



INFORMATIONAL MEMORANDUM

TO: Planning and Community Development Committee

CC: Mayor Thomas McLeod

FROM: Nora Gierloff, AICP, DCD Director

BY: Neil Tabor, AICP, Senior Planner

DATE: March 4, 2025

SUBJECT: Proposal to amend regulations for phased binding site improvement plans

ISSUE

The proposed code amendment would streamline the process for Binding Site Improvement Plans.

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. Phased BSIPs refer to developments that plan to develop in multiple stages, staggering certain site improvements over multiple phases.

The City's regulations currently require that phased BSIPs also execute a development agreement, or contract between the City and developer, in all proposed phased BSIPs. Staff has found that this requirement is redundant to other phased BSIP requirements, burdensome to both City and developer time and resources, and generally out of step with standards of other comparable jurisdictions.

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. 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, a desire to vest certain permits, or other factors, this is unlikely to be the case with most proposed phased BSIPs.

PLANNING COMMISSION RECOMMENDATION

A public hearing on the code amendment L25-0001 was held at the January 23rd, 2025, Planning Commission meeting. Commissioners passed a motion to recommend that the City Council adopt the code amendments without modifications.

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:

TMC 17.16.040(C)

~~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.~~

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

ANALYSIS

Staff Report Criteria

TMC 18.82.030 requires that staff reports for proposed amendments to development regulations address the five listed criteria in this section. As criteria pertain to both privately initiated code amendment applications and those proposed by staff, some criteria may not be as relevant for all code amendment proposals. Criteria and staff responses are listed below.

1. *An evaluation of the application materials;*

Staff Response: Not applicable.

2. *Impact upon the Tukwila Comprehensive Plan and Zoning Code;*

Staff Response: The proposed code amendment is consistent with the comprehensive plan and does not require an amendment to the comprehensive plan. The proposed amendment to the zoning code intends to streamline the phased binding site improvement plan process and remove unnecessary requirements.

3. *Impact upon surrounding properties, if applicable;*

Staff Response: Not applicable.

4. *Alternatives to the proposed amendment; and*

Staff Response: If the proposed amendment were not adopted, any development proposing a phased binding site improvement plan would still be required to execute a development agreement in addition to the phased binding site improvement plan. Staff discussed the possibility of introducing other additional requirements with the removal of the development agreement requirement, but found other code sections within Title 17 to be sufficient to ensure that phased BSIPs would meet the conditions required of later phases of development.

The concept of requiring a development agreement for phased BSIPs that surpass a specified threshold based on project size or other factors was discussed at Planning Commission. However, due to the variety of projects that may apply for a phased BSIP, the potential use of a relatively arbitrary threshold value, the overall lack of value to the City, and additional time, expense, and inconvenience for the developer to execute a development agreement, staff did not feel that requiring execution of a development agreement for projects meeting a specific threshold was of benefit to the City, the project, or the developer.

In the draft ordinance proposed, developers would retain the ability to pursue a development agreement in conjunction with a phased BSIP, if so desired.

5. *Appropriate code citations and other relevant documents.*

Staff Response: Existing code within TMC Chapter 17.16 *Detailed Procedures For Binding Site Improvement Plans (BSIPs)* provide staff with adequate ability to enforce phased binding site improvement plans and include additional relevant conditions and limitations without the need to do so through a development agreement. Relevant sections of code are copied below.

TMC 17.16.060(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.*

TMC 17.16.070(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.*

Decision Criteria

TMC 18.82.020, *Decision Criteria* provides criteria for the final City Council decision on proposed code amendments.

Decision criteria are as follows:

- 1. Is the amendment consistent with the Comprehensive Plan?*
- 2. Does the amendment meet at least one of the following criteria:*
 - a. Eliminates conflicts between TMC and the Comprehensive Plan; or*
 - b. Accomplishes policy directives of the Council or Administration; or*
 - c. Corrects an error or errors in the TMC.*

FINANCIAL IMPACT

No direct costs to the City are expected from this code amendment.

