping plans, and~~

~~8.—Proposed land use and densities;~~

~~C.—A written statement for development setting out detailed information concerning the following subjects as they may be involved in the development, including, but not limited to, the following items:~~

~~1.—Proposed ownership method,~~

~~2.—Proposed operation and maintenance of the development and landscaping,~~

~~3.—General timetable for development,~~

~~4.—Provisions to assure permanence and maintenance of common open space through homes association formation, condominium development, or other means acceptable to the city.~~

(Amended during 2011 reformat; O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

~~18.36.050 Public hearing—Criteria for decision~~Environment.

~~The provisions of TMC Title 16 may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).~~

~~The application for a planned unit development shall be heard before the hearing examiner of the city at a duly published public meeting. The hearing examiner's decision to approve or deny the development shall be based on at least, but not limited to, the following criteria:~~

~~A.—Substantial conformance to the Tumwater comprehensive plan;~~

~~B.—The proposal's harmony with the surrounding area or its potential future use; and~~

~~C.—The adequacy of the size of the proposed overlay to accommodate the contemplated developments.~~

(Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Amended, 11/06/1990; Ord. 883, Added, 05/06/1984)

~~18.36.060 Appeal~~Land division and review process.

~~If a planned unit development involves land division then it shall be subject to the platting and procedural requirements of TMC Title 17 and the restrictions and allowances of this chapter.~~

~~The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.~~

(Ord. O2014-018, Amended, 12/16/2014; Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Added, 11/06/1990)

18.36.070 ~~Standards~~—~~Bond~~Modification of development requirements.

A planned unit development may only modify the development requirements of TMC Title 12 and TMC Title 18 consistent with this section. If a development requirement is not addressed in this section, it shall not be modified by a planned unit development.

A. Zone Districts.

1. The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development.

2. Some individual development standards of the underlying zone districts may be modified by this section.

B. Planned unit developments with multiple underlying zone districts.

1. 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).

2. Some individual development standards of the underlying zone districts may be modified by this section.

C. Densities. Densities established by the underlying zone districts shall not be altered by a planned unit development.

D. Uses.

1. A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.

2. If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56.

E. Setbacks.

1. Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.

2. A planned unit development may modify internal setbacks within the planned unit development.

F. Lot sizes. Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.

G. Land Coverage. Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.

H. Structure height. Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.

I. Yards. Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.

J. 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, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.

K. Parking. Parking requirements shall not be modified by a planned unit development.

L. Landscaping. Landscaping requirements shall not be modified by a planned unit development.

M. Citywide design guidelines. Citywide design guidelines shall not be modified by a planned unit development.

N. Tumwater development guide. Requirements of the Tumwater development guide shall not be modified by a planned unit development, except as noted in TMC 18.36.080.

O. Signage. Signage requirements shall not be modified by a planned unit development.

P. Stormwater. Stormwater requirements shall not be modified by a planned unit development.

Q. Provisions of this chapter. The requirements of this chapter shall not be modified by a planned unit development.

R. Procedural requirements. Procedural requirements shall not be modified by a planned unit development.

~~A.—The developer shall bear the responsibility of creating a perimeter transition sufficient to protect the interests of the surrounding property owners, the neighborhood, and the city as a whole, in a manner and to a degree as specified by the hearing examiner.~~

~~B.—Planned unit development projects shall be complete developments and may be required to include facilities such as paved streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.~~

~~C.—The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.~~

(Ord. O95-035, Amended, 12/19/1995; Ord. 1259, Amended, 11/06/1990; Ord. 883, Added, 05/06/1984)

18.36.080 ~~Exemption from zoning requirements~~Public and private streets.

A. Public streets shall be required in a planned unit development except as allowed in TMC 18.36.080(B).

B. Private streets.

1. A private street may only serve four or fewer residential dwelling units, unless all of the dwelling units meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units.

2. A private street may serve up to four businesses on separate parcels, or up to four businesses situated on one parcel.

3. The private street must meet the minimum design standards and requirements for private streets in the Tumwater development guide.

~~A planned unit development shall be exempt from the minimum zoning ordinance requirements, except as provided for below:~~

~~A.—Minimum Project Size. There is no minimum project size for a planned unit development.~~

~~B.—Project Densities. Densities established by the underlying zone district shall prevail.~~

~~C.—Setbacks. Project setbacks as required by the underlying zoning district shall prevail on all perimeter boundary lines.~~

~~D.—Land Coverage. Maximum land coverage as established by the underlying zone district may be exceeded by no more than twenty-five percent.~~

~~E.—Uses Allowed. The use of the development shall be limited to those allowed either as permitted, accessory, or conditional uses in the underlying zones.~~

~~F.—Open Space/Park. The open space/park dedication requirements of the underlying zoning district shall prevail.~~

~~G.—Design Review Guidelines. The design review guideline requirements shall prevail.~~

(Ord. O2019-007, Amended, 09/03/2019; Ord. O96-021, Amended, 12/02/1997; Ord. O96-022, Amended, 12/19/1996; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.090 ~~Exemption from subdivision requirements~~Phasing of planned unit developments.

A. Planned unit developments containing more than one hundred dwelling units or commercial or industrial planned unit developments covering more than twenty acres are eligible to attain preliminary planned unit development approval in

phases. Phased approval of preliminary planned unit developments is limited to developments with at least two but not more than four phases.

B. The application shall show the number of phases, the area each phase encompasses, and the sequence for development of the various phases. A submittal for a phased development shall demonstrate how transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed for all phases of the development.

