

EXHIBIT 1

**CITY OF TUMWATER
HEARING EXAMINER STAFF REPORT
Hearing Date: September 29, 2021**

Project Name: Forest Park Townhomes Preliminary Plat, Preliminary Planned Unit Development, and Variance

Case Numbers: TUM-21-0046, TUM-21-0117, and TUM-21-1231

Owner: Morningside Development Group, Attn: Tom Reynolds
P.O. Box 218, DuPont, WA 98327

**Project Proponent/
Representative:** KPFF Consulting Engineers, Attn: Mark Steepy
612 Woodland Square Loop SE, Lacey, WA 98503

Type of Action Requested: The project proponent is requesting approvals of a Preliminary Plat (TUM-21-0046), a Preliminary Planned Unit Development (TUM-21-0117) for private internal roads, and a Variance (TUM-21-1231) from required zoning setbacks and required open space area requirements. The applications would subdivide a 7.73-acre parcel into 22 multifamily family lots totaling 67 dwelling units, with four open space tracts (Tracts A – D) and one private roadway tract (Tract E) (Exhibits 2 – 9).

The City approved the original development application under Site Plan Review (TUM-15-0298) on March 4, 2016. The City issued a Site Development/Grading Permit (TUM-20-0350) on March 30, 2021 and site construction started in the spring of 2021 (Exhibits 15, 16, and 23 – 30).

Subsequently, the project proponent decided to subdivide the original 7.73-acre parcel (Thurston County Tax Parcel No. 5520-12-00000) that contained the approved project into 22 multifamily family lots totaling 67 dwelling units, four open space tracts (Tracts A – D), one private roadway tract (Tract E), and utility easements as part of the Preliminary Plat (TUM-21-0046). Findings and approvals issued for the original development have been incorporated into this proposal. In addition, a Preliminary Planned Unit Development (TUM-21-0117) approval is requested because the project will provide private internal roads and a Variance (TUM-21-1231) is requested from required zoning setbacks and required open space area requirements.

Project Location: The property is located at 1653 Starlight Lane SW, Tumwater, WA 98512 off Ridgeview Loop SW. The site is in a portion of the Northwest quarter of the Southwest quarter, Section 27, Township 18 North, Range 2 West on Thurston

County Tax Parcel No. 5520-12-00000 (Exhibit 2).

Project Permit/Approvals Issued: The following permits and approvals have been issued for the project:

1. State Environmental Policy Act (SEPA) threshold determination (TUM-15-0726) on January 7, 2016 (Exhibits 15 and 16)
2. Site Plan Approval (TUM-15-0298) on March 4, 2016 (Exhibit 26)
3. Landscape Plan Approval as part of the Site Development/Grading Permit (TUM-20-0350) on March 19, 2021 (Exhibit 30)
4. Site Development/Grading Permit (TUM-20-0350) on March 30, 2021 (Exhibit 29)
5. Sign Permit (TUM-21-0592) on April 20, 2021
6. Blasting Permit (TUM-20-1394) on November 24, 2020
7. Retaining Wall and Rockery Wall Permits (TUM-20-0905 on September 15, 2020 and TUM-21-0598 on April 22, 2021)
8. National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit

SEPA Determination: As provided by RCW 43.21C.240 and WAC 197-11-158, the City as lead agency determined that the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the applicable development regulations and comprehensive plan adopted under RCW 36.70A and in other local, state, or federal laws or rules. Therefore, this proposal was not likely to have a probable significant adverse impact on the environment. An Environmental Impact Statement was not required under RCW 43.21C.030(2)(c), and the lead agency did not require additional mitigation measures under SEPA.

This decision was made after review of a completed environmental checklist and other information on file with the lead agency as part of the State Environmental Policy Act (SEPA) threshold determination (TUM-15-0726) issued January 7, 2016.

The scope and impacts of the proposed Preliminary Plat (TUM-21-0046), Preliminary Planned Unit Development (TUM-21-0117), and Variance (TUM-21-1231) approvals are addressed by the State Environmental Policy Act (SEPA) threshold determination (TUM-15-0726) issued January 7, 2016 (Exhibits 3 – 10, 15, 16, 23 – 30, and 32 – 33).

Public Notification: Public notification for the September 29, 2021 public hearing was mailed to property owners within 300 feet of the subject property and various agencies, posted on-site and published in *The Olympian* on September 17, 2021, in conformance with Tumwater Municipal Code (TMC) 14.06 (Exhibit 12).

Staff Recommendation: Approval, subject to conditions identified at the end of the staff report in Section IV *Recommendation*.

Staff Planner: Brad Medrud, Planning Manager
Phone: (360) 754-4180
E-Mail: bmedrud@ci.tumwater.wa.us

I. BACKGROUND INFORMATION

A. Application and Review Process

The original development application was approved under Site Plan Review (TUM-15-0298) on March 4, 2016. A Site Development/Grading Permit (TUM-20-0350) was issued on March 30, 2021 and site construction was started in the spring of 2021.

Subsequently the owner and project proponent decided to subdivide the original 7.73-acre parcel (Thurston County Tax Parcel No. 5520-12-00000) that contained the approved project into 22 lots, four open space tracts (Tracts A – D), one private roadway tract (Tract E), and utility easements as part of the Preliminary Plat (TUM-21-0046). Findings and approvals issued for the original development have been incorporated into this proposal. A Preliminary Planned Unit Development (TUM-21-0117) approval is requested because the project will provide private internal roads and a Variance (TUM-21-1231) is requested from required zoning setbacks and required open space area requirements.

The Preliminary Plat (TUM-21-0046) application was submitted on December 31, 2020, the Preliminary Planned Unit Development (TUM-21-0117) application was submitted on January 14, 2021, and the Variance (TUM-21-1231) application was submitted on July 29, 2021.

The Preliminary Plat and Preliminary Planned Unit Development applications were deemed complete on May 13, 2021. The Variance (TUM-21-1231) application was deemed complete on July 30, 2021 (Exhibits 17 – 21).

Under TMC 2.58.090, review authority for Preliminary Plat, Preliminary Planned Unit Development, and Variance applications fall under the purview of the Hearing Examiner.

B. Existing Conditions

The property is vacant (Exhibit 2).

The topography of the property is hilly with steep slopes. The site was mostly forested before site construction started in the spring of 2021.

C. Project Description

The proposal is to subdivide a 7.73-acre parcel into 22 multifamily lots totaling 67 dwelling units, with four open space tracts (Tracts A – D) and one private roadway tract (Tract E).

Improvements started under Site Development/Grading Permit (TUM-20-0350) include mass grading for private roads and lot pads, construction of frontage improvements on Ridgeview Loop SW abutting the east side of the project site, extension of City water and sewer utilities to serve the project, stormwater systems to treat and detain/retain stormwater generated from new pollution generating impervious surfaces, street lighting, and extension of private utilities (i.e. power, gas, cable and telephone) (Exhibits 11 and 27 – 31).

II. REGULATORY FRAMEWORK

The proposal is subject to the following policies and regulations:

A. Tumwater Comprehensive Plan:

The project site is located in the Tumwater Hill Neighborhood as designated by the Land Use Element of the City's Comprehensive Plan. The land use designation for 7.73-acre site is Multi-Family Medium Density Residential (MFM) (Exhibit 13).

Section 2.2.4 *Multi-Family Medium Density (9-15 Dwelling Units/Acre)* in the Land Use Element of the Comprehensive Plan states:

“The density of new development in the Multi-Family Medium Density designation should be averaged over the entire site in order to reach the maximum densities required to accommodate future population. It is not the intent of the City to require that lots be a specific size but that densities are met as an average of the overall site.

Detached Single Family housing could be provided in the Multi-Family Medium Density designation as long as the overall site meets the density goals of the designation. The intent of this policy is to ensure diversity in housing types in

these areas. This residential designation is meant to provide primarily for multi-family condominium and apartment types of structures.

Clustering should be considered in this residential designation to protect sensitive areas yet still accommodate residential development.

[...]

Additionally, Multi-Family Medium Density designated areas should be accompanied by open space, environmental protection for sensitive areas and mass transit linkage in order to make these higher densities viable and compatible with the community.

