



Committee Members: (Chair) Councilmember Elfers, Councilmember Brown, Councilmember Cole,
(Alternate Councilmember Bowman)

Staff: Community & Economic Development Director Ryan Windish

The city is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at City Hall (First Floor Conference Room), or virtually by using the meeting access link below.

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COMMITTEE BUSINESS

1. Ordinance No. 2899 - Battery Energy Storage Systems Code Amendment
2. Ordinance No. 2900 - Multifamily Residential Infill Code Amendment
3. Ordinance No. 2901 - Permit Review & Timelines Code Amendment
4. Ordinance No. 2902 - Group Homes Code Amendment
5. Resolution No. 1703 - Parklet Policy and Program

REPORTS

1. Permit Activity Report - October 2024 Year-to-Date

ADJOURNMENT

SUBJECT: Ordinance No. 2899 - Battery Energy Storage Systems Code Amendment

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. BESS STAFF REPORT
 2. A-Draft Ordinance No. 2899 BESS
 3. B-STAFF MEMO-Response to public comments
-

STAFF CONTACT: Chrissanda Walker, Associate Planner

SUMMARY BACKGROUND:

In 2022, the City issued a zoning code interpretation for a proposed Battery Energy Storage System (BESS) project as a Major Utility Facility Use. The application went through SEPA, and the city recently approved an industrial scale 200-megawatt (MW)/800-megawatt hour (MWh) BESS facility to store electrical energy in the Light-Manufacturing (M-1) zone. The BESS facility will store electricity in lithium batteries arranged in modules on about 8 acres. That project includes a new transmission line through an existing utility corridor which connects to the PSE White River power station to provide critical energy storage to the region, while providing reliability for Puget Sound Energy (PSE) customers. Through the current permitting process, it became clear that these large “grid-scale” BESS should be clearly defined in the zoning code and better regulated to manage potential impacts.

This proposal updates regulations in the zoning code pertaining to Battery Energy Storage Systems (BESS) including (1) a new land use definition and clarifying major and minor utilities (2) regulating BESS facilities as conditional use in the industrial/manufacturing zones and (3) adding a new section under SMC 18.18.060 manufacturing district performance standards to address potential impacts.

In April 2024 staff presented the BESS proposed amendments as an item for discussion with the Planning Commission. The zoning code text amendment application (ZCTA-2024-0007) was then noticed for public hearing on September 17, 2024. The Planning Commission reviewed the draft Ordinance 2899 and held a public hearing on the proposal on October 3, 2024. The Commission voted unanimously to recommend to the City Council approval of the Ordinance as proposed. Staff will be available at the CD Committee meeting to discuss the public hearing comments and letters received and to answer any questions.

COUNCIL COMMITTEE/STUDY SESSION:
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MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Move to approve Ordinance No. 2899 amending the zoning code related to Battery Energy Storage Systems.



STAFF REPORT

DATE: October 29, 2024
TO: Community Development Committee
FROM: Chrissanda Walker, Associate Planner
RE: **Zoning Code Text Amendment - Battery Energy Storage Systems**

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The City of Sumner recently reviewed and approved an industrial scale Battery Energy Storage System (BESS), a 200-megawatt (MW)/800-megawatt hour (MWh) facility to store electrical energy in the Light-Manufacturing (M-1) zone. The BESS will store electricity in lithium batteries arranged in modules on about 8 acres. The project includes a new transmission line through an existing utility corridor which connects to the PSE White River power station to provide critical energy storage to the region, while providing reliability for Puget Sound Energy (PSE) customers. The area where the BESS facility and transmission poles are proposed is designated under Sumner's Comprehensive Plan zoning as public and private facilities land use.

Battery Energy Storage Systems or BESS are a new land use requiring zoning codes around the country to be updated including new zoning definitions, regulations and permit processes to better address the growing technology of alternative energy storage and generation. Under the current Zoning Code, the land use "major utility facility," is an outright permitted use in M-1 and M-2 zones and does not require a Conditional Use Permit. In 2022, Sumner provided a zoning code interpretation for the proposed BESS to fall under the subsection "electrical substation" of the land use "major utility facility", which is considered comparable to other listed uses under Sumner Municipal Code (SMC) 18.04.1065. This interpretation was similar to the permitting approach in the County and the inclusion of battery energy storage into definitions for electrical facilities is consistent with State statutes.

However, through the current permitting process, it became clear that these large "grid-scale" BESS should be defined in the zoning code and regulated to better manage potential impacts. Since the current zoning code allows "major utility facilities" out-right permitted in all manufacturing zones and as a conditional use in commercial zones and residential zones, this proposed amendment would only allow BESS in industrial/manufacturing zones with distance requirements to separate these facilities from residential uses. By designating BESS a Conditional Use in the industrial zones only, the code can establish performance standards that set a standard for design, location and noise abatement.

In April 2024, City staff presented a memo to the Planning Commission introducing the proposed zoning code amendment for discussion. On October 3, 2024 staff presented a summary of the proposal in more detail and explained the proposed zoning code amendments before the Planning Commission. A public hearing was held during the Planning Commission meeting on October 3, 2024, where public comments were heard, and the Planning Commission voted to recommend to the Council approval of Ordinance 2899.

The proposed zoning code amendments will:

- (1) Add a new land use definition for BESS under SMC 18.04;
- (2) Update the use table under SMC 18.18 to specify BESS as a conditional use. This will promote the siting of BESS in a manner that is compatible with existing zoning districts, land uses, and character of the surrounding area;

(3) Add a new code section under SMC 18.18.060 manufacturing district performance standards.

II. DESCRIPTION OF PROPOSAL

The proposed zoning code amendment would define large scale BESS in the municipal code and allow them through Conditional Use in the manufacturing districts (M-1 and M-2 zones). Updates to SMC 18.18 includes a new section that addresses performance standards for BESS facilities such as: screening requirements, lighting, fencing and noise standards, and siting criteria consistent with the current code criterion for Essential Public Facilities. Key provisions in the proposed code are summarized below.

A. Zones allowed

The proposal will allow BESS as a conditional use in all manufacturing zoning districts, prohibited within 1,000 feet of residentially zoned lands. BESS facilities will also be prohibited in commercial and mixed-use zones.

B. Definitions

The existing zoning code includes definitions for “major utility facility” and “minor utility facility” that is not clearly inclusive of battery energy storage. Changes proposed include clarification of BESS as not a major utility facility and adding a new section to add a definition of BESS based on industry definitions and standards. Major utility facilities are necessary, can be public or private and can be co-located with other land uses, BESS will be subject to siting criteria.

C. Performance Standards

The proposal amends SMC 18.18.060 to include new standards applicable to BESS that are similar to existing standards in the code for industrial uses and more specifically adds standards for siting and for BESS facilities to develop a necessary emergency management plan with the local fire district.

III. ANALYSIS

The proposal is consistent with the intent and policies of the Comprehensive Plan, specifically the policies discussed below.

Community Value: Foresight

“The City plans ahead for its future. Through comprehensive planning, utility and infrastructure planning, coordination with neighboring jurisdictions, and capital facilities programs, the City is able to ensure it has the resources for future needs. The City uses this foresight to maintain its vision of the future. We communicate regularly and determine if we are achieving the vision we desire.”

As emerging technologies in renewable and clean energy grow, the City can maintain the value of foresight to address utility infrastructure and better define these land uses in the manufacturing/industrial areas.

Land Use Element

Goal 1 “Provide for orderly development within the Sumner community.”

Policy 1.1 Ensure that appropriate transitions so that more intensive uses do not adversely impact adjacent uses.

1.1.1 Maintain the design guidelines and ordinances to achieve compatible and attractive new residential, commercial, and industrial uses.

The proposed amendment to specify BESS as a conditional use in the manufacturing/industrial center is consistent with the following land use element goals and policies:

Utilities Element

Goal 2 *“Plan and allow for regional and local improvements to electric facilities and coordinate service plans for facility development.”*

- Policy 2.1 Make decisions with respect to electric utility facilities so that safe, adequate and efficient availability of electrical service in other jurisdictions is not negatively affected.
- Policy 2.2 Accommodate additions and improvements to electric utilities in a manner consistent with the needs and resources of Sumner as well as other jurisdictions. In addition, the City recognizes that decisions regarding utility corridors and facilities cannot be made solely on the basis of local considerations if multi-jurisdictional or regional interests would be affected.
- Policy 2.3 Encourage Puget Sound Energy to make additions to and improvements of electric utility facilities that provide adequate capacity for future planned growth.
- Policy 2.4 Recognize the need for electric utility facilities that are sufficient to support economic development.
- Policy 2.7 Encourage the joint use of utility corridors, provided that such joint use is consistent with limitations as may be prescribed by applicable law and prudent utility practice.

The proposed zoning code amendment meets the intent of the Utility Element by encouraging planned development of utility facilities, specifically BESS projects that may need additions and improvements of transmission lines in a manner consistent with the needs and resources of Sumner as well as other jurisdictions.

Environment Element

- Policy 1.1 Protect air quality from adverse impacts
 - 1.1.2 Require air quality impact analysis for major new developments which could adversely impact the air quality levels in the vicinity.
 - 1.1.3 Work with other agencies to educate the public about air quality impacts.
 - 1.1.4 Work with other agencies to monitor air quality within the planning area.
- Policy 2.1 Encourage a reduction in noise impacts associated with human activity
 - 1.2.1 Require new developments which could generate substantial levels of noise or could expose people to substantial levels of noise from existing noise generators to submit an analysis of potential noise impacts and propose mitigation.
 - 1.2.2 Maintain the noise ordinance to address various noise sources and require mitigation of noise impacts if they are sufficient to cause environmental health problems or will exceed recognized health standards.
- Policy 1.6 Encourage the efficient use of energy as a means of practicing environmental stewardship.

The proposed zoning code update will establish performance standards that will meet the goals of the Environment Element, consistent with the policies above.

Capital Facilities and Public Services Element

- Policy 1.3 Through the inter-local agreement with East Pierce Fire and Rescue, provide and maintain suppression, prevention, education, and medical response, including advanced life support (ALS) response system. Refer to the EPFR capital facilities plan for a complete list of levels of service and planning assumptions.
 - 1.3.1 East Pierce Fire & Rescue shall strive to maintain sufficient personnel and equipment, strategically located such that the first-due response units arrive at fire and emergency

medical incidents in urban areas served by staffed fire stations (as characterized by the City of Sumner) within 5 minutes to the 90th percentile.

- 1.3.2 East Pierce Fire & Rescue shall strive to maintain sufficient personnel and equipment, strategically located to provide a minimum acceptable (effective) response force capable of arriving at emergency incidents within 10 minutes to the 90th percentile. "Sufficient personnel" is further defined in the EPFR Capital Facilities Plan.

The proposed zoning code amendment acknowledges the inter-local agreement with East Pierce Fire and Rescue and the need to equip the local fire district with an emergency management plan. As technology improves and best science is made available for battery energy storage, fire-fighting training and response is critical and an integral section of an emergency management plan.

Conclusion:

Sumner's Comprehensive Plan provides a general policy basis for orderly development of necessary utility land uses. The proposed updates to allow Battery Energy Storage Systems as a conditional use in the manufacturing districts remains consistent with the Land Use Element for proper siting and allows for the city to ensure intensive uses like BESS remain located within the manufacturing center and does not adversely impact adjacent land uses. Proposed code amendments will further adopt performance standards that address BESS in terms of screening, noise and aesthetics. These performance standards address the policies of the Environment Element, by regulating new developments which could generate substantial levels of noise to be a conditional use and subject to additional standards. The proposed code amendments further advocate the Capital Facilities and Public Service Element, creating opportunities to strengthen partnerships with the local fire district by requiring BESS proposals to submit an emergency management plan. The proposed changes would also support the development and expansion of utility facilities in Sumner consistent with the Utilities Element and thereby supporting economic development and needs of the community. While this proposal generally advances the City Value of Foresight to include new industries, the proposed code change specify a requirement to demonstrate how a proposed BESS facility avoids placing undue burden on the city to manage the distribution of such uses.

IV. SEPA ENVIRONMENTAL REVIEW

A SEPA environmental checklist and analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on September 11, 2024.

V. PUBLIC & AGENCY COMMENTS

Four (4) public comments were received during the public comment period. See Exhibit B for the staff memo detailing the comments and response.

VI. PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted unanimously to recommend approval of Ordinance No. 2899 by the City Council. Move to recommend approval by the CD committee.

VII. EXHIBITS

- A. Ordinance No. 2899
- B. Staff Memo-Response to Public Comments

DRAFT
ORDINANCE NO. 2899
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE ZONING CODE PERTAINING TO BATTERY ENERGY STORAGE SYSTEMS INCLUDING DEFINITIONS AND LAND USE REQUIREMENTS AND AMENDING CHAPTERS: 18.04 DEFINITIONS; 18.18 MANUFACTURING DISTRICTS; AND SECTIONS: 18.04.0162; 18.04.1070; 18.18.020; 18.18.060 AND ADDING A NEW SECTION 18.04.0163 “BATTERY ENERGY STORAGE SYSTEMS (BESS).”

WHEREAS, technological progress and innovation have fueled a surge in the development of battery storage facilities, widely known as BESS (Battery Energy Storage Systems), marking a significant leap forward in renewable energy storage solutions; and

WHEREAS, BESS can offer benefits compared to other energy storage solutions, such as improved efficiency and adaptability, quicker reaction times for energizing equipment or devices, and overall reduced expenses; and

WHEREAS, the intent of the City, by making these modifications is to ensure that this new technology is clearly defined and allowed in the municipal code, and that all large, grid-scale, BESS facilities are processed through a Conditional Use Permit to better address potential impacts to the surrounding area, including the heightened risk of fire and environmental contamination, and to provide a flexible process for permitting facilities improvements as technology changes or operational needs change.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amended Section. Sumner Municipal Code Section 18.04.0162 is hereby amended as follows:

18.04.0162 Battery storage, distribution, and processing business.

“Battery ~~storage~~, distribution, and processing business” means a retail or wholesale business engaged in any one or more of the following activities: importation of prepared batteries from either a foreign or domestic source; repackaging, relabeling, or other cosmetic alteration of batteries; shipping, reselling, or otherwise distributing batteries to retail or wholesale customers; minor additions of fluids to batteries to restore their electrical properties; storage of batteries incidental to on-site retail or wholesale operations, related office activities.

Section 2. New Section. Sumner Municipal Code Section 18.04 Definitions is hereby amended to add a new definition, as follows:

18.04.0163 Battery Energy Storage Systems (BESS)

“Battery energy storage systems” or BESS is a facility consisting of any combination of electrochemical storage batteries, battery chargers, controls, power conditioning systems and/or

associated electrical equipment, including transmission lines, whether assembled together or separately, capable of storing at least 200 megawatt hours of electrical energy in order to supply energy at a future time to the electrical grid of a public utility provider(s).

Section 3. Amended Section. Sumner Municipal Code Sections 18.04.1065 and 18.04.1070 are hereby amended as follows:

18.04.1065 Utility facility, major.

“Major utility facility” is a facility for providing service to an area including, ~~but not limited to:~~

- A. Telephone exchanges;
- B. Electrical switching substations;
- C. Natural gas gate stations and regulating stations;
- D. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is directly distributed to individual users, but does not include the storage and distribution by truck or rail transport;
- E. Natural gas transmission pipelines;
- F. Sewage Wastewater treatment plant; and
- G. Utility facilities that are not minor utility facilities.

For the purposes of this title, “major utility facility” does not include utility lines, distribution pipelines, and other related facilities commonly found in street rights-of-way, “Battery Energy Storage Systems,” or uses included in the definition of “public facilities:” or “essential public facilities.”

