



INFORMATIONAL MEMORANDUM

TO: **Planning & Economic Development Committee**

FROM: **Jack Pace, Director, Department of Community Development**

BY: **Jaimie Reavis, Senior Planner**

CC: **Mayor Ekberg**

DATE: **November 25, 2020**

SUBJECT: **Updates to subdivision procedures**

ISSUE

Should the subdivision procedures in Title 17 and Title 18 of the Tukwila Municipal Code be amended to create a process to allow for the modifications of preliminary approved plats; modify the approval process for final plats; allow for the creation of a phasing plan for plats; and modify the expiration time-period for preliminary plats?

BACKGROUND

Planning Commission Review

The Tukwila Planning Commission at its November 12, 2020 meeting held a public hearing and provided recommendations on proposed amendments to Title 17 (Subdivisions and Plats) and Title 18 (Zoning). Two members of the public representing Segale Properties provided comments. A Comment Letter drafted by Nancy Bainbridge Rogers of Cairncross & Hempelmann on behalf of Segale Properties was also submitted for review by the Planning Commissioners prior to the meeting (Attachment C). The Planning Commission Meeting Minutes are included in Attachment B.

A draft ordinance is attached which includes the proposed amendments based on Planning Commission recommendations (Attachment A), as well as some minor housekeeping text edits. Per the request of the Planning and Economic Development (PED) Committee at its October 19, 2020 meeting, a memo from the City Attorney on the proposed subdivision amendments is included as Attachment D.

Subdivision Process

The steps in the subdivision process are shown *at right*. Steps taken by the applicant are shown in the white areas, major decision points in the process shown in black, and construction of project infrastructure in gray. A subdivision is vested to the regulations in place at the time an application for a Preliminary Plat is deemed by the City to be complete. After initial review of the survey and construction documents, the Preliminary Approval is granted, which gives the applicant the go-ahead to



submit construction permits to build project infrastructure to prepare individual lots for sale or development.

State law requires an expiration date of five years from the date of Preliminary Approval and provides cities the authority to adopt extension periods. Property cannot be sold or developed until Final Approval is granted, through which final signatures are added to the survey and the survey is recorded to formally establish the new property lines for the new lots.

DISCUSSION

Table 1 summarizes the staff and Planning Commission recommended changes to TMC Title 17 and 18. The proposed subdivision amendments cover four main areas:

1. ***Adding a process to review proposed modifications to a project after it has received preliminary approval and before final approval.*** This option is currently not addressed in the code for any type of application for the subdivision of land, requiring an applicant to submit a new application even for minor changes.

Staff Recommendation: DCD Director determines whether the modification is Minor or Major. Minor modifications may be approved by the Director. Major modifications require submittal of a new subdivision application. The full text of the staff recommendation is included below, with language additions recommended by the Planning Commission shown in italics.

PC Recommendation: Approve staff's recommendation, with the language changes shown in italic text:

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director, *based on review by multiple departments*. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:
 - a. Do not increase the number of lots beyond the number previously approved, *or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.*
 - b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the project by 10% or more.
 - c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street.
 - d. Do not alter the exterior boundaries of the project.
 - e. Are consistent with applicable development standards and will not cause the plat to violate any applicable City policy or regulation.
 - f. Are consistent with the conditions of the preliminary approval, *provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.12.020.D.a-e.*

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

Table 1. Summary of Existing Processes and Staff and Planning Commission Recommended Changes

ITEM	TMC SECTIONS	EXISTING PROCESS	PROPOSED CHANGE/STAFF RECOMMENDATION	REASON FOR CHANGE	PLANNING COMMISSION RECOMMENDATION
1. Modification of a Preliminary Approval/ Preliminary Plat – Minor and Major	17.08.030, 17.12.020, 17.14.020, 18.104.010	Currently there is no process in the TMC for modifying preliminary approvals	<ul style="list-style-type: none"> DCD Director determination on whether the modification is Minor or Major. Minor modifications may be approved by DCD Director. Major modifications require submittal of a new subdivision application. 	To add a process to the code for this.	<ul style="list-style-type: none"> Approve staff's recommendations with addition of language to require all departments review a modification before DCD Director approves it. Add language to criteria a. and f., as provided in Comment Letter
2. Final Plat Review and Approval	17.14.030, 17.20.030, 18.104.010	City Council approves Final Plat	Administrative approval by the DCD Director.	<ul style="list-style-type: none"> Substantive issues are addressed at preliminary plat stage 2017 Change to State Law Public hearing is not required. Decision is non-discretionary Reduces City Council quasi-judicial decisions Reduces review and approval time 	Approve staff's recommendation.
3. Phasing Plan Approval	17.14.040, 18.104.010	<ul style="list-style-type: none"> Preliminary approval by Hearing Examiner (or Planning Commission if design review is required) Final approval by City Council 	<ul style="list-style-type: none"> Review and approval by the Hearing Examiner at time of Preliminary Approval. Hearing Examiner review if phasing is proposed to be modified after Preliminary Approval has already been issued. 	Needed due to proposed change in Final Plat review and approval process.	<ul style="list-style-type: none"> Hearing Examiner review and approval at Preliminary Approval stage. If phasing needs to be modified after Preliminary Approval has been issued, the phasing plan should go back to the Hearing Examiner for review and approval.
4. Subdivision Preliminary Plat Expiration and Extensions	17.14.050	The hearing body for the preliminary approval may approve one extension not to exceed one year	<ul style="list-style-type: none"> DCD Director approves extensions for subdivisions. Criteria added for DCD Director's review of extension requests. Three-year extension beyond the state-required 5-year expiration period for phased subdivisions 	Request from applicant	<ul style="list-style-type: none"> For a Preliminary Plat with up to 2 phases: <u>Three-year extension</u> beyond the state-required 5-year expiration period. For a Preliminary Plat with more than 2 phases: <u>Nine-year extension</u> beyond the state-required 5-year expiration period. No change to staff recommended criteria for DCD Director's review of such an extension request.

2. *Changing the procedures and decision maker for Final Plat approval of a subdivision of 10 or more lots (called a plat).* A plat currently receives Preliminary Plat approval following a public hearing by the Hearing Examiner (or Planning Commission when there is an associated design review). The Final Plat decision is currently made by the City Council following a public hearing.

Staff Recommendation: DCD Director issues the Final Plat decision, based on review and written findings from multiple departments.

PC Recommendation: Approve staff's recommendation to have the process for Final Plat Approval changed from City Council to DCD Director.

3. *Changing the procedures and decision maker for approval of a subdivision phasing plan.* The current process is for review and approval of a subdivision phasing plan to occur at the Final Plat stage when the applicant goes to the City Council to receive Final Plat approval of the first phase of a phased subdivision.

Staff Recommendation: Hearing Examiner review and approval at Preliminary Approval stage (or by the Planning Commission if there is an associated design review). DCD Director review and approval if modifications to the approved phasing plan are proposed after Preliminary Approval has been issued.

PC Recommendation: Hearing Examiner review and approval of all phasing proposals or modifications to phasing plans (or Planning Commission when there is an associated design review).

4. *Allowing DCD Director approval of subdivision extensions, and an additional extension time-period for phased subdivisions.* Phased subdivisions allow infrastructure to be constructed incrementally, so that one phase may receive Final Plat approval while subsequent phases are still under construction. The current expiration for a phased subdivision is the same as for a subdivision that is not phased: 5 years from the date of preliminary approval, with the option for one, 1-year extension upon request to the Hearing Examiner.

Staff Recommendation: The recommendation is to have the DCD Director issue approval of subdivision extension requests according to a set of criteria (included below this paragraph) and allow a longer extension period of up to 3 years for phased subdivisions. The staff recommendation of 3 years is different from the Planning Commission recommendations which allow up to up to three, 3-year extensions for subdivisions with more than two phases. The staff recommendation of a shorter extension period from the Planning Commission recommendations is based on City Attorney input and recommendations (Attachment D), vesting implications associated with the date of Preliminary Approval, the desire to have infrastructure finalized and new lots available for development, and staff review of subdivision extension periods in other jurisdictions.

Criteria for approval of a subdivision extension:

1. A written request for extension is filed at least 30 days before the expiration of the preliminary plat; and
2. Unforeseen circumstances or conditions which are not the result of voluntary actions of the applicant necessitate the extension of the preliminary plat: and

3. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary plat was first approved; and
4. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole; and
5. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and
6. The preliminary plat substantially complies with applicable City Code provisions in effect on the date that the application for extension was made.

PC Recommendation: Allow DCD Director to approve subdivision extensions according to staff-recommended criteria. For a preliminary plat with up to two phases, one 3-year extension can be granted for a maximum time-period of 8 years from the date of preliminary approval to the date of recording of the final phase. For a preliminary plat with more than two phases, up to three 3-year extensions can be granted for a maximum time-period of 14 years between the date of preliminary approval and the date of recording of the final phase of a phased development.

FINANCIAL IMPACT

None.

RECOMMENDATION

The PED Committee is being asked to provide direction on Planning Commission recommendations and forward the ordinance to the January 11, 2021 Committee of the Whole Meeting for a public hearing and review. COW is being asked to forward a recommendation to approve, deny or modify the draft ordinance at the Regular Meeting on January 18, 2021.

ATTACHMENTS

- A. Draft Ordinance
- B. Planning Commission meeting minutes and staff report from November 12, 2020
- C. Comment letter from Nancy Bainbridge Rogers, Cairncross & Hempelmann on behalf of Segale Properties LLC
- D. City Attorney Memo

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING VARIOUS ORDINANCES AS CODIFIED IN TUKWILA MUNICIPAL CODE TITLE 17, "SUBDIVISIONS AND PLATS," AND TITLE 18, "ZONING," AT THE SECTIONS AS STATED HEREIN, TO INCORPORATE CODE AMENDMENTS PROVIDING A PROCESS TO MODIFY A SUBDIVISION PROJECT AFTER IT HAS RECEIVED PRELIMINARY APPROVAL, TO DELEGATE FINAL PLAT APPROVAL TO THE DIRECTOR OF COMMUNITY DEVELOPMENT, TO CHANGE THE PROCEDURES FOR PHASING OF A SUBDIVISION, AND TO PROVIDE FOR ADDITIONAL EXTENSIONS TO THE PRELIMINARY APPROVAL EXPIRATION OF PHASED SUBDIVISIONS; REPEALING ORDINANCE NO. 2499; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the rules, regulations, requirements, and standards for subdividing land in the City of Tukwila are contained in Title 17, "Subdivisions and Plats," of the Tukwila Municipal Code; and

WHEREAS, permit application types and procedures, including those for subdividing land in Tukwila, are contained within Title 18, "Zoning," of the Tukwila Municipal Code; and

WHEREAS, the Tukwila Municipal Code (TMC) does not currently provide a process for modification of most types of subdivisions after preliminary approval has been issued and before final approval is provided; and

WHEREAS, the need for a process to modify a subdivision in between the preliminary approval and final approval stages of a project has arisen multiple times, requiring an applicant to withdraw preliminary approved projects in order to make modifications that can at times be minor in nature; and

WHEREAS, the addition of a process to modify a subdivision in between the preliminary approval and final approval stages will provide City staff and applicants direction on how to address proposed minor and major modifications after a project has received preliminary approval; and

WHEREAS, a 2017 update to Section 58.17.100 of the Revised Code of Washington allows the City Council, by ordinance, to delegate final plat approval to an established planning commission or agency, or to such other administrative personnel; and

WHEREAS, TMC Section 17.14.040 outlines the process for review and approval of a proposal to record a subdivision in phases, which currently is tied to final plat review by the City Council; and

WHEREAS, the Hearing Examiner is the hearing body that reviews a subdivision preliminary plat (unless there is an associated design review whereby the subdivision preliminary plat public hearing and decision can be combined for review by the Planning Commission); and

WHEREAS, a proposal for a phased subdivision can be reviewed by the Hearing Examiner as a Type 3 decision, (or by the Planning Commission as a Type 4 decision if there is an associated design review); and

WHEREAS, there is a need to offer a process to modify an approved phasing plan; and

WHEREAS, the Tukwila Planning Commission held a public hearing and provided recommendations on amendments to the subdivision procedures in Title 17 and Title 18 of the Tukwila Municipal Code at its November 12, 2020 meeting;

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

Section 1. Ordinance No. 1833 §1 (part), as codified at Tukwila Municipal Code (TMC) Section 17.08.030, is hereby amended to read as follows:

17.08.030 Preliminary approval

A. In order to receive preliminary approval, the applicant must submit to [DCDthe Director \(as defined in TMC Chapter 18.06\)](#) a complete application, in quantities specified by [the CityDCD](#), and meet the criteria for approval.