Section 11.5 *Multi-Family Medium Density Residential* (MFM) in Tumwater Hill Neighborhood section of the Neighborhood Appendix of the Land Use Element of the Comprehensive Plan states:

“The Tumwater Hill Neighborhood possesses several recently constructed apartment developments. These include Breckenridge at the northeast corner of Barnes Boulevard and Crosby Boulevard, Somerset Hill at the top of Tumwater Hill on both sides of Barnes Boulevard, and Westridge, located east of Somerset Hill Drive and west of Crosby Boulevard. The Multi-Family Medium Density designation at a maximum density of 15 dwelling units per acre would be appropriate for this area given existing uses and environmental and infrastructure constraints of the surrounding area.

It is recommended that undeveloped areas with the Multi-Family Medium Density designation be subject to design standards to ensure that multi-family development is compatible with existing and surrounding neighborhoods and to provide guidelines for innovative land use management techniques. Sections 2.2.4 and 2.2.5 of the Land Use Element address the issue of design standards.”

Staff Response and Recommended Finding: *The overall density of the project with the 22 multifamily lots totaling 67 dwelling units proposed is 13.7 dwelling units per acre.*

The minimum and maximum densities allowed in the Multi-Family Medium Density Residential (MFM) land use designation and the Multifamily Medium Density Residential (MFM) zone district are 9 and 15 dwelling units per acre respectively. The density calculation is based on net acreage of the site after subtracting critical areas and their buffers (i.e. geologically hazardous areas) and all private roads serving the project.

After subtracting out the area for private streets (1.34 acres) and critical areas (1.50 acres) from the gross site area, the net developable area for the subdivision is 4.89 acres.

Based upon a net developable acreage of 4.89, the maximum density for the subdivision is 73 dwelling units (4.89 acres x 15 DU = 73.35). The minimum density for a standard subdivision based upon a net developable acreage of 4.89 is 45 dwelling units (4.89 acres x 9 DU = 44.01).

The proposed density meets the density envisioned in the Comprehensive Plan.

Staff finds that the project is consistent with the Comprehensive Land Use Plan.

B. Tumwater Transportation Plan: The Transportation Plan includes language speaking to regional consistency and coordination to address both motorized and non-motorized transportation links and corridor.

Staff Response and Recommended Finding: *Goal and policy excerpts from the Transportation Plan relevant to the project are as follows:*

Goal 9. Streets, Roads, and Bridges: Establish a street and road network that provides for the safe and efficient movement of people and goods while supporting adopted land use goals.

Policy 9.a: Design and construct multimodal, context-sensitive, complete streets and roads.

[...]

Policy 9.d Develop an interconnected grid of local streets and roads to increase individual travel options and neighborhood connectivity, while improving efficient use of the overall transportation system.

[...]

Policy 9.g: Ensure that street, road, and bridge projects are integrated with pedestrian amenities in districts and neighborhoods, and add lasting value to the community.

[...]

Policy 9.j: Meet pm peak Level of Service (LOS) standards:

- LOS E or better in Urban Core Areas [where these areas overlap with Strategy Corridors the LOS may exceed adopted standards].*
- LOS D or better elsewhere inside the City limits.*

A Transportation Concurrency Application along with a Trip Distribution Diagram was submitted for review by the Tumwater Public Works Director and approved as part of the Formal Site Plan Review Approval (TUM-15-0298). The transportation concurrency ruling indicating that traffic generated from the project will not cause the level of service at any impacted corridors or intersections to fall below the City's level of service standard (Exhibit 15).

Staff finds that by connecting to Ridgeview Loop SW to the east the project will not adversely affect level of service standards and that the project is consistent with the Tumwater Transportation Plan.

- C. Sustainable Development Plan for Thurston Region:** The Plan indicates that the regional community has set a target to reduce vehicle miles traveled and to preserve sensitive areas, farmland, forestland, prairies, and rural lands.

To implement the goal in the Plan to reduce vehicle miles traveled strategies are stated including connecting streets, sidewalks and trails to provide multiple safe travel routes and shorter distances for all travel modes and encouraging a multimodal transportation system that includes walk, bike, bus, carpool, vanpool, telework, car, truck, and rail transportation systems.

With the extension of the private streets with sidewalks into the project as well as providing street improvements on the site frontage of Ridgeview Loop SW, the project is contributing to the goal in the Plan of reducing vehicle miles traveled.

The Plan also has a target goal stating that by 2035, 72 percent of all (new and existing) households in our cities, towns, and unincorporated growth areas will be within a half-mile (comparable to a 20-minute walk) of an urban center, corridor, or neighborhood center with access to goods and services to meet some of their daily needs.

The project site is located approximately 0.06 miles south of the intersection of Ridgeview Loop SW and Barnes Boulevard SW. Properties at the intersection of Ridgeview Loop SW and Barnes Boulevard SW have a zoning designation of Neighborhood Commercial (NC). The Neighborhood Commercial (NC) zone district allows a mix of retail and service businesses that can serve the residents of the proposed subdivision by walking or riding a bicycle.

Staff finds that the project is not in conflict with the Sustainable Development Plan for Thurston Region.

- D. Thurston Regional Trail Plan:** The City of Tumwater is a participating member of the Thurston Regional Planning Council (TRPC). TRPC adopted the Thurston Regional Trail Plan in December 2007.

The Regional Trails Plan defines a trail network blueprint and a set of guidelines and recommendations for all of Thurston County and its cities, towns and communities. The Goals and Policies section of the Plan serves to link local trail planning efforts within the broader context of planning the regional transportation network. The plan charts a systematic path creating interconnected corridors that improve access to community destinations.

Staff Response and Recommended Finding: *The project site is not affected by the regional trail network outlined in the Thurston Regional Trail Plan.*

Staff finds that approval of the project will not affect implementation of the Thurston Regional Trail Plan.

- E. Hearing Examiner – TMC 2.58.090:** Hearing Examiner has authority to review Preliminary Plat, Preliminary Planned Unit Development, and Variance requests.

Staff Response and Recommended Finding: *Preliminary Plats, Preliminary Planned Unit Developments, and Variances require a public hearing and decision by the Tumwater Hearing Examiner. Final Plat and Final Planned Unit Development approval authority is with City of Tumwater staff.*

- F. Public Notice Requirements –TMC Chapter 14.06:** TMC Chapter 14.06 requires the City to provide public notification of certain application types by issuing a Notice of Application (TMC 14.06.010) and a Notice of Open Record Hearing (TMC 14.06.070).

Staff Response and Recommended Finding: *The Preliminary Plat and Preliminary Planned Unit Development applications were deemed complete on May 13, 2021.*

Public notice for the Preliminary Plat and Preliminary Planned Unit Development applications indicating that the applications were submitted and deemed complete was mailed to property owners within 300 feet of the subject property, affected agencies and posted on-site May 13, 2021; and published in the Olympian on May 13, 2021 (Exhibits 17 – 18).

The Variance application was deemed complete on July 30, 2021.

An Amended Notice of Application for the Preliminary Plat, Planned Unit Development and Variance applications indicating that the Variance application was submitted and deemed complete was mailed to property owners within 300 feet of the subject property, affected agencies and posted on-site August 12, 2021; and published in the Olympian on August 12, 2021 (Exhibits 19 – 21).

Public notice for the application containing notification for the September 29, 2021 public hearing was mailed to property owners within 300 feet of the subject property, affected agencies and posted on-site on September 17, 2021; and published in The Olympian on September 17, 2021, in conformance with TMC 14.06.070 (Exhibit 12).

- G. State Environmental Policy Act – TMC 16.04:** The City of Tumwater Community Development Department reviewed a SEPA Environmental Checklist and other information submitted by the project proponent and issued a Determination of Non-Significance on January 7, 2016.

Staff Response and Recommended Finding: *The City of Tumwater Community Development Department, as lead agency, has completed environmental review in accordance with TMC 16.04, RCW 43-21C and WAC 197-11.*

The City's SEPA threshold determination (TUM-15-0726) was issued on January 7, 2016 and an appeal was filed, but it was dismissed before a public hearing was held (Exhibit 15 and 16).

The SEPA threshold determination was appealed and the SEPA appeal hearing scheduled for April 25, 2016. However, the appeal was withdrawn. Consequently, the SEPA threshold determination was upheld (Exhibit 16).

- H. Tree Protection and Replacement Ordinance – TMC 16.08:** TMC Chapter 16.08 regulates the removal and preservation of existing trees on a site to be developed.