18.04.1070 Utility facility, minor.

“Minor utility facility” means:

- A. Natural gas distribution lines, not located in a street right-of-way.
- B. Developments within the confines of any electric substation, telephone exchange buildings, reservoir, pump station, well and similar.
- C. Electrical facilities, lines, equipment or appurtenances with an associated voltage of 55,000 volts or less.
- D. Upgrade of existing electrical transmission lines in commercial and industrial districts.
- E. Detention ponds and other similar tracts dedicated to the city.
- F. Wastewater pump or lift stations.

For the purposes of this title, “minor utility facility” does not include utility lines, distribution pipelines, and other related facilities commonly found in street rights-of-way, or uses included in the definition of “public facilities:” “Battery Energy Storage Systems,” or “essential public facilities.”

Section 4. Amended Section. That Sumner Municipal Code 18.18 “Manufacturing Districts (M-1, M-2),” 18.18.020 “Principal, Administrative, and Conditional Uses,” is hereby amended to read as follows:

“18.18.020 Principal, administrative, and conditional uses.”

A. The following table details permitted and conditionally permitted uses in the manufacturing districts. Where a “P” is indicated, the respective use in the same row is permitted in the zone classifications in the same column. Where an “A” is indicated or SMC 18.48.020(B) applies, the respective use in the same row is allowed through an administrative use permit. An administrative use permit shall be required and in full force and effect in order to establish said

administrative uses. Where a “CUP” is indicated, the respective use in the same row is conditionally permitted in the zone classification in the same column. A conditional use permit shall be required and in full force and effect in order to establish said conditional uses. Where “--” is indicated, the respective use is not allowed. Where a “1” or “2” is indicated, there are different or supplemental regulations for that particular use within the Sumner manufacturing/industrial core overlay (MICO) pursuant to the notes at the bottom of this table.

		M-1	M-2	MICO (M-1/M-2)
1.	Accessory parks and recreation facilities for use by on-site employees	P	P	P
	[...]			
6.	Battery storage , distribution, and processing business	P	P	P
	[...]			
19.	Food manufacturing, processing or package plants, excluding slaughtering facilities	CUP ¹	P	CUP ¹ /P
	[...]			
72.	Essential public facilities not otherwise listed above	CUP	CUP	CUP
<u>73.</u>	<u>Battery Energy Storage Systems⁹</u>	<u>CUP¹</u>	<u>CUP¹</u>	<u>CUP¹</u>

¹Prohibited within 1,000 feet of residentially zoned lands.
[...]

⁸See performance standards in SMC 18.18.060(W).

⁹See performance standards in SMC 18.18.060(X).

Section 5. Amended section. That Sumner Municipal Code section 18.18.060 Performance Standards is hereby amended to add new performance standards for Battery Energy Storage Systems, as follows:

18.18.060 Performance Standards.

The following special requirements and performance standards shall apply to properties located in the manufacturing districts:
[...]

X. Battery Energy Storage Facilities.

1. The site shall be screened from adjacent properties except those zoned M-2 with at least a three-foot-high earth berm and at least 50 percent evergreen trees at least six feet in height at planting.
2. Outdoor lighting shall comply with SMC 18.18.060(D).
3. Fencing shall comply with SMC 18.18.060(S).
4. The facility shall not create odor, noise, or vibrations that are readily detectable by the human senses beyond the boundaries of the site.

5. Building and equipment surfaces shall have cladding or coating that provides a durable and non-glare surface, such as galvanized metal or powder-coated paint.
6. An emergency management plan shall be developed for each facility in coordination with the local fire district.
7. Applicants for a proposed facility shall evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.

Section 6. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 7. Effective date. This ordinance shall take effect five (5) days from the date of publication in the City's official newspaper.

Section 8. Corrections by City Clerk or Code Reviser. 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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:



EXHIBIT B

1104 MAPLE STREET, SUMNER WA 98390

STAFF MEMO

DATE: October 29, 2024
TO: Community Development Committee
FROM: Chrissanda Walker, Associate Planner
RE: **RESPONSE TO PUBLIC COMMENTS**

I. Zoning Code Text Amendment - Battery Energy Storage Systems

On September 17, 2024, the City issued a notice of public hearing to update regulations in the zoning code pertaining to Battery Energy Storage Systems including adding a new definition, limiting to conditional use in industrial/manufacturing zones and distance from residentially zoned properties. Planning Commission reviewed this proposal at the public hearing on October 3, 2024, see staff report on the Commission recommendation. There were three (3) oral testimonies provided during the public hearing. During the public comment period on the proposed zoning code text amendment there were four (4) comment letters received prior to the public hearing. Staff provided a copy of the received public comment letters to the Planning Commission. Below is a table and summary of the comments received and a staff response addressing each public comment. These documents are attached to this memo in the following order:

Attachment	Public Comment Type/Author	Date Received
a.	- Staff response to comment letter #1 - Comment Letter from Bonnie Helms <i>Summary: Provided comment on certain types of BESS batteries that are dangerous; urged for emergency management planning/funding</i>	9-30-2024
b.	- Staff response to comment letter #2 - Comment Letter from Randall Adams <i>Summary: Provided concerns on BESS close proximity to residential uses versus residential zoning</i>	10-02-2024
c.	- Staff response to comment letter #3 - Comment Letter from Jared Ross <i>Summary: Provided overall support of Ordinance. Included recommendations for amending proposed performance standards</i>	10-2-2024
d.	- Staff response to comment letter #4 - Comment Letter from Chrstine Nhan <i>Summary: PSE representative. Provided overall support of Ordinance</i>	10-3-2024
e.	- Oral Testimony #1 from Bonnie Helms <i>Summary: Provided overall support of the Ordinance and clarified to the Commission the concerns around certain battery types</i> - Staff response to oral testimony #1	10-3-2024
f.	- Oral Testimony #2 from Randall Adams <i>Summary: Sought clarification on the 1,000 feet distance requirement from residential</i> - Staff response to oral testimony #2	10-3-2024
g.	- Oral Testimony #3 from Nick Biermann <i>Summary: Generally in favor of BESS and provided comment on specific types of guardrails that should be in place.</i> - Staff response to oral testimony #3	10-3-2024

Comment Number	Staff Response to comment letter #1 from Bonnie Helms
1	The proposed ordinance better regulates BESS and distinguishes it as separate from major utility use in the zoning code. The ordinance anticipates requiring future developments of BESS to meet or exceed industry standards.
2	A decommissioning plan is required for a BESS under NFPA requirements.
3	A proposed BESS project would pay utility taxes, impact fees and other related permit fees and bonds necessary for development. Local fire districts can provide directions on training needs under the required Emergency Management Plan. Further questions about taxes and ROI could be directed to PSE.
4	Ordinance No. 2899 limits BESS to industrial zoned lands only.
5	Fire hazard mitigation is a top priority, and the hazard mitigation plan will be required to meet IFC and NFPA requirements for BESS.

Chrissanda Walker

From: Invitation To Abandon <invitationtoabandon@gmail.com>
Sent: Monday, September 30, 2024 7:18 AM
To: Chrissanda Walker
Subject: Public comment: City Zoning Code Amendment – Battery Energy Storage Systems (BESS)
Attachments: received_808270811510862.jpeg; received_1543843213195177.jpeg; Screenshot_20240817_082958_Gallery.jpg; Screenshot_20240930_065842_Chrome.jpg; Screenshot_20240930_065832_Chrome.jpg; Reagan Dunn opposition letter Battery Storage.pdf; NatronPressRelease2022.pdf; BESS-incidents-recent-failures-and-risk-management_240710_235830.pdf; BESS Tamarack HOA Oppostion Letter.pdf; ExpeditedPermitting.pdf; Crippling-Costs-PNWdiscoveryInst.pdf; Lithium Batteries Hazmat Handout - Toxicity - WA.pdf; TexasBESSworkplan.pdf; lithium-ion-battery-report-update-701_508_240718_071734.pdf; BESS_Fires_Physics professor research.pdf; RunOffWaterTest.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

****EXTERNAL EMAIL****

For public record

In regards to proposed battery energy siting ordinance Sumner, WA

To whom it may concern,

An ordinance is needed during this "gold rush" for lithium BESS. There are too many unknown errors that occur in BESS fires and they continue to fail (use any search engine to find many news stories and documentation of grid-scale Li-BESS failures). This is a new and evolving tech. Standards including 3rd party IOS certification and OEM to include only tier 2 batteries must be in place to ensure we do not end up with a defective battery with an out-of-date BMS. It would be wise to limit CATL manufactured batteries as these have been called into question at military bases due to the concerns around OT cyber security:

<https://www.strategic-risk-global.com/catastrophe-risk/why-the-global-energy-storage-market-must-be-wary-of-invisible-cyber-risks/1444473.article>

Members of congress warning about CATL batteries on military bases:

<https://www.rubio.senate.gov/rubio-colleagues-warn-of-communist-china-linked-batteries-at-u-s-military-bases/#:~:text=seek%20to%20exploit,The%20growing%20presence%20of%20CATL%20and%20other%20Chinese%20products%20in,CATL%20batteries%2C%20at%20Camp%20Lejeune>

Included in the ordinance should be a determined length of time these projects are to be in place, ensuring the owner is held accountable in case of a failure, as well as plans for decommissioning. We must require insurance and bonding enough to cover fire fighting and evacuation costs that are site specific for each proposal. Below shows the costs of an evacuation of a recent BESS fire in California:

2

<https://www.10news.com/news/local-news/north-county-news/cafe-owner-loses-thousands-after-being-forced-to-close-for-escondido-battery-fire>

Do we know what would the ROI for Sumner would be? Do we only get initial taxes when the project is built? It would be unwise to allow companies to impose risks to the land and community, as well as a strain on emergency services, with no compensation to the city for the entire life of the project. This should include a tax, similar to gas, for out-of-state energy sales. It should also go under a NEPA review for interstate transmission in addition to a SEPA, and an EIS that considers sensitive habitats as needed to include impacts of transmission lines where applicable. It should also include budget for training first responders and consider the availability of BESS hazmat specialists, providing for these when they are not available.

3

Leaders across the state of Washington are listening to community concerns around the permitting of these projects, and it would be wise if Sumner leaders did as well by approving the ordinance that limits these batteries to industrial type zones only. See most recently Skagit County concerns:

4

<https://www.king5.com/article/tech/science/environment/opposition-mounts-against-proposed-lithium-ion-energy-storage-facility-skagit-county/281-c0825be0-d9e9-4169-827d-f378ba647872>

https://www.goskagit.com/news/business/city-council-joins-in-opposing-battery-storage-facility/article_8bff2e88-6b93-11ef-a907-8fe27aa1603e.html

<https://www.skagitcounty.net/Departments/Home/press/082824.htm>

The longterm aspects of lithium-based batteries aren't only lacking in their state of health, degradation and fire risk, or their life expectancy, but they also fall short in terms of true CO2 reductions, environmental footprint and as the future of battery technology in general. See sodium-ion, zinc, iron air, gravity, and other types of battery tech available without the same risk or harm as lithium-based batteries.

I have attached a workplan from a city in Texas, the state that is second only to California in number of deployed stand alone BESS in America. Please review their recommendations as they performed a comprehensive review of what these projects entail.

5

Also attached are documents that include lab results of lithium battery fire run-off testing, efforts to streamline the permitting process in the benefit of the developers, letters of opposition from local leaders in Washington state, and other pertinent data. As well below are some sources to verify the concerns around the placement specific to lithium-based batteries:

Battery degradation:

<https://www.mdpi.com/2313-0105/10/7/220>

<https://insideevs.com/news/731210/lfp-battery-health-degrades-full-charge-study-finds/>

<https://link.springer.com/article/10.1007/s42154-023-00226-3>

https://storagewiki.epri.com/index.php/BESS_Failure_Incident_Database

Reports on the impact of Lithium-ion batteries on the environment:

<https://www.linkedin.com/pulse/brief-report-impact-lithium-ion-batteries-environment-semcoinfra>

[https://www.cell.com/current-biology/fulltext/S0960-9822\(24\)00895-9](https://www.cell.com/current-biology/fulltext/S0960-9822(24)00895-9)

<https://climate360news.lmu.edu/lithium-not-as-clean-as-we-thought/>

<https://8billiontrees.com/carbon-offsets-credits/carbon-footprint-of-lithium-ion-battery-production/>

Thanks to the overturning of Chevron Doctrine, climate driven policies are under court and legal review:

<https://www.cfr.org/expert-brief/us-supreme-courts-chevron-deference-ruling-will-disrupt-climate-policy>

Lithium battery fire plume info:

<https://www.sciencedirect.com/science/article/abs/pii/S0950423023002310>

https://www.researchgate.net/publication/374949246_Lagrangian_plume_rise_and_dispersion_modeling_of_the_large-scale_lithium-ion_battery_fire_in_Morris_USA_2021

<https://www.nature.com/articles/s41598-017-09784-z>

Data center and AI vs grid stability and power for residents in emergencies, who the stored energy has ended up being used for:

<https://www.seattletimes.com/seattle-news/pnw-data-center-boom-could-imperil-power-supply-within-5-years/#Echobox=1720620750>

BESS do not provide power when lines are down:

<https://www.texastribune.org/2024/07/25/texas-power-grid-puc-centerpoint-hurricane-beryl/>

I would not be displeased if the ordinance was approved as-is, but hopefully the information provided will ensure the upmost care is taken when the decision to allow lithium based BESS (of any chemistry) to

be permitted is made. Developers/salesman provide assurances without much data and I'd ask you consider very carefully the source.

<http://www.stopseguro.org/the-hidden-risk/>

Thank you for your time, initiative and stewardship.

Sincerely,
Bonnie Helms
Auburn, WA
253-632-6085

Comment Number	Staff Response to comment letter #2 from Randall Adams
1	The map overview was reviewed and there are 4 single family residences located on the east side of East Valley Hwy. These properties have been zoned M-1, light industrial, since 2019. The Ordinance will prohibit BESS within 1,000 feet of residentially zone lands not the existing single family uses. In this case, we are looking at underlying zoning, not existing land uses. Other comparable land uses in the manufacturing zone that are prohibited within 1,000 feet of residentially zones include food manufacturing, processing or package plants, excluding slaughtering facilities. Some existing residential dwellings may have existed prior to the code in place which prohibits that use. A single-family residential dwelling may be a pre-existing use while the underlying zones of the lands are changed.
2	SEPA review addresses potential drainage into the Deringer Flume which is located 1,000 feet away from the unrelated BESS project site. While this draft Ordinance does not specifically address aquifer recharge protection, Sumner's robust environment protection code would come into play during SEPA review. When that BESS project submits for development permits, the project shall adhere to conditions and mitigating measures to avoid impacts.

Honorable Planning Commission:

Before you on October 3rd is the request to approve Ordinance No. 2899. I have attached an overview of the surrounding properties and identified 4 homes and 2 vacant residential lots that are all much closer than the 1000' ft buffer zone away from residential properties included in this Ordinance as it relates to the BESS project.

Ordinance No. 2899 City of Sumner Washington should not be approved because it specifically states that no Residential property is allowed within 1000 ft of the BESS site, as highlighted herein.

On the Staff Report, page 3, under Zones allowed, it states:

“The proposal will allow BESS as a conditional use in all manufacturing zoning districts, prohibited within 1,000 feet of residentially zoned lands. BESS facilities will also be prohibited in commercial and mixed use zones”

Highlighted and red emphasized for easy recognition.

On the 3rd page of Ordinance 2899 itself, #1 is highlighted here and shown to identify restrictions: “¹Prohibited within 1,000 feet of residentially zoned lands.”

Previously presented to you by staff was the representation that no residential properties were within 1000'. As you can see by the map attached, there are at least 6 different residential properties that are closer than 1000'. Ordinance 2899 should not be approved until these errors are corrected or the residential properties are all changed/bought up and converted into commercial property.

Also attached is another overview showing that the drainage ditch for this project leads directly after 1000' to the Dieringer Flume which then drains into the White River. Seems like a huge risk considering the millions of dollars being spent to reclaim the salmon run with the White River Reclamation Project efforts.

