



**City of Tacoma  
Planning Commission**

April 21, 2017

Honorable Mayor and Members of the City Council:

On behalf of the Planning Commission, I am forwarding a draft set of findings of fact and recommendations regarding the Correctional Facilities Interim Regulations enacted by the City Council on March 7, 2017, per Ordinance No. 28417. The Commission spent hours debating the content and merits of the interim regulations; disappointingly, we were unable to find a clear consensus on the findings of fact report and we are not making a recommendation to the City Council at this time.

The Commission acknowledges and very much appreciates the Council's intent and objectives in enacting the interim regulations, which highlight community concerns about correctional and detention facilities generally as well as how they are currently regulated in the City's zoning code. The Commission also acknowledges the sentiment of the community regarding immigration, social justice and associated issues. President Donald Trump's xenophobic and racist rhetoric, coupled with his stated desire to expand detention and deportation efforts, runs in direct conflict with the city's adopted policy to be a welcoming, inclusive, equitable and socially just community. In my view, the Commission is committed to opposing Trump's immigration policies and addressing these issues in the immediate future is a priority.

While the proposed interim regulations seek to reconcile the city's social justice policies with the land use code, there is a distinct split in the Commission's view about the legality and appropriateness of the city's use of our land use regulatory authority to potentially address these types of broad-reaching, politically charged, and largely national-level issues. Some Commissioners feel that the ordinance being considered is an appropriate use of legislative activism to resist federal policy that is in direct conflict with Tacoma's policies – other Commissioners are concerned about the use of the zoning code for these purposes. Furthermore, and most importantly, the majority of the Commission feels that the Council's request to work on adoption of final regulations concerning correctional facility land uses will offset a number of other long-term work items that the Commission has been engaged in for some time, specifically the Tacoma Mall Subarea Plan and planned action EIS.

While the Commission is concerned about the objectives, impact and potential legal issues surrounding the imposition of the interim regulations, the Commission also recognizes that there are a number of legitimate land use issues regarding correctional facilities that deserve further analysis and community discussion, particularly in regards to public jails and correctional facilities. Both of the public correctional facilities in the city (Pierce County Jail and Remann Hall) are non-conforming.

Given the unique circumstances surrounding the interim regulations, which encompass both land use and non-land use perspectives, the Commission recommends the following 3-phased action strategy as the path forward:

1. Immediate Action – Upon the completion of the Council's public hearing on this matter on April 25, 2017, the City Council needs to determine the legal risks associated with splitting public and private correctional facilities into two categories and regulating them separately. The City Attorney's office has advised the Commission that there are legal concerns with this approach, particularly given the construction of the Essential Facilities definition in state law.
2. Short-term Action – Develop permanent regulations for the Council's adoption before the interim regulations expire on September 6, 2017.

3. Long-term Action – Evaluate land uses in the Tideflats area and determine if correctional facilities and other similar “residential” uses and non-industrial uses are appropriate in PMI and M-2 zoning districts. This work can be incorporated into the scope of work related to Councilmember Mello’s CCR request to evaluate the appropriateness of other land uses in the PMI district; alternatively, this work could be integrated into the recently announced subarea planning process for the Port. However, this alternative is a much longer process and may not address the immediacy and urgency of this issue.

Attached is the draft *Planning Commission’s Findings of Fact and Recommendations Report* which documents the Commission’s observations, concerns, deliberations, and unadopted recommendations. Our review and discussion of the matter was robust, vigorous and contentious, with divisive and strong opposing viewpoints. Due to the truncated time schedule and the unresolved issues outlined above, regrettably we were unable to come to a consensus on this issue. But we look forward to our continued work in addressing land use issues associated with correctional facilities and other similar and relevant uses within the City.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Beale", with a stylized flourish extending from the end.

CHRIS BEALE, AICP  
Chair, Planning Commission

Enclosure



# Correctional Facilities Interim Regulations

## (Revisions to TMC 13.06 Zoning)

### Planning Commission

### Findings of Fact and Recommendations Report

April 19, 2017 Draft

**Staff Note:**

This draft report was reviewed and amended by the Planning Commission at the meeting on April 19, 2017. However, the Commission's vote to finalize and forward the report to the City Council failed. This report reflects the Commission's work to date on the subject matter.

**A. Subject:**

Emergency interim zoning regulations pertaining to public and private correctional facilities enacted by the City Council on March 7, 2017, per Ordinance No. 28417 (see Exhibit 1).

**B. Summary of the Interim Regulations:**

The interim regulations are effective for six months (through September 6, 2017) or until the City's zoning regulations for correctional facilities are permanently updated. The interim regulations amend the Tacoma Municipal Code, Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 13.06.700, as follows:

- Modify the use definition of "correctional facility" to clearly differentiate between public and private correctional facilities;
- Prohibit the siting of private correctional facilities in all zoning districts;
- Remove public correctional facilities as a permitted use in multi-family and light-industrial zoning districts (i.e., R-4-L, R-4, R-5, and M-1); and
- Modify how public correctional facilities are permitted by requiring approval of a Conditional Use Permit in all districts in which they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime & Industrial).

**C. Findings of Fact:**

Part One – Legislative Intent:

The Planning Commission acknowledges and understands the following recitals as set forth in Ordinance No. 28417 that enunciate the City Council's legislative intent and rationale for imposing the emergency interim regulations:

1. The Port/Tideflats area of Tacoma is regionally and locally designated as (a) an important Manufacturing/Industrial Center ("M/IC"), (b) a location with unique characteristics that should serve as a long-term and growing employment center with a focus on manufacturing and industrial uses, and (c) particularly within the Port Maritime & Industrial ("PMI") District, an area where uses are intended to focus on shoreline-related uses and support services.
2. The PMI area is also subject to numerous unique environmental constraints, some related to its past and ongoing industrial activities, such as noise, safety, and contamination issues, and some related to its physical location within a floodplain and potential liquefaction and volcanic hazard zones.

3. Recent proposals and community discussion have highlighted that the City's existing industrial zoning allows for a wide variety of uses, some of which may no longer be compatible with the policies for this area and others where correctional facilities are currently allowed, and the City as a whole, as well as the changing landscape around it. [Note: The words "existing" and "currently" used in this recital denote the conditions before the imposition of the interim regulations.]
4. The existing notification, outreach, and permitting process requirements for certain types of uses, such as correctional facilities, may not appropriately reflect the level of community interest in them and/or their potential scale of impact.
5. The Northwest Detention Center ("NWDC"), which is a privately owned and operated federal immigration detention center, was opened in 2004 and expanded in 2008, and the facility, located at 1623 East J Street in the Port/Tideflats area and in the PMI zoning district, is currently permitted to accommodate up to 1,575 detainees.
6. Recent changes in the national political climate have contributed to uncertainty as to the need for, and potential expansion of correctional facilities in communities such as Tacoma.
7. The federal Department of Homeland Security is on record stating its desire to increase and secure additional detention facilities such as the privately owned and operated NWDC.
8. The use currently engaged in by the NWDC has been referred to as a "correctional facility," however, the City's existing correctional facility designation is generally tailored to public correctional facilities and not private facilities. [Note: This recital denotes the conditions before the imposition of the interim regulations.]
9. The City's existing regulations do not clearly distinguish between public and private facilities, and also do little to ensure sufficient community engagement and discretionary review of any proposals to site such facilities in this heavy industrial area, or any other areas where correctional facilities are currently allowed. [Note: The words "existing" and "currently" used in this recital denote the conditions before the imposition of the interim regulations.]
10. The adoption of the interim zoning regulations regarding public and private correctional facilities, effective for a six-month period, or until the City's zoning regulations for such facilities are permanently updated, would allow time for the City Council to conduct appropriate research, analyze potential impacts and applicable local, state and regional policies, and determine the appropriate permanent regulatory framework for correctional facilities in Tacoma.
11. Requiring conditional use permits for new or expanded facilities (as part of the interim regulations) will better ensure that the review of any proposal includes significant community outreach and the opportunity for local discretionary review addressing applicable policies and standards, as well as potential impacts and compatibility issues associated with siting these types of facilities.
12. The potential adverse impacts on the public health, public safety, public property, and public peace justify the passage of the interim emergency ordinance.