B. A complete application consists of the following:

1. A completed application on a form provided by the [Department of Community Development City](#) and fee as identified in TMC Chapter 18.88.

2. A neat and readable plan drawn to a standard decimal (engineer) scale. A survey may be required if it is determined that level of information is needed to ensure the adjustment meets the approval criteria. The plan shall show the following information:

a. Property lines, with those that remain in their existing location shown as a solid line, those that are being moved or removed shown as a dashed line, and those that have been relocated shown as a solid line and clearly identified as a relocated line.

b. Dimensions of all property lines and area of the lots, before and after the adjustment.

- c. Location and floor area of all structures on the site, and their setbacks from existing and new property lines.
 - d. Location and purpose of all easements on the site.
 - e. Location, purpose and legal description of any new or extended easements proposed.
 - f. Location of adjacent public roads and points of access from the public road(s) if a lot does not front on a public road; show how and where access is provided.
 - g. Location of existing utilities and utility easements.
 - h. Calculations which that demonstrate that required yards of the Uniform Building Code are met.
3. Before and after legal description of the affected lots.

C. In order to approve a boundary line adjustment or lot consolidation, the Short Subdivision Committee shall determine the project complies with the following criteria:

- 1. No additional lots, sites, parcels, tracts or divisions are created.
- 2. The adjustment will not create non-conforming lots with respect to zoning dimension and area standards, zoning setbacks and lot area coverage standards.
- 3. The degree of non-conformance on existing non-conforming lots with respect to zoning dimension and area standards, zoning setbacks and floor area ratio are not increased.
- 4. All lots have legal access to a public road. Existing required private access road improvements and easements are not diminished below subdivision ordinance standards for lots that are served by a private access road.
- 5. Existing easements for utilities are appropriate for their intended function, or they are extended, moved or otherwise altered to an appropriate location.
- 6. The adjustment does not create any non-conformities with respect to the Uniform Building Code or any other locally administered regulation.

D. Minor and major modifications to a preliminary approval.

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 1 decision, based on review and recommendations of the Short Subdivision Committee. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:

- a. Do not increase the number of lots beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.
- b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the project by 10% or more.

c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street.

d. Do not alter the exterior boundaries of the project.

e. Are consistent with applicable development standards and will not cause the boundary line adjustment or lot consolidation to violate any applicable City policy or regulation.

f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.08.030.D.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

Section 2. Ordinance No. 1833 §1 (part), as codified at TMC Section 17.12.020, is hereby amended to read as follows:

17.12.020 Preliminary short plat approval

A. Application/fees. The following items are required, in quantities specified by ~~DCD~~the City, for a complete Short Plat application for preliminary approval. Items may be waived if, in the judgment of the Short Subdivision Committee, they are not applicable to the proposal:

1. Items contained in TMC Section 18.104.060.
2. Completed Preliminary Short Plat Application Form as prescribed by the ~~DCD-Director~~City with fee as identified in TMC Chapter 18.88.
3. Completed Application Checklist.
4. A complete SEPA Checklist application if project is not exempt from SEPA.
5. Complete applications for other required land use approvals.
6. A vicinity map showing location of the site.
7. A survey prepared to the standards identified in TMC Section 17.04.060.
8. Site and development plans ~~which~~that provide the following information:
 - a. The owners of adjacent land and the names of any adjacent subdivisions.
 - b. Lines marking the boundaries of the existing lot(s) (any existing lot to be eliminated should be a dashed line and so noted).
 - c. Locations of existing and proposed public street rights-of-way and easements and private access easements.

- d. Location, floor area and setbacks of all existing structures on the site.
- e. Lot area, lot line dimensions and average widths for each lot.
- f. Location of proposed new property lines and numbering of each lot.
- g. Location, dimension and purpose of existing and proposed easements.

Provide recorded documents ~~which~~that identify the nature and extent of existing easements.

- h. Location of any proposed dedications.

- i. Existing and proposed topography at two-foot contour intervals, extending to five feet beyond the project boundaries.

- j. Location of any ~~sensitive-critical~~ areas and ~~sensitive-critical~~-area buffers (slopes 15% or greater, wetlands or watercourses) on the site.

- k. Location, size and species of any trees located within a ~~sensitive-critical~~ area or its buffer or the shoreline zone unless none of these trees are to be removed and their location is not likely to create undue hardship on individual lots with respect to TMC Chapter 18.54, "Urban Forestry and Tree Regulations."

- l. Location of existing and/or proposed fire hydrants to serve the project.

- m. Description, location and size of existing and proposed utilities, storm drainage facilities and roads to serve the lots.

- n. Expected location of new buildings and driveways, including finished floor elevations of the buildings.

9. Letter of water and sewer availability if the provider is other than the City of Tukwila.

B. Review procedures.

1. **Referral to Other Departments.** Upon receipt of an application for a short subdivision, the ~~Department of Community Development~~Director shall transmit one copy of the application to each member of the Short Subdivision Committee, and one copy to any department or agency deemed necessary.

2. **Short Subdivision Committee Decision.** The Short Subdivision Committee may approve, approve with modifications, or deny the application for a short subdivision pursuant to Type 2 permit procedures. 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.

C. **Criteria for preliminary short plat approval.** The Short Subdivision Committee shall base its decision on an application on the following criteria:

1. The proposed Short Plat is in conformance with the Tukwila Comprehensive Plan, and any other such adopted plans.

2. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the short plat ~~which~~ that are consistent with current standards and plans.

3. Appropriate provisions have been made for road, utilities and other improvements ~~which~~ that are consistent with current standards and plans.

4. Appropriate provisions have been made for dedications, easements and reservations.

5. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located.

6. Appropriate provisions for the maintenance of commonly owned private facilities have been made.

7. The short plat complies with the relevant requirements of the Tukwila Subdivision Ordinance.

8. The short plat complies with the requirements of the Tukwila Zoning Ordinance and other relevant local regulations.

D. Minor and major modifications to a preliminary short plat approval.

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 2 decision, based on review and recommendations of the Short Subdivision Committee. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:

a. Do not increase the number of lots beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.

b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the project by 10% or more.

c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street.

d. Do not alter the exterior boundaries of the project.

e. Are consistent with applicable development standards and will not cause the short plat to violate any applicable City policy or regulation.

f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.12.020.D.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or

provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

Section 3. Ordinance Nos. 2124 §1 and 1833 §1 (part), as codified at TMC Section 17.14.020, are hereby amended to read as follows:

17.14.020 Preliminary plat

A. **Decision process.** Applications for preliminary plat approval shall be processed as a Type 3 decision (or Type 4 decision when there is an associated design review) subject to the provisions of TMC Section 18.108.050030 (or TMC Section 18.108.040).

B. **Application.** The following items are required, in quantities specified by ~~DCD~~ the City, for a complete application for preliminary plat approval. Items may be waived if, in the judgment of the ~~DCD~~ Director, the items are not applicable to the particular proposal:

1. Completed Preliminary Plat Application Form and fee, as identified in TMC Chapter 18.88.
2. Completed Application Checklist.
3. A complete SEPA Checklist application if project is not exempt from SEPA.
4. Complete applications for other required land use approvals.
5. A vicinity map showing location of the site.
6. A survey prepared to the standards identified in TMC Section 17.04.060.
7. All existing conditions shall be delineated. Site and development plans shall provide the following information:
 - a. Owners of adjacent land and the names of any adjacent subdivisions.
 - b. Lines marking the boundaries of the existing lot(s). (Any existing lot to be eliminated should be a dashed line and so noted.)
 - c. Approximate names, locations, widths and dimensions of existing and proposed public street rights-of-way and easements and private access easements, parks and other open spaces, reservations, and utilities.
 - d. Location, floor area and setbacks of all existing structures on the site.
 - e. Lot area, dimensions and average widths for each lot.
 - f. Location of proposed new property lines and numbering of each lot.
 - g. Location, dimension and purpose of existing and proposed easements. Provide recorded documents that identify the nature and extent of existing easements.
 - h. Location of any proposed dedications.
 - i. Existing and proposed topography at two-foot contour intervals extending to five feet beyond project boundaries.

- j. Location of any sensitive-critical areas and sensitive-critical area buffers (slopes 15% or greater, wetlands or watercourses) on the site.
 - k. Location, size and species of any trees located within a sensitive-critical area or its buffer or the shoreline zone unless none of these trees are to be removed and their location is not likely to create undue hardship on individual lots with respect to TMC Chapter 18.54, "Urban Forestry and Tree Regulations."
 - l. Source of water supply, method of sewage disposal, and manner of surface runoff control.
 - m. Location of existing and proposed fire hydrants to serve the project.
 - n. Description, location and size of existing and proposed utilities, storm drainage facilities and roads to serve the lots.
 - o. A survey of existing trees and vegetation with a retention/removal plan for the preservation of significant trees and vegetation.
 - p. Expected location of new buildings, their driveways and finished floor elevations.
8. Letter of water and sewer availability if the provider is other than the City of Tukwila.
 9. Two sets of mailing labels for all property owners and tenants (residents or businesses) within 500 feet of the subdivision.
 10. Items required by TMC Section 18.104.060 not already listed above.

C. Review procedures.

1. **Referral to Other Offices.** Upon receipt of a complete preliminary plat application, the Department of Community Development Director shall transmit a notice of application and one copy of the preliminary plat to each of the following offices, where appropriate: Public Works, Building Division, Fire Department, Police Department, King County Health Department, the appropriate school district, and each public utility agency serving the area in which the property proposed for subdivision is located.

2. Departmental Approval. The Public Works Department and other interested departments and agencies shall review the preliminary plat and submit to the Department of Community Development written comments with respect to the preliminary plat decision criteria.

23. Public Notice and Public Hearing. The process for public notice, hearings, decisions and appeals shall be as provided for Type 3 decisions (or Type 4 decisions if the plat is combined with an associated design review) as identified in TMC Title 18, "Zoning Code."

D. **Criteria for preliminary plat approval.** The Hearing Examiner (or Planning Commission if there is an associated design review) shall base its decision on an application for preliminary plat approval on the following criteria:

1. The proposed subdivision is in conformance with the Tukwila Comprehensive Plan and any other City adopted plans.
2. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision that are consistent with current standards and plans.
3. Appropriate provisions have been made for road, utilities and other improvements that are consistent with current standards and plans.
4. Appropriate provisions have been made for dedications, easements and reservations.
5. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located.
6. The subdivision complies with the relevant requirements of the Tukwila Subdivision and Zoning Ordinances, and all other relevant local regulations.
7. Appropriate provisions for maintenance of privately owned common facilities have been made.
8. The subdivision complies with RCW 58.17.110.

E. Minor and major modifications to an approved preliminary plat.

1. Minor modifications proposed by an applicant after a preliminary approval decision has been issued may be approved by the Director as a Type 2 decision, based on review and recommendations of City departments including Public Works, Fire, Building, and Planning. The Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below. Minor modifications are those which:
 - a. Do not increase the number of lots in the subdivision beyond the number previously approved, or which maintain the number of lots, or that decrease the number of lots in the subdivision below the number previously approved.
 - b. Do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the subdivision by 10% or more.
 - c. May realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street from the plat.
 - d. Do not alter the exterior boundaries of the subdivision.
 - e. Are consistent with applicable development standards and will not cause the subdivision to violate any applicable City policy or regulation.
 - f. Are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC Section 17.14.020.E.a-e.

