

# **TUMWATER PLANNING COMMISSION**

## **MINUTES OF VIRTUAL MEETING**

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**CONVENE:** 7:00 p.m.

**PRESENT:** Chair Elizabeth Robbins and Commissioners Grace Edwards, Terry Kirkpatrick, Michael Tobias, Meghan Sullivan, and Anthony Varela.

Excused: Commissioners Nam Duc Nguyen and Nathan Peters.

Staff: Planning Manager Brad Medrud.

**CHANGES TO AGENDA:** Chair Robbins added the introduction of newly appointed Planning Commissioner Anthony Varela.

**INTRODUCTION OF ANTHONY VARELA:** Chair Robbins introduced Anthony Varela as the newest member of the Planning Commission.

Commissioner Varela reported he recently retired from the U.S. Army and lives in Tumwater. His wife is also retired from the U.S. Air Force. Together they have two children. He is involved in the community through volunteering with organizations and works in real estate. He looks forward to contributing to the community.

Commissioners provided self-introduction and shared information about their respective professional backgrounds.

**COMMISSIONER REPORTS:** Commissioner Tobias advised of his unavailability to attend the May 10, 2022 meeting due to a meeting conflict.

**MANAGER'S REPORT:** Manager Medrud reported on the successful outcome of the Arbor Day event on Saturday, April 23, 2022. The weather cooperated. The Tree Board was able to give away 92 of the 100 tree seedlings. The remaining trees will be planted by the Parks and Recreation Department in areas around the City. Approximately 60 volunteers participated in the Earth Day event.

Staff recently participated in an all-day meeting with staff from the U.S. Fish and Wildlife Service reviewing the City's Habitat Conservation Plan (HCP). Another meeting is scheduled with staff from the Department of Fish and Wildlife to review the plan. The goal is moving closer to the adoption of the HCP.

Manager Medrud updated members on the status of department staffing. The City is seeking to fill former Senior Planner Ginther's position. He asked members to provide any names of potential candidates. The City recently hired an Economic Development Manager. The new position will be responsible for implementing the HCP. The new employee is scheduled to join the City on June 1, 2022.

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Chair Robbins inquired about the status of resuming in-person meetings. Manager Medrud said action to resume in-person meetings is on hold pending information from City administration. The issue with conducting concurrent hybrid meetings is the overlap with the City Council's worksession in the Council Chambers. Another factor is staffing resources as two staff members are necessary to coordinate hybrid meetings, which is why the City plans to move forward with in-person meetings at some point. It is anticipated that when City fully reopens, in-person meetings will resume.

#### **PUBLIC COMMENT:**

There were no public comments.

#### **PRELIMINARY DOCKET FOR 2022 ANNUAL HOUSEKEEPING AMENDMENTS:**

Manager Medrud reported the process for reviewing and adopting the preliminary docket of annual development code housekeeping amendments includes an initial review by the Planning Commission for a recommendation to the City Council. The City Council renders the final determination on amendments to include in the final docket in June 2022.

Once the docket is finalized, staff reviews and analyzes the proposed amendments as part of the long range planning work program and returns to the Commission and the Council for a final review and recommendation process in September 2022.

City Attorney Kirkpatrick has provided additional clarifications since the Commission received its meeting packet. Important language to consider is "development code" or all codes contained in TMC 16, 17, & 18 (Environment, Land Division, and Zoning) fall under the category of development code. Any proposed amendments that do not fall under the criteria are not covered by the requirement for a preliminary and final docket. Subsequently, when the proposal is presented to the Commission and the Council, two different ordinances will be presented with one ordinance encompassing Titles 16, 17, and 18 and another ordinance to address amendments to the other titles. The next meeting includes a worksession on the proposed amendments to offer questions or requests for additional information.

Manager Medrud presented a summary of the proposed amendments that make up the development code housekeeping preliminary docket:

- A. *Accessory Dwelling Unit Entrances* - Address accessory dwelling unit primary entrance language. Accessory dwelling unit shall be designed to maintain the appearance of the main building of the single-family residence. In some cases, it is not possible for the primary entrance to an accessory dwelling unit not to be visible from the yard on the same side of the lot on which the primary entrance to the primary single-family dwelling unit is located. The

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amendment would change this from a requirement to an option.

- B. Adult Family Homes/Residential Care Facilities* - Address consistency of adult family home and residential care facilities as permitted and conditional uses with state law and internally in TMC Title Zoning in individual zone districts and TMC 18.53 Housing for the Functionally Disabled. RCW 70.128.140 states: Compliance with local codes and state and local fire safety regulations.

