

**CITY OF TUMWATER
HEARING EXAMINER STAFF REPORT
Hearing Date: December 17, 2025**

Project Name: I-5 Commerce Plat and Right-of-Way Vacation

Case Numbers: TUM-25-0756 Plat and Right-of-Way Vacation

Owner: Confederated Tribes of Chehalis Reservation
420 Howanut Rd
Oakville, WA 98568

**Project Proponent/
Representative:** Hatton Godat Pantier
Chris Carlson
3910 Martin Way E, Ste B
Olympia, WA 98506

Type of Action Requested: The project proponent is requesting a plat vacation of the I-5 Commerce Plat and associated right-of-way that was constructed and dedicated with the plat. The plat vacation will return the property to a single parcel with a private road running through the property.

Project Location: 40.12 acres located at 9253, 9235, 9211, 9183, 9157, 9133, 9125, 9124, 9067, 9035, 9048 and 9010 Legacy Court SW, Tumwater, WA 98501. Tax Parcel Numbers 55520000100, 55520000200, 55520000300, 55520000400, 55520000500, 55520000600, 55520000700, 55520000800, 55520000900, 55520001000, 55520001100 and 55520001200.

Project Permit: The following have been issued for the project:

1. Notice of Application issued on November 28, 2025 (Exhibit 9)
2. Notice of Public Hearing on November 28, 2025 (Exhibit 9)

Public Notification: Public notification for the December 17, 2025, 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 November 28, 2025, in conformance with Tumwater Municipal Code TMC 14.06 (Exhibits 9 and 10).

Staff Recommendation: Approval of plat vacation and ~~recommendation of approval for the~~ right-of-way vacation to City Council, subject to conditions identified at the end of the staff report in Section III *Recommendation*.

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I. BACKGROUND INFORMATION

A. Project History

In 2016 a nine-lot light industrial subdivision was proposed to the City of Tumwater Development Review Committee for review. Through the preliminary review process the applicant changed the proposal from a nine-lot subdivision to a twelve-lot subdivision. The applicant submitted a preliminary plat application (TUM-20-0220) including the subdivision of twelve lots, open space tracts and public road construction. The preliminary plat was heard by the Tumwater hearing examiner on September 30, 2020 (Exhibit 2) and was approved with conditions on October 14, 2020 (Exhibit 3). No appeals were filed.

A site development grading permit was issued November 5, 2020 (TUM-20-0727) focusing on the sewer extension. On July 6, 2021, another site development grading permit was issued (TUM-21-0907) to complete the remainder of the infrastructure installation which included the stormwater tracts and public road improvements.

On December 28, 2021, a plat alteration was submitted (TUM-22-0044) to address a change to some of the lot areas and tracts and to amend condition 38 of the original preliminary plat which required tree replacement at a 3:1 ratio. Since the project site did not meet the City's tree retention standards of 20% of the existing trees or 12 trees per acre prior to being developed; TMC 16.08.070.R.4 allows a tree replacement ratio of 1:1. The public hearing was conducted on April 13, 2022, and approval was issued on April 26, 2022 (Exhibit 4). No appeals were filed.

The final plat was submitted for review on August 12, 2022 (TUM-22-0841). The plat was recorded with Covenants, Conditions and Restrictions and a Stormwater Maintenance Agreement on September 27, 2022 (Exhibits 5, 6 and 7).

Since final plat recordation, one site plan review was conducted for parcels at the end of Legacy Court. Site plan approval was issued and site development grading and building permits were reviewed but were not issued. In May of 2024, the Chehalis Tribe approached the City about the process to vacate the I-5 Commerce Plat and public right-of-way in anticipation of purchasing the property. An intergovernmental agreement between the City of Tumwater and the Confederated Tribes of the Chehalis Reservation was approved by the Business Committee of the Confederated Tribes of the Chehalis Reservation and Tumwater City Council in late July 2024 (Exhibit 8).

The properties were sold to the Chehalis Tribe on September 30, 2024, based on Thurston County sales data. A plat vacation application was submitted on September 16, 2025. Two rounds of review of the plat vacation have been completed by City and County staff to prepare the plat for recordation if approved. No development is being proposed with this application.

B. Existing Conditions

The properties are currently vacant.

The topography of the property is relatively flat. The site has been prepared for development with water and sewer extended to each lot with a public road (Legacy Court) running down the middle of the industrial subdivision. A stand of trees with a wetland were preserved to the north (Exhibit 2).

C. Project Description

The project proponent is requesting a plat vacation of the I-5 Commerce Plat and associated right-of-way that was constructed and dedicated with the plat. The plat vacation will return the property to a single parcel with a private road running through the property.