Staff Response and Recommended Finding: *A professional forester's report, tree inventory, and tree protection plan that complied with TMC Chapter 16.08 were submitted prior to issuance of the Site Development/Grading Permit (TUM-20-0350). In accordance with TMC 17.12.210.E, except where removal is required to meet active recreational requirements, existing trees, and significant vegetation shall be retained in the proposed open space areas (Exhibits 25 and 27).*

Staff finds that the plat is consistent with TMC 16.08 and TMC 17.12.070.

- I. General Plat Design Standards – TMC 17.12:**

The subdivision is required to comply with the following standards of design and development as required by TMC 17.12.010.

- 1) **TMC 17.12.020 – Future Subdivision and Access:** All land divisions shall be designed to accommodate the future land division of adjoining land by providing for adequate future access and utility service. Pedestrian and bicycle access to schools, parks, shorelines, recreation areas, and open space

shall be provided by walkway where street access is unsafe or inadequate.

Staff Response and Recommended Finding: *The two proposed internal roadways are private roads that terminate in cul-de-sacs. There is not a need to provide additional connections as the property to the south is a public school and the steep slopes on the site makes additional roadway connections impractical and difficult. A utility easement connects the cul-de-sac at the end of Starlight Lane SW to Crosby Boulevard SW.*

Pedestrian access elements are required throughout the site and they must be connected to the public sidewalk on Ridgeview Loop SW.

The approved Site Development/Grading Permit (TUM-20-0350) plans depict a four-foot wide integral sidewalk on one side of the private internal streets connecting to the public sidewalk on Ridgeview Loop SW.

With these conditions, Staff finds that the plat is consistent with TMC 17.12.020.

- 2) **TMC 17.12.030 – Blocks:** Blocks in non-residential zones shall be dimensioned to accommodate the intended purpose of the land. All blocks shall be arranged so as to minimize the number of intersections and access points on arterial streets.

Staff Response and Recommended Finding: *The proposed subdivision is in the Multifamily Medium Density Residential (MFM) zone district. One public access point into the project is proposed from Ridgeview Loop SW.*

Staff finds that the plat is consistent with TMC 17.12.030.

- 3) **TMC 17.12.040 – Minimum Lot Size:** Lots or tracts shall conform to the size set forth in the zoning district unless dedicated or restricted by covenant for open space, park, recreational or other community or public use. In subdivisions intended for single family dwelling units or townhouse/rowhouse development, a separate lot or tract shall be provided for each dwelling unit, not including accessory dwelling units. If the land division is submitted in phases/divisions of development, each phase/division submitted for approval shall meet all provisions of this section.

Staff Response and Recommended Finding: *There is not a minimum or maximum lot size in the Multifamily Medium Density Residential (MFM) zone district.*

There are four open space tracts (Tracts A – D), located on the property intended to serve the project storm drainage, utility and open space requirements. The storm

drainage and open space tracts must be restricted by covenant to tie maintenance responsibilities to the Forest Park Townhomes Homeowners Association (Exhibits 12 and 28)

The intended use for 20 of the lots within the proposed subdivision is for a triplex, one lot will contain a triplex attached to a clubhouse, and one lot will contain a fourplex. The intended use for the open space tracts (Tracts A – D) is to meet the project storm drainage, utility and open space requirements.

The proposed plat is not large enough to qualify for phasing as allowed for by TMC 17.14.090.

Staff finds that the plat is consistent with TMC 17.12.040.

- 4) **TMC 17.12.060 – Residential Lot Building Sites:** Each residential lot in low density residential zones shall have a building site no less than 1,600 square feet in area within which a suitable building can be built and served by utilities and vehicular access unless dedicated or restricted by covenant for open space, park, recreation or other public use. The building site area herein required shall not exceed a 25% cross slope or include any very severe development limitation areas. Such building sites shall be indicated on the face of the preliminary land division.

Staff Response and Recommended Finding: *The proposed project is not in a low-density residential zone.*

Staff finds this section is not applicable to the project.

- 5) **TMC 17.12.070 – Natural Vegetation and Features:** Natural vegetation and features such as trees, streams, wetlands, and wildlife habitat shall be preserved to the greatest extent possible and in accordance with the requirements of Title 16 TMC and Chapter 18.47 TMC.

Staff Response and Recommended Finding: *A professional forester's report, tree inventory, and tree protection plan that complies with TMC Chapter 16.08 was submitted, reviewed, and approved for the project under Site Plan Review (TUM-15-0298). In accordance with TMC 17.12.210(E), except where removal is required to meet active recreational requirements, existing trees and significant vegetation shall be retained in the open space areas (Exhibits 25 and 27).*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.070.

- 6) **TMC 17.12.080 – Clearing and Grading:** Proposed clearing and grading should be minimized by the use of shared access driveways and careful

location of streets and building sites.

Staff Response and Recommended Finding: *The proposed alignment for the streets appear to follow contours in a manner that will minimize the amount of cutting and filling that will be required for site development. In addition, the plat design includes shared driveway accesses that may further minimize cuts and fills. Site development must follow the approved Site Development/Grading Permit (TUM-20-0350) plans.*

Staff finds that the plat is consistent with TMC 17.12.080.

- 7) **TMC 17.12.090 – Wetlands and Drainage:** Wetlands and natural drainage ways shall be subject to review under Chapters 16.28 (Wetlands) and 16.32 (Fish and Wildlife Conservation Areas), of this code.

Staff Response and Recommended Finding: *There are no wetlands or natural drainage ways on the property regulated by TMC Chapter 16 (Environment) (Exhibits 11 and 28).*

Staff finds that the plat is consistent with TMC 17.12.090.

- 8) **TMC 17.12.100 – Hazards:** Where land division and development of land may pose a hazard to the land division and nearby properties because of steep slopes, unstable soils, excessive stormwater runoff or soil erosion, the land divider shall have the burden of presenting the evidence satisfactory to the City of hazard mitigation. In the absence of such evidence, division of such land shall be denied.

Staff Response and Recommended Finding: *A geotechnical report addressing all the applicable requirements in TMC 16.20.050 was approved as part of the issued Site Development/Grading Permit (TUM-20-0350).*

If areas of the site are considered geologically hazardous, these areas were taken out of the density calculation for the project as described in TMC 18.14.050(B). Recommendations within the geotechnical report may include building setbacks from the top and toe of slopes defined as geologically hazardous.

As part of the approved Site Development/Grading Permit (TUM-20-0350) plans, the project proponent prepared a grading plan, including a soils report, for review and approval by the City of Tumwater Building Official as well as a storm drainage and erosion control plan prepared pursuant to the City of Tumwater's 2018 Drainage Design and Erosion Control Manual for review and approval by the City Engineer. The plans demonstrate that the requirements of TMC 17.12.100 have been met as a condition of approval (Exhibits 11 and 28).

Staff finds that the plat is consistent with TMC 17.12.100.

- 9) **TMC 17.12.110 – Streets:** The size of streets and their associated rights-of-way shall be as shown on the street standards chart for the class of street, which is appropriate to serve the land division, and anticipated community traffic, existing and potential. In areas where the division is adjacent to an existing street, right-of-way dedications shall be made to the existing street centerline.

Staff Response and Recommended Finding: *As part of the approved Site Development/Grading Permit (TUM-20-0350) plans, all private roads shall be constructed pursuant to the specifications outlined in the City of Tumwater Development Guide. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.110.

- 10) **TMC 17.12.120 – Driving Surfaces and Rights-of-Ways:** All roads shall be designed and constructed in accordance with the adopted “Development Standards for the City of Tumwater” in effect at the date of acceptance of the preliminary land division.

Staff Response and Recommended Finding: *As part of the approved Site Development/Grading Permit (TUM-20-0350) plans, all private roads shall be constructed pursuant to the specifications outlined in the City of Tumwater Development Guide. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.120.

- 11) **TMC 17.12.130 – Cul-de-sacs:** All cul-de-sacs shall be designed in accordance with the adopted “Development Standards for the City of Tumwater” in effect at the date of acceptance of the preliminary land division. Parking is prohibited in the cul-de-sac turnarounds and shall be posted. An improved pathway for pedestrian and bicycle use shall be dedicated to the public to connect cul-de-sac streets to nearby areas where such a pathway is necessary to provide convenient access to schools, parks, public transit stops, shopping centers, other cul-de-sacs or pathways, and other community services, or as otherwise necessary for public convenience and safety. Such pathways shall be designed to maintain the safety of pedestrians and bicyclists and owners of properties adjacent to the pathway.

Staff Response and Recommended Finding: *As part of the approved Site Development/Grading Permit (TUM-20-0350) plans, the cul-de-sacs shall be*

constructed pursuant to the specifications outlined in the City of Tumwater Development Guide. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.

