

Members

Jeremy C. Doty, Chair
Donald Erickson, Vice-Chair
Chris Beale
Sean Gaffney
Tina Lee
Ian Morrison
Matthew Nutsch
Erle Thompson
Scott Winship



Agenda

Tacoma Planning Commission

Community and Economic Development Department

Ryan Petty, Director
Peter Huffman, Assistant Director
Charles Solverson, P.E., Building Official

Public Works and Utilities Representatives

Jim Parvey, City Engineer/Assistant Director, Public Works Department
Heather Pennington, Resource Planning Manager, Tacoma Water
Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power

747 Market Street, Room 1036
Tacoma, WA 98402-3793
253-591-5365 (phone) / 253-591-2002 (fax)
www.cityoftacoma.org/planning

(Agenda also posted at: www.cityoftacoma.org/planning > "Planning Commission" > "Agendas-Minutes-Recordings")

MEETING: Regular Meeting

TIME: Wednesday, October 19, 2011, 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

A. CALL TO ORDER

B. QUORUM CALL

C. APPROVAL OF MINUTES – Regular Meeting and Public Hearings of September 21, 2011

D. GENERAL BUSINESS

(4:05 p.m.) **1. Large Scale Retail Moratorium**

Description: Review testimony received at the public hearing on October 5 and written comments received through October 7; review draft Letter of Recommendation and draft Findings of Fact and Recommendation; and forward a recommendation to the City Council.

Actions Requested: Recommendation

Support Information: See "Agenda Item GB-1"

Staff Contact: Brian Boudet, 573-2389, bboudet@cityoftacoma.org

(4:35 p.m.) **2. Downtown Parking Requirements**

Description: Review testimony received at the public hearing on September 21 and written comments received through September 30; and review staff responses to public comments and possible changes to the proposed amendments.

Actions Requested: Discussion; Direction

Support Information: See "Agenda Item GB-2"

Staff Contact: Chelsea Levy, 591-5393, clevy@cityoftacoma.org



(5:00 p.m.) **3. Brewery District Subarea Plan**

Description: Review the scope of work and major issues pertaining to the Brewery District Subarea Plan, one of the Growing Transit Communities catalyst projects in the Puget Sound region funded by a grant from the U.S. Department of Housing and Urban Development.

Actions Requested: Discussion; Direction

Support Information: See "Agenda Item GB-3"

Staff Contact: Ian Munce, 573-2478, imunce@cityoftacoma.org

E. COMMUNICATION ITEMS

F. COMMENTS BY LONG-RANGE PLANNING DIVISION

G. COMMENTS BY PLANNING COMMISSION

H. ADJOURNMENT

Members

Jeremy C. Doty, Chair
 Donald Erickson, Vice-Chair
 Chris Beale
 Sean Gaffney
 Tina Lee
 Ian Morrison
 Matthew Nutsch
 Erle Thompson
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Minutes

Tacoma Planning Commission

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 Heather Pennington, Water Distribution Engineering Manager, Tacoma Water
 Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power

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(For Review/Approval on 10-19-11)

MEETING: Regular Meeting and Public Hearings

TIME: Wednesday, September 21, 2011, 4:00 p.m.

PLACE: Council Chambers, Tacoma Municipal Building, 1st Floor
 747 Market Street, Tacoma, WA 98402

Members Present: Jeremy Doty (Chair), Donald Erickson (Vice-Chair), Chris Beale, Sean Gaffney, Tina Lee, Ian Morrison, Matthew Nutsch, Erle Thompson

Staff Present: Donna Stenger, Brian Boudet, Karla Kluge, Chelsea Levy

Chair Doty called the meeting to order at 4:05 p.m. The minutes for the meeting of August 17, 2011 were approved after a correction was made – changing “appended” to “appealed” in the 3rd paragraph under the item of “Medical Cannabis Moratorium.”

GENERAL BUSINESS**1. Large Scale Retail Moratorium**

Chair Doty recused himself from the discussion and Vice-Chair Erickson presided over this portion of the meeting. Additionally, Commissioner Morrison, in keeping with public disclosure practices, indicated that he had been involved over the summer with a law firm that represented Walmart but that he had no involvement with Walmart or any case associated with them, that he no longer works for the firm, and that this would not affect his ability to be impartial on this issue.

Brian Boudet, Long-Range Planning, gave an overview of the moratorium that was adopted by the City Council on August 30, 2011. He explained that the moratorium was established to restrict the issuance of any building or land use permits for all large retail uses – those being greater than 65,000 square feet. He gave a brief explanation of the purpose of the moratorium, the standards and review process for moratoria, and what actions the City Council expects from the Planning Commission. Mr. Boudet indicated that the moratorium specifically affects any new construction of large retail establishments and additions to existing large retail establishments. He also clarified that these restrictions only affect individual large retail establishments and do not prevent the construction or alteration of large shopping centers that don't include any individual use that is over the 65,000 square foot threshold.



The Commissioners asked for an explanation of why a moratorium can be adopted and how it is done as an emergency measure. Mr. Boudet explained the steps the Council takes to adopt an emergency moratorium as outlined in the Municipal Code. He also went over the responsibilities that are given to the Planning Commission in cases involving the establishment of emergency moratoria. The review of emergency moratoria includes two phases. The first phase is the Planning Commission's review of the moratorium itself and its recommendation to the Council addressing whether the moratorium is warranted or not, whether it should be modified, and whether the duration established by the Council is reasonable. Following the Commission's recommendation, the Council will hold a public hearing and then decide whether to retain, modify or rescind the moratorium. If the moratorium is retained by the Council, the second phase of the Planning Commission's review is then to examine the issues identified by the Council and public and consider whether changes to the land use regulations are needed and, if so, recommend such changes to the Council for approval.

At this point, Mr. Boudet went over the details of where large retail businesses are currently located in the City, the zoning districts where they are allowed, and the zoning designations in which the 17 existing ones are currently found – the C-2, CCX and UCX Districts. Mr. Boudet provided information on each of the locations and discussed generally the types of design and development standards that apply to these types of uses and these districts. While the existing large retail stores are spread throughout the city it is not surprising that the Tacoma Mall contains the largest concentration. Mr. Boudet also noted that most of the large retail establishments are located in large shopping centers, with the exception of just one or two examples of large stand-alone retail businesses, such as Costco.

The Commissioners questioned Mr. Boudet regarding the reason that the moratorium was put in place. Mr. Boudet explained that the ordinance indicates that the Council has very broad concerns about the impacts that large retail establishments may have on the community, including economic, environmental, health, traffic and public safety, as well as concerns about whether the existing standards are carrying out the Comprehensive Plan. While it is likely that discussions surrounding a potential project helped to highlight some of these issues, the moratorium affects more than one particular project, location or business. The Council enacted a city-wide moratorium on all permitting associated with large retailers and is clearly concerned about these types of uses and their potential impacts on the entire community.

The Commissioners asked about why the number 65,000 square feet was used as the threshold in this instance. Mr. Boudet said that the ordinance does not indicate why that particular number was chosen to define "large." That number is not used elsewhere in the code or plan as a threshold for standards or review, but as can be seen in the size of our current retail uses there is generally a cut-off point around 65,000 square feet that separates grocery stores and similarly-sized retail stores and the much larger retail establishments..

The Commission also asked about what constitutes an "emergency." Mr. Boudet indicated that in this case the purpose for declaring the emergency, as outlined by the Council, was to protect the public welfare and prevent vesting projects under the current regulations before the City has a chance to evaluate whether the standards are sufficient or not. However, the actual affect of declaring the moratorium under an emergency is really to allow the Council to adopt the moratorium prior to holding a public hearing and prior to getting a recommendation from the Commission. In cases where the Council declares an emergency they can adopt the moratorium immediately and then get the full community input and Commission's recommendation before deciding whether the moratorium was warranted or not.

The Commissioners discussed briefly how the development standards for large retail businesses might be changed but wanted to wait to see what public comment would add to the mix regarding this issue. The Commission also discussed environmental review and impacts fees and how other jurisdictions utilize impact fees, particularly for traffic, to ensure that new uses sufficiently address traffic infrastructure issues. However, they did express some reservations about whether this seems to be an emergency and whether the regulations are so insufficient that a moratorium is needed.

The Commissioners also questioned if Walmart was the only big retail business that is controversial and whether there was enough time to go over the questions involved in this issue. Ms. Stenger replied that this was the purpose for having a public hearing, to help identify the community concerns about large retail uses and get a better feel for the scope of this project.

Mr. Boudet expressed his appreciation for all the input from the Commission and noted that staff would return with responses to the concerns that were expressed. At the close of the presentation, the Planning Commission voted unanimously to set the public hearing date for October 5, 2011 at 5:00 p.m.

PUBLIC HEARINGS

1. Downtown Parking Requirements

At 5:03 p.m., Chair Doty called to order the first public hearing regarding Downtown Parking Requirements. Chelsea Levy, Long Range Planning Division, reviewed the proposed changes to the off-street parking requirements for new development in downtown. Ms. Levy provided background on the development of the current proposal and a summary of the primary amendments associated with the proposal. She then discussed the public outreach that had been conducted in preparation for the public hearing, including notifications distributed to over 1,800 stakeholders and presentations on the topic to over 100 interested individuals. Ms. Levy then described preliminary public feedback on the proposal, which has been generally supportive with some concern about reducing the parking maximums.

Chair Doty called for oral testimony. The following comments were received:

- (1) Eric Bjornson, attorney** – Supports the proposal, especially the elimination of parking minimums; citing best practices from other model cities and peer reviewed research. Mr. Bjornson stated that good urban design occurs when the city enable the market to determine the “right” amount of parking.
- (2) Andrew Austin, Transportation Choices Coalition** – Fully supports the proposal because it works toward the goals creating a more walkable and livable downtown. Mr. Austin suggested the benefits of the proposal should be expanded to a larger area of downtown.
- (3) Tom Luce, Executive Council for a Greater Tacoma** – Objects to reinstating the parking maximum in the International Financial Services Area and reducing the parking maximum in the DCC. While the Executive Council supports eliminating the parking minimums, Mr. Luce is concerned that parking maximum may make it more difficult to attract large employers into downtown.

- (4) **Herb Simon, developer** – Objects to reinstating the parking maximum in the International Financial Services Area and reducing the parking maximum in the DCC. Mr. Simon is concerned the City is developing a solution to a problem that does not exist in bad economic times. He is concerned that more regulations could scare off potential investors interested in Downtown. Mr. Simon proposed a collaborative meeting between City staff, Planning Commissioners and the downtown development community to identify a solution to parking concerns that would not deter others from investing in Tacoma.
- (5) **Kristina Walker, *Downtown: On the Go!*** – Supports the elimination of the parking minimums and reducing the parking maximums to 2.5 stall per 1,000 square feet. Ms. Walker stated that additional parking will not make downtown a more attractive place to live and work.

With no further speakers coming forward to testify, the public hearing was closed at 5:25 p.m.

2. Critical Areas Preservation Code Update

At 5:26 p.m., Chair Doty called to order the second public hearing regarding Critical Areas Preservation Code Update. Karla Kluge, Building and Land Use Services, presented a summary of the proposed code revisions and briefly reviewed the topics discussed with the Focus Group including volunteer enhancement provisions designed to support and promote voluntary restoration efforts. She also indicated that in addition to the focus topics, the code was reorganized and cleaned up to eliminate duplicity and further streamline the permit process.

Ms. Kluge also explained how collaborative efforts were used in developing this Code. She had notified a large list of agencies, groups, environmental experts, and neighborhood groups of the public hearing and solicited their comments on this issue.

Chair Doty called for oral testimony. The following comments were received:

- (1) **Jim Bedoun, Puget Creek Restoration Society (PCRS)** – Mr. Bedoun provided suggestions from PCRS for addition to the Code. PCRS took exception to the fees in lieu process. PCRS would also like to be given a large share in commenting and having input on projects that may have an impact of habitat. Mr. Bedoun would like to see extensive re-write of sections of the Code.
- (2) **Joe Brady, Metro Parks Natural Resource Management** – Mr. Brady commended staff for their efforts in developing code to support volunteer and restoration and enhancement efforts that will also support the Parks' goals. He would like the Code to be simplified in order to work for the many volunteers that help maintain the large areas of property that the Parks owns. He suggested that City staff work toward developing the "programmatic section" of Code so that it would be an easier tool for his volunteers to work with.
- (3) **Cory Kramer, Cascade Land Conservancy** – Mr. Kramer thanked staff for their efforts in developing restoration and enhancement supportive code for volunteers. He also had some questions regarding the "programmatic permits" of the Code and asked that there be more clarification of this section.

Commissioners asked that the last two speakers request in writing their concerns about the "programmatic section" for review and comments and Ms. Kluge will get back to them with

comments. With no further speakers coming forward to testify, the public hearing was closed at 5:45 p.m.

COMMUNICATION ITEMS

Chair Doty acknowledged receipt of the following announcements:

1. Announcement – Joint City Council and Planning Commission Study Session concerning the Planning Commission’s Recommendation on Shoreline Master Program Update, Tuesday, September 27, 2011, 12.00 noon, in Room 16, Tacoma Municipal Building North.
2. Announcement – The City of Tacoma’s Mobility Master Plan (adopted in 2010) won a 2011 VISION 2040 Award from the Puget Sound Regional Council for its innovative projects, programs and strategies for pedestrian and bicycle improvements that will help achieve the goals of sustainable transportation and active living.

COMMENTS BY LONG-RANGE PLANNING DIVISION

Ms. Stenger noted that a few of the Planning Commissioners have expressed interest in attending the joint study session with the City Council on September 27 concerning the Shoreline Master Program Update and she encouraged other members of the Commission to attend if at all possible.

Ms. Stenger announced that the Fuzhou Ting (pavilion) Dedication Ceremony and Grand Opening is scheduled for September 22, 2011 at 2:00 at the Chinese Reconciliation Park and she encouraged the Commissioners to attend.