RECOMMENDATION

The Council is being asked to approve the ordinance and consider this item at the March 10, 2025 Committee of the Whole and subsequent March 17, 2025 Regular meeting.

ATTACHMENTS

- A. Ordinance
- B. TMC 17.16.040 Proposed Code Amendments (Redlined)
- C. Written public comment received ahead of 1/23/2025 Public Hearing
- D. Minutes from 1/23/2025 Planning Commission Public Hearing
- E. Staff Report from 1/23/2025 Public Hearing

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING ORDINANCE NO. 2740 §3 (PART), AS CODIFIED AT TUKWILA MUNICIPAL CODE (TMC) SECTION 17.16.040, "PRELIMINARY APPLICATIONS," TO REMOVE LANGUAGE REQUIRING PHASED BINDING SITE IMPROVEMENT PLANS TO EXECUTE DEVELOPMENT AGREEMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Title 17 of the Tukwila Municipal Code establishes procedures for binding site improvement plans and the City desires these procedures to be consistent with the provisions of state law, as per RCW 58.17.035; and

WHEREAS, the City desires to eliminate unnecessary development regulations; and

WHEREAS, the requirement for all phased binding site improvement plans to execute a development agreement was identified as redundant to existing regulations within TMC Title 17; and

WHEREAS, on January 23, 2025, the Tukwila Planning Commission, following adequate public notice, held a public hearing to receive testimony concerning amending the Tukwila Municipal Code and at that meeting adopted a motion recommending the proposed changes as set forth herein; and

WHEREAS, on January 24, 2025, the City's State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Non-Significance on the proposed amendments; and

WHEREAS, the Tukwila City Council finds that the amendments set forth herein in the best interest of the public's health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Adoption of Findings of Fact. The City Council finds as follows:

A. The above recitals, set forth as “WHEREAS” clauses, are hereby adopted as Findings of Fact in support of the adoption of this ordinance.

B. The amendments that are established below comply with the requirements of the Washington State Growth Management Act and the Tukwila Municipal Code.

Section 2. Ordinance No. 2740 §3 (part), as codified at TMC Section 17.16.040, “Preliminary Applications,” **subparagraph C**, is hereby amended to read as follows:

17.16.040 Preliminary Applications

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.

D. ~~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.~~

Section 3. Corrections by City Clerk or Code Reviser Authorized. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other

local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 5. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2025.

ATTEST/AUTHENTICATED:

Andy Youn-Barnett, CMC, City Clerk

Thomas McLeod, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

Office of the City Attorney

**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.



DATE: January 21, 2025

TO: Tukwila Planning Commission
c/o Nora Gierloff, Director of Community Development
Neil Tabor, AICP, Senior Planner

DELIVERY: email only to: Nora.Gierloff@TukwilaWA.gov
Neil.Tabor@TukwilaWA.gov
Planning@TukwilaWA.gov

FROM: Sam Pace, Housing Specialist
Seattle King County REALTORS®
Sam@SamPace.com
(253) 569-2663

RE: **Planning Commission Public Hearing re: File Numbers: L25-0001 & E25-0002;
Proposal to Amend Regulations for Phased Binding Site Improvement Plans**

Dear Commissioners, Director Gierloff and Senior Planner Tabor,

I am writing to you on behalf of our 6,000+ members of Seattle King County REALTORS® to provide public hearing comments (of record) in connection with the Planning Commission's *Public Hearing* scheduled for January 23th regarding the City of Tukwila staff proposal to amend regulations for *Phased Binding Site Improvement Plans*.

