

TUMWATER CITY COUNCIL WORKSESSION

MINUTES OF VIRTUAL MEETING

May 24, 2022 Page 1

CONVENE: 5:30 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, Charlie Schneider, and Eileen Swarthout.

Excused: Councilmember Michael Althausen.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Community Development Director Michael Matlock, Transportation and Engineering Director Brandon Hicks, Communications Manager Ann Cook, and Planning Manager Brad Medrud.

ORDINANCE NO. O2022-004, BINDING SITE PLANS: Manager Medrud briefed the Council on proposed changes to regulations governing binding site plans.

Binding site plans are an alternative method of land division authorized in RCW 58.17.035 for industrial or commercial uses, lease of manufactured homes – typically a manufactured home park, and condominiums. A binding site plan provides exact locations and detail for the type of information appropriately addressed as a part of land division, such as infrastructure and other requirements.

The binding site process is intended to be more flexible. For example, in the development of a shopping center, a binding site plan process would divide the land into pads for sale and as development and changes occur, the process would be simplified through the binding site plan process rather than processing a change through a preliminary plat process.

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

The Planning Commission reviewed the proposed amendments and conducted a public hearing. In response to some public comments, the Commission requested some changes and finalized its approval in April to the General Government Committee. The General Government Committee reviewed the proposal and recommended the Council consider the proposal during a worksession. Staff requests the Council consider establishing a date for consideration of the ordinance.

Manager Medrud reviewed the proposed amendments:

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 2

1. Table 14.08.030 (Decision process)

- In response to public comment received at the public hearing on phasing in TMC 17.14.090, a process for phasing binding site plan approval was added to the decision process table.
- Approval of binding site plans without phasing would be administrative, but phased binding site plan approval would require Hearing Examiner approval.

Councilmember Swarthout asked about comments offered by the public and how the hearing examiner process is factored for binding site plan projects. Manager Medrud explained that staff received one public comment from a developer who is developing a project in the City. The developer offered some comments that the Commission agreed to incorporate within the ordinance. The first recommendation was ensuring the City updated all tables in Title 14. The hearing examiner process is utilized when it involves a complex land use approval, such as a preliminary plat for projects with 10 lots or more. For larger projects that might have more impacts on the neighborhood, the hearing examiner process affords another step enabling a neutral party rendering a decision. The hearing examiner also considers conditional use permits for uses not allowed within the zone district.

Mayor Sullivan asked whether zoning for manufactured home parks changes automatically as the City has afforded special zoning for manufactured home parks. Manager Medrud replied that the City currently has a number of zoning districts within the City designated for manufactured home parks. The binding site plan process does not affect the underlying zoning of the property. If a manufactured home park is located in zone district allowing the use, the binding site plan process could be used to subdivide lots for either sale or for rent.

2. TMC 15.44 Vesting of Development Rights: Added “binding site plan” to sections that specify the type of land division that is vested to clarify how and when binding site plan applications are vested for consistency between the different development processes.

3. TMC 17.08.010 Binding site plan:

- Added language regarding the benefits of binding site plans and their differences from traditional land division processes
- Clarified that binding site plans can be utilized for manufactured home parks
- Added references to the land division processes addressed in the other portions of TMC Title 17

4. TMC 17.14.040 Review Criteria (Existing for all land divisions)

TUMWATER CITY COUNCIL WORKSESSION

MINUTES OF VIRTUAL MEETING

May 24, 2022 Page 3

- Public health, safety and general welfare
 - Utilities - water, sewer, stormwater, etc.
 - Infrastructure - streets, sidewalks, bike lanes, etc.
 - Schools, school grounds, and safe walking conditions
 - Parks and open space
 - Fire protection and other public services
 - Environment - Shoreline areas, flood hazards, etc.
5. TMC 17.14.045 Review criteria for binding site plans (Additional new review criteria specific to binding site plans):
- Building envelopes and land uses
 - Parking lot plans
 - Access, roads and utilities
 - Previously approved uses, open space tracts, critical areas and buffers, and utility easements
 - Uses allowed in the underlying zone district
 - Addressing development of an entire lot
 - Adjacent properties and future development
6. TMC 17.14.050 Administrative consideration (Added findings for approval of binding site plans):
- Consistency with the Comprehensive Plan, the Tumwater Development Guide, the Tumwater Municipal Code, and state laws
 - A statement that uses approved for the property and the conditions under which they are allowed are binding to the property
7. TMC 17.14.050 Administrative consideration (Added findings for approval of binding site plans):
- A statement that a binding site plan may not create new nonconforming uses or structures or increase the nonconformity of existing nonconforming uses or structures
 - Added reference to review criteria in TMC 17.14.040
8. TMC 17.14.080 Duration:
- “Binding site plan” was added to the section to clarify that it applies to binding site plans
 - Like other land divisions, such as plats, short plats, etc., the initial period of approval is for five years and up to three additional one-year extensions are allowed
9. TMC 17.14.090 Phasing of development:

TUMWATER CITY COUNCIL WORKSESSION

MINUTES OF VIRTUAL MEETING

May 24, 2022 Page 4

- Residential binding site plan phasing allowed there are ten or more residential dwellings consistent with the SEPA exemption threshold for short plats
- Commercial or industrial binding site plans over 20 acres in size are allowed to phase development
- Phased binding site plans require Hearing Examiner approval
- Non-phased binding site plans are an administrative approval

Manager Medrud requested the Council schedule the ordinance for consideration at the June 7, 2022 Council meeting.

The Council supported moving the ordinance forward to the June 7, 2022 regular Council meeting.

COMMUNITY SURVEY:

Manager Cook invited the Council to discuss next steps for the community survey. Based on prior Council feedback, staff followed up on a request to produce some pie charts. She asked for additional clarity for combining data and whether data should be reflected as benchmark (statewide) or specific to Tumwater.

Councilmember Dahlhoff explained that her request was to provide more visual graphics summarizing the positive with the negative compared to the baseline to provide a measurement for future conversations. For example, she could use the information to showcase different aspects in Tumwater compared to baseline data.

Manager Cook said benchmarking data (statewide) is available as well as trend data (comparing Tumwater over time). Councilmember Dahlhoff said she prefers graphics that reflect how the City compares to statewide data. She recommended producing graphics of data that reflect a need for more opportunities for improvement, a need to shift direction, or continuing in the same direction because her personal interactions with community members reflect different answers from survey responses, which speaks to the issue of representation of the demographics that did not respond to the survey. Her intent is to use the survey to identify gaps and different ways the City can move in the future to ensure all voices are represented.

Councilmember Swarthout asked to receive a hard copy of the survey results for additional review by the Council. She asked about intended next steps. Manager Cook explained that the discussion would consider how the Council wants to use the survey results moving forward and ways to provide useful data to the Council.

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 5

City Administrator Doan added that the task was to conduct a community survey. The next step is determining how to use the survey results, which could include informing decision-making, policy-making, pursuing further steps as suggested by the consultant for publicizing some of the results to the community, or highlighting some elements of the survey or the entire survey.

Councilmember Swarthout referred to a GIS mapping presentation provided to the Public Works Committee on a City of Tacoma project that incorporated different demographics on population, education, income levels, and neighborhoods lacking access to broadband. She suggested using the survey results and overlapping the data with a GIS mapping program. Manager Cook affirmed the City has produced a GIS map based on an equity snapshot of the City reflective of areas within the City with different risk levels. It may be possible to integrate some of the survey responses within the GIS map.

Council discussion followed on the intent of the community survey. Councilmember Dahlhoff said some of the concerning results pertained to homelessness and funding. Based on survey responses, many participants would not support passage of a home fund. Another surprise was a willingness to support a food bank but no other services.

Councilmember Schneider recommended any future surveys should include more details such as more questions on specific concerns for each question to assist the Council in addressing issues. Manager Cook explained that the survey was intended as a high-level survey to obtain perceptions and impressions of survey participants. The survey responses enable an opportunity for the Council to explore further, such as conducting some focus groups connected to different areas of the survey.

Councilmember Jefferson supported releasing the results of the survey to the community. The responses involving the police were very positive and are reflective of a quality community for living and working.

Manager Cook reviewed some demographic information. The survey response reflected 41% participation by men, which is 10% more than in previous surveys and more than the industry standard. Black, Asian, Hispanic, and Native American participation was in alignment with census data or near census data. The age demographic was an oversight as it was not included in the survey preventing cross-tabbing of data by age. Because the survey included a variety of different demographics it could help inform

TUMWATER CITY COUNCIL WORKSESSION

MINUTES OF VIRTUAL MEETING

May 24, 2022 Page 6

the age of the respondent. The survey firm has offered to explore responses as a way to identify age of survey participants.