Thank you for your time & I hope actions to correct this error in Ordinance 2899 before it is allowed to be approved.

Randall Adams 15013 63rd St Ct E, Sumner WA 98390

Comment #	Staff Response to Comment Letter #3: Letter: from Jared Ross
1	In the city of Sumner, preservation of residential and commercial zones remains a priority for community development. Restricting BESS to industrial zones meets the intent of Sumner's Comprehensive Plan, and prevents several viable properties being used for energy storage. Limiting these uses and prohibiting them from within 1,000 feet of residential zone lands best protects the surrounding community.
2	The proposed odor, noise or vibrations performance standards are similar to existing standards in the zoning code for other industrial uses. Other performance standards for the Manufacturing Districts include: • <i>(H) Electrical Disturbance, Heat and Cold, Glare. No use except a temporary construction operation shall be permitted which creates changes in temperature or direct glare, detectable by the human senses without the aid of instruments, beyond the boundaries of the site. No use shall be permitted which creates electrical disturbances that affect the operation of any equipment.</i> • <i>(I) Odor and Emissions. No use shall be permitted which creates annoying odor in such quantities as to be readily detectable beyond the boundaries of the site or produces air emissions that are not compliant with regional, state, and federal emission standards. Uses shall utilize best available control technologies to reduce odors and emissions.</i> • <i>(K) Vibration. No use except a temporary construction operation shall be permitted which generates inherent and recurrent ground vibration perceptible, without instruments, at the boundary of the lot in which the use is located.</i> Bullet #4 reads as follows: <u>#4. The facility shall not create odor, noise, or vibrations that are readily detectable by the human senses beyond the boundaries of the site.</u>
3	Industrial design guidelines lack specificity on structures that are not regulated under the building code. As a visual impact on neighboring parcels, it is important to consider the design and materials of BESS enclosures. Utilities are required to be screened, while structures on a substation are exempt from design guidelines, placing a design and screening requirement for BESS uses allows for mitigation of reflective surfaces and allow for structures to blend in better with the surrounding community. Further research could be sought in regard to commercially available tier 1 BESS manufacturers, to determine whether coating options exist. A non-glare option is acceptable and consistent with other performance standards. Bullet #5 reads as follows: <u>#5. Building and equipment surfaces shall have cladding or coating that provides a durable and non-glare surface, such as galvanized metal or powder-coated paint.</u>
4	The distribution of these facilities is a concern given that BESS has limited direct benefit to the community and poses potential direct impacts. The City of Sumner should not be unduly burdened with a disproportionate number of new BESS facilities as compared to surrounding jurisdictions. The performance standard is based on the current code criterion for essential public facilities. Bullet #7 reads as follows: <u>#7. Applicants for a proposed facility shall evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.</u>

SOUTH SOUND BUILDING & CONSTRUCTION TRADES COUNCIL

Chartered by Building and Construction Trades Dept ' AFL-CIO

3049 36th Street, Suite 220

Tacoma, WA 98409

Jared Ross, Executive Secretary

October 2, 2024

Sumner Planning Commission
City Hall – 1104 Maple Street
Sumner, WA 98390

RE: Support for Battery Energy Storage System Projects in King County

Dear Planning Commission and City Council Members:

The South Sound Building and Construction Trades Council, representing our 18 affiliates and more than 10,000 members, supports for the development of battery energy storage system (BESS) projects in Sumner, Pierce County, and throughout the State of Washington. We commend the Commission, Council, and city staff for recognizing the importance of BESS technology and the work that has gone into drafting this ordinance. **However, in reviewing the draft staff memo accompanying Ordinance No. 2899 "Battery Energy Storage Systems Code Amendment," we have identified areas of concern that will significantly impact the resource planning and potential power adequacy in the City of Sumner and surrounding areas.**

We are primarily concerned with the intent to limit BESS projects to industrial zoned parcels. As noted in the staff memo these systems are a critical component of the transition towards a greener and more resilient power grid. By restricting the zones these facilities can be sited in, it hinders the ability for resources to be deployed where they are needed most. We encourage the City to continue allowing for BESS projects to be permitted in non-industrial zones through a special use permit. This approach would ensure that each proposal is reviewed on its merits while maintaining proper oversight. Allowing for this flexibility would provide more opportunities for BESS deployment, ensuring continued alignment with the City's long-term land use and environmental goals.

Additionally, Section 18.18.060 of the proposed ordinance includes several bullets that we believe should be addressed prior to passage:

- Battery energy storage systems do not generate odor, vibrations, or noise pollution and are designed to comply with local standards. Bullet #4 creates a new standard that is unnecessary and places an undue burden on BESS facilities that would not apply to other manufacturing and industrial uses in City code.
- Bullet #5 includes vague language and should reflect tier 1 commercially available BESS manufacturer offerings.
- Bullet #7 places the burden of regional resource planning on project applicants and the City of Sumner, rather than deferring to the expertise of public utilities who invest time and resources into identifying where projects are needed. Substations within the City of Sumner have been identified as a strong candidates for BESS integration and potential projects should not be

1

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required to “evaluate the overall distribution of other BESS facilities within the county and city, and demonstrate how the proposed facility avoids placing an undue burden on the city over other cities and on any one neighborhood within the city.” This language also focuses exclusively on the concept of “burdens” while ignoring the substantial local benefits that are generated by a potential project, including job creation, tax revenue, and energy security.

- We urge the commission to delay the vote on this ordinance and take time to address the concerns listed above. This ordinance also represents an important opportunity support the development of good-paying jobs that will help build Washington’s clean energy future. Members of the building trades stand ready to construct these vital energy storage facilities. However, we want to ensure that job creation and economic development are not held back by unnecessarily restrictive zoning changes, and this can be done while protecting surrounding communities.

Modern BESS projects are designed to be built, maintained, and operated with the highest safety standards in mind. Advances in battery technology, adherence to updated fire codes, and the implementation of emergency management plans in collaboration with local fire departments all contribute to the safe operation of these facilities. These developments allow BESS to operate effectively while minimizing local impacts.

Thank you for your consideration as you work to craft updated regulations for the development of battery energy storage systems. We request that you allow for time for us and other interested parties to discuss these concerns further before finalizing the ordinance.

Sincerely,

Jared Ross



Executive Secretary
South Sound Building & Construction
Trades Council AFL-CIO
jared@pcbuidingtrades.org
253-241-2564
3049 S 36th St Suite 220
Tacoma WA 98409

Attachment d. Staff response to letter #3

Comment Number	Staff Response to comment letter #3 from Christine Nhan
1	Comment noted.
2	Ordinance 2899 will be on the Council agenda on November 18, 2024. PSE is welcome to provide further substantive comments at Council

Chrissanda Walker

From: Chrissanda Walker
Sent: Thursday, October 3, 2024 10:30 AM
To: Chrissanda Walker
Subject: FW: Planning Commission Public Comment from PSE 10/3

Importance: High

From: Nhan, Christine
Sent: Wednesday, October 2, 2024 3:47 PM
To: chrissandaw@sumnerwa.go
Subject: Planning Commission Public Comment from PSE 10/3

Good Evening Planning Commissioners,

My name is Christine Nhan and I am the Local Government Affairs Manager at Puget Sound Energy. I am local to Pierce County and live close by in the City of Edgewood. I am providing comment tonight on item 1, Ordinance No. 2899. We at PSE appreciate the opportunity to provide public comment.

Puget Sound Energy (PSE) is Washington State's largest utility, serving about 1.2 million electric customers and 900,000 natural gas customers across our service territory. For over 150 years, our focus has been consistent on providing safe, reliable, and affordable energy service to the region. PSE is undergoing the most significant transformation in our history as we strive to meet Washington State's clean energy laws. Passed in 2019, the Clean Energy Transformation Act (CETA) commits Washington to phasing out coal by 2025, a carbon-neutral electricity supply by 2030, and 100 percent clean electricity by 2045. CETA includes specific requirements for utilities to meet these goals including ensuring that all customers equitably benefit from the transition to clean energy. 1

Demand for electricity is growing due to extreme inclement weather patterns, electrification of transportation, homes, and industry. Battery Energy Storage Systems (BESS) are going to be an important part of PSE's plans to provide the reliable power our customers expect while delivering clean energy required by Washington's clean energy requirements. In PSE's current Integrated Resource Plan, PSE projects a need for nearly 1,500 megawatts of energy storage by 2030. PSE would like to provide further substantive comments when the ordinance reaches City Council. 2

Again, thank you for the opportunity to comment. We appreciate and value the City's partnership, and look forward to a robust discussion on BESS ahead.

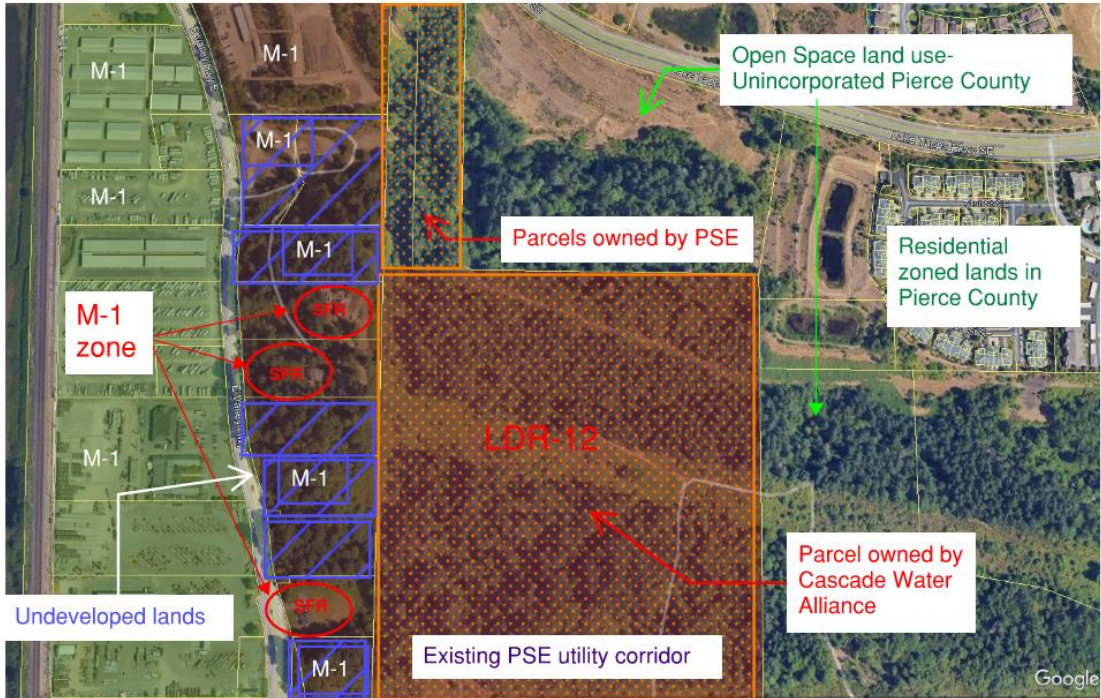
Christine Nhan
Local Government Affairs & Public Policy Manager
Puget Sound Energy
(253) 229-0953

#1 Oral Testimony at Public Hearing – October 3, 2024	
Comment	Person: Bonnie Helms
1	I live in Auburn, Washington. It's 29854, 111th Avenue southeast. I actually just kind of want to support the city and the ordinance that has been put together. It's actually quite impressive. I've been researching battery energy storage for about 6 months, and since I learned about the one in Covington that was proposed next to an elementary school (PSE also had their hand in that). So their judgment kind of comes into question. I'm the one that sent you guys a bunch of links and stuff. So I just kind of want to give you a little bit more information. A lot of people use the EPRI database of BESS failures, and people have done a little bit more research about how many failures actually occur in lithium based BESS specifically in California a project that that proposed, 1,280 megawatts, or 1.2 8 gigawatt hours and that would be the amount of batteries on site they actually translated that to a 28% chance of having a fire every year, or approximately one fire every 3 years for a project that size. So that's 1.2 8 gigawatts. If you want to try to remember that in your mind. and there's a lot of batteries that are in those things. So one goes off. They can all go off.
2	I do also just want to let you know that NFPA and UL standards are fantastic. Unfortunately, Congress is moving towards banning CATL specific battery energy storage on military sites because of cybersecurity concerns. They've done some risk assessments on that, and it is a legitimate concern. Marco Rubio wrote an entire letter about that, so I can also send some more information related to that If you want. I want to just say fantastic job, though, to the planning department we've been asking for these to be placed in industrial sites. So you've already done that. We don't consider it a utility. You've already done that, too. These tend to also be used for artificial intelligence and data centers.
3	The data centers that are needed for AI, Jay Inslee just got done saying that he's trying to put as many energy storage things in Washington State to supply AI. At a conference. I think it was last week or week before there was an article in the Washington State Standard about 3rd party assessments are going to be critical in ensuring that the conditional use permits are followed through. We have documentation of BESS developers showing that there's look with the Decibel reader for the noise, but they don't have their HVACs on when not in charging or discharging, so we want to make sure that the noise levels and the other conditions are actually followed through. Beyond that I do just want to let you know that there are moratoriums in place in Black Diamond, Covington and Cedro Woolley on BESS in general until they can research these somewhere. Be careful, because if they do not get approval through, you guys, they will go through the FSEC Council, which Jay Inslee has total control over that. Thank you.

Comment #	Staff Response
1	The Ordinance anticipates requiring future developments of BESS to meet or exceed industry standards.
2	Ordinance No. 2899 limits BESS to industrial zoned lands only.
3	Impacts caused by noise or vibration are addressed under proposed performance standards.

#2 Oral Testimony at Public Hearing – October 3, 2024

Comment	Person: Randall Adams
1	15013 63rd Street Court, East Sumner, Washington. I would like clarification on the lots that are on the east side of East Valley Highway, they are zoned residential lots and have homes on them. Why those are not applicable to your 1,000 foot zoning! I heard something, but it didn't address it specifically. Why, in Pierce County those are zoned residential. Asking why you don't accept that zoning. that's all. Thank you.

Comment #	Staff Response
1	 A screenshot of the zoning map to highlight a few surrounding zones and uses within 1,000 feet of a previously submitted BESS project on East Valley HWY. There are three (3) existing single family residential homes along the east side of East Valley Hwy circled in red. The underlying zoning is M-1, for light industrial per Sumner's zoning map amendment in 2019. New single family residential uses are not permitted in the M-1 zone; therefore those residential homes are existing non-conforming. The surrounding lands are undeveloped steep slopes and existing light industrial uses. The large parcel located at the top of the valley is in fact zoned residential lands LDR-12, however under Sumner's Comprehensive Plan it is designated as Public/Private Utilities land use, and Cascade Water Alliance owns that parcel. Ordinance 2899 would prohibit future BESS within 1,000 feet of Residential zoned lands. Proximity to residential zone lands in Unincorporated Pierce County would be consulted during SEPA.

#3 Oral Testimony at Public Hearing – October 3, 2024	
Comment	Person: Nick Biermann
1	5802 Parker Road East Sumner, WA. I do want to thank Miss Walker for the presentation. It actually helps me answer quite a few questions that I've had about this project. So I thank her for that, and I also thank the staff for the work they've done on developing this ordinance in general. I like to speak in favor of the ordinance, but with some caveats that I think would be important to attach to it. Also, generally in favor of storing energy produced from renewable energy sources with the types of guardrails in place that this particular ordinance would provide for. I am in support of setting a minimum distance from residences. But I do suggest using residences instead of the residential zone parcels. Since you're essentially leaving behind residents who do live nearby.
2	I also think there should be some consideration for either a spatial distance, or some other type of safeguard provision in the ordinance that would give consideration for existing underground environmental features, such as nearby city wells, rivers, recharge aquifer zones. Things like that are also important to consider that happen to be underlying in any of these proposed sites that may not be exposed at the surface, or may not be obvious at the surface. So I think some of those should be added to environmental considerations, for the ordinance. Those are my comments. Thank you.

