



**PLANNED UNIT DEVELOPMENT AMENDMENTS
(ORDINANCE NO. O2022-006)
STAFF REPORT
PLANNING COMMISSION BRIEFING**

Issue

The City's regulations for planned unit developments in TMC 18.36 *PUD Planned Unit Development Overlay* have not been substantially updated since 2000. To date, planned unit developments in the City have provided a benefit to developers in the form of flexibility with existing regulations such as setbacks, maximum land coverage, and private streets, but have not provided a quantifiable benefit to the City or the public.

In other jurisdictions, planned unit developments typically provide a quantifiable public benefit in exchange for flexibility in addressing existing regulations. The amendments to TMC Chapter 18.36 *PUD Planned Unit Development Overlay* provide developers flexibility in addressing existing regulations in exchange for requiring that new developments provide quantifiable public benefits.

In addition, TMC Chapter 18.36 *PUD Planned Unit Development Overlay* does not clearly address the requirements for private streets as part of planned unit developments. The amendments to the planned unit development chapter will provide more specificity in regards to when and how private streets are allowed. The definition of a private street in TMC Title 17 *Land Division* is not consistent with the definition in the Tumwater Development Guide. The proposed amendments will amend the definition of a private street in the Tumwater Municipal Code so it is consistent the Tumwater Development Guide and amend the sections of the Tumwater Development Guide that addresses private streets as needed.

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Summary

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

Background

Planned unit developments are intended to allow for flexibility in addressing existing development regulations in exchange for a quantifiable public benefit to allow for superior development than would be allowed under the zoning code or development of sites that may be challenging because of critical areas or other constraints.

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

Planned Unit Development Amendments

The following is a summary of the proposed amendments related to planned unit developments found in Ordinance No. O2022-006:

1. Private Streets
 - a. Amended the definition of private street in TMC 17.04.385 to read:

“Private street” means a privately owned and maintained vehicular access serving property, which is provided for by an access tract, easement, or other legal means.
 - b. Amendments to the Tumwater Development Guide (See Attachment C *Development Guide Amendments Staff Report*).
2. Permitted uses for planned unit development:
 - a. Added “planned unit developments” as a permitted use in the Manufactured Home Park (MHP) zone district.
 - b. Removed Single-family detached dwellings as part of a planned unit development as a permitted use from the Multifamily Family Medium (MFM) zone district.
 - c. Removed “Single-family detached dwellings and duplexes are permitted only as part of a PUD planned unit development overlay as regulated by

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TMC Chapter 18.36 if the site to be developed has more than one zone district” as a permitted use from the Multifamily Family High (MFH) zone district.

- d. Added “planned unit developments not including residential uses” as a permitted use in the Airport Related Industry (ARI) zone district.
3. Substantially revised TMC 18.36 *PUD Planned Unit Development Overlay*. Amendments included the following:
 - a. Changed the name of the chapter from *PUD Planned Unit Development Overlay* to *PUD Planned Unit Development*.
 - b. Updated the intent section to establish a clear list of tangible benefits to be provided by a planned unit development to the City and the public in exchange for flexibility addressing in zoning regulations.

The updated section reads as follows:

18.36.010 Intent.

The intent of a planned unit development is to offer flexibility to the applicant in exchange for tangible benefits to the city and the public.

A. Through the planned unit development process, the applicant is given flexibility in regard to site design, placement of buildings, use of required open spaces, setbacks, lot sizes and dimensions, and otherwise better utilize the potential of sites characterized by special features, such as geography, topography, size or shape.

B. In exchange, the applicant shall provide at least two points from the following list of tangible benefits to the city and the public:

- 1. 0.5 points: Provide superior useable parks and open space. Both the applicant and the city shall agree upon the location, size, and extent of the superior useable parks and open space;*
- 2. 0.5 to 1.0 point: Significant public facilities or other public amenities that could not be required by the city for development of the subject property without a planned unit development. Both the applicant and the city shall agree upon the type of significant public facility or amenity, the size, location, and other pertinent aspects, as well as the number of points for the significant public facility or other public amenity. Significant public facilities or other public amenities shall not include the minimum public facilities and public improvements already required of the development;*
- 3. 1.0 point: Going significantly beyond the minimum requirements for critical area protections to preserve, enhance, or rehabilitate critical areas and buffers. Both the applicant and the*

city shall agree upon the location, size, and extent of the additional protection, enhancement, or rehabilitation;