Councilmember Cathey questioned how staff determined the majority of participants were older white women. Manager Cook advised that in past surveys, data results reflected a majority of the respondents were older white women. Other surveys completed in the county reflected similar results. The goal was to reach a broader demographic. Councilmember Cathey commented that lacking age data limits the use of the data. Manager Cook advised that the only element lacking is age, which was unfortunate. Data can be explored using different filters (employed, unemployed, number of children, etc.).

City Administrator Doan added that the value of the survey was the electronic format as other previous surveys were telephone surveys. A younger demographic might be more inclined to participate in an electronic survey, which may contribute some value as to the age of the participant.

Discussion ensued on the difficulties encountered to attract survey respondents. No survey is perfect as more questions on a survey increases difficulty in attracting participation.

Manager Cook affirmed requests to provide hard copies of the survey results to the Council, produce more graphics based on the feedback in categories of housing, quality of life, growth, and public safety, and explore formats for releasing survey results to the public.

CITY OPERATIONS & MAINTENANCE FACILITY – COMMUNITY WORKSHOP FOLLOW-UP:

Manager Cook briefed the Council on the results of the recent community meeting to reconnect and update neighborhoods on the site of the City's proposed Operations and Maintenance (O&M) Facility. The last community meeting was held in 2018. The meeting design was intentional to promote dialogue between staff and community members. The Council previously received an executive summary of the meeting results, as well as 60 feedback forms completed by participants.

Manager Cook shared a series of photographs of three information stations hosting 25 individuals per hour. One information station focused on transportation improvements staffed by Transportation Manager Mary Heather Ames serving as the subject matter expert and Community Development Director Michael Matlock serving as the recorder to capture issues, concerns, questions, and items for follow-up. The second station focused on the neighborhood park with Recreation Manager Todd Anderson serving as the recorder and Parks and Recreation Director Chuck Denney serving as the subject matter expert. The third station focused on

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 7

the site plan and design concepts with Capital Projects Manager Don Carney serving as recorder and Transportation and Engineering Director Brandon Hicks serving as the subject matter expert. Information shared with the community included all changes to the design of the facility since 2018.

Manager Cook reported the community event was effective with good reception by people attending the meeting as reflected in the feedback forms.

City Administrator Doan shared information on many of the conversations and areas of interest by the community.

Councilmember Cathey asked whether the results of the community meeting would be integrated with emails received by the Council, which for the most part are much more different than the tone reflected in the feedback forms. Manager Cook said staff reviewed all Council emails and documented each question. Each question was logged and was used to inform each information station. The questions were recorded in a spreadsheet with staff drafting a follow-up email to each individual providing them with opportunities and resources to receive information about the project.

Councilmember Cathey commented that she believes most people in the community support the City's plan to construct a new maintenance facility; however, she also believes the current location is the wrong place to construct the facility. The O&M facility should not be located within a residential area. When the Council determined next steps for either constructing a new facility or renovating the old facility, the Council preferred not including a new facility in the Tumwater Town Center for most of the same reasons residents surrounding the proposed project have cited. She also believes the City has placed bookends on both ends of the project involving the roundabout at 79th Avenue and the neighborhood park and unless the community supports the project, residents would not receive either a park or a roundabout.

City Administrator Doan explained that the roundabout project was linked because it required gopher mitigation and approval by the U.S. Fish and Wildlife Service. Including the roundabout project enables the City to complete the project on a much shorter timeframe than otherwise would have happened. It was possible to link the roundabout project with the O&M project because of the increase in traffic caused by the new facility.

TUMWATER CITY COUNCIL WORKSESSION

MINUTES OF VIRTUAL MEETING

May 24, 2022 Page 8

Manager Cook advised on the status of publicizing and consolidating feedback from the community meeting. Staff did not qualify feedback forms as either positive or negative.

Councilmember Jefferson recommended providing an informational sheet summarizing the outcome of the community meeting.

Councilmember Dahlhoff asked to be added to the City's Listserv program.

In response to questions on next steps with respect to some strong sentiments in opposition of the facility on the City's property, City Administrator Doan recapped efforts and changes to the project before and during the pandemic, as well as ongoing briefings to the Council on the status of efforts. The next step in the process is negotiation of an architectural and engineering design contract with an architect for consideration by the Council. If another course of action is desired, the Council needs to convey direction on next steps to pursue as the Council has made a series of choices over the last 11 years that has moved the City to building a new facility on the property. If the choice changes, there would be ramifications.

Councilmembers voiced different opinions on moving forward on the project. In response to questions about the park, City Administrator Doan provided clarifying information as to why the park was included as a component of the O&M facility project. He described the adjustments in facility programming to ensure adequate space for growth in the future. The project does not require a public hearing by the Council.

