



CHAIR APNEET SIDHU; VICE-CHAIR SHARON MAN, COMMISSIONERS LOUSIE STRANDER, DENNIS MARTINEZ, ALEXANDRIA TEAGUE, AND MARTIN PROBST

**CITY OF TUKWILA
PLANNING COMMISSION (PC)
AGENDA
JANUARY 26, 2023 - 6:30 PM**

To Participate in the Virtual Meeting at 6:30 pm:

By Phone: Dial +1 253-292-9750, Access 779 253 241#

Online: To join this meeting virtually please click on Planning Commission on the 1/26/23 calendar date on the events page located at <https://www.tukwilawa.gov/events/>

Join in-person at the changed meeting location:
6200 Southcenter Blvd, Council Chamber, Tukwila, WA. 98188

FOR TECHNICAL SUPPORT DURING THE MEETING YOU MAY CALL 1-206-433-7155

- I. Call to Order
- II. Attendance
- III. 2023 PC Officers rotate into positions:
 - PC Chair, Commissioner Sidhu
 - PC Vice Chair, Commissioner Mann
- IV. Adopt 12/8/22 Minutes
- V. Public general comments – acknowledge any written comments received
- VI. Planning Commission Protocols Training, Emily Romanenko
- VII. Department of Commerce Presentation – New Requirements for Local Housing Planning
- VIII. Director’s report
- IX. Adjourn



**CITY OF TUKWILA
PLANNING COMMISSION (PC)
MINUTES**

Date: December 8, 2022
Time: 6:30 PM
Location: Virtual meeting via Microsoft Teams - Public, in-person attendance was an option at the Tukwila Justice Center, 15005 Tukwila International Blvd, Tukwila, WA 98188

Vice Chair Sidhu called the meeting to order.

Roll Call

Present: Vice Chair Apneet Sidhu; Commissioners Louise Strander, Sharon Mann, Alexandria Teague

Excused
Absence: Chair Karen Simmons; Commissioners Dennis Martinez and Martin Probst

Staff: Long-Range Planning Manager Nancy Eklund, American Institute of Certified Planners (AICP), Department of Community Development (DCD); Senior Planner Neil Tabor, AICP; Mayor Allan Ekberg; and Planning Commission Secretary Wynetta Bivens

Adopt
Minutes: **Commissioner Mann** made a motion to adopt the 9/22/22 minutes and Commissioner Strander seconded. Motion passed unanimously.

Commissioner Strander made a motion to adopt the 10/27/22 minutes, Commissioner Mann seconded the motion. Commissioner Teague abstained – she had been absent from that meeting. Motion passed.

General Public Comments

No submittals.

Comprehensive Plan Update Briefing

Nancy Eklund, AICP, Long-Range Planning Manager, DCD, introduced Neil Tabor, AICP, Senior Planner, DCD, who will be working on the Comprehensive Plan (Comp Plan) Update. Staff briefed the PC on the Comp Plan Update. It was noted that DCD has increased staffing and has approximately 1.6 full time employees (FTE) who will work on the Comp Plan Update. Additionally, consultants will be hired to work on the Comp Plan Update, which will be funded by two grants: Periodic Update and Middle Housing. These were awarded to DCD from the State of Washington, Commerce Department. The Middle Housing grant will focus on completing an analysis of the feasibility of offering middle housing densities in the City, as well as complete several required elements of the Comp Plan Update. The City has advertised and received Statements of Qualifications for this work from consultants and staff will begin the interview process by mid-December.

The focus for the Middle Housing grant will be on:

- Rectifying historic lack of equity on how resources were distributed.
- Analysis of racial equity in housing impact on the regulatory framework.

- Middle housing and introducing a wider range of density within single family areas, such as low density and medium density residential development.

A portion of the Middle Housing grant funding will be used to contract with community-based groups to receive input from them on housing and past disparities. The housing portion of the Comp Plan Update is starting in January and recommendations are due by June 30, 2023.

The focus for the Periodic Update of Comp Plan grant will be to amend and update the plan to make it current, as well as to ensure it is consistent with State and Regional guidance. This guidance consolidates input from the legislature (through the Department of Commerce), the King County Countywide Planning Policies, and the Puget Sound Regional Council's Vision 2050, etc. The entire Comp Plan Update is due by December 2024 (although we will need to wrap up work on the plan much earlier in the year to enable the Council to focus on developing the City's 2025-26 budget). Community outreach with City departments, boards and commissions has started and is ongoing. There's a lot of work to be done in the coming months.

Staff asked the PC several questions about the Comp Plan Update to which the PC provided feedback.

The PC expressed some concerns and made some recommendation, such as:

- Potentially spending a lot of time creating a recommendation for middle housing without knowing the State requirements.
- The City should be sure to use information derived from previous housing analysis (funded through grants in the past).
- It's important to communicate with builders and developers regarding their input and concerns.
- A need to define policies and economic goals. Ask the residents what they want.
- Find out what type of housing and development people want and update the housing element of the plan to reflect that. Have a clear vision.
- Have options for townhomes, duplexes, ownership, and fee simplification.
- Have ADU's instead of duplexes and triplexes.
- Waive variances.
- Identify areas for high-density, multi-family housing.
- Frequent meetings and updates.
- Subsidizing housing research.
- Etc.

Bylaws Review

Staff walked through the proposed revisions to the Bylaws with the PC. The PC provided input and made recommendations and/or asked clarifying questions. Staff has made changes to the bylaws to reflect items for which there was not comment; several questions and comments will require talking with the City Attorney. Then staff will return to the PC to complete a final review and adopt the Bylaws.

