



STAFF REPORT TO THE PLANNING COMMISSION Prepared January 14, 2025

HEARING DATE: January 23, 2025

FILE NUMBERS: L25-0001
E25-0002

APPLICANT: City of Tukwila

REQUEST: Code amendment proposal to amend regulations for phased binding site improvement plans

LOCATION: Policies apply throughout the City of Tukwila

NOTIFICATION: Hearing Notice was published in the Seattle Times on January 9, 2025, and posted on the City of Tukwila website on January 9, 2025.

SEPA DETERMINATION: An environmental determination will be issued prior to City Council consideration.

STAFF: Neil Tabor, AICP, Senior Planner

BACKGROUND

Binding Site Improvement Plans (BSIPs) are plans used to provide flexibility for sale of property within a larger development. These developments often rely on shared features within the larger site, such as parking, access points, landscaping, utilities, refuse collection areas, etc. As an alternative to the traditional subdivision process, these plans are typically used for commercial or industrial sites, however, they can also be used for residential and mixed use developments, which may desire to sell individual portions of land for building sites, while retaining shared common areas. BSIPs can also provide flexibility when combined with creating condominium ownership or phased development.

FINDINGS

Codified in TMC 17.16, BSIPs proposing to develop in phases are required to enter into a development agreement in addition to completing the BSIP. Staff believes this requirement is redundant to the BSIP process and existing requirements. Development agreements add cost to a project by adding several months of process time for review, analysis, legal consultants, contracting, and scheduling of a public hearing before City Council. This equates to months of unnecessary additional carrying costs for developers on what are generally large scale projects, in addition to permit fees. In addition to the

staff and City Council time exhausted, this process also creates uncertainty for the developer by changing the review from being entirely administrative, based on municipal code standards, to a legislative process before the City Council on a generally, technically complex topic. While there may be instances in which a development agreement may be desired by the developer due to project complexity, desire to vest certain permits, or other factors, this is unlikely to be the case with most proposed phased BSIPs.

SUMMARY OF PROPOSED CHANGES

The requirement for phased BSIPs to execute a development agreement is located in the Tukwila Municipal Code (TMC) 17.16.030(C) *Preliminary Binding Site Improvement Plan (BSIP) approval, Approval Criteria*.

Staff proposes removing the sole provision requiring the execution of a development agreement. References requiring consistency with approvals and options to apply conditions and limitations for phased BSIPs are already present in other sections of TMC 17.16 and throughout the TMC.

Language proposed for removal:

~~*Additional Approval Criteria for Phased Development:* If the applicant chooses to develop the property in a phased development, the applicant must execute a development agreement with the City pursuant to RCW 36.70B.170 if one is not already in place. This agreement shall govern, at a minimum, the use and development of the property subject to the BSIP, including:~~

- ~~_____ a. _____ vesting applicable to subsequent permits; _____~~
- ~~_____ b. _____ the manner in which each phase of the development will proceed to ensure that the roads and utilities necessary to serve each phase of the development are constructed prior to the development of each phase;~~
- ~~_____ c. _____ expiration of the agreement and all provisions therein.~~

Structure, formatting and other minor headings have also been edited in this section for consistency.

REQUESTED ACTION

Staff is requesting that the Planning Commission forward a recommendation for adoption of the draft code amendments to the City Council.

ATTACHMENTS

- A. TMC 17.16 Proposed Code Amendments (Redlined)

Attachment A

CHAPTER 17.16 DETAILED PROCEDURES FOR BINDING SITE IMPROVEMENT PLANS (BSIPS)

Sections:

17.16.010	Purpose
17.16.020	Applicability
17.16.030	Decision Process
17.16.040	Preliminary Applications
17.16.050	Expiration of Preliminary Approval
17.16.060	Final Applications
17.16.070	Improvements
17.16.080	Alterations and Vacations

17.16.010 Purpose

A. This chapter is established to:

1. Provide an optional process for land under single ownership to be divided for the purpose of sale or lease;
2. Accommodate the division of land for the purpose of sale or lease of property within an integrated commercial or industrial center, which allows certain zoning standards (minimum parking, setbacks, landscaping, lot area and lot dimension) on the individual lots to be modified provided the standards for the entire center are met;
3. Facilitate alternative ownership options by allowing BSIPs in conjunction with a condominium process for residential, commercial, or industrial purposes (RCW 64.34);
4. Allow phased infrastructure improvements for large tracts of land.