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).

2. At the hearing, the hearing examiner shall consider and may alter any part of the proposed phased development.

3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

D. The period between the date of the preliminary approval of the phased planned unit development by the hearing examiner and the date of filing for final approval for the first phase shall be consistent with TMC 18.36.170.

E. Construction plans for each phase of a phased development shall include transportation, utilities, and stormwater management facilities that comply with all state and local requirements in effect at the beginning of the period allotted for that phase.

F. Applications for approval for each successive phase must be submitted within three years of the submittal for final approval on the previous phase and within the other timelines as established by the Tumwater municipal code and TMC 18.36.170.

~~A planned unit development shall be exempt from the platting and procedural requirements of the subdivision ordinance, except that when the planned unit development is a part of a larger ownership and is intended for individual ownership, sale or public dedication, or if any parcel of land within a planned unit development is intended for individual ownership, sale or public dedication, the platting and procedural requirements of the subdivision ordinance and applicable state laws pertaining to the subdivision, and conveyance of land and the preparation of maps shall be followed.~~

(Ord. O98-009, Amended, 10/20/1998; Ord. O95-035, Amended, 12/19/1995; Ord. 883, Added, 05/06/1984)

18.36.100. Public hearing – Preliminary planned unit development

A. Upon receipt of the recommendation from the development review committee, a public hearing shall be set before the hearing examiner on the preliminary planned

unit development. At the conclusion of the public hearing, the hearing examiner may approve, approve with conditions, deny, or continue the matter. A preliminary planned unit development shall only be approved if it meets the criteria in TMC 18.36.110.

B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

18.36.110 Public hearing – Criteria for decision.

In determining whether to approve or disapprove the proposed preliminary planned unit development project, the hearing examiner shall determine if the preliminary planned unit development provides for and meets all these criteria:

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 proposed planned unit development 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; and

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.

18.36.120 Appeal.

The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.

18.36.130 Final planned unit development approval.

Final approval of the planned unit development will not be issued until all requirements listed in the hearing examiner decision have been met. Certificate(s) of occupancy shall not be issued until final approval unless the community development director, or their designee, determines it is in the best interest of the city. The city and the applicants must agree on a reasonable deadline for obtaining final approval for the planned unit development. Failure of the applicants to obtain final approval prior to the agreed upon date shall result in revocation of the certificate(s) of occupancy.

18.36.140 Minor modifications.

Minor modifications to a planned unit development may be administratively approved provided they meet all these conditions:

A. The modification will not have the effect of reducing required landscaped area, or reducing or encroaching into required buffer areas or reducing the amount of required open space or parks in the planned unit development;

B. The modification will not have the effect of increasing the residential density of the planned unit development;

C. The modification will not have the effect of increasing the area devoted to nonresidential uses in the planned unit development; and

D. The modification will not increase any adverse impacts or undesirable effects of the project, or that the modification in no way significantly alters the project.

18.36.150 Major Modifications.

A. Modifications to planned unit developments that do not meet the all the conditions of TMC 18.36.140 shall be considered major modifications.

B. A public hearing shall be required before the hearing examiner and follow the requirements of TMC 18.36.100 and TMC 18.36.110.

18.36.160 Vesting of planned unit developments.

A. Planned unit developments that involve land division are vested when a complete land division application has been submitted to the community development department.

B. Planned unit developments that do not involve land division vest when a complete building permit application has been submitted to the community development department after preliminary planned unit development approval is granted consistent with TMC 18.36.100.

18.36.170 Duration of approval for planned unit developments.

A. Preliminary approval of a planned unit development by the hearing examiner is valid for a period of five years.

B. An initial one-year extension, which has been filed at least thirty days prior to the expiration of the period of approval, may be granted by the community development director or his/her designee upon a finding that the applicant has attempted in good faith to complete the final planned unit development within the period of approval. Submittal of complete engineering plans for the project and the start of construction prior to the expiration of the approval period time limit shall constitute a good faith effort.

C. Two additional one-year extensions may be administratively granted, which shall be reviewed for compliance with these criteria:

1. The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project

prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;

2. There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without significantly altering the project as originally approved by the hearing examiner; and

3. There are no other significant changed conditions that would render the planned unit development contrary to the public health, safety, or general welfare.

18.36.180 Standards – Bond.

A. Planned unit development projects shall be complete developments and may be required to include facilities such as, but not limited to, streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.

B. The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.

Section 9. Section 18.49.020 of the Tumwater Municipal Code is hereby amended to read as follows:

18.49.020 Permitted uses.

Permitted uses within the MHP zone district are as follows:

- A. Manufactured home parks in accordance with the provisions of TMC Chapter 18.48;
- B. Designated manufactured homes on existing single lots of record, in accordance with the provisions of TMC Chapter 18.48;
- C. Mobile home parks, which were legally established prior to July 1, 2008;
- D. One single-family detached dwelling per existing single lot of record;
- E. Parks, trails, open space areas, and other related recreation facilities;
- F. Support facilities;
- G. Family child care home; child mini-day care center, subject to review by the community development director, the building official, and the fire chief;

H. Planned unit developments.

(Ord. O2011-002, Amended, 03/01/2011; Ord. O2008-009, Added, 02/17/2009)

Section 10. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not

limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 11. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 12. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 13. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval, and publication as provided by law.

ADOPTED this _____ day of _____, 2022.