Comment #	Staff Response
1	The Ordinance will prohibit future BESS from within 1,000 feet of residential zone lands, not existing single-family dwellings. We are looking at underlying zoning, not existing land uses. Other comparable land uses in the manufacturing zone that are also prohibited within 1,000 feet of residential zones include food manufacturing, processing or package plants, excluding slaughtering facilities. Applying the distance to the zone allows the City to conduct orderly development in the City.
2	The city of Sumner has a robust environmental protection code and regulations. Future BESS projects are subject to conditional use permit and under SEPA, environmental regulations and development standards will be reviewed and applied accordingly.

SUBJECT: Ordinance No. 2900 - Multifamily Residential Infill Code Amendment

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Multifamily Residential Infill Staff Report
2. Draft Ordinance No 2900 MRI

STAFF CONTACT: Scott Waller, Senior Planner

SUMMARY BACKGROUND: The State House of Representatives passed bill 1042 creating regulations for allowing Multifamily Residential Infill of existing commercial and multifamily developments. This bill requires Cities to review their current land use codes and make necessary changes for compliance with the State.

The proposed amendments to Sumner Municipal Code will update regulations to allow infill additions to existing commercial and multifamily developments. These changes include:

- Creates definitions for “multifamily dwelling” and “multifamily residential infill”.
 - Sets scope for what multifamily residential infill unit developments can and cant include
 - Provides permitting and code exemptions for multifamily residential infill units
 - Updates zones currently allowing commercial and multifamily developments to permit existing commercial and multifamily structures to allow multifamily residential infill units
-

COUNCIL COMMITTEE/STUDY SESSION:
--

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Staff recommends that the CD Committee move draft ordinance No. 2901 for a code amendment (CTA-2024-00) for Multifamily Residential Infill developments forward for a study session



STAFF REPORT

DATE: October 29, 2024
TO: CD Committee
FROM: Scott Waller, Senior Planner and Larson Consulting
RE: **Zoning Code Text Amendment – Multifamily Residential Infill development regulations Ordinance No. 2900**
File #CTA-2024-0005

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The State House of Representatives passed bill 1042 creating regulations for allowing Multifamily Residential Infill of existing commercial and multifamily developments. This bill requires Cities to review their current land use codes and make necessary changes for compliance with the State.

II. SUMMARY OF PROPOSAL

The proposed amendments to Sumner Municipal Code will update regulations to allow infill additions to existing commercial and multifamily developments. These changes include:

- Creates definitions for “multifamily dwelling” and “multifamily residential infill”.
- Sets scope for what multifamily residential infill unit developments can and cant include
- Provides permitting and code exemptions for multifamily residential infill units
- Updates zones currently allowing commercial and multifamily developments to permit existing commercial and multifamily structures to allow multifamily residential infill units

III. ANALYSIS

Sumner code requires that proposals to amend the Zoning Code include an explanation of how the proposed amendment implements the comprehensive plan (SMC 18.56.149(2)). Relevant sections and policies related to the proposed text amendment are presented below.

Land Use Sub-Element

Goal 1. Provide for orderly development within the Sumner community.

1.2 Encourage infill development on vacant properties with existing public services and public utilities, and new development in areas with existing or planned public facilities.

1.7 Ensure new development is consistent with the policies of this Plan through implementation of regulations, programs, and project specific review

PERMIT PROCESS SUB-ELEMENT

Goal 1. Develop and implement a permit process for land use and other local government approvals which is timely and fair to all affected parties.

1.2 Review development regulations to ensure they are necessary and directly relate to implementation of the Comprehensive Plan and other state and federal mandates.

1.2.1 Eliminate duplicative, unnecessary, and unclear regulations.

1.2.2 Provide procedures to process permits in a timely fashion

1.3 Provide resources, staffing and procedures sufficient to ensure development permit review is adequate to achieve consistency with adopted City policies and regulations within reasonable timeframes.

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

COMMUNITY CHARACTER ELEMENT

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

5.1 In reviewing plans and development proposals, consider both long and short term environmental impacts and encourage design which complements the area's natural and cultural features. Natural and significant cultural features should be integrated into the design of the community.

HOUSING ELEMENT

Provide a range of housing types for all life stages and economic segments of the Sumner community.

2.1 Strive to meet the City's fair share of housing needs by planning that 25% of the growth population allocation is satisfied through affordable housing.

2.1.1 Develop a housing strategy to implement fair share objectives. It shall include an inventory of affordable housing, an analysis of Sumner's fair share as compared to surrounding cities, and a phased approach to meet the community's fair share housing allocation. Milestone dates and interim objectives shall be established to allow for progress in meeting the overall fair share targets. The housing strategy should be completed by December 2017.

2.2 Plan for an adequate supply of land in appropriate land use designations and zoning categories to accommodate projected household growth.

2.2.1 Through the Comprehensive Plan, Zoning Code, and Subdivision code, and Design Guidelines allow for a variety of housing types and lot configurations including multi-family housing, mixed use development, cluster development, zero-lot line and similar subdivisions, planned unit development, and non-traditional housing forms such as adult family homes.

2.2.2 Allow for a variety of lot sizes in low density residential districts including a percentage of lots larger and smaller than the minimum lot size.

2.3 Encourage a variety of housing available to all economic segments of the community.

2.3.1 Review the Zoning Code, Subdivision Code, Building Codes, and other development-control ordinances to identify and remove excessive, duplicative, or unnecessary regulations. The analysis shall consider in particular lot width, access widths, street improvement standards, parking, common service lines as well as other issues.

2.3.2 Review the City's administrative procedures and streamline the permit process for affordable housing developments.

2.3.3 Consider implementing strategies such as an inclusionary housing program, minimum densities, density bonuses, adaptive re-use, and others to promote affordable housing.

CONCLUSION:

The amendments would bring Sumner's land use code into compliance with the State requirements for multifamily residential infill units and be consistent with Sumner's Comprehensive plan policies.

IV. PUBLIC & AGENCY COMMENTS

This proposed zoning code text amendment has not received any public comments to date. Any comments received will be included in the exhibits section.

V. SEPA ENVIRONMENTAL REVIEW

SEPA environmental review has been completed for this proposed amendment under SEPA-2024-0013.

VI. PLANNING COMMISSION RECOMMENDATION:

On October 3, 2024, the Planning Commission held a public hearing on the proposal. The Commission voted unanimously to recommend to the Council approval of Ordinance 2900.

Staff recommends the CD Committee bring this draft ordinance to full Council in a study session for a code amendment (CTA-2024-0005) for Multifamily Residential Infill developments.

VII. EXHIBITS & REFERENCES

A. DRAFT Zoning Code Text Amendment

EXHIBIT A
DRAFT Zoning Code Text Amendment

DRAFT

**ORDINANCE NO. 2900
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE FOLLOWING SECTIONS OF SMC CHAPTERS 18.04, 18.16, 18.24, 18.26, 18.29 AND 18.30 RELATING TO MULTIFAMILY RESIDENTIAL INFILL DEVELOPMENTS (MRI).

WHEREAS, the Washington State Legislature enacted House Bill 1042 with the intent to incentivize the use of the existing inventory of buildings for multifamily housing.

WHEREAS, the new law requires jurisdictions to allow Multifamily Residential Infill developments; and

WHEREAS, infill development is the process of developing vacant parcels or under-utilized buildings within existing developed urban areas; and

WHEREAS, Sumner’s Municipal Code currently does not address Multifamily Residential Infill developments; and

WHEREAS, on August 1, 2024 the Planning Commission held a study session and public hearing regarding amendments to the Sumner Municipal Code to bring the code in compliance with the new state legislation; and

WHEREAS, on October 3, 2024 the Planning Commission recommended adoption by the City Council of the proposed regulation updates set forth in this ordinance; and

WHEREAS, the proposed amendments were forwarded on August 6, 2024 to the Washington State Department of Commerce for the agency’s required 60-day review per the Growth Management Act; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Comprehensive Plan and the Sumner Municipal Code criteria for Zoning Code amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section. Sumner Municipal Code Chapter 18.04, Definitions, is amended to add new sections, 18.04.0722 “Multifamily Dwellings” and 18.04.0723 “Multifamily residential Infill dwellings (MRI)” to read as follows:
[...]

18.04.0722 Multifamily dwellings.

“Multifamily dwelling” means a type of housing contained in a single structure with three or more dwelling units. Examples of multifamily dwellings include, but are not limited to, ground-level or multi-level triplexes, fourplexes, senior housing, and Multifamily Residential Infill (MRI) dwellings as may be permitted pursuant to SMC 18.16.040.F.

18.04.0723 Multifamily residential Infill dwellings (MRI).

“Multifamily residential infill dwelling” (MRI) means a multifamily dwelling exclusively allowed within commercial and mixed-use districts and permitted according to the standards of SMC 18.16.040.F and other sections.

[...]

Section 2. Amended Section. The Sumner Municipal Code Section, 18.16.020 “Principle and conditional uses” is amended to read as follows:

18.16.020 Principal and conditional uses.

[...]

34a.	Multifamily dwellings ² , rooming houses and boarding houses, senior apartments, retirement homes, assisted living facilities, continuing care communities, board and care homes, hospices, or nursing homes subject to the standards and locations as applicable in SMC 18.16.040	P	P	—
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[...]

²Reserved Including Multifamily Residential Infill (MRI) dwellings as may be permitted pursuant to SMC 18.16.040.F.

[...]

Section 3. Amended Section. The Sumner Municipal Code section, 18.16.040 “Residential uses” is amended to read as follows:

18.16.040 Residential uses

[...]

F. Multifamily Residential Infill (MRI) uses in commercial and mixed-use buildings. MRI development shall comply with the following standards and exemptions:

1. MRI standards:

- a. Prior to any MRI construction or development activities, the property owner shall apply for and receive City approved building permit(s) for MRI development. A building permit will only be approved upon written determination by the city that a MRI proposal complies with the MRI standards in this subsection and any other applicable code;

- b. All MRI development shall only be located within the current building envelope of an existing commercial or mixed-use building that received a certificate of occupancy a minimum of three (3) years prior to MRI permit application;
- c. The maximum density of the zone may be increased up to 50% with MRI development as long as the increased density of the development does not violate applicable health and safety standards, including building code and fire code standards. Notwithstanding other density provisions in code, at no time shall a development be permitted to exceed 50% of the base density amount allowed in the applicable zone;
- d. MRI development may not be located within spaces that are dedicated or required by this code for commercial development;
- e. MRI development may not be located within spaces of the current building envelope that will remain dedicated or required for parking by this code after construction of the permitted MRI development;
- f. Except as expressly exempted under this section, construction of new MRI dwelling units shall comply with all applicable land use codes, regulations, and policies and all current building code standards and requirements, including but not limited to energy code requirements;
- g. No exterior building alterations and/or updates that require a permit shall be submitted or reviewed as part of an MRI building permit. If non-MRI development (e.g. footprint expansions) needing a permit is submitted concurrently with a MRI permit application, it must be submitted in a separate application from the MRI development application;
- h. All exterior building alterations, footprint expansions, updates and/or general site improvements (e.g. voluntary parking expansions, etc.) that require a permit shall be reviewed for compliance with all applicable codes, regulations and policies, including those referenced in subsection (2), effective at the time an application is determined complete;
- i. Development of the existing building and areas outside the existing building within the proposed MRI project site shall comply with all applicable life safety standards;
- j. Building footprint expansion proposals containing existing MRI units may only be allowed in compliance with all applicable codes, requirements and policies at the time an application is determined complete; said expansions shall not be processed under the MRI standards and Code Compliance Exemptions, SMC 18.16.040.F;
- k. As a condition of MRI approval and as reviewed and approved by the City, landowners shall record with the Pierce County Auditor a notice on title identifying the MRI units within the building and the density amount assigned to the proposed MRI development;
- l. In the event a land use code requirement, regulation, or policy conflicts with MRI standards or exemptions, the MRI standard or exemption within SMC 18.16.040.F shall control; and,
- m. MRI permit applications shall be reviewed and processed as a Type I permit decision under SMC Chapter 18.56.

2. MRI Code Compliance Exemptions: MRI development permits shall be exempt from the following SMC code standards/requirements. Only improvements that are located within the current building envelope of an existing commercial or mixed-use building are exempt,
 - a. Parking standards under SMC 18.16, 18.29 and 18.42.
 - b. Design and Development Guidelines under SMC Chapter 18.40.
 - c. Updated energy code requirements under SMC Chapter 15.20 for dwelling units located within the existing building footprint that are unchanged by the MRI development.
 - d. Nonconforming use provisions under SMC Chapter 18.46.
 - e. Transportation concurrency under SMC Chapter 17.28.
 - f. SEPA review (Washington State Environmental Policy Act) under SMC Title 16.

[...]

Section 4. Amended Section. The Sumner Municipal Code section, 18.24.060 “Property development standards in a PDR,” is amended to read as follows:

[...]

3. Multifamily Residential Infill (MRI) proposed consistent with the SMC 18.24 allowances for senior housing in the NC, ESUV/NC, GC and ESUV/GC Districts shall comply with SMC18.16.040.F.

[...]

Section 5. Amended Section. The Sumner Municipal Code section, 18.26.090 “Property development standards,” is amended to read as follows:

[...]

D. Density Standards.

1. In planned mixed-use developments which involve residential uses, the basic density in terms of dwelling units per net acre for the various zone districts are as provided in this title.
2. Multifamily Residential Infill (MRI) dwelling unit density in a PMUD may be increased pursuant to provisions of SMC 18.16.040.F. If an applicant is not proposing MRI development within a PMUD, the hearing examiner may recommend and the city council may authorize a dwelling unit density in a PMUD of not more than 50 percent greater than that permitted by the underlying zone; provided, that the following criteria are met:
 - a. All residential units meet the design requirements for one or more of the following LEED or Built Green Certifications: LEED Homes; LEED Neighborhood; Built Green Single-Family Homes; Built Green Multifamily; or Built Green Community.
 - b. The project creates or rehabilitates a minimum 10 percent or two dwelling units, whichever is greater, of total proposed dwelling units that meet the definition of “senior housing” as provided in chapter 18.04 SMC.

c. In the case of a required PMUD, the density bonus does not result in an increase of the overall allowed number of dwelling units per subsection (D)(3) of this section.

d. If the development is within the NC, GC, or TCC districts, the applicant agrees and covenants, on a form provided by the director, that the applicant will not seek and the city shall not permit additional multifamily density increases under the MRI provisions of SMC 18.16.040.F for the parcels containing the planned mixed use development. Prior to the city issuing certificate of occupancy, the applicant shall record on title the executed form with the Pierce County Auditor.

[...]

Section 6. Amended Section. The Sumner Municipal Code section, 18.29.030, “Principal uses,” is amended to read as follows:

18.29.030 Principal uses.

Permitted uses in the Town Center districts are as follows:

[...]

L. Multifamily dwellings (including Multifamily Residential Infill (MRI) dwellings pursuant to SMC 18.16.040.F.; rooming houses and boarding houses; senior apartments, retirement homes, and continuing care communities; assisted living facilities, board and care homes, hospices, or nursing homes.

[...]

Section 7. Amended Section. The Sumner Municipal Code section, 18.29.060, “Performance standards,” is amended to read as follows:

18.29.060 Performance standards.

[...]

B. Expansion of Specified Existing Uses. Existing ~~residential~~ single family dwellings lawfully constructed as of the effective date of this title may be maintained as follows:

[...]

I. Multifamily Residential Infill (MRI) housing proposed in the Town Center Code (TCC) district shall:

1. Comply with SMC 18.16.040.F.;

Section 8. Amended Section. The Sumner Municipal Code sections, 18.30.030 “Principal and conditional uses” is amended to read as follows:

18.30.030 Principal and conditional uses.

[...]