COMMENTS BY PLANNING COMMISSION

Commissioner Nutsch shared his experience on recent visit that he took to Europe and observed that the buildings there are constructed without setbacks and adjacent to each other. Chair Doty responded with the comments that any concerns for the difference that were noted actually fall under auspices of Building Code regulations and economics.

ADJOURNMENT

The meeting adjourned at 5:55 p.m.



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-1

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Large Scale Retail Moratorium
DATE: October 12, 2011

On August 30, 2011, the City Council passed an emergency moratorium on the permitting of large scale retail uses (Ordinance No. 28014) and referred the matter to the Planning Commission to conduct a public hearing and develop findings and a recommendation on the moratorium by October 19. The Commission conducted its public hearing on October 5 and received substantial testimony in favor of maintaining the moratorium and extending its duration.

At the meeting on October 19 the Commission will review the drafts provided by staff, modify as appropriate, and then adopt their findings and recommendation regarding the large scale retail moratorium. Attached are four documents for your information and your discussion at the meeting:

1. Written public testimony submitted prior to the comment deadline
2. Draft Recommendation Letter to the City Council
3. Draft Findings and Recommendation Report
4. Draft 12-Month Work Plan

In addition, as requested at the last meeting, staff is providing a copy of the current Planning Commission Work Program. This document is largely as it was previously presented to the Commission except that the two new moratoria have been added to the program. This information is being provided in response to concerns about the capacity of staff and Commission to add new planning activities caused by the Council's adoption of two moratoria. The moratoria planning activities will take precedence over other work activities causing delays or reduction of effort to these activities. Staff will discuss the anticipated impacts and proposed adjustments to the work program to enable the Council mandated priorities to move forward.

If you have any questions or requests, please contact Brian Boudet at (253) 573-2389 or by e-mail at bboudet@cityoftacoma.org.

Attachments (5)

c: Peter Huffman, Assistant Director



**North End Neighborhood Council
Tacoma, WA**

September 20, 2011

Re: Support of "Big Box" Moratorium and Ban in Tacoma

Tacoma Planning Commission, Mayor Strickland and Tacoma City Council Members

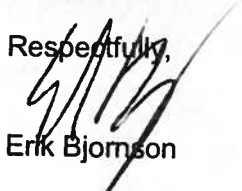
The North End Neighborhood Council (NENC) supports the current moratorium and a strong ordinance in Tacoma banning Big Box stores over 65,000 sq. ft.

The NENC has consistently advocated the construction of a walkable "pedestrian friendly" environment and against massive 1960 era surface level parking lots and sprawl. On July 7, 2007, the NENC wrote a detailed recommendation for Tacoma's Mixed Use Centers which was submitted to the Planning Commission and the Tacoma City Council emphasizing these values.

The construction of massive one-story, car-centric Big Box stores set back from the street and with multi-acre parking lots are the antithesis of good urban design. Hence, many cities have rightfully banned such projects. The more appropriate development for this site would be a mixed use center with commercial and residential elements.

In addition, such a massive store on Union Avenue would likely have a very negative traffic impact.

Respectfully,


Erik Bjornson

Chair, North End Neighborhood Council

From: Jessica Brewer [mailto:jessbru27@hotmail.com]

Sent: Monday, September 26, 2011 7:22 PM

To: lauren.walker@cityoftacoma.org; ryan.petty@cityoftacoma.org; lshadduc@cityoftacoma.org; notacomawalmart@yahoo.com

Subject: no Walmart in Tacoma

To Whom it May Concern,

I would like to voice my opinion and concern for the Walmart building proposal at the Union Ave Tacoma Elks site. A Walmart at this site would result in too much traffic in that area and it would provide unfair competition for local businesses. Walmart's backdoor tactics for sneaking a building into our community sets a bad example. If Walmart wants to open a store (which is a different project than original proposal for a medical center) then there needs to be a new study into the environmental and community impact of this development.

Thank you for your time,

Jessica Brewer

October 1, 2011

TO: Planning Commission
747 Market Street - Room 1036
Tacoma, WA 98402

Re: Ordinance No. 28014 - Moratorium on Large Scale Retail

NO MORATORIUM

DON'T BE A GHOST TOWN SUPPORTER!

Large Scale Retail = JOBS! JOBS! JOBS!



Patricia S. Lowry, a senior citizen for future Tacoma growth
3712 Tacoma Av S. Tacoma, WA 98418
Mailing: P.O. Box 8747 Tacoma, WA 98419
(253) 475-4491

From: sem3@u.washington.edu [mailto:sem3@u.washington.edu]
Sent: Saturday, October 01, 2011 9:23 AM
To: Planning
Subject: Large Scale Moratorium

Tacoma has not yet reduced our negative air quality rating. Large scale retail venues located adjacent to a freeway system with minimal public transportation will further contribute to an increase in the release of carbon monoxide. Another disadvantage is the ability to recycle large shells once the original occupant closes. Typically, these sites become isolated high-crime areas. Most importantly, uni-purpose shell structures do not contribute to Tacoma's vision of mixed-use development.

Susanne E. Marten

From: Bree Lafreniere [mailto:bree5225@gmail.com]
Sent: Monday, October 03, 2011 8:03 AM
To: Planning
Subject: Comment for Public Hearing

Dear Leaders,

I would like to express my concern about a six month moratorium regarding large scale retail establishments. Although I am all for thoughtful development, we are in an emergency situation and I don't support taking six months to develop findings. We are badly in need of economic development and jobs. Unemployment is the root cause of multiple devastating problems for individuals, families and the society which take years to solve. I understand the jobs created may be low paying but they could be, for example, the difference for a college student struggling to go to college. Please, don't be disconnected from the reality of people's lives. Your job is to lead us to a better life.

Bree Lafreniere



**Bricklin &
Newman**
LLP

Seattle Office:
1001 Fourth Avenue
Suite 3303
Seattle, WA 98154

Spokane Office:
35 West Main
Suite 300
Spokane, WA 99201

Contact:
Phone: 206-264-8600
Toll Free: 877-264-7220
Fax: 206-264-9300
www.bnd-law.com

Reply to: Seattle Office

October 5, 2011

Planning Commission
City of Tacoma
747 Market Street
Tacoma, WA 98402

Re: Large-Scale Retail Moratorium

Dear Planning Commissioners:

I write on behalf of UFCW 367 whose members have a profound interest in assuring development in the City adheres to central tenets of the Comprehensive Plan. Unions members live, work, shop, and recreate in the City. They care about the City and care about how it develops.

In particular, the Union supports the Comprehensive Plan's focus on mixed-use centers which are to include a "dense, well-integrated variety of development types, combined in such a way that it is pedestrian-oriented and transit supportive." Properly developed, mixed-use centers can provide great opportunities for affordable residential living within walking distance of places to shop, eat, and play.

Unfortunately, the existing regulations for mixed-use centers do not assure that development will be consistent with this Comprehensive Plan vision. As currently written, the City development regulations allow suburban-style shopping centers and "big box" retail establishments to be newly created in mixed-use centers. These Code provisions are inconsistent with the goals and policies of the Comprehensive Plan which repeatedly stress the importance of developing mixed-use commercial areas in a pedestrian-oriented manner. *See, e.g.*, LU-UAD-11. The Plan calls for streetscape design which "promote[s] pedestrian-activity" and which will "reinforce/enhance the character of individual neighborhoods within the City." LU-UAD-10. Mixed-use centers are supposed to be places that are "distinctive, attractive, and rich in amenities." Comprehensive Plan at LU-20. They are to include an "increased mix of uses," "higher density housing," and "community gathering space." *Id.* "Buildings should be sited and designed to encourage walking." LU-21. Different land uses (*e.g.*, commercial and residential) are to be integrated "within the same building or site in order to maximize efficient land use, foster a variety of developments, and support multi-modal mobility." LU-MU-3. The Comprehensive Plan recognizes that "[l]arge parking areas disrupt the continuity of the streetscape and development pattern, and provide formidable barriers to pedestrian movement." LU-23.

These laudatory Comprehensive Plan policies are, unfortunately, not carried through into the existing development regulations. For instance, one of the mixed-use center districts is the CCX, the Community Commercial Mixed-Use District. The Zoning Code currently allows shopping centers to be developed within these mixed-use districts. A suburban style shopping center is anything but "mixed use." It does not contain a mix of residential and commercial uses. It does not promote pedestrian activity.

In like manner, the regulations impose no size limits on retail establishments in the mixed-use zone and, in fact, do not even require that developments contain a mix of uses (contrary to the express guidance in the Comprehensive Plan). The only exception is that the Zoning Code establishes a 7,000 square foot maximum for retail in the HMX District. Inexplicably, none of the other mixed use districts contain any limitation on the size of retail nor do they include other measures to assure a mix of uses that accomplish the above-referenced policies and goals of the Comprehensive Plan. For instance, Tacoma Municipal Code (TMC) 13.06.300.E establishes no maximum floor area for buildings in most of mixed-use districts and does not restrict the size of potentially massive parking lots. Nor does that section require that projects in the mixed-use districts include any residential use.

The discrepancy between the goals of the Comprehensive Plan and the regulations in the Zoning Code are dramatic and threaten severe harm to the City's development and planning efforts. As currently written, the development code allows suburban style shopping centers and big box retail to invest tremendous sums in new buildings that will move the City away from its pedestrian-oriented, mixed use goals, instead of towards them.

The City Council correctly determined that action was needed to correct the inconsistencies between the Comprehensive Plan and the development regulations. The City Council also correctly perceived that it was important to put a moratorium into place while the staff and the Planning Commission worked on the issue. As you know, without a moratorium, property owners can vest development rights under the existing Zoning Code. That means that property owners could secure the right to develop suburban style shopping centers and big box retail at the very time that the City was working to re-write its regulations to address that issue in the context of the Comprehensive Plan's call for mixed-use, pedestrian-oriented development in these zones. Staff has advised that there are at least two property owners who were, in fact, indicating an interest in submitting applications for just that kind of development. The City's efforts to reexamine and, potentially, revise its development regulations to address developments of that sort would have been undermined if a moratorium had not been adopted. The City Council was clearly well justified in adopting a moratorium to preserve its options and protect the integrity of its Comprehensive Plan and its forthcoming planning efforts.

In an effort to have this letter submitted to you for your hearing on October 5, 2011, I will not go into greater detail at this time regarding the justifications for the moratorium. I will attempt to provide you with additional information of that type before the close of the period for submitting written comments this Friday.

You have been asked to address not only the need for the moratorium, but also its length. As staff has advised, a moratorium can be imposed for up to six months and, if a work plan is adopted, for up to 12 months. Staff has drafted a work plan which suggests that the work necessary to review the Zoning Code can be completed in six months. While we appreciate the staff's efforts to avoid a moratorium any longer than necessary, it seems unrealistic that six months would be sufficient time.

Under the proposed schedule, a draft of new language would be submitted to you by November 2, 2011. Given the breadth of changes that we believe are necessary in the Zoning Code, it seems entirely unrealistic that staff could provide you with draft code language by that date. Certainly, if all that is contemplated is imposing a size limit on large retail in the mixed-use zones, code language to that effect can be drafted in short order. But we do not believe the issue is that simple, for two reasons.

First, even if code language creating a size limit can be drafted quickly, it will take longer than that to develop an understanding of the issues that inform the decision as to where draw that size limit line. Staff has provided you with a few articles of considerable length that address a number of matters related to this issue. For the Planning Commission to make a fully informed decision as to an appropriate size limit, we believe a considerable amount of time should be devoted by staff and the Planning Commission to review that literature and other studies and develop an informed judgment as to an appropriate size limit.

Second, the problems with the existing code run deeper than the absence of a size limit on retail. As noted above, the Comprehensive Plan calls for a mix of uses in this zone and a focus on pedestrian-oriented activities and streetscapes. We believe a number of code revisions will be necessary to accomplish this Comprehensive Plan vision. Simply imposing a size limit on retail will not be enough. Development of these other code provisions will undoubtedly take much longer than a month or two. There is no way preliminary draft language could be ready by November 2, 2011. It seems unlikely that it could even be ready by the end of the year.

For these reasons, we suggest that you ask staff to revisit the schedule and develop one that is more realistic given the concerns listed above. We suspect a full year will be required.

Thank you for your consideration of these matters. I wish you good luck with your work on this very important issue.

Very truly yours,

BRICKLIN & NEWMAN, LLP

David A. Bricklin

Planning Commission
October 5, 2011
Page 4

cc: Client

UFCW367/Tacoma Planning Commission – 10 05 11

From: M O [mailto:ostermy@hotmail.com]
Sent: Wednesday, October 05, 2011 10:34 AM
To: Planning
Subject: Public Comment: Large Scale Retail Moratorium

Dear Planning Commission:

I am writing in support of the Large Scale Retail Moratorium. I was disappointed to hear of the plans to build a large retail complex at the site of the Elks Lodge. Traffic is already a nightmare in that area due to all the cars going to the Target complex or trying to get to the highway interchange at Union. I also don't believe that giant retail stores are good for Tacoma's future. Tacoma already has a myriad of large retail stores to serve its residents. Further addition of large retail stores will just take business away from existing stores, causing a blight of empty big boxes. We have seen this blight especially in the Tacoma Mall area when national retail chains have gone bankrupt. I am also concerned that further addition of large retail chains will also pull business away from locally owned small businesses. Large retail stores also provide only low-wage work that often don't provide benefits. Large retail chains also usually only carry cheaply made imported products that further erode our nation's economy.

I would support long-term development of mixed-use medical, educational, hospitality, business professional, or small business retail facilities in that location.

I would also support extending the Large Scale Retail Moratorium for 4 years in order to support Tacoma's current businesses and encourage sustainable planning and growth.

Thank you for your time and consideration.

Sincerely,
Michele Drochak
NorthEnd Neighborhood Resident



Large Scale Retail Moratorium

COMMENT SHEET

Name: Sarah Morken
Affiliation: United for Peace & Justice
Address: 809 N Proctor St
Tacoma 98406
E-mail/Phone: OTRL SJM @ gmail . com
Date: 10/5/11
Subject: Moratorium

Comments: Make it permanent please.
No more poverty wage jobs, where the
employees have to get DSHS health
care & food stamps to survive.