No parking will be allowed in the cul-de-sac turnaround and this shall be posted accordingly.

With these conditions, Staff finds that the plat is consistent with TMC 17.12.130.

- 12) TMC 17.12.140 – Street Signs: Street signs shall be installed by the subdivider as specified by the Community Development Department.

Staff Response and Recommended Finding: *In order to meet the requirements of the Tumwater Development Guide, the project proponent was required to include a street signage plan with the approved Site Development/Grading Permit (TUM-20-0350) plans. Street identification signs shall be placed at all proposed intersection and shall be designed in accordance with the Tumwater Development Guide. Stop signs shall be required at the intersection of Starlight Lane SW and Ridgeview Loop SW and the intersection of Starlight Lane SW and Moonlight Lane SW. No Parking signs shall be installed in the cul-de-sac turnarounds and on one side of the two private streets as specified by the City Engineer and City of Tumwater Building Safety Official.*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.140.

- 13) TMC 17.12.150 – Topography: All streets should be designed to conform to the topography of the site, in order to reduce street grades and minimize the need for cuts and fills.

Staff Response and Recommended Finding: *All proposed street grades shall be designed in accordance with the approved Site Development/Grading Permit (TUM-20-0350) plans and Section 4.3.B of the Tumwater Development Guide. Grades within the cul-de-sac and the City of Tumwater Fire Department turnaround associated with the private streets shall not exceed eight percent in order to facilitate emergency vehicle access. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.150.

- 14) TMC 17.12.160 – Maximum street grades: Maximum street grades shall be in accordance with the adopted “Development Standards for the City of Tumwater”.

Staff Response and Recommended Finding: *All proposed street grades shall be designed in accordance with the approved Site Development/Grading Permit (TUM-*

20-0350) plans and Section 4.3.B of the Tumwater Development Guide. Grades within the cul-de-sac and the City of Tumwater Fire Department turnaround associated with the private streets shall not exceed eight percent in order to facilitate emergency vehicle access. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.

With these conditions, Staff finds that the plat is consistent with TMC 17.12.160.

- 15) TMC 17.12.170 – Street Names: All streets shall be named or numbered as specified by the City. The land divider is encouraged to submit requested street names to the City for its consideration.

Staff Response and Recommended Finding: *The street names and addresses for the subdivision have been assigned by the City of Tumwater Building Official. Staff finds that the plat is consistent with TMC 17.12.170.*

- 16) TMC 17.12.180 – Lot Access: Each lot shall have a minimum of 10 feet of unobstructed access to a street, directly or by access easement.

Staff Response and Recommended Finding: *Staff finds that the plat is consistent with TMC 17.12.180.*

- 17) TMC 17.12.190 – Private Streets: Private streets shall be constructed to meet or exceed the design standards established on the street standards chart for the City. Public access to developments or parts of developments containing private streets shall not be limited by the use of gates or other measures.

Staff Response and Recommended Finding: *The two proposed private streets shall be constructed in accordance with the approved Site Development/Grading Permit (TUM-20-0350) plans and the requirements outlined in the Tumwater Development Guide. The requirement is a 30-foot wide easement with 26 feet of pavement with a 4-foot wide integral walk on one side. The private streets shall terminate with an acceptable City of Tumwater Fire Department turnaround. Approval of the Preliminary Planned Unit Development application (TUM-21-0117) is required for the private internal roads.*

With these conditions, Staff finds that the plat is consistent with TMC 17.12.190.

- 18) TMC 17.12.200 – Underground Utilities: Electrical power, telephone, cable television, fiber optics and other transmission lines shall be installed underground.

Staff Response and Recommended Finding: *In accordance with TMC 17.12.200*

and Section 3.14 of the Tumwater Development Guide, all utilities associated with this project shall be underground.

With these conditions, Staff finds that the plat is consistent with TMC 17.12.200.

19) TMC 17.12.210 –Park and open space area standards for divisions of land.

[...]

B. For residential subdivisions in which the majority of the dwelling units will be fourplexes, multifamily dwellings, roominghouses, rowhouses, townhomes, or triplexes, a minimum of fifteen percent of the gross site area shall be set aside for park and open space area.

[...]

E. For the purpose of calculation of the park and open space area, the park and open space area shall be separate and distinct from required yards, setbacks, and landscaped areas.

[...]

G. For all residential subdivisions, at least fifty percent of the area set aside for park and open space area must be for active recreation, with the remainder set aside for passive recreation. For all nonresidential subdivisions, all the area set aside for park and open space area may be for passive recreation.

1. The following areas may be counted towards fulfilling the active recreation requirements:

- a. Children's play equipment, such as slides, swings, and play structures;
- b. A paved hard court for activities such as basketball, tennis, or pickleball;
- c. Athletic fields for activities such as soccer or baseball and similar team sports;
- d. Multiuse trails for pedestrians and bicycles meeting WSDOT multiuse trail design standards;
- e. A flat, open lawn area with a surface suitable for unstructured

active play;

f. Community gardens as defined in TMC 18.04.030, C definitions; and

g. Other similar active recreation facilities if approved by the community development director in consultation with the parks and recreation director.

2. That portion of stormwater ponds with active recreation facilities anticipated to be usable at least six months of the year may be counted towards fulfilling the active recreation requirement, provided these facilities are consistent with the drainage design and erosion control manual for Tumwater.

3. The following areas may be counted towards fulfilling the passive recreation requirements:

a. Facilities for walking, such as unpaved trails;

b. Landscaped areas with benches and other amenities;

c. Picnicking facilities, such as picnic tables and shelters;

d. Public plazas;

e. Vegetated decks and rooftops, provided the deck or rooftop is accessible to all residents and employees of the subdivision, short plat, or binding site plan;

f. Stormwater ponds with perimeter trails or year-round water features consistent with the drainage design and erosion control manual for Tumwater;

g. Tree protection areas preserved under TMC Chapter 16.08, provided access is provided within these areas via an unpaved trail consistent with the regulatory requirements for these areas;

h. Wetland buffers under TMC Chapter 16.28, wellhead protection areas under TMC Chapter 16.26, and special flood hazard areas under TMC Chapter 18.38, provided access is provided within these areas via an unpaved trail consistent with the regulatory requirements for these areas; and

- i. Other similar passive recreation facilities if approved by the community development director in consultation with the parks and recreation director.

H. The park and open space area shall have convenient access for residents or employees of the subdivision, short plat, or binding site plan and the park and open space area shall be consolidated to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance. These requirements may be waived by the community development director upon a finding that the residents or employees of the subdivision, short plat, or binding site plan would receive a greater benefit if the required park and open space area were provided in another configuration due to the size of the division of land, unique topographic conditions, or other factors determined by the community development director.

I. The park and open space area shall be designed and placed in consideration of existing and potential park and open space areas on adjacent parcels to allow for consolidation or provision of future opportunities for consolidation of park and open space areas.

J. Except where removal is required to meet active recreation requirements in this chapter, existing trees and significant native vegetation shall be retained in park and open space areas unless an alternate landscaping plan for such areas is required or approved by the community development director.

K. Park and open space areas shall be held in single ownership where such ownership assumes full responsibility for maintenance and operation, or held in common ownership by all of the owners in the subdivision, short plat, or binding site plan through a property owners' association or similar organization. As a condition of approval, the city may require or choose to accept dedication, when the park and open space area set aside is one or more of the following:

1. Greater than two acres.
2. Adjacent to an established or future city park or school grounds.
3. Includes public access to a body of water, wetland, critical habitat, or other environmentally sensitive area.
4. If the city determines it is in the public interest to accept land for park and open space area.

L. Maintenance of park and open space areas shall be provided for as described in TMC Chapter 17.22.

Staff Response and Recommended Finding: TMC 17.12.210 contains the general design standards for open spaces and parks in a Preliminary Plat. This section was updated on February 16, 2021 by Ordinance No. O2020-015, before permit applications TUM-21-0046 (Preliminary Plat) and TUM-21-0117 (Preliminary Planned Unit Development) were deemed complete by the City on May 13, 2021, but after the Formal Site Plan Approval (TUM-15-0298) was issued for the project on March 4, 2016.

The requirement that a minimum of 15-percent of the gross site area be designated as open space that is required to include both passive and active recreation facilities for enjoyment of the residents is similar to the original open space requirement in the Formal Site Plan Approval (TUM-15-0298) issued for the project on March 4, 2016.