23.	Multifamily dwellings, including apartments, subject to density maximums in SMC 18.30.080 (B), locations as applicable in SMC 18.30.0490 ,and multifamily residential infill provisions in SMC 18.16.040(F).	P	P
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[...]

Section 9. Amended Section. The Sumner Municipal Code section, 18.29.060, “Performance standards,” is amended to read as follows:

18.30.090 Performance standards.

[...]

C. Expansion of Specified Existing Uses. Existing ~~residential~~ single family dwellings lawfully constructed as of the effective date of this title may be maintained as follows:

[...]

I. Multifamily Residential Infill (MRI) housing proposed in the East Sumner Urban Village District (ESUV) district shall:

1. Comply with SMC 18.16.040.F.;

Section 10. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 11. Effective date. This ordinance shall take effect February 1, 2025.

Section 12. Corrections by City Clerk or Code Reviser. 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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2901 - Permit Review & Timelines Code Amendment

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Permit Review Timelines Staff Report
 2. Draft Ordinance No. 2901 Permit Process and Timelines
-

STAFF CONTACT: Scott Waller, Senior Planner

SUMMARY BACKGROUND: The State House of Representatives passed bills 5290 and 1293 related to land use permit timelines and processes. These bills require Cities to review their current land use codes and make necessary changes for compliance with the State.

The proposed amendments to Sumner Municipal Code Title 18.56 and 18.04 Zoning Code will update regulations related to land use permit timelines and processes. These changes include:

- Updates to the time requirements for each type of land use permit
 - Limiting Design Commission review to one required meeting for any project
 - Format changes to Sumners land use code to include flow charts in permit type descriptions
 - Creates definitions for site plan and interior alterations
 - Creates a consolidated permit review option
 - Removes pre-application requirements
 - Clarifies what constitutes a complete application
 - Outlines permit resubmission and non responsive applications
 - Sets up a corrections review meeting process
-

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Staff recommends that the CD Committee move this draft ordinance No. 2901 for a code amendment (CTA-2024-0004) for Permit Process and Timeline amendments to Council for a study session.



STAFF REPORT

DATE: October 29, 2024
TO: CD Committee
FROM: Scott Waller, Senior Planner and Larson Consulting
RE: **Zoning Code Text Amendment – Ordinance No. 2901 Permit Review and Timelines.**
File #CTA-2024-0004

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The State House of Representatives passed bills 5290 and 1293 related to land use permit timelines and processes. These bills require Cities to review their current land use codes and make necessary changes for compliance with the State.

II. SUMMARY OF PROPOSAL

The proposed amendments to Sumner Municipal Code Title 18.56 and 18.04 Zoning Code will update regulations related to land use permit timelines and processes. These changes include:

- Updates to the time requirements for each type of land use permit
- Limiting Design Commission review to one required meeting for any project
- Format changes to Sumners land use code to include flow charts in permit type descriptions
- Creates definitions for site plan and interior alterations
- Creates a consolidated permit review option
- Removes pre-application requirements
- Clarifies what constitutes a complete application
- Outlines permit resubmission and non responsive applications
- Sets up a corrections review meeting process

III. ANALYSIS

Sumner code requires that proposals to amend the Zoning Code include an explanation of how the proposed amendment implements the comprehensive plan (SMC 18.56.149(2)). Relevant sections and policies related to the proposed text amendment are presented below.

Land Use Sub-Element

Goal 1. Provide for orderly development within the Sumner community.

1.7 Ensure new development is consistent with the policies of this Plan through implementation of regulations, programs, and project specific review

PERMIT PROCESS SUB-ELEMENT

Goal 1. Develop and implement a permit process for land use and other local government approvals which is timely and fair to all affected parties.

1.2 Review development regulations to ensure they are necessary and directly relate to implementation of the Comprehensive Plan and other state and federal mandates.

1.2.1 Eliminate duplicative, unnecessary, and unclear regulations.

1.2.2 Provide procedures to process permits in a timely fashion

1.3 Provide resources, staffing and procedures sufficient to ensure development permit review is adequate to achieve consistency with adopted City policies and regulations within reasonable timeframes.

COMMUNITY CHARACTER ELEMENT

1.5 Encourage in the community a continuous commitment to maintaining Sumner's character and quality of place, including land conservation and stewardship, wise management of streetscapes and public viewsheds, property maintenance, and historic preservation.

5.1 In reviewing plans and development proposals, consider both long and short term environmental impacts and encourage design which complements the area's natural and cultural features. Natural and significant cultural features should be integrated into the design of the community.

CONCLUSION:

The amendments would bring Sumner's land use code into compliance with the State requirements for permit timelines and processes.

IV. PUBLIC & AGENCY COMMENTS

This proposed zoning code text amendment has not received any public comments to date. Any comments received will be included in the exhibits section.

V. SEPA ENVIRONMENTAL REVIEW

SEPA environmental review has been completed for this proposed amendment under SEPA-2024-0012.

VI. PLANNING COMMISSION RECOMMENDATION

On October 3, 2024, the Planning Commission held a public hearing on the proposal. The Commission voted unanimously to recommend to the Council approval of Ordinance 2901.

Staff recommends the CD Committee bring this draft ordinance to full Council in a study session for a code amendment (CTA-2024-0004) for Permit Process and Timelines.

VII. EXHIBITS & REFERENCES

A. DRAFT Zoning Code Text Amendment

EXHIBIT A
DRAFT Zoning Code Text Amendment

DRAFT

**ORDINANCE NO. 2901
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, REPEALING EXHIBITS IN SMC CHAPTER 18.56, AMENDING NEW SECTIONS TO SMC CHAPTER 18.04 AND 18.56 AND ADDING NEW SECTIONS TO CHAPTER 18.56 ALL RELATING TO PERMIT PROCESSING AND TIMELINES.

WHEREAS, The Washington State Legislature enacted two measures, HB 1293 and SB 5290, requiring jurisdictions to implement new permit processes and permit timelines; and

WHEREAS, Sumner’s Municipal Code does not currently comply with the provisions contained in the two house bills; and

WHEREAS, on August 1, 2024 the Planning Commission held a study session and public hearing regarding amendments to the Sumner Municipal Code to bring the code in compliance with the new state legislation; and

WHEREAS, on October 3, 2024 the Planning Commission recommended adoption by the City Council of the proposed regulation updates set forth in this ordinance; and

WHEREAS, the proposed amendments were forwarded on August 6, 2024 to the Washington State Department of Commerce for the agency’s required 60-day review per the Growth Management Act; and

WHEREAS, the City Council finds the proposed amendments to be consistent with the Sumner Comprehensive Plan and the Sumner Municipal Code criteria for Zoning Code amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section.– Sumner Municipal code Chapter 18.04, Definitions, is amended to add a new section , 18.04.0527 “Interior Alterations” and 18.04.0944 “Site Plan” to read as follows:
[...]

18.04.0527 Interior alteration.

“Interior alteration” means construction activities that modify interior space(s) within an existing building. The term excludes modifications that alter building height, alter the exterior building footprint, alter existing building parking facilities, or, alter any exterior building features or finishes.
[...]

18.04.0944 Site Plan.

“Site plan” means a plan, to scale, showing uses and structures proposed for a parcel of land. It includes, but is not limited to, lot lines, streets, building sites, open space, buildings, parking areas, major landscape features, both natural and man-made, and the locations of proposed utility features.

[...]

Section 2. Amended Section. The Sumner Municipal Code section, 18.04.0832 “Project permit” is amended to read as follows:

18.04.0832 Project permit.

“Project permit” or “land use permit” or “project permit application” means any land use or environmental permit or license required from a local government for a project action, including, but not limited to, ~~building permits~~, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical areas ordinances, and site-specific rezones ~~authorized by a comprehensive plan or subarea plan, which do not require a comprehensive plan amendment~~ Project permit or project permit application excludes but excludes the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specifically included in the section.

[...]

Section 3. Amended Section. The Sumner Municipal code section 18.56.020 “Land use decision framework” is amended to read as follows:

18.56.020 Land use decision framework.

A. Land use decisions are classified into seven categories based on the amount of discretion and level of impact associated with each decision. Procedures for the seven categories are distinguished according to who makes the decision, the type and amount of public notice required, whether appeal opportunities are provided, which parties have standing for an appeal, and the venue of the appeal. For two of the seven types of decisions, there are additional subtypes which distinguish the venue for an appeal or further review of a decision. Land use decisions are categorized by type in ~~Exhibit 18.56.020A-030~~. Exhibits provided are for reference only; in the case of a discrepancy, the text of the code controls.

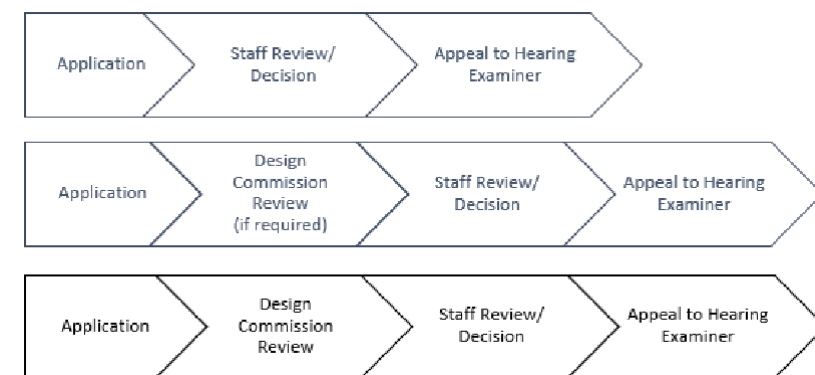
B. Type I decisions are made by the director and are appealable only through the judicial system. They require the exercise of little or no discretion. ~~Refer to Example Type 1 Exhibit 18.56.020B~~ flow chart.:



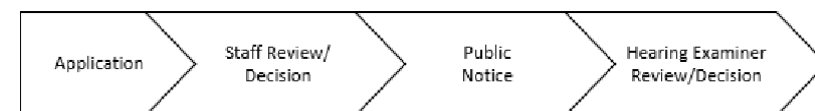
C. Type II decisions are discretionary decisions made by the director following public notice. Type II decisions are not subject to an administrative appeal. These decisions relate to procedural and substantive compliance with the State Environmental Policy Act and certain wetland determinations according to SMC 16.46.130. ~~Refer to Exhibit 18.56.020C~~ Example Type II flow chart.:



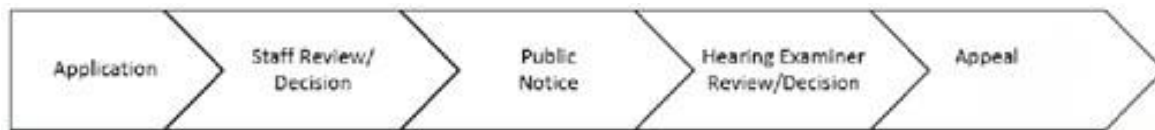
D. Type III decisions are discretionary decisions made by the director with an opportunity for an appeal and open record hearing by the applicant to the hearing examiner. Except for Type III.d decisions, there is no public comment period prior to the decision, and appeals from the hearing examiner's decision shall be made through the judicial system. Certain Type III decisions involving design issues may include advisory review by the design commission. ~~Refer to Exhibits 18.56.020D, E, and F~~ Example Type III flow charts.:



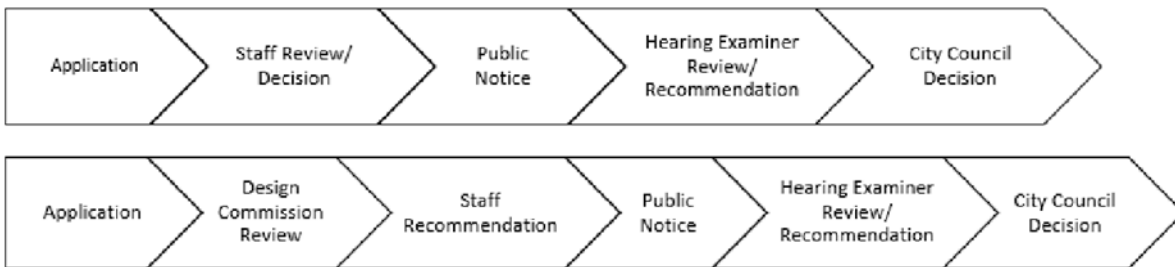
E. Type IV decisions are discretionary decisions made by the hearing examiner following a recommendation from city staff and an open record predecision hearing. No administrative appeal is provided, and any appeal from the hearing examiner's decision shall be made through the judicial system. ~~Refer to Exhibit 18.56.020G~~ Example Type IV flow chart.:



F. Type V decisions are discretionary decisions made by the hearing examiner following a recommendation from staff and an open record predecision hearing. Type V decisions are appealable only through the judicial system. ~~Refer to Exhibit 18.56.020H~~ Example Type V flow chart.:



G. Type VI decisions are discretionary decisions made by the hearing examiner following a recommendation from staff and an open record predecision hearing. Type VI decisions are appealable only through the judicial system. Certain Type VI decisions involving design issues require advisory review by the design commission. Refer to Exhibits 18.56.020I and J, Example Type VI flow charts.:



H. Type VII decisions are legislative decisions made by the city council in its capacity to establish policy and create legislation. The city council will generally seek broad public participation and review by the planning commission or other advisory groups on these decisions. Refer to Exhibit 18.56.020K, Example Type VII flow chart.:



I. Optional Consolidated Review: Consistent with the requirements of RCW 36.70B.060, the city offers an optional integrated and consolidated review process. If an applicant submits a project permit application that involves two or more of the land use decision processes set forth in SMC 18.56, the applicant may, at the time of the application submittal, elect to have the project permit applications processed collectively under the highest numbered process required for any of the project permit applications submitted. If no such election is made at the time of application, each project permit application will be processed individually under each of the procedures and timelines in SMC 18.56.030. If the application is processed under the individual procedure option, the highest numbered land use decision type procedure will be processed prior to and separately from the subsequent lower numbered land use decision procedure(s). Consolidated review shall not be permitted where a variance or shoreline variance must be granted in order to allow the development to proceed.

Section 3. Amended Section. The Sumner Municipal Code section 18.56.030 “Land use permits required” is amended to read as follows:

18.56.030 Land use permits required.

A. Except as provide in subsection M, Land use permits may be composed of one or more classifications of land use decisions. A land use permit shall be required for all projects requiring one or more of these decisions.

B. The following decisions are Type I decisions which require no public notice and are appealable only through the judicial system, except shoreline permits may be appealed per SMC 18.56.182:
[...]

11. Signs

[...]

I. The following decisions are Type V decisions which require a public hearing and decision by the hearing examiner, and are appealable only through the judicial system:
[...]

5. Shoreline substantial development¹ permits and shoreline variances¹; provided, that supplemental procedures for shoreline decisions are provided in SMC [18.56.150](#);

6. Planned residential development per SMC 18.24.070.

[...]

J. The following decisions are Type VI.a decisions which require a public hearing and decision by the hearing examiner and are appealable only through the judicial system:

1. Amendments to the zoning map;

2., ~~including changes~~ Amendments into overlay districts mapping;

3. Amendments to ~~and~~ shoreline environment redesignations, except those initiated by the city to implement new policies.

K. The following decisions are Type VI.b decisions which require a public hearing and decision by the hearing examiner following review by the design commission pursuant to SMC 18.56.145 and are appealable only through the judicial system: Applications for development subject to the thresholds of SMC 18.40.020(D).

1. Planned Mixed-use Development.

[...]

M. Interior alterations of a legal structure are exempt from land use review if the interior alterations do not result in:

1. Modification of the existing site layout;
2. Modification of the current use;
3. Expansion of the existing building footprint;
4. Additional sleeping quarters or bedrooms;
5. The need for additional parking as required by city parking standards;
6. Nonconformity with federal emergency management agency substantial improvement thresholds; or
7. An increase in the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

Nothing in this section exempts interior alterations from otherwise applicable requirements, including but not limited to, building, plumbing, mechanical, or electrical codes.