It is our understanding that:

- Tukwila's city code currently provides:
 - Applicants proposing to develop a project as a Binding Site Improvement Plan, or BSIP, are required by section 17.16.030(C) of Tukwila's Municipal Code to:
 - (a) enter into a *Development Agreement*, and
 - (b) also complete the *Binding Site Improvement Plan*

City staff have identified (in our view, correctly) that these requirements are duplicative, and there are numerous reasons that correcting the situation would be well-advised.
- The proposal before the Planning Commission for public hearing on January 23rd:
 - Would remove the sole provision in the Tukwila Municipal Code (TMC) requiring the execution of a Development Agreement when there is a BSIP,

- Would not compromise, or dilute, existing development standards - because the substantive requirements of development agreements are already present, both in Chapter 17.16, and elsewhere in city code,
 - Would require that a Binding Site Improvement Plan be consistent with any City-approved master plans and development agreements; and
 - Would be applied city-wide if approved by the City Council.
- No Environmental Determination has yet been issued, but one is anticipated prior to City Council action on the proposal, if the Planning Commission supports moving forward.

We believe Neil Tabor has done a capable job of explaining that BSIPs can provide flexibility to accommodate a sale of property. We would add to his observation by noting that sometimes such sales are necessary to facilitate obtaining the financing that is required to make it possible to finish building-out a development.

As Mr. Tabor notes,

*“...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.”*

(Bold emphasis was added by the REALTORS®)

We want to focus-in on the fact that (even though the BSIPs are typically used for large commercial and industrial projects), the issue before the Planning Commission in this public hearing is also important for housing.

Over time, housing legislation passed in 2023 - including HB 1110 (Middle Housing) and HB 1337 (Accessory Dwelling Units) - will result in more dwelling units within cities. But most of that housing will be rentals, and will not likely provide many homeownership opportunities, absent additional changes to state law.

More homeownership opportunities not only benefit would-be homebuyers, they also help renters by reducing the competition for rental units (by getting would-be homebuyers out of the rental market), and they create additional opportunities for historically disadvantaged households to access the single most important opportunity to create inter-generational wealth, which is ownership of residential real estate.

One of the reasons those Middle Housing and Accessory Dwelling Units are likely to be mostly rentals is straightforward:

- The “*amount of housing that gets built – even if it’s Middle Housing or ADUs*” is a different issue than “*whether the housing is rentals or ownership units.*”
- For a builder to create an “home ownership opportunity,” the builder must be able to divide legal title to the property in a way that allows a buyer to “own” a unit, not just “rent” it. This is the case regardless what kind of dwelling unit gets built (single family, duplex, triplex, 4-plex, townhome, etc.).
- The two major ways for a developer to divide legal title to the land (in a way that has the potential to create homeownership opportunities, rather than just rentals) are:
 1. Platting of subdivisions (or short-subdivisions, aka short-plats), or
 2. Creation of a condominium, including a preparing and recording a Declaration of Condominium and Plan, state-mandated Public Offering Statements, etc.

Most folks tend to think of condominiums as a “product type.”

However, a condominium is really a “form of ownership” not a type of housing unit - which is why slips at marinas, aviation hangars, storage units, etc. can all be condominiums, even though they do not involve any housing.

Both platting and condominiums are expensive, time-consuming processes that make it difficult to increase home ownership opportunities in the city. We believe that Binding Site Improvement Plans/Agreements can serve two important purposes:

First, we believe they have the potential to evolve into an especially important alternative to traditional platting and condominiums.

Second, we believe they hold the promise of achieving more timely reviews, and at less cost, than platting or condominiums - importantly, without sacrificing substantive environmental, health and safety concerns.

But the potential and promise of Binding Site Improvement Plans/Agreements remains compromised if we unduly-burden the BSIP process with a requirement for an additional, duplicative, “Development Agreement.”

In our view, Tukwila city staff have correctly discerned that the additional requirement for a duplicative “Development Agreement” results in:

- several months of delay (for review, analysis, processing time, scheduling and completing a public hearing before the City Council, seeking and issuing required permits, etc.)
- unnecessary added costs to a project (for additional permit fees, legal consultants, interest “carrying costs” on project operating/construction debt, etc.)
- a lack of predictability for the applicant, which can translate into higher financing costs (especially if lenders charge a “risk premium” due to lack of certainty regarding when/if the lender will be repaid). In the worst case, it may result in a desirable project not getting

built because of concerns about whether the project can be completed in time for it “to pencil” for the developer, and the developer’s lender.