2. Major modifications are those which, as determined by the Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) shall be processed as a new application.

Section 4. Ordinance No. 1833 §1 (part), as codified at TMC Section 17.14.030, is hereby amended to read as follows:

17.14.030 Final plat

A. **Application.** The following items are required, in quantities specified by ~~DCD~~ the City, for a complete application for final plat approval. Items may be waived if in the judgment of the ~~DCD~~ Director said items are not applicable to the particular proposal:

1. Completed Application Form and fee as identified in TMC Chapter 18.88.
2. Completed Application Checklist.
3. Copies and one original of the final plat survey in conformance with the standards set forth in TMC Section 17.04.060.
4. A plat certificate from a title insurance company documenting the ownership and title of all interested parties in the plat, subdivision or dedication, and listing all encumbrances. The certificate must be dated within 45 calendar days prior to the date of filing the application for final plat approval.
5. Private covenants intended to be recorded with the plat.
6. Any documentation necessary to demonstrate conditions of preliminary plat approval have been met.
7. King County Assessor's maps which show~~s~~ the location of each property within 500 feet of the subdivision; two sets of mailing labels for all property owners and tenants (residents or businesses) within 500 feet of the subdivision.
8. Maintenance agreements, easements and other documents ready for recording.
9. Signatures on the following certificates on the face of the plat (when appropriate) from the surveyor that prepared the plat, the King County Treasurer, Seattle-King County Health Department, City of Tukwila Finance Director, Owner's affidavit and certificate of dedication as identified in TMC ~~Section 17.04.060(f)~~ 17.04.060.B.2.

B. **Final Plat Review Procedures.** Applications for final plat approval shall be processed as a Type 52 decision subject to the provisions of TMC ~~Section 18.108.050~~ 18.108.020.

1. **Referral to Other Departments and Agencies.** The ~~Department of Community Development~~ Director shall distribute the final plat to all departments and agencies who ~~receiv~~eding the preliminary plat, and to any other departments, special purpose districts and other governmental agencies deemed necessary.

2. **Departmental Approval.** The Public Works Department and other interested departments and agencies shall review the final plat and submit to the Department of Community Development written comments with respect to the final plat decision criteria. If the final plat is in order, the Public Works Director shall sign the appropriate certificates on the mylar original.

3. **Filing Final Plat.**

a. Before the final plat is submitted to the City Council Director, it shall be signed by the City Treasurer (Finance Director), and the Director of Public Works, ~~and the Director of the Department of Community Development~~. Upon approval by the City Council Director, it shall be signed by the Mayor and attested by the City Clerk.

b. The applicant shall file the final plat with the King County Department of Records and Elections. The plat will be considered complete when a copy of the recorded documents is returned to the Director Department of Community Development.

C. **Criteria for final plat approval.** In approving the final plat, the City Council Director shall find:

1. That the proposed final plat bears the required certificates and statements of approval.

2. That a title insurance report furnished by the subdivider confirms the title of the land, and the proposed subdivision is vested in the name of the owner(s) whose signature(s) appears on the plat certificate.

3. That the facilities and improvements required to be provided by the subdivider have been completed or, alternatively, that the subdivider has submitted with the proposed final plat a performance bond or other security in conformance with TMC Section 17.24.030.

4. That the plat is certified as accurate by the land surveyor responsible for the plat.

5. That the plat is in conformance with the approved preliminary plat.

6. That the plat meets the requirements of Chapter 58.17 RCW and other applicable state and local laws which were in effect at the time of preliminary plat approval.

Section 5. Ordinance No. 1833 §1 (part), as codified at TMC Section 17.14.040, is hereby amended to read as follows:

17.14.040 Phasing

A. Approval of phasing plan. The subdivider may develop and record the subdivision in phases. Any phasing proposal shall be submitted for City Council Hearing Examiner review at the time at which a final plat for the first phase preliminary plat is submitted. If there is an associated design review application, the phasing proposal and associated preliminary plat may be combined with the design review application and submitted for Planning Commission review. If changes to an approved phasing plan are proposed, they shall be resubmitted for review by the Hearing Examiner (or Planning

Commission if the original phasing plan and preliminary plat were approved by the Planning Commission). Approval of the phasing plan shall be based upon making the following findings:

1. The phasing plan includes all land contained within the approved preliminary plat, including areas where off-site improvements are being made.
2. The sequence and timing of development is identified on a map.
3. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any City codes.
4. Each phase provides adequate circulation and utilities. Public Works has determined that all street and other public improvements, including but not limited to drainage and erosion control improvements, are assured. Deferment of improvements may be allowed pursuant to TMC Chapter 17.24.
5. ~~All phases shall be recorded within the five-year life of the preliminary plat, unless an extension is granted. The first phase submitted for final subdivision approval must be recorded within five years of the date of preliminary plat approval, unless an extension is granted pursuant to TMC Section 17.14.050.C and TMC Section 17.14.050.D.~~

Section 6. Ordinance Nos. 2124 §2 and 1833 §1 (part), as codified at TMC Section 17.14.050, are hereby amended to read as follows:

17.14.050 Expiration

A. The preliminary plat approval for a subdivision that is not phased pursuant to TMC Section 17.14.040 shall expire unless a complete application for final plat meeting all requirements of this chapter is submitted to the ~~Tukwila City Council Director for approval within seven years from the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval; provided that the Director may extend a preliminary plat if the date of preliminary plat approval is on or after January 1, 2015 pursuant to TMC Section 17.40.050.B and TMC Section 17.40.05.D provided that final plat meeting all requirements of this chapter shall be submitted to the Tukwila City Council for approval within ten years from the date of the preliminary plat approval if the project is not subject to requirements adopted under Chapter 90.58 RCW and the date of the preliminary plat approval is on or before December 31, 2007.~~

B. The ~~hearing body of the preliminary approval~~Director may approve one extension not to exceed one year.

C The preliminary plat approval for a phased subdivision approved pursuant to TMC Section 17.14.040 shall expire unless the first phase of the final subdivision approval is recorded within five years of the date of the preliminary plat approval; provided that the Director may extend a preliminary plat that has up to two phases for three additional years beyond the period provided in TMC Section 17.14.050.A. For preliminary plats that have more than two approved phases, the Director may extend a preliminary plat for a total of

9 years with first extension of three years, and two subsequent extensions of three years each. In no case shall the total time period between the date of preliminary approval and the date of recording of the final phase of a phased development exceed 14 years.

D. The following criteria shall be used in review of an extension request for a subdivision preliminary plat approval:

1. A written request for extension is filed at least 30 days before the expiration of the preliminary plat; and

2. Unforeseen circumstances or conditions that are not the result of voluntary actions of the applicant necessitate the extension of the preliminary plat; and

3. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary plat was first approved; and

4. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole; and

5. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and

6. The preliminary plat substantially complies with applicable City code provisions in effect on the date the application for extension was made.

Section 7. Ordinance Nos. 1971 §21 and 1833 §1 (part), as codified at TMC Section 17.20.030, are hereby amended to read as follows:

17.20.030 General Standards

A. Environmental Considerations.

1. ***Sensitive-Critical Areas.*** Land ~~which-that~~ contains a sensitive-critical area or its buffer as defined in TMC Title 18, or is subject to the flood zone control ordinance as defined in TMC Chapter 16.52, shall be platted to reflect the standards and requirements of the sensitive-critical areas overlay zone, TMC Chapter 18.45, the planned residential development overlay if required pursuant to TMC Chapter 18.46, and/or the flood zone control ordinance, TMC Chapter 16.52. No lot shall be created that does not contain an adequate building site, given the environmental considerations of the lot and current development standards.

2. ***Trees.*** In addition to meeting the requirements of TMC Chapter 18.54, "Urban Forestry and Tree Regulations," every reasonable effort shall be made to preserve existing trees and vegetation, and integrate them into the subdivision's design.

B. Compatibility with Existing Land Use and Plans.

1. ***Buffer between uses.*** Where single-family residential subdivisions are to be adjacent to multiple-family, commercial or industrial land use districts, and where natural separation does not exist, adequate landscape buffer strips and/or solid fences for screening shall be provided.

2. **Conformity with existing plans.** The location of all streets shall conform to any adopted plans for streets in the City. If a subdivision is located in the area of an officially designated trail, provisions may be made for reservation of the right-of-way or for easements to the City for trail purposes. The proposed subdivision shall respond to and complement City ordinances, resolutions, and comprehensive plans.

3. **Other City regulations.** All subdivisions shall comply with all adopted City regulations. In the event of a conflict, the more restrictive regulation shall apply.

4. **Accessory structures.** If a subdivision, short plat, or boundary line adjustment in a residential zone would result in an accessory structure remaining alone on a lot, the structure must be demolished before preliminary approval, or the owner must provide a bond or other financial guarantee acceptable to the Director in the amount of 150% of the cost of demolition and assurance that the accessory structure will be demolished if a residence is not built on the lot within 12 months of final approval.

C. Streets.

1. **Extension.** Proposed street systems shall extend existing streets at the same or greater width, unless otherwise approved by the Department of Public Works and authorized by the City Council Director in approval of the plat. Where appropriate, streets shall be extended to the boundaries of the plat to ensure access to neighboring properties. The City's goal is to have an integrated system of local streets whenever practical. Grading of steep topography may be necessary to achieve this objective. However, in sensitive-critical areas, the layout and construction of streets shall follow the standards and procedures of the sensitive-critical areas overlay zone. Dedication of additional right-of-way may be required for a short plat when it is necessary to meet the minimum street width standards or when lack of such dedication would cause or contribute to an unsafe road or intersection.

2. **Names.** All proposed street names or numbers shall be subject to approval by the Department of Community Development.

3. **Intersections.** Any intersection of public streets, whatever the classification, shall be at right angles as nearly as possible and not be offset insofar as practical.

4. **Street layout.** Street layout shall provide for the most advantageous development of the subdivision, adjoining areas, and the entire neighborhood. Evaluation of street layout shall take into consideration potential circulation solutions. While it is important to minimize the impact to the topography from creating an integrated road system, improved site development and circulation solutions shall not be sacrificed to minimize the amount of cut and fill requirements of the proposal. Where sensitive-critical areas are impacted, the standards and procedures for rights-of-way in the sensitive-critical areas overlay zone shall be followed.

5. Private access roads may be authorized if:

a. Allowing private access roads in the area being subdivided will not adversely affect future circulation in neighboring parcels of property; and

b. Adequate and reasonable provisions are made for the future maintenance and repair of the proposed private access roads; and

c. The proposed private access roads can accommodate potential full (future) development on the lots created; and

d. For residential subdivisions, the proposed private access roads do not serve more than four lots nor are more than 200 feet in length. Those access roads 150 feet or greater in length shall have a turnaround built to Fire Department standards.

e. For commercial and industrial subdivisions, when private access roads are authorized, there shall be a minimum easement width of 40 feet. With the exception of minimum easement widths, private access roads shall be designed and constructed in accordance with the Department of Public Works standards, and zoning setbacks shall be required as though the easement were a public right-of-way.

6. Public roads.

a. Right-of-way and paving widths for public roads shall be based as shown in the following table. The minimum paving and right-of-way width shall be used unless the City Engineer demonstrates a wider width is needed due to site circumstances, including but not limited to topography, traffic volume, street patterns, on-street parking, lot patterns, land use and bike and transit facilities, that justify an increase in width.