Large Scale Retail Moratorium

COMMENT SHEET

Name: Lin Swanson

Affiliation: Citizen of Pierce County

Address: 1024 Alaska St S
Tac. 98444

E-mail/Phone: _____

Date: 10/5/11

Subject: Moratorium - Lg.-Scale Retail

Comments:

I live outside of the City of Tacoma (in Parkland). I do not want a Walmart* in Tacoma or anywhere. They get tax breaks and other goodies which don't benefit locals and which small businesses do not get. Walmart is predatory and destroys local businesses. Their profits go to Arkansas. Please make the moratorium permanent! Thank you. Lin Swanson
*or similar store

(Over)

From: Susan Cruise [mailto:susanmcruise@gmail.com]

Sent: Thursday, October 06, 2011 11:57 PM

To: Planning

Cc: Tricia DeOme

Subject: Ordinance 28014 Moratorium Retail Establishments in Excess of 65,000 Square Feet

Dear Commissioners and Staff,

I understand that an application was filed seeking permission for Walmart to build a 150,000 sq. foot super store in the vicinity of S. 23rd St. and S. Union Ave. on the property occupied by the Elks Club. I will explain my support for Ordinance No. 28014 in relation to the application to build a Walmart super store at this location in Tacoma. I support Ordinance No. 28014 adopting an immediate six month moratorium relating to land use and zoning and establishing a moratorium on the acceptance of applications for new building and related permits for the establishment, location and permitting of retail establishments that exceed 65,000 sq. feet for the following reasons:

1. A 150,000 square foot superstore such as Walmart will have damaging economic, environmental and social impacts on Tacoma.
2. It is inappropriate to have such a large store across the street from residential apartments such as the Villas at Union Park on S. Union Ave. due to the traffic congestion it will bring diminishing the quality of life of those apartment residents.
3. Because the neighborhoods to the immediate west of the proposed store, as well as to the north and east are primarily residential, the proposed location will clog the main arterials of these neighborhoods such as S 19th St. S. 12th St. 6th Ave., S. Union St. and Proctor St. increasing traffic congestion and the potential for accidents. It has become increasingly hard for me to make a left turn from 6th Ave. at Proctor on to N. Proctor because of the increased traffic on 6th Ave. and this would worsen with the traffic driven to 6th Ave. by congestion on S. Union.
4. I do not think that the citizens and residents of Tacoma should have their quality of life damaged, and compromised and subjected to daily traffic delays and increased congestion due to a store that is known for not being a good corporate steward.
5. Because Walmart's business plan includes a very low wage low benefit model of employment, Walmart burdens tax payer funded services such as medicaid. I understand that in Georgia a 2002 survey found that Walmart was the largest private employer of parents whose children were enrolled in the state subsidized medical program.
6. Therefore, although people pay lower prices for products at Walmart there are hidden costs that people pay, such as in funding medicaid.
7. In addition, during a recession when people are spending less money generally the City of Tacoma should not welcome a store that has been sued on several occasions for predatory pricing, meaning pricing that is so low that it intends to or has the consequence of putting competitors out of business. The City of Tacoma should show more support for its local businesses who can be harmed by predatory pricing practices. Since profit margins are probably much smaller for local businesses due to the recession a store like Walmart with its aggressive business plan can put local businesses that have contributed and enhanced Tacoma out of business.
8. Since there are already a number of large stores in the same area - such as Target, Top Food and Office Depot - and in view of the numbers of residential homes in the immediate vicinity west of the proposed location and starting a few blocks north and east the time has come for the City of Tacoma to reevaluate its zoning code, study these problems and change the code to not permit such a large retail establishment at S 23rd and S Union.

Thank you for your consideration of my comments.

Susan Cruise
615 S. Madison St.
Tacoma, WA 98405

From: marshalm@q.com
Sent: Thursday, October 06, 2011 9:01 AM
To: lwung@cityoftacoma.org
Subject: Support for the moratorium on "big box" stores

Dear Sirs,

I unreservedly support and urge this Planning Commission and City Council to support the moratorium on the building of large "big box" stores in Tacoma until such time as appropriate regulations for their establishment can be created. These are large stores and their massive above ground parking lots must be appropriately zoned and regulated.

Marshall McClintock
701 North J Street
Tacoma, WA 98403

From: Mitch Robinson [mailto:boonrob@msn.com]

Sent: Thursday, October 06, 2011 9:49 AM

To: lwung@cityoftacoma.org

Cc: Marty Campbell

Subject: Big Box Moritorium Comments

As a resident of the city of Tacoma, I ask that the council carefully weigh the pros and cons of a "big box moratorium."

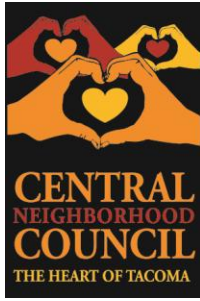
My overall concern is that we are in economic times where the city needs all the potential revenue through sales tax it can get. As just one example that is of concern to many residents, we have something like 100 years of deferred maintenance on our roads. The sales tax revenue derived from new large businesses could go a long way towards paying for long-needed public works improvements.

My other concern is we can't really guess what a "good" or "bad" future big box store might look like--but to put a ban in place might discourage a national retailer from even considering Tacoma. A few possibilities:

- Apple comes up with a new business model and starts stores similar to Best Buy versus their current smaller mall locations. Would we be left out?
- Large local employers like Fred Meyer or Best Buy want to add an additional Tacoma location.
- A well thought of brand like Amazon or Microsoft goes into the large retail space--would they not even consider Tacoma?
- A local merchant find enormous success in Tacoma and wants to build a large box-type space. How sad if they started that business in Tacoma but would not be able to carry there business vision through in the town they started in.

I know city residents have concerns about wages paid by these large retailers along with traffic patterns, congestion, etc. These same local residents also expect basic city services that are paid through sales tax. Let's make sure our citizens understand that for every business we turn away--it could potentially lead to a reduction in city services.

-Mitch Robinson
Tacoma, WA



To: City of Tacoma- Planning Commission
From: Central Neighborhood Council
Date: October 7, 2011
Subject: Planning Commission Public Comment – Ordinance No 28014

Dear Planning Commission Members:

Ordinance No. 28014 was adopted on August 30, 2011 which put in place an emergency moratorium on the permitting of large scale retail establishments with a floor area greater than 65,000 square feet. The moratorium applies City-wide and was enacted for a duration of six months (until February 28, 2012). As stated in the ordinance, the purpose of the moratorium is to allow the City time to evaluate the impacts of these kinds of land uses and to consider potential changes to applicable regulations and requirements.

The Central Neighborhood Council (CNC) agrees the emergency moratorium is necessary and the moratorium should be in place at least six months or until the City evaluates the impacts of big box stores and revises the maximum floor size and parking requirements in Commercial Community Mixed-Use District (CCX) zoned areas. Our reasoning is discussed below.

Why is the moratorium necessary?

“Big Box” stores with floor area greater than 65,000 square feet are currently allowed in C2-General Community Commercial, CCX – Community Commercial Mixed Use, UCX – Urban Center Mixed Use, CIX – Commercial-Industrial Mixed Use, M1 – Light Industrial, and M2 - Heavy Industrial Districts. It is our understanding the areas were zoned CCX during the formation of Mixed-Use District and specific building design and parking requirements were not thoroughly evaluated. There are seven CCX areas distributed throughout the city. The moratorium is necessary to allow time to evaluate building requirements in CCX areas before parcels within the CCX areas are developed or redeveloped with suburban style big box stores.

Why should CCX allowed uses be reevaluated?

The Tacoma Municipal Code (TMC 13.06.300) states one of the purposes of the Mixed-Use Districts is to “increase the variety of development opportunities in Tacoma by encouraging greater integration of land uses within specific districts in a manner consistent with the Growth Management Act, the Regional Plan: Vision 2020, the County-Wide Planning Policies for Pierce County, and the City’s Comprehensive Plan.” CCX areas are to “provide for commercial and retail businesses intended to serve many nearby neighborhoods and draw people from throughout the City. These areas are envisioned as evolving from traditional suburban development to higher density urban districts. Walking and transit use are facilitated through designs which decrease walking distances and increase pedestrian safety. Uses include shopping centers with a wide variety of commercial establishments; commercial recreation; gas stations; and business, personal, and financial services. Residential uses are encouraged in CCX Districts as integrated development components.”

There currently is no designated maximum floor area per story for a single business or a minimum floor-area ratio (total building area divided by site size) within CCX areas based on the City of Tacoma code. Therefore, a 150,000 square foot building serving one use with an expansive surface parking lot and little to no interface with transit options is allowed by the City code. This is the exact opposite of what the City of Tacoma's Comprehensive Plan describes as an urban style, pedestrian and transit friendly development that provides an environment for building synergies between local businesses, entrepreneurial opportunities, workforce housing, and living wage employment in designated Mixed-Use District.

The CNC recommends the Planning Commission retain the moratorium to allow for a thoughtful evaluation of impacts of large scale retail operations on:

- existing land use plans;
 - implementation of zoning and design regulations appropriate to recently-adopted updates of Mixed-Use Districts;
- traffic congestion and patterns;
- pedestrian and bicycle travel; and
- investment in and support for locally-sustainable economic development.

Further, the CNC recommends the Planning Commission consider appropriate regulations for large scale retail land uses, to include prohibition in Mixed-Use Districts, or at least restriction of the suburban characteristics. Additional regulations may include:

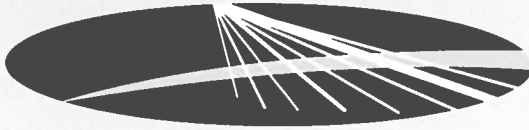
- limitation on floor area per story per single use;
- limitation on vehicular access and parking (including deliveries);
- pedestrian and bicycle access and amenities;
- outdoor storage;
- landscaping; and
- location and size of signage.

The Comprehensive Plan sets policy to build up not out, especially in Mixed-Use Districts. However the City of Tacoma code is not strict enough to implement that policy. The purpose of the moratorium is to provide time to evaluate the code so development is in line with policy before it is too late.

Tricia S. DeOme
Chair
Central Neighborhood Council

Justin D. Leighton
Corresponding Secretary
Central Neighborhood Council

www.cnc-tacoma.com



TACOMA-PIERCE COUNTY CHAMBER
P O W E R T H R O U G H
CONNECTIONS
RECEIVED

October 7, 2011

OCT 07 2011

Per _____

Jeremy C. Doty
City of Tacoma Planning Commissioner
District 5
747 Market St
Tacoma, WA 98402

Chairman Doty:

The Chamber of Commerce is writing to you in opposition to the large scale retail moratorium currently being evaluated by the Planning Commission. While the Planning Commission heard testimony at the public hearing addressing one potential site with one potential project, it is important to remember that the question posed to you by the Council (and state and local law) is not about a project. Rather you have been asked:

- 1) Does the municipal code and review process fail to address issues associated with large scale retail uses over 65,000 square feet in size, and,
- 2) If it does fail to, how much time is needed to make corrections to address these gaps?

The Chamber believes the municipal code, the State Environmental Policy Act and the associated processes with these regulations allow the City and the public ample opportunity to address potential impacts associated with large scale retail uses. Therefore, the moratorium is not warranted and should be ended immediately. Furthermore, if additional municipal code changes are warranted there is a clear process in place to make these changes absent a moratorium.

Existing Regulations

The municipal code has extensive regulations governing the types, sizes, locations, and build out of an array of uses. Currently the regulations governing land use regulations are over 400 pages long – not including regulations associated with administration, buildings, streets, traffic or other public works rules.

In addition to the City's regulations, Washington State has its own sets of regulations governing the development of properties. While these are wide in scope, the most significant of these is tied to the State Environmental Policy Act (SEPA). As the Planning Commission is undoubtedly aware, SEPA is designed to identify potential adverse impacts and provide mitigation of these impacts.

Finally, SEPA allows that if the City “determines that a proposal may have a probable significant adverse environment impact” (WAC 197-11-360) it may require the more substantial environmental review associated with an Environmental Impact Statement – which includes an analysis of alternative development scenarios. This is true regardless of whether the impacts are associated with wetlands, public safety or other quality of life issues.

Testimony to date in support of the moratorium has focused on the potential impacts associated with traffic. SEPA is specifically designed to address these potential impacts with seven questions about transportation, including “[What are the] proposed measures to reduce or control transportation impacts?” (WAC 197-11-960) Through the SEPA process, the City may propose mitigating measures to address these impacts.

Furthermore, the Planning Commission and City Council are constantly reviewing and updating the code through existing processes. Some examples:

- The municipal code was just amended on June 14, 2011 with the completion of the annual amendments to the comprehensive plan.
- A couple of years earlier the Planning Commission recommended a significant package of amendments to Council addressing development in our most significant retail centers, our mixed use centers. These amendments were adopted by Council July 28, 2009 – a process that began in 2006.
- The Planning Commission has just begun its review of the 2012 Comprehensive Plan amendments. These will likely amend the municipal code around the middle of 2012.
- Additionally, studies are underway around the City looking at regulations and development in areas like the South Downtown, the Dome District, the Foss Waterway, and the MLK Corridor.

These layers upon layers of regulations have existed for years with constant updating. The City has seen successful developments and businesses operating that now contribute to the local economy. The idea that yet another “emergency” moratorium is necessary to address an existing legal land use is unimaginative at best.

Adverse Impacts

The purported purpose of the moratorium is to allow the City time to address potential adverse impacts associated with development. While regulations are in place to address these impacts at both the local and state level, there has been little discussion of the impacts associated with another emergency moratorium.

As the first person testifying at the October 5th public hearing stated, “The only time I’ve gotten in trouble is when I’ve gone into something too fast without thinking it through.” Unfortunately, her warning was after the Council had already adopted this moratorium. Now is the opportunity to think the moratorium through and consider the impacts of halting businesses that conform to all laws including the Growth Management Act, the Comprehensive Plan and the Municipal Code.