**Part Two – Additional Facts, Observations, and Concerns:**

In addition to the City Council's legislative intent, the Planning Commission has also identified the following factual information, observations and concerns associated with the interim regulations:

13. There are three facilities that are affected by the interim regulations, i.e., the Northwest Detention Center (NWDC), the Pierce County Jail, and the Pierce County Juvenile Detention Center (Remann Hall).
14. The NWDC (see Exhibit 2a) is a privately-run federal immigration detention center that is located in the PMI zoning district. With the interim regulations, this facility becomes a nonconforming use, and as such, is limited in its ability to expand.
15. The Pierce County Jail (see Exhibit 2b), located at 910 Tacoma Avenue S., is a public correctional facility run by the Pierce County Sheriff's Department – Corrections Bureau. The jail is comprised of two facilities, i.e., the Main Jail that was built in 1985 and the New Jail that was built in 2003. It has an operational capacity for 1,700 inmates and currently employs approximately 300 correctional staff. The jail is located in the Downtown Mixed-Use (DMU) zoning district, where "jails and correctional facilities" are a prohibited use (per TMC 13.06A.050). The jail was already a nonconforming use before the imposition of the interim regulations and is not significantly impacted by the interim regulations.
16. Remann Hall (see Exhibit 2c), located at 5501 6th Avenue, is a public correctional facility run by the Pierce County Juvenile Court. Located in the R2 – Single Family Dwelling District, the facility was already a nonconforming use before the imposition of the interim regulations and is not significantly impacted by the interim regulations.
17. As nonconforming uses, the three facilities mentioned above are not prevented from, but are limited in their ability to expand. Proposed expansions of nonconforming uses, subject to the City's review and approval, generally shall not result in an increase in vehicular trips (more than 10%), parking spaces (more than 10%), noise, light or glare, outdoors storage of goods or materials, and hours of operation.
18. While it is clearly the intent of the City Council to prohibit new and expanded private correctional facilities, the interim regulations only address the siting of new facilities and are silent about the expansion of existing ones. To better align with the Council's intent, consideration could be given to modifying the interim regulations to incorporate some or all of the following potential provisions: (a) prohibiting any planned expansion of private correctional facilities; or (b) allowing limited expansion of private correctional facilities through the conditional use permit review and approval process for nonconforming use, provided that the expansion does not increase the facility's boarding capacity, i.e., the number of detainees.
19. With respect to the current national political environment and the uncertainty it has instigated (and in reference to Council's legislative intent #6 above), the Commission suggests that recent changes in the political dialogue that have led to a drastically shifted immigration and deportation policy of the federal government have contributed to a re-examination of the City's zoning allowances for detention and correctional facilities. This careful re-examination is pursuant to new federal immigration policy which runs counter to Tacoma as a welcoming, inclusive, equitable and socially just city.
20. There is a strong connection between the interim regulations and the City's policies and practices in promoting and enhancing important community values associated with human rights, social justice, equity, and the well-being of citizens. The following are some examples of such policies and practices:

- a) Policies on Public Facilities – The *One Tacoma* Comprehensive Plan’s Public Facilities and Services Element provides:
    - Policy PFS–7.2: “Incorporate consideration of physical health and well-being into decisions regarding the location, design, and operation of public facilities.”
    - Policy PFS–7.3: “Incorporate community values and goals in decisions on location, design, and operation of facilities.”
  - b) Goal on Equity – The *One Tacoma* Comprehensive Plan’s Engagement, Administration and Implementation Element states that one of the goals of the City is to “Achieve greater equity in decision-making by intentionally engaging across the different demographic, racial, cultural and economic spectrums that make up our community.”
  - c) Equity as a Core Value – *Tacoma 2025*, the Ten-Year Citywide Strategic Plan and Vision, adopted by the City Council on January 27, 2015, per Resolution No. 39016, identifies “Opportunity, Equity, Partnerships and Accountability” as the four core values that inspire the work priorities and focus and support the quality of life in Tacoma. With respect to Equity, *Tacoma 2025* further articulates that “Communities of color and immigrant communities are fundamental to Tacoma’s entrepreneurial spirit, workforce, and long-term success. In Tacoma, equity and empowerment are top priorities, meaning that all Tacoma residents must have equitable opportunities to reach their full potential and share in the benefits of community progress.”
  - d) The Equity and Empowerment Initiative – Adopted by the City Council on September 30, 2014, per Resolution No. 39019, the initiative seeks to have purposeful community outreach and engagement, and supports human rights and opportunities for every person to achieve their full potential.
  - e) Welcoming City – The City Council adopted Resolution No. 39116 on February 17, 2015, authorizing the City's membership in the Welcoming Cities and Counties Initiative, which encourages communities to create more welcoming, immigrant-friendly environments that maximize opportunities for economic growth and cultural vitality. The City Council supports all efforts to make the City more vibrant, inclusive, and welcoming for all people, including its immigrant community.
  - f) The Immigrant and Refugee Task Force – Established by the City Council on January 31, 2017, by Resolution No. 39642, the task force is charged to further the City’s vision as an inclusive and equitable city and to foster a knowledgeable and safe community by including immigrants in conversations.
21. As referenced in Ordinance No. 28417, the PMI area is subject to numerous unique environmental constraints, such as noise, safety, contamination, as well as being located within a floodplain and potential liquefaction and volcanic hazard zones (see Council’s legislative intent #2 above). From the perspectives of public health, public safety, and quality of life, the interim regulations raise a legitimate concern of whether residential use, especially “non-typical residential use”, is appropriate in heavy industrial areas. Such “non-typical residential use” may include such uses as correctional facilities, juvenile community facilities, work release centers, special needs housing, and work-live/live-work. Further study on this issue should be considered.
22. Concerning residential use in industrial areas, the *One Tacoma* Comprehensive Plan, Urban Form Element, “Manufacturing + Industrial Areas” section, provides that: “Manufacturing/Industrial areas are in the low, flat areas along the Port/ Tideflats and the Nalley Valley. The manufacturing and distribution sectors concentrate here.

Manufacturing/industrial centers are intended to be well-served by major transportation facilities including rail, interstate and transit systems. Many of the industrial uses are land intensive in nature. To preserve land at these centers, large retail, residential or nonrelated office uses are discouraged.”

23. Issues relating to what land uses are appropriate for heavy industrial areas can also be incorporated into the scopes of work of the following initiatives:
  - a) Council Consideration Request (CCR) – Council Member Ryan Mello initiated a CCR on March 16, 2017, concurred by the City Council on March 21, concerning implementing the Container Port Element of the *One Tacoma* Comprehensive Plan. The CCR directs staff and the Planning Commission to develop possible modifications to the City's zoning, subdivision, and development regulations to specifically address the incompatibilities of non-industrial uses with the long-term viability of the Tideflats as a heavy industrial and container shipping area, as called for by the Container Port Element.
  - b) The Potential Tideflats Subarea Plan – According to a news release on March 30, 2017, the City of Tacoma and the Port of Tacoma have agreed to begin negotiation for an Interlocal Agreement (ILA) to specify the roles and responsibilities of the agencies in the joint effort to develop a Tacoma Tideflats subarea plan. The subarea plan will offer a streamlined, comprehensive approach for exploring opportunities and addressing concerns raised by community members, businesses, the City Council, and the Port of Tacoma about activities and future development in the Tacoma Tideflats.
24. Concerning the interim regulations removing correctional facilities as an allowed use in multi-family residential zones, the changes appear to address a potential for incompatible land uses in these areas. This is an issue that should be further evaluated as part of the permanent regulations.
25. Concerning the interim regulations’ implementation of a conditional use permit requirement for correctional facilities where they are allowed, this modification will better ensure broader notification and consideration of any new project, which appears both appropriate in the interim as an issue that should be further evaluated as part of the permanent regulations.
26. With the interim regulations, public and private correctional facilities are distinguished and regulated differently, which is uncommon in the City’s zoning code. The potential effects of this code provision need to be explored and alternatives developed as appropriate.
27. The interim regulations prohibit the siting of private correctional facilities in all zoning districts. This restriction, even as an interim measure, may be subject to challenge based on potential inconsistency with state provisions concerning “essential public facilities,” which are addressed in the state Growth Management Act (see Revised Code of Washington, RCW 36.70A.200). The Commission refers to the following relevant provisions as set forth in the Washington Administrative Code:
  - For the purposes of identifying facilities subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned (WAC 365-196-550(1)(b)).
  - The key considerations for identifying an essential public facility is whether it provides or is necessary to provide a public service and whether it is difficult to site (WAC 365-196-550(1)(f)).