Type of Street	Right-of-Way	Roadway Pavement
Principal Arterial	80 - 100 feet	48 - 84 feet
Minor Arterial	60 - 80 feet	36 - 64 feet
Collector Arterial	60 - 80 feet	24 - 48 feet
Access Road	50 - 60 feet	28 - 36 feet
Cul-De-Sac		
<i>Roadway</i>	40 feet	26 feet
<i>Turnaround</i>	92 feet (dia.)	81 feet (dia.)
Alley	20 feet	15 feet
Private Access Roads		
<i>Residential</i>	20 feet	20 feet
<i>Commercial</i>	40 feet	28 feet

b. *Design:* The design and alignment of all public streets shall conform to the following standards unless otherwise approved by the Department of Public Works:

(1) Cul-de-sacs: Cul-de-sacs are not allowed unless there is no reasonable alternative or the cul-de-sac is shown on an officially adopted street plan. When allowed, they shall not exceed a length of 600 feet unless the ~~City Council~~ City determines that adequate alternative emergency access will be provided.

(2) Street Grades: Street grades shall not exceed 15%. However, provided there are no vehicular access points, grades may be allowed up to 18%, for not more than 200 feet when:

(a) Exceeding the grades would facilitate a through street and connection with the larger neighborhood;

(b) The greater grade would minimize disturbance of ~~sensitive~~ critical slopes;

- (c) The Fire Marshal grants approval of the grade transition; and
- (d) Tangents, horizontal curves, vertical curves, and right-of-way improvements conform to Department of Public Works standards.

c. Full width improvement:

(1) When interior to a subdivision or a short plat of five or more lots, all publicly owned streets shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall have permanent concrete curbs and gutters according to Department of Public Works standards.

(d) Shall have storm drains consisting of the proper size pipe and catch basins; sizes to be approved by the Department of Public Works prior to the public hearing for the preliminary plat.

(e) Shall have sidewalks provided at a minimum width as specified in TMC Chapter 11.12.

(2) When interior to a short plat of four or fewer lots, all public streets and all privately owned streets that have the potential to serve five or more lots shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall provide storm drainage to be approved by the Department of Public Works.

(d) Shall provide sidewalk right-of-way or easements at a minimum width as specified in TMC Chapter 11.12.

(e) Shall construct or provide L.I.D. no-protest agreements for permanent concrete curbs, gutters, and sidewalks according to Department of Public Works standards.

(f) Shall be dedicated to the City or subject to a binding agreement for future dedication.

(3) All privately owned roads that will serve four or fewer houses shall be designed and installed to full width improvement as provided below:

(a) Shall be graded as necessary to conform to Department of Public Works standards.

(b) Shall be of asphaltic concrete according to Department of Public Works standards.

(c) Shall provide storm drainage to be approved by the Department of Public Works.

d. Half width improvement:

(1) Streets abutting the perimeter of a subdivision or short plat of five or more lots shall provide the full improvements on the half of the street adjacent to the site, provided additional paving may be required to ensure safe and efficient roads exist to serve the subdivision; provided further that there are no physical obstructions to completing the other half of the roadway; and that there is a minimum of 20 feet of paving.

(2) If the future grade or alignment of the adjacent public street is unknown and it is not feasible to establish the grade in a reasonable period or the immediate improvement of the street would result in a short, isolated segment of improved street and similar street improvements in the vicinity are unlikely to occur within six years, the City may approve a delay of improvements. The owner(s) must agree to enter into a binding L.I.D. no-protest agreement to further improve the street to full public street standards in the future; however adjacent streets must still be improved to the minimum level necessary, in the judgment of the City Engineer, to safely accommodate traffic generated by the proposed subdivision or short plat.

(3) Streets abutting the perimeter of a short plat of four or fewer lots shall provide L.I.D. no-protest agreements for construction of frontal improvements on the half of the street adjacent to the site, provided that there is a minimum of 20 feet of paving.

D. Utilities.

1. **Generally.** All utilities designed to serve the subdivision shall be placed underground and, if located within a sensitive-critical area, shall be designed to meet the standards of the sensitive-critical areas overlay zone. Those utilities to be located beneath paved surfaces shall be installed, including all service connections, as approved by the Department of Public Works; such installation shall be completed and approved prior to application of any surface materials. Easements may be required for the maintenance and operation of utilities as specified by the Public Works Department.

2. **Sanitary sewers.** Sanitary sewers shall be provided to each lot at no cost to the City and designed in accordance with City standards. Septic systems may be installed when approved by the Seattle-King County Department of Public Health and when the existing sewer system will not be available to the lot within the life of the preliminary approval.

3. **Storm drainage.** The storm drainage collection system shall meet the requirements of the City's stormwater ordinance standards (Ordinance #1755TMC Chapter 14.28).

4. **Water system.** Each lot within a proposed subdivision shall be served by a water distribution system designed and installed in accordance with City standards. Locations of fire hydrants and flow rates shall be in accordance with City standards and the Uniform Fire Code.

E. **Blocks.**

1. **Length.** Residential blocks should not be less than 300 feet nor more than 1,000 feet in length, (600 - 2,000 feet for commercial and industrial areas). Where circumstances warrant for the purpose of implementing the Comprehensive Plan, the Planning Commission may require one or more public pathways of not less than six feet nor more than 15 feet in width, either by dedication or easement, to extend entirely across the width of the block to connect public rights-of-way.

2. **Width.** Blocks shall be wide enough to allow two tiers of lots, except where abutting a major street or prevented by topographical conditions or size of the property, in which case the City Council Director may approve a single tier.

3. **Pedestrian considerations.** Blocks, roads and pedestrian improvements shall be designed to provide a safe and convenient pedestrian network.

F. **Lots.**

1. **Arrangement.** Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street lines. Each lot must have access to a public street that is approved at the time of plat review; however, rather than designing flag lots, access shall be accomplished with common drive easements.

2. **Lot design.** The lot area, width, shape, and orientation shall be appropriate for the location of the subdivision, for the type of development and land use contemplated, and shall conform with the requirements of the zoning ordinance.

3. **Corner lots.** Corner lots may be required to be platted with additional width to allow for the additional side yard requirements.

G. **Landscaping.**

1. Each lot within a new subdivision or short plat of five lots or greater shall be landscaped with at least one tree in the front yard to create a uniform streetscape.

2. Landscaping shall conform with Public Work standards.

H. **Street Signs.** The subdivider shall be responsible for the initial cost of any street name or number signs, or street markings, including installation thereof, that Public Works finds necessary for the subdivision.

I. **Lighting.** Street lighting shall conform to the Department of Public Works standards unless the City Council Public Works Director requires alternative fixtures, poles, and/or spacing to contribute to an overall design concept of the subdivision.

J. **Monumentation.**

1. **Imprinted monument.** All monuments set in subdivisions shall be at least 1/2 inch x 24-inch steel bar or rod, or equivalent, with durable cap imprinted with the license number of the land surveyor setting the monument.

2. **Centerline monument.** After paving, except as provided in TMC [Section 17.20.030.J.5](#), monuments shall be driven flush with the finished road surface at the following intersections:

- a. Centerline intersections.
- b. Points of intersection of curves if placement falls within the paved area; otherwise, at the beginnings and endings of curves.
- c. Intersections of the plat boundaries and street center lines.

3. **Property line monumentation.** All front corners, rear corners, and beginnings and endings of curbs shall be set with monuments, except as provided in TMC [Section 17.20.030.J.5](#). In cases where street curbs are concentric and/or parallel with front right-of-way lines, front property line monumentation may be provided by brass screws or concrete nails at the intersections of curb lines and the projections of side property lines. If curb monumentation is used, it shall be noted on the plat, and also that such monumentation is good for projection of line only and not for distance.

4. **Post-monumentation.** All monuments for exterior boundaries of the subdivision shall be set and referenced on the plat prior to plat recording. Interior monuments need not be set prior to recording if the developer certifies that the interior monuments shall be set within 90 days of final subdivision construction inspection by the Department of Public Works, and if the developer guarantees such interior monumentation.

5. **Post-monumentation bonds.** In lieu of setting interior monuments prior to final plat recording as provided in TMC [Section 17.20.030.J.3](#), the Public Works Director may accept a bond in an amount and with surety and conditions satisfactory to the Director, or other secure method as the Public Works Director may require, providing for and securing the actual setting of the interior monuments.

Section 8. Ordinance Nos. 2124 §3 (part) and 1833 §1 (part), as codified at TMC Section 17.24.010, are hereby amended to read as follows:

17.24.010 Plans and permits required for public improvements

A. Approval of a preliminary plat, short plat, binding site improvement plan or boundary line adjustment shall constitute approval for the applicant to develop construction plans and specifications, for all facilities and improvements, in substantial conformance to the preliminary approval, design standards, and any special conditions required by the Short Subdivision Committee, [Hearing Examiner, or Planning Commission](#) ~~or City Council~~; to obtain permits and complete installation for said improvements; and to prepare a final plat, plans, surveys and other documents for recording.

B. Prior to installing improvements, the developer shall apply for all required permits for those improvements. The applications shall include development plans as specified on the application form. *[Note: See TMC [Chapters 11.08 and 11.12](#) for additional guidance on standards and permit requirements for improvements in the public right-of-way.]*

Section 9. Ordinance Nos. 2124 §3 (part) and 1833 §1 (part), as codified at TMC Section 17.24.030, are hereby amended to read as follows:

17.24.030 Improvement agreements and financial guarantees

A. Required improvements. Before any final subdivision, short plat, binding site improvement plan or boundary line adjustment is finally approved, the subdivider shall install required improvements and replace or repair any such improvements which are damaged in the development of the subdivision. In lieu of the completion of the actual construction of all required improvements (public and private) and prior to the approval of a final plat, the Public Works Director may accept a bond in an amount and with surety and conditions satisfactory to the Director, or other secure method, providing for and securing to the City the actual construction and installation of all required improvements. This is in addition to the requirements of TMC [Chapter 11.08](#) requiring a performance bond for all work being done in the public right-of-way. If the Public Works Director accepts a bond for the completion of the work, the subdivider shall execute and file with the City an agreement guaranteeing completion of such improvements together with any needed replacement or repair. The agreement shall:

1. Specify the period of time within which all work required shall be completed. The time for completion shall not exceed one year from the date of final approval of the subdivision. The agreement may provide for reasonable extensions of time for completion of work. Extensions must be requested, approved by the Public Works Director, and properly secured in advance of the required initial completion date.

2. Require notice by the subdivider to the Public Works Director promptly upon completion of all required improvements.

3. Provide for notice of approval or disapproval by the Public Works Director of the improvement within a reasonable time after receiving notice of completion.

4. Require financial security to be provided by the subdivider pursuant to TMC [Section 17.24.030.C](#).

5. Provide that, if the subdivider fails to complete all required work within the period specified, the City may take steps to demand performance of the developer's obligation within a reasonable time not to exceed 90 days from the date of demand.

6. Provide that, if the required improvements are not completed within that time, the City may take action to require the subdivider to forfeit the financial security.

7. Provide that the City shall be entitled to recover all costs of such action including reasonable attorney's fees.

8. Provide that, following recovery of the proceeds of the financial security, those proceeds shall be used to complete the required improvements and pay the costs incurred.

9. Provide that, should the proceeds of the financial security be insufficient for completion of the work and payment of the costs, the City shall be entitled to recover the deficiency from the subdivider.

B. Maintenance agreement. Regardless of whether all required improvements are completed prior to final approval of any subdivision of land, as a condition of such approval the subdivider shall execute an agreement to assure successful operation of said improvements. [Note: See TMC [Section 11.08.110](#) for details.] The agreement shall:

1. Require the subdivider to post a bond or other financial security to secure successful operation of all required improvements and full performance of the developer's maintenance obligation. Such financial security shall be effective for a two-year period following approval of installation of all required improvements.

2. Require the subdivider to perform maintenance functions on drainage improvements for a period of time not to exceed two years from approval of their completion or final plat approval, whichever is later. Such maintenance functions shall be specified by the Public Works Director, and shall be reasonably related to the burdens that the subdivision will impose on drainage facilities during the time maintenance is required. The City ~~Council~~ may agree to accept and perform maintenance of the improvements, in which case the subdivider's obligation to perform maintenance functions shall terminate.

3. Not relieve the subdivider of liability for the defective condition of any required improvements discovered following the effective term of the security given.