  - 1. Each adult family home shall meet applicable local licensing, zoning, building, and housing codes, and state and local fire safety regulations as they pertain to a single-family residence. It is the responsibility of the home to check with local authorities to ensure all local codes are met.
  - 2. An adult family home must be considered a residential use of property for zoning and public and private utility rate purposes. Adult family homes are a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings.
- C. Bicycle Storage* - Clarifies whether residential uses require one long-term bike storage spot per unit one per four units as shown in the table at the end of TMC 18.50 Off-Street Parking. TMC 18.50.120 Required bicycle facilities and TMC Figure 18.50.120(A) establish bicycle parking spaces requirements for both short-term (Class 2) bicycle facilities and long-term (Class 1) bicycle facilities.
- D. Capitol Boulevard Community – Multifamily Parking Requirements* - Remove one parking space per dwelling unit limit for multifamily dwellings in the Capitol Boulevard Community to relieve off-street parking impacts on adjacent neighborhoods.
- E. Car Washes* - Add “carwash” to General Commercial uses through an amendment to the Title 17 Zoning definitions, instead of a specifically listed use.
- F. Mixed Use Overlay* - Clarifying the intent of TMC 18.33 MUO (Mixed Use Overlay) to require commercial or office uses along primary roadways rather than 20% of every building.
- G. Nonconforming Signs* - Addresses a conflict in nonconforming signs requirements in TMC 18.44.090 Existing signs in the TMC 18.44 Signs. *Chair Robbins asked whether the amendment applies to billboards. Manager Medrud said the amendment would not apply to billboards or off-premise signs. The issue is how the code*

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*was updated within the nonconforming section. The City inadvertently created a situation that requires correction.*

- H. Optometry Clinics* - Addresses “optometry clinics” use, which does not fit well with either the existing “medical clinic” use or “professional services” use. Creates new “optometry clinics” use with a new definition in TMC 18.04.150 and adds as a permitted use zone districts currently allowing for medical facilities and offices.
- I. Personal and Professional Services* - For consistency and understanding, splitting “personal and professional services” into “personal services” and “professional services” and removing “personal and professional and services and sales” from the TMC 18.07.020 Table Commercial zone districts permitted and conditional uses – Summary Tables of Uses.
- J. Public Building Signs* - Adds exemptions for the size and number of signs for public buildings located in residential zone districts.
- K. Public Works Director* - Updates the final plat Dedication Certificate language and changes references to “Public Works” to “Transportation & Engineering” Director and Department throughout Titles 12 Streets, Sidewalks and Public Spaces, 17 Land Division, and 18 Zoning. This proposed change has been postponed because of the extensive number of changes except for some targeted changes related to documents recorded for subdivisions.
- L. Residential Mechanical Equipment in Setbacks* - Allows “residential mechanical equipment” in the three single-family zone districts rear setbacks.
- M. Residential Storage Sheds – Gravel Access* - Addresses driveway surface for residential storage sheds. Currently, if a residential property owner wants to build a detached storage shed on a property having a gravel driveway, TMC 18.50.020(A)(1) requires compliance with the current parking regulations. In this case, TMC 18.50.030(B) requires residential property owner to convert the driveway to a hard surface.
- P. Subdivision Dedication Code Language Update* - Update the subdivision dedication code language to change “men” to “persons.”

Proposed amendments that fall outside of the Tumwater Development Code include:

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- N. Sidewalks – Obstructions, Maintenance, and Repair* - At the request of City staff, address short-term and long-term sidewalk maintenance. The intent clarifies which owners are responsible for maintenance of sidewalks. Currently the TMC or Tumwater Development Guide does not address the issue.
- Q. Staff Reports for Hearing Examiner* - Schedule - Review when a staff report is needed for a hearing examiner hearing. The hearing examiner has asked to change the date when staff reports must be available from five working days prior to the public hearing to seven days.
- R. Traffic Study Requirements* – TMC 12 addresses the threshold for a required traffic study as part of a development project. The proposal would require generation of a traffic study when a specific number of trips are generated in one direction.

Manager Medrud encouraged Commissioners to submit any questions, comments, or suggested additions prior to the next meeting. The schedule calls for the Commission to forward a recommendation to the City Council for consideration in June. The final docket is scheduled for review by the Commission in September.

**ORDINANCE NO.**  
**O2022-006,**  
**PLANNED UNIT**  
**DEVELOPMENT:**

Manager Medrud reported the City's current regulations for planned unit developments 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 new developments to provide quantifiable public benefits, such as parks, another kind of use, or permanent affordable housing. A PUD provides developers with more flexibility in exchange for benefits for the public and the City. Often, PUDs assist developers in achieving full development potential of a parcel especially when parcels are of odd shape or contain critical areas.

Current PUDs provide flexibility to developers within existing regulations but lack a quantifiable benefit to the City or to the public. Additionally, PUDs do not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit

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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 would amend the definition of a private street in the TMC for consistency with the Tumwater Development Guide and amend sections of the Tumwater Development Guide that address private streets as needed. The review of the proposal is through the Public Works Committee.

Manager Medrud referred to a summary of the other proposed amendments. When staff reviewed the existing code for PUDs, it was with the realization that a major rewrite would be required adding approximately nine new sections resulting in a much more coherent code than the existing code. He reviewed the proposed amendments:

**Private Streets** - 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.”

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

**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.
- 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 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.