CITY OF TUMWATER

Debbie Sullivan, Mayor

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

Published:_____

Effective Date:_____



City Hall
555 Israel Road SW
Tumwater, WA 98501-6515
Phone: 360-754-5855
Fax: 360-754-4138

**PLANNED UNIT DEVELOPMENT AMENDMENTS
(ORDINANCE NO. O2022-006)
TUMWATER DEVELOPMENT GUIDE AMENDMENTS –
PRIVATE STREETS STAFF REPORT
GENERAL GOVERNMENT COMMITTEE JULY 13, 2022 BRIEFING**

Issue

The City's current regulations for planned unit developments have not been substantially updated since 2000. The regulations in TMC Chapter 18.36 *Planned Unit Development Overlay* are being amended by Ordinance No. O2022-006 and portions of the *Tumwater Development Guide* related to private streets will be amended at the same time.

The Public Works Committee of the City Council met on July 7, 2022 to review, discuss, and send a recommendation to the City Council for discussion at a worksession on July 26, 2022 and consideration on August 1, 2022.

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Summary

The proposed amendments are intended to update the requirements for private streets and to be consistent with the amendments to TMC Chapter 18.36 *Planned Unit Development Overlay* proposed by Ordinance No. O2022-006.

www.ci.tumwater.wa.us

Background

Planned unit developments are intended to provide a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets in exchange for providing quantifiable public benefits. As currently written, TMC Chapter 18.36 *Planned Unit Development Overlay* provides a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but has provided no quantifiable benefit to the public.

The amendments to TMC Chapter 18.36 *Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

TMC Chapter 18.36 *Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments and the amendments will provide more specificity in regards to when and how private streets are allowed. TMC Title 17 *Land Division* has a definition of a private street that is not consistent with the definition in the *Tumwater Development Guide* and the amendments amend the definition of a private street in the Tumwater Municipal Code so it is consistent with the Tumwater Development Guide.

The amendments are a part of the approved 2022 Long Range Planning work program.

Tumwater Development Guide Amendments

CHAPTER THREE

Section 3.4.A (Page 3-4)

GENERAL ENGINEERING CONSIDERATIONS

3.4 Definitions and Terms

[...]

"PRIVATE STREET" - A privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means~~Private vehicular access provided for by an access tract, easement, or other legal means, to serve property that is privately owned and maintained.~~

[...]

***Staff Notes:** The definition in Section 3.4 of the Tumwater Development Guide for “private street” is amended to be consistent with the amended definition of “private street” in TMC 17.04.385 Private Street.*

Section 3.9 (Page 3-8)

GENERAL ENGINEERING CONSIDERATIONS

3.9 Construction Control and Inspection

Work performed for the construction or improvement of public or private roads and utilities, whether by or for a private developer, by City staff, or by a City contractor, shall be done in accordance with approved plans. It is emphasized that no work shall be started until such plans are approved. Any revision to such plans shall be approved by the City before being implemented. Failure to receive the City's approval can result in removal or modification of construction at the contractor's or developer's expense to bring it into conformance with approved plans.

***Staff Notes:** No amendments are proposed to this section.*

Section 3.18 (Page 3-15 and 3-16)**GENERAL ENGINEERING CONSIDERATIONS****3.18 Utility Extension**

- A. Anyone who wishes to extend any City utility should contact the ~~Development Services~~ [Transportation and Engineering](#) Department for an Extension/Connection Fee Estimate and any special extension requirements.
- B. Utility mains shall be required to be extended to and along all frontages, including private roads, any property being developed for loop closures and/or future development as determined by the City. Size shall be as shown on comprehensive plans or as required to serve future development but not less than the minimums required elsewhere in this document.
- C. In the case of a property being developed and, upon the determination of the ~~Development Services~~ [Transportation and Engineering](#) Director, not being required to connect to the city utility for reasons typically associated with the property's lack of proximity to existing utilities or location outside city limits, but within the urban growth area, the owner may be allowed the option, at the discretion of the ~~Development Services~~ [Transportation and Engineering](#) Director, of paying a fee in lieu of actual installation of the otherwise required extensions. The fee in lieu payment will be equal to 50% of the estimated cost for the city to install the extensions.
- D. For utility extensions outside the City limits, all infrastructure improvements should be made at the more restrictive jurisdictional requirements.
- E. For more specific information regarding utilities, please refer to the appropriate chapter in this Guide.

Staff Notes: *Section 3.18 is updated to reflect the current structure of the City Departments and the Growth Management Act requirements about limiting urban services to the City and its urban growth area.*

CHAPTER FOUR**Section 4.4 Functional Classification (Page 4-7)****STREETS****4.4 Functional Classification**

[...]

[Note: TABLE ONE in Section 4.4 was replaced in its entirety by the Street Section Design table on the next page as part of the October 5, 2020 *Tumwater Development Guide* amendments.]