- Per WAC 365-196-550(3)(a), cities and counties may not use their comprehensive plan or development regulations to preclude the siting of essential public facilities.
- The permitting process for Essential Public Facilities may include reasonable requirements such as a conditional use permit (WAC 365-196-550(6)(c)).

The Commission has also received information indicating the City's consideration of the NWDC as an essential public facility in 2009 (see Exhibit 3a) and legal advice concerning the siting of essential public facilities (see Exhibit 3b). Based on the above information, the Commission believes that private correctional facilities should be considered essential public facilities, and as such, cannot be prohibited by the Comprehensive Plan and/or development regulations, but can be regulated and conditioned in order to mitigate their potential impacts.

28. Developing the permanent regulations would require a significant amount of staffing resources and the Planning Commission's attention, which would affect the progress of some on-going and emerging projects of high priority, such as the Tacoma Mall Neighborhood Subarea Plan, private applications for the 2017-2018 Amendment to the Comprehensive Plan and Land Use Regulatory Code, and other Council, Commission, and community-initiated planning projects.

#### **D. Work Plan for Permanent Regulations:**

Pursuant to TMC 13.02.055, the Planning Commission should recommend a work plan to the City Council for the development of permanent regulations. The work plan includes two components: (a) scope of work (i.e., issues to be addressed), and (b) schedule (i.e., time needed for carrying out the scope of work).

##### Scope of Work:

The Commission has identified some issues, as outlined below, that should be addressed, should the City Council decide to pursue the development of permanent regulations.

1. Nonconforming Use – Should correctional facilities (public or private) as a nonconforming use be allowed to expand, and if so, to what extent?
2. Essential Public Facilities – The issue concerning whether the newly defined “private correctional facilities” are considered essential public facilities as defined in and regulated by the Growth Management Act (RCW 36.70A) may need to be further examined, and the code revised accordingly.
3. Conditional Use Permits (CUP) – Is the existing administrative and public process for CUPs appropriate for correctional facilities that are allowed through a CUP in some zoning districts? Should the CUP process be modified based on the significance of these types of projects?
4. Public vs. Private Facilities – With the interim regulations, public and private correctional facilities are distinguished and regulated differently, which is uncommon in the City's zoning code. The potential effects of this code provision need to be explored and alternatives developed as appropriate.
5. Code Clarifications – Clarify code language where needed, such as removal of the obsolete footnote regarding side yards for correctional facilities in residential districts (Section 13.02.100.C).



6. Land Use on the Tideflats – Are correctional facilities and other similar non-typical residential uses such as special needs housing and work release centers appropriate for heavy industrial areas? Are other non-industrial uses appropriate for the Tideflats? As noted below, this issue may be more appropriately addressed as part a more comprehensive industrial area land use review, such as the upcoming subarea plan project.

**Timeline:**

The Commission has developed a tentative timeline to accomplish the City Council’s intent to adopt permanent regulations within six months, i.e., prior to the expiration of the interim regulations on September 6, 2017. As illustrated below, the schedule implies that the work is expected to be done on a relatively fast track and the scope of work (or issues to be studied) would thus necessarily be limited. The schedule also suggests that the 6-month duration for the interim regulations as set forth in Ordinance No. 28417 is considered appropriate.

Date	Event
March 7, 2017	City Council – Enacted interim regulations (Ordinance No. 28417)
April 5	Planning Commission – Review interim regulations.
April 19	Planning Commission – Develop findings of fact and a recommendation and the work plan for permanent regulations.
April 25	City Council – Study Session to review the Commission’s recommendation
April 25	City Council – Public Hearing on the interim regulations
May 3, 17, and June 7	Planning Commission – Develop draft permanent regulations.
June 13	City Council – Study Session to review the draft permanent regulations.
June 21	Planning Commission – Release draft permanent regulations for public review and set July 19 for a public hearing. (SEPA determination is issued.)
July 19	Planning Commission – Public Hearing on the draft permanent regulations
August 2	Planning Commission – Recommend permanent regulations to the Council.
August 8	City Council – Resolution to set public hearing date for August 22.
August 15	City Council – Study Session to review the recommended permanent regulations.
August 22	City Council – Public Hearing on the recommended permanent regulations.
August 22	City Council – First reading of ordinance adopting permanent regulations.
August 29, 2017	City Council – Final reading of ordinance adopting permanent regulations, effective immediately. Interim regulations expire (scheduled expiration: September 6, 2017).

**E. Conclusions and Recommendations:**

The Planning Commission acknowledges and understands the City Council's intent and objectives in enacting the interim regulations, which highlight community concerns about correctional facilities generally as well as how they are currently regulated in the City’s zoning code. The Commission realizes the uncertainty instigated by the current national political environment on such issues as equity, social justice, and human rights. The Commission feels the sentiment and concerns of the

community about these issues. However, the Commission has great concerns about using the City's land use regulatory authority to potentially try and address these types of broad-reaching, politically charged, and largely national-level issues. The Commission is also concerned that processing the interim regulations and developing permanent regulations would require a significant amount of staffing resources, which would affect the progress of other on-going and emerging projects of high priority.

While the Commission is concerned about the objectives, impact and potential legal issues surrounding the imposition of the interim regulations, the Commission also recognizes that there are a number of legitimate land use issues regarding correctional facilities that deserve further analysis and community discussion. These include issues related to the appropriate zoning districts, development standards and permitting process for correctional facilities. In addition, given the unique circumstances surrounding the interim regulations, which encompass both land use and non-land use perspectives, and in response to and respecting the City Council's intent, the Planning Commission considers it prudent to focus on the task presented to it and formulate appropriate recommendations for the Council's consideration. The Commission recommends the following 3-phased action strategy as the path forward:

1. Immediate Action –Upon the completion of the public hearing on this matter on April 25, 2017, the City Council needs to determine the legal risks associated with splitting public and private correctional facilities into two categories and regulating them separately. The City Attorney's Office has advised the Commission that there are legal concerns with this approach, particularly given the construction of the Essential Public Facilities definition in state law.
2. Short-term Action – Develop permanent regulations for adoption before the interim regulations expire on September 6, 2017. Address such issues as essential public facilities, conditional use permit process for correctional facilities, public vs. private facilities, and necessary clarifications of the code language. Assess the need for expansion of the three affected facilities.
3. Long-term Action – Evaluate land uses in the Tideflats area and determine if correctional facilities and other similar residential uses and non-industrial uses are appropriate in PMI and M-2 zoning districts. This work can be incorporated into the scopes of work for the Council Consideration Request concerning the Implementation of the Container Port Element of the Comprehensive Plan and for the potential Tideflats Subarea Plan that is being contemplated by the City of Tacoma and the Port of Tacoma.