17.16.020 Applicability

A. **Eligibility:** A BSIP application may be submitted for a project located on any land zoned multi-family, commercial, or industrial, consistent with the terms of this chapter.

B. **Construction Authorization Through Other Permits:** A BSIP creates or alters existing lot lines. A BSIP does not authorize construction. Construction is permitted upon approval of construction and building permits that implement the BSIP.

17.16.030 Decision Process

A. Applications for BSIPs shall be processed as Type 2 decisions subject to the provisions of TMC 18.104.

17.16.040 Preliminary Applications

A. **Application Requirements:** Applications for preliminary BSIPs shall meet the permit submittal requirements found at TMC 18.104.060.

B. **Review Procedures:** Applications for preliminary BSIPs shall be reviewed in the same manner prescribed in TMC 17.12.030(B) for preliminary short subdivisions.

C. **Approval Criteria:**

1. Prior to approval of any BSIP, the Short Subdivision Committee shall ensure that the following improvements are provided to sufficiently service the anticipated uses throughout the proposed plan and the decision criteria that follow are met:

- a. Adequate water supply.
- b. Adequate sewage disposal.
- c. Appropriate storm drainage improvements.
- d. Adequate fire hydrants.
- e. Appropriate access to all anticipated uses within the plan.
- f. Provision for all appropriate deed, dedication, and/or easements.
- g. Monumentation of all exterior tract corners.

2. *Legal Lots:*

a. Residential BSIPs shall consist of one or more contiguous legally-created lots and each lot shall meet the minimum dimensional requirements of the applicable zone or overlay district.

b. If the site will contain commercial or industrial uses, or mixed-use commercial and residential uses, the lots shall meet the minimum dimensional requirements of the zoning district or meet the definition of "integrated site" in TMC 18.06, such that when taken as a whole and not considering interior lot lines, the integrated site meets all applicable zoning and subdivision requirements.

3. Appropriate easements and maintenance agreements for shared facilities, including but not limited to, circulation, parking, utilities and landscaping, have been provided.

4. Modifications to the minimum zoning standards for individual lots located within the integrated site -- including setbacks, parking, landscaping, lot area and lot dimension -- are not detrimental to the public health, safety and welfare, do not adversely affect the rest of the integrated site or other properties in the vicinity, and do not impede planned street, trail or pedestrian networks for the neighborhood or district.

5. Common improvements necessary to serve any particular phase of development must be sufficient for meeting the zoning and subdivision requirements for that phase.

6. Access to the integrated site meets the subdivision ordinance standards. Access within the site provides for safe and efficient circulation and meets Fire Department access requirements.

7. The circulation system incorporates appropriate provisions for safe pedestrian activity to the site from the street and from building to building within the site.

8. The sign regulations shall be applied to the integrated site as a whole. For example, the number of freestanding signs allowed is based on one (1) site within the BSIP. Individual ownerships within the integrated site are not considered to be separate sites in determining the number of freestanding signs allowed.

9. The requirements of the Washington State Building Code are met.

10. ~~Future Development:~~The BSIP shall contain a provision requiring that any subsequent development of the site shall be in conformance with the approved and recorded BSIP.

11. ~~Dedication Statement:~~Where lands are required or proposed for dedication, the applicant shall provide a dedication statement and acknowledgement on the BSIP.

~~12. The BSIP shall be consistent with any City approved master plans and development agreements.~~

~~C. 12. Additional Approval Criteria for BSIPs Proposing Condominium Ownership:~~ Condominium developments are eligible for BSIP approval when the purpose of such approval is to divide the property so a portion of the parcel or tract can be subjected to either RCW Chapter 64.32 or 64.34. A BSIP can only be approved when the development has already been constructed or when the approval has been obtained and a building permit for an entire development or a portion of a development is issued.

~~13. Additional Approval Criteria for Phased Development: If the applicant chooses to develop the property in a phased development, the applicant must execute a development agreement with the City pursuant to RCW 36.70B.170 if one is not already in place. This agreement shall govern, at a minimum, the use and development of the property subject to the BSIP, including:~~

~~a. vesting applicable to subsequent permits;~~

~~b. the manner in which each phase of the development will proceed to ensure that the roads and utilities necessary to serve each phase of the development are constructed prior to the development of each phase;~~

~~c. expiration of the agreement and all provisions therein.~~

~~14. Consistency: The BSIP shall be consistent with any City approved master plans and development agreements.~~

17.16.050 Expiration of Preliminary Approval

A. If the BSIP is not recorded within three (3) years of the date of the preliminary BSIP, the BSIP shall become null and void. Upon written request by the applicant prior to the expiration date, the Short Subdivision Committee may grant one (1) extension of not more than one (1) year.