The open space in the proposed Preliminary Plat is approximately 2.96 acres or 38.3% of the entire site and meets the overall TMC 17.12.210 code requirement of a minimum 15% open space.

The project meets the minimum 15% open space requirement by providing community open space tracts (Tracts A – D) totaling 1.16 acres. This will also meet the Citywide Design Guideline requirement that all multifamily residential development must provide 150 square feet of on-site open space per dwelling unit (Citywide Design Guidelines, 2.B.8.1. – Amount of Required Residential Open Space).

Open space must be designated, protected from development, and preserved through a mechanism acceptable to the City. Such open space is reasonably necessary as a direct result of the development proposed in the application for the following reasons:

- i. The development will convert 7.73 acres of forested hillside land into streets and sidewalks, cleared lots with triplexes, a triplex and a clubhouse, a fourplex, and stormwater facilities. The area of the development includes wildlife habitat and native vegetation.*
- ii. Preservation of open space will encourage the developer to designate sensitive lands as open space. This will preserve some wildlife habitat and native vegetation; allow some lots to be separated by natural areas; preserve and enhance views; and provide passive recreational areas for inhabitants of the development.*
- iii. The health and welfare of inhabitants of the development, and the health and welfare of the general public will be enhanced by preservation of the open space requested. This will come about by preserving the natural condition of*

the open space areas, which will reduce the risk of erosion and slope failures, and by providing passive recreational opportunities, including wildlife viewing in preserved habitat areas for subdivision inhabitants.

The project proponent has applied for a variance for reduction of open space area dedicated to active and passive recreation. See the discussion in Section II.K.4 Tumwater Zoning Code – TMC Title 18, Variances – TMC 18.58 below.

The Formal Site Plan Approval (TUM-15-0298) issued for the project on March 4, 2016 was used for the construction plans for the project approved by the Site Development/Grading Permit (TUM-20-0350) issued on March 30, 2021. The site is currently under construction.

TMC 17.12.210 has been updated since the Formal Site Plan Approval (TUM-15-0298) was issued for the project on March 4, 2016. At the time of original site development permit approval, the open space requirements were met for active and passive recreation with one area of outdoor play equipment and one area as outdoor common space.

New code requirements require 50% of the open space to be used for active recreation and the remainder for passive recreation. These percentages are not currently met with the proposed site plan and they are the reason for the Variance application evaluated in Section II.K.4 Tumwater Zoning Code – TMC Title 18, Variances – TMC 18.58 below.

The Community Development Director has waived the requirement for a consolidated open space area in TMC 17.12.210(H) due to unique topographic circumstances affecting the property.

With the approval of the Variance, Staff finds that the plat is consistent with TMC 17.12.210.

J. Preliminary Land Division – TMC 17.14 and RCW 58.17: TMC 17.14 and RCW 58.17 regulate the submission, review criteria, and consideration of proposed divisions of land.

Staff Response and Recommended Finding: *The project proponent completed the pre-submission process described in TMC 17.14.020.*

The application submission requirements listed in TMC 17.14.030 have been met.

TMC 17.14.040 and RCW 58.17.110 require the Hearing Examiner to inquire into the public use and interest proposed to be served by the establishment of the proposed land division and any public dedications associated with a project.

Criteria to be considered include if appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, other grounds, transit stops, potable water supplies, sanitary wastes, parks and recreation playgrounds, schools and school grounds, fire protection and other public facilities, and shall consider all other relevant facts, including the physical characteristics of the site, and determine whether the public interest will be served by the land division and dedication. Further, consideration shall be given for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.

Staff concludes that adequate provisions will be made for public health, safety, and general welfare as follows:

- 1. The amount of open space proposed for the subdivision is above the minimum required by the Land Division Ordinance. The open space areas will contain both passive and active recreation elements as required by TMC 17.12.210 as modified by the Variance application.*
- 2. New private streets that comply with the City's current Development Guide and the requirements of TMC 18.36 Planned Unit Development are proposed to be constructed and dedicated to the City. In addition, public right-of-way street improvements, including sidewalks and street illumination will be completed on Ridgeview Loop SW along the entire abutting frontage of the property as part of the Site Development/Grading Permit (TUM-20-0350) issued on March 30, 2021.*
- 3. A storm drainage system complying with the City of Tumwater's 2018 Drainage Design and Erosion Control Manual will be constructed for the site. A preliminary storm drainage report, including a geotechnical investigation submitted to support the preliminary design was approved as part of the Site Development/Grading Permit (TUM-20-0350) issued on March 30, 2021 (Exhibits 11 and 28).*
- 4. Sanitary sewer and water will be extended into the property to serve the proposed dwellings as part of the Site Development/Grading Permit (TUM-20-0350) issued on August 24, 2021 (Exhibits 22 and 28). The City of Tumwater Water Resources and Sustainability Department has issued a water and sewer availability ruling indicating that the City has the ability to serve the subdivision with water and sewer connections (Exhibit 22).*
- 5. Intercity Transit currently has a route that serves the site.*
- 6. The site is not currently being considered by the Tumwater School District for their future needs.*

7. *Current City of Tumwater Fire Department facilities are adequate to service the proposed project.*
8. *The children residing within the proposed subdivision will attend Tumwater Hill Elementary School, which is approximately 0.15 miles south of the site. Tumwater Middle School is approximately 2.8 miles south of the site. Black Hills High School is approximately 4.8 miles south of the site.*

The Tumwater School District has a policy for children walking to school. The District will offer bus services to children attending the schools from the proposed subdivision. The Preliminary Plat is showing a school bus stop on Ridgeview Loop SW for use by the District (Exhibit 10).

K. Tumwater Zoning Code – TMC Title 18:

**1. MFM Multifamily Medium Density Residential Zone District
TMC 18.14 – Permitted Uses and Development Standards**

Staff Response and Recommended Finding: *The project site is located in the Multifamily Medium Density Residential (MFM) zone district (Exhibit 14).*

TMC 18.14.020(C) lists triplexes and fourplexes as permitted uses in the Multifamily Medium Density Residential (MFM) zone district. The clubhouse is allowed as an accessory use in the Multifamily Medium Density Residential (MFM) zone district according to TMC 18.14.030(D).

The maximum impervious surface in the Multifamily Medium Density Residential (MFM) zone district according to TMC 18.14.050(D) is 70% of the lot area.

The maximum building height in the Multifamily Medium Density Residential (MFM) zone district according to TMC 18.14.050(E) is 40 feet.

The minimum required setbacks for the Multifamily Medium Density Residential (MFM) zone district for the perimeter of the property and the proposed lots according to TMC 18.14.050(F) are provided below.

The minimum required setbacks for the Multifamily Medium Density Residential (MFM) zone district around the perimeter of the property are as follows:

- a. *Ten feet minimum along all public street frontages.*
- b. *Twenty feet minimum along the entire south boundary because the property abuts a Single-Family Low-Density Residential (SFL) zone district. Where*

any structures or portions of structures, except for single-family dwellings, are adjacent to any single-family residential zoning district, the minimum setback shall be twenty feet. Where structures are constructed over one story, except for single-family dwellings, the setback from the adjacent property line or lines shall be increased by ten feet for every story above the ground level story of the proposed new building, and shall be completely screened from view in accordance with TMC Chapter 18.47.

- c. *Five feet minimum along the other boundaries.*

The project proponent filed a Variance application (TUM-21-1231) from the Single-Family Low-Density Residential (SFL) zone district setback requirements that necessitate that the project provide a 20-foot minimum setback along the entire south boundary because the property abuts a Single-Family Low-Density Residential (SFL) zone district.

The project site is in the Multifamily Medium Density Residential (MFM) zone district with the adjacent Tumwater Hill Elementary School, a Tumwater School District property, in the Single-Family Low-Density Residential (SFL) zone district. The school property borders the subject property on the southern and eastern sides of the site. The current use of the school property land is an athletic field located at the Tumwater Hill Elementary School and it is not used for single-family residences.

The original development application was approved under Site Plan Review (TUM-15-0298) on March 4, 2016. A Site Development/Grading Permit (TUM-20-0350) was issued on March 30, 2021 and construction on the site started in the spring of 2021. The site plan approved for use in the construction documents included the layout with 20-foot rear-yard setbacks as approved under the Site Plan Review (TUM-15-0298) on March 4, 2016.