Street Section Design

Street Classification	Minimum ^{5,9} Structural Design	20 Year ADT	Right-of-Way	Pavement Width	Parking Lane	Min/Max Grade	Curb	Sidewalks	Planter Strip	Intersection Curb Radius	Minimum Design Speed	Bike Lanes ⁸
Principal/ Minor Arterial ^{1,2}	0.50' HMA 0.20' CSTC 1.50' CSBC	15,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike	None	0.5%-8%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	35-50	40	(2) 7' bike lanes ⁷ in designated areas
Commercial/Industrial Collector	0.50' HMA 0.20' CSTC 1.00' CSBC	2,000-6,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike	None	0.5%-10%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	40	30	(2) 6' bike lanes in designated areas
Urban Collector ^{2,3}	0.50' HMA 0.20' CSTC 1.00' CSBC	500-7,000	Width of required improvement + 2' per side (60' min.)	12' per lane plus bike and/or parking	Two	0.5%-10%	Concrete curb and gutter	Both side 6' SEP	6'-10' determined by City	35	25	(2) 6' bike lanes in designated areas
Local Residential ^{4,6}	0.33' HMA 0.20' CSTC 0.80' CSBC	Less than 500	60 50 (alternate)	32 (20)	Two	0.5%-15%	Concrete curb and gutter	Both side 6' SEP	6' or (variable)	25	20	N/A
Local Residential Reduced ¹⁰	0.33' HMA 0.20' CSTC 0.80' CSBC	Less than 500	35 - 60	24 -32	None to Two	0.5%-15%	Concrete curb and gutter	One side min.	6' or (variable)	25	20	N/A
Private	0.20' HMA 0.20' CSTC 0.70' CSBC	N/A	30' easement	26	One	0.5%-15%	N/A	One side min.	6' or (variable)	25	N/A	N/A
Private Alleys	0.20' HMA 0.20' CSTC 0.70' CSBC	N/A	N/A	16	None	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MINIMUM STREET STANDARDS				CITY OF TUMWATER				ENGINEERING DEPARTMENT			STANDARD PLAN	UPDATED 05-04-2020

1. Principal arterial should be a minimum width of four lanes

2. Landscaped medians may be required upon review and approval of the Public Works Director

3. See detail ST-01, ST-02

4. See detail ST-03, ST-04

5. Minimum structural sections shall be used absent a site specific AASHTO structural roadway design utilizing a field verified "R" value. A site specific AASHTO structural roadway design will be required where poor soil characteristics exist

6. Roadways within developments estimated to create less than 500 ADT, with single access, no thru, and no potential for thru street will not be required to have sidewalks on one side

7. 7' bike lanes consist of 5' of pavement plus a 2' buffer stripe

8. Bike lanes include gutter (City may reduce bike lane width to 5' at its sole discretion)

9. For designated truck routes the section shall be 0.67' of HMA, 0.20' of CSTC, and 1.50' of CSBC. Truck routes include those shown in City of Tumwater Municipal Code 10.20.050, additional road segments designated by the City since the last update to applicable sections of the Tumwater Municipal Code, and additional road segments the City determines need to meet designated truck route requirements as a result of the proponent's development activity

10. At the discretion of the City, improvements and right-of-way widths may be reduced where there exists conditions of topography, access, location, shape, size, drainage or other physical features of the site or other adjacent development. The City may also consider use of this provision for narrow infill sites where it is unlikely redevelopment of other properties in the vicinity will occur. This provision should not be considered the preferred alternative

[...]

Staff Notes: No amendments are proposed to this section.

Section 4.5 Naming (Page 4-5)**STREETS****4.5 Naming**

Streets and roads shall be named according to specific criteria. All streets lying west of Capitol Boulevard are designated Southwest (SW). Streets lying east of Capitol Boulevard are designated Southeast (SE). "Avenues" run east-west and are numbered with the exception of certain long-standing historical names. "Streets" run north-south and are named. "Drives" are irregular or diagonal streets over two grid blocks in length not conforming to the grid pattern. "Places" shall be a north-south street, parallel to but between streets. "Ways" shall be an east-west street parallel to but between avenues. "Courts" shall be a cul-de-sac which cannot be extended. Courts are to be named or numbered and carry the number of the preceding street or avenue. "Loops" shall be small loop-type streets to carry the name of the street from which they originate. "Lanes" shall be private streets.

An address number will be assigned to all new buildings at the time the building permit is issued. It is then the owner's responsibility to see that the house numbers are placed clearly and visibly on the structure at the main entrance to the residence or place of business and/or at the principal place of ingress.

New development projects must check with the Building Official regarding the naming of streets within proposed developments. This should be done at the time the preliminary plat is submitted and again upon approval of the final plat. The Building Official will insure that the name assigned to a new street is consistent with policies of the City and is not in conflict with existing street names within the county and other cities. The City has final authority for designation of street names.

Staff Notes: *No amendments are proposed to this section. Private streets will continue to be called "Lanes".*

Section 4.8 Private Streets (Pages 4-6 and 4-7)**STREETS****4.8 Private Streets**

See definition of private street in Section 3.4.

A. Private streets may be allowed under the following conditions:

1. A private street may be pPermanently established by tract or easement to provideing legal access to serve no more than four dwelling units. If all of the dwelling units in a development meet the

federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units. A private street may serve up to four businesses on separate parcels, or four businesses situated on one parcel.~~or businesses on four separate parcels, or unlimited dwelling units or businesses situated on one parcel and sufficient to accommodate required improvements, to include provisions for future use by adjacent property owners when applicable.~~ The four parcel restriction does not apply to private streets in the Port of Olympia Airdustrial Park private roads~~New Market Industrial Center~~ due to Federal Aviation Administration requirements. ~~In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~

2. ~~In addition, private streets may be allowed as part of an approved PUD, if conditions 2-5, below, are met.~~ Meet the minimum design standards for private streets in ~~Table 1~~the Street Section Design table in Section 4.4.
3. Accessible at all times for emergency and public service vehicle use.
4. ~~-~~Will not result in landlocking of present or future parcels nor obstruct public street circulation.
5. Covenants have been approved, recorded, and verified with the City, which provide for maintenance of the private streets and associated parking areas by the owner or homeowners association or other legal entity.
6. Private streets must include provisions for future use by adjacent property owners when applicable.
- ~~5.7.~~ Private streets may be allowed as part of an approved planned unit development, if the requirements of TMC 18.36.100(B) are met.