**F. Exhibits:**

1. Ordinance No. 28417, March 7, 2017
2. Location and Parcel Maps:
  - a. Northwest Detention Center
  - b. Pierce County Jail
  - c. Pierce County Juvenile Detention Center (Remann Hall)
3. Information relating to Essential Public Facilities:
  - a. Email from Joan Mell to Staff, April 14, 2017, transmitting correspondence concerning the City considering the NWDC as an essential public facility
  - b. Memo from the City Attorney's Office to the Planning Commission, April 18, 2017, concerning "Siting of Essential Public Facilities and City Ordinance 28417"



## ORDINANCE NO. 28417

1 BY REQUEST OF COUNCIL MEMBER CAMPBELL

2 AN INTERIM EMERGENCY ORDINANCE relating to land use regulations,  
3 enacting interim zoning regulations; amending Chapter 13.06 of the  
4 Tacoma Municipal Code ("TMC") at Sections 13.06.100, 13.06.200,  
5 13.06.300, 13.06.400, and 13.06.700, pertaining to the definition and siting  
6 of public correctional facilities; establishing a work plan for review and  
7 development of permanent regulations relating to siting public correctional  
8 facilities, and setting April 25, 2017 as the date for a public hearing on the  
9 subject matter hereof.

10 WHEREAS, pursuant to RCW 36.70A.390 and TMC 13.02.055, the City  
11 Council has the authority to enact interim zoning ordinances on an emergency  
12 basis, and

13 WHEREAS Section 2.12 of the Tacoma City Charter provides for the  
14 emergency passage of ordinances when the Council declares that a public  
15 emergency exists and states the facts constituting such an emergency, and

16 WHEREAS the Port/Tideflats area of Tacoma is regionally and locally  
17 designated as (a) an important Manufacturing/Industrial Center ("M/IC"), (b) a  
18 location with unique characteristics that should serve as a long-term and growing  
19 employment center with a focus on manufacturing and industrial uses, and (c)  
20 particularly within the Port Maritime & Industrial ("PMI") District, an area where  
21 uses are intended to focus on shoreline-related uses and support services, and

22 WHEREAS this area (the PMI) is also subject to numerous unique  
23 environmental constraints, some related to its past and ongoing industrial activities,  
24 such as noise, safety, and contamination issues, and some related to its physical  
25  
26



location within a floodplain and potential liquefaction and volcanic hazard zones,  
and

WHEREAS recent proposals and community discussion have highlighted that the City's existing industrial zoning allows for a wide variety of uses, some of which may no longer be compatible with the policies for this area and others where correctional facilities are currently allowed, and the City as a whole, as well as the changing landscape around it, and

WHEREAS the existing notification, outreach, and permitting process requirements for certain types of uses, such as correctional facilities, may not appropriately reflect the level of community interest in them and/or their potential scale of impact, and

WHEREAS the Northwest Detention Center ("NDC"), which is a privately owned and operated federal immigration detention center, was opened in 2004 and expanded in 2008, and the facility, located at 1623 East J Street in the Port/Tideflats area and in the PMI zoning district, is currently permitted to accommodate up to 1,575 detainees, and

WHEREAS recent changes in the national political climate have contributed to uncertainty as to the need for, and potential expansion of correctional facilities in communities such as Tacoma, and

WHEREAS, the federal Department of Homeland Security is on record stating its desire to increase and secure additional detention facilities such as the privately owned and operated NDC, and



WHEREAS the use currently engaged in by the NDC has been referred to as a “correctional facility,” however, the City’s existing correctional facility designation is generally tailored to public correctional facilities and not private facilities, and

WHEREAS the City’s existing regulations do not clearly distinguish between public and private facilities, and also do little to ensure sufficient community engagement and discretionary review of any proposals to site such facilities in this heavy industrial area, or any other areas where correctional facilities are currently allowed, and

WHEREAS the City desires to enact interim zoning regulations regarding public and private correctional facilities, effective for a six-month period, or until the City’s zoning regulations for such facilities are permanently updated, to allow time for the City Council to conduct appropriate research, analyze potential impacts and applicable local, state and regional policies, and determine the appropriate permanent regulatory framework for correctional facilities in Tacoma, and to hold a public hearing on the interim, emergency zoning ordinance within 60 days of the enactment of the same, and

WHEREAS the proposed Interim regulations would, on an interim basis, amend the City’s zoning code, Chapter 13.06 of the Tacoma Municipal Code, as follows: (1) Modify the use definition of “correctional facilities” to clearly differentiate between public and private facilities; (2) remove correctional facilities as a permitted use in the City’s multi-family and light-industrial zoning districts; (3) modify how public correctional facilities are permitted by requiring approval of a



Conditional Use Permit in all districts in which they are allowed; and (4) identify private correctional facilities as an unpermitted use in all zoning districts, and

WHEREAS requiring conditional use permits for new or expanded facilities, in the interim, will better ensure that the review of any proposal includes significant community outreach and the opportunity for local discretionary review addressing applicable policies and standards, as well as potential impacts and compatibility issues associated with siting these types of facilities, and

WHEREAS the potential adverse impacts on the public health, public safety, public property, and public peace justify the passage of an Interim emergency ordinance; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 13.06 of the Tacoma Municipal Code ("TMC") is hereby amended at Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 13.06.700, pertaining to the definition and siting of public (and private) correctional facilities, as set forth in the attached Exhibit "A."

Section 2. Duration. That the Interim zoning regulations enacted by this ordinance shall be in effect for six (6) months following the effective date of this ordinance, and may be renewed as provided by law.

Section 3. Public Hearing Required. That, as required by RCW 36.70A.390 and TMC 13.02.055 B., a public hearing is hereby set for April 25, 2017, at approximately 5:15 p.m., in the City Council Chambers on the First Floor of the Tacoma Municipal Building, 747 Market Street, Tacoma, Washington, during which



the City Council will take public comment on the interim zoning regulations and will  
adopt the necessary findings required by law.

Section 4. Work Plan. That a work plan shall be established for the review  
and development of permanent regulations relating to siting public correctional  
facilities.

Section 5. Emergency Declared - Immediate Effect. For the reasons set  
forth above, and to promote the objectives stated above, the City Council finds that  
a public emergency exists, necessitating that this ordinance take effect  
immediately upon its passage by at least six (6) Tacoma City Council Members in  
order to protect the public health, safety, property, and general welfare.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## **EXHIBIT “A**

### **Chapter 13.06**

#### **ZONING**

\* \* \*

#### **13.06.100 Residential Districts.**

The 100 series will contain regulations for all residential classifications, including the following:

R-1	Single-Family Dwelling District
R-2	Single-Family Dwelling District
R-2SRD	Residential Special Review District
HMR-SRD	Historic Mixed Residential Special Review District
R-3	Two-Family Dwelling District
R-4	Multiple-Family Dwelling District
R-4-L	Low-Density Multiple-Family Dwelling District
R-5	Multiple-Family Dwelling District
PRD	Planned Residential Development District (see Section 13.06.140)

\* \* \*

C. Land use requirements.

5. District use table. (see next page for table)



**Tacoma Municipal Code**

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations <sup>1</sup>
Accessory uses and buildings	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.100.F
Adult family home	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535
Adult retail and entertainment	N	N	N	N	N	N	N	N	
Agricultural uses	CU	CU	CU	CU	CU	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. Buildings shall not be permitted in connection with such use, except greenhouses having total floor area not in excess of 600 square feet. Livestock is not allowed.
Airports	CU	CU	CU	CU	CU	CU	CU	CU	
Ambulance services	N	N	N	N	N	N	N	N	
Animal sales and service	N	N	N	N	N	N	N	N	
Assembly facility	N	N	N	N	N	CU	CU	CU	
Brewpub	N	N	N	N	N	N	N	N	
Building materials and services	N	N	N	N	N	N	N	N	
Business support services	N	N	N	N	N	N	N	N	
Carnival	N	N	N	N	N	N	N	N	Subject to additional requirements contained in Section 13.06.635.
Cemetery/internment services	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	N	N	N	N	N	N	N	N	Subject to additional requirements contained in Section 13.06.510.
Commercial recreation and entertainment	N	N	N	N	N	N	N	N	
Communication facility	CU	CU	CU	CU	CU	CU	CU	CU	Antennas for such facilities are subject to the additional requirements contained in Section 13.06.545.