4. 1.0 point: Dedication of a site containing a historic landmark to the city or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by Washington State Office of Archaeology and Historic Preservation;

5. 1.0 point: Incorporation of energy systems, as defined in TMC 18.04.050, that produce energy from nondepletable energy sources will result in at least fifty percent of the energy needs for the development being met. Both the applicant and the city shall agree upon the type and conditions for the energy systems provided;

6. 1.5 points: The provision of at least twenty percent of the total dwelling units as permanently affordable housing consistent with TMC 18.42.140(D)-(K); and

7. 0.5 to 1.5 points: Any other public facility, feature, item, project, or amenity proposed by the applicant that the City agrees meets the intent of this section. Both the applicant and the city shall agree upon the type of other public facility, feature, item, project, or amenity, the size, location, and other pertinent aspects.

C. For tangible benefits that have a range of potential points, both the applicant and the city shall agree upon the number of points assigned.

- c. Updated the section to establish where planned units would be allowed, which modified the list in the current section, amended the current code language about the effect of a planned unit development approval on existing zone district regulations, and establishes a minimum size for a planned unit development, which does not currently exist.

The updated and new section reads as follows:

18.36.020 Planned unit development and zoning.

A. Planned unit developments are permitted in all zone districts except greenbelt (GB), open space (OS), residential/sensitive resource (RSR) due to the extreme sensitivity of the areas to environmental disturbance, and historic commercial (HC).

B. The approval of a final planned unit development shall modify and supersede the regulations of the underlying zone district, as outlined in this chapter, in accordance with the requirements and allowances of the Tumwater municipal code.

C. The minimum project size for a planned unit development is one gross acre. Planned unit developments must still meet applicable development requirements such as minimum density, parking

standards, land coverage limits, and stormwater regulations, subject to the requirements and allowances of this chapter.

- d. Updated the section to about who can initiate an application and moved the application process to an updated section TMC 18.36.040.

The updated section reads as follows:

18.36.030 Initiation.

A preliminary planned unit development may be initiated by any owner or group of owners of property acting jointly, or as a developer authorized to act as agent for an owner or group of owners.

- e. Updated the section to establish the items that need to be included in a planned unit development application.

The updated section reads as follows:

18.36.040 Application.

Applications for a preliminary planned unit development shall be made on the forms provided by the community development department. Applications shall include all the items on the application checklist, together with an application fee as established by resolution of the city council, no part of which is refundable. Additions or deletions to the contents of the application may be made by the community development director. The application for a preliminary planned unit development shall also include and address all these items:

A. A description of how the development meets the requirements of TMC 18.36.010;

B. How the planned unit development relates to the surrounding area. This would include a description of any existing adjacent development and address how the proposed development would be consistent with existing adjacent development. If the existing adjacent development is not consistent with the existing comprehensive plan designations and zone districts then a comparison of the proposed development with the intent of the adjacent comprehensive plan designations and zone districts is acceptable;

C. If there is more than one underlying zone district then the application must include:

- 1. A map showing the existing zone district locations, sizes, and densities within the planned unit development. This can be augmented with a table or description in addition to a map; and*
- 2. A map showing the proposed locations of the zone districts within the planned unit development. The borders, areas with sizes*

in acres, and proposed locations of the zone districts shall be shown graphically on the site plan. The borders shall follow the proposed tract or lot lines and the centerlines of streets and alleys of the planned unit development in a balanced, cohesive, and interrelated manner that does not create irregular areas.

a. The planned unit development process cannot modify the sizes of the original comprehensive plan designations on the comprehensive plan land use designation map or the zone districts on the zoning map without an amendment approved by the process in TMC 18.60.

b. The planned unit development process cannot modify the densities of the original comprehensive plan designations and zone districts without an amendment approved by the process in TMC 18.60;

D. How the planned unit development is being accessed and how internal circulation will be addressed. This shall include multimodal considerations;

E. The location and size of critical areas and their buffers on or within 300 feet of the project site. Protection measures shall be described or shown on a map;

F. The location and size of open space, parks, and landscaped areas and how they serve the development;

G. The location of stormwater facilities;

H. SEPA environmental review;

I. Covenants for ongoing maintenance of common areas and stormwater facilities;

J. If the planned unit development will be phased, a map of the proposed phasing, a description of the proposed phasing timeline, and the general type and location of the development to occur in each phase consistent with TMC 18.36.090;

K. How the planned unit development relates to adjacent properties under similar ownership. This can include future development plans, if known; and

L. How the planned unit development allows for future development or redevelopment of neighboring properties. This should address, but it is not limited to, access, circulation, sizing and location of utilities, type and locations of stormwater facilities, and locations of structures.