B. Acceptance as Public Streets.

Acceptance of private streets as public streets will be considered only if the street(s) meet all applicable public street standards, including right-of-way widths. The developers engineer shall provide as built designs and testing to confirm proper construction standards.

Staff Notes: *Amendments to this section match proposed amendments to the Planned Unit Development Chapter in TMC 18.36.*

Section 4.10 Cul-de-sac (Pages 4-8)**STREETS****4.10 Cul-de-sac**

Streets designed to have one end permanently closed shall be no longer than 500 feet. At the closed end, there shall be a widened "bulb" having a minimum paved traveled radius as shown in the Minimum Street Design Standards Table. A "Y" or "T" which allows for comparable ease in turning for emergency vehicles may be allowed on private streets.

Staff Notes: No amendments are proposed to this section.

Section 4.31 Design Standards (Page 4-23)**ILLUMINATION****4.31 Design Standards**

[...]

AVERAGE MAINTAINED HORIZONTAL ILLUMINATION**(FOOT CANDLES)****AREA CLASS**

Road Class	Residential	Intermediate	Industrial	Commercial
Local/Private	0.2	0.6	N/A	N/A
Collector	0.5	0.7.	0.8	0.9
Arterial	0.7	1.0	1.2	1.4

Uniformity ratio: 6:1 average: minimum for local
 4:1 average: minimum for collector
 3:1 average: minimum for arterial

Dirt Factor = 0.85, lamp lumen depreciation factor = 0.73

Weak Point Light = 0.2fc except residential local street

Average illumination at intersections 1.5 times the illumination required on the more highly illuminated street.

Line loss calculations shall show that no more than five percent voltage drop occurs in any circuit. Lamp Load factor shall equal 1.2. Pole foundations shall be per detail number ST-25 and ST-26. Poles shall be as follows:

	6' Single Arm	8' Single Arm	8' Twin Arm
GE	RRTA40SA6S8.01B	RRTA40SA8S8.01B	RRTA40SA8D10.02B
Hap Co	50700-001	50700-002	50701.013
Lexington	3608-45806T4	3608-45806T4	3608-60106T4
Valmont	21-40006CS0845	21-40008CS0845	22-40008CLS1060

Use type of pole already in use on a roadway.

Staff Notes: *No amendments are proposed to this section.*

Public Approval Process

The Planning Commission held a briefing on the proposed amendments on April 26, 2022 and its first worksession on May 10, 2022. The Planning Commission held a second worksession on June 14, 2022.

An Environmental Checklist for a non-project action was prepared on April 5, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance was issued on April 28, 2022.

The ordinance was sent to the Washington State Department of Commerce on April 5, 2022 for the required 60-day review before the proposed text amendments were adopted, in accordance with RCW 36.70A.106.

A Notice of Public Hearing for the Planning Commission was issued on June 17, 2022 prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in The Olympian.

The Planning Commission held a public hearing for the proposed amendments on June 28, 2022. Following the public hearing and deliberations, the Planning Commission is expected to make a recommendation that Council on the proposed amendments.

The Public Works Committee held a briefing on the proposed private streets amendments to the *Tumwater Development Guide* on July 7, 2022.

The General Government Committee will review the proposed amendments in a briefing on July 13, 2022 and recommend that the ordinance be discussed at a City Council worksession. The City Council is scheduled to review the amendments at a worksession on July 26, 2022 and consider the amendments on August 1, 2022.

Public Notification

A Notice of Public Hearing for the Planning Commission was issued, posted, mailed to interested parties, and published in The Olympian on June 17, 2022, after the Planning Commission set the public hearing date on June 14, 2022.

Staff Conclusions

1. The proposed text amendments are consistent with the goals of the Washington State Growth Management Act.

- a. The amendments in Ordinance No. O2022-006 and to the *Tumwater Development Guide* are consistent with Goal 7 of the Growth Management Act which states:

“Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.”

The amendments establish concise requirements for the application, review process, and approval of planned unit developments.

2. The proposed amendments are consistent with the Economic Development Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of planned unit developments.

- a. Goal #1 of the Economic Development Plan states:

“Establish a development climate that stimulates economic activity and desirable investment.”

- b. The text of the Economic Development Plan states that one of the ways to support Goal #1 is:

“...by making ongoing improvements to existing development regulations, systems, and processes.”

- c. Action item 1.D. of the Economic Development Plan states:

“Ensure a predictable and efficient experience for business owners and developers seeking to invest in Tumwater.”

The amendments improve the existing regulations for the application, review process, and approval of planned unit developments.

3. The proposed amendments are consistent with the Land Use Element because it clarifies and refines the process for reviewing and approving planned unit developments.

- a. Implementation Policy 11 of Section 3.3 of the Land Use Element states:

“Modify the land use regulatory review, permitting, and approval system for consistency with the Growth Management Act and adopted plans to

ensure predictability and allow processing of development permits in a timely and fair manner.”

4. Based on the above review and analysis, staff concludes that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

Planning Commission Recommendation

The Planning Commission recommends approval of the proposed amendments to the *Tumwater Development Guide* as shown in this memorandum.