Director's Report

None

Submitted by: Wynetta Bivens
Planning Commission Secretary

Planning Commission Protocols: Open Public Meetings, Public Records, & Appearance of Fairness Doctrine

Emily Miner, Assistant City Attorney



OGDEN
MURPHY
WALLACE
ATTORNEYS

Tukwila Planning Commission

Presentation Overview:

- Open Public Meetings Act (OPMA) Requirements
 - Chapter 42.30 RCW
- Public Records Act (PRA) Requirements/Retention
 - Chapter 42.56 RCW
- Appearance of Fairness Doctrine requirements
 - Chapter 42.36 RCW



Open Public Meetings Act (OPMA)

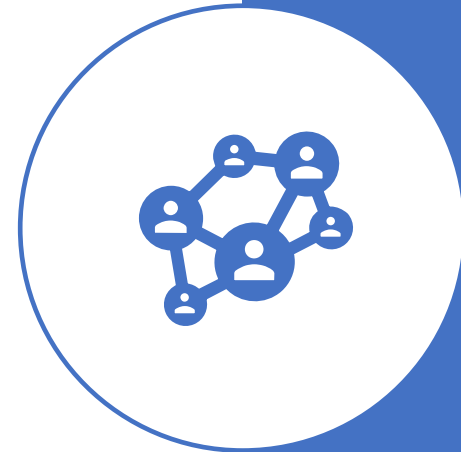
Chapter 42.30 RCW

Legislative Declaration

- “The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so they may retain control over the instruments they have created.”

Rules

- Meetings declared open and public.
- All Meetings of the Governing Body Shall be Open and Public – Gavel to Gavel
- All Persons Shall be Permitted to Attend any Meeting of the Governing Body, Except as Otherwise Provided by Law
- The Purpose of the OPMA is to Allow the Public to View the “Decision-making Process”



Open Meetings

Important Definitions:

- **Meetings** – All meetings under State Statute are considered Regular Meetings if codified at a regular date, place, and time. Any other meeting is considered a Special Meeting. **Meetings are considered to occur when a quorum of the Membership takes “Action.”**
- **Action** – Means the Transaction of Official Business
 - Public Testimony; All Deliberations; Discussions; Considerations; Reviews; Evaluations
 - Final Actions – the OPMA is in Effect Whether or Not “Final” Action is Taken



- Regular Business Meetings
- Study sessions, workshops, retreats, etc.
- Special Meetings
- Executive Sessions
- Attendance at Others' Meetings
- Attendance at Social Events
- Serial Meetings

Types of Meetings



Serial Meetings

- Serial meetings, or rolling meetings, occur when a quorum of councilmembers take “action” (which includes discussion) on city business.
- These would be covered by the OPMA.
- This can happen with emails, text messages, phone calls, in-person meetings, etc.
- A quorum of members does not need to be on the same email chain or phone call – successive discussions creating a “tree” would be inappropriate.
- The only way it is permissible is if one member emails the other members for the purpose of providing relevant information and those other members merely “passively receive” the information and no discussion follows either directly in response or in other communication lines



Open Meetings

Use of Social Media

- When conducting city business using social media, use disclaimers (or link)
- Clearly distinguish your personal view from official City / entire Commission position on a topic
- Avoid a quorum of the Commission discussing city business using the same social media platform or post



HB 1329 Updates to the OPMA

- Location of Meetings: all meetings of a governing body of a public agency be held in a physical location where the public can attend, with two exceptions.
- Remote Attendance by Members of the Governing Body: while the meeting must be held in a physical location and must allow the public to attend in-person (absent an emergency), any or all members of the governing body can choose to attend the in-person meeting remotely.
- Public Comment: offering the public the opportunity to comment at regular meetings of a governing body of a public agency where final action is taken is now a requirement.
 - RCW 32.30.020(3): “Final Action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.



Public Comment

- Public Meetings v. Public Hearings
 - **Public Meetings**: public comment only taken at or before regular meeting which final action is taken or is otherwise required by state law
 - **Public Hearings**: public comment taken before a significant decision is made in order to provide due process or when a specific statute or regulation requires one.
- Purpose: one-way communication for members of public to provide testimony to governing body on the record.