Footnote 1: Shoreline substantial development permit, variances, and conditional uses have additional requirements to comply with the State Shoreline Management Act.

Section 4. Amended Section. The Sumner Municipal Code section 18.56.040 “Preliminary site plan review” is amended to read as follows:

18.56.040 Preliminary site plan review

~~Prior to submitting a complete application for a land use permit, an applicant for a project involving a Type II or Type III.c decision shall submit the necessary materials for preliminary site plan review, unless waived by the director. For all other land use permits, the applicant may~~
Preapplication meetings are not a requirement for the submission of a project permit application.
However, in order to streamline application development efforts and promote more efficient city review processes, all applicants are encouraged to request preliminary site plan review by city departments. The preliminary site plan review shall be conducted according to procedures established by the director.

Section 5. Amended Section. The Sumner Municipal Code section 18.56.050 “Land use permit applications” is amended to read as follows:

18.56.050 Land use permit applications.

[...]

H. Within 28 calendar days of receiving a land use permit application, the director shall determine if the application is complete and ~~may~~ provide a written determination of completeness identifying whether or not the procedural submission requirements have been met.
In the event the application is determined to be an incomplete application, the city shall outline the specific requirements and/or corrections needed for a complete application, and include notice of the deadline for responding identified in subsection I. if the application is incomplete.
If the director does not provide a written determination of completeness within the 28 calendar

days, the application shall be deemed procedurally complete on the 29th calendar day after receiving a project permit application by 5:00 p.m. of the twenty-eighth day. If additional information is needed to make the application complete, the applicant shall provide the information within 60 calendar days of the written determination of incomplete application request. Within 14 calendar days after an applicant has submitted the information requested information following a determination of incomplete application, the director shall provide a written determination notifying ~~notify~~ the applicant whether the application is complete or remains an incomplete application and identifying what additional information is necessary for a complete application. An application is complete for purposes of this section when it (i) meets the procedural submissionsubmittal requirements of Section F above, (ii) contains the documents and information identified in the applicable checklist established by the director in pursuant to subsection E of this section, and (iii) is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The need for additional information or studies not included in the director's submission requirements, provided pursuant to subsection E of this section, shall not be a basis for a determination of incomplete application. ~~The~~ Any determination of completeness shall not preclude the director from requesting additional information or studies either at the time of the notice of completeness or, subsequently, if new information is required to complete review of the application or substantial changes in the permit applications are proposed. A determination under this section that an application is complete for purposes of continued processing is not a determination that the application is vested.

I. If an applicant is non-responsive for more than 60 consecutive calendar days after the Director has provided a written determination of completeness that additional information is required to further process the application, the director may: ~~An application may be deemed abandoned and void if the applicant has failed without reasonable justification to supply all required data within 60 days of a written request for it; provided, that the director may extend the period for such submission if it is determined that the delay was not the fault of the applicant or a good faith effort is being made to comply with the request.~~

1. Deem the application abandoned and close the application on the 61st calendar day. Upon abandonment and closure of an application, a new project application must be submitted in order to receive project review; or,
2. Add a minimum of 30 calendar days to the time period for the city to issue a final decision. If the applicant is non-response during the extension period, the application may be determined abandoned and closed on the day following the extension period.

For the purposes of this subsection, "non-responsive" means that an applicant is not making demonstrable progress providing additional requested information to the city, or that there is no ongoing meaningful communication from the applicant with the city on the applicant's ability or willingness to provide the additional information.

Section 6. Amended Section. The Sumner Municipal Code section 18.56.140 “Design commission requested review” is amended to read as follows:

18.56.140 Design commission requested review.

A. Whenever a proposal involves a Type III.b decision, the applicant at any time prior to issuance of the building permit may request review of the proposal by the design commission. A proposal may be reviewed prior to or concurrent with other project permits. Unless otherwise requested by the applicant in writing, the Design Review process shall not include more than one meeting before the design commission.

[...]

Section 7. Amended Section. The Sumner Municipal Code section 18.56.145 “Design commission mandatory review” is amended to read as follows:

18.56.145 Design commission mandatory review.

A. Whenever a proposal involves a Type III.c or VI.b decision, the proposal shall be reviewed by the design commission, which may be reviewed prior to or concurrent with other project permits. Unless otherwise requested by the applicant in writing, the Design Review process shall not include more than one meeting before the design commission.

[...]

Section 8. Amended Section. The Sumner Municipal Code section 18.56.185 “Timing of land use decisions” is amended to read as follows:

18.56.185 Timing of land use decisions.

[...]

C. Except as otherwise provided in this section or otherwise agreed to by the applicant, pursuant to RCW 36.70B.080 notice of final decision for land use decisions on applications filed on or after January 1, 2025 April 1, 1996, shall be made within the decision timeframes detailed below 120 days starting from the date an application is complete under SMC 18.56.050. To In determining the number of days that have elapsed after the notice of complete an application is complete consistent with RCW 36.70B.090, periods for pending plan corrections, environmental impact statement preparation, and submission of additional information, temporary suspension of review requested in writing by the applicant, and administrative appeals shall be excluded, consistent with RCW 36.70B.080. Pursuant to RCW 36.70B.140, the following exclusions shall also apply to these time requirements: Except as noted in 18.56.185(D), and unless the applicant provides the City with a written request to extend the decision timeline, the director shall issue a land use decision within the following calendar days

1. Type I decisions - 65

2. Type II decisions - 100 (except as otherwise provided in this section for SEPA).

3. Type III decisions - 100

4. Type IV decisions - 170

5. Type V decisions - 170

6. Type VI decisions - 170

7. Type VII decisions - no decision timeline.

~~1. Type VI decisions where the director shall issue his or her decision within 120 days and the hearing examiner shall issue his or her decision within 90 days of the issuance of the director's decision as that time is calculated in RCW 36.70B.140.~~

~~2. Type VII decisions where there shall be no time limit. (Ord. 1762 § 2 (part), 1996)~~

D. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

1. Any period between the date of the city's written notice to the applicant that additional information is required to further process the application and the day when responsive information is received by the city;

2. Any period between the date an administrative appeal is filed and the date the administrative appeal is resolved and any additional time period provided by the administrative appeal.

3. Any applicable Decision Timeline Adjustment pursuant to 18.56.185(E).

E. Decision Timeline Adjustments

1. Change of Scope: The timelines in subsection C shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original land use application that would make the application fail to meet the determination of procedural completeness for the new use. In the event the director makes such determination, the director shall provide the applicant a determination of completeness for an incomplete application pursuant to the procedures of 18.56.050.

2. Requests for Extension or Temporary Suspension: Applicants may request an extension or temporary suspension of a final decision timeframe as follows:

a) The applicant may provide a written request for extension of the review decision timeline for a maximum of 60 calendar days. If approved, the extension of the time for issuance of a final decision may be increased by the director in minimum 15-day increments; or,

b) The applicant may provide a written request to temporarily suspend review of the project permit application for more than 60 days until the applicant provides written notice to the City that the applicant would like to resume processing. If approved, the timeframes in subsection C for issuance of a final decision may be increased by the director in minimum 30-day increments.

F. The following land use applications shall be exempt from the decision timelines of 18.56.185(C):

1. Street vacations, or other approvals relating to the use of public areas or facilities.
2. Applications for those lot line adjustments and building and other construction permits, or similar administrative approvals, that are categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

G. Corrections Review Meeting (CRM): Within 14 calendar days following the City's second project permit application review request for additional information and/or corrections, an applicant may request, in writing, a Corrections Review Meeting (CRM) with applicable city staff. If the CRM does not resolve the issues and the City later completes a third review of a complete resubmittal that again results in a request(s) for additional information and/or correction(s), the City shall take final action to approve or deny the application, unless otherwise agreed to by the applicant and the director.

Section 9. Repealer. The exhibits contained in Chapter 18.56 are repealed in their entirety as follows:

Exhibit 18.56.020A

~~Land Use Decision Framework~~

~~(The term "nonappealable" refers to the status of an administrative appeal as contrasted to a judicial appeal which remains an option in all cases.)~~

~~Type I~~

~~(Nonappealable staff decisions)~~

~~Uses permitted outright~~

~~Temporary uses in permitted zones~~

~~Lot line adjustments~~

~~Manufactured home for resident during construction of single family residence~~

~~Temporary structure containing office and retail uses during the life of a building permit~~

~~Minor revisions to an approved preliminary plat~~

~~Resource, wildlife, hazard area determinations~~

~~Type II~~

~~(Comment period followed by staff decision with no appeal)~~

~~Determination of significance (DS)~~

~~Determination of nonsignificance (DNS)~~

~~SEPA conditions~~

~~Certain wetland determinations according to SMC 16.46.130~~

~~Type III.a~~

~~No notice staff decision appealable to hearing examiner)~~

~~Short subdivisions~~

~~Permit revocation/suspension~~

~~RWHA approvals~~

~~Permit renewal~~

~~Code interpretation~~

~~Caretaker's quarters~~

~~Continuing care quarters~~

~~Final subdivisions~~

~~Type III.b~~

~~(Voluntary design commission review and hearing examiner appeal of staff decision. No council appeal)~~

~~Signs~~

~~Minor exterior renovations~~

~~Accessory units in residential zones~~

~~Minor permit amendments~~

Type III.c

~~(Mandatory design commission review and hearing examiner appeal of staff decision. No council appeal)~~

~~Multifamily~~

~~New commercial~~

~~Construction in neighborhood centers~~

~~Industrial parks~~

Type IV

~~(Public notice and hearing examiner decision. No council appeal)~~

~~Variances~~

~~Shoreline variance¹~~

~~Shoreline substantial development permit¹~~

~~Special exception~~

~~Reasonable use exception~~

Type V

~~(Public notice and hearing examiner decision. No council appeal)~~

~~Conditional uses~~

~~Shoreline conditional uses¹~~

~~Preliminary subdivisions~~

~~Binding site plans~~

Type VI.a

~~(Public notice and hearing examiner recommendation. City council decision)~~

~~Zoning map amendment~~

Type VI.b

~~(Public notice, design commission review, hearing examiner recommendation and city council decision)~~

~~Planned community~~

Type VII

(City council legislative decision following broad public notice and planning commission recommendation)

~~• Zoning code text amendment~~

~~• Comprehensive plan amendment~~

~~1. Shoreline substantial development permits, variances and conditional uses have additional requirements to comply with the State Shoreline Management Act.~~

~~Exhibit 18.56.020B~~

~~Exhibit 18.56.020C~~

~~Exhibit 18.56.020D~~

~~Exhibit 18.56.020E~~

~~Exhibit 18.56.020F~~

~~Exhibit 18.56.020G~~

~~Exhibit 18.56.020H~~

~~Exhibit 18.56.020I~~

~~Exhibit 18.56.020J~~

~~Exhibit 18.56.020K~~

Section 10. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 11. Effective date. This ordinance shall take effect five (5) days from the date of publication in the City's official newspaper.

Section 12. Corrections by City Clerk or Code Reviser. 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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2902 - Group Homes Code Amendment

CATEGORY: Public Hearings

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. STAFF REPORT
 2. A-Draft Ordinance No. 2902- Group Homes Certification
 3. B STAFF MEMO-Response to public comments
-

STAFF CONTACT: Chrissanda Walker, Associate Planner

SUMMARY BACKGROUND:

ZCTA-2024-0006

The proposal is for an update to the Zoning Code to require: 1) Group Homes, including adult family homes and recovery residences, shall be licensed by the appropriate state authority prior to occupancy, and 2) Recovery residences shall be registered on the state registry per RCW 41.05.760. The proposal adds a new section to the Sumner Municipal Code, 18.35.030 "Registration and Licensing Requirements for a Group Home" outlined in the draft Ordinance 2902.

In September 2024, the City issued a notice of public hearing to update the Sumner Zoning Code under section 18.35 Essential Public Facilities to require Group Homes to be licensed and registered under state authority. Planning Commission reviewed this proposal at the public hearing on October 3, 2024. The Commission voted unanimously to recommend to the City Council approval of Ordinance 2902 as proposed. Staff will be available at the CD Committee meeting to discuss the staff memo on the response to public hearing comments and to answer any questions.

COUNCIL COMMITTEE/STUDY SESSION:
--

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Move to approve Ordinance No. 2902 amending the zoning code pertaining to the licensing and registration of Group Homes.



STAFF REPORT

DATE: October 29, 2024
TO: Community Development Committee
FROM: Ryan Windish, Community Development Director
RE: **Zoning Code Text Amendment – Group Homes**

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The City of Sumner recently codified an Essential Public Facilities (EPF) code that intends to appropriately condition, mitigate and regulate certain land uses. Group Homes, listed as an Essential Public Facility, includes adult family homes and recovery residences, with less than 8 residents, in a residential dwelling used as a home for unrelated persons seeking medical or psychological treatment, supervision, training or other support services. The proposed Zoning Code Text Amendment would update the way that Group Homes will be regulated and require licensing by the state if licensing is required prior to occupancy. Registration and licensing for recovery residences will have to be consistent with by RCW 41.05.760. The additional registration and licensing requirements are necessary for the safety and security of the residents of Group Homes, and these new requirements will address the operations of the facility such that it has minimal impacts on the surrounding neighborhoods.

II. DESCRIPTION OF PROPOSAL

The Ordinance will update the "Essential Public Facilities" code (Sumner Municipal Code 18.35) by adding a new section, 18.35.030 as follows:

It is an occupancy criterion for Group Homes, as defined in SMC 18.04.0455, that the provider of the housing has obtained the correct license from the appropriate state authority, if the State of Washington requires licensing for the type of facility. In addition, recovery residences, as defined in SMC 18.04.0851, shall be listed on the registry of approved recovery residences maintained by the state Health Care Authority pursuant to RCW 41.05.760. A use shall discontinue and be vacated whenever a group home is no longer licensed, or in the case of a recovery residence is no longer listed on the state registry. Group homes not subject to licensing and/or certification requirements, shall be operated by government agencies or by organizations that demonstrate a capability to operate a home according to the best practices for the health, safety, and welfare of the residents.

The proposed amendments are consistent with state legislation and code requirements. The proposal affects both adult-family homes and recovery residences used for the purposes of Group Homes as defined in SMC 18.04.0455.

III. ANALYSIS

The proposal is consistent with State legislation, State and local guidelines, and the Sumner Comprehensive Plan, as discussed below.

A. State Legislation.

The amendment follows the recent state requirements for EPF allowance and state law requiring certified service providers, licensed and registered with the correct agency.

The amendment updates Sumner Municipal Code (SMC) regulations to be consistent with State requirements under RCW 41.05.760 for Group Homes and Recovery Residences.

B. Group Homes.

Group Homes are now defined under the Zoning Code in SMC 18.04.0455 and are specified as a land use type under EPF code section SMC 18.35. While Group Homes are considered an essential public facility, they are exempt from siting criteria.

State law and case law require that group homes be treated like similar residential structures in similar zones, and prohibit limits on the number of unrelated persons that occupy a household. To address these laws, the recently adopted EPF ordinance increased occupancy limits for group homes. Occupancy limits are consistent with the Fair Housing Act, Washington Building Code and other laws.

The proposal does not conflict with state or case law by requiring licensing and registration regulations.

C. Sumner Comprehensive Plan

Sumner's Comprehensive Plan has general policies related to Land Use, Governance Sub-element, Family and Human Services and Housing element that support this proposal:

Land Use Element. *The proposal requires facilities to meet the development standards of the underlying zone and other standards, which is consistent with the following:*

Goal 1. "Provide for orderly development within the Sumner community."

Policy 1.1 Ensure that appropriate transitions so that more intensive uses do not adversely impact adjacent uses.

Governance Sub-Element. *The proposal adopts clear regulations for Group Homes, consistent with the following policy:*

Policy 5.3 Adopt regulations that are clear, concise, and enforceable and periodically review regulations for improvement.