Effects of the Proposed Amendments

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-006 and to the *Tumwater Development Guide*.

Staff Contact

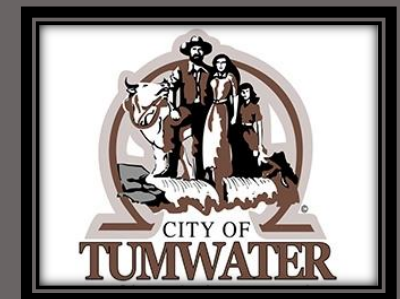
Brad Medrud, Planning Manager
City of Tumwater Community Development Department
360-754-4180
bmedrud@ci.tumwater.wa.us

Planned Unit Development Amendments

Ordinance No. O2022-006

July 13, 2022

General Government Committee Briefing



Issue

- The City's planned unit development regulations were last substantially updated in 2000
- In other jurisdictions, planned unit developments provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations

Issue – Benefits & Flexibility

- Currently, planned unit developments in the City 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 flexibility in addressing existing regulations in exchange for requiring quantifiable public benefits

Issue – Private Streets

- Current regulations do not clearly address the requirements for private streets as part of planned unit developments
- The amendments would:
 - Provide more specificity in regards to when and how private streets are allowed
 - Amend the definition of a private street in TMC Title 17 to be consistent with the *Tumwater Development Guide* and amend the sections of the *Tumwater Development Guide* that addresses private streets as needed

Summary of Amendments

1. Private Streets

- a. 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.

- b. Amendments to the *Tumwater Development Guide* (See Attachment C *Development Guide Amendments Staff Report*) – Public Works Committee review

Summary of Amendments

2. 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

Summary of Amendments

2. Amend permitted uses:

- 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

Summary of Amendments

3. Change the name of the chapter to remove “overlay”
4. 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 addressing zoning regulations

Quantifiable Public Benefits

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

Quantifiable Public Benefits

- On May 10, 2022, the Planning Commission asked staff for local developers input on the quantifiable public benefits and code modifications
- Staff contacted five local developers on May 16, 2022, heard back from one of them on May 26, 2022, and incorporated their suggested changes into the ordinance

Tangible Benefits

#	Points	Tangible Benefit
1	1.0	Provide superior useable parks and open space.
2	1.0 to 2.0	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.
3	1.0	Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers.
4	1.0	Dedication of a site containing a historic landmark.
5	2.0	Incorporation of energy systems that produce energy from nondepletable energy sources will result in at least fifty percent of the energy needs for the development being met.

Tangible Benefits

#	Points	Tangible Benefit
6	2.0	For residential developments, building passive homes, which meet the Passive Home Institute US (PHIUS) standard that will result in fifty percent or more of the total dwelling units qualifying as passive homes.
7	1.0	Going significantly beyond the minimum required energy efficiency requirements for at least fifty percent or more of the energy needs of the development.
8	2.0	The provision of at least twenty percent of the total dwelling units as permanently affordable housing.
9	1.0 to 2.0	Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section.

Summary of Amendments

5. Update TMC 18.36.020:

- a. Establish where such development would be allowed:
 - 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)
- b. Amend the current code language about the effect of planned unit development approval on existing zone district regulations
- c. Establish a minimum size for a planned unit development of one acre

Summary of Amendments

6. Update TMC 18.36.040 for items required in an application:
 - a. A description of how the planned unit development meets the requirements of TMC 18.36.010
 - b. A description of how the planned unit development relates to the surrounding area

Summary of Amendments

6. Items that need to be in an application:
 - c. If 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 planned unit development
 - 2) A map showing the proposed locations of the zone districts within the planned unit development
 - The planned unit development 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*

Summary of Amendments

6. Items that need to be in an application:
- d. How the planned unit development is accessed and how internal circulation will be addressed
 - e. The location and size of critical areas and their buffers on or within 300 feet of the project site
 - f. The location and size of open space, parks, and landscaped areas and how they serve the development
 - g. The location of stormwater facilities
 - h. SEPA environmental review

Summary of Amendments

6. Items that need to be in an application:
 - i. Covenants for ongoing maintenance of common areas and stormwater facilities
 - j. 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
 - k. How the application relates to adjacent properties under similar ownership
 - l. How the application allows for future development or redevelopment of neighboring properties

Code Modifications

7. Create a new section to explain that an application cannot modify requirements in TMC Title 16 *Environment*
8. Create a new section to explain that if an application creates new lots, it shall follow the requirements in TMC Title 17 *Land Division*

Code Modifications Allowed

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 may not be modified, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	<p>The type and size of the underlying zone districts designated by the zoning map shall not be modified.</p> <p>Some individual development standards of the underlying zone districts may be modified.</p>
Planned unit developments with multiple underlying zone districts	<p>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).</p> <p>Some individual development standards of the underlying zone districts may be modified.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>May modify internal setbacks within the planned unit development.</p>

Code Modifications Allowed

Code Modifications Allowed	Notes
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.
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.

Code Modifications Not Allowed

Code Modifications Allowed	Notes
Environment	The provisions of TMC Title 16 may not be modified, except modifications consistent with TMC 18.36.010(B)(3).
Zone Districts	<p>The type and size of the underlying zone districts designated by the zoning map shall not be modified.</p> <p>Some individual development standards of the underlying zone districts may be modified.</p>
Planned unit developments with multiple underlying zone districts	<p>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).</p> <p>Some individual development standards of the underlying zone districts may be modified.</p>
Densities	Densities established by the underlying zone districts shall not be altered.