In our view, Mr. Tabor is correct that a major reason for concern about the lack of predictability results from the fact that the BSIP process involves an administrative review of complex topics based on municipal code standards. The application of those objective standards in a technical administrative review helps to provide predictability.

However, when the Development Agreement process is added to the mix, it changes the review from being entirely administrative, to a process before the City Council.

The costs and operational impacts of a duplicative and unnecessary Development Agreement requirement do not fall solely on project applicants. They also impact city staff (at a time when obtaining/retaining qualified planning, development and public works professionals is a significant challenge for cities). Stated simply: Having an additional requirement for a Development Agreement also impacts the time of staff and City Council, with little benefit, if any, for the city, or its stakeholders.

For these reasons:

- We support the staff recommendation to eliminate the duplicative and unnecessary requirement for a Development Agreement when there is a Binding Site Improvement Plan, and
- We want to express our appreciation for the City taking the initiative to bring this recommendation forward to the Planning Commission. There is no magic wand for wringing unnecessary and unproductive costs out of the development-review process. It is a long series of sometimes tedious small steps. But, cumulatively, over time, they can reform our permitting processes in ways that improve the likelihood cities will not only “accommodate” housing consistent with RCW 36.70A.020(4), but do so in a way that makes housing affordable for “all economic segments” of the population.

Thank you for the opportunity provide these public hearing comments of record.
Please do not hesitate to let me know if you have any questions, comments, or concerns.

Sincerely,
SEATTLE KING COUNTY REALTORS®

Sam Pace

Sam Pace, Housing Specialist

Sam@SamPace.com ♦ (253) 569-2663

cc: Taylor Shanaman, Director of Governmental & Public Affairs



CITY OF TUKWILA PLANNING COMMISSION (PC) MINUTES

Date: January 23, 2025
Time: 6:30 p.m.
Location: Hybrid Meeting - via Microsoft Teams / Public, In-Person Attendance,
Council Chambers, 6200 Southcenter Blvd., Tukwila, WA 98188

I. **Call to Order**

Chair Probst called the Tukwila PC meeting to order at 6:35 p.m.

II. **Roll Call**

The PC Secretary took roll call.

Present: Chair Martin Probst; Vice Chair Ann Durant; Commissioners Louise Strander, Alex Kaehler, Richard McLeland Wieser, and Jacob Halverson

Excused Absence: Commissioner Jane Ho

Staff: Director Nora Gierloff, American Institute of Certified Planners (AICP), Department of Community Development (DCD); Long Range Planning Manager Nancy Eklund, AICP, DCD; Development Supervisor Max Baker, AICP, DCD; Senior Planner Neil Tabor, AICP, DCD; and PC Secretary Wynetta Bivens, DCD

III. **Amendment of the Agenda**

No changes to the agenda were requested.

IV. **Approval of Minutes**

Commissioner Halverson moved to adopt the 12/12/24 Minutes. Commissioner Durant seconded the motion. Commissioner Kaehler recused himself due to absence. Motion carried.

V. **Written General Public Comments**

No submittals.