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations <sup>1</sup>
Confidential Shelter	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Continuing care retirement community	N	N	N	N	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Correctional facility, <a href="#">public or private</a>	N	N	N	N	N	<del>CU N</del>	<del>CU N</del>	<del>CU N</del>	Side yards shall be provided as specified in Section 13.06.602.

\* \* \*

**13.06.200 Commercial Districts.**

\* \* \*

**C. Land use requirements.**

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.200. All portions of Section 13.06.200 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels, in all districts in Section 13.06.200, unless explicit exceptions or modifications are noted. The requirements of Section 13.06.200.A through Section 13.06.200.C are not eligible for variance. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

2. Pedestrian streets designated. Figure 7 of the Comprehensive Plan designates Corridors that are considered key streets for integrating land use and transportation and achieving the goals of the Urban Form and Design and Development Elements. These Corridors are herein referred to as “Pedestrian Streets.” The designation entails modified design requirements to improve building orientation, definition of the public realm, and pedestrian connectivity.

3. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E. Certain street level use restrictions may apply; see Section 13.06.200.C.4 below.

[See next page for table.]

## 5. District use table.

Uses	T	C-1	C-2 <sup>1</sup>	PDB	Additional Regulations <sup>2,3</sup> (also see footnotes at bottom of table)
Adult family home	P	P	P	P	See definition for bed limit.
Adult retail and entertainment	N	N	N	N	Prohibited except as provided for in Section 13.06.525.
Agricultural uses	CU	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. Livestock is not allowed.
Airport	CU	CU	CU	CU	
Ambulance services	N	P	P	P	
Animal sales and service	N	P	P	N	Must be conducted entirely within an enclosed building. See Table 13.06.200.D for setback requirements specific to animal sales and service.
Assembly facility	CU	P	P	P	
Brewpub	N	N	P	N	2,400 barrel annual brewpub production maximum, equivalent volume wine limit.
Building materials and services	N	N	P	N	
Business support services	N	P	P	P	
Carnival	TU	TU	TU	TU	Subject to Section 13.06.635.
Cemetery/internment services	N	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	P	
Commercial recreation and entertainment	N	N	P	P	
Communication facility	N	N	P	P	
Confidential shelter	P	P	P	P	See Section 13.06.535. Limit: 15 residents in T District.
Continuing care retirement community	P	P	P	P	See Section 13.06.535.
Correctional facility, <a href="#">public or private</a>	N	N	N	N	

\* \* \*

### 13.06.300 Mixed-Use Center Districts.

\* \* \*

#### 3. District use table.

Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3,4,5</sup> (also see footnotes at bottom of table)
Adult family home	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535. See definition for bed limit. Prohibited at street level along designated pedestrian streets in NCX. <sup>2</sup> Not subject to minimum densities found in Section 13.06.300.E.
Adult retail and entertainment	N	N	N	N	N	N	N	N	Prohibited, except as provided for in Section 13.06.525.
Agricultural uses	N	N	N	N	N	N	N	N	
Airport	CU	CU	CU	CU	CU	CU	CU	CU	
Ambulance services	N	CU	CU	N	P	P	N	N	
Animal sales and service	P	P	P	N	P	N	N	N	Except in the CIX District, must be conducted entirely within an enclosed structure. Must be set back 20 feet from any adjacent residential district or use.
Assembly facility	P	P	P	CU	P	N	N	N	Prohibited at street level along designated pedestrian streets in NCX. <sup>2</sup>
Brewpub	P	P	P	P	P	N	N	N	Brewpubs located in NCX, CCX, UCX, and RCX shall be limited to producing, on-premises, a maximum of 2,400 barrels per year of beer, ale, or other malt beverages, as determined by the annual filings of barrelage tax reports to the Washington State Liquor Control Board. Equivalent volume winery limits apply.
Building materials and services	N	P	P	N	P	N	N	N	Prohibited at street level along frontage of designated core pedestrian streets. <sup>2</sup>
Business support services	P	P	P	N	P	N	N	N	In NCX, all activities must occur within buildings; outdoor storage/repair is prohibited. Customer service offices must be located at building fronts on designated pedestrian streets in NCX.
Carnival	TU	TU	P	N	TU	TU	TU	N	Subject to Section 13.06.635.
Cemetery/ internment services	N	N	N	N	N	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	N	P	P	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. <sup>2</sup>

Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3,4,5</sup> (also see footnotes at bottom of table)
Commercial recreation and entertainment	P	P	P	N	P	N	N	N	
Communication facility	CU	CU	P	N	P	N	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. <sup>2</sup>
Confidential shelter	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. <sup>2</sup> Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. <sup>2</sup>
Correctional facility, <a href="#">public</a> or <a href="#">private</a>	N	N	N	N	N	N	N	N	

\* \* \*

### 13.06.400 Industrial Districts.

\* \* \*

#### 5. District use table.

Uses	M-1	M-2	PMI	Additional Regulations <sup>1</sup>
Adult family home	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District See Section 13.06.535.
Adult retail and entertainment	P	P	P	Subject to development standards contained in Section 13.06.525.
Agricultural uses	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area.
Airport	CU	CU	CU	
Ambulance services	P	P	P	
Animal sales and service	P	P	N	
Assembly facility	P	P	N	
Brewpub	P	P	P	
Building material and services	P	P	P	
Business support services	P	P	P	
Carnival	P/TU*	N	N	*Temporary use only within the South Tacoma M/IC Overlay District
Cemetery/internment services	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	
Commercial recreation and entertainment	P/CU*	P/CU*	N	*Within the South Tacoma M/IC Overlay District, a conditional use permit is required for facilities over 10,000 square feet of floor area in the M-2 district and over 15,000 square feet in the M-1 district.
Communication facility	P	P	P	
Confidential shelter	P/N*	N	N	See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District.
Continuing care retirement community	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535.
Correctional facility, <a href="#">public</a>	<a href="#">P N</a>	<a href="#">P CU</a>	<a href="#">P CU</a>	<a href="#">Correctional facility, private is not allowed in M-1, M-2 and PMI</a>

\* \* \*

### **13.06.700 Definitions and illustrations.**

For the purposes of this chapter, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years.

\* \* \*

#### **13.06.700.C**

Caliper: Diameter of a tree’s trunk or stem measured at a point 6 inches above finish grade if the resulting measurement is up to and including 4 inches. If the resulting measurement is more than 4 inches the point of measurement shall be relocated to 12 inches above finish grade.

Camouflaged (wireless communication facility). A wireless communication facility that is integrated with a building or the landscape in terms of design, colors, materials and height, so as to be disguised, hidden, concealed, masked, or screened from view.

Canopy (or marquee). An ornamental roof-like structure unenclosed on one or more sides and normally used for pedestrian protection and convenience and/or signage.

Car washing facility. A building or portion thereof containing facilities for washing automobiles, either manually or using a fully automatic washing process, requiring no personnel for the conduct of the operation except as is necessary for the collection of money and the maintenance of the facility.

Carnival. A temporary and often traveling establishment at which a combination of attractions or exhibitions, such as rides, shows, displays, eating concessions, and gaming booths, are provided for the purpose of amusement and entertainment.

Catering services. Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.

Cell site. A tract or parcel or land that contains wireless communication facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to wireless communication facilities.

Cemetery and internment services. Property used for the interring of the dead. This property may include support facilities, such as funeral homes and/or chapels.

Clean construction/demolition/land-clearing (CDL) wastes. CDL wastes are solid wastes produced from construction, remodeling, demolition, or land-clearing operations that have been source separated so that the material is principally composed of asphalt, concrete, brick, or other forms of masonry; non-chemically treated wood (i.e., creosote, paint, preservatives); land-clearing wastes; or other materials approved by the Tacoma-Pierce County Health Department. Yard wastes (i.e., leaves, grass, prunings, and sod), plaster (sheet rock or plasterboard), or any materials other than wood that are likely to produce gases or a leachate during the decomposition process and asbestos wastes are specifically excluded from this definition of clean CDL wastes, unless otherwise approved by the Tacoma-Pierce County Health Department.