Code Modifications Not Allowed

Code Modifications Allowed	Notes
Uses	<p>Limited to the permitted, accessory, or conditional uses established by the underlying zone districts.</p> <p>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 <i>Conditional Use Permits</i>.</p>
Setbacks	<p>Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.</p> <p>May modify internal setbacks within the planned unit development.</p>
Parking	Parking requirements shall not be modified.
Landscaping	Landscaping requirements shall not be modified.

Code Modifications Not Allowed

Code Modifications Allowed	Notes
<i>Citywide Design Guidelines</i>	<i>Citywide Design Guidelines</i> shall not be modified.
<i>Tumwater Development Guide</i>	Requirements of the <i>Tumwater Development Guide</i> shall not be modified, except as noted in TMC 18.36.080.
Signage	Signage requirements shall not be modified.
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.

Summary of Amendments

9. Public streets are required in a planned unit development, except private streets are allowed:
 - a. 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
 - b. When serving up to 4 businesses on separate parcels, or up to 4 businesses situated on 1 parcel
 - c. The private street must meet the minimum design standards and requirements for private streets in the *Tumwater Development Guide*

Summary of Amendments

10. Phasing allowed:

- a. For applications with more than 100 dwelling units or commercial or industrial planned unit developments covering more than 20 acres
- b. Phased approval is limited to 2 but not more than 4 phases

Summary of Amendments

11. Phasing allowed:

- a. Applications shall show the number of phases, the area each phase encompasses, and the sequence for development of the various phases
- b. 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

Summary of Amendments

12. Update 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

Summary of Amendments

12. Criteria used to approve or deny an application:

- 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

Summary of Amendments

13. Move and update the appeal process section

14. Create new sections for:

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

15. Update the section on bonding

Recommendation

Planning Commission recommends approval of the proposed amendments as shown in Ordinance No. O2022-006

Next Steps

City Council

- Public Works Committee briefing – July 7, 2022
- General Government Committee briefing – July 13, 2022
- Worksession – July 26, 2022
- Consideration – August 1, 2022

TO: General Government Committee
FROM: Brad Medrud, Planning Manager
DATE: July 13, 2022
SUBJECT: WSDOT Rights of Way Initiative Process Memorandum of Understanding

1) Recommended Action:

Review and schedule the attached 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.

2) Background:

The WSDOT Rights of Way Initiative Process, the Memorandum of Understanding – Transitioning People Out of State Rights of Way in Thurston County is the first of a series of agreements expected between the Washington State Department of Commerce, the Washington State Department of Transportation, the Washington State Patrol, the cities of Lacey, Olympia, and Tumwater, and Thurston County to work in a collaborative fashion to achieve the short-term goal of transitioning people from specific prioritized state rights of way into housing.

3) Policy Support:

Housing Element Goal H-3: To provide adequate, affordable housing for residents of all income groups, including sufficient housing affordable to low and moderate-income groups.

4) Alternatives:

☐ None

5) Fiscal Notes:

This is an internally funded work program task, although individual actions may have a cost if eventually pursued.

6) Attachments:

A. Memorandum of Understanding – Transitioning People Out of State Rights of Way in Thurston County

MEMORANDUM OF UNDERSTANDING

Transitioning people out of state rights of way in Thurston County

PARTIES

This is an agreement of the following parties:

- Washington State Department of Commerce (“COM”)
- Washington State Department of Transportation (“WSDOT”)
- Washington State Patrol (“WSP”)
- City of Olympia
- City of Lacey
- City of Tumwater
- Thurston County

PURPOSE

This memorandum establishes an understanding between the parties regarding the resources and processes that will be deployed to assist people in moving out of state rights of way and into housing.

GUIDING PRINCIPLES

The signatories understand that it will require working in a collaborative fashion to achieve the short-term goal of transitioning people from specific prioritized state rights of way into housing by implementing the following strategies:

- Promptly identifying shelter and housing that people living in rights of way can be referred to.
- Engaging people living in rights of way to assess their needs and refer them to identified emergency and other housing and other available services with their selected belongings prior to the clearing of rights of way.
- Identify and implement strategies to keep cleared sites uninhabited.
- Identify strengths and weaknesses in the short-term strategy to implement a more comprehensive long-term approach to individuals and families living in public places.

GOALS AND OBJECTIVES

The signatories understand that it will require working in a collaborative fashion to achieve the short-term goal of transitioning people from specific prioritized state rights of way into housing by implementing the following strategies:

- Promptly identifying existing emergency and other housing that people living in rights of way can be referred to.
- Engaging people living in rights of way to assess their needs through coordinated entry or other assessments and refer them to identified emergency and other housing and other available services.
- Immediately begin to create additional emergency and other housing dedicated to people living in rights of way.
- Identify and implement strategies to keep cleared sites uninhabited.
- Identify strengths and weaknesses in the short-term strategy to implement a more comprehensive long-term approach to individuals and families living in public places.