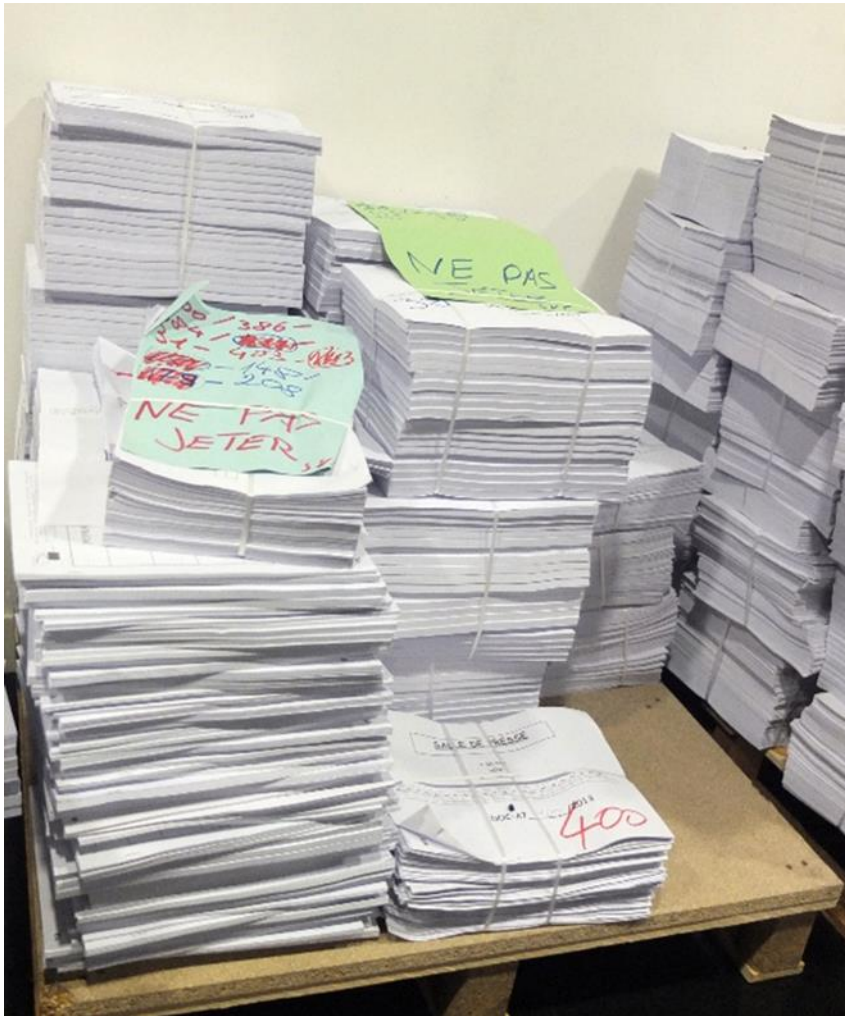


Public Records Act Chapter 42.56 RCW

- PRA is “a strongly worded mandate for broad disclosure of public records.” *Hearst v. Hoppe*, 90 Wn. 2d 123 (1978).
- Requires all agencies to disclose public records unless an exemption applies.
- Imposes fines for non-compliance.
- Act requires strict compliance



What does the PRA require agencies to do?



- Appoint a Public Records Officer
- Adopt rules of procedure that address production, proper keeping, and fullest and timely assistance in response
- Publish procedures describing certain agency organization, operations, rules, and other items listed in PRA
- Publish PRA fee schedules
- Provide for a review
- Procedure for any denial of records
- Publish information related to where requests must be submitted

What does the PRA apply to?

“AGENCY”

An “agency” is defined as all state agencies and all local agencies (and all their employees and appointed officials) in Washington. RCW 42.56.010(1).

“PUBLIC RECORD”

A “public record” is “any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form and characteristics.” RCW 42.56.010(3).

Searching and Providing Records

- Searches
 - Agency must conduct adequate search – consider all forms, all locations, all possible search terms, all possible forms of records
 - Search criteria; time taken to produce records, and areas searched must all be documented
- Installments
 - Records can and should be provided in installments if the request is very large or time-consuming



Statutory Exemptions



- Exemptions
 - Not all records, or parts of records, are disclosable – depends on the information contained in the record and if a legal exemption applies
 - Exemptions are narrowly construed
 - An Exemption Log must be prepared and given to requestor noting legal reason record/part of record was redacted
- Privacy:
 - There is no general “privacy” exemption in the PRA
 - Privacy is considered invaded only if (1) highly offensive to the reasonable person and (2) not of legitimate concern to the public



Duty to Preserve Records

Legal Penalties, Including Fines and Imprisonment

RCW 40.16.010 Injury to public record. Every person who shall willfully and unlawfully remove, alter, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office, or with any public officer, by authority of law, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both.



Enforcement and Penalties

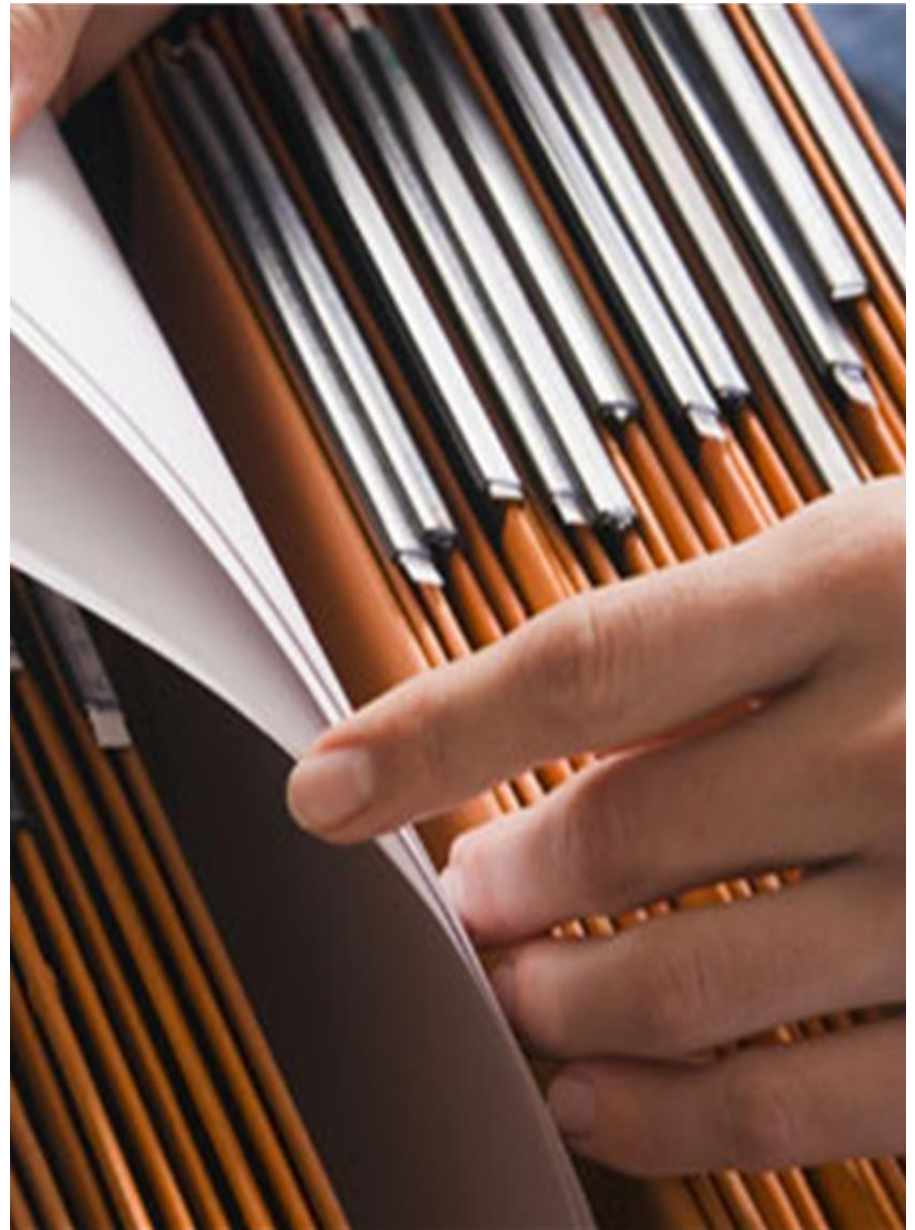
RCW 42.56.550(4) Judicial review of agency actions.