During review of the preliminary plat application in 2021, City staff noted that the project should provide a 20-foot minimum setback along the entire south boundary because the property abuts a Single-Family Low-Density Residential (SFL) zone district with an additional ten feet of setback for every building story over one story. As the proposed structures are three stories in height, the total rear-yard setback required is 40 feet where the site's Multifamily Medium Density Residential (MFM) zone district abuts the Single-Family Low-Density Residential (SFL) zone district. This affects proposed Lots 1-8 of the Preliminary Plat.

The code section has not changed from 2016 to now, however the Site Plan Review (TUM-15-0298) issued on March 4, 2016 and the Site Development/Grading Permit (TUM-20-0350) issued on March 30, 2021 used 20-foot rear yard setbacks.

The project proponent has applied for a variance to reduce the required setback

adjacent to the Single-Family Low-Density Residential (SFL) zone district. See the discussion in Section II.K.4 Tumwater Zoning Code – TMC Title 18, Variances – TMC 18.58 below.

With the approval of the Variance, Staff finds that the Preliminary Plat is consistent with the external property setback requirements of TMC 18.14.050(F).

The minimum required setbacks for the Multifamily Medium Density Residential (MFM) zone district within the property are as follows:

- a. Front: ten feet minimum from frontage property line. Driveways in front yards of any dwelling units must be a minimum of eighteen feet in length as measured along the shortest edge of the driveway starting from the front property line.*
- b. Side: five feet from property line, minimum; provided, that side yards for townhomes and rowhouses may be reduced to zero where attached.*
- c. Rear: five feet from property line, minimum.*

The required setback area shall be parallel to the structure requiring the setback. Setback width shall be measured from the outermost edge of the building to the closest point of the parallel (or nearly parallel) adjoining lot line. A required setback area shall be kept free of any building or structure higher than 42 inches, except that a building or projection shall be allowed as provided by TMC 18.42.040.

Staff finds that the Preliminary Plat is consistent with the internal property setback requirements of TMC 18.14.050(F).

2. Aquifer Protection Overlay (AQP) zone district - TMC 18.39 – Restricted Land Uses

Staff Response and Recommended Finding: *The intent of the aquifer protection (AQP) overlay zone district is to identify, classify, and protect vulnerable and/or critical aquifer recharge areas within the City and urban growth area. Protection is to be accomplished by controlling the use and handling of hazardous substances.*

The proposed residential subdivision is not a restricted land use in the aquifer protection (AQP) overlay zone district.

3. Planned Unit Development – TMC 18.36

Staff Response and Recommended Finding: *A Preliminary Planned Unit Development application accompanied the Preliminary Plat application for this project*

on January 14, 2021 and the application was submitted to provide private internal roads (Exhibit 4). The application was deemed complete on May 13, 2021 (Exhibit 17 – 18).

Under TMC 2.58.090, review authority for Preliminary Planned Unit Development applications fall under the purview of the Hearing Examiner.

According to TMC 18.36.050, 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.*

As discussed above, Staff finds that:

- This proposal is in conformance with the Tumwater Comprehensive Plan.*
- This proposal is consistent with the surrounding residential area that is developed as urban densities.*
- This proposal complies with the densities allowed in the Multifamily Medium Density Residential (MFM) zone district.*

In accordance with TMC 18.36, a planned unit development shall be exempt from the minimum zoning ordinance requirements, as listed at TMC 18.36.080, 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.*

Staff finds that the Preliminary Planned Unit Development is consistent with TMC 18.36.

4. Variances – TMC 18.58:

Staff Response and Recommended Finding: *An application for a Variance accompanied the Preliminary Plat application for this project and the application was submitted on July 29, 2021 (Exhibits 5 – 9). The application was deemed complete on July 30, 2021 (Exhibits 19 – 21). Under TMC 2.58.090, review authority for Variance applications fall under the purview of the Hearing Examiner.*

The project proponent is requesting approval of a Variance (TUM-21-1231) from zoning setbacks (TMC 18.14.050(F)) and required open space area requirements (TMC 17.12.210).

In accordance with TMC 18.58.040, a variance may be granted, after investigation, provided all of the following findings of fact exist:

- 1. That special conditions exist which are peculiar to the land, such as size, shape, topography, or location, not applicable to other lands in the same district, and that literal interpretation of the provisions of this title would deprive the property owners of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;*
- 2. That the special conditions and circumstances are not the result of actions of the applicant;*
- 3. That the granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district;*
- 4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements of the vicinity and zone in which the subject property is situated; and*

5. *That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.*

In no event may a variance be granted if it would permit a use that would not be permitted as a primary, accessory or conditional use in the district involved.

Staff finds that:

1. *That special conditions exist which are peculiar to the land, such as size, shape, topography, or location, not applicable to other lands in the same district, and that literal interpretation of the provisions of this title would deprive the property owners of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.*

Setbacks:

The intent of the code regarding setbacks (TMC 18.14.050(F)) is to provide additional separation between single-family residences and multifamily buildings that are taller. In this case, proposed Lots 1 through 8 of the Preliminary Plat are adjacent to the Single Family Low Density Residential (SFL) zone district to the south. This property is owned by the Tumwater School District and it contains an athletic field for the Tumwater Hill Elementary School, but has no single-family residences.

In addition, because of the grade change on the site, the school district property is at a higher elevation than the proposed buildings on proposed Lots 1 through 8 (Exhibits 8 – 9). Two site sections are provided in the Variance application materials that show the largest grade change (Lot 7), and smallest grade change (Lot 5) comparing the school district property with the proposed buildings. These provide an illustration of the low impact the proposal has on the adjacent property. These site sections show there is roughly equivalent to one aboveground story adjacent to the Single Family Low Density Residential (SFL) zone district and the proposed buildings are not towering over the adjacent land. Therefore, the intent of the code is met by providing a 20-foot rear-yard setback.

Due to the special conditions of this project, allowing for this variance is justified.

Open Space:

The subject property has significant grade change across the site, with over 100 vertical feet in topographic relief from east to west. There is also existing bedrock below the surface and has required blasting during construction of site improvements. With the current site plan, large portions of the open spaces are also tree protection areas that are required to be undisturbed.

Activities listed in TMC 17.12.210 as allowable active recreation facilities include children's play equipment, paved hard courts, athletic fields, multi-use trails, flat open lawn areas, community gardens, and other similar recreation facilities. In order to provide additional active recreation areas, tree protection areas would be reduced to create more flat area while also requiring significant earthwork, walls, and potential blasting in bedrock to provide these areas for active recreation.

Due to the special conditions of this project based on site characteristics, allowing for this variance is justified.

2. *That the special conditions and circumstances are not the result of actions of the applicant.*

Setbacks:

The 20-foot rear yard setback shown in the approved Site Plan Review (TUM-15-0298) on March 4, 2016 has been maintained from the original approval through construction documents approved by Site Development/Grading Permit (TUM-20-0350) for site improvements. The need for additional rear-yard setback was not brought up during the site plan review process. At the time of site plan approval all parties involved were under the impression the 20-foot rear yard setback met code requirements and this was not a result of the action of the applicant.

Open Space:

As described previously, the overall open space quantity is met for the project, but the ability to provide the required active recreation open space is very limited due to site constraints including the steep topography, maintaining tree protection open space areas, and the presence of bedrock. These items are all site related and not a result of actions of the applicant.

3. *That the granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district.*

Setbacks:

Based on previous statements about the project, the intent of the code is met regarding setbacks complying with City standards, therefore not conferring any special privilege on this property.

Open Space:

This variance request cites the topography and other site constraints as preventing the project from meeting open space requirements; therefore, it is not a special privilege conferred on this property.

4. *That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property of improvements of the vicinity and*

zone in which the subject property is situated.

Setbacks:

The intent of the code is met with this proposal and granting this variance will not be materially detrimental to the public welfare or injurious to the surrounding properties.

As stated previously the setbacks are similar to other project uses, the Single Family Low Density Residential (SFL) zone district to the south of the Preliminary Plat is a school and not a single-family residence, and the proposed multi-story buildings are partially embedded in the side of the slope and the proposed buildings do not tower above the adjacent property.

Open Space:

The reduction of open space for active recreation will not be materially detrimental to the public welfare or injurious to the surrounding properties. By allowing this reduction of active recreation open space, the amount of tree protection area can remain, and the overall amount of open space is higher for the project than minimum code requirement.

5. *That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.*

The issues as stated above relating to setbacks and open space are the two remaining items that need to be addressed for the Preliminary Plat and the Preliminary Planned Unit Development to make reasonable use of the land. If the variance is granted, the proposal can continue forward through the platting process.