Discussion followed on some of the negative emails from the community. Councilmember Dahlhoff advocated for moving forward with the next step and working with the community and not diminishing the questions and concerns by the community by pursuing conversations with the community. Several Councilmembers disputed the inference that the community was overwhelmingly opposed to the project.

Mayor Sullivan reported staff will move forward based on the majority of the Council supporting moving to design. Councilmembers Cathey and Schneider opposed moving the project forward.

MAYOR/CITY ADMINISTRATOR'S REPORT:

COUNCIL COMMUNICATIONS:

City Administrator Doan said the conversation follows an email forwarded to the Council seeking assistance in the compliance of the Open Public

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 9

Meetings Act. Although the definition of open public meetings can be broad and confusing, it generally applies to any type of a meeting a Councilmember attends. Current concerns surround the Council's email communications that often constitutes a quorum of the Council in addition to utilizing the City's email system for non-City business.

City Attorney Kirkpatrick advised that several recent emails have skirted the boundaries of the Open Public Meetings Act. It is timely to remind the Council of the importance of complying with the provisions of the Open Public Meetings Act.

Several Councilmembers expressed a desire for staff to address issues individually with each Councilmember and to provide some examples of the concerns.

City Attorney Kirkpatrick cited several examples of inappropriate communications between numerous Councilmembers and advised of the appropriate process, such as coordinating the sharing of such information or meeting information through staff.

The Council's discussion conveyed difficulty of understanding the appropriate circumstances whereby Councilmembers can communicate with one another with or without using the City's email system without violating the Open Public Meetings Act. The Council did not support a suggestion to schedule a training session on the Open Public Meetings Act as the Council recently received the training. Several Councilmembers expressed frustration in terms of what they are allowed to do and under what circumstances.

City Attorney Kirkpatrick advised the Council that the intent is not to silence Councilmembers. Protocols are in place for distributing information among the seven members of the Council. The Council is asked to coordinate the distribution through the City Administrator or the Mayor with a request for no reply or further discussion. The intent of the Open Public Meetings Act is to conduct conversations in public. Open meetings with different topics can be scheduled to accommodate an exchange of information between the Council. Councilmembers wishing to discuss specific topics can be accommodated via the City publishing a notice to ensure the City remains in compliance with state law.

City Attorney Kirkpatrick cited the difference between legislating and administrating. The Council Rules dictate the structure of the Council's actions.

TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 10

City Administrator Doan added that the City has established some general parameters with the understanding that there are many nuances inherently difficult in many situations. The goal is to assist the Council in navigating what is permitted by law. It seldom involves individual transgression but it often occurs when the same actions occur continuously. He cited a state law provision defining an action as, “An action means the transaction of the official business of a public agency by the governing body, including but not limited to the receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.” He acknowledged the Council’s frustration and offered the assistance of staff to help navigate situations.

City Attorney Kirkpatrick provided additional guidance on records retention requirements. She encouraged the Council to contact her with any questions at any time.

Councilmember Dahlhoff requested additional clarity and some examples of email communications that are not permitted especially when the Council receives emails from community members requesting a response. One example involves recent emails about the City’s O&M facility.

City Attorney Kirkpatrick advised the Council that if they are contacted by community members via email requesting a response, the Council can respond; however, the restriction involves the Public Records Act and ensuring those communications are archived through the City’s system. The Open Public Meetings Act applies only to the Council and does not apply to staff or the Mayor.

City Administrator Doan added that the Council should avoid communicating with the public on issues involving the City’s permit process (land use), as well as considering other pitfalls in terms of some Councilmembers responding while other Councilmembers electing not to respond. Those Councilmembers responding can place those Councilmembers who did not respond in a difficult situation. It is important to be mindful of the interpersonal relationship between the Council. Additionally, it is important the Council has the current facts when responding to requests.

City Attorney Kirkpatrick added that other matters to consider when contemplating a response involve a long list of topics from litigation, grievances, personnel issues, and other issues.

City Administrator Doan encouraged the Council to review the diversity statement with the school district for a future conversation.

**TUMWATER CITY COUNCIL WORKSESSION
MINUTES OF VIRTUAL MEETING
May 24, 2022 Page 11**

Councilmember Cathey asked the Council to keep within their thoughts, the deeply sad news of the murder of innocent schoolchildren and two adults in Texas.

ADJOURNMENT: **With there being no further business, Mayor Sullivan adjourned the meeting at 7:35 p.m.**

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