- Requestors – Awarded Attorney Fees
- Discretion of the court to award such person an amount not-to-exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

Records Retention

- Maintenance of Records:
<https://www.sos.wa.gov/archives/recordsmanagement/managing-city-records.aspx>
- Local Gov't Common Records Retention Schedule (CORE)
- Records in Native File Format
- Records Born Electronically
- As noted earlier, there can be criminal liability for willful destruction or alteration



Duty to Produce Records

- **Business Records (Public) vs. Personal Records (Private)**
 - When Creating a Record as a Member vs. as an Individual
 - Records Kept on City Equipment vs. Personal Equipment
 - Business Records Received or Sent Outside of City Resources
- **What Do You Need to Keep?**
 - Primary Records vs. Secondary Records
 - Cc'd Copies That You Do Not Proliferate as a New Record
 - Transitory Records – Have No Retention Value
 - What About Everything Else?
 - Commission Archive

Appearance of Fairness Doctrine: Chapter 42.36 RCW

Legal Standard

- Would a reasonable person
- Apprised of the totality of a member's personal interest or involvement
- Be reasonably justified in thinking
- That the involvement might affect the member's judgment?

Swift v. Island Co.,
87 Wn. 348 (1976)



Distinctions between Decisions

Legislative Decisions

- Prospective: Make Law to Achieve Broad Policy Objectives
- Set Direction and Policy; Dynamic Behavioral/Conduct Changes
- Limited Procedural Safeguards

Quasi-Judicial Decisions

- Retrospective: Conform Conduct to Existing Law
- Contested Case Setting with Identified Parties
- Procedural and Substantive Due Process Safeguards

Appearance of Fairness Doctrine

Applies to Quasi-judicial Actions

- Acting like a judge
- Making judicial-like decisions

Quasi-judicial Characteristics

- Retrospective
- Includes specific parties
- Applies existing law to facts and situations
- Determines rights, duties or privileges

Appearance of Fairness Doctrine

Rule: No *ex parte* contacts with opponents or proponents during pendency of quasi-judicial action

Remedy: (1) Disclose the substance of communication, (2) Offer an opportunity for rebuttal & objection

Consequences of AFD Violations:

- Action Taken Will be Void
- Civil Damages May be Available
- Abuse/misuse of authority
- Delay of decision/action

QUESTIONS?



New Requirements for Local Housing Planning

Updating your housing element

Shane Hope, AICP

POLICY SPECIALIST

CITY OF LAKEWOOD PLANNING COMMISSION MEETING - 10/5/2022



Washington State
Department of
Commerce

We strengthen communities



HOUSING
HOMELESSNESS



INFRASTRUCTURE AND
BROADBAND



SMALL BUSINESS
ASSISTANCE



ENERGY



PLANNING AND TECH
ASSISTANCE



COMMUNITY
SERVICES AND FACILITIES



CRIME VICTIMS AND
PUBLIC SAFETY



ECONOMIC
DEVELOPMENT

Why does the Growth Management Act exist?

The GMA was adopted in 1990 as a statewide planning framework to:

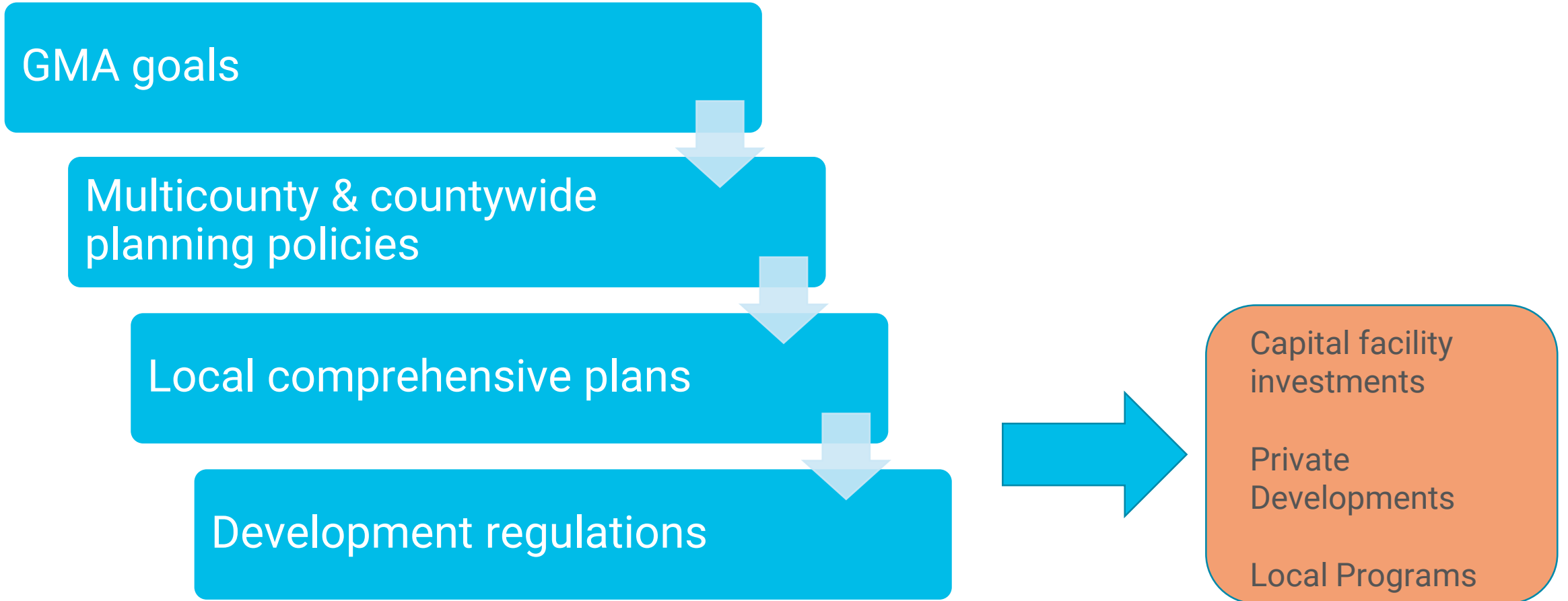
- Address uncoordinated development and urban sprawl
- Manage threats to the quality of life in Washington
- Require local planning, guided by state law, and regionally coordinated