Family and Human Services. *The Comprehensive Plan contains policies related to providing support services in support of Group Homes, including the following:*

Goal 2. "Support human service programs that focus on prevention, education, and families."

Policy 2.1 Provide human services that directly relate to other City services and programs and facilitate the delivery of services with emphasis on families, prevention and education.

Goal 3. "Support programs and services for intervention and treatment."

Policy 3.1 Support efforts to provide access and to educate the public about counseling services, domestic violence, suicide, elder care issues, and other resources.

Housing Element. *The proposal accommodates for in-patient/residential Group Home facilities, which are a small but important component of housing in Sumner. The proposal is consistent with:*

Policy 2.5 Promote fair and equal access to housing for all persons in accordance with state law.

Conclusion: The proposal is consistent with the intent and vision of the City's Comprehensive Plan in that it furthers the goals and policies related to regulating Group Homes to ensure safe and secure housing and human service support.

Further, the amendment helps protect the city from unlicensed facilities and provides for the regulatory framework for licensing. The proposed ordinance allows for Group Homes and Adult Family Homes, and recovery residences to operate and be consistent with State law and case law and furthers the safety of residents of group homes and minimizes impacts to surrounding neighborhoods.

IV. SEPA ENVIRONMENTAL REVIEW

Amendments to the Zoning Code are required to be reviewed through the State Environmental Policy Act (SEPA). SEPA analysis of the proposed amendment has been completed. A Determination of Non-Significance was issued on September 11, 2024.

V. PUBLIC & AGENCY COMMENTS

One (1) public comment was submitted during the public comment period. See Exhibit B staff memo detailing the comments and response.

VI. PLANNING COMMISSION RECOMMENDATION

On October 3, 2024, the Planning Commission held a public hearing on the proposal. The Commission voted unanimously to recommend to the Council approval of Ordinance 2902 as proposed. The Ordinance would amend the zoning code to require licensure and state certification of Group Homes in Sumner. Move to recommend approval by the CD committee.

VII. EXHIBITS

- A. Draft Ordinance No. 2902
- B. Staff Memo-Response to Public Comments

EXHIBIT A

DRAFT

**ORDINANCE NO. 2902
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE FOLLOWING SECTIONS OF SMC CHAPTER 18.35 ESSENTIAL PUBLIC FACILITIES AND BEHAVIORAL HEALTH FACILITIES: 18.35.010.

WHEREAS, The City recently codified an Essential Public Facilities code that was intended to appropriately condition, mitigate and regulate certain land uses; and

WHEREAS, “Group Homes” including adult family homes and recovery residences are a residential dwelling used as a home for unrelated persons whom medical or psychological treatment, supervision, training or other support services are provided; and

WHEREAS, Group homes are required to be “licensed by the appropriate state authority” prior to occupancy; and

WHEREAS, recovery residences shall be registered on the state registry per RCW 41.05.760.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Section. A new section, 18.35.030 “Registration and Licensing Requirements for a Group Home” is hereby added to the Sumner Municipal Code to read as follows:

18.35.030 Registration and Licensing Requirements for a Group Home.

It is a condition of occupancy for Group Homes, as defined in SMC 18.04.0455, that the provider of the housing has obtained the correct license from the appropriate state authority, if the State of Washington requires licensing for the type of facility. In addition, recovery residences, as defined in SMC18.04.0851, shall be listed on the registry of approved recovery residences maintained by the state Health Care Authority pursuant to RCW 41.05.760. A use shall discontinue and be vacated whenever a group home is no longer licensed, or in the case of a recovery residence is no longer listed on the state registry. Group homes not subject to licensing and/or certification requirements, shall be operated by government agencies or by organizations that demonstrate a capability to operate a home according to the best practices for the health, safety, and welfare of the residents.

Section 2. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 3. **Effective date.** This ordinance shall take effect five (5) days from the date of publication in the City’s official newspaper.

Section 4. **Corrections by City Clerk or Code Reviser.** 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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this _____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:



EXHIBIT B

1104 MAPLE STREET, SUMNER WA 98390

STAFF MEMO

DATE: October 29, 2024
TO: Community Development Committee
FROM: Ryan Windish, Community Development Director
RE: **RESPONSE TO PUBLIC COMMENTS**

I. Zoning Code Text Amendment – Group Homes

On September 17, 2024, the City issued a notice of public hearing to update the Sumner Zoning Code under section 18.35 Essential Public Facilities to require Group Homes to be licensed and registered under state authority. Planning Commission reviewed this proposal at the public hearing on October 3, 2024, see staff report on the Commission recommendation. There was no oral testimony provided during the public hearing. One (1) comment letter was received on September 30, 2024, from Mr. Charlie Platt, see attachment details below.

Attachment	Public Comment Type/Author	Date received
a.	- Comment Letter from Charlie Platt- <i><u>Summary:</u> Expressed concerns about parking impacts from residents of adult family homes. Provided a comment on owner occupied verification of these facilities.</i> - Staff response to comment letter #1	September 30, 2024

Chrissanda Walker

From: Charlie Platt <whalerplatt@comcast.net>
Sent: Monday, September 30, 2024 8:48 AM
To: Chrissanda Walker
Subject: Adult Family / Group Home Comments

Follow Up Flag: Follow up
Flag Status: Flagged

****EXTERNAL EMAIL****

PARKING CONCERN. A concern exists about vehicle parking at Adult Family Home (AFH), small group homes and large group homes. Please consider establishing vehicle limits for each type of home with emphasis on avoiding on-street parking except for emergency vehicle access. Given the scenario of 6, 8, or 9 or more vehicles, there could be significant impact to adjacent neighbors. With caregivers, family members, and other visitors coming to the home, please consider restricting AFH parking to current site configuration without use of parking on-street or residential lawns. I'm told that the property located at 1438 Park St intends to become an AFH. As this property is immediately adjacent to my property, I am aware of construction activity spanning recent years. It is my understanding that six (6) rooms are planned for residents to rent. This property, as an example, could handle up to four (4) vehicles in the driveway and any additional vehicles would be required to park on the street. For this property, vehicles parked on the street would obscure view of persons entering public crosswalk at 1438 Park St to all vehicles traveling westerly. On street parking will impact public safety in this example.

OWNER RESIDENCY CONCERN. A concern exists that AFH property owners, in an effort to maximize revenue by renting all available rooms, will not utilize the home for their personal residence. Please consider establishing an owner certification requirement. Noncompliance of owner residency would preclude renewal of AFH licensing. The city already maintains owner residency requirement for owners of ADUs so similar wording could be incorporated into licensing rules for AFH properties.

Charlie Platt, 253-208-9261
Sent from my iPhone

Comment #

1

2

3

Staff Response to Comment Letter #1 (Charlie Platt)

1	The City is bound to adhere to the state statues that protect fair housing. See info below. RCW 35A.63.240 Treatment of residential structures occupied by persons with handicaps. No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). (h) "<u>Handicap</u>" means, with respect to a person (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of title 21). Group home facilities may house handicap persons, and we would not be able to impose parking regulations targeted to adult family homes or group homes with 8 or fewer beds. If a home wanted to convert into a <i>large group home</i>, with 9 or more beds, it would require a conditional use permit and at that time the city can evaluate the impact of parking.
2	The property in question appears to be doing work under a remodel permit. Prior to operations as an adult family or group home, the facility is required to be licensed and meet various requirements from the Department of Social and Health services and the Washington Association of Adult Day Centers Adult Day Care Guidelines. A 6-person residence operating as an adult family home or group home is no different than a 6-person family living in a similar home. The minimum on-site parking for any residential dwelling is 2 parking spaces.
3	New state law does not allow the City to regulate ownership requirements, therefore this will not be required for adult family homes.

SUBJECT: Resolution No. 1703 - Parklet Policy and Program

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. DRAFT RESOLUTION NO 1703
 2. Parklets Limited Street Use License
 3. Parklet Program
-

STAFF CONTACT: Ryan Windish, Community Development Director

SUMMARY BACKGROUND:

Resolution No. 1703 would adopt a policy and a program for the distribution, management, licensing and other details associated with city-owned Parklets. The City constructed two “parklets” (small decks for seating in the parking area on the street in front of businesses) for use by eating and drinking establishments in the Historic Central Businesses District (CBD) in 2020, as a response to the need for more outdoor seating at restaurants during the COVID-19 pandemic. The City purchased two (2) more surplus parklets from the Kent Downtown Partnership (KDP) in October 2024. The expanded parklet program was first discussed with the Community Development Committee in July and August and with the Mayor and City Administrator in September. The Parklet Policy and Program has a simplified “Phase 1” approach focusing on rules and process related to the parklets that will be owned by the City. “Phase 2” rules and guidelines can be addressed at a future date if there is demand for changes including businesses desiring to construct their own parklets and/or installing roof structures.

The Parklets have been popular with visitors and patrons to the downtown and bring a vibrancy and interest that adds to the appeal and increases economic activity. In short, people like the parklets and use them.

COUNCIL COMMITTEE/STUDY SESSION: CD Committee

MEETING/STUDY SESSION DATE: 7/31/2024

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

Move to approve a "Do Pass" recommendation to adopt Resolution No. 1703 establishing a Parklet Policy and Program as presented.

**RESOLUTION NO. 1703
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, ADOPTING A PARKLET PROGRAM AND POLICY.**

WHEREAS, in 2020, the City constructed two “parklets,” which are ~~(small decks for~~ seating in the street parking area ~~on the street~~ in front of a business). The parklets were for use by eating and drinking businesses in the Historic Central Businesses District (CBD). ~~in 2020~~ as a response to the need for more outdoor seating at restaurants during the COVID-19 pandemic; and

WHEREAS, the Parklet Program has been successful with businesses benefitting from increased outdoor seating, business visibility and promotion; and

WHEREAS, the City benefits from parklets and the additional seating as a result of increased economic activity, improved streetscape and enhanced character and desirability of the area; and

WHEREAS, the City purchased two (2) additional parklets for a total of three (3) that will be available for use by eligible restaurants; and

WHEREAS, the City Council desires to adopt a parklet program with clear policies governing the location, design, and distribution of city-owned parklets by eligible businesses such that ~~it reduces~~ city liability exposure is reduced, ~~the ensures~~ parklets are maintained in a safe and attractive condition, and the parklets continue to be ~~that they are safe and~~ a positive addition to downtown.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON DOES RESOLVE AS FOLLOWS:**

Section 1. The City of Sumner Parklet Program and Policy attached hereto as “Exhibit A” and is hereby adopted.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

APPROVED AND ADOPTED this 18th day of November 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

Andrea Marquez, City Attorney

LIMITED STREET USE LICENSE

BETWEEN THE CITY OF Sumner AND _____.

THIS LIMITED STREET USE LICENSE ("License") is entered into between the **CITY OF SUMNER**, a Washington Municipal Corporation ("City"), and _____ ("Licensee").

LICENSE

1. License Granted. The City for and in consideration of the sum of TEN AND NO/100 (\$10.00) Dollars and other valuable consideration hereby grants Licensee this Limited Street Use License commencing on the date the Parties have signed the License and the City has received proof of insurance from the Licensee. The License will expire on _____ (3 year term). The License will allow Licensee to operate, maintain, repair, use and inspect a "Parklet" as described in **Exhibit A** upon public parking space(s) adjacent to the business within the City ("the Property") described in **Exhibit B**, attached hereto and incorporated by the reference. The Licensee will reimburse the City for any damage to the Parklet during this License. This License is subject to all the terms and conditions established below.

1.1. The City makes no warranty or representation that the Parklet or the Property is suitable for the Licensee's use, by signature below, Licensee represents that it has satisfied itself thereof. Licensee has inspected the Property and accepts the same in an "as is" condition and agrees that the City is under no obligation to perform any work or provide any materials to prepare the Parklet or the Property for Licensee.

1.2 The use of the Parklet shall not impede the flow of pedestrian, bicycle and/or vehicular traffic, and shall allow minimum setbacks as required by the City Engineer.

2. Costs. The Licensee shall pay a one-time administrative fee in the amount of FIFTY AND NO/100 (\$50.00) to cover the City's costs in drafting and processing this License and all work related thereto. The fee shall be paid on the date the Licensee and the City execute this License and this License shall not become effective until payment of the fee. The Licensee shall further be subject to all permit fees associated with activities undertaken through the authority granted in this License or under the laws of the City. Where the City incurs costs and expenses for review, inspection or supervision of activities undertaken through the authority granted in this License or any ordinances relating to the subject for which a permit fee is not established, the Licensee shall reimburse the City directly for any and all costs.

2.1. In addition to the above, the Licensee shall promptly reimburse the City for any and all costs the City reasonably incurs in response to any emergency involving the Parklet.

3. Revocation and Termination. The intent of this License is to authorize Licensee to operate a Parklet upon the designated City rights-of-way, which rights-of-way constitute a valuable property interest owned by the City. This License does not grant any ownership right in the land upon which the Parklet stands; it is not an easement; it is not a franchise; it is exclusive;

and, it does not exclude the City from full possession of the property. As a license upon real property, it is revocable at the will of the City, for any reason whatsoever. However, prior to termination or revocation by the City, the City shall provide Licensee with at least seven (7) calendar days written notice of the termination or revocation. If revocation or termination is based on, in the City's view, an emergency type situation, the City may remove the Parklet immediately.

4. Permits Required. Licensee shall comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. Licensee's failure to comply with this Section 4 shall constitute grounds for immediate revocation of the License by the City. Upon the expiration or termination of this License, Licensee agrees, at its sole cost and expense: (1) to vacate the Parklet and remove all furnishings, signs, and other pertinent material or objects that are owned by the Licensee from the parklet; (2) remediate the Property, to the full extent, required by applicable legal requirements; and (3) to restore the Property to a condition acceptable to the City.

5. Dangerous Conditions, Authority For City To Abate. Whenever a Parklet authorized by this License has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities or City property, the City Engineer, or designee, may direct the Licensee, at the Licensee's own expense, to take action to protect the public, adjacent public places, City property or street utilities; and such action may include compliance within a prescribed time.

5.1. In the event that the Licensee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions; and the Licensee shall be liable to the City for the costs thereof. The provisions of this Section shall survive the expiration, revocation or termination by other means of this License.

6. Emergency. In the event of any emergency in which any portion of the Parklet breaks, becomes damaged, or in any other way becomes an immediate danger to the property, life, health, or safety of any individual, Licensee shall immediately take the proper emergency measures to remedy the dangerous condition without first applying for and obtaining a permit as required by this License. However, this emergency work shall not relieve Licensee from its obligation to inform the City of the emergency condition and obtain all permits necessary for this purpose, and Licensee shall apply for those permits or authorizations within the next two succeeding business days.

7. Indemnification/Hold Harmless. The Licensee shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with activities or operations performed by the Licensee or on the Licensee's behalf out of issuance of this License,

Limited Street Use License Between
City of Sumner and _____

Page 2 of 7

except for injuries and damages caused by the sole negligence of the City.

However, should a court of competent jurisdiction determine that RCW 4.24.115 applies to this License, then the Licensee agrees to defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the Licensee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

7.1 Inspection or acceptance by the City of any work performed by the Licensee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation, provided, that the Licensee has been given prompt written notice by the City of any such claim, has the right to defend or participate in the defense of any such claim, and has the right to approve any settlement or other compromise of any such claim.

7.2 In the event that the Licensee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the Licensee, then the Licensee shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fees of recovering under this indemnification clause.

7.3 The obligations of the Licensee under the indemnification provisions of this paragraph shall apply regardless of whether liability for damages arising out of bodily injury to persons or damages to property were caused or contributed to by the concurrent negligence of the City, its officers, agents, employees or contractors. The provisions of this section, however, are not to be construed to require the Licensee to hold harmless, defend or indemnify the City as to any claim, demand, suit or action which arises out of the sole negligence of the City. It is further specifically and expressly understood that the indemnification provided herein constitutes the Licensee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. In the event that any court of competent jurisdiction determines that this contract is subject to the provisions of RCW 4.24.115, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to said statute and liability shall be allocated as provided therein.