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

The new section reads as follows:

18.36.050 Environment.

The provisions of TMC Title 16 may not be modified by a planned unit development, except modifications consistent with TMC 18.36.010(B)(3).

- g. Created a new section to explain that if a planned unit development application involves the creation of new lots, it would need to follow the requirements in TMC Title 17 *Land Division*.

The new section reads as follows:

18.36.060 Land division and review process.

If a planned unit development involves land division then it shall be subject to the platting and procedural requirements of TMC Title 17 and the restrictions and allowances of this chapter.

- h. Moved from TMC 18.36.080 and updated the section to establish what development requirements in TMC Title 12 and 18 can be modified by a planned unit development and what cannot be modified.

The updated section reads as follows:

18.36.070 Modification of development requirements.

A planned unit development may only modify the development requirements of TMC Title 12 and TMC Title 18 consistent with this section. If a development requirement is not addressed in this section, it shall not be modified by a planned unit development.

A. Zone Districts.

1. The type and size of the underlying zone districts designated by the zoning map shall not be modified by a planned unit development.

2. Some individual development standards of the underlying zone districts may be modified by this section.

B. Planned unit developments with multiple underlying zone districts.

1. A planned unit development may move the location of underlying zone districts as part of the planned unit development process, but the type and size of each of the underlying zone districts shall remain the same and follow the requirements of TMC 18.36.040(C).

2. *Some individual development standards of the underlying zone districts may be modified by this section.*

C. *Densities. Densities established by the underlying zone districts shall not be altered by a planned unit development.*

D. *Uses.*

1. *A planned unit development is limited to the permitted, accessory, or conditional uses established by the underlying zone districts.*

2. *If a proposed use in a planned unit development requires a conditional use permit, a separate conditional use permit shall be obtained consistent with the process in TMC 18.56.*

E. *Setbacks.*

1. *Setbacks established by the underlying zone districts shall prevail on the perimeter boundary lines of a planned unit development.*

2. *A planned unit development may modify internal setbacks within the planned unit development.*

F. *Lot sizes. Lot sizes as specified by the underlying zone districts may be modified by up to twenty-five percent by a planned unit development, either larger or smaller, provided the densities of the underlying zone district are met.*

G. *Land Coverage. Maximum land coverage as established by the underlying zone districts may be exceeded by no more than twenty-five percent by a planned unit development.*

H. *Structure height. Structure height requirements as established by the underlying zone districts may be modified up to twenty-five percent by a planned unit development.*

I. *Yards. Yards as specified by the underlying zone districts may be reduced by up to twenty-five percent by a planned unit development, provided the land coverage requirements of the underlying zone district are met.*

J. *Parks and open space area. In addition to the park and open space dedication requirements of TMC 17.12.210 or TMC 18.42.130, as applicable, the planned unit development may provide additional park and open space areas consistent with TMC 18.36.010.*

K. *Parking. Parking requirements shall not be modified by a planned unit development.*

L. Landscaping. Landscaping requirements shall not be modified by a planned unit development.

M. Citywide design guidelines. Citywide design guidelines shall not be modified by a planned unit development.

N. Tumwater development guide. Requirements of the Tumwater development guide shall not be modified by a planned unit development, except as noted in TMC 18.36.080.

O. Signage. Signage requirements shall not be modified by a planned unit development.

P. Stormwater. Stormwater requirements shall not be modified by a planned unit development.

Q. Provisions of this chapter. The requirements of this chapter shall not be modified by a planned unit development.

R. Procedural requirements. Procedural requirements shall not be modified by a planned unit development.

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

The new section reads as follows:

18.36.080 Public and private streets.

A. Public streets shall be required in a planned unit development except as allowed in TMC 18.36.080(B).

B. Private streets.

1. A private street may only serve four or fewer residential dwelling units, unless all of the dwelling units meet the federal definition of low income, then the private street may serve up to nine detached single family dwellings or up to thirty-five attached single family or multifamily dwelling units.