State law: **RCW 36.70A**

Guidance statutes: **WAC 365-196**



Growth Management Act (GMA) framework for planning



Growth Management Act (GMA) requires that comprehensive plans and development regulations be updated every 10 years



2024 Due December 31st **2025** Due June 30th

2026 Due June 30th **2027** Due June 30th

★ Starred counties are partially planning

Required elements of a GMA comprehensive plan

Land Use: Land uses, stormwater planning, ground water, physical activity

Transportation: Inventory, assessment of current and future needs, bicycle and pedestrian component

Housing: Inventory of existing housing and projected needs; identifies sufficient land for all income levels and a variety of housing types

Utilities: Inventory, assessment of current and future needs, coordination between providers and land development

Capital Facilities: Inventory, assessment of current and future needs, coordination of planning affordability analysis of serving the land use plan

Rural (counties only): Define and protect rural character
RCW 36.70A.070 and WAC 365-196



Need for more robust housing planning

- From 2000-2015, Washington state fell over 225,000 homes short of meeting its housing needs*
- Shortage of housing is not unique; Oregon and California have taken recent steps to better plan for housing needs
- Disparities in housing in Washington:
 - Rates of cost-burden highest in communities of color (BIPOC)
 - The homeownership rate for households with people of color in Washington is 19 percentage points below that of non-Hispanic white households**
- In 2021, Washington adopted HB 1220 to direct communities to strengthen how they accommodate housing

*Source: UpForGrowth, 2020 **Source: Washington State Homeownership Disparities Work Group Report, 2022

HB 1220 (laws of 2021):
Changed RCW 36.70A.070 (2) The Housing Element

Changed GMA housing goal:

- “Plan for and accommodate ~~encourage the availability of affordable~~ housing affordable to all economic segments.”

Requires Commerce to provide projected housing need to local governments:

- For moderate, low, very low, and extremely low-income households
- For permanent supportive housing, emergency housing and emergency shelters (referred to as special housing needs)

HB 1220:

Changed RCW 36.70A.070 (2): The Housing Element

Local housing element to:

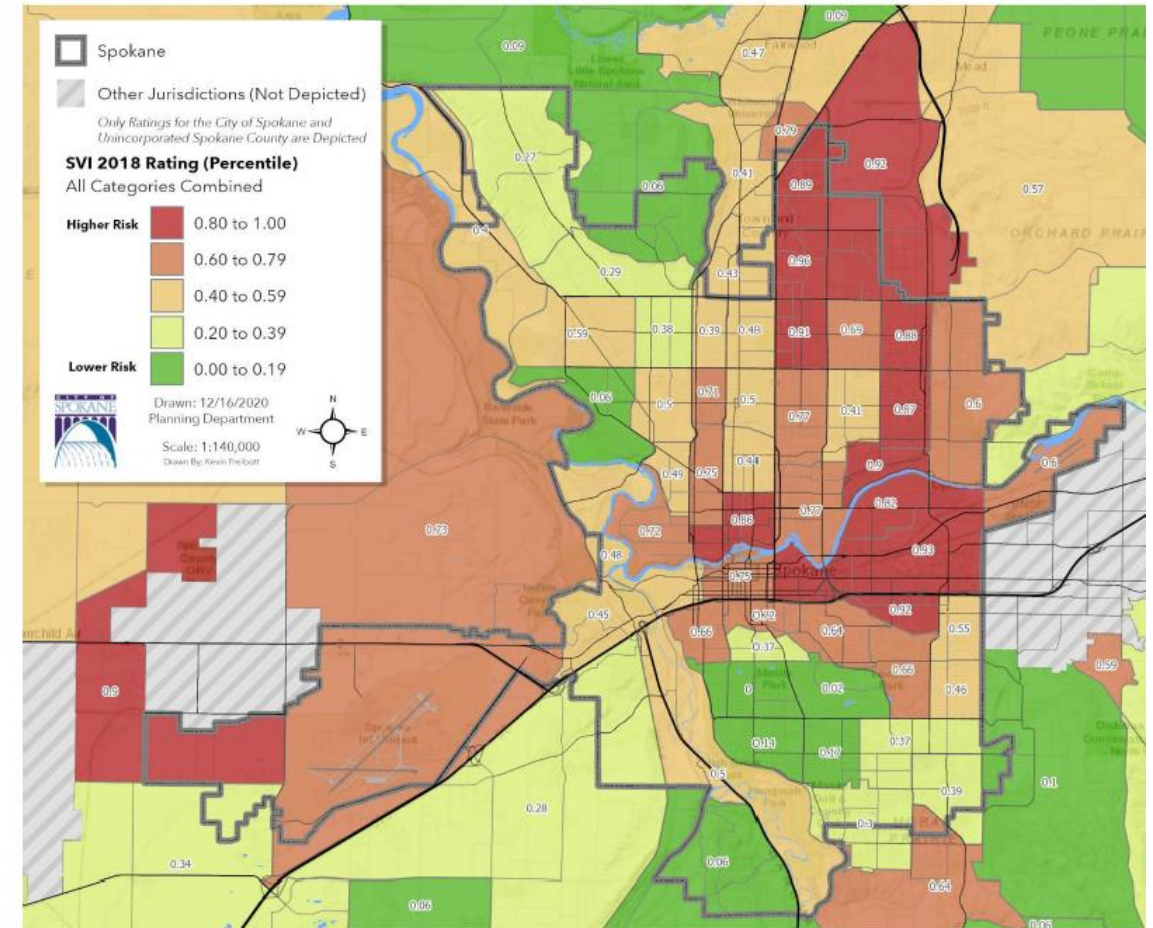
- Identify sufficient capacity of land for identified housing needs, including the number of units and types provided by Commerce
- Within urban growth areas (UGAs), provide moderate density housing options (such as townhomes, duplexes, and triplexes)
- Document barriers to housing availability, such as gaps in local funding, development regulations, etc.
- Make adequate provisions for housing needs for all economic segments, with consideration for:
 - Low, very low, extremely low, and moderate-income households
 - Housing locations in relation to employment locations
 - Role of accessory dwelling units (ADUs)