Staff recommends approval of this Variance for the project. If approved, Staff finds that the Preliminary Plat and Preliminary Planned Unit development is consistent with the Tumwater Municipal Code.

5. Signs – TMC 18.44

Staff Response and Recommended Finding: *The Multifamily Medium Density Residential (MFM) zone district allows one 32 square foot monument sign on the Ridgeview Loop SW frontage to identify the name of the subdivision. Permits are required and height restrictions apply depending on the location of the sign(s). A sign permit was issued for the project on April 12, 2021 (TUM-21-0592).*

III. PUBLIC COMMENT

Three emails were received during the public noticing for the project application:

one email from the Washington State Department of Ecology and two emails from the Squaxin Island Tribe (Exhibits 34 – 36).

Exhibit 34. Squaxin Island Tribe Comments, dated May 26, 2021

Exhibit 35. Squaxin Island Tribe Comments, dated August 16, 2021

Exhibit 36. Washington State Department of Ecology Comments, dated August 26, 2021

IV. RECOMMENDATION

Pursuant to TMC 2.58.110, staff recommends approval of the Preliminary Plat, Preliminary Planned Unit Development, and Variance requests described herein with the following conditions:

1. Stormwater from impervious surfaces associated with the project shall be managed in accordance with the City of Tumwater's 2018 Drainage Design and Erosion Manual.
2. Erosion and sediment control measures that comply with the City of Tumwater's 2018 Drainage Design and Erosion Manual shall be implemented during construction of the project to prevent sediment-laden runoff from entering surface waters.
3. Construction shall follow the conditions of the Site Development/Grading Permit (TUM-20-0350) issued by the City for grading, street, sidewalk and utility construction, tree removal and construction of storm drainage facilities.

This project will be considered "engineered grading." Special hazards may include steep slopes, terracing with rockeries or multiple retaining walls. Inspection of the grading shall be performed by the civil engineer and geotechnical engineer approved by the City of Tumwater Building Official. In addition, special inspectors approved by the City of Tumwater Building Official shall perform inspections of fill placement, compaction testing, and blasting. All special inspections must be performed by Washington Association of Building Officials (WABO) registered labs and inspectors who have expertise in grading and earthwork.

When the grading work is complete and ready for final inspection, the civil engineer of record is responsible for providing a final inspection report which will include the geotechnical engineer's and special inspector's reports. In addition, as-built drawings for the site must be submitted in a PDF format. (IBC Appendix J)

4. Should contaminated soils be encountered during construction, all of the following shall apply:
 - A. Construction activity shall be immediately suspended;
 - B. The contractor shall immediately notify the Washington State Department of Ecology;
 - C. Contaminated materials shall be properly handled, characterized, and disposed of consistent with applicable regulations.
5. Should archeological artifacts be encountered during construction, all of the following shall apply:
 - A. Construction activity shall be immediately suspended;
 - B. The contractor shall immediately notify the City of Tumwater Community Development Department;
 - C. The contractor shall immediately notify the Washington State Department of Archeology and Historic Preservation; and
 - D. The contractor shall immediately notify potentially affected tribal nations including, but not limited, to the Squaxin Island Tribe, Chehalis Tribe, and Nisqually Tribe.
6. All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from the local jurisdictional health department prior to filling. All removed debris resulting from this project must be disposed of at an approved site. Contact the Thurston County Health Department for proper management of these materials.
7. If contamination is suspected, discovered, or occurs during construction of the proposed project, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) for the Washington State Department of Ecology at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Thomas Middleton with the SWRO, Toxics Cleanup Program at (360) 407-7263.

8. Disposal of construction debris and overburden associated with construction and grading activity that is not suitable for fill is required to be disposed of at an approved location.
9. The project proponent shall follow the procedures in the City of Tumwater Standard Inadvertent Archaeological and Historic Resources Discovery Plan.
10. If any archaeological or cultural resources are uncovered during construction, the project proponent shall stop work in the area of discovery; follow the procedures in TMC 18.40.065 *Inadvertent Discovery of Archaeological and Cultural Resources*; and contact the City of Tumwater, the Washington State Department of Archaeology and Historic Preservation, and the Squaxin Island Tribe's Archaeologist, Shaun Dinubilo via email at sdinubilo@squaxin.us.
11. The project proponent shall follow the requirements of the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit issued for the project by the Washington State Department of Ecology.
12. The proposed private streets within the subdivision shall comply with the Tumwater Development Guide design requirements in place at the time the preliminary plat application was vested.
13. Street frontage improvements including curb and gutter, sidewalk, landscape strip, bike lane, street illumination and storm drainage facilities complying with the design requirements of the Tumwater Development Guide shall be constructed along the property frontage on Ridgeview Loop SW per TMC 12.12.010.
14. The City's water and sewer utilities shall be extended to serve the needs of the subdivision. The utility extensions shall be in accordance with the Tumwater Development Guide requirements in place at the time the preliminary plat application was vested. All necessary right-of-way and/or easement will need to be dedicated to the City of Tumwater.
15. The project proponent shall be responsible for providing the City with all costs associated with the installation of water, sewer, street, and storm drainage systems that are dedicated to the City of Tumwater.
16. The engineering plans shall show all existing and proposed utilities and easements including streetlights, street trees, water, sewer, storm, gas, cable, power, telephone, signage, and striping. Provide street sections showing dimensions of existing and proposed improvements. Include the line sizes on the water and sewer mains and services. All rockeries proposed shall also be shown on the site plan.

17. All engineering designs and construction shall be in accordance with the City of Tumwater's Development Guide and WSDOT standards.
18. All street construction, utility installation and storm drainage work requires engineered plans certified by a professional engineer licensed to practice in the State of Washington. The plans shall be submitted for review and approval by the City.
19. The project proponent shall be responsible for all plan check, inspection, and connection fees.
20. Any public or private utility relocation necessary to construct the project shall be the sole responsibility of the project proponent.
21. The project proponent shall be responsible for the maintenance and timely repair of all public improvements for a period of 30 months following final certification by the City and shall submit a surety for maintenance equal in value to fifteen (15) percent of the total value of the required public improvements certified by the Transportation and Engineering Director. Please refer to Chapter 3 of the Development Guide for further clarification.
22. All legal descriptions on documents submitted to the City must be accompanied with an appropriate drawing that the City can use to verify the legal description. All engineering drawings must be on 24" x 36" paper sheets.
23. The owner or owner's representative is also responsible for furnishing the City with electronic files on CD ROM, compatible with Release 2014 or newer Auto-CAD format. Drawings shall be in TCHPN (Thurston County High Precision Network) horizontal datum and NGVD-29 vertical datum. Provide individual drawings independent of x-refs. Include all non-standard font files and plot files. Also, please furnish a CD with PDF files printed from the Auto-CAD files. A utility maintenance agreement, easements, and bills-of-sale will also be required.
24. A note shall be added on the site plan that the Professional Land Surveyor responsible for the surveying of the project must obtain a permit from the Washington State Department of Natural Resources before any existing survey monuments are disturbed.
25. The project proponent shall provide a cover page with all dedication and easement language.
26. Any water main extension will require a minimum of an eight-inch system. The

main size will depend on the fire flow requirements for this project. The system shall be designed for a maximum velocity of eight feet per second.

27. The eight-inch sanitary sewer main this project is tying into is a private main for the Tumwater Hill Elementary School. The existing line will be required to pass the appropriate tests to be taken over by the City of Tumwater. The Tumwater School District will need to provide a bill-of-sale.
28. All sanitary sewer mains must be TV'd. The project proponent shall provide a tape of the sanitary sewer line prior to recording the Final Plat.
29. A drainage design and erosion control plan will be required according to City of Tumwater's 2018 Drainage Design and Erosion Manual.
30. Maintenance of the on-site stormwater system will be the responsibility of the project proponent, their successors, or assigns. A stormwater maintenance agreement must be recorded against the property prior to recording the Final Plat.
31. This project will provide treatment of the stormwater on-site and release to Crosby Boulevard SW. The water is then routed to the Linwood Regional Stormwater Facility.
32. A separate permit and engineered design is required for any retaining walls on-site if the height of the wall is over four feet measured from the bottom of the footing or if the wall is supporting a surcharge.
33. Fire hydrants shall be provided at all intersections and at approximately 600-foot spacing along the internal streets.
34. All water wells on site shall be abandoned in accordance with the Washington State Department of Ecology requirements. A permit from the Washington State Department of Ecology shall be obtained for each well to be abandoned.
35. If applicable, on and off-site well locations within 200 feet of the proposed subdivision shall be shown on the Final Plat with the associated 100-foot protective radii.
36. All septic systems on the property shall be abandoned in accordance with the Thurston County Environmental Health requirements. A permit shall be obtained from Thurston County Environmental Health for each separate system to be abandoned.
37. The maximum lot-coverage for impervious surface shall be 70 percent of the total

area of the lot.