2. A private street may serve up to four businesses on separate parcels, or up to four businesses situated on one parcel.

3. The private street must meet the minimum design standards and requirements for private streets in the Tumwater development guide.

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

The new section reads as follows:

18.36.090 Phasing of planned unit developments.

A. Planned unit developments containing more than one hundred dwelling units or commercial or industrial planned unit developments covering more than twenty acres are eligible to attain preliminary planned unit development approval in phases. Phased approval of preliminary planned unit developments is limited to developments with at least two but not more than four phases.

B. The application shall show the number of phases, the area each phase encompasses, and the sequence for development of the various phases. A submittal for a phased development shall demonstrate how transportation, access, traffic, stormwater, parks and open space, critical areas, and utilities will be addressed for all phases of the development.

C. Hearing examiner review.

1. Upon receipt of the recommendation from the development review committee, the hearing examiner shall review the phased preliminary planned unit development in accordance with this section as part of a consolidated hearing according to TMC 18.36.100(B).

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

3. The hearing examiner may approve, approve with conditions, or disapprove the phasing plan in a decision as part a consolidated hearing according to TMC 18.36.100(B).

D. The period between the date of the preliminary approval of the phased planned unit development by the hearing examiner and the date of filing for final approval for the first phase shall be consistent with TMC 18.36.170.

E. Construction plans for each phase of a phased development shall include transportation, utilities, and stormwater management facilities that comply with all state and local requirements in effect at the beginning of the period allotted for that phase.

F. Applications for approval for each successive phase must be submitted within three years of the submittal for final approval on the previous phase and within the other timelines as established by the Tumwater municipal code and TMC 18.36.170.

- k. Moved from TMC 18.36.050 and updated the section describing the hearing examiner approval process.

The updated section reads as follows:

18.36.100. Public hearing – Preliminary planned unit development

A. Upon receipt of the recommendation from the development review committee, a public hearing shall be set before the hearing examiner on the preliminary planned unit development. At the conclusion of the public hearing, the hearing examiner may approve, approve with conditions, deny, or continue the matter. A preliminary planned unit development shall only be approved if it meets the criteria in TMC 18.36.110.

B. If a project with a preliminary planned unit development requires a public hearing for phasing according to TMC 18.36.090, a land division approval, a conditional use permit, a variance, and/or another action that requires a hearing, the hearings should be consolidated.

- l. Moved from TMC 18.36.050 and updated the section describing the criteria the hearing examiner would use to approve or deny an application.

The updated section reads as follows:

18.36.110 Public hearing – Criteria for decision.

In determining whether to approve or disapprove the proposed preliminary planned unit development project, the hearing examiner shall determine if the preliminary planned unit development provides for and meets all these criteria:

A. Substantial conformance to the Tumwater comprehensive plan;

B. Conformance to the Tumwater municipal code and Tumwater development guide;

C. The quantifiable public benefits required by TMC 18.36.010;

D. The public health, safety, and general welfare;

E. The adequacy of the size of the proposed planned unit development to accommodate the contemplated developments;

F. Adequate access to the project site for all users of the project including the public, if applicable;

G. Appropriate access for public safety such as fire protection and police services; and

H. Adequate mitigation measures for impacts associated with the physical characteristics of the site such as groundwater, stormwater, floodplains, critical areas, steep slopes, and critical habitat.

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

The updated section reads as follows:

18.36.120 Appeal.

The decision of the hearing examiner shall be final unless appealed to superior court in accordance with the provisions of TMC 2.58.150.

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

The new section reads as follows:

18.36.130 Final planned unit development approval.

Final approval of the planned unit development will not be issued until all requirements listed in the hearing examiner decision have been met. Certificate(s) of occupancy shall not be issued until final approval unless the community development director, or their designee, determines it is in the best interest of the city. The city and the applicants must agree on a reasonable deadline for obtaining final approval for the planned unit development. Failure of the applicants to obtain final approval prior to the agreed upon date shall result in revocation of the certificate(s) of occupancy.