HB 1220: More changes...

Disparate impacts, displacement and exclusion

- Identify local policies and regulations (including zoning, disinvestment, and infrastructure availability) that result in racially disparate impacts, displacement, and exclusion in housing
- Begin to undo these impacts through policies and regulations
- Identify areas at higher risk of displacement and establish anti-displacement policies

Figure 5: Overall SVI Value, Combined Value for All Categories by Tract



Commerce has projected housing needs

1 million more homes needed statewide over next 20 years



King County

Population Target = 2,872,263

Affordability Level (% of Area Median Income)

	Total	0-30%		100-120%+					Emergency Housing/Shelter Beds
		Non-PSH	PSH	30-50%	50-80%	80-100%	120%	120%+	
Total Future Housing Needed (2044 (PSRC))	1,290,335	148,049	54,994	141,771	179,082	197,191	137,488	464,364	65,657
Baseline Housing Supply (2020)	960,951	32,115	6,266	91,505	155,214	181,009	119,133	375,709	8,330
Net New Housing Needed (2020-2044 (PSRC))	329,384	83,330	48,728	50,266	23,867	16,182	18,355	88,656	57,327

*PSH = permanent supportive housing

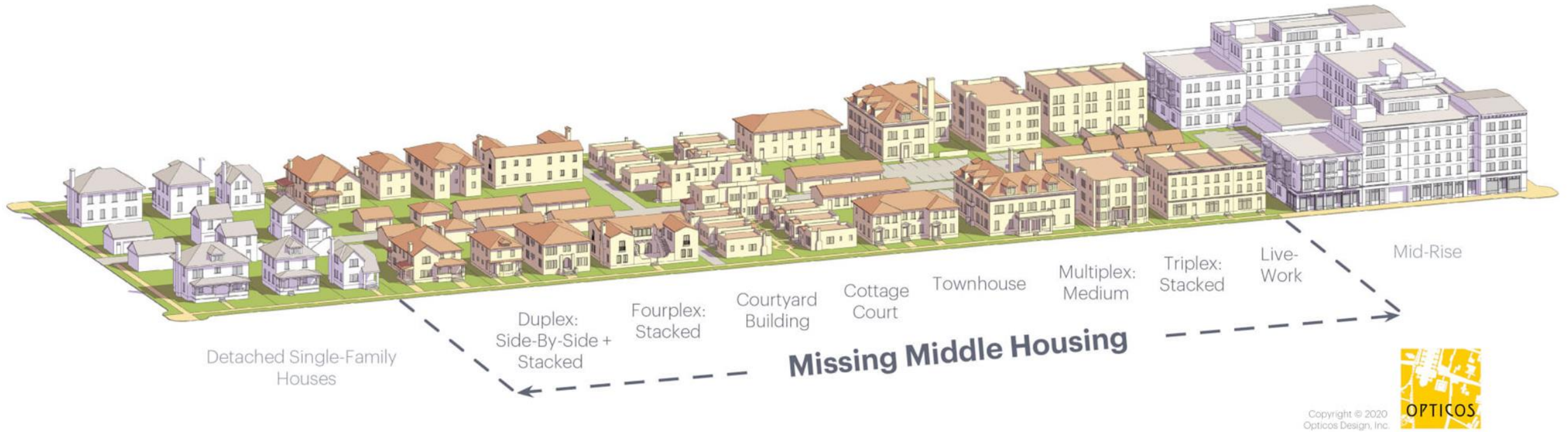
King County Area in 2021

- Area Median Household Income: \$110,556
- 30% = approximate \$33,167
- 50% = approximate \$55,225
- 80% = approximate \$88,445
- More and different types of housing will be needed.
- Housing for people with incomes below 50% AMI may only be possible with subsidies (from governments or non-profits).
 - City's role is to allow or encourage it, not necessarily to build it.
- Some types of market-rate housing may be able to serve households with incomes at moderate and higher incomes.

What housing options to consider?