A moratorium reduces the predictability of development which strongly impacts the economic growth of the City. This reduced predictability:

- Reduces the ability for property owners to solicit Tacoma properties to interested developers, retailers, and businesses meaning more empty lots and empty buildings.
- Halts development plans of both new and existing developments.
- Limits the potential of the City to act as the economic engine for the South Puget Sound meaning less revenue for needed public services and less revenue for filling the projected budget shortfalls of the next decade.
- Keeps people out of work in the construction sector, a sector seeing unemployment rates that are still over 14%.
- Prohibits tenant improvements on large retail buildings throughout the City, potentially keeping smaller retail and non-retail tenants from coming to the City.

The City has failed to address these potential impacts. Unfortunately, there was no public discussion before the implementation of this moratorium and there is no SEPA process available to ensure appropriate mitigation. At this point in the economy's recovery, the City of Tacoma cannot afford to keep businesses away while the surrounding cities and counties are finding ways to attract them.

The Chamber encourages you to recognize the validity of existing regulations that past and current Commissioners and Councilmember's have worked hard to implement. The state mandated comprehensive planning process is designed to allow for reasoned discernment of land use issues revolving around the community's vision and its implementation. The Planning Commission should support this process and recommend that the Council reverse its shortsighted adoption of the large scale retail moratorium.

Best wishes,



Tom Pierson
President & CEO

cc: Mayor Marilyn Strickland
City Council
City Staff
Chamber Board



**Bricklin &
Newman**
LLP

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Reply to: Seattle Office

October 7, 2011

Planning Commission
City of Tacoma
747 Market Street
Tacoma, WA 98402

Re: Large-Scale Retail Moratorium – Ordinance 28014

Dear Planning Commission:

As noted in my letter of October 5, 2011, on behalf of UCFW 367, I submit these written comments in regards to Ordinance No. 28014. As you know, this recently enacted Ordinance puts in place a six-month moratorium on the filing, acceptance, and processing of applications associated with large-scale retail establishments; meaning those establishments with a floor area greater than 65,000 square feet. The City Council, as provided in TCC 13.02.055, has referred the moratorium to you for the development of findings of fact and a recommendation addressing both the need for and the duration of the moratorium.

The Need for Moratorium

The moratorium itself is a City Council initiated action. Currently, according to City Planning Staff, within Tacoma there are approximately 17 large-scale retail establishments, including the retail anchors at the Tacoma Mall. Proposals to expand or modify these existing proposals are subject to current regulations which, as discussed below, do not effectively accomplish many of the goals of the Comprehensive Plan.

Moreover, proposals for new large retail establishments continue to arise, even in these difficult economic times. Two additional large-scale projects were proposed in August 2011 and September 2011 alone. One of these additional proposals would be located within the Tacoma Central Mixed Use Center and the other within a C-2 General Community Commercial zoning district. These new proposals are seeking between 135,000 and 152,000 square feet of space. These new proposals further demonstrate the need for the moratorium. Unless the existing regulations are reviewed and necessary improvements made, these new proposals and others following them will be judged by the lax regulations in effect today.

We refer to the current regulations as lax and ineffective because they allow large scale retail developments which are inconsistent with the goals and policies of the City's Comprehensive Plan. As discussed in detail below, the city's policies eschew suburban style, auto-dominated malls and large retail establishments surrounded by a sea of parked cars. Instead, the Comprehensive Plan calls for pedestrian-oriented developments, often in a mixed-use setting, that makes Tacoma a "distinctive place" and which is compatible with surrounding neighborhoods and Tacoma's vision for growth and development.

- Tacoma's Vision for Growth and Development

Tacoma's Comprehensive Plan provides the primary framework for addressing land use issues in the City. Thus, in considering the issues posed by large-scale retail establishments and the moratorium, primary reference should be made to the Comprehensive Plan.

The Comprehensive Plan seeks to address managed, desirable growth and development so as to both shape and reshape the City's urban form. The Comprehensive Plan specially states that the policies in the Plan serve as:¹

[A] means of managing growth in a way that is *physically, socially and environmentally acceptable*, while at the same time providing for the preservation, redevelopment, and improvement of the City's establish residential neighborhoods.

The General Growth and Development goal is:²

To achieve orderly, timely, and desirable planned growth and development that enhances the quality of life for the citizens of Tacoma.

These visionary statements are supported by Policy LU-GGD-3 which states:

Growth and development throughout the urban area should be regulated, stimulated, and otherwise guided toward the development of *compact concentrated areas to discourage sprawl, facilitate economical and efficient provision of utilities, public facilities and services, and expand transportation options to the public.* (Emphasis added.)

The Intent section of the Comprehensives Plan's *Urban Aesthetics and Design* section builds on these statements by expressly setting forth Tacoma's visionary aspirations:³

¹ Comprehensive Plan, Growth Strategy and Development Concept Element at GD-2, § I (emphasis added).

² Comprehensive Plan, Generalized Land Use Element, at LU-6, §Section 1.

³ Comprehensive Plan, Generalized Land Use Element, at LU-12.

Positive urban design and architecture can enhance Tacoma's livability, the health of its residents, the natural and built environment, and encourage a sustainable and economically vibrant city ... Tacoma aspires to be:

- Pedestrian-oriented ...
- A desirable and inviting place to live, work and play ...
- A safe place to live, work and play ...
- A distinctive place ...

These aspirations are reiterated in Policy LU-UAD-3, which seeks to enhance the distinct character and identity of Tacoma by:

- Emphasizing pedestrian-oriented design ...
- Recognizing and retaining existing scale, proportion and rhythm ...
- Embracing the natural setting and encouraging regional character ...
- Balancing the historic, work-class character and its physical development with the community's desire to be progressive, innovative ...

As noted in my comment letter of October 5, 2011, several other policies within the Urban Aesthetics and Design section of the Land Use Element speak to these same features: LU-UAD-10 (streetscapes designed to promote pedestrian-activity and enhance the character of neighborhoods) and LU-UAD-11 (mixed-used commercial areas in a pedestrian-oriented manner).

As noted in the Growth Strategy and Development Concept Element, future growth in Tacoma is to be directed towards compact mixed-use centers.⁴ One of the recently announced large-scale retail proposals is in an area designated as "Mixed-Use Centers" in the Comprehensive Plan. The vision for Mixed-Use Centers is a dense, well-integrated variety of development types that is pedestrian-oriented and supports transit.⁵ Mixed-Use Centers have several objectives or key principles, including:⁶

- Create walkable and transit-supportive neighborhoods;
- Build on and enhance existing assets and neighborhood character and identity;
- Reduce dependence on cars and enhance transportation connectivity;
- Support neighborhood business development;
- Provide community gathering space and public spaces;
- Increase mix of uses (residences, shopping, jobs, and services).

⁴ Comprehensive Plan, Growth Strategy and Development Concept Element, at GD-2, § II.

⁵ Comprehensive Plan, Growth Strategy and Development Concept Element, at GD-5, § III and at 6-9, § VI.

⁶ Comprehensive Plan, Growth Strategy and Development Concept Element, at GD-9 to GD-10; Generalized Land Use Element, at LU-20 to LU-21, § II.

The Comprehensive Plan sets forth a variety of policies to facilitate these goals. Policies address pedestrian orientation, integration of a variety of uses, compact development, reduction in vehicle dependency, and impediments created by large parking areas.⁷ More specifically, policies address ensuring compatibility of design for mixed-use centers and the need to establish design guidelines.⁸ With all of the policies related to mixed-use centers, the desire for a pedestrian-friendly design is replete and detailed.⁹

In regards to commercial development, the Comprehensive Plan recognizes the pressure for retail and service uses to support a growing population. But, the Comprehensive Plan anticipates demand can be accommodated through redevelopment and intensification within established commercial areas, many of which have been designated as mixed-use centers. And, consistent with the Comprehensive Plan's overarching policies, commercial development is to be designed in a pedestrian-friendly manner and compatible with the character of the area.¹⁰

Thus, it is abundantly clear the vision for future growth and development the City of Tacoma has adopted for itself – compact urban development with an emphasis on a pedestrian-oriented/friendly design compatible with the surrounding area. The Comprehensive Plan recognizes that its aspirational vision and policies are not self-implementing. Instead, regulations must be adopted to turn this vision into a reality. Thus, LU-UAD-5 seeks the creation of:¹¹

...[C]lear and detailed standards that are crafted to encourage desired types of developments.

This is the very thing that is missing when it comes to Large-Scale Retail Establishments. The very reason a moratorium is necessary is to allow for the development of these regulatory standards so as to ensure the proper design and placement of these large-impact uses.

It must be noted that the term “large-scale retail establishment” is not defined in Tacoma’s Land Use Regulatory Code, Title 13. While retail use is a permitted use within a multitude of zoning

⁷ See Comprehensive Plan, Generalized Land Use Element at LU-21 to LU-24.

⁸ See Comprehensive Plan, Generalized Land Use Element at LU-26 to LU-33.

⁹ Comprehensive Plan, General Land Use Element, Policy LU-MU1 (Pedestrian and Bicycle support); LU-MCD-6 (Compactness, support more walking, bicycling, and transit use); LU-MUCD-7 (Circulation, convenient and attractive pedestrian and bicycle linkages); LU-MUCD-13 (Restrict Auto-Oriented Uses, negatively impacts walkability and pedestrian orientation); LU-MUP-4 (encourage pedestrian connections through parking lot in Community Center and Regional Growth Center); LU-MUD-3 and LU-MUD-4 (Pedestrian streets and uses); LU-MUD-6 (Design guidelines including those addressing pedestrian-friendly areas); LU-MUD-11 (Pedestrian-Friendly Design).

¹⁰ See Comprehensive Plan, Generalized Land Use Element at LU-56, Policies LU-CDD-1, LU-CDD-2, and LU-CDD-3.

¹¹ See also LU-MUD-6 and LU-CDD-1 (design and/or development standards/guidelines); LU-MUCC-3 (site plan review).

districts, the regulations prescribe a square footage limitation in only a few of those districts. Despite the Comprehensive Plan's intent to focus growth into Mixed-Use Centers, with few exceptions, the zoning districts intended to implement the City's Mixed-Use Centers permit retail use with no size limitation.¹² For instance, the C-2 General Community Commercial Zone permits retail uses outright and sets no maximum floor area.¹³ Similarly the M-1 Light Industrial and M-2 Heavy Industrial Zones permit retail uses outright, but provide no restrictions as to maximum floor area.^{14 15}

The square footage of the establishments relates directly to its impact on Tacoma's urban community. The design of large-scale retail establishments, through both the structure and the associated parking, are allowed to sprawl over the landscape. This sprawling, auto-dominated (and often linear) development pattern makes inefficient use of land and does not adequately support alternatives to automobile transportation; rather it creates a single-use, auto-centric development. This style of development is in juxtaposition to the City's Comprehensive Plan which seeks an evolution from expansive suburban large-scale retail to a compact, more pedestrian friendly, mixed-use urban center concept.

The code's effort to require a pedestrian-oriented streetscape is also deficient. The code starts out on the right track, requiring that retail buildings larger than 30,000 square feet have no more than a five foot setback from the public right-of-way along 75% of their front and side facades. TCC 13.06.300.F. But, inexplicably, this requirement only applies to buildings "located in close proximity to the street." The intent of this regulation (and the Comprehensive Plan) is easily avoided by simply locating the building far from the street with, for instance, a large parking lot between the street and the store. That is, the code does not preclude the very kind of auto-dominated, suburban mall design that the Comprehensive Plan seeks to avoid. This is the kind of deficiency in the existing code that needs to be addressed immediately if the goals of the Comprehensive Plan are to be realized.

In addition to design elements for these large-scale retail establishments, the economic impact cannot be ignored. The Economic Development Plan of the City's Comprehensive Plan seeks to not just recruit new business, but also foster the growth of existing businesses.¹⁶ The Economic Development Plan recognizes that how a city regulates land is critical to economic development

¹² TCC 13.06.300(D)(2) Use Table. Only the URX and NRX Mix-Use districts prohibit retail.

¹³ TCC 13.06.200(C)(4) Use Table; TCC 13.06.200(D) Building Envelope Restrictions.

¹⁴ TCC 13.06.400(C)(4) Use Table (Except within the ST-M/IC area – 10,000 to 15,000 square feet); TCC 13.06.400(D) Building Envelope Restrictions (no reference at all to floor area).

¹⁵ One of the few zoning districts with a size limit is the C-1 Neighborhood Commercial Zone which permits retail uses outright, but sets a maximum floor area of 30,000 square feet.¹⁵ Similarly, the Hospital Mix-Use Zone also permits retail uses, establishing a 7,000 square foot maximum, but this is "per business" not per structure. These two zones are the exception to the rule. Most of the zones allowing retail include no limit on size.

¹⁶ Comprehensive Plan, Economic Development Plan at 41.

and Action L-2 specifically seeks the efficient use of land through denser development.¹⁷ As noted above, larger retailers have shifted their focus from suburban markets to urban markets not only because of market coverage, but also a realignment of population. Given the impact of these uses on existing urban retail businesses and local employment, determining the proper sizing and location is vital to ensuring business sustainability within the City of Tacoma.

Duration of Moratorium

Ordinance 28014 was adopted pursuant to RCW 36.70A.390 which allows for a moratorium to be effective for not longer than six months. This same provision also allows for the renewal of a moratorium, in six month increments, subject to certain procedural requirements. There is, however, an exception to this time limitation - a moratorium may be effective for up to one year if a work plan is developed for related studies to support the longer period.¹⁸

City Planning Staff has crafted a very aggressive schedule for the review and adoption of necessary amendments to the Tacoma City Code, encompassing both Planning Commission and City Council review along with study sessions and public hearings. While every interested party appreciates the City's efforts to avoid a moratorium any longer than necessary, the proposed schedule is devoid of any discussion related to studies we believe are necessary to fully inform the decision-making process. It also seems to ignore that the changes to the code may need to sweep more broadly than simply imposing a maximum size on large retail establishments in certain zones.