VI. **Old Business**

None

VII. New Business

PUBLIC HEARING

1. Shelter, Transitional, Emergency, Permanent (STEP) Housing Changes

FILE NUMBER: L24-0026, E25-0001
PURPOSE: Code amendment to comply with state law.
LOCATION: Non-Project Action/Citywide

Senior Planner Neil Tabor gave the presentation for staff. He provided background on STEP Housing and the purpose of the public hearing. He said that legislature narrowed restrictions for the STEP Housing types, which resulted in the allocation of certain housing targets. The City of Tukwila previously adopted code amendments to recognize the STEP Housing types. In 2021, the State legislature passed HB 1220 which sets requirements for STEP Housing. The following housing types are not included:

- Temporary Encampments
- Tiny Home Villages
- Group Homes
- Oxford Homes/Recovery Residence
- Assisted Living Facility
- Adult Family Homes
- Senior Living
- Traditional Income-Restricted Housing

Staff noted that the State, Puget Sound Regional Council, and Countywide King County each commented that the city's current development regulations do not meet requirements. Staff went over the proposed standards and walked through the STEP housing requirements in which the City of Tukwila is not in compliance.

To meet state law requirements and provide capacity to site the city's allotted amount of STEP Housing, while maintaining reasonable occupancy and spacing requirements, staff propose to amend TMC 18.50.250, 18.50.260 and Table 18-2 *Tukwila Urban Center (TUC) Land Uses Allowed by District*

Staff addressed clarifying questions from the PC.

Recommendation

Staff are requesting that the Planning Commission forward a recommendation for adoption of the draft code amendments to the City Council (CC) for their review.

Public Hearing

Chair Probst opened the public hearing.

Staff noted that there were no public hearing comments letters received.

There was no public testimony.

Chair Probst closed the public hearing.

Deliberations/Motion

There was no deliberation.

Commissioner Halverson moved to adopt the staff's recommendation and forward them to the CC for their review. Commissioner Durant seconded the motion. Motion carried.

PUBLIC HEARING

2. Phased Binding Site Improvement Plans (BSIP)

FILE NUMBER: L25-0001, E25-0002
PURPOSE: Code amendment to remove development agreement requirement.
LOCATION: Non-Project Action/Citywide

Senior Planner Neil Tabor gave the presentation for staff. He provided background on the proposed. 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. Phased BSIPs improvement plans and proposals to develop in phases are required to enter into a development agreement in addition to completing the BSIP.

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

Staff proposed removing the sole provision requiring the execution of a development agreement with phased BSIPs. 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.

Staff addressed clarifying questions from the PC.

Recommendation

Staff are requesting that the Planning Commission forward a recommendation for the adoption of the draft code amendments to the CC for their review.

Public Hearing

A public hearing comment letter was received from Sam Pace, Housing Specialist. Seattle King County REALTORS, on January 22, 2025, which was distributed to the PC on January 22, 2025.

Chair Probst opened the public hearing.

There was no public testimony.

Chair Probst closed the public hearing.

Deliberations/Motion

There was no deliberation.

Commissioner Durant moved to adopt the staff's recommendations and forward it to the CC for their review. Commissioner McLeland Wieser seconded the motion. Motion carried.

PUBLIC HEARING

3. Townhouses in the TUC

FILE NUMBER: L25-0003, E25-0004
PURPOSE: Code amendment to update residential allowances.
LOCATION: Non-Project Action/Citywide

Senior Planner Neil Tabor gave the presentation for staff. He provided background on the proposed. He stated this item is on townhouse allowances in the TUC, which is a regional center designated with the Puget Sound Regional Council for future growth, capitalizing on transit infrastructure to reduce car dependency. This center designation under the Regional Growth Strategy makes this area eligible for additional funding that helps them transition into denser, transit-oriented development over time. It covers Pierce, Snohomish, King, and Kitsap Counties. Within these counties, centers can be designated where high capacity transit exists, encouraging the greater use of public transportation.

Part of the requirement for a center is that it plans for a minimum of 45 "activity units" per acre.

Staff proposes removing townhouses from the list of allowed dwelling types in table 18-2, affecting the TUC Regional Center, Transit Oriented Development, Pond and portions of the Work Place Zoning Districts.

Staff are requesting that the PC forward a recommendation for the adoption of the proposed redlined language to the CC for their further review and adoption.

Staff addressed clarifying questions from the PC.

Commissioner Halverson stated that he would propose an amendment, stating he is against removing townhomes from the use in the TUC.