4. Provide a waiver by the subdivider of all claims for damages against any governmental authority, which may occur to the adjacent land as a result of construction, drainage, and maintenance of the streets and other improvements.

C. Performance bond. To assure full performance of the agreements required herein, the subdivider shall provide one or more of the following in a form approved by the City Attorney:

1. A surety bond executed by a surety company authorized to transact business in the State of Washington.

2. An irrevocable letter of credit from a financial institution stating that the money is held for the purpose of development of the stated project.

3. An assignment of account with a financial institution which holds the money in an account until such time the City signs a written release. The assignment of account will allow the City to withdraw the funds in the event the provisions of the agreement are not met.

4. A cash deposit made with the City of Tukwila.

D. Amount of Financial Security. The financial security provided shall be 150% of the estimated cost of the improvements to be completed and all related engineering and incidental expenses, final survey monumentation and preparation of reproducible Mylar or electronic records in a format approved by Public Works and meeting current Public Works drawing standards of the "as-built" improvements. The subdivider shall provide an estimate of these costs for acceptance by the Public Works Director.

E. **Defective Work.** The acceptance of improvements by the City shall not prevent the City from making a claim against the [developersubdivider](#) for any defective work if such is discovered within two years after the date of completion of the work.

Section 10. Ordinance Nos. 2627 §32, 2442 §6, 2368 §70, 2294 §1, 2251 §75, 2235 §19, 2135 §19 and 2119 §1, as codified at TMC Section 18.104.010, are hereby amended to read as follows

18.104.010 Classification of Project Permit Applications

Project permit decisions are classified into five types, based on the degree of discretion associated with each decision, as set forth in this section. Procedures for the five different types are distinguished according to who makes the decision, whether public notice is required, whether a public meeting and/or a public hearing is required before a decision is made, and whether administrative appeals are provided.

1. **TYPE 1 DECISIONS** are made by City administrators who have technical expertise, as designated by ordinance. Type 1 decisions may be appealed to the Hearing Examiner who will hold a closed record appeal hearing based on the information presented to the City administrator who made the decision. Public notice is not required for Type 1 decisions or for the appeals of those decisions.

TYPE 1 DECISIONS

TYPE OF PERMIT	DECISION MAKER
Administrative Variance for Noise – 30 days or less <i>(TMC Section 8.22.120)</i>	Community Development Director
Any land use permit or approval issued by the City, unless specifically categorized as a Type 2, 3, 4, or 5 decision by this chapter	As specified by ordinance
Boundary Line Adjustment, including Lot Consolidation <i>(TMC Chapter 17.08)</i>	Community Development Director
Minor Modification of a Boundary Line Adjustment or Lot Consolidation Preliminary Approval <i>(TMC Section 17.08.030)</i>	Community Development Director
Development Permit	Building Official
Minor modification to design review approval <i>(TMC Section 18.60.030)</i>	Community Development Director
Minor Modification to PRD <i>(TMC Section 18.46.130)</i>	Community Development Director
Tree Permit <i>(TMC Chapter 18.54)</i>	Community Development Director
Wireless Communication Facility, Minor <i>(TMC Chapter 18.58)</i>	Community Development Director

2. **TYPE 2 DECISIONS** are decisions that are initially made by the Director or, in certain cases, other City administrators or committees, but which are subject to an open record appeal to the Hearing Examiner, Board of Architectural Review, or, in the case of shoreline permits, an appeal to the State Shorelines Hearings Board pursuant to RCW 90.58.

TYPE 2 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (open record appeal)
Administrative Design Review (TMC Section 18.60.030)	Community Development Director	Board of Architectura l Review
Administrative Planned Residential Development (TMC Section 18.46.110)	Short Plat Committee	Hearing Examiner
Administrative Variance for Noise – 31-60 days (TMC Section 8.22.120)	Community Development Director	Hearing Examiner
Binding Site Improvement Plan (TMC Chapter 17.16)	Short Plat Committee	Hearing Examiner
Cargo Container Placement (TMC Section 18.50.060)	Community Development Director	Hearing Examiner
Code Interpretation (TMC Section 18.90.010)	Community Development Director	Hearing Examiner
Exception from Single-Family Design Standard (TMC Section 18.50.050)	Community Development Director	Hearing Examiner
Modification to Development Standards (TMC Section 18.41.100)	Community Development Director	Hearing Examiner
Parking standard for use not specified (TMC Section 18.56.100), and modifications to certain parking standards (TMC Sections 18.56.065 , .070 , .120)	Community Development Director	Hearing Examiner
Sensitive-Critical Areas (except Reasonable Use Exception) (TMC Chapter 18.45)	Community Development Director	Hearing Examiner
Shoreline Substantial Development Permit (TMC Chapter 18.44)	Community Development Director	State Shorelines Hearings Board
Shoreline Tree Permit	Community Development Director	Hearing Examiner
Short Plat (TMC Chapter 17.12)	Short Plat Committee	Hearing Examiner
Minor Modification of a Short Plat Preliminary Approval (TMC Section 17.12.020)	Community Development Director	Hearing Examiner
Minor Modification of a Subdivision Preliminary Plat (TMC Section 17.14.020)	Community Development Director	Hearing Examiner
Subdivision – Final Plat (TMC Section 17.14.030)	Community Development Director	Hearing Examiner

Modification to TUC Corridor Standards (TMC Section 18.28.110.C)	Community Development Director	Hearing Examiner
Modification to TUC Open Space Standards (TMC Section 18.28.250.D.4.d)	Community Development Director	Hearing Examiner
Transit Reduction to Parking Requirements (TMC Section 18.28.260.B.5.b)	Community Development Director	Hearing Examiner
Wireless Communication Facility, Minor (TMC Chapter 18.58)	Community Development Director	Hearing Examiner

3. **TYPE 3 DECISIONS** are quasi-judicial decisions made by the Hearing Examiner following an open record hearing. Type 3 decisions may be appealed only to Superior Court, except for shoreline variances and shoreline conditional uses that may be appealed to the State Shorelines Hearings Board pursuant to RCW 90.58.

TYPE 3 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Resolve uncertain zone district boundary	Hearing Examiner	Superior Court
Variance (zoning, shoreline, sidewalk, land alteration, sign)	Hearing Examiner	Superior Court
TSO Special Permission Use (TMC Section 18.41.060)	Hearing Examiner	Superior Court
Conditional Use Permit	Hearing Examiner	Superior Court
Modifications to Certain Parking Standards (TMC Chapter 18.56)	Hearing Examiner	Superior Court
Reasonable Use Exceptions under Critical Areas Ordinance (TMC Section 18.45.180)	Hearing Examiner	Superior Court
Variance for Noise in excess of 60 days (TMC Section 8.22.120)	Hearing Examiner	Superior Court
Variance from Parking Standards over 10% (TMC Section 18.56.140)	Hearing Examiner	Superior Court
Subdivision – Preliminary Plat with no associated Design Review application (TMC Section 17.14.020)	Hearing Examiner	Superior Court
Subdivision Phasing Plan (TMC Section 17.14.040)	Hearing Examiner	Superior Court
Wireless Communication Facility, Major or Waiver Request (TMC Chapter 18.58)	Hearing Examiner	Superior Court
Shoreline Conditional Use Permit	Hearing Examiner	State Shorelines Hearings Board

4. **TYPE 4 DECISIONS** are quasi-judicial decisions made by the Board of Architectural Review or the Planning Commission, following an open record hearing. Type 4 decisions may be appealed to the Hearing Examiner based on the record established by the Board of Architectural Review or Planning Commission, except

Shoreline Conditional Use Permits, that are appealable to the State Shorelines Hearings Board pursuant to RCW 90.58.

TYPE 4 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Public Hearing Design Review (TMC Chapter 18.60)	Board of Architectural Review	Hearing Examiner
Subdivision – Preliminary Plat with an associated Design Review application (TMC Section 17.14.020)	Planning Commission	Hearing Examiner
<u>Subdivision Phasing Plan (for a subdivision with an associated Design Review)</u> (TMC Section 17.14.040)	<u>Planning Commission</u>	<u>Hearing Examiner</u>
Shoreline Conditional Use Permit (TMC Section 18.44.050)	Planning Commission	State Shorelines Hearings Board

5. **TYPE 5 DECISIONS** are quasi-judicial decisions made by the Hearing Examiner or City Council following an open record hearing. Type 5 decisions may be appealed only to Superior Court.

TYPE 5 DECISIONS

TYPE OF PERMIT	INITIAL DECISION MAKER	APPEAL BODY (closed record appeal)
Planned Residential Development (PRD), including Major Modifications (TMC Chapter 18.46)	City Council	Superior Court
Site specific rezone along with an accompanying Comprehensive Plan map change (TMC Chapter 18.84)	City Council	Superior Court
Sensitive-Critical Area Master Plan Overlay (TMC Section 18.45.160)	City Council	Superior Court
Shoreline Environment Re-designation (Shoreline Master Program)	City Council	Superior Court
Subdivision – Final Plat (TMC Section 17.12.030)	City Council	Superior Court
Unclassified Use (TMC Chapter 18.66)	City Council	Superior Court

Section 11. Repealer. Ordinance No. 2499 is hereby repealed.

Section 12. 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 13. 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 14. 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 _____, 2021.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, 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



PLANNING COMMISSION (PC) PUBLIC HEARING MINUTES NOVEMBER 12, 2020

Date: November 12, 2020
Time: 6:30 PM - 10:45 PM
Location: Virtual Meeting - Microsoft Teams

Present: Chair Heidi Watters; Vice-Chair Louise Strander; Commissioners Dennis Martinez, Sharon Mann, Karen Simmons, Dixie Stark, and Andrea Reay

Staff: Deputy Director Minnie Dhaliwal; Senior Planner Jaimie Reavis; Assistant Planner Meredith Sampson; Business Relations Manager Brandon Miles and Planning Commission Secretary Wynetta Bivens

Adopt Minutes: Commissioner Strander moved to adopt the November 5, 2020 minutes. Commissioner Martinez seconded the motion. Motion passed. Commissioners Mann, Stark and Reay were absent on 11/5/20 and abstained from voting.

CASE NUMBER: L20-0106

PURPOSE: Consider updates to subdivision procedures in Tukwila Municipal Code Title 17 (Subdivisions and Plats) and Title 18 (Zoning).

LOCATION: City-wide.

Jaimie Reavis, Senior Planner, Department of Community Development (DCD) gave the presentation for staff. The intent of the public hearing was to consider amendment to the subdivision regulation within the Tukwila Municipal Code and Title 17 for subdivisions and plats and Title 18 for zoning. Ms. Reavis provided background information on the subdivision process; explanation of why the code amendments are being proposed; gave an overview of the proposed changes and options; went over the approval process; as well as the proposed amendments and staff's recommendations. She also answered several clarifying questions.

PROPOSED AMENDMENTS / STAFF'S RECOMMENDATIONS

1. Modification of a preliminary approval

This process is not currently in the code, the process would be added to modify a preliminary approval of any type of subdivision, after the preliminary approval and before final approval.

STAFF'S RECOMMENDATION: The DCD Director makes the determination whether the modification is a minor or major modification and can require conditions to ensure conformance with the criteria.

NOTED: The DCD Director will use proposed criteria in determining if the modification is minor. If the modification is determined to be major the applicant needs to apply for a new application.

2. Final plat approval

STAFF'S RECOMMENDATION: The decision is made by the DCD Director.

3. Phasing of final approval

STAFF'S RECOMMENDATION: The phasing plan be submitted and reviewed by the Hearing Examiner at the

time of preliminary approval; after preliminary approval if it turns out that it is better to phase subdivisions staff is recommending that a modification to the preliminary plat be submitted and it be reviewed by the DCD Director.

NOTE: Concern was expressed in having the Director review and approve phasing proposed after the preliminary approval has already been issued. There was discussion on how phasing proposed after preliminary approval should go back to the Hearing Examiner (or the Planning Commission if there was an associated design review).