As the background information provided to the Planning Commission in its meeting packet indicated, the past few years have seen a shift in the design and layout for large-scale retail establishments, most notably by creating a new market area for such establishments – the urban area. However, use of this information is questionable given the dates of preparation (1995-2008) and its relevance to Tacoma's unique community character. This background information also provided commentary on the economic impacts. However, given the economic transformation Washington State has experienced in the past years, this information may also not accurately reflect the economic impact of large-scale retail establishments within the urban area.

Thus, we believe region-specific studies or more current analysis as to land use and economic impacts of large-scale retail uses is vital to ensuring the development of regulations that not only reflect Tacoma's land use vision, but also continue its "business friendly" atmosphere that has drawn a variety of business to the area in the past few years.¹⁹ After the background studies are obtained, City Planning Staff needs adequate time to determine the full extent of amendments

¹⁷ Comprehensive Plan, Economic Development Plan at 44; Economic Development Plan, § II Land Use.

¹⁸ This same language is contained in TCC 13.02.055(D).

¹⁹ Councilmember comments at the August 30 council meeting spoke to Tacoma's being seen as a "business friendly" community but that this also meant the success of businesses, with the future for retail being "hot" in Tacoma: Councilmember Mello (Business Friendly); Councilmember Woodards (Ensure the success of businesses); Councilmember Campbell (Retail hot for Tacoma).

that will be required for the development regulations so as to address the impact of these types of facilities on the urban form of the Tacoma community. The time to obtain and analyze such studies and then draft appropriate regulatory language would undoubtedly take more than six months. A one-year moratorium seems appropriate.

In addition to the need for studies and analysis, a realistic schedule would take into account the time of year activity is slated to occur. Under the schedule proposed by staff, much of the Planning Commission's work is scheduled to occur during the busy holiday season, creating potential time-conflict issues not only for the Commission and City Staff, but also for members of the public wishing to attend public hearings or comment on proposed amendments. When adopting this moratorium at its August 30 Council Meeting, one of the reasons councilmembers stated for enacting the moratorium was the need to ensure a "community conversation" regarding large-scale retail establishments.²⁰ The need for a community conversation denotes a respect for the vision and character the citizens of Tacoma are expecting based on the Comprehensive Plan. The process necessarily entails affording a variety of opportunities for citizen involvement. Tacoma's distinct character – based on its unique physical setting, its history, and its people – is a strategic asset that can be leveraged through compatible, high quality, new urban development. The public will provide valuable input, if provided a fair chance.²¹

In conclusion, the future of large-scale retail establishments within Tacoma needs to be thoughtfully analyzed. The City has recognized that current regulations addressing these establishments are not adequate. New regulations should be development which not only respect Tacoma's economic desires, but also respect the community's character. To develop high quality regulations that achieve this, adequate time must be provided. Thus, on behalf of UCFW 367, we ask the Planning Commission to recommend that the moratorium be left and place and extended to an entire year so as to ensure that Tacoma's vision for its growth and development is accurately reflected within its development regulations.

Thank you for the consideration of UCFW 367's comments in regards to this moratorium.

Very truly yours,

BRICKLIN & NEWMAN, LLP



David A. Bricklin

²⁰ Councilmember Mello stated the moratorium allows for the community to have a conversation about community character. Councilmember Boe noted the process for adoption of the Mixed Use Centers and the community vision behind those centers; the very area such large-scale establishment would be located. Councilmember Woodards believed the moratorium demonstrates a "thoughtfulness" for the community and the council needed to ensure the success of the community. Mayor Strickland concluded the moratorium allowed the City to "take a deep breath" and address such things as the surrounding neighborhood.

²¹ Comprehensive Plan, Generalized Land Use Element at LU-12.

Planning Commission
October 7, 2011
Page 8

DAB:psc

cc: Client



**City of Tacoma
Planning Commission**

DRAFT

October 19, 2011

Honorable Mayor and Members of the City Council:

On August 30, 2011, the Council adopted Ordinance No. 28014, enacting an emergency, city-wide, six-month moratorium on the acceptance or processing of applications for development permits for large scale retail establishments. The purpose of the moratorium is to prevent vesting of permits under the current regulations while they are reviewed and updated to better implement the policies and goals of the Comprehensive Plan and sufficiently address the potential economic, social and environmental impacts associated with these types of uses.

As required by the Tacoma Municipal Code, the Commission conducted a public hearing on October 5, 2011 concerning the moratorium. Thirty people testified at the hearing. They all expressed their strong support for the moratorium and most called for extending it. The Commission also received 15 written comments which, while including some opposition to and concern about the impact of the moratorium, still largely favored continuing the moratorium. The overwhelming message from the public testimony was that the community has significant and wide-ranging concerns about large retail uses, particularly within the City's Mixed-Use Centers, and feels that a temporary hold on the permitting of such uses is warranted while the City reviews and considers whether changes to the existing regulations and associated requirements are needed.

The Commission's preliminary review of the Comprehensive Plan and associated regulations found that there are numerous areas where the existing land use regulations do not sufficiently implement the Plan's policies and goals. These discrepancies are particularly problematic within the City's Urban and Community Mixed-Use Centers because center development is a key part of the City's vision for accommodating future population and employment growth. The center vision expresses how we, as a community, will shift from the auto-centric pattern that has dominated development over the past few decades to a more compact, mixed, sustainable, vibrant and dense urban pattern that promotes pedestrian activity and multi-modal transportation options. Ensuring that these areas develop in a manner that is consistent with the community's vision is critical to achieving our long-term land use and economic goals.

The existing language of the moratorium is very broad, applying to all types of permits associated with large retail establishments in all portions of the city. While the concerns expressed have also been broad, a common message has been that development of new large retail establishments is of particular concern within in the Mixed-Use Centers. The Commission shares this sentiment and has found that the differences between the regulations and Plan policies are also most significant in the Community and Urban Mixed-Use Centers. Therefore, the Planning Commission supports the continuation of the moratorium but is recommending that its geographic scope be reduced to focus on the Community and Urban Mixed-Use Centers, where it is most clearly needed and appropriate. As noted in our findings and recommendation report, it may also be appropriate to clarify how the moratorium is intended to affect remodels and additions to existing large retailers, which could include minor and/or necessary maintenance and repair or the reuse of existing, potentially vacant buildings.

Mayor and Members of the City Council

Large Scale Retail Moratorium

October 19, 2011

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Although imposition of moratoria should be used infrequently and with caution, in this instance, the moratorium provides an opportunity to conduct needed analysis of the impacts of these kinds of uses and an evaluation of where and how they can be accommodated in a manner that is consistent with the Comprehensive Plan. Continuing to permit development that is inconsistent with the community's vision will only hamper our ability to achieve it.

While the Commission supports having a moratorium within the Community and Urban Mixed-Use Centers, we are also concerned that the six-month duration originally adopted would require that draft code be ready for public review in less than a month from now. Considering the scope outlined in the moratorium ordinance, the findings of our initial analysis and the numerous and wide-ranging concerns expressed by the public it is apparent that this effort will require significant resources and attention and should include multiple opportunities for general public and stakeholder input and coordination between the Council, Commission and staff.

The Commission is also very concerned about the impact that this project will have on other planning work items. In addition to the two other existing moratoria, the Commission is working on numerous other planning program items, many of which are in response to City Council requests and/or grant funding, such as the proposed amendments to downtown parking requirements, the critical areas regulatory update project, and the two sub-area plans being developed. These projects are in addition to our regular work on the 2012 Annual Amendment, which includes review of seven proposed amendments. The Commission and staff's ability to manage existing responsibilities in addition to this new task will be severely constrained within a six-month schedule. In order to minimize such impacts and ensure that this project receives the level of review, outreach and coordination it deserves, a one-year timeline is needed. I am providing a one-year work plan for the development of regulations that provides a reasonable schedule for the necessary review by the Commission, Council, staff and community.

Therefore, on behalf of the Planning Commission, I am forwarding our findings and recommendations in response to the emergency moratorium. Enclosed you will find a copy of our Findings of Fact and Recommendations report that summarizes the public review process and the Commission's actions. We believe the enclosed document addresses the review requested by the Council and required by City Code. We look forward to our continued work in addressing large scale retail uses within the City.

Sincerely,

DONALD K. ERICKSON
Vice-Chair, Planning Commission

Enclosure



LARGE SCALE RETAIL EMERGENCY MORATORIUM REVIEW

FINDINGS AND RECOMMENDATIONS

TACOMA PLANNING COMMISSION

October 19, 2011

A. SUBJECT:

Emergency moratorium on the permitting of large scale retail establishments within the City of Tacoma.

B. BACKGROUND:

On August 30, 2011, the City Council enacted an emergency moratorium on large scale retail establishments. The moratorium specifically prohibits the filing, acceptance and processing of applications for land use, building or other development permits associated with the establishment, location, or permitting of retail sales establishments with a floor area greater than 65,000 square feet in size. The moratorium applies Citywide and was enacted for a duration of six months (until February 28, 2012). As stated in the ordinance, the purpose of the moratorium is to allow the City time to evaluate the impacts of these kinds of uses and consider potential changes to its regulations and requirements.

C. FINDINGS OF FACT:

- 1) On August 30, 2011, the City Council adopted Ordinance No. 28014, enacting an emergency moratorium on all permitting for large scale retail uses (those with a floor area greater than 65,000 square feet) and referred the moratorium to the Planning Commission to hold a public hearing and develop findings of fact and a recommendation addressing, at a minimum, the need for and appropriate duration of the moratorium, by October 19, 2011.
- 2) As noted in the moratorium ordinance, the purpose of the moratorium is to allow time for the Planning Commission and City Council to assess the impacts associated with large retail establishments, including economic, environmental, health, traffic and public safety, and to review and consider changes to the City's regulations and standards for these types of uses.
- 3) The moratorium applies City-wide and is in effect for six months (until February 28, 2012).
- 4) RCW 35A.63.220 and Tacoma Municipal Code (TMC) 13.02.055 permit the establishment of moratoria when it found to be necessary as a protective measure to prevent vesting under current regulations or to maintain the status quo.
- 5) With regards to the duration of moratoria, the Code provides:

“Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period.” [Excerpt from TMC 13.02.055.D.]
- 6) With the adoption of Ordinance No. 28014, the City Council declared that an emergency existed and that immediate adoption of a moratorium was necessary to prevent the continued permitting

of large scale retail establishments that might be inconsistent with the general public welfare and undermine the policies and intent of the Comprehensive Plan.

- 7) TMC Chapter 13.02 sets forth the procedures and criteria for amending the City's development regulations, including temporary moratoria.
- 8) TMC 13.02.055 provides that following adoption of an emergency moratorium, the Planning Commission is required to conduct a public hearing and provide findings and recommendations to the City Council before the Council, after further review, takes final action to retain, rescind or modify the emergency moratorium. The Commission's findings and recommendations are required to address, at a minimum, the need for and appropriate duration of the moratorium.
- 9) The emergency moratorium was presented to and discussed by the Planning Commission at its September 21, 2011 meeting and the Commission authorized the distribution of the moratorium ordinance for public review and set October 5, 2011 as the date for the Commission's public hearing on the matter.
- 10) Written and/or electronic notice of the Planning Commission's public hearing was provided to all recipients of the Planning Commission agenda, the Planning Commission's electronic mailing list, City Council members, Neighborhood Councils, business district associations, adjacent jurisdictions, state and other governmental agencies, the Puyallup Tribal Nation, City staff, City Commissions, environment, development, civic and social organizations, major institutions and employers, and other interested individuals and groups. In addition, notice was sent to community members who testified on the emergency moratorium to the City Council at its August 30, 2011 meeting, all known owners/operators of existing large retail establishments in the city, those who own property on which such large retail establishments are located, and taxpayers of record for all known properties with 400 feet of these properties. In total, the notice was sent out to over 3,000 addresses. Additionally, the public notice was posted on the bulletin boards on the first and second floors of the Tacoma Municipal Building, at all branches of the Tacoma Public Library, and on the City's internet website.
- 11) The notice included general information regarding the time and place of the public hearing, a description of the purpose of the public hearing, where additional information could be obtained and how to submit public comment.
- 12) A copy of the moratorium ordinance was available for review at the offices of the Community and Economic Development Department and was also posted for public review on the City's website.
- 13) The Planning Commission held a public hearing on the moratorium on Wednesday, October 5, 2011. Thirty people provided testimony at the hearing and all were strongly in favor of the moratorium, with many requesting to extend the duration beyond 6-months and some requesting a permanent ban on large retail establishments within the City.
- 14) In addition to the oral testimony received at the October 5, 2011 public hearing, 15 written comments were submitted in response to the public notice prior to the October 7 comment deadline.
- 15) The Planning Commission reviewed all testimony offered at the October 5, 2011 public hearing and all written testimony submitted to the Commission prior to the comment deadline.
- 16) The testimony at the public hearing and the information contained in the public record indicate that the public overwhelmingly supports continuation of the moratorium to prevent the establishment of new large retail uses while the City reviews and considers revisions to the regulations for such establishments.

