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**BINDING SITE PLAN AMENDMENTS  
(ORDINANCE NO. O2022-004)**

**STAFF REPORT**

**PLANNING COMMISSION HEARING (CONTINUED)**

**Issue**

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

The Planning Commission held a public hearing on March 22, 2022, received public comment, and continued the public hearing to April 12, 2022 to allow staff to address the public comments.

The public comments received at the hearing concerned amendments that addressed accounting for future development in TMC 17.14.045 and phasing in TMC 17.14.090 (See Attachment C).

**Summary**

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

**Background**

Binding site plans are an alternative method of land division authorized in RCW 58.17.035 *Alternative method of land division—Binding site plans*. Binding site plans may only be used for land divisions for:

- Industrial or commercial uses
- Lease of manufactured homes or travel trailers – typically a manufactured home park
- 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 typical of subdivisions.

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

### **Binding Site Plan Amendments**

The following is a summary of the proposed binding site plan amendments found in Ordinance No. O2022-004:

1. Table 14.08.030 (Decision process)

In response to public comment received at the public hearing on March 22, 2022 concerning phasing in TMC 17.14.090, staff added the process for phased binding site plan approval to the decision process table. Staff's recommendation is that approval of binding site plans without phasing would be administrative, but phased binding site plan approval would require Hearing Examiner approval.

2. TMC Chapter 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.

3. 17.08.010 Binding site plan

Added an "Intent" section which mentions the differences between binding site plans and the traditional platting process. Clarified that binding site plans can be utilized for manufactured home parks. The code already states that condominium and commercial and industrial developments are allowed to utilize binding site plans. State law allows manufactured home parks to use this method of land division as well. Also added references to the land division processes addressed in the other portions of TMC Title 17 Land Division.

4. 17.14.045 Review criteria for binding site plans

Added new section for criteria specific to binding site plans that deal with the following:

- 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
- Development of the entire parcel or lot
- Adjacent properties and future development

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### **BINDING SITE PLANS (O2022-004)**

Staff reviewed the public comment received at the public hearing on new section TMC 17.14.045(H). Staff determined that new section TMC 17.14.045(H) does not create an obligation to develop a property or phasing when it is not proposed by the applicant, but proposes the following change to the section for clarification:

*H. If there is adjacent property that is under the same ownership as the property being divided, then the location and sizing of shared and public amenities such as streets, access, utilities, and open space and recreation areas shall be taken into account so the development ~~is congruent with~~ does not preclude future adjacent development.*

5. 17.14.050 Administrative consideration

Required findings for approval are added that are specific to binding site plans and include the following:

- 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
- 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
- A reference to the criteria in TMC 17.14.040 was also added

6. 17.14.080 Duration of approval

“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 with up to three additional one-year extensions are allowed.

7. 17.14.090 Phasing of development

Phasing of a residential binding site plan is allowed if it contains ten or more residential dwellings. This is consistent with the SEPA exemption threshold that Tumwater has adopted for short plats. Commercial or industrial binding site plans over 20 acres in size are allowed to phase development. Non-phased binding site plans are administratively approved whereas phased binding site plans require approval of the Hearing Examiner.

### **Public Approval Process**

The Planning Commission held a briefing on the proposed amendments on February 8, 2022 and a worksession on February 22, 2022.

An Environmental Checklist for a non-project action was prepared on February 1, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC in February 2022, and a Determination of Non-Significance was issued on February 17, 2022.

The ordinance was sent to the Washington State Department of Commerce on January 6, 2022 for the required 60-day review before the proposed text amendments were adopted, in accordance with RCW 36.70A.106.

A Notice of Public Hearing for the Planning Commission was issued on March 11, 2022 prior to a public hearing. The notice was posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in *The Olympian*.

The Planning Commission held a public hearing for the proposed amendments on March 22, 2022. The public hearing was continued on April 12, 2022, to allow staff to review and respond to public comments and for further deliberations. Following the public hearing and deliberations, the Planning Commission will make a recommendation that Council on the proposed amendments.

The General Government Committee is scheduled to review the proposed amendments in a briefing on May 11, 2022 and recommend that the ordinance be discussed at a City Council worksession. The City Council is scheduled to review the amendments at a worksession on May 24, 2022 and consider the amendments on June 7, 2022.

### **Public Notification**

A Notice of Public Hearing for the Planning Commission was issued, posted, mailed to interested parties, and published in *The Olympian* on March 11, 2022, after the Planning Commission set the public hearing date on February 22, 2022.

### **Staff Conclusions**

1. The proposed text amendments are consistent with the goals of the Washington State Growth Management Act.
  - a. This ordinance is consistent with Goal 7 of the Growth Management Act which states:

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

The Ordinance establishes concise requirements for the application, review process, and approval of binding site plans.

2. The proposed amendments are consistent with the Economic Development Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of binding site plans.
  - a. Goal #1 of the Economic Development Plan states:

*“Establish a development climate that stimulates economic activity and desirable investment.”*
  - b. The text of the Economic Development Plan states that one of the ways to support Goal #1 is:

*“...by making ongoing improvements to existing development regulations, systems, and processes.”*
  - c. Action item 1.D. of the Economic Development Plan states:

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

This Ordinance improves the existing regulations for the application, review process, and approval of binding site plans.
3. Based on the above review and analysis, staff concludes that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

**Staff Recommendation**

Staff recommends approval of the proposed amendments as shown in Ordinance No. O2022-004.

**Effects of the Proposed Amendments**

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-004.

**Staff Contact**

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