Commissioner Durant stated it was mentioned in the staff background report that regional growth strategy designation makes the area eligible for additional funding. She asked if townhomes are not stricken and allow zoning that wouldn't meet the 45 activity units whether the City of Tukwila would be ineligible for the funding or would it be less accessible to the city. She said the change makes sense to her. Mr. Tabor stated individual use allowances would be unlikely to eliminate funding eligibility, but regulations should be consistent with goals for the center.

Commissioner Halverson inquired whether there is any concept to build small townhouse-style residential.

Staff said they identified this as something that is inconsistent with the overall goals, which is why they are proposing it.

Staff proposes removing townhouses from the list of allowed dwelling types in table 18-2, affecting the Tukwila Urban Center (TUC) Regional Center, Transit Oriented Development, Pond and portions of the Work Place Zoning Districts.

There was extensive discussion around this subject.

Recommendation

Staff are requesting that the Planning Commission forward a recommendation for the adoption of the draft code amendments to the CC for their review.

Public Hearing

Chair Probst opened the public hearing

Staff noted that there were no public hearing comments letters received.

There was no public testimony

Chair Probst closed the public hearing

Deliberations/Motion

There was no deliberation.

Commissioner Halverson moved to amend staff's recommendation, to change townhomes to an accessory use in the Tukwila Urban Center instead of striking them. Commissioner Strander seconded the motion. There was a split decision.

Commissioner Halverson moved to forward the split recommendation to the CC for their review. Commissioner Strander seconded the motion. Motion carried.

Staff asked for clarification on how the PC would like to format the suggested amendment to change Townhouses to an accessory use. The PC deferred the decision to staff.

PUBLIC HEARING

4. Residential Conversions

FILE NUMBER: L25-0002, E25-0003
PURPOSE: Code amendment to comply with changes in state law.
LOCATION: Non-Project Action

Senior Planner Neil Tabor gave the presentation for staff. He provided background on the proposed amendment. He stated that in the 2023 legislative session, HB 1042 passed and broadened allowances for conversions of non-residential to residential spaces. Per the Municipal Research and Services Center (MRSC) he went over several of the key provisions of the requirements. He said the intent with this code amendment is to provide consistency with the state law. Also, to provide future allowances that the city can still maintain ground floor commercial space that is required in new use development and identified areas.

In the interest in preserving the ability to maintain ground floor commercial space staff propose to adopt a major pedestrian corridor along Tukwila International Boulevard (TIB).

Staff proposed adopting a new code section within the Tukwila Municipal Code (TMC). TMC 18.50.230 for Residential Conversion.

Staff addressed clarifying questions from the PC.

Recommendation

Staff are requesting that the Planning Commission forward a recommendation for the adoption of the draft code amendments to the CC for their review.

Public Hearing

Chair Probst opened the public hearing.

Staff noted that there were no public hearing comments letters received.

There was no public testimony.

Chair Probst closed the public hearing.

Deliberations/Motion

There was no deliberation.

Commissioner McLeland Wieser moved to adopt staff's recommendations to adopt the draft code amendments and forward them to the PC for their review. Commissioner Durant seconded the motion. Commissioner Halverson abstained. Motion carried.

VIII. Director's Report

Coming up: (may meet more than once a month some months)

- February - Additional Middle Housing (MH) presentation and discussion. Review of mapping and density standards. Intro to design and road standards.
- March - Public Hearing #1 on MH, focusing on general development regulations and consistency.
- April - Public Hearing #2 on MH focusing on objective design standards and road standards.
- Move the full package to the City Council, aiming for adoption by the end of June.
- Quick Quack Carwash has received design review approval. Now they are working on some other issues.

IX. Adjournment

Commissioner McLeland Wieser moved to adjourn. Commissioner. Durant seconded the motion.

Adjourned at: 7:59 p.m.

Submitted by: Wynetta Bivens
PC Secretary



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)