- 17) Public testimony in support of the moratorium raised a wide range of land use concerns about these types of uses, such as the appropriateness of current zoning, their consistency with the plan policies and vision for various areas of the city, the current permitting process for these types of uses, the inadequacy of the existing design and development standards, and environmental review processes and mitigation standards.
- 18) Four of the written comments received by the Commission opposed the continuation of the moratorium. The associated concerns included its potential impact on economic development and job recovery within the city and that the City already has regulatory tools in place to address potential design and environmental impacts that may be created by large retail establishments.
- 19) It is important to note that the moratorium ordinance and the community have expressed concerns about large retail establishments that extend well beyond land use issues and the Planning Commission’s purview (e.g., living wages and employment conditions, unionized labor, crime, corporate conduct, international trade and labor practices, and other significant but very far-reaching socio-economic concerns associated with large retail establishments).
- 20) The existing moratorium prevents the “filing, acceptance, and processing of applications for land use, building permits or other development permits associated with the establishment, location, or permitting” of large retail establishments. As drafted, this language is very broad and could be interpreted to encompass any and all permitting associated with large retail establishments, including minor remodels or additions to existing large retail establishments (possibly including necessary or needed maintenance and repair), or establishing a new large retail use within an existing, potentially vacant building. It is likely that even if the Commission and Council review and modify the design and development standards for large retail uses, many of these minor types of projects would not be affected by the revised regulations. Also, based on the input received by the Commission it would appear that the primary community concern is associated with the construction of new large retail uses and potentially significant expansions or remodels. If the Council did not intend for the moratorium to affect all types of permitting, including these types of minor actions, it would be appropriate to modify the language of the moratorium to clarify how it impacts remodels, additions and new businesses going into existing buildings.
- 21) Based on staff research, the City receives requests for approximately one new large retail establishment or a significant remodel of an existing establishment each year. Just over the past couple of months the City has received one building permit application for a new large retailer and an inquiry about construction of another one. It is likely that if the moratorium is not retained one or more new or significantly remodeled large retailers will be permitted under the current regulations and before any amendments could be considered through the standard code update process.
- 22) Staff has also indicated that there are approximately 17 existing large scale retail uses (as defined by the moratorium ordinance) located within the City, as follows:

Location	Zoning	Approximate Size
Macy’s (Tacoma Mall)	UCX	255,000 sq. ft.
JC Penney’s (Tacoma Mall)	UCX	233,000 sq. ft.
Sears (Tacoma Mall)	UCX	180,000 sq. ft.
Costco (37 th & Steele)	UCX	152,000 sq. ft.
Nordstrom (Tacoma Mall)	UCX	144,000 sq. ft.

Location	Zoning	Approximate Size
Fred Meyer (19 th & Stevens)	C-2	143,000 sq. ft.
Fred Meyer (72 nd & Pacific)	CCX	142,000 sq. ft.
Lowe's (80 th & Hosmer)	C-2	138,000 sq. ft.
Lowe's (25 th & Orchard)	C-2	131,000 sq. ft.
Target (Allenmore)	CCX	124,000 sq. ft.
Home Depot (Center & Mullen)	C-2	117,000 sq. ft.
Home Depot (74 th & Sprague)	C-2	110,000 sq. ft.
Forever 21 (Tacoma Mall)	UCX	106,000 sq. ft.
K-Mart (72 nd & Portland)	CCX	106,000 sq. ft.
K-Mart (6 th & Orchard)	C-2	106,000 sq. ft.
Winco (72 nd & Hosmer)	C-2	103,000 sq. ft.
Fred Meyer (19 th & Mildred)	CCX	68,000 sq. ft.

- 23) Large retail uses are currently allowed in many areas of the city. The zoning districts that allow large retail uses include the C-2 General Community Commercial District, CCX Community Commercial Mixed-Use District, UCX Urban Center Mixed-Use District, UCX-TD Urban Center Mixed-Use Tacoma Dome District, CIX Commercial Industrial Mixed-Use District, M-1 Light Industrial District, M-2 Heavy Industrial District, and all of the Downtown zoning districts. It is worth noting that all of the existing large scale retail uses are located within the districts which allow such uses.
- 24) The intent statements for most of these districts recognize that they are areas appropriate for large scale uses that will attract people from throughout the city and beyond. However, many of these districts, particularly the Mixed-Use Center Districts, are also intended to incorporate a dense and compact mix of uses and a development pattern and form that encourages and supports pedestrian activity and multi-modal transportation choices.
- 25) The existing large retail establishments in the city generally represent significant portions of the districts in which they are located, often occupying large properties at major intersections or other key locations in the center of their districts. The manner in which these types of projects are developed has a substantial impact on whether these areas can and will meet the applicable Plan policies and goals of the community.
- 26) The Mixed-Use Centers are a key part of the City's growth strategy and how it intends to accommodate new population and employment growth as required by state law and regional and local growth management policies. The centers are supposed to incorporate a dense and varied mix of uses that provide opportunities to live, work, play, learn and recreate and are to be designed to support pedestrian activity and multi-modal transportation options. The Plan specifically provides the following objectives for the centers (pages GD-9 – GD-10):
- Strengthen and direct growth with a concentrated mix of diverse uses (work, housing, and amenities) and development toward centers;
 - Create a range of safe, convenient, and affordable housing opportunities and choices;
 - Create walkable and transit-supportive neighborhoods;

- Build on and enhance existing assets and neighborhood character and identity;
- Foster efficient provision of services and utility;
- Reduce dependence on cars and enhance transportation connectivity;
- Support neighborhood business development; and
- Encourage sustainable development, including green building techniques, green/plant coverage, and low impact development.

27) The Planning Commission and City Council recently conducted a substantial update to the Comprehensive Plan policies, zoning and development regulations for the Mixed-Use Centers. That effort resulted in expanded policy guidance and the creation of three new centers in 2007 and the adoption of revised zoning and design and development regulations in 2009. However, while that project resulted in significant improvements it was largely focused on the Neighborhood Mixed-Use Centers and the Urban and Community Centers did not receive sufficient attention. The eight Community and Urban Centers are:

MIXED-USE CENTER	CENTER TYPE
Tacoma Mall Area	Urban
East 72nd and Portland Avenue	Community
James Center/TCC	Community
Lower Portland Avenue	Community
South 34th and Pacific Avenue	Community
South 72nd and Pacific Avenue	Community
Tacoma Central Plaza/Allenmore	Community
Westgate	Community

28) Of particular note, the Comprehensive Plan policies adopted in 2007 specifically call for the creation of a special permit process for large developments within the Community and Urban Mixed-Use Centers. Implementing regulations for these policies have not yet been developed.

29) Based on the Commission’s preliminary review of the Comprehensive Plan and development regulations, there are discrepancies between the current Plan policies relative to Community and Urban Mixed-Use Centers and the associated code requirements, particularly as they relate to large retail establishments. While the current regulations applicable to large retail developments in Community and Urban Mixed-Use Centers include provisions to promote plan goals they still allow for a largely suburban style of development with large single-use buildings, surrounded by expansive parking. That style of development could thwart the ability for the community to achieve its long-range vision for these areas as described in the Comprehensive Plan goals and policies.

30) Based on the moratorium ordinance adopted by the City Council, the public testimony provided, and a preliminary review of the associated Comprehensive Plan policies and associated development regulations, the Commission has identified the following items that are in need of review:

- Consider creation of a discretionary permit process for large developments within Community and Urban Mixed-Use Centers that would allow for community input as well as a more comprehensive review of large projects to ensure they are consistent with the intent and goals of the Comprehensive Plan and development regulations.
- Modify the design and development standards applicable to large scale retail uses within Community and Urban Mixed-Use Centers. This could include exploration of new or

modified standards addressing business size limitations, building mass and design details, maximum setbacks and site layout, required mix of uses, parking requirements, and pedestrian orientation and amenities.

- c) Review and assess the existing environmental review processes and standards to ensure that they provide the appropriate guidance and authority to address environmental impacts associated with large scale retail uses, with a particular focus on traffic impacts.
- 31) Under the proposed 6-month moratorium staff would be required to provide draft code changes for Commission review by November 2 and the Commission would have to authorize a full proposal for public review by November 16. If the proposed changes only involved creating a permit review requirement for large projects in certain districts these deadlines could be met. However, based on the Council and community input, all of the identified issues cannot be sufficiently addressed through this one measure. A more detailed review and sophisticated regulatory response are needed and to accomplish this with appropriate community input and in coordination with the Council, this process will require additional time.
- 32) In order to properly address the identified land use issues and prepare code amendments that sufficiently balance the community's concerns, this evaluation should include a significant public outreach component. Collaboration with key stakeholders, such as the Neighborhood Councils, Business Districts, other commercial, real estate and business organizations, and the Public Works Department, will require more than the six months provided in the original moratorium ordinance.

D. CONCLUSIONS:

On August 30, 2011, the City Council declared an emergency and adopted an immediate, six-month, city-wide moratorium on the acceptance or processing of development permit applications for large scale retail establishments.

Based on a preliminary review of the Comprehensive Plan and development regulations, the Commission concludes that there are areas where the current land use regulations do not sufficiently implement the Plan policies and goals, particularly as they relate to Community and Urban Mixed-Use Centers and the potential development of large retail establishments in these important districts. It is also clear that, absent this moratorium, continued permitting of large scale retail establishments within these districts is likely and if allowed, that continued development under the current regulations will impact the community's ability to achieve the goals, policies and vision laid out in the Comprehensive Plan.

State law and City Code allow a moratorium to be in effect for up to one year if a work plan to address the permanent regulatory requirements is developed that requires a longer period. After a review of the findings in the moratorium and the extensive public comments provided at the Planning Commission public hearing, it is apparent to the Commission that the range of land use issues raised cannot be addressed with one simple regulatory change. If this project were focused only on creating a discretionary permit review process for large projects in these areas that could likely be accomplished in 6-months. However, considering the much wider scope outlined by the Council and the wide range of community concerns expressed during our public hearing it is apparent that this project involves multiple highly contentious and, in some cases very technical issues and will require significant research, study and public outreach than cannot be accomplished within the original 6-month timeline. The wide-range of issues raised deserve a thorough and considered review and will likely necessitate a comprehensive update to the regulations associated with these uses, potentially including changes to permitting procedures, zoning, design and development standards and environmental review processes and standards. The new land use regulations could impact a wide

range of residents and businesses in our community and, based on the substantial interest shown so far, should be developed in a manner that includes community and stakeholder input and close coordination between the City Council, the Commission and City staff.

The two other moratoria currently in effect, as well as the numerous other work program items, many of which are in response to City Council requests and/or grant funding, do not allow for the Commission or staff to dedicate all of their energy to this particular project. The Commission is also concerned about the potential for this new task to impact these and other important planning work currently underway or planned to occur this fall, such as the proposed amendments to downtown parking requirements and our regular work on the 2012 Annual Amendment. The Commission and staff's ability to manage existing responsibilities in addition to this new task will be severely constrained within a six-month schedule. In order to minimize such impacts and ensure that this project receives the level of review, outreach and coordination it deserves, a one-year timeline is needed.

E. RECOMMENDATION:

The Planning Commission finds that there is a need for an emergency moratorium to preserve the status quo and prevent vesting of development permits under the current regulations while the City reviews and considers development of improved regulations pertaining to large scale retail establishments.

However, the Planning Commission also recommends that the City Council reduce the geographic scope of the moratorium so that it applies only to Community and Urban Mixed-Use Centers and, if appropriate, clarify how the moratorium is intended to apply to remodels and additions to existing large retail uses and the potential reuse of existing, potentially vacant buildings.

Lastly, the Commission further recommends that the City Council extend the timeline associated with the emergency moratorium on large scale retail establishments to one year (until August 30, 2012) in order to allow the Commission, Council, staff and community sufficient time to develop a comprehensive and balanced regulatory approach that will address the myriad of land use issues that have been raised during this process, as outlined in the attached work plan.

F. ATTACHMENTS:

1. Proposed 12-Month Work Plan



LARGE SCALE RETAIL MORATORIUM

DRAFT

PROPOSED WORK PLAN October 19, 2011

Date	Event
August 30, 2011	City Council adopts emergency moratorium; Ordinance No. 28014
September 1, 2011	Effective date of emergency moratorium
September 21	Planning Commission discussion of Ordinance No. 28010, State law, Council direction and proposed code amendment schedule
September 23	Provide notice for Commission public hearing on emergency moratorium
October 5	Planning Commission public hearing on emergency moratorium
October 5	Commission review of preliminary draft code options
October 19	Recommendation to City Council on emergency moratorium
October 20	Provide notice of Commission's recommendation on moratorium in advance of Council public hearing
October 25, 2011	City Council conducts public hearing on emergency moratorium
November 1, 2011	City Council clarifies and extends the moratorium to one-year
November 2	Commission discussion of identified issues, timeline, public outreach, project scope, and benchmarking from other jurisdictions
December 5	Commission discussion of Community and Urban Centers policies, vision, geographies, existing circumstances
December	Community/stakeholder outreach
December	Council Committee discussion of identified issues, Mixed-Use Centers policies and vision, community and stakeholder input, and project scope
January 18	Commission discussion of large retail and shopping center design and development standards (parking, setbacks, landscaping, mass reduction, pedestrian-orientation, and other site and building design requirements)
January/February	Community/stakeholder outreach
February 15	Commission discussion of environmental review processes and mitigation standards
February/March	Council Committee discussion of design and development standards and environmental review processes and mitigation standards
March 21	Commission authorizes draft amendments for public review and sets the public hearing date
March 28	Distribution of public notice for Planning Commission public hearing

Date	Event
April 11, 2012	Public informational meeting on draft amendments
April 18, 2012	Planning Commission public hearing on draft amendments
April 27	Last day to submit written comments on draft amendments
May	Council Committee discussion of public review draft and public comments received
May 16	Planning Commission discussion of hearing testimony
May 30, 2012	Planning Commission makes recommendation to City Council
June 5	City Council sets hearing date
June 8	City Clerk distributes public notice for City Council public hearing
June 19	City Council study session on proposed amendments, as recommended by the Planning Commission
June 26, 2012	City Council conducts public hearing on proposed amendments
July	Council Committee discussion of hearing testimony and potential changes to the draft ordinance
July 31	City Council – first reading of ordinance(s) to adopt amendments
August 7	City Council – second reading and adoption of amendments
August 17	Submit final amendments to State
August 19	Effective date of amendments
August 30, 2012	Moratorium expires

Project	Source	2011				2012			
		1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Parking Requirements – Commercial Districts Citywide	City Council								
Add incentives and revise code to reduce parking requirements									
2013 Annual Amendment	Municipal Code								
• Private Applications	Private								
• Council/Commission/Staff applications	Various								
• Plan and Regulatory Code Refinements	Staff								
Other Potential Projects Being Discussed									
Affordable Housing Strategies	City Council								
Plan and code revisions to increase availability of affordable housing									
Implement Sustainable Tacoma Commission Priorities	Sustainable Commission/EPW								
Establish policies for green house gas emissions review under SEPA									
Capital Facilities Planning and Programming	Finance & Public Works Depts								
Revise procedures for meeting GMA requirements for capital facilities									

KEY:

- Green Mandated projects
- Blue Grant obligations
- Tan Projects committed and underway
- Yellow Planned for initiation
- Pink Projects under consideration



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-2

TO: Planning Commission

FROM: Donna Stenger, Manager, Long-Range Planning Division

SUBJECT: Amendment to the Downtown Off-Street Parking Regulations

DATE: October 13, 2011

At your next meeting on October 19, 2011, the Planning Commission will review the public testimony from the September 21st public hearing on the proposed amendment to the downtown off-street parking regulations. At this meeting staff will also present alternatives for public amenities related to the proposed changes to the surface parking lot regulations that are part of this proposed amendment. A handout on this topic is attached for your review and discussion.