STRUCTURE

- **COMMERCE** shall be represented by Diane Klontz, Assistant Director, Telephone: (360) 725-4142, Email: diane.klontz@commerce.wa.gov.
- **WSDOT** shall be represented by Amy Scarton, Deputy Secretary - Transportation, Telephone: (206) 515-3401, Email: scartoa@wsdot.wa.gov.
- **WSP** shall be represented by John Batiste, Chief of the Washington State Patrol, Telephone: (360) 596-4000, Email: john.batiste@wsp.wa.gov.
- **Thurston County** shall be represented by Tom Webster, Office of Housing and Homeless Prevention, Telephone: (360) 867-2531, Email: thomas.webster@co.thurston.wa.us.
- **City of Lacey** shall be represented by Rick Walk, Director of Community and Economic Development, Telephone: (360) 438-2638, Email: RWALK@ci.lacey.wa.us.
- **City of Olympia** shall be represented by Darian Lightfoot, Housing Programs Manager, Telephone: (360) 753-8033, Email: dlightfo@ci.olympia.wa.us.
- **City of Tumwater** shall be represented by Brad Medrud, Long Range Planning Manager, Telephone: (360) 754-4180, Email: BMedrud@ci.tumwater.wa.us.

COMMITMENTS

The Parties to this MOU agree that:

COM, WSP, and WSDOT will commit and prioritize available appropriations and other state capacities at the scale necessary to address people living in state rights of way sites identified by the WSDOT.

Local governments will expand and prioritize local capacity to perform outreach and provide housing to individuals and families living in state rights of way identified by WSDOT.

WSDOT and WSP will work with local governments to maintain and secure sites that have been relocated from the state rights of way.

It is the intent of the parties to this agreement to pursue specific agreements to implement the following to address people living in state rights of way identified by WSDOT, subject to change as needed to address changing circumstances. Commitments to projects and funding beyond the first year are subject to review under the required stakeholder feedback process, the results of which may necessitate changes to the agreement and related contracts. The specifics of how funding will flow from the state and who will execute the work will be determined later, specified in contracts separate from this agreement:

1. Outreach to people living in WSDOT identified state rights of way, including offering them coordinated entry intake and assessment and referrals and/or placement in emergency or other housing starting in June 2022, funded by the state for three years.
2. Prioritization of at least 24 existing shelter beds for people living in WSDOT identified state rights of way starting June 2022, funded by the state for three years.
3. Expansion of existing hotel leasing, case management, and support services for domestic violence survivors, homeless youth, and other people living in identified state rights of way for which regular shelter placements are not appropriate, starting in July 2022; funded by the state for three years.
4. Siting, site improvements, and acquisition or building of fifty new tiny homes (capacity for about sixty people) prioritized for people living in WSDOT identified state rights of way, each with a

window and locking door, with ready access to hygiene and food, occupancy goal of September 2022, or as soon as possible thereafter; funded by the state.

5. State capital and long-term operating and service funding, increased or decreased based on the number of units available, agreed to, and provided, for the purchase and renovation of a hotel, or other existing high-density housing, that would provide approximately 100 units with an initial occupancy availability goal of September 2022, or as soon as possible thereafter. Up to half of the units will be prioritized for people living in or relocated from WSDOT-identified state rights of way, in alignment with the portion of project funding derived from sources dedicated to housing people living in state rights of way.
6. State capital and long-term operating and service funding, increased or decreased based on the number of units available, agreed to, and provided, for the siting and construction of approximately 50 new units of permanent housing with necessary services. At least half of the units will be prioritized for people living in or relocated from WSDOT-identified state rights of way, in alignment with the portion of project funding derived from sources dedicated to housing people living in state rights of way
7. Additional state capital and long-term operating and service funding for the project(s), based on the number of units available, agreed to, and provided, currently under development to address funding gaps and that is associated with people living in or relocated from WSDOT identified state rights of way.
8. Adequate funding for staff time associated with coordination and administration of rights of way activities; funded by the state for three years.
9. State Patrol engaged with serving notice to and removal as needed of people on WSDOT identified state rights of way.
10. State Patrol is readily available to assist with people living on WSDOT-identified rights of way through regular monitoring of sites by local governments.
11. WSDOT cleans sites after people have been relocated and makes site improvements to prevent future occupancy. WSDOT will respond to requests for additional or ongoing site changes identified by local governments to help prevent re-occupancy.
12. WSDOT and WSP will coordinate with local governments to monitor and maintain cleared state rights of way sites.

This agreement covers WSDOT-identified state rights of way sites that will be mutually agreed to by the parties to this agreement. The number of sites and people addressed through this agreement is subject to increase or decrease based on a good faith review of the adequacy of committed and available resources and what is needed to address the identified sites and the individuals and families living on them.

AMENDMENTS

Any amendments to this Agreement shall be in writing and agreed to by all parties.

TERMS

The parties to this agreement are required to give 90 days advance notice of their intent to withdraw from the agreement. At this time the term of this Memorandum is open-ended and will remain so until the majority of signatories decide to terminate the partnership.

SIGNATURES

Washington State Department of Commerce	_____	
	<i>Signature of Diane Klontz</i>	<i>Date</i>
Washington State Department of Transportation	_____	
	<i>Signature of Amy Scarton</i>	<i>Date</i>
Washington State Patrol	_____	
	<i>Signature of John Batiste</i>	<i>Date</i>
Thurston County	_____	
	<i>Signature of Ramiro Chavez</i>	<i>Date</i>
City of Lacey	_____	
	<i>Signature of Scott Spence</i>	<i>Date</i>
City of Olympia	_____	
	<i>Signature of Jay Burney</i>	<i>Date</i>
City of Tumwater	_____	
	<i>Signature of Debbie Sullivan</i>	<i>Date</i>