38. Off-street parking stalls shall be provide per TMC 18.50.

No parking will be allowed in the proposed cul-de-sac turnarounds and this shall be posted accordingly per TMC 17.12.130.

39. A minimum of one van accessible barrier free parking stall shall be provided for the office per IBC Section 1106.
40. The clubhouse building and site are required to be accessible. An accessible route of travel shall be provided to all portions of the building, to accessible building entrances, and connecting the building and the public way. The accessible route of travel shall be shown on the site plan.
41. Street trees are required along Ridgeview Loop SW and must be installed in accordance with the Tumwater Development Guide, the Comprehensive Street Tree Plan, and the Urban Forestry Management Plan.
42. Impact fees for traffic, community parks, and schools will be assessed to each dwelling unit in the subdivision as Building Permits are issued. The impact fees will be in accordance with the most current fee resolution adopted by the City at the time of vesting of the Building Permit applications.
43. Dumpsters are required to be gated and screened with masonry walls and/or sight-obscuring fence with landscaping.
44. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within five feet of combustible walls, openings or combustible roof eaves lines unless the area is protected by an approved automatic sprinkler system per IFC Section 304.3.3.
45. The project proponent must maintain a current Plat Name Reservation Certificate approved by the Thurston County Auditor.
46. Property taxes must be paid in full for the current year, including any advance and delinquent taxes, before a Final Plat can be recorded.
47. A Forest Park Townhomes Homeowners Association is required to be formed for the project. Prior to recording the Final Plat, the project proponent shall supply the City with copies of the grantee organization's articles of incorporation and bylaws, and with evidence of a binding commitment to convey. The articles of incorporation shall provide that membership in the organization shall be appurtenant to ownership of land in the land division; that the corporation is

empowered to assess such land for costs of construction and maintenance of the improvements and property owned by the corporation, and that such assessments shall be a lien upon the land.

48. Consolidated postal drop off facilities shall be provided for the site. The location of the facilities must be coordinated and approved by the U.S. Postal Service.
49. A school bus pad may be required along one of the exterior streets and will be dictated by the Tumwater School District. The project proponent must contact the District to coordinate the bus pad location.
50. The building designs shall conform to the City of Tumwater's Citywide Design Guidelines. Architectural elevation drawings of each building-type shall be submitted for review and approval prior to issuance of Building Permits.
51. Exterior walls are required to be of one-hour fire-rated construction when less than ten feet to the property line. Protected openings are required when less than five feet to the property line. No openings are permitted less than three feet to the property line.
52. Water cross connection control shall be provided in accordance with the provision of the Plumbing Code. Cross connection control devices or assemblies must be models approved under WAC 246-290-490.
53. If water pressure at the meter exceeds 80 psi, a pressure-reducing valve will be required to be installed on the private side of the water line.
54. Backwater valves shall be installed for each structure when the sewer is lower than the street manhole.
55. Automatic sprinkler systems shall be provided throughout all buildings in this project.
56. Fire alarm systems shall be required to be installed in all buildings in this project.
57. The project proponent must coordinate with the City of Tumwater Building Safety Official on the location of the City of Tumwater Fire Department connection, post indicator valve, remote annunciator panel, and Knox box's. The locations of the fire suppression equipment must be approved by the City of Tumwater Building Safety Official.
58. Any dead-end fire access roads that are in excess of 150 feet in length shall be provided with an approved turnaround.

59. Fire lane signs and yellow striping shall be provided on-site to identify the City of Tumwater Fire Department access roads and prohibit the obstruction thereof.
60. When any portion of a building constructed on the site is in excess of 150 feet from a water supply on a public street, as measured by an approved route around the exterior of the building, there shall be provided on the site fire hydrants capable of supplying the required fire flow. Placement of the hydrants shall be coordinated with the City of Tumwater Building Safety Official.
61. The water main shall be looped around the entire site.
62. Building plans and specifications shall be prepared and stamped by an architect or an engineer licensed to practice in the State of Washington.
63. Building Permit applications (including shell permits) shall include architectural, structural, plumbing, mechanical, and energy plans, and specifications. Fire sprinkler and fire alarm permit applications and plans may be submitted separately from the main permit application.
64. All new building projects are required to provide for the storage of recycled materials and solid waste. The storage area shall be designed to meet the needs of the occupancy, efficiency of pick-up, and shall be available to occupants and haulers.

**Submitted on Behalf
Of the City of
Tumwater
Community
Development
Department by/
Staff Contact:**

Brad Medrud, Planning Manager



Phone: (360) 754-4180

E-mail: bmedrud@ci.tumwater.wa.us

Report Issue Date: September 17, 2021

List of Exhibits:

1. Staff Report, dated 09-17-2021
2. Site Aerial Photo Map, dated 08-23-2021
3. Preliminary Plat Application, dated 12-30-2020
4. Preliminary Planned Unit Development Application, dated 01-14-2021

5. Variance Request Application, dated 07-23-2021
6. Variance Request Site Plan, dated 07-23-2021
7. Variance Request Letter, dated 07-23-2021
8. Variance Request Site Section – Building 5, dated 07-23-2021
9. Variance Request Site Section – Building 7, dated 07-23-2021
10. Preliminary Plat and Planned Unit Development Map, dated 08-02-2021
11. Wall & Storm Drainage Plan, dated 11-25-2020
12. Certification of Public Notice, dated 09-17-2021
13. Comprehensive Plan Tumwater Hill Neighborhood Map, dated 01-16-2019
14. Zoning Map, dated 08-23-2021
15. SEPA DNS (TUM-15-0726), dated 01-07-2016
16. Order of Dismissal of the Appeal (TUM-15-0298 & TUM-15-0726), dated 04-22-2016
17. Preliminary Plat and Preliminary Planned Unit Development Notice of Application with Plat Map, dated 05-19-2021
18. Preliminary Plat and Preliminary Planned Unit Development Notice of Application Public Notice Sign Affidavit, dated 05-20-2021
19. Preliminary Plat, Preliminary Planned Unit Development, and Variance Amended Notice of Application with DNS and Plat Map, dated 08-12-2021
20. Preliminary Plat, Preliminary Planned Unit Development, and Variance Affidavit of Posting Notice of Application, dated 08-12-2021
21. Preliminary Plat, Preliminary Planned Unit Development, and Variance Notice of Application Olympian Publication, dated 08-12-2021
22. Tumwater Water and Sewer Availability Certificate Updated, dated 08-24-2021
23. Formal Site Plan (TUM-15-0298) Notice of Application, dated 10-06-2015
24. Formal Site Plan (TUM-15-0298) Critical Area Map, dated 01-25-2016
25. Formal Site Plan (TUM-15-0298) Original Tree Protection Plan, dated 06-23-2015
26. Formal Site Plan Approval (TUM-15-0298), dated 03-04-2016
27. Site Development/Grading Permit (TUM-20-0350) Tree Protection Plan – Peer Review, dated 06-26-20
28. Site Development/Grading Permit (TUM-20-0350) Approved Civil Plans, dated 08-26-2020
29. Site Development/ Grading Permit (TUM-20-0350), dated 09-15-2020
30. Site Development/Grading Permit (TUM-20-0350) Approved Landscape Plans, dated 03-19-2021
31. Preliminary Plat Roadway Photometrics, dated 08-19-2021
32. Plat Name Reservation Certificate, dated 05-11-2021
33. Preliminary Plat Title Report, dated 12-03-2020
34. Preliminary Plat and Preliminary Planned Unit Development Notice of Application Squaxin Island Tribe Comments, dated 05-26-2021
35. Preliminary Plat, Preliminary Planned Unit Development, and Variance Amended Notice of Application Squaxin Island Tribe Comments, dated 08-

- 16-2021
36. Preliminary Plat, Preliminary Planned Unit Development, and Variance
Amended Notice of Application Washington State Department of Ecology
Comments 08-26-2021