The attached Public Comments and Staff Responses Report summarizes the written and oral comments received on the proposal during the public comment period, which closed September 30, 2011. Testimony was provided by eight individuals or organizations. Among those who provided comments there is unanimous support for eliminating parking minimums. Downtown On the Go and the Sustainable Tacoma Commission support retaining parking maximums. The Executive Council for a Greater Tacoma opposes reintroducing the parking maximum in the International Financial Services Area and reducing the parking maximums in downtown zones. One comment was received on the proposed surface parking lot regulations suggesting the regulations be expanded to additional streets.

On October 12, 2011 at the joint meeting of the Environment and Public Works and Economic Development Committees of the Council staff presented the downtown off-street parking amendment that was released for public review and discussed the written and oral public testimony that has been received. At the meeting Tom Luce from the Executive Council for a Greater Tacoma spoke and subsequently provided written comments addressed to the Committee Members and Planning Commissioners. The letter is attached for your information. At the next Planning Commission meeting staff will also discuss comments from the City Council on the draft proposal.

If you have any questions, please contact Chelsea Levy at (253) 591-5393 or clevy@cityoftacoma.org.

c. Peter Huffman, Assistant Director

Attachments (4)



PROPOSED AMENDMENT TO THE DOWNTOWN OFF-STREET PARKING REGULATIONS

SUMMARY OF PUBLIC COMMENTS AND STAFF RESPONSES REPORT October 1, 2011

	COMMENTS	SOURCE(S)	STAFF RESPONSE
PARKING MINIMUMS			
1.	Eliminating parking minimums will support the City's environmental, urban design and transportation goals	Bjornson, Transportation Choices Coalition, Downtown On the Go, Sustainable Tacoma Commission, Sierra Club	Comment noted. Eliminating parking maximums is a stated goal of the 2008 Climate Action Plan and could help the City achieve the established Commute Trip Reduction Goal to reduce the downtown drive alone rate by 11% by 2015.
2.	Eliminating parking minimums is an established best parking management practice for downtowns	Bjornson	Comment noted. Mr. Bjornson provided supporting documentation that describes parking regulations from peer cities like Bellingham, Olympia, Seattle, Portland and San Francisco that have eliminated parking requirements in downtown commercial core zones. Additionally Bjornson provided documentation from peer reviewed research at the University of California Berkeley, Victoria Transportation Policy Institute, University of California Los Angeles, and the City of San Francisco that contends parking requirements negatively impact housing affordability and urban design.
3.	Eliminating parking minimums will make downtown more attractive to investors	Simon, Executive Council	Comment noted.
4.	Parking minimums should be eliminated in all downtown zones	Transportation Choices Coalition	Comment noted. The original proposal to eliminate both the parking minimums and maximums in the Reduced Parking Area (RPA) was created in response to testimony in 2009 that the parking minimums and maximums should be eliminated in a larger area of downtown than just the IFSA.
PARKING MAXIMUMS			
5.	Support for parking maximums	Downtown On the Go, Sustainable Tacoma Commission	Support noted. Adopting parking maximums is a goal of the 2008 Climate Action Plan

	COMMENTS	SOURCE(S)	STAFF RESPONSE
6.	Oppose reinstating parking maximum in IFSA	Executive Council, Simon	Opposition noted. The parking maximum was removed in the IFSA in 2009. The proposed RPA includes the IFSA within its boundaries. Within the RPA, the minimum parking requirement is proposed to be eliminated, while the parking maximum is proposed to be retained and reduced.
7.	Maximums will help to control parking supply. Given the significant available supply of parking in downtown, there is no need to add more parking until demand increases.	Downtown On the Go	Comment noted.
8.	Reducing maximum parking regulations is an attempt to fix a regulation that does not need to be fixed at this time when investment in downtown is minimal.	Simon	Comment noted. The current parking maximum has been in effect in downtown since 1999. A review of recent projects and the amount of parking provided revealed that on average these projects provided approximately 2.5 stall per 1,000 sq. ft. Additionally, the code provides an option to exceed the maximum parking limit if the additional parking serves the public. The intent of having a maximum is to prevent an oversupply of parking and to preserve valuable land for development not the storage of cars. The parking maximum helps encourage dense urban development and pedestrian friendly streets.
9.	Reducing parking maximums will make it more difficult to attract new, large businesses in downtown.	Executive Council, Simon	Comment noted. The current parking maximum has been in place since 1999. Staff is unaware that any project was deterred by this requirement. Parking maximums are common and are used in the cities of Bellevue, Redmond, Olympia, Seattle, Portland.
SURFACE PARKING LOTS			
10.	The restrictions proposed for surface parking lots should be expanded to other streets	Transportation Choices Coalition	Comment noted.
GENERAL COMMENTS			
11.	Proposal will not promote density in downtown	Executive Council	Comment noted. Limiting the amount of parking that can be provided promotes density by making more land available for development rather than car storage. As the city continues to develop, pressure will increase to develop and redevelop property. Surface parking lots are generally considered a “temporary” use in the context of a thriving economy as the land becomes more valuable for uses other than parking.

	COMMENTS	SOURCE(S)	STAFF RESPONSE
12.	Request meeting of Planning Commissioners, Council members and local developers to discuss proposal	Executive Council, Simon	Following the public hearing, Planning Commissioners suggested that local developers communicate any additional concerns about the proposal in an existing open public meeting and offered that they could attend the October 12 th joint Environment and Public Works/ Economic Development Committee meeting to discuss their concerns.
13.	No objection	TPCHD	Comment noted.

SOURCE KEY

Oral Testimony on September 20, 2011

No.	Last Name	First Name	Affiliation	Address	City	State	Zip	E-mail
1.	Austin	Andrew	Transportation Choices Coalition		Seattle	WA		Andrew@transportationchoices.org
2.	Bjornson	Erik	Law Office of Erik Bjornson	711 Court A, Suite 114	Tacoma	WA	98402	ebjornson@msn.com
3.	Luce	Tom	Executive Council for a Greater Tacoma	PO Box 111347	Tacoma	WA	98401	tom@exec-council.com
4.	Simon	Herb	SimonJohnson LLC		Tacoma	WA	98401	simonjohnson@simonjohnsonllc.com
5.	Walker	Kristina	Downtown On the Go	PO Box 1933	Tacoma	WA	98401	kristinaw@tacomachamber.org

Written Comments received by September 30, 2011

No.	Last Name	First Name	Affiliation	Address	City	State	Zip	E-mail	Date
1.	Bjornson	Erik	Law Office of Erik Bjornson	711 Court A, Suite 114	Tacoma	WA	98402	ebjornson@msn.com	9/2/11
2.	Coughlan	Philip	Sustainable Tacoma Commission	747 Market Street	Tacoma	WA	98402		9/28/11
3.	Harp	Brad D.	Tacoma-Pierce County Health Department	3629 South D Street	Tacoma	WA	98402		9/16/11
4.	Luce	Tom	Executive Council for a Greater Tacoma	PO Box 111347	Tacoma	WA	98401	tom@exec-council.com	9/20/11
5.	Moore	Bliss	Tatoosh Group, Cascade Chapter of Sierra Club	6116 N. Park Ave	Tacoma	WA	98407		9/30/11
6.	Walker	Kristina	Downtown On the Go	PO Box 1933	Tacoma	WA	98401	kristinaw@tacomachamber.org	9/6/11

PROPOSED AMENDMENT TO DOWNTOWN OFF-STREET PARKING REGULATIONS

SURFACE PARKING LOTS

BACKGROUND

Implementing the proposed code regulating surface parking lots could result in creation of a vacant area between a Primary Pedestrian Street and a new or expanded surface parking lot. In the proposed code new or expanded surface parking lots are to be setback 60 feet from the Primary Pedestrian Street (see Figure 1). To achieve the following goals:

1. To encourage the construction of buildings, not parking along Primary Pedestrian Streets
2. To offer an alternative public amenity in lieu of a building for an interim period

Figure 1A

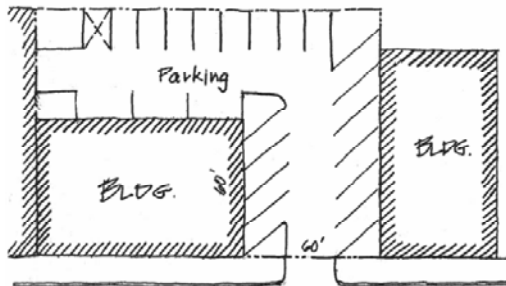
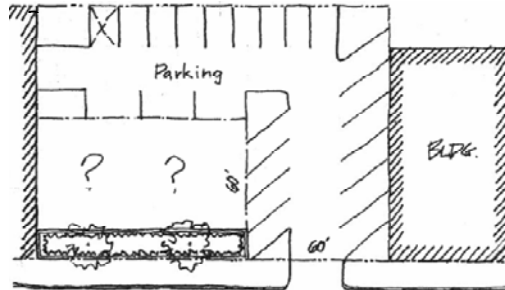


Figure 1B



WHAT GOES IN THE SETBACK AREA?

A permanent building that meets the design requirements for Primary Pedestrian Streets in subsection 13.06A.070, Basic Design Standards is the desired alternative for the setback area. However, in the event that a building is not immediately built in the setback area, staff has developed the following alternatives to inform the Commission's discussion about interim uses in the setback area.

OPTIONS:

1. Landscaping

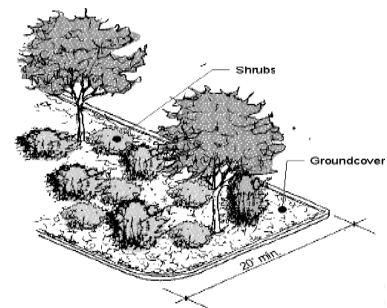
Require at a minimum, landscaping consistent with current parking lot perimeter landscaping requirements, which includes a mix of trees, shrubs and ground cover as required by the City's Urban Forester. Ongoing maintenance should be required.

2. Public Amenities

The following list of public amenities was developed from the City's standards to increase allowable FAR and bonus amenities used by Seattle, Olympia and Portland and could be used to augment minimum landscaping requirements. A review process with appropriate city staff and Commissions would allow for flexibility and creativity to create a public amenity in exchange for additional parking on a Primary Pedestrian Street. Ongoing maintenance should be required.

- Decorative lighting
- Seating, benches or low sitting walls
- Planters
- Unit paving in sidewalks
- Works of public art as approved by the appropriate City Commissions
- Water feature or drinking fountain
- Hill climb assist (if appropriate)
- Landscaped and/or hardscaped public plaza
- Bike Racks or bike boxes
- kiosks, pavilions, pedestrian shelters

Figure 2



* All amenities including landscaping should be identified clearly with a sign identifying the nature of the public amenity and its availability.

Law Office of Erik Bjornson

711 COURT A, SUITE 114
TACOMA, WA 98402
(253) 272-1434
FAX (253) 573-1209

SEPTEMBER 2, 2011

Tacoma Planning Commission
747 Market Street
Tacoma, WA 98402-3701

**RE: Support of Removal of Antiquated Off-Street Parking
Requirements in Downtown Tacoma**

Tacoma Planning Commission Members,

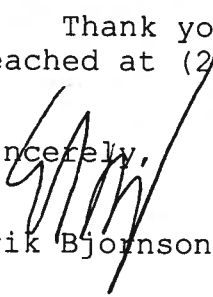
Please accept this letter and the enclosed articles in support of removing Tacoma's 1950 suburban era off-street parking requirement which has devastated downtown Tacoma, left it pocked with blightful parking lots and thwarted investment in the city.

Permitting the market to determine the amount of parking built in downtown Tacoma will 1) follow the best practices of model cities such as Seattle, Portland, San Francisco and Bellingham, and 2) implement the best peer reviewed research on the matter which recommends removing off-street parking requirements. Tacoma cannot afford to lag on this issue any longer.

As the enclosed articles and other research on the matter indicates, the benefits will include lower cost of housing, less reliance on automobile, decreased pollution, more residents and businesses downtown, increased investment, a more walkable vibrant attractive downtown, better building designs, increased competition of Tacoma, the saving of land in Pierce County.

Thank you for your attention to this matter. I may be reached at (253) 272-1434.

Sincerely,


Erik Bjornson

Most Major Washington Cities have removed their off-street parking requirements in their downtowns

in the last 10 years to attract investment, housing and greater density.

Bellingham

Bellingham Municipal Code 20.12.010 - Parking

B.2.a. Central Commercial, Core and Fringe only: Uses are exempt from parking requirements, except for hotels and motels, which shall provide the number of spaces required in BMC 20.12.010 B. 3. below.

Olympia

Title 18 – UNIFIED DEVELOPMENT CODE 18.38.040 Parking and Loading

EXEMPT: Land uses within the Downtown are exempt from all parking requirements..

Seattle

Seattle Municipal Code MNC 23.49.019

A. Parking Quantity Requirements.

1. No parking, either long-term or short-term, is required for uses on lots in Downtown zones . . .

Portland

Chapter 33.278.400 C(2)

C. In Commercial zones

2. Off-Street Parking. No Off-street parking is required.

San Francisco

Has eliminated off street parking requirements.