4. Expiration and Extensions (language clean-up for expiration and phasing extensions)

NOTE: Currently the existing code requires the first phase must be recorded within five years. Concern was expressed that if a subdivision is phased and does not meet the deadline another application needs to be submitted and the applicant must start over.

STAFF'S RECOMMENDATION: The DCD Director may extend a preliminary plat for a project that has received phasing approval for up to three additional years, for a total maximum of eight years from the date of preliminary approval.

NOTE: There was extensive discussion on this proposed amendment, the PC expressed concern that the recommended extension was not long enough. After multiple suggested amendments to staff's recommendation, the PC added several more recommendation options in addition to staff's recommendations.

PUBLIC TESTIMONY

Mike Pruett, for Segale Properties said that it is important for the PC to understand the whole pre-plat final plat process and that approximately 90% of the effort is in the pre-plat. He explained that it involves preparation of all sorts of different plans and infrastructure, not just the pre-plat plans. He said it is a time consuming and expensive process, and all subdivisions are not created equal. He said it will probably take 15 to 20 years to develop the 20 lots, and he would like the pre-plat to stay alive as long as possible. He said all the pre-plats will be built out under the current regulations, and all the public infrastructure that could change over time is already built. He also commented on the language and process for minor modifications. He said they are in favor of flexibility for the life of the pre-plat.

Nicole DeLeon, Attorney, Cairncross and Hempleman, representing Segale Properties, went over the highlights of the comment letter submitted on behalf of Segale Properties. She stated what is driving Segale's interest in this amendment is the amount of infrastructure, and work that goes in during the preliminary plat phase. She reiterated Mr. Pruett's comment that 90% of the effort, such as planning, work, and infrastructure goes in during the preliminary plat phase. She said if the preliminary plat expires, you have done 90% of the work, expense, time, and investment and suddenly you are just out of luck. She said they are requesting flexibility, and it is critical to be granted flexibility for an extension up to 12 years on the extension approval process. She said if the extension is granted that there are certain guards that would prevent any concerns on the city's part in granting the extension. She commented on the discussion pertaining to the department review process, and said she researched and found code TMC18.104.180, which states the review process is required by all departments. They are proposing their project is revised to a minor modification, as a Type 1 decision. She provided clarification on why they are focused on a 10-lot standard. She said that state law does allow for approval of a longer extension. In addition to the other revisions requested, she suggested that a provision for fewer lots be included to eliminate any ambiguity.

There was no additional public testimony.

Following are some of the clarifying questions raised by the PC.

Commissioner Mann asked Mr. Pruett considering he said that most of the improvements are complete, what are their concerns with what staff is proposing? Mr. Pruett said through the initial pre-plats, he said the risk associated with providing a longer timeframe is small because the improvements are done. However, the pre-plat underlines all their future development plans that will expire over and over while they are building out the project over 15 to 20 years.

Commissioner Martinez asked Ms. DeLeon if they were okay with staff's language pertaining to the preliminary plat phasing approval? Ms. DeLeon said it captures the concept that they are comfortable with.

Commissioner Stark asked staff how they came up with the recommended extension period of 3 years, considering the comment letter mentions a 12-year period. Staff said that the recommendation was based on review of other cities' codes. Commissioner Stark asked whether staff had found a city that offers an extension greater than 3-years, staff noted that one example was found where a total of 11 years was allowed, with extensions provided in increments of two years.

Commissioner Simmons asked how many of their current sub-plats are subject to expire? Mr. Pruett responded one.

Commissioner Reay asked if a total of seven-years extension would be sufficient, or would additional years be more prudent? Mr. Pruett said they would need more years, and they would need to re-apply at least once, or multiple times before the project is complete. He said the longer timeframe the City approves the better.

Commissioner Watters asked staff to clarify where the Tukwila South project is in the subdivision process. Staff noted that it is not clear why Tukwila South has been set up as such a large subdivision with future development tracts that will also need to be subdivided. Given that most of the infrastructure has been constructed, Commissioner Watters asked what would expire if the preliminary plat is not extended? She noted a balance between a developer having to continually resubmit new applications for preliminary plat approval, and having development be subject to things like environmental regulations that get updated, since we want to use best available science and fulfill the City Council's vision for the City. Mr. Pruett said they need additional flexibility for the length of time a preliminary plat can stay alive.

Commissioner Stander asked Ms. DeLeon to provide clarification on the language in the comment letter regarding item #6 on page 2. Ms. DeLeon said they are asking for a revision to the modification criteria to allow a proposal to modify conditions of the original preliminary plat approval to qualify as a minor modification. Commissioner Strander asked clarifying questions about the proposed 12-year timeframe, and whether it provides the flexibility for the decision-maker to determine how much time the extension would be provided for, *up to 12 years*. Ms. DeLeon said that the Director under the various criteria could reduce the amount of time of the extension to be less than the maximum allowable.

Commissioner Martinez inquired whether the City Attorney reviewed the comment letter. Staff confirmed the City Attorney reviewed the letter and staff's recommendations and agreed with staff's recommendations. The City Attorney felt they met the balance of providing flexibility without the vesting period being a concern. Therefore, the City Attorney did not feel any additional changes to staff's recommendations were necessary.

DELIBERATIONS

Request: Commissioner Stander requested to add the proposed revision to the minor modification #1 language as listed in the comment letter. Note: (motion #1, first bullet)

Request: Commissioner Stander requested to add the proposed revision to the minor modification #6 language, as listed in the comment letter. Note: (motion #1, second bullet)

Request: Commissioner Mann requested that a statement is included under minor modifications that all departments (Planning, Building, PW, and Fire) must be part of the review process. Note: (motion #1, third bullet)

Commissioner Watters said the proposed amendments are a good addition, and she agrees with the City Attorney and staff, as recommended.

MOTIONS

1. Modification of a preliminary approval

Commissioner Mann moved to approve and forward to the City Council with the additional modification language in bullets 1-3.

- Minor modifications do not increase the number of lots in the subdivision beyond the number previously approved or which maintain the number of lots or decrease the number of lots in the subdivision below the number previously approved’.
- Minor modifications are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC 17.14.020.E.1-5.
- All departments must be part of the minor modification review process (Planning, Building, PW, and Fire).

Commissioner Stark seconded the motion. Motion Passed. Commissioners Watters and Simmons opposed.

2. Final plat approval

Commissioner Mann moved to approve and forward to the City Council as recommended by staff, Option A. Commissioner Watters seconded the motion. Motion passed. Commissioner Martinez opposed.

3. Phasing of final approval

Commissioner Watters moved to approve and forward to the City Council as recommended by staff. Commissioner Simmons seconded the motion. Motion failed. Commissioners Martinez, Strander, Mann, and Stark opposed.

Commissioner Mann moved to approve and forward to the City Council, Option B as listed in the staff report, for approval by Hearing Examiner or Planning Commission. Commissioner Martinez seconded the motion. Motion passed. Commissioners Watters, Simmons, and Reay opposed.

Chair Watters called for a two-minute recess.

4. Expiration and extensions (language clean-up for expiration and phasing extensions)

The PC asked staff to type and show on the screen their proposed language of several revised options of recommendations in addition to staff’s recommendations, and then they voted on the options.

Commissioner Strander moved to approve and forward to the City Council the following recommendation as amended, The DCD Director may extend a preliminary plat that has up to 2 phases three additional years beyond the period provided in TMC 17.14.050, A. For plats that have more than 2 phases approved as part of the preliminary plat the DCD Director may extend a preliminary plat for a total of 9 years with the first extension of 3 years and two subsequent extensions of three years each. In no case shall the total time between the date of preliminary approval and the date of recording of the final phase of a phased development exceed 14 years. Commissioner Stark seconded the motion. Motion passed. Commissioners Simmons and Watters opposed.

The public hearing was closed.

- The briefing on the housing plan was continued to December 10th.

Adjourned: 10:45 p.m.

Submitted by: Wynetta Bivens
Planning Commission Secretary



STAFF REPORT TO THE PLANNING COMMISSION

Prepared November 3, 2020

FILE NUMBERS: L20-0106

REQUEST: Amend Title 17 and Title 18

PUBLIC HEARING: A Notice of Public Hearing was published in the Seattle Times on October 29, 2020.

SEPA: This project is exempt from the State Environmental Policy Act under WAC 197-11-800 (19), Procedural actions.

STAFF: Jaimie Reavis, Senior Planner

ATTACHMENTS: A. TMC 17.14.030, C: Criteria for Final Plat Approval and TMC 17.14.040 Phasing

ISSUE/SUMMARY OF PROPOSED ACTION

Staff is proposing changes to Title 17 and Title 18 that are intended to address approval process issues for subdivisions identified by City staff, Segale Properties, and other applicants. Included are revising the approval process for modifying a subdivision which has received preliminary approval (including Boundary Line Adjustments, Lot Consolidations, Short Subdivisions, and Subdivisions), changing the decision maker for final approval of subdivision applications which involve 10 or more lots, and modifying the length of time for phases in a subdivision to be submitted for final subdivision approval.

BACKGROUND

Title 17 Subdivisions and Plats of the Tukwila Municipal Code (TMC) contains the regulations and criteria for approval of subdividing land in the City of Tukwila. Title 18 of the TMC (Zoning) has additional regulations for subdividing land, specifying the decision maker, appeal body, appeal type (open record or closed record), and the procedures required for each type of application.

The different processes for the subdivision of land include short plats, boundary line adjustments, lot consolidations, binding site improvement plans, and subdivisions. Except for the first issue, the focus of this memo is on subdivisions of 10 or more lots (called plats).

Subdivision Process – Current

Table 1 summarizes who the decision maker is at various stages of review for a subdivision plat, subdivision phasing, and modification of a preliminary plat. Also included are the public notification and public hearing processes, time limits for expiration of the Preliminary Approval, and information on proposed changes.

The current process all applications for subdivision go through include the following workflow:

Staff review--> Preliminary Approval-->Installation of Infrastructure (utilities, access)-->Final Approval

1. Staff review: Initial review by Fire, Public Works, Planning, and Building – results in correction letter or recommendation for Preliminary Approval.
2. Preliminary Approval: for the decision on a subdivision involving 10 or more lots - the recommendations are referred to the Hearing Examiner or Planning Commission (when there is an associated Design Review application). After mailed and posted public notice is provided to tenants and property owners within 500 feet, a public hearing is held on the application prior to a decision on approval by either the Hearing Examiner or Planning Commission.
3. Installation of infrastructure and changes to survey document: Conditions of Preliminary Approval include required changes to the survey and easement documents (for all types of subdivision applications), and construction of infrastructure improvements in the case of a Short Plat, some Binding Site Improvement Plans, and Subdivision Plats.
4. Final Approval:
 - a. The applicant makes changes to the survey and other applicable documents in response to the conditions of Preliminary Approval and resubmits materials for City review. If conditions of approval are met, then Final Approval is recommended and approval granted by the DCD Director’s signature on the survey.
 - b. Subdivision plats are forwarded to the City Council for a quasi-judicial public hearing and decision.

DISCUSSION

Four main areas of revisions to Titles 17 and 18 of the TMC have been identified to improve subdivision procedures. The options to consider are included in Table 1 below:

1. Add a process for an applicant to request modifications to Preliminary Approval of any type of subdivision (i.e., Boundary Line Adjustment, Lot Consolidation, Binding Site Improvement Plan, Short Plat, Subdivision). There is currently no guidance in the code and addition of a process would add clarity for applicants and staff.
2. Revise the process for Final Approval of a subdivision with 10 or more lots (called a Final Plat) to allow Director approval. Currently, the final plat is approved by the City Council as a quasi-judicial decision. State law was changed in 2017 to allow the City Council to delegate the review and decision of a Final Plat to “an established planning commission or agency, or to such other administrative personnel in accordance with state law or local charter.” Other jurisdictions have adopted ordinances which allow Final Plat approval by the Planning Director, Hearing Examiner, or Planning Commission.