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

The new section reads as follows:

18.36.140 Minor modifications.

Minor modifications to a planned unit development may be administratively approved provided they meet all these conditions:

A. The modification will not have the effect of reducing required landscaped area, or reducing or encroaching into required buffer areas or reducing the amount of required open space or parks in the planned unit development;

B. The modification will not have the effect of increasing the residential density of the planned unit development;

C. The modification will not have the effect of increasing the area devoted to nonresidential uses in the planned unit development; and

D. The modification will not increase any adverse impacts or undesirable effects of the project, or that the modification in no way significantly alters the project.

- p. Created a new section to establish the process for major modifications to a planned unit development.

The new section reads as follows:

18.36.150 Major Modifications.

A. *Modifications to planned unit developments that do not meet the all the conditions of TMC 18.36.140 shall be considered major modifications.*

B. *A public hearing shall be required before the hearing examiner and follow the requirements of TMC 18.36.100 and TMC 18.36.110.*

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

The new section reads as follows:

18.36.160 Vesting of planned unit developments.

A. *Planned unit developments that involve land division are vested when a complete land division application has been submitted to the community development department.*

B. *Planned unit developments that do not involve land division vest when a complete building permit application has been submitted to the community development department after preliminary planned unit development approval is granted consistent with TMC 18.36.100.*

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

The new section reads as follows:

18.36.170 Duration of approval for planned unit developments.

A. *Preliminary approval of a planned unit development by the hearing examiner is valid for a period of five years.*

B. *An initial one-year extension, which has been filed at least thirty days prior to the expiration of the period of approval, may be granted by the community development director or his/her designee upon a finding that the applicant has attempted in good faith to complete the final planned unit development within the period of approval. Submittal of complete engineering plans for the project and the start of construction prior to the expiration of the approval period time limit shall constitute a good faith effort.*

C. *Two additional one-year extensions may be administratively granted, which shall be reviewed for compliance with these criteria:*

1. *The applicant has pursued submitting the final land division in good faith. Submittal of complete engineering plans and the start of construction for the project prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;*

2. *There have been no amendments to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved preliminary planned unit development, unless such amendments can be incorporated into the existing preliminary planned unit development without significantly altering the project as originally approved by the hearing examiner; and*
 3. *There are no other significant changed conditions that would render the planned unit development contrary to the public health, safety, or general welfare.*
- s. Moved from TMC 18.36.070 and updates the section on the standards for bonding required facilities for a planned unit development.

The updated section reads as follows:

18.36.180 Standards – Bond.

A. Planned unit development projects shall be complete developments and may be required to include facilities such as, but not limited to, streets, curbs, sidewalks, street lights, drainage, open space, sanitary sewer, underground power and telephone lines, landscaping, screening, signs, and off-street parking in conformance with the requirements and allowances of the hearing examiner.

B. The applicant shall furnish the city with a performance bond or other acceptable surety approved by the city attorney, guaranteeing installation of specified public improvements and landscaping.

Public Approval Process

The Planning Commission will hold a briefing on the proposed amendments on April 26, 2022 and a worksession on May 10, 2022.

An Environmental Checklist for a non-project action was prepared on April 5, 2022 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance will be issued later in April 2022.

The ordinance was sent to the Washington State Department of Commerce on April 5, 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 is expected to be issued on May 13, 2022 prior to a public hearing. The notice will be posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in *The Olympian*.

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The Planning Commission is expected to hold a public hearing for the proposed amendments on May 24, 2022. Following the public hearing and deliberations, the Planning Commission will make a recommendation that Council on the proposed amendments.

The Public Works Committee is expected to hold a briefing on the proposed amendments to the Tumwater Development Guide on June 9, 2022.

The General Government Committee is scheduled to review the proposed amendments in a briefing on June 8, 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 June 28, 2022 and consider the amendments on July 19, 2022.

Public Notification

A Notice of Public Hearing for the Planning Commission is expected to be issued, posted, mailed to interested parties, and published in *The Olympian* on May 13, 2022, after the Planning Commission is expected to set the public hearing date on May 10 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 planned unit developments.

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 planned unit developments.
 - 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 planned unit developments.

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. O2022-006.

Effects of the Proposed Amendments

The proposed text amendments would necessitate changes to the Tumwater Municipal Code as shown in Ordinance No. O2022-006.

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