7.4 The provisions of this Section shall survive the expiration, revocation or termination of this License.

8. Waiver of Claims, Limitation of Liability. Licensee waives any action or claim for

Limited Street Use License Between
City of Sumner and _____

Page 3 of 7

damages relating to the subject matter of this agreement, or arising from an alleged breach of this agreement, or a revocation of the license hereunder. Such claims shall include, but are not limited to, lost opportunities and consequential or incidental damages. THE CITY SHALL NOT BE LIABLE TO LICENSEE, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY), OR OTHERWISE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFIT, REVENUE OR USE) ARISING OUT OF THE CITY'S PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, BREACH OR DEFAULT UNDER THIS AGREEMENT, OR THE USE OF, INABILITY TO USE OR RESULTS OF USE OF THE LICENSE UNDER THIS AGREEMENT, EVEN IF THE CITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Insurance. The Licensee shall procure and maintain for the duration of the License, insurance against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the Licensee's behalf with the issuance of this License. The Licensee's maintenance of insurance as required by the License shall not be construed to limit the liability of the Licensee to the coverage provided by such insurance, or otherwise limit the Cities recourse to any remedy available at law or in equity.

9.1 Prior to this License taking effect for the project described in this License, Licensee shall provide a Certificate of Insurance evidencing:

9.1.1 Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Permittee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

9.1.2 The Licensee shall maintain the following insurance limits:

Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products- completed operations aggregate limit.

9.1.3 The Licensee's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Licensee's insurance and shall not contribute with it.

9.1.4 Insurance is to be placed with insurers with a current A.M. Best rating of not

Limited Street Use License Between
City of Sumner and _____

Page 4 of 7

less than A:VII.

9.1.5 The Licensee shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

9.2 Any payment of deductible or self-insured retention shall be the sole responsibility of Licensee.

9.3 The City, its officers, officials, employees, agents, assigns and volunteers shall be named as an additional insured on the insurance policy, as respects work performed by or on behalf of the Licensee and **a copy of the endorsement naming the City as additional insured shall be attached to the Certificate of Insurance.**

9.4 Licensee's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

9.5 Failure on the part of the Licensee to maintain the insurance as required shall constitute a material breach of the License, upon which the City may, after giving five business days' notice to the Licensee to correct the breach, immediately terminate the License or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

9.6 If the Licensee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Licensee, irrespective of whether such limits maintained by the Licensee are greater than those required by this License or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Licensee.

10. Remedies to Enforce Compliance. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force the Licensee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

11. City Ordinances and Regulations. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this License, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control by appropriate regulations the location, elevation, manner of construction and maintenance of any improvements, plantings, or facilities by the Licensee, and the Licensee shall promptly conform with all such regulations, unless compliance would cause the Licensee to violate other requirements of law. This section expressly reserves the City's right to enforce the terms of any subsequently adopted ordinance or

Limited Street Use License Between
City of Sumner and _____

Page 5 of 7

regulation requiring additional or other forms of consideration not reflected in the terms of this License; provided, any additional or other forms of consideration shall not be enforceable against Licensee less than 60 days following their adoption.

12. Non-Severability. Each term and condition of this License is an integral part of the consideration given by each party and as such, the terms and conditions of this License are not severable. If any section, sentence, clause or phrase of this License should be held to be invalid or unconstitutional by a court of competent jurisdiction, this License shall terminate unless suitable replacement terms cannot be worked out by the parties.

13. Modification. This License may not be modified, altered, or amended unless first approved in writing by the City.

14. Assignment. This License may not be assigned or transferred without the written approval of the City.

15. Governing Law. This Contract shall be construed and interpreted in accordance with the laws of the State of Washington and, in the event of dispute, the venue of any action brought hereunder shall exclusively be in the Pierce County Superior Court.

16. Notice. All notices, requests, demands, or other communications provided for in this License shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested, addressed as the case may be, to the addresses listed below for each party, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner.

CITY OF SUMNER
Attn: City Clerk
1104 Maple Street
Sumner, WA 98390

Attn: _____

17. No Waiver. Failure to insist upon strict compliance with any terms, covenants or conditions of this License shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

18. Captions. The captions used herein are for convenience only and are not a part of this License and do not in any way limit or amplify the terms and provisions hereof.

19. Full Force and Effect. Any provision of this License that is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

20. Entire Agreement. This License contains the entire agreement between the parties and, in executing it, the City and Licensee do not rely upon any statement, promise, or representation, whether oral or written, not expressed herein.

Limited Street Use License Between
City of Sumner and _____
Page 6 of 7

21. Ratification and Confirmation. Any acts consistent with the authority and prior to the effective date of this License are hereby ratified and confirmed.

22. Exclusive Use of License. In accepting this license, Licensee expressly warrants and affirms under penalty of perjury that it does not intend to and shall not permit use of the Parklet that is located within City rights of way under the terms of this License for hire, sale, or resale to the general public or to any person or entity not owned or controlled by Licensee. Violation of this provision shall be grounds for immediate termination of this License, in addition to applicable civil and criminal penalties.

IN WITNESS, this Limited Street License is executed and shall become effective as of the last date signed below.

CITY OF SUMNER

LICENSEE, _____

Jason Wilson, City Administrator

_____, Owner

Date _____

Date _____

APPROVED AS TO FORM:

Andera Marquez, City Attorney



Exhibit A:

City of Sumner Parklet Program

Background

The City of Sumner owns three (3) “parklets” that are available for use by restaurants and other eating and drinking establishments in the Historic Central Business District (CBD) downtown. The Parklet Program is two phased with “Phase 1” focused on rules and process related to the parklets that are owned by the City. “Phase 2” rules and guidelines can be addressed at a future date if there is demand for changes including businesses desiring to construct their own parklets and/or installing roof structures.

Program

Below are guideline and criteria for managing the installation, maintenance, leasing, etc. of parklets installed on City streets.

Phase 1 City-owned Parklets:

1. Three (3) city-owned parklets will be available.
2. The number of parklets on Main Street is limited to no more than three (3). No maximum number on side streets provided that parking requirements are met (see below 14(c)(i)).
3. Parklets shall be furnished by the business, at their own expense, with tables and seating such that it fully and safely utilizes the floorspace on the parklet.
4. Roofed structures over parklets will not be allowed. Umbrellas are encouraged.
5. Advertising signage for the business is limited to no more than 2 signs, maximum of 3 square feet each (12”x 36”), which can be attached to the parklet railing.
6. If extending liquor service outdoors; business is responsible for complying with City and State laws and ordinances, including the Washington State Liquor and Cannabis Board (WSLCB).
7. Business is responsible for meeting the requirements of the Tacoma Pierce County Health Department (TPCHD).
8. The parklet shall be located in front of the hosting business. The area of the proposed parklet shall not extend beyond the applicant's street frontage unless written authorization is submitted by the adjacent business or property owner whose street frontage is to be impacted.
9. The business may designate and provides signs indicating that the parklet is for exclusive use by the business and not be open to the public.
10. The parklet shall be maintained and well kept at all times including no litter, garbage, debris, on or around the parklet that would detract from the appearance.
11. No holiday decorations are allowed on the parklet.
12. The business shall maintain the associated planter ~~associated~~ and plant with blooming plants.
13. The parklet shall be used year around.
- 13-14. Permission to use a parklet is contingent upon the applicant executing a license for use, of a Parklet. Continued use is subject to compliance with the terms and conditions of the license.
- 14-15. Application Process:
 - a. A Limited Street Use License shall be granted for no more than 3-years with option to

- renew for an additional 3-years if no other business is interested in using the parklet.
- b. The business must have Certificate of Insurance showing that there is a “rider” for the parklet to cover up to \$2M in liability.
 - c. The City shall notify all eating and drinking establishments in the Historic Central Business District informing them that they can apply to have a parklet in front of their business. They will have 30 days to apply. The City will review applications for acceptability based on the following criteria:
 - i. Is more than 10 percent of the available on-street parking on the block where the parklet will be located taken up by parklets?
 - ii. Are there any traffic safety concerns or reasons for denial?
 - iii. Will the business use the seating year-around or will it be seasonally?
 - iv. Are there any other structures or elements in the public right-of-way that would impact the proposed location of the parklet such as light poles, street trees, utility boxes, etc.?
 - v. Will the business be able to provide tables and chairs at their own expense?
 - d. If there are more applicants than available parklets, the City will conduct a random drawing of the names of the applicants. Winners of the drawing will have the option to receive a parklet, if they choose to not accept the parklet it goes to the next person drawn.

Phase 2:

Phase 2 of the Parklet Program will be considered if there is a demonstrated demand by business owners. Additional detailed guidelines and policy will be created at that time. Changes to be considered may include:

1. Privately Owned Parklets

Businesses would have the option to build their own parklets so long as they are substantially in the same design as those provided by the city including the use of black railings, all weather decking material. See attached drawings for City parklets and illustration below:



2. The option to do a roofed parklet with a “shed roof” to minimize dripping on the sidewalks (see illustration below)



3. Maximum number of parklets on Main Street (including city-owned parklets) is four (4).



PERMIT ISSUANCE SUMMARY (01/01/2024 TO 10/18/2024) FOR CITY OF SUMNER

Permit Type	Permit Work Class*	Permits Issued	Square Feet	Valuation	Fees Paid
Building Commercial/Industrial	Accessory Structure	2	120	\$18,200.00	\$521.71
	Commercial Fence	2	350	\$17,500.00	\$224.50
	Demolition	5	22,435	\$999,300.00	\$4,388.00
	Foundation Only	1	476,376	\$3,257,000.00	\$573,793.52
	Industrial Fence	1	0	\$31,700.00	\$953.90
	Modular Office	1	480	\$40,000.00	\$0.00
	New Construction	3	206,953	\$28,005,000.00	\$286,656.83
	Tenant improvement	26	1,202,932	\$6,835,500.00	\$166,417.35
BUILDING COMMERCIAL/INDUSTRIAL TOTAL:		41	1,909,646	\$39,204,200.00	\$1,032,955.81
Building Residential	Accessory Dwelling Unit	1	600	\$125,000.00	\$18,523.63
	Accessory Structure	6	2,794	\$128,029.81	\$3,859.47
	Addition	4	1,350	\$100,000.00	\$3,308.62
	Adult Family Home	1	496	\$20,000.00	\$566.56
	Alteration, Remodel, Repair	11	4,535	\$524,818.85	\$10,614.82
	Demolition	3	1,820	\$12,500.00	\$2,431.00
	New Construction	3	8,679	\$1,512,669.07	\$81,995.50
	Residential Fence	1	0	\$0.00	\$0.00
BUILDING RESIDENTIAL TOTAL:		30	20,274	\$2,423,017.73	\$121,299.60
Fire Permits	Fire Alarm	20	0	\$187,159.00	\$4,509.05
	Fire Sprinkler	15	0	\$620,879.00	\$10,352.59
	Fire Suppression	3	0	\$14,310.00	\$550.68
	Fire Underground	3	0	\$114,048.00	\$1,419.00
	Firework Display	1	0	\$1,060.00	\$68.97
FIRE PERMITS TOTAL:		42	0	\$937,456.00	\$16,900.29
Landscape Irrigation	Landscape Irrigation - Residential	3	0	\$0.00	\$715.00
LANDSCAPE IRRIGATION TOTAL:		3	0	\$0.00	\$715.00
Mechanical Commercial/Industrial	Alteration, Remodel, Repair	24	0	\$0.00	\$2,857.41
	New Construction	2	0	\$0.00	\$534.00
MECHANICAL COMMERCIAL/INDUSTRIAL TOTAL:		26	0	\$0.00	\$3,391.41
Multifamily Building Permit	Addition	2	1,422	\$78,845.54	\$2,774.40
	Alteration, Remodel, Repair	2	3,296	\$123,500.00	\$1,964.74
	Mixed-Use Development	1	2,049	\$31,903,278.23	\$1,649,079.81
	New Construction	7	54,924	\$7,096,465.44	\$713,256.51
MULTIFAMILY BUILDING PERMIT TOTAL:		12	61,691	\$39,202,089.21	\$2,367,075.46
Plumbing Commercial/Industrial	Alteration, Remodel, Repair	15	0	\$0.00	\$11,478.73
	New Construction	2	0	\$0.00	\$141.15
PLUMBING COMMERCIAL/INDUSTRIAL TOTAL:		17	0	\$0.00	\$11,619.88
Plumbing Residential	Alteration, Remodel, Repair	16	0	\$0.00	\$825.60
PLUMBING RESIDENTIAL TOTAL:		16	0	\$0.00	\$825.60
Racks	Installation/Addition/Relocation	10	0	\$1,219,126.00	\$20,407.95

* Double-click the Permit Work Class Name while in the browser to see Permit details for that Work Class.

PERMIT ISSUANCE SUMMARY (01/01/2024 TO 10/18/2024)

Permit Type	Permit Work Class *	Permits Issued	Square Feet	Valuation	Fees Paid
	RACKS TOTAL:	10	0	\$1,219,126.00	\$20,407.95
Re-Roof	Commercial/Industrial	6	0	\$574,364.00	\$6,332.67
	Multifamily	16	0	\$569,776.00	\$2,396.71
	Residential	22	0	\$442,980.67	\$6,986.95
	RE-ROOF TOTAL:	44	0	\$1,587,120.67	\$15,716.33
Residential Mechanical	Alteration, Remodel, Repair	78	0	\$0.00	\$3,440.30
	RESIDENTIAL MECHANICAL TOTAL:	78	0	\$0.00	\$3,440.30
Septic to Sewer	Septic to Sewer	1	0	\$0.00	\$6,477.00
	SEPTIC TO SEWER TOTAL:	1	0	\$0.00	\$6,477.00
Sewer Line Permit	Side Sewer Installation	9	0	\$0.00	\$95,144.85
	Side Sewer Replacement	15	0	\$0.00	\$2,025.00
	SEWER LINE PERMIT TOTAL:	24	0	\$0.00	\$97,169.85
Sign	Sign	15	0	\$0.00	\$528.00
	SIGN TOTAL:	15	0	\$0.00	\$528.00
Site Development	Civil Site Development	6	0	\$0.00	\$270,264.11
	Sidewalk/Driveway Replacement	6	0	\$0.00	\$4,088.00
	TESC	2	0	\$0.00	\$39,673.71
	SITE DEVELOPMENT TOTAL:	14	0	\$0.00	\$314,025.82
Special Events	Banner	3	0	\$0.00	\$450.00
	Special Event	8	0	\$0.00	\$5,952.00
	SPECIAL EVENTS TOTAL:	11	0	\$0.00	\$6,402.00
Street Obstruction Notification	Street Obstruction Notification	147	0	\$0.00	\$30,785.00
	STREET OBSTRUCTION NOTIFICATION TOTAL:	147	0	\$0.00	\$30,785.00
Tank Permit	Commercial Tank Decomission	2	0	\$33,000.00	\$923.90
	Commercial Tank Installation	1	0	\$164,000.00	\$2,704.30
	TANK PERMIT TOTAL:	3	0	\$197,000.00	\$3,628.20
Temporary Use Permits	Firework Stand	2	0	\$2,400.00	\$200.00
	Temporary Tent	3	0	\$0.00	\$567.00
	TEMPORARY USE PERMITS TOTAL:	5	0	\$2,400.00	\$767.00
Tree Permit	Street Tree Permit	2	0	\$0.00	\$0.00
	TREE PERMIT TOTAL:	2	0	\$0.00	\$0.00
Water Line	Water Line	6	0	\$0.00	\$1,620.00
	WATER LINE TOTAL:	6	0	\$0.00	\$1,620.00
GRAND TOTAL:		547	1,991,611	\$84,772,409.61	\$4,055,750.50

* Double-click the Permit Work Class Name while in the browser to see Permit details for that Work Class.