Climate-adapted Plant Species. Climate adapted plants include both native and non-native plant species which are able to thrive in the local climate and soil conditions of the City of Tacoma. The two most authoritative references on climate adaptation for plants are the USDA Plant Hardiness Zones and the Sunset Climate Zones.

Collocation. The use of a wireless communication facility or cell site by more than one wireless communication provider.

Commercial parking facility. Lots offering parking to the public, which are not designed for or directly associated with another use. This is distinguished from parking that is provided as part of and accessory to another use, which shall be considered part of the use it serves. This classification includes commuter parking facilities (park & rides), general public parking lots, and similar facilities.

Commercial recreation and entertainment. Private provision of participant or spectator recreation or entertainment. This classification includes uses such as privately operated sports stadiums and arenas, amusement parks, bingo parlors, bowling alleys, billiard parlors, poolrooms, dance halls, ice/roller skating rinks, miniature golf courses, golf driving ranges, archery ranges, scale-model courses, shooting galleries, tennis/racquetball courts, croquet courts, swim clubs, health/fitness clubs, and pinball arcades or electronic gaming centers having more than five coin-operated game machines. This use does not include public or quasi-public parks, recreation or open space, theaters or golf courses. Communication facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding major

utilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices. This classification does not include wireless communication facilities.

Comprehensive Plan. The official statement of the Tacoma City Council which sets forth its major policies concerning desirable future physical development.

Condominium. A multiple-family dwelling, and its accessory uses and grounds, in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses, and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

Confidential shelter. Shelters for victims of domestic violence, as defined and regulated in RCW 70.123 and WAC 388-61A. Such facilities are characterized by a need for confidentiality.

Construction/demolition/land-clearing (CDL) waste recycling. CDL waste recycling is the storage, processing and/or sale of clean CDL wastes to recover usable products or to regenerate the material where the following activities are further defined:

1. Storage includes the holding of CDL wastes prior to processing and stockpiling of the recycled product and by-products.
2. Processing includes the sorting of clean CDL wastes and the mechanical reduction of these materials by means of an initial mechanical processing operation which results in a raw product to be shipped to secondary processors, but does not include composting.
3. Product sales, including retail and wholesale sales of recycled materials.

Container, shipping/storage. A large, prefabricated box or container made of metal, wood, or similar material utilized for the shipping/storage and distribution of various products or commodities.

Continuing care retirement community. An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care. Due to the wide range of services provided, such facilities generally operate under multiple state-licensing programs.

Convalescent home. See "extended care facility."

Cornice. Projection at the top of a wall; a term applied to construction where the roof and side walls meet.

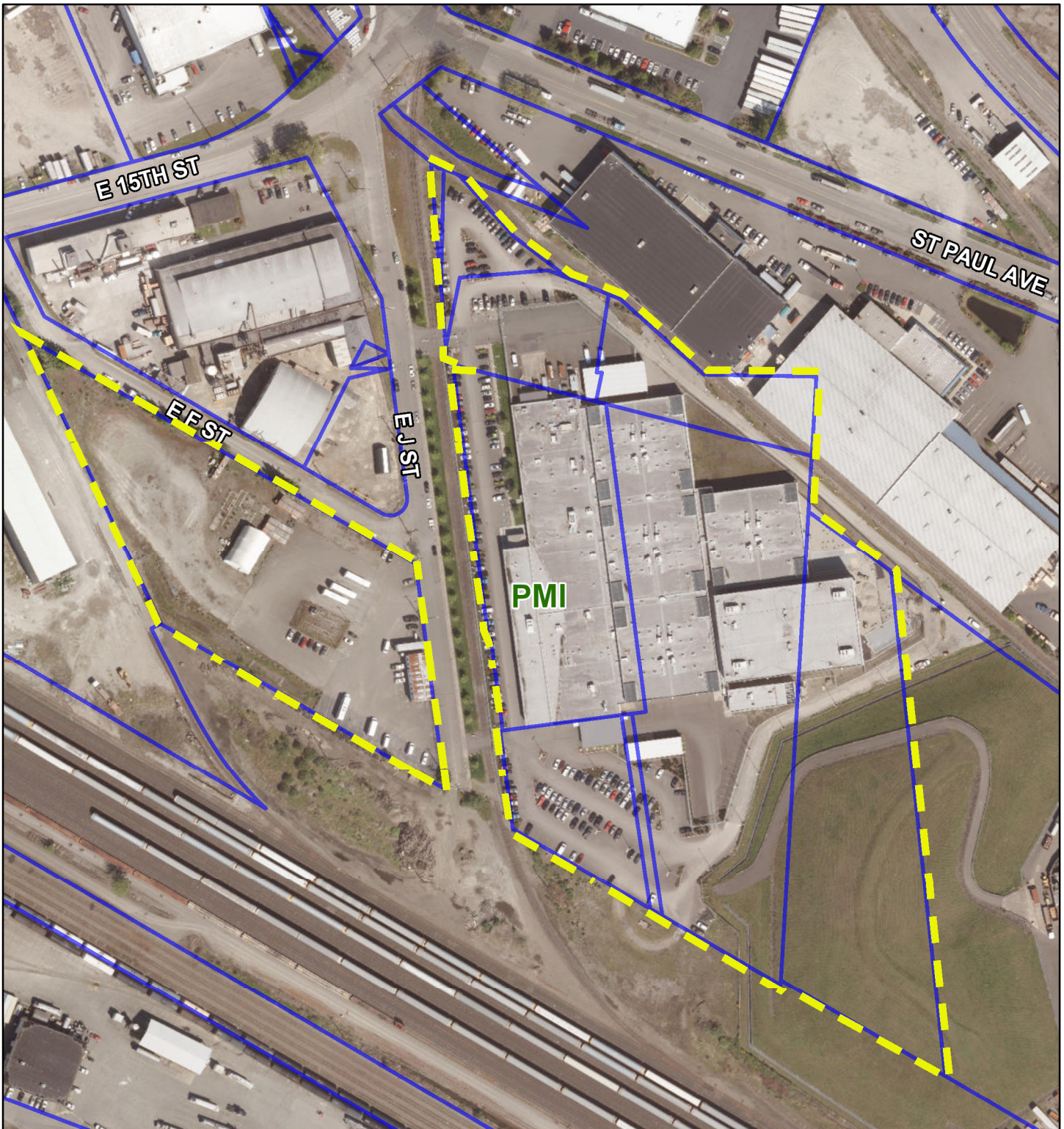
Correctional facility, private. A privately owned facility under contract with a government agency to provide incarceration or detention services for the incarceration or detention of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving a sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities.

Correctional facility, public. A publicly owned and operated facility for the incarceration of persons under state or local warrant, awaiting trial on state or local felony or misdemeanor charges, convicted of state or local charges, but not yet sentenced, or serving a state or local sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities, nor does it include privately owned, or privately operated facilities regardless of whether any such facility has a contract with any government agency.