B. Where all conditions of approval of the BSIP have been satisfied, and all required documents have been submitted within the three (3) year filing period, the Director may grant a single extension of up to one hundred eighty (180) days for the processing and recording of the final BSIP.

17.16.060 Final Applications

A. **Application Requirements:** Applications for final BSIPs shall meet the permit requirements found at TMC 18.104.060.

B. **Final Approval Review Procedures:**

1. The Short Subdivision Committee may grant final approval of the BSIP when they find that the survey, plan and other documents for recording are consistent with the preliminary approval. No formal meeting of the Committee is required so long as the Chair obtains the recommendations and consent of the other members of the Committee before issuing a decision.

2. Upon final approval of the BSIP, the applicant shall record the plat and all other relevant documents with the King County Department of Executive Services. The applicant is responsible for paying the recording fee(s). Upon completion of recording, the applicant shall provide the Department with a copy of the recorded documents. The BSIP shall not be considered final until these documents have been provided to the Department.

C. **Binding Effect:** Approved BSIPs shall be binding and shall be enforceable by the City. All provisions, conditions and requirements of the BSIP shall be legally enforceable on the purchaser or on any person acquiring a lease or other ownership interest of any lot, tract, or parcel created pursuant to the BSIP.

17.16.070 Improvements

A. **Improvements:** The following requirements shall be met for each BSIP prior to the issuance of a building permit for construction within a BSIP.

1. *Improvements Required:* Consistent with TMC 17.20, and subject to any applicable development agreement, the following tangible improvements shall be provided, either by actual construction or a construction schedule approved by the City and bonded by the applicant, before a BSIP may be recorded:

- a. grading and paving of streets and alleys;
- b. installation of curbs, gutters, sidewalks, monuments, sanitary and storm sewers, street lights, water mains and street name signs; together with all related appurtenances to the specifications and standards of this code, approved by the Short Subdivision Committee, and in accordance with other standards of the City.

A separate construction permit will be required for any such improvements, along with associated engineering plans prepared per the City Drafting Standards.

2. *Modifications:* Proposals that contain commercial uses, industrial uses, or mixed-uses (commercial and residential), and that meet the definition of “integrated site” in TMC 18.06, are not required to submit a modification request.

B. **Phasing of Improvements:** To satisfy improvement requirements, the Short Subdivision Committee is authorized to impose conditions and limitations on the BSIP. If the Short Subdivision Committee determines that any delay in satisfying requirements will

not adversely impact the public health, safety or welfare, the Committee may allow requirements to be satisfied prior to:

1. Issuing the first building permit for the site; or
2. Prior to issuing the first building permit for any phase; or
3. Prior to issuing a specific building's certificate of occupancy; or
4. In accordance with an approved phasing plan; or
5. In accordance with plans established by a development agreement or as otherwise permitted or required by the TMC.

17.16.070 Alterations and Vacations

A. **Alteration:** Alteration of an approved BSIP, excluding standard easements for utilities and lot line adjustments, shall be accomplished following the same procedures required for a new BSIP application as set forth in this chapter; provided, that only owners of lots within the BSIP that are directly affected by the proposed alteration shall be required to authorize application for the alteration. If a property subject to a BSIP approval is the subject of a development agreement, the alteration of the approved BSIP shall not require an amendment to the development agreement or approval by the City Council and, after approval and recording, shall automatically be incorporated within the development agreement unless otherwise provided in the development agreement.

B. **Vacation:** Vacation of a recorded BSIP shall be accomplished by following the same procedures required for a new BSIP application as set forth in this chapter. If a portion of a BSIP is vacated, the property subject to the vacation shall constitute one lot, and the balance of the approved BSIP shall remain as approved. Any non-conformities created by such a vacation must be remedied prior to final approval of the vacation. If a BSIP property subject to a BSIP approval is the subject of a development agreement, the vacation of the approved BSIP, whether total or partial, shall not require an amendment to the development agreement or approval by the City Council and, after approval and recording shall automatically be incorporated within the development agreement unless otherwise provided in the development agreement.