II. REGULATORY FRAMEWORK

The proposal is subject to the following policies and regulations:

- A. **Tumwater Comprehensive Plan:** The project site is located in the Southwest Tumwater Neighborhood as designated in the City's Comprehensive Plan (Exhibit 16). The land use designation for 40.26 acres of the project site is Light Industrial.
- 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. Goals are to establish a street and road network that provides for the safe and efficient movement of goods and people, neighborhood connectivity, to ensure pedestrian connectivity, and concurrency to meet PM peak hour level of service standards.

Staff Response and Recommended Finding:

Staff finds that with the property surrounding Legacy Court converted to one single property through the plat vacation there is no longer a need for a public road through the parcel. By vacating the right-of-way, the City will no longer be obligated to maintain the road and maintenance responsibility will be transferred to the property owner. Additionally, surrounding properties have either direct access or access easements to public roads and streets.

- C. **Hearing Examiner –TMC 14.12.010:** The Hearing Examiner has authority to review Plat Vacations as a Type III land use application.

Staff Response and Recommended Finding: *Plat vacations and plat vacations that include right-of-way vacation require a public hearing and decision by the Tumwater Hearing Examiner. TMC 17.26.060 and RCW 58.17.212 provide a process for vacation of a subdivision and public right-of-way when completed as one action. It states that the legislative authority would be the approving authority for a plat and right-of-way vacation. The underlying preliminary plat approval was heard by the hearing examiner, therefore it*

*was determined that the public hearing for a vacation of a preliminary plat and public right-of-way would also be heard **and decided** by the hearing examiner. ~~The hearing examiner's recommendation will be forwarded to City Council for final approval of the right-of-way vacation.~~*

- D. Public Notice Requirements –TMC Chapter 14.16:** TMC Chapter 14.16 requires the City to provide public notification of certain application types by issuing a Notice of Application (TMC 14.16.050) and a Notice of Open Record Hearing (TMC 14.10.050).

Staff Response and Recommended Finding: *A combined notice of application and public hearing notice for the plat vacation was mailed to property owners within 300 feet of the subject property, affected agencies and posted on-site; and published in the Olympian on November 28, 2025. (Exhibits 9 & 10) The notices were issued together to meet both timing requirements for the notice of application and notice of public hearing.*

Public comments:

The Squaxin Island Tribe issued comments on December 9, 2025 requesting an inadvertent discovery plan if land disturbance is proposed in the future (Exhibit 17). Staff let them know that the property had already been under construction for the public road and storm facilities and this application would not be approving additional land disturbance.

- E. State Environmental Policy Act – TMC 16.04:** A plat and right-of-way vacation are exempt from SEPA requirements per WAC 197-11-800-6-a and WAC 197-11-800-2-i.

- F. Plat and Public Right-of-Way Vacation Standards – TMC Title 17.26.060 / RCW 58.17.212:**

TMC 12.04 lists the process and requirements for a right-of-way vacation, however TMC 17.25.060 and RCW 58.17.212 provide guidance for right-of-way vacation as a part of a plat vacation. The plat and right-of-way vacation **are** required to comply with the following standards listed in RCW 58.17.212 outlined below:

1. The application shall set forth the reasons for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation.

Staff Finding: *The applicant has provided an application containing signatures of all parties having an ownership interest in the subdivision (Exhibit 11). On the face of the plat vacation the applicant has provided a purpose statement which says “The purpose of this plat vacation is to consolidate all of the lots and vacate all dedicated rights-of-way, City water easements, City sewer easements and City stormwater maintenance agreements resulting from the filing of the I-5 Commerce Plat recorded under Thurston County Auditor File No 4952603.” (Exhibits 12, 13 & 14) A condition has been added to staff's recommendation that an easement is recorded concurrently with the plat vacation to allow the City of Tumwater access to maintain the existing utility lines on the property. Draft easement language can be found in Exhibit 15.*

2. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

Staff Finding: Documentation provided by the applicant shows the CC&Rs and Stormwater Maintenance Agreement being dissolved (Exhibits 12 & 13) so no conflicts will exist with the plat vacation once recorded.

3. When the application is for the vacation of the plat together with the roads and/or streets, the procedure for vacation in RCW 58.17.212 shall be used, but vacations of streets may not be made that are prohibited under *RCW 35.79.030 35.79.035, and vacations of roads may not be made that are prohibited under RCW 36.87.130.
 - a. RCW 35.79.035 discusses the limitations on vacations of streets abutting bodies of water. .030 states: “If the hearing is before a hearing examiner, the hearing examiner shall, following the hearing, report its recommendation on the petition to the legislative authority, which may adopt or reject the recommendation: PROVIDED, That the hearing examiner must include in its report to the legislative authority an explanation of the facts and reasoning underlying a recommendation to deny a petition. If a hearing is held before a hearing examiner, it shall not be necessary to hold a hearing on the petition before the legislative authority.”