\* \* \*

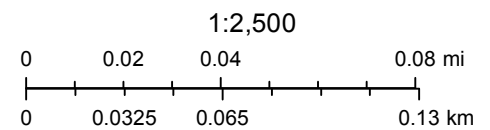


# Northwest Detention Center Parcels



March 10, 2017

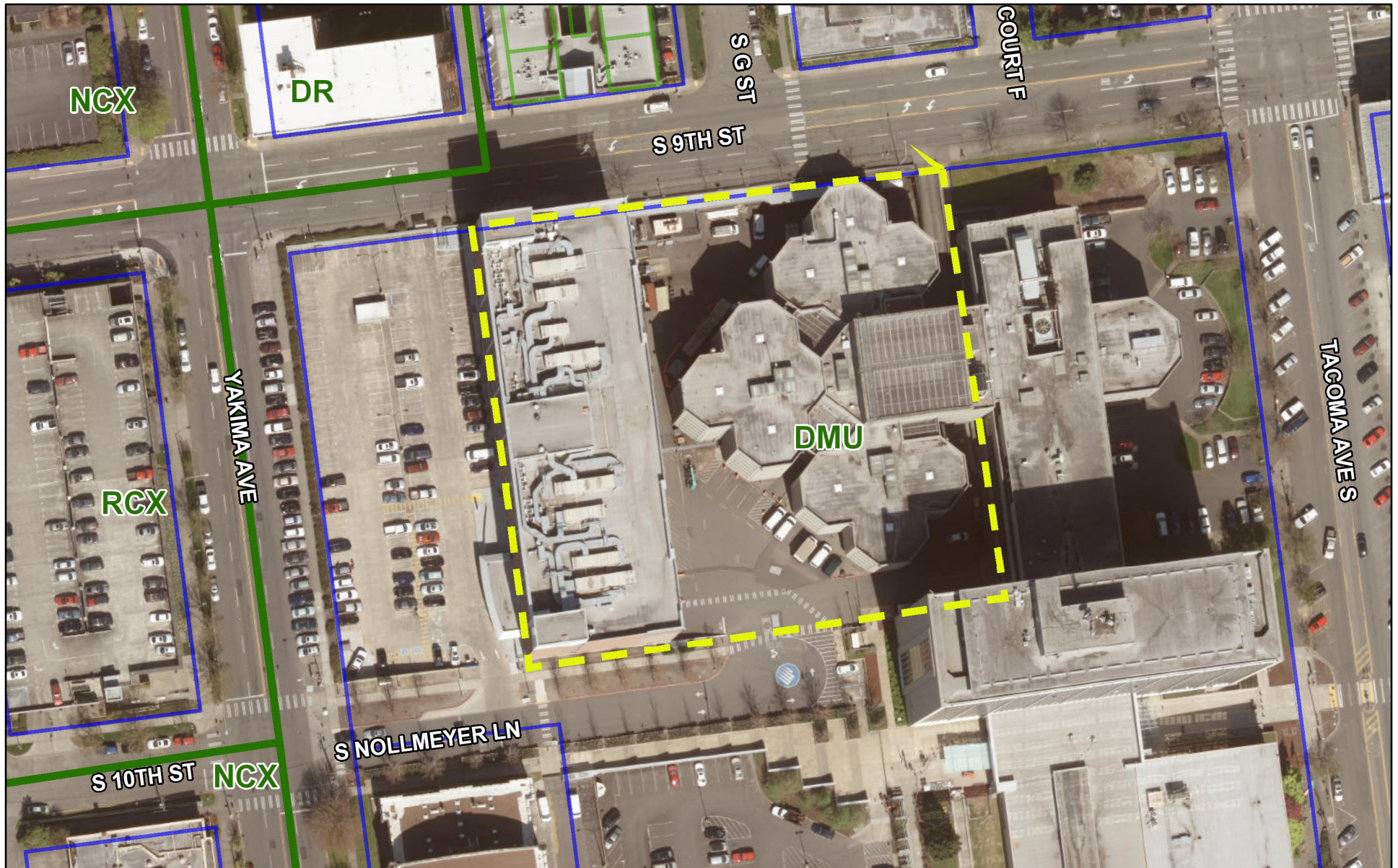
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|--|--|
|  Tacoma City Boundary  |  Building Only      |
|  Street Names         |  Condominium        |
|  Zoning               |  Lease Hold         |
| <b>Parcels (All categories)</b>  |  Tax Purpose Only   |
|  Airspace Condominium |  Undivided Interest |
|  Base Parcel          |  |



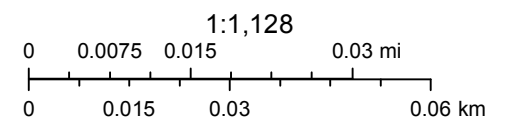
Tacoma IT-GIS  
Tacoma Community & Economic Development Department



# Pierce County Jail



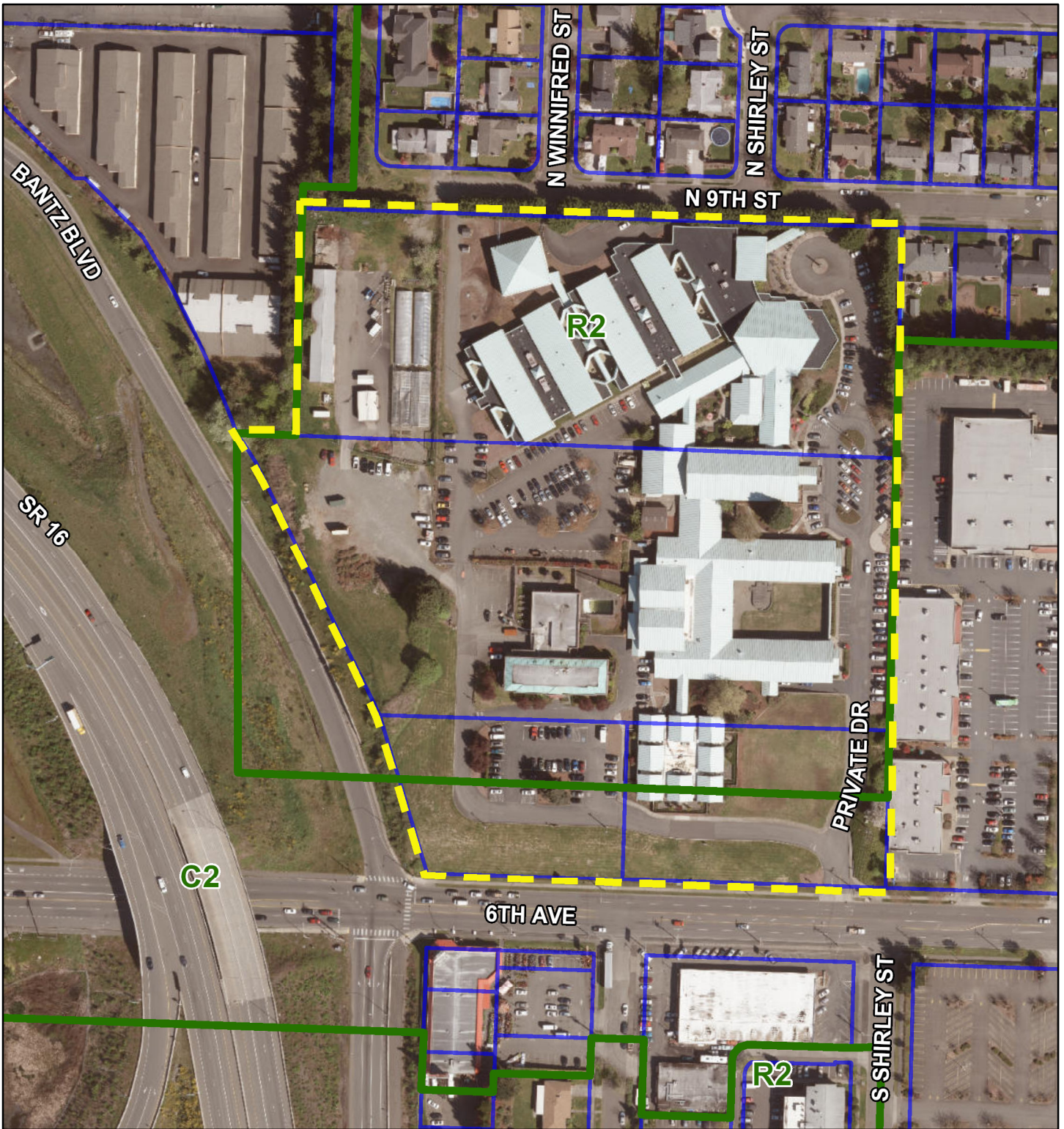
March 23, 2017



Tacoma IT-GIS  
Tacoma Community & Economic Development Department

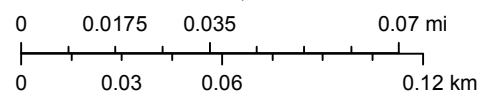


# Remann Hall



March 10, 2017

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- |   |                      |   |                    |
|---|----------------------|---|--------------------|
|  | Tacoma City Boundary |  | Building Only      |
|   | Street Names         |  | Condominium        |
|  | Zoning               |  | Lease Hold         |
| <b>Parcels (All categories)</b>   |                      |  | Tax Purpose Only   |
|  | Airspace Condominium |  | Undivided Interest |
|  | Base Parcel          |   |                    |

Tacoma IT-GIS  
Tacoma Community & Economic Development Department



**From:** Joan Mell [mailto:[joan@3brancheslaw.com](mailto:joan@3brancheslaw.com)]  
**Sent:** Friday, April 14, 2017 4:07 PM  
**To:** Wung, Lihuang; Boudet, Brian  
**Cc:** Pauli, Elizabeth (Legal)  
**Subject:** Agenda April 19,2017 - Correctional Facilities Interim Regulations

Can you please make sure the Planning Commissioners receive the attached document before the hearing on the 19th. I found this record in an old PRR Response from the City. The content of significance concerns the City considering the NWDC an “essential public facility” at the time of expansion.