- Mixed use areas with mix of multi-unit housing & commercial
- Opportunities for people with special needs (disabled, seniors, veterans, etc.)
- Opportunities for people with lower incomes
- ADUs (attached & detached)
- Small-scale “middle housing” mixed in with detached houses
- Other traditional & innovative ideas

So what is middle housing?



. . . and why is it sometimes called “missing”?

Local governments will allocate & plan for housing

Allocate countywide housing needs by income bracket

- Commerce will provide allocation tool and countywide housing needs
- Counties & cities should agree on housing needs allocation that sums to total countywide need

Plan for housing needs

- Review and update policies
- Review zoning assumptions and identify land capacity
- Make adjustments to zoning & any other regulations to have sufficient capacity for housing needs
- Review other regulations, fee structures, incentives, etc. which influence housing & identify actions to address barriers
- Authorize and use available local funding tools

2022

Joint Housing Opinion Survey



Puget Sound Regional Council



Washington State
Department of
Commerce

Housing costs and homelessness are the top two issues throughout Washington state

4,329 people surveyed across 12 counties in English, Chinese, Spanish, and Vietnamese

[Link to full survey report](#)



77% say rents are too high

75% say it costs too much to buy a home

83% say more reasonably priced housing is needed in their communities



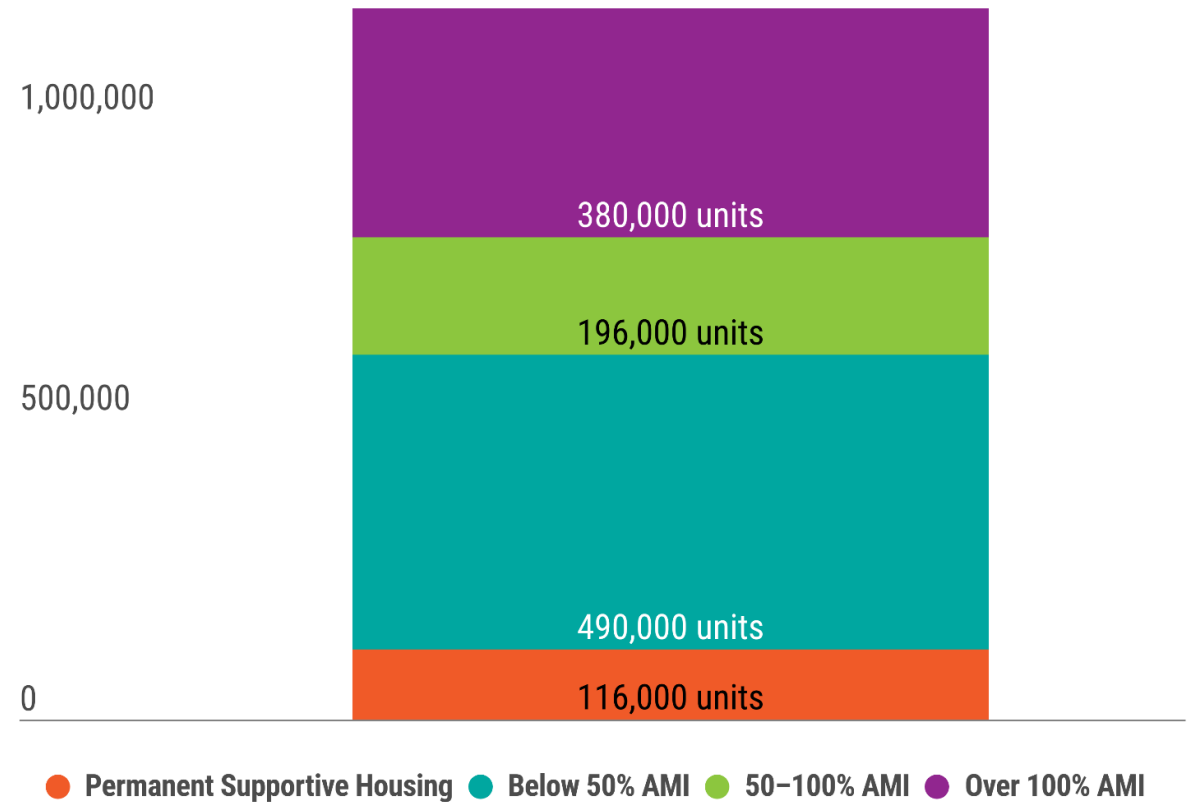
Respondents Want More Housing Options

78% say they want more housing options for seniors, teachers, firefighters, childcare workers, and health care workers

74% prefer most new housing to be in walkable neighborhoods

64% agree that their community needs more diverse and affordable types of housing