3. Revise the phasing approval process to accommodate phasing during and after the Preliminary Plat Approval stage.
4. Revise the extension approval process and language in TMC 17.14.050 to allow the DCD Director to approve extensions, and allow for the expiration of a preliminary approval for a phased subdivision to be extended for longer than the existing one-year time period. Housekeeping cleanup of the existing language is also proposed.

Table 1. Summary of Recommended Changes (highlighted in blue)

Subdivision Application Name	Existing Processes			Recommended Final Approval Decision Type*	Expiration – Preliminary Approval
	Preliminary Approval Decision (Type*)	Required Public Notification/ Public Hearing	Final Approval (Type*)		
Subdivisions (10+ Lots)	<ul style="list-style-type: none"> Hearing Examiner (Type 3) OR <ul style="list-style-type: none"> Planning Commission if design review is required (Type 4) 	<ul style="list-style-type: none"> Public Hearing held for both preliminary approval and final approval stage. Hearing at final approval stage not required by state law. 	City Council (Type 5)	Director (Type 2) OR Hearing Examiner (Type 3) or Planning Commission (Type 4)	<p><u>Existing:</u> 5 years (plus 1 additional year upon written request)</p> <p><u>Proposed:</u> No change</p>
Phasing of a subdivision	<ul style="list-style-type: none"> Hearing Examiner (Type 3) OR <ul style="list-style-type: none"> Planning Commission if design review is required (Type 4) 	Existing notice is done as part of notice of City Council meeting. Proposed notice would be per required notice for Type 2 decisions (TMC 18.104).	City Council (Type 5)	<ul style="list-style-type: none"> Hearing Examiner (Type 3)/Planning Commission (Type 4) at time of Preliminary Approval. If proposed or modified after Preliminary Approval, reviewed through an application for a modification of the Preliminary Plat (see below). (Type 2) 	<p><u>Existing:</u> All phases must be recorded within the 5-year time limit associated with Preliminary Plat</p> <p><u>Proposed:</u> First phase must be recorded within 5 years; subsequent phases can receive an extension of up to 3 years.</p>
Modification of Preliminary Approval/ Preliminary Plat (Minor)	Director (Type 2)	Per required notice for Type 2 decisions (TMC 18.104)	N/A	N/A	Proposed: Retains original preliminary approval expiration.
Modification of Preliminary Approval/ Preliminary Plat (Major)	Requires submittal of a new application for the subdivision				

*Type 1= Director (public notice not required for Type 1 decisions, appeal is closed-record appeal to Hearing Examiner), Type 2= Director (appeal is open record appeal to the Hearing Examiner or Board of Architectural Review); Type 3= Hearing Examiner; Type 4=Planning Commission/BAR; Type 5 = City Council

1. Addition of a Process to allow a Modification of Preliminary Approval/Preliminary Plat

The Department of Community Development has received requests by subdivision applicants to modify an application in between the Preliminary Approval and Final Approval stages. This process is not currently addressed in the code, requiring an applicant to withdraw an existing application and submit a new one to obtain Preliminary Approval for their revised plan. Other cities have adopted a process under which changes can be made to an existing Preliminary Approval before the application for Final Approval is submitted.

Many other cities have adopted an application process which involves the Director deciding as to whether the request for a modification to a Preliminary Approval constitutes a “minor” or “major” modification. If the modification is deemed to be Minor by the Director, then the modification can be approved administratively by the Director, and additional conditions that must be addressed prior to Final Approval can be added. If the modification is deemed to be “Major”, then a new application for Preliminary Approval must be submitted and the previous application is required to be withdrawn. A minor modification does not change the vesting or expiration date associated with a Preliminary Approval decision.

Staff Recommendation: Staff’s recommendation is to create a new application process for a minor and major modification, according to the following processes:

- **Minor modifications** proposed by an applicant after Preliminary Approval may be approved by the DCD Director as an administrative Type 2 decision. The DCD Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below.
 - Minor modifications are those which:
 - (1) do not increase the number of lots in the subdivision beyond the number previously approved;
 - (2) do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the subdivision by ten percent (10%) or more;
 - (3) may realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street from the plat;
 - (4) do not alter the exterior boundaries of the subdivision;
 - (5) which are consistent with applicable development standards and will not cause the subdivision to violate any applicable City policy or regulation;
 - (6) are consistent with the conditions of the preliminary approval.
- **Major modifications** are those which, as determined by the DCD Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) must be processed as a new application.

2. Final Plat Approval Process

Currently, the decision on a final plat is made by the City Council following a public hearing. The Council decision on the final plat is quasi-judicial, meaning the City Council is required to make the decision on a project that will impact a specific project site and applicant or property owner. As the legislative body of the City, the Council most often reviews issues and makes decisions that apply City-wide.

The following are reasons to consider changing the Decision Maker on a Final Plat Approval:

- State law only requires a public hearing during the review of the Preliminary Plat application. Tukwila currently complies with this requirement per TMC 18.104.010. A change in the decision maker or approval process will not change this.
- The City of Tukwila also currently requires a public hearing at the Final Plat Approval stage of a subdivision, as required for Type 5 decisions (as well as Type 3 and Type 4 decisions). However, as noted above, state law only

requires a public hearing on a subdivision during review of the Preliminary Plat application when there is the most opportunity to consider public comments.

- State law requires Final Plat to be processed within 30 days of filing unless an extension is requested. It is difficult to meet the deadline when a public hearing by the City Council is required for Final Plat approval. A code change to allow administrative review by the Director of a Final Plat as a Type 2 or Type 1 decision would remove the requirement to hold a public hearing for final plat approval, allowing for a faster and more efficient processing of Final Plat applications.
- A Final Plat is approved if it meets established criteria of approval for the preliminary plat. The Final Plat approval process is non-discretionary, subject to the criteria in TMC 17.14.030, C (see Attachment A).
- The Washington Cities Insurance Authority strongly encourages councils to remove themselves as much as possible from having to make quasi-judicial decisions.
- The City Council is the legislative body of the City of Tukwila. Most of the items reviewed by the City Council are legislative in nature, involving setting City-wide policies. The decision on a final plat is quasi-judicial, meaning the Council is required to make the decision on a project that will impact a specific project site and applicant or property owner. This is different from a legislative process, as Councilmembers are not allowed to discuss the matter with community members beforehand (ex parte communication).

Proposed options:

- Administrative approval by the DCD Director.
- Approval issued by the Hearing Examiner or Planning Commission.

Staff Recommendation: Option a. Administrative approval by the DCD Director.

3. Phasing of Final Approval

Phasing of a plat is currently approved by the City Council during the Final Plat approval, according to the criteria of TMC 17.14.040 (see Attachment A).

Staff Recommendation: At the time of Preliminary Approval, review and approval of project phasing is done by the Hearing Examiner (Type 3)/Planning Commission (Type 4). If phasing is proposed after Preliminary Approval, or if a modification to the phasing is proposed, then an application for a modification to the Preliminary Approval shall be submitted for review by the DCD Director.

4. Subdivision Preliminary Plat Expiration

Currently, a subdivision preliminary plat and all associated phases must be recorded within five years of the date of preliminary plat approval. Per TMC 17.14.050, B, “the hearing body of the preliminary approval may approve one extension not to exceed one year.” Phased subdivisions are often done on larger plats to allow the developer to sequentially receive final approval and begin selling or building on lots in one area of a plat while still completing infrastructure installation in other specified phases.

The length of time a preliminary plat approval is in effect is significant because a preliminary plat vests the developer with the right to both divide the property and to develop it in the manner disclosed in the application in accordance with the land use and zoning laws in effect on the date of submittal. As land use and zoning laws are adopted, it is the City’s intent to have new development consistent with current laws. It is also important for developers to have assurance regarding the land use and zoning laws applicable to their proposals when they are planning new developments.

The options below allow for the DCD Director to issue extensions on subdivision preliminary plats which have received phasing approval.

Proposed options:

Staff is recommending the following criteria be used in review of any request for extension of a subdivision preliminary plat approval that has received phasing approval.

1. A written request for extension is filed at least 30 days before the expiration of the preliminary plat; and
2. Unforeseen circumstances or conditions which are not the result of voluntary actions of the applicant necessitate the extension of the preliminary plat; and
3. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary plat was first approved; and
4. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole; and
5. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and
6. The preliminary plat substantially complies with applicable City Code provisions in effect on the date that the application for extension was made.

The two options for extending the time allowed for a Subdivision Preliminary Plat Approval that has received phasing approval including the following:

- a. The DCD Director may extend a preliminary plat for a project that has received phasing approval, but not including the initial phase, for up to three additional years beyond the period provided in TMC 17.14.050, A. In no case shall the total time period between the date of Preliminary Approval and the date of recording of the final phase of a phased development exceed 8 years.
- b. Final plat approval of any phase of the subdivision preliminary plat will constitute an automatic one-year extension for the filing of the final plat for the next phases of the subdivision.

Staff Recommendation: Option A, along with adoption of the above criteria for use in review of requests for an extension.

Additionally, staff is recommending the following language cleanup to TMC 17.14.050, A, since there are not currently any Preliminary Plats in Tukwila which have not received Final Plat Approval:

17.14.050 Expiration

A. The preliminary plat approval for subdivision shall expire unless a complete application for final plat meeting all requirements of this chapter is submitted ~~to the Tukwila City Council for approval within seven years from the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015; provided that final plat meeting all requirements of this chapter shall be submitted to the Tukwila City Council for approval within ten years from the date of the preliminary plat approval if the project is not subject to requirements adopted under Chapter 90.58 RCW and the date of the preliminary plat approval is on or before December 31, 2007.~~

RECOMMENDED ACTION

Staff recommends that the Planning Commission hold a public hearing on the proposed changes on November 12, 2020, review each proposed change, and forward recommendations to the Council for a public hearing on December 14, 2020.

7. King County Assessor's maps which shows the location of each property within 500 feet of the subdivision; two sets of mailing labels for all property owners and tenants (residents or businesses) within 500 feet of the subdivision.

8. Maintenance agreements, easements and other documents ready for recording.

9. Signatures on the following certificates on the face of the plat (when appropriate) from the surveyor that prepared the plat, the King County Treasurer, Seattle-King County Health Department, City of Tukwila Finance Director, Owner's affidavit and certificate of dedication as identified in TMC 17.04.060(l).

B. *FINAL PLAT REVIEW PROCEDURES*: Applications for final plat approval shall be processed as Type 5 decision subject to the provisions of TMC 18.108.050.

1. *Referral to Other Departments and Agencies* - The Department of Community Development shall distribute the final plat to all departments and agencies receiving the preliminary plat, and to any other departments, special purpose districts and other governmental agencies deemed necessary.

2. *Departmental Approval* - The Public Works Department and other interested departments and agencies shall review the final plat and submit to the Department of Community Development written comments with respect to the final plat decision criteria. If the final plat is in order, the Public Works Director shall sign the appropriate certificates on the mylar original.

3. *Filing Final Plat* -

a. Before the final plat is submitted to the City Council, it shall be signed by the City Treasurer (Finance Director), Director of Public Works, and the Director of the Department of Community Development. Upon approval by the City Council, it shall be signed by the Mayor and attested by the City Clerk.

b. The applicant shall file the final plat with the Department of Records and Elections. The plat will be considered complete when a copy of the recorded documents is returned to the Department of Community Development.

C. *CRITERIA FOR FINAL PLAT APPROVAL*: In approving the final plat, the City Council shall find:

1. That the proposed final plat bears the required certificates and statements of approval.

2. That a title insurance report furnished by the subdivider confirms the title of the land, and the proposed subdivision is vested in the name of the owner(s) whose signature(s) appears on the plat certificate.

3. That the facilities and improvements required to be provided by the subdivider have been completed or, alternatively, that the subdivider has submitted with the proposed final plat a performance bond or other security in conformance with TMC 17.24.030.

4. That the plat is certified as accurate by the land surveyor responsible for the plat.

5. That the plat is in conformance with the approved preliminary plat.

6. That the plat meets the requirements of Chapter 58.17 RCW and other applicable state and local laws which were in effect at the time of preliminary plat approval.