Joan K. Mell  
III Branches Law, PLLC  
1019 Regents Blvd. Ste. 204  
Fircrest, WA 98466  
253-566-2510 (p)  
281-664-4643 (f)  
[joan@3brancheslaw.com](mailto:joan@3brancheslaw.com)



City of Tacoma  
City Manager

**To:** Eric Anderson, City Manager

**From:** Matt Peelen, Management Assistant

**Subject:** PSHSED Committee's Interest in the NW Detention Center

**Date:** March 31, 2009

During their March 26<sup>th</sup> meeting, the Public Safety, Human Services and Education Committee expressed interest in additional information on the Northwest Detention Center. During this discussion the committee identified several issues that they would like to explore:

- 
- The jurisdiction of the city in regards to oversight of the Northwest Detention Center.
  - Questions related to the siting and permitting of the Detention Center
  - Any impacts on City departments and services resulting from the Detention Center
  - Questions related to demographics of the Detention Center population

Over time the City has collected various reports and e-mails on the NW Detention Center, many of which address the concerns raised by the Committee. This packet of information was provided to me by Celia Holderman and is attached to this memorandum. I have attempted to classify this information in such a way that it can quickly and efficiently answer the Committee's questions.

*What is the City's jurisdiction in oversight of the NW Detention Center?*

According to Elizabeth Pauli, this facility is considered by the state Growth Management Act to be an "essential public facility." The Act provides that no local comprehensive plan or development regulation may preclude the siting of essential public facilities. For more information please see Attachment A.

*What are the impacts on City departments and services from the NW Detention Center?*

In a May 27<sup>th</sup> memorandum (Attachment D) to Nicole Persaud with MACTEC Engineering regarding impacts on City Service due to NW Detention Center expansion, the Police Department identifies concerns with protests as their only issue with the NW Detention Center to date. The police department goes on to express concerns at the potentiality of the Washington State Department of Corrections and other parties using

space within the Detention Center, which could result in an impact to human service funding.

Sigrun Freeman of the Northwest Leadership Foundation, a group which provides social services to the detainees, identifies in Attachment E a need for service to the population granted a release from the facility as they make their way into the general population. She provides no quantitative data. No other impacts are identified.

*How was the NW Detention Center sited and what is the City's role in permitting a facility of this nature?*

The NW Detention Center opened in Tacoma in the spring of 2004. A memorandum provided by A. Neil Clark, the Field Office Director of the Seattle Detention and Removal to the Public Safety, Human Services, and Education Committee in September of 2007 is included as Attachment B. The memorandum provides an overview of both the federal program run by the Office of Detention and Removal and the GEO Group, whom own and operate the facility.

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*Are there any permitting concerns?*

As described above and in Attachment A, the City can not prohibit the siting of essential public facilities such as the NW Detention Center. However, the Growth Management Act does not preclude analysis of state environmental requirements, nor the imposition of reasonable mitigation requirements.

*What consideration has the City made in regards to their recent proposal to expand the NW Detention Center?*

In Attachment C, Charlie Solverson describes the permitting process for the expansion of the NW Detention Center. The expansion project is identified as 104,800 square feet of new construction including 26,000 square feet of a general population housing unit and a 40 bed segregation unit. Permit requirements are identified as a Building Permit, a Grading Permit, and a SEPA addendum.

*What are the demographics of the NW Detention Center?*

In Attachment B, the countries of origin are identified as being primarily from Central American and East Asian Countries. There is no information on gender or age provided. The average duration of stay for detainees at the Northwest Detention Center is identified as 27 days. In Attachment E, provided by Sigrun Freeman of the Northwest Leadership Foundation, she identifies 9,441 detainees booked into the facility, and 9,258 as booked out in 2007.



**Holderman, Celia**

Attachment A

**From:** Holderman, Celia  
**Sent:** Thursday, May 22, 2008 11:09 AM  
**To:** Anderson, Julie; Baarsma, Bill; Fey, Jake; Ladenburg, Connie; Lonergan, Mike; Manthou, Spiro; Strickland, Marilyn; Talbert, Rick; Walker, Lauren  
**Cc:** Anderson, Eric; Pauli, Elizabeth  
**Subject:** Response to CM Anderson's request regarding the Immigration Customs Enforcement Detention Center and Council's authority limitations

Council Members:

Since we don't have a Weekly Report going out today, please see the response below from City Attorney Elizabeth Pauli regarding Council Member Anderson's request for a reminder on the limitations of the Council's authority in regard to "allowing" the Immigration Customs Enforcement detention facility to operate within the City of Tacoma.

Celia

~~PS: Although we won't have Council notebooks going out today, we will still be sending your mail packets home close to 5:00 today.~~

---

**From:** Pauli, Elizabeth  
**Sent:** Thursday, May 22, 2008 10:32 AM  
**To:** Anderson, Eric  
**Cc:** Holderman, Celia  
**Subject:** I.C.E. Facility

At the City Council Meeting of May 6th, Councilmember Anderson asked that the Council be provided with a reminder of the limitations on the authority of the Council in regard to "allowing" the Immigration Customs Enforcement detention facility to operate within the City of Tacoma.

This facility is considered by the state Growth Management Act, to be an "essential public facility." Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities. RCW 36.70A.200(1).

The Act provides that no local comprehensive plan or development regulation may preclude the siting of essential public facilities. RCW 36.70A.200(5). This prohibition also applies to the expansion or improvement of an essential public facility, but does not preclude analysis of state environmental requirements, nor the imposition of reasonable mitigation requirements. City of Des Moines v. Puget Sound Reg'l. Council, 108 Wn. App. 836 (1999).

Please feel free to contact me if there are any additional questions.

Elizabeth A. Pauli  
City Attorney

E.

5/22/2008





**TO:** Tacoma Planning Commission

**FROM:** The Office of the City Attorney

**SUBJECT:** **Siting of Essential Public Facilities & City Ordinance 28417**

**DATE:** April 18, 2017

The Tacoma City Council recently passed emergency, interim development regulations (City Ordinance No. 28417) regarding the “siting [of] public correctional facilities.” TMC 13.02.055 requires that the Planning Commission make findings of fact and recommendations for the City Council’s consideration before any emergency, interim development regulations can be finalized. By this Memo, the City Attorney’s Office is providing the Planning Commission with the following information and guidance:

1. After additional review, the City does not see challenging any designation of the immigration detention facility in the tideflats as an “essential public facility” under RCW 36.70A.200 and WAC 365-196-550 as a viable course going forward;
2. The City understands that essential public facilities must be accounted for in the City’s Comprehensive Plan, and cannot be prohibited by the Comprehensive Plan and/or the City development regulations (WAC 365-196-550 (3) and (6));
3. The siting and permitting of essential public facilities can, however, be regulated and conditioned in order to mitigate potential impacts of the essential public facility (WAC 365-196-550 (6)); and
4. WAC 365-196-550 provides the best guidance, particularly at subsection (6), for the mitigation of potential impacts.