Staff Finding: The proposed vacation would not be prohibited under RCW 35.79.035 030 as the street is not abutting bodies of water. no longer needed by the City of Tumwater as only one lot will be served by the street and no other properties were proposed to access off this public street. RCW 36.87.130 would not apply to this proposal as this street is not a road in a County.

4. State and City code requirements for vacation of right-of-way state that payment for 50% of the appraised value of the road or dedication of property of equal value to monetary compensation would be required.
 - a. ~~If the legislative authority determines to grant the petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the~~

auditor of the county in which the vacated land is located. One-half of the revenue received by the city or town as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town.

Staff Finding: ~~City Council will review the hearing examiner's recommendation and an ordinance to vacate the street. As outlined in the Intergovernmental Agreement (Exhibit 8) under section 2.B.iv; the Chehalis Tribe will either pay the City 50% of the appraised value of the road or in lieu of monetary compensation, the parties agree that the Tribe may satisfy this obligation by dedicating to the City for street or other municipal purpose real property useful for the intended purpose where the property has a fair market value at least equal to the amount of monetary compensation that would otherwise be required as allowed by TMC 12.04.120.~~

- b. The legislative authority of the city, town, or county shall give notice as provided in RCW 58.17.080 and 58.17.090 and shall conduct a public hearing on the application for a vacation and may approve or deny the application for vacation of the subdivision after determining the public use and interest to be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, town, or county, shall be deeded to the city, town, or county unless the legislative authority shall set forth findings that the public use would not be served in retaining title to those lands.

Staff Finding: ~~As outlined in Section D above the public notice process was followed as required. The City has determined that there is not a need to retain the public right-of-way once the vacation is completed as only one parcel will be served by the street after the vacation is completed and no adjacent parcels will be land locked by the vacation of the right-of-way. No land other than the public right-of-way was dedicated for public use or benefit as a part of the preliminary plat approval.~~

- c. Title to the vacated property shall vest with the rightful owner as shown in the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the legislative authority. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

Staff Finding: ~~The street to be vacated is wholly contained within the subdivision and is a part of the boundary of the subdivision. After approval of the plat and right-of-way vacation, ordinance approval by City Council and recordation with Thurston County, the right-of-way would be released to the owner of the property contained within the vacated subdivision.~~

III. RECOMMENDATION

Staff recommends approval of the plat **and** vacation and recommendation of approval for the right-of-way vacation to City Council, subject to conditions:

1. Easement for City utility access shall be recorded concurrently with the plat vacation.
2. In order to vacate Legacy Court SW, City ordinances and State Code require the property owner to pay the City fifty percent (50%) of the appraised value of the road. The City and Tribe shall mutually agree upon an MAI appraiser to appraise the value of Legacy Court SW. All costs of the appraisal shall be the responsibility of the Tribe. In lieu of monetary compensation, the parties agree that the Tribe may satisfy this obligation by dedicating to the City for street or other municipal purposes real property useful for the intended purpose where the property has a fair market value at least equal to the amount of monetary compensation that would otherwise be required.

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

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Report Issue Date: December 10 **12**, 2025

List of Exhibits:

- Exhibit 1. Staff Report December 10, 2025
- Exhibit 2. Preliminary Plat Map 02-06-2020
- Exhibit 3. Preliminary Plat HE Decision 10-14-2020
- Exhibit 4. Plat Alteration Hearing Examiner Decision 04-26-2022
- Exhibit 5. Recorded Plat 09-27-2022
- Exhibit 6. Recorded CC&R 09-27-2022
- Exhibit 7. Recorded Stormwater Maintenance Agreement 09-27-2022
- Exhibit 8. Intergovernmental Agreement Between City of Tumwater and Confederated Tribes of the Chehalis Reservation
- Exhibit 9. Notice of Application and Notice of Public Hearing 11-28-2025
- Exhibit 10. Public Notice Certification 12-01-2025
- Exhibit 11. Application 06-19-2025
- Exhibit 12. Dissolution of Association and Termination of CC&Rs 09-27-2024
- Exhibit 13. Termination of CC&Rs 09-30-2024
- Exhibit 14. Plat Vacation Map 10-20-2025
- Exhibit 15. Draft Utility Easement Language
- Exhibit 16. Neighborhoods Map Comprehensive Plan 2016
- Exhibit 17. Squaxin Island Tribe Public Comment 12-09-2025