Commerce projects we need 1 million more homes needed by 2044



Strong Statewide Support for More Diverse Housing

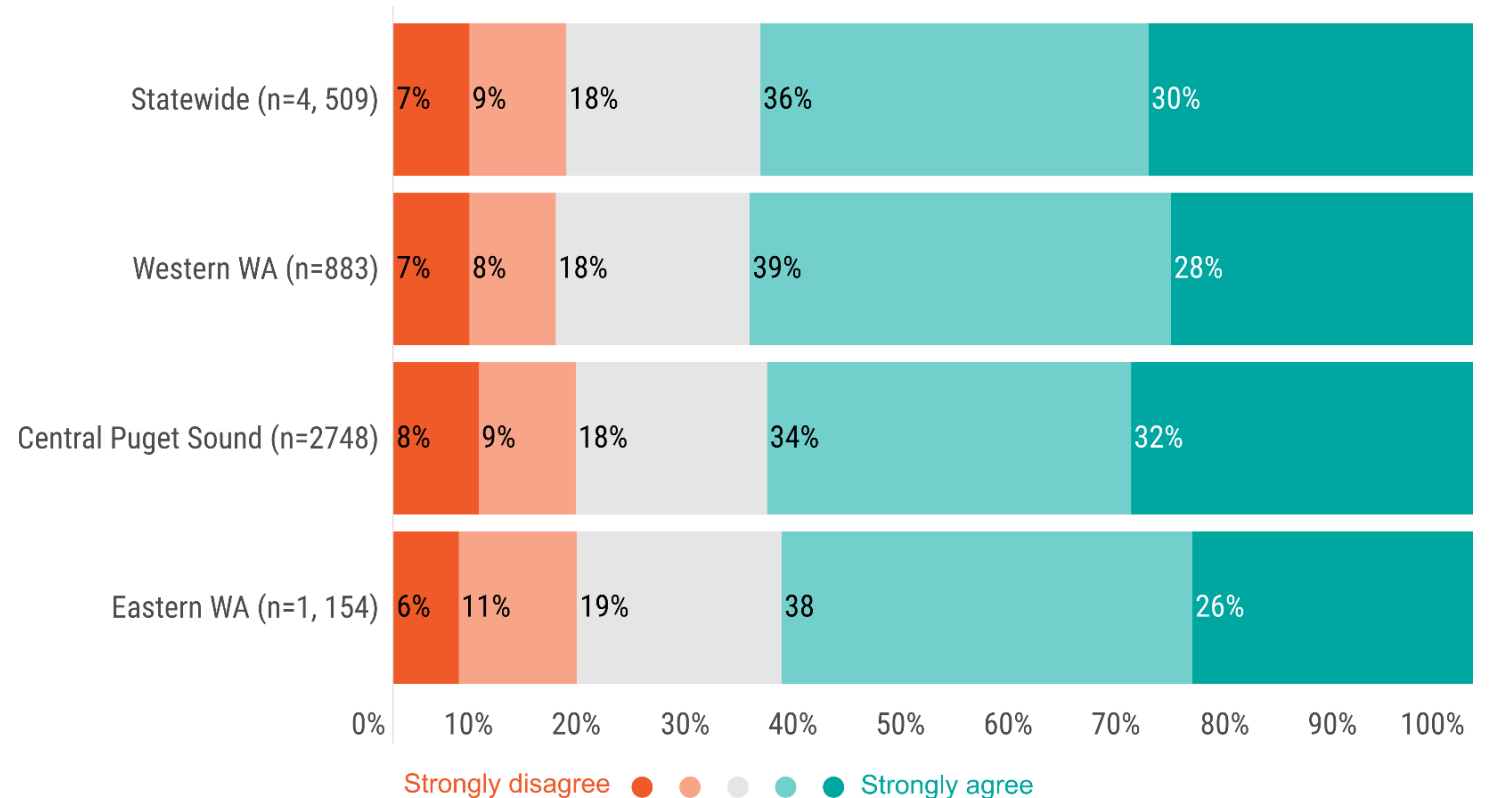
Communities need more diverse & affordable housing types, such as duplexes, cottages, courtyard apartments, townhomes and mixed developments.

66% Agree

Multi-family housing, like triplexes, should be allowed in single-family zones all standards the zone are met, such as heights, setbacks, and parking.

58% Agree

WASHINGTON STATE DEPARTMENT OF COMMERCE



Government Should Address Urgent Need to Tackle Housing Supply

Residents want government to do more

83% say government agencies should work together to address the need for housing

64% say government agencies should do more to provide housing not being delivered by the market



Statewide Interest in Investments to Support Quality Communities

Western WA	Central Puget Sound	Eastern WA
<ul style="list-style-type: none">• Infrastructure• Transit-oriented development• Access to schools, work, and resources• Affordable housing near jobs and transportation• Walkability• Open spaces	<ul style="list-style-type: none">• Walkability• Understand traffic and transportation needs• Quality of life	<ul style="list-style-type: none">• Infrastructure• More mass transit options• Focus on sustainability• Zoning includes rec spaces children• Walkability• Green spaces



Wrap-up

What is City's responsibility?

- Consider what is needed for comprehensive plan & development regulations to provide enough housing
- Consider whether incentives or other programs & partnerships can help
- Coordinate at regional level with King County & PSRC
- Get broad public input on needs & opportunities
- Consider what can be done to reduce past racial impacts
- Propose changes, as needed to comp plan & development regulations by December 2024

Commerce Assistance Specific to City of Tukwila

Grants:

- **Periodic Update grant**
- **HAPI grant**
- **Middle Housing grant (including outreach to community based organizations)**



Technical:

Peer meetings

Data for assessing racially disparate impacts



Commerce assistance

Grants:

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-grants/>

Main Housing Web Page (picture at right)

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/>

Growth Management: HB 1220 Guidance

www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/updating-gma-housing-elements/

Middle Housing Technical Team

New 3-person team (experienced directors) hired in 2022

Growth Management: Periodic Updates web page

www.commerce.wa.gov/serving-communities/growth-management/periodic-update/

Short Course on Local Planning

<https://www.commerce.wa.gov/serving-communities/growth-management/short-course/>

Planning for Housing



Jump to

[Updating GMA Housing Elements \(HB 1220\)](#)

[Multi-Family Housing Property Tax Exemption program](#)

[Housing EZView website](#)

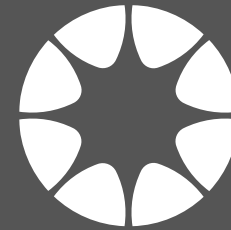
Upcoming assistance from Commerce

Including:

- Accessory dwellings guidance
- Land capacity guidance
- Guidance to reduce disparate impacts
- Photo Library (middle housing images)
- Middle housing toolkit of housing types & menu of standards that can be adjusted/adopted to update local development regulations



Questions?



Washington State
Department of
Commerce

<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/>

www.commerce.wa.gov



Dave Osaki

GROWTH MANAGEMENT SERVICES—MIDDLE HOUSING TEAM