(Ord. 1833 §1(part), 1998)

17.14.040 Phasing

The subdivider may develop and record the subdivision in phases. Any phasing proposal shall be submitted for City Council review at the time at which a final plat for the first phase is submitted. Approval of the phasing plan shall be based upon making the following findings:

1. The phasing plan includes all land contained within the approved preliminary plat, including areas where off-site improvements are being made.

2. The sequence and timing of development is identified on a map.

3. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any City codes.

4. Each phase provides adequate circulation and utilities. Public Works has determined that all street and other public improvements, including but not limited to drainage and erosion control improvements, are assured. Deferment of improvements may be allowed pursuant to TMC Chapter 17.24.

5. All phases shall be recorded within the five-year life of the preliminary plat, unless an extension is granted.

(Ord. 1833 §1(part), 1998)

17.14.050 Expiration

A. The preliminary plat approval for subdivision shall expire unless a complete application for final plat meeting all requirements of this chapter is submitted to the Tukwila City Council for approval within seven years from the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015; provided that final plat meeting all requirements of this chapter shall be submitted to the Tukwila City Council for approval within ten years from the date of the preliminary plat approval if the project is not subject to requirements adopted under Chapter 90.58 RCW and the date of the preliminary plat approval is on or before December 31, 2007.

B. The hearing body of the preliminary approval may approve one extension not to exceed one year.

(Ord. 2499 §1, 2016; Ord. 2124 §2, 2006; Ord. 1833 §1 (part), 1998)

November 10, 2020

VIA EMAIL

Planning Commission, City of Tukwila
c/o Jaimie Reavis
6200 Southcenter Blvd.
Tukwila, WA 98188
Email: Jaimie.Reavis@TukwilaWA.gov

Re: Written Comments in Support of Additional Amendments to Title 17 and Title 18
Planning Commission Meeting, November 12, 2020

Dear Planning Commissioners:

On behalf of Segale Properties LLC (“**Segale**”), we write to support the proposed amendments to provisions governing subdivisions in the Tukwila Municipal Code (“**Code**” or “**TMC**”). Segale agrees with City Staff’s comments explaining the need to amend the Code to provide clarity and flexibility to the City’s subdivision entitlement process. We also recommend a few additional revisions to City Staff’s proposed approaches regarding plat modifications and the term of a phased plat, as detailed below.

We request the Planning Commission recommend City Staff’s proposal, with our revisions incorporated, to City Council. Our suggested revisions to the language used in the Staff Report are shown with new text in underline format and deleted text shown in ~~striketrough~~ format, followed by our rationale for the revisions in italics.

Process to allow a Modification of Preliminary Approval/Preliminary Plat

- **Minor modifications** proposed by an applicant after Preliminary Approval may be approved by the DCD Director as an administrative Type ~~2~~ 1 decision. The DCD Director may include conditions as part of an approval of a minor modification to ensure conformance with the criteria below.

Minor modifications are those which:

- (1) do not increase the number of lots in the subdivision beyond the number previously approved or which maintain the number of lots, or decrease the number of lots in the subdivision below the number previously approved;

(2) do not decrease the aggregate area of open space, or the design or location of stormwater systems or roadways in the subdivision by ten percent (10%) or more;
(3) may realign internal roadways and lot lines, but do not relocate any roadway access point to an exterior street from the plat;
(4) do not alter the exterior boundaries of the subdivision;
(5) which are consistent with applicable development standards and will not cause the subdivision to violate any applicable City policy or regulation;
(6) are consistent with the conditions of the preliminary approval, provided that a minor modification may revise conditions of the preliminary approval so long as the revisions are consistent with the minor modification limitations set by TMC 17.14.020.E.1-5 above.

- **Major modifications** are those which, as determined by the DCD Director, are not minor modifications as defined in this code, and either add property or lots or substantially change the basic design, density, open space, or other substantive requirement or provision. If the applicant proposes to make one or more major changes, the revised plan(s) must be processed as a new application.

Rationale:

We recommend a minor modification be processed as a Type 1 decision, not a Type 2 decision. The Type 1 categorization for a minor modification is consistent with other examples of Type 1 decisions in the Code. See TMC 18.104.010. Examples of other Type 1 decisions are minor modifications to design review approvals and minor modifications to a Planned Residential Development (“PRD”). Type 1 decisions are generally made by the DCD Director and subject to a closed record appeal before the Hearing Examiner. Type 2 decisions are generally made by the DCD Director and subject to an open record appeal before the Hearing Examiner. Examples of a Type 2 decision are administrative design review, code interpretations, modification to development standards, and short plats. Type 2 decisions are, therefore, clearly intended for more complex entitlement issues whereas the framework for Type 1 decisions is proportionate to the scale of a minor modification.

Next, we recommend inserting language to clarify that while a minor modification cannot increase the number of planned lots, a minor modification may either retain or decrease the number of lots in a plat. This flexibility is appropriate and the Subsection 5 requirement that minor modifications be consistent with applicable development standards guards against any other concerns.

We also recommend adding language to clarify that a minor modification may revise a condition of a preliminary plat approval, but only so long as it is consistent with the limitations set by the preceding subsections. For example, plat conditions typically set a specific amount of open space. Pursuant to Subsection 2, a minor modification may change the amount of open space so long as the change is by less than 10%. Therefore, the minor modification may change the related plat condition,

but only within the stated 10% limit. We think this was City Staff's intent, but suggest adding the proposed language to clarify.

Subdivision Preliminary Plat Expiration

Option A

The DCD Director may extend a preliminary plat for a project that has received phasing approval, but not including the initial phase, for up to ~~three~~ seven additional years beyond the period provided in TMC 17.14.050, A. In no case shall the total time period between the date of Preliminary Approval and the date of recording of the final phase of a phased development exceed & 12 years.

Rationale:

We recommend revisions to allow the City to grant extensions to a preliminary plat for up to 12 years, rather than the City Staff proposal for just eight years. Twelve years provides larger projects, like Segale's Tukwila South project, the needed certainty to develop large and complex projects over a longer period of time. We support the City Staff's recommended criteria for discretionary approval of such an extension and note that these criteria and the City's discretionary authority guard against potential issues that could arise in the course of an extended term. For example, an extension may only be granted if it "will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole." See Criterion 4. Through these criteria, the City retains broad discretionary authority to grant, or not grant, an extension. The request to make available the possibility of securing up to four additional years for the life of a complex phased preliminary plat provides significant benefits to large scale projects, which is balanced by the discretionary nature of the extension process.

Conclusion and Request for Support of these Amendments to Title 17 and 18

Segale supports this proposed update to the City's subdivision process and urges the Planning Commission to recommend City Staff's proposal to City Council, together with the additional minor revisions requested in this letter. We also appreciate the opportunity to engage on these important issues with City Staff and we will continue to participate and make ourselves available to assist with this effort. Thank you in advance for your time and consideration and we look forward to our continued work together.

Very truly yours,



Nancy Bainbridge Rogers

MEMORANDUM

DATE: December 1, 2020

TO: City of Tukwila Planning & Economic Development Committee

FROM: Assistant City Attorney Emily Miner

CC: Mayor Allan Ekberg
Community Development Director Jack Pace

RE: Updates to Subdivision Code

I. Background

City staff have proposed amendments to Title 17 of the Tukwila Municipal Code that are intended to address approval procedures for subdivisions. City staff's recommendations include: (1) amending the code to have the Community Development Director approve final plats, (2) allowing an extension period up to three years, (3) establishing a preliminary plat modification process, and (4) revising the subdivision phasing procedure approval. The City Attorney's Office was asked by the Planning and Economic Development Committee at their October 19, 2020 meeting to explain the legal justification for these amendments.

II. Discussion

Chapter 58.17 RCW sets out the procedures related to the subdivision of land. In the purpose section, the state legislature finds as follows: "the process by which land is divided is a matter of state concern and should be administered in a uniform manner by cities, towns, and counties throughout the state." RCW 58.17.010. In other words, the City's subdivision process should mirror the process established by state law as closely as possible to ensure uniformity in the subdivision of land.

The key statutory provisions at issue are [RCW 58.17.100](#) and [RCW 58.17.140](#) regarding the time limitations and decisionmakers for approval of preliminary and final plats. Additionally, the statute is silent with regards to modifications of preliminary plats and phasing of plats; however, local jurisdictions have authority to establish processes by which a preliminary plat can be modified or phased.¹

¹ The State constitution allows cities to exercise all the police powers possessed by the state government so long as local regulations do not conflict with general laws. WASH. CONST. art. XI, § 11.

A. Extensions for Phased Subdivision Approval.

RCW 58.17.140 establishes the time limitation for approval of final plats. For all preliminary plats filed after January 1, 2015, a final plat shall be submitted for approval within five years from the date of the preliminary plat approval.² The statute goes on to state that nothing prohibits a city from adopting an ordinance that allows extensions of time that may contain additional or altered conditions or requirements. RCW 58.17.140. Accordingly, cities are free to establish their own extension periods.

The City's current code is silent with regards to an extension period for phased subdivisions but does permit a one-year extension for preliminary plats. TMC 17.14.050(B).

City staff's recommendation is to amend the extension period to three years, and in no case would the total time between the preliminary plat approval and the date of the final plat recording exceed eight years.

The Planning Commission proposed a different recommendation. Their recommendation turns on how many phases the applicant has proposed: if the applicant proposes two phases, the applicant could seek a three year extension; if the applicant proposes three or more phases, the applicant could seek to a combination of extensions not to exceed 14 years.

The additional time for the extension period recommended by Staff is reasonable, given the reasons outlined in their staff memo; however, the City Attorney's Office does not recommend the longer timelines for extension proposed by the Planning Commission as they far exceed the initial approval timelines that state law establishes. Further, such recommendation does not serve the purpose of uniformity as set out by the State Legislature.

B. Phasing Plan Approval

As noted above, cities have discretion to establish their own phasing procedures. The City's current code states that phasing must be approved by City Council at the time at which a final plat for the first phase is submitted. TMC 17.14.040. This does not account for the possibility to amend the phasing plan or to propose a phasing plan after a preliminary plat has been approved. The City Attorney's Office supports the recommendation that amendments to a phasing plan already approved can be reviewed under the proposed plat modification procedure while phasing proposed after a preliminary plat has been approved requires a new plat application. This amendment supports the goal of streamlining and clarifying the City's subdivision procedures.

C. Administrative Final Plat Approval

RCW 58.17.100 permits "the legislative authorities of cities...[to]...delegate...[via ordinance]...final plat approval to an established planning commission or agency, or to such other administrative personnel in accordance with state law or local charter." This change was made in 2017 when the legislature acknowledged that by the time a preliminary plat reaches the final plat approval stage, all building and environmental issues are resolved. As there are no outstanding issues to resolve, there is no need for further discretionary review by a legislative body. The City's current code states that a final plat approval

² Per RCW 58.17.140, if a plat was submitted prior to December 31, 2014, the final approval timeline is seven years, and if submitted prior to December 31, 2007, the approval timeline is ten years. To our knowledge, there are no plats in Tukwila that fall into these longer exceptions.

is subject to a Type 5 decision by City Council. Staff's recommendation is to revise this code requirement so that the final plat approval is made by the Community Development Director, and the City Attorney's Office supports this recommendation.

D. Plat Modification Process

There are no procedures for modifications to a preliminary plat established in state law and the City's current code contains no plat modification procedures. However, from a practical standpoint, it is important for the City to have procedures in place to address requests to modify a preliminary plat. Without a process to amend a preliminary plat for minor modifications, the applicant is required to withdraw their application and re-apply. This resubmittal process is time intensive and resource consuming for both the applicant and the City. Establishing a process to determine what types of modifications are permitted creates a framework for City staff to analyze whether the modification is "minor" and can be approved administratively or is "major" and requires a new application. The City Attorney's Office supports the recommended change, along with the Planning Commission's minor revision to ensure other departments have an opportunity to review the proposed modification.

EFM:efm