**Substantially revised TMC 18.36 PUD Planned Unit Development Overlay. Amendments include the following:**

- a. Changed the name of the chapter from PUD Planned Unit Development Overlay to PUD Planned Unit Development.
- b. Updated the intent section to establish a clear list of tangible benefits to be provided by a planned unit development to the City

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and the public in exchange for flexibility when addressing zoning regulations.

Manager Medrud asked Commissioners for feedback on whether the list is reasonable in terms of what the City is providing for flexibility to the developer:

1. 0.5 points: 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. 0.5 to 1.0 point: 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. 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. 1.0 point: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources will result in at least fifty percent of the energy needs for the development being met. Both the applicant and the City shall agree upon the type and conditions for the energy systems provided;
6. 1.5 points: The provision of at least twenty percent of the total dwelling units as permanently affordable housing consistent with TMC 18.42.140(D)-(K);
7. 0.5 to 1.5 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.

Chair Robbins offered feedback on the point system noting that it would be difficult to ascertain whether the point value is an accurate measure

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without knowing the overall value the development provides to the City and that a scalable approach could be considered where the developer receives more points when the development provides better benefits. She asked about point options when a developer promotes lifestyles that are more active or more options for active uses for residents of all ages.

Commissioner Kirkpatrick questioned whether the points reflect the size of the development as it would be easier to obtain points for a 100-acre parcel versus a five-acre site. He suggested the points should be proportional to the development. It also appears options 2 and 7 are similar. Manager Medrud said staff will present some suggestions on scaling the points and whether 2 and 7 could be combined. The intent is for the developer to accumulate 2 points to qualify for pursuing a planned unit development. Additionally, 7 is intended to cover other benefits not addressed to afford some level of flexibility for staff and the developer.

**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.**

**Updated the section on who can initiate an application and moved the application process to an updated section TMC 18.36.040.**

**Updated the section to establish the items that need to be included in a planned unit development application:**

- 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.
- c. If there is more than one underlying zone district then the application must include a map showing the existing zone district locations, sizes, and densities within the planned unit development; a map showing the proposed locations of the zone districts within the planned unit development.
- 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.



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- 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.
- 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.

**Created a new section to explain that a planned unit development application cannot modify requirements in TMC Title 16 Environment.**

**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.**

**Moved from TMC 18.36.080 and updated the section to establish what development requirements in TMC Title 12 and 18 can be modified by a planned unit development and what cannot be modified.** Manager Medrud reviewed what can or cannot be modified for zone districts, PUDs with multiple underlying zone districts, densities, uses, setbacks, lot sizes, land coverage, structure height, yards, parks and open space area, parking landscaping, Citywide design guidelines, signage, stormwater, and procedural requirements for review. Manager Medrud invited questions and comments.

Chair Robbins asked whether PUDs could be applied to redevelopment projects when existing structures are removed and the property is redeveloped. Manager Medrud said it would likely be dependent upon the proposal as there are very few areas in the City that are vacant parcels. Demolition of existing structures would essentially create a new development area. A PUD could be applied in most of those cases.

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

- 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.

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

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

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:

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*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.

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

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

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

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

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

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

Manager Medrud encouraged questions and requests for additional information.

Commissioner Kirkpatrick noted that many homeowner associations have encountered problems with maintenance of private streets. However, if the homes are low-income, the problem of maintenance would be much worse as those homeowners would be unable to afford maintenance of private streets. He questioned why the City allows private streets in low-income

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development. Manager Medrud said the intent for permanently affordable units is for an assignment of another entity responsible for ongoing maintenance and ensuring the unit remains low-income units. However, the observation brings up a good point to ensure the provisions have specificity and that the intent is to ensure assignment of those responsibilities to another entity rather than to low-income residents.

Commissioner Tobias inquired as to the possibility of requiring the developer to establish a fund to use for maintenance of roads. Manager Medrud said those types of requirements would require a state law as the City is limited in collection of development impacts and the time to expend those funds. The recent collapse of a condominium in Florida speaks to the substantial amount of funds required for maintenance.

Chair Robbins asked whether noncompliance of maintenance becomes the burden for the City to resolve. Manager Medrud said that in some cases, the City billed individual homeowners that were part of the development involving stormwater maintenance. It is a situation the City prefers to avoid as the homeowners association should have evaluated long-term costs and a process to ensure homeowners are not billed at rates not anticipated.

Chair Robbins asked whether any of the proposed amendments address ways to avoid those default situations. Manager Medrud advised that the issue of default is a much larger issue and is not included in the proposed amendments.

Manager Medrud noted that the review schedule affords some flexibility. If more time is required, staff can schedule additional worksessions to accommodate discussions. The proposed schedule includes a worksession on the proposal at the May 10, 2022 meeting and a public hearing on May 24, 2022 with a recommendation forwarded to the Council in June or July.

**NEXT MEETING DATE:** The next meeting is scheduled on May 10, 2022.

**ADJOURNMENT:** Commissioner Tobias moved, seconded by Commissioner Sullivan, to adjourn the meeting at 8:29 p.m. A voice vote approved the motion unanimously.