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Onsite Parking: The Scourge of America's Commercial Districts

31 March 2006 - 7:00am

Author: [Mott Smith](#)

In this final installment of Planetizen's three part series on parking, Mott Smith, Principal of planning and development firm Civic Enterprise Associates in Los Angeles, analyzes the urban design problems generated by gratuitous "onsite" parking requirements, which ruin street life and force property owners to use their lots inefficiently.

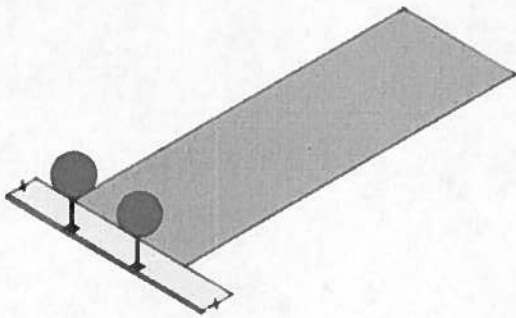


Onsite Parking: The Scourge of America's Commercial Districts

Onsite parking requirements, which have crept into many cities' laws over the past 50 to 70 years, have sucked the potential out of commercial properties on main streets and in downtowns everywhere. Perhaps more than anything else, rules requiring onsite parking -- to be distinguished from "on street" or "offsite" parking -- have created the blighted conditions that characterize many older North American commercial districts and boulevards.

The Geometry of Parking

How this has happened is simple geometry. Parcels in older commercial areas are often small by today's standards. A typical one might be 50 feet wide by 150 feet deep, or 7,500 square feet (Figure 1).



*Figure 1. Typical commercial parcel, 7,500 square feet.
(All illustrations by MDA Johnson Favaro Architecture & Urban Design.)*

This is traditionally the perfect size for a small businessperson to build a shop and maybe even housing or office space above, with minimal capital. An entrepreneur with a property like this could get a lot of bang for his or her buck by building right up to the front and side property lines, so land-use efficiency is maximized and pedestrian-friendliness is encouraged. Moreover, once several such properties are developed in a single area, an authentic community of small owners and businesspeople can emerge. (Figure 2 shows a one-story, full-lot building typical of an older commercial district.)



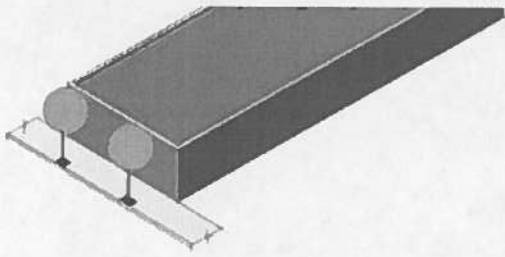


Figure 2. Typical parcel with one-story building, built to the property lines.

But onsite parking rules have made this sort of development nearly impossible. Now, it's often economically infeasible to build anything at all on a 7,500 square foot parcel, let alone something that's pedestrian-friendly.

In a city that requires four parking spaces for every 1,000 square feet of retail space, for example, the largest store you could build on a typical property would be 3,000 square feet -- less than half of what was possible before onsite parking requirements came into play. Figure 3 illustrates such a retail development, with its 12 surface parking spaces separating the building from the street.

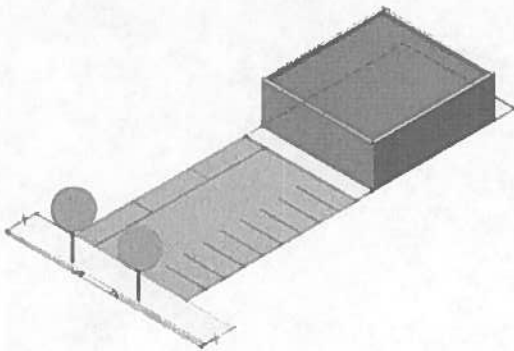
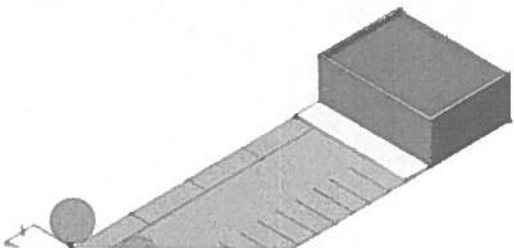


Figure 3.

For restaurants, the requirements are often even more stringent. In a city that requires 10 spaces per 1,000 square feet of restaurant, the largest building you could construct on a typical property would be 1,600 square feet -- less than 25 percent of the potential build-out area before parking-requirements (Figure 4).



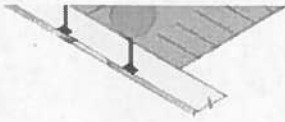


Figure 4.

Parking Rules Create Blight

As a result of these rules, a familiar dynamic emerges in our older commercial areas. Some property owners keep old buildings for storage and other low-performing uses, because improving the properties or changing them significantly would mean complying with today's parking rules -- often a deal killer. Rather, they prefer to sit on their properties until a developer or public agency comes along, hoping to assemble a larger parcel for a corporate-style development.

Other owners opt to undertake changes of use themselves and either replace existing buildings with new ones that are 50 to 75 percent smaller, or they buy and bulldoze the buildings next door to make parking lots.

Neither of these strategies fosters vibrant, pedestrian-oriented commercial districts that provide economic opportunity for non-corporate owners.

So what's a city to do? Is it possible to encourage economic vitality and create opportunities for the little guy in an automobile age?

Thankfully, the answer is yes. But it takes a fundamental shift in how we think about parking.

Cheap and Free Parking is OK

First of all, in most parts of North America -- particularly in struggling commercial areas -- low-cost parking can't be eliminated. Area shopping mall owners will always offer plentiful, cheap parking as a loss-leader to draw customers. And these customers, given the choice between shopping in a clean place with free parking versus a gritty one with expensive parking, will usually opt for the former.

Provide Parking, But As a Community

So, if parking is a necessary evil, it should be provided by the community rather than by individual owners, on a site-by-site basis. This can be accomplished using on-street spaces (metered or not), public lots, public garages, and/or public valet services to increase capacity.

When retail parking must be provided onsite, owners have a strong incentive to "trap" visitors in their stores' lot and discourage them from traveling anywhere elsewhere on foot. (If they didn't discourage walking to other properties, their parking could potentially be filled by people shopping at competitors' establishments.) The result is that shops are designed to be inward-looking, and opportunities to encourage pedestrian activity are quashed.

But when parking is public, the incentives are flipped. All customers arrive on foot, so retailers do best by building stores that are attractive and accessible to pedestrians.

Don't Forget the Entitlements

Many cities have invested heavily in downtown parking lots or garages only to see business decline and customers lost to suburban malls. Clearly, lack of market potential, poor urban design, and other factors can contribute to such failures. But even when all other stars are aligned, building great parking facilities in an older commercial district with booming demographics will accomplish very little if the local property owners don't enjoy relief from the parking standards most cities still apply.

The key is for small property owners to be able to develop modest pedestrian-oriented projects by-right for a reasonable cost.

Some cities have accomplished this goal by eliminating parking requirements in downtown areas. Others have created mechanisms that let property owners purchase waivers from parking requirements, often as part of lengthy and expensive discretionary review processes. A third, exciting solution has cropped up in two Southern California cities, Pasadena and Los Angeles.

Pasadena attributes much of its success in revitalizing its Old Town area to the decision to build public parking garages and allow property owners to get entitlements to convert underperforming space into shops and restaurants by leasing "parking credits" instead of building onsite parking. The program, which has an even more fundamental effect than the parking management strategies proposed by Don Shoup, has restored much value to older commercial properties without necessitating large-scale use of eminent domain to create super-sized parcels.

And now Los Angeles, long identified as the world capital of car-culture, is exploring a parking credits system that would make use of underutilized on-street spaces. The result will be a tool for revitalizing older boulevards with pedestrian-oriented uses, without need for significant public investment.

The Bottom Line

We're all living with the consequences of well-intentioned rules that seek to saddle property owners with the burden of providing parking for occupants and visitors. These rules, while perhaps fair on paper, have had the effect of eviscerating the value of typical properties in our older commercial areas and making sprawl-style development the only option for many owners.

The solution is not, as many have suggested, to turn back the clock to the days before the car. Rather, it is to accept that many people will drive for most trips and, accordingly, to make communities, not individual shopping centers, their destination.

Mott Smith is Principal of **Civic Enterprise Associates, LLC**, a planning and development firm in Los Angeles that helps revitalize emerging neighborhoods in Southern California and beyond through strategic planning, real estate development and targeted investment in community assets.

Related links:

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[Parking Management: Innovative Solutions To Vehicle Parking Problems](#)
[The Price of Parking on Great Streets](#)

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“

To take urbanism to the top of the sustainability discussion, one of the CNU's focus is reforming the technocratic post-World War II planning disciplines that remain, intentionally or not, locked into the habit of moving cars as fast as possible and sprinkling land uses lightly across the land...

”

[Read the full article, written by Mike Lydon.](#)

Eliminating Off-Street Parking Requirements is a Critical Step to Revitalize Downtown Tacoma

By Erik Bjornson

Although progress has been made in revitalizing downtown Tacoma, empty buildings and vacant lots abound and locating significant retail in the downtown core remains elusive. Many buildings and residences that have been built have been much shorter than allowed.

City Council members and the public have wisely expressed a desire to infill the vacant parcels and building with residential, commercial buildings, and retail. One of the most significant impediments to downtown Tacoma being redeveloped is the current city municipal building code which mandates that large numbers of off-street parking be built with each new commercial or residential buildings, costing up to \$30,000 each.

Executive Summary

Most West Coast cities such as Portland, Seattle and San Francisco have removed the off street-parking requirement to the benefit of their downtown as

Off-street parking requirements especially harm the CBD. High density is a prime advantage of the CBD because it offers proximity to many social cultural and economic activities. The clustering of museums, theaters, restaurants, stores and offices is what a downtown can offer but other areas cannot.

. . . .

Parking requirements thus reduce the CBD's attractiveness by undermining the essential features that make it attractive-high density and accessibility.

High Cost of Free Parking¹ (Shoup 2004) pg 158 - 159.

Thus, Tacoma's retention of the off street parking requirement impedes businesses and residents from locating downtown, and

thus, is injurious to the revitalization of downtown Tacoma and should be removed.

The current Tacoma Municipal Code bars residents locating downtown unless a parking space is built for every residential unit (Tacoma Municipal Code 13.06.510). Retail and commercial buildings are currently barred from locating downtown unless a surface level parking lot or mini parking garage is built with the addition of 2.5 parking stalls for each 1000 feet of floor space.

Tacoma's off-street parking requirement is a significant barrier to the success of downtown Tacoma as the policy has numerous negative consequences for the downtown, which:

1. Result in an unnecessary barrier for people and businesses to locate downtown;
2. Reduces the density of downtown, the primary attraction a downtown has to offer;
3. Makes the downtown less attractive and usable by pedestrians by creating and retaining surface level parking lots and excessive number of small parking garages downtown;
4. Creates an unnecessary barrier for retail (including a grocery store) to move downtown;
5. Creates a significant barrier for the construction of low-income housing by increasing prices by up to 20 percent, and by discouraging developers from building smaller units;
6. Essentially mandates car use in downtown Tacoma reducing the ability for mass transit to be successful and causes unnecessary traffic congestion and pollution;
7. Causes architecturally poorer buildings to be built in downtown Tacoma;

Q1: How do off-street parking requirements harm the attractiveness of Downtown Tacoma and the efforts to infill and add residential, commercial and retail downtown?

From the High Cost of Free Parking:

Off-street parking requirements especially harm the CBD.

High density is a prime advantage of the CBD because it offers proximity to many social cultural and economic activities. The clustering of museums, theaters, restaurants, stores and offices is what a downtown can offer but other areas cannot.

Off street parking requirements increase the supply and thus reduce the cost of parking in the CBD, *but they also have other consequences. They increase the costs of all development, reduce density by preempting land for other uses, and increase traffic within the CBD and on the routes to it.*

Page 158. The off-street parking requirement often results in surface level parking spaces near buildings downtown and/or require each building having a mini parking garage with gaping car entrances and exits which are undesirable for pedestrians. The intensity of use of a downtown is gained by having as continuous buildings as possible in an area.

Q2: How does the off-street parking requirement pose financial barrier for businesses and residential to locate in downtown Tacoma?

At a cost of \$30,000 per parking stall, the off-street parking requirement is yet another barrier for residents and businesses to build downtown. Yet, as discussed below, it serves no legitimate social policy and thwarts the efforts to ever have the intensity of use to be attractive.

The off street parking requirement also poses a disincentive for businesses and residents to locate downtown as land is more expensive downtown core than at the outskirts of the city.

If the parking requirement is satisfied by placing it under the building, there is less space for the residential or commercial part of the building. Costs per sq. foot generally rise as a building gets higher. Thus, the net effect is that for any set height, less commercial and residential space can be built as it must be sacrificed for parking spaces regardless of whether they are desired or used or make financial sense to build.

Q3: How does the off-street parking requirement make downtown less attractive and usable by pedestrians?

As Jane Jacobs describes in her book *Death and Life of Great American Cities* (1961):

The main purpose of downtown streets is transaction, and this function can be swamped by the torrent of machine circulation. **The more downtown is broken up and interspersed with parking lots and garages, the duller and deader it becomes in appearance, and there is nothing more repellant than a dead downtown.** . . . In a panicky effort to combat the suburbs on their own terms, something downtown cannot do, we are sacrificing the fundamental strengths of downtown—its variety and choice, its bustle, its interests, its compactness, its compelling message that this is not a weigh station, but the very intricate center of things. The reason people come downtown or set up business downtown at all is because downtown packs so much into such a compact area. (emphasis added)

Pg 161. Fred Kent, president of *Partners for Public Spaces*, contrasts parking requirements for a great place with one that is dull:

Parking is important where the place isn't important. In a place like Faneuil Hall in Boston its amazing how far people will walk. In a dull place, you want a parking space right in front of where you are going.

Kent also states that minimum parking requirements "assure that a place will be uninteresting." Pg 162. Architecture and planning critic Jane Holtz Kay explained:

Where there are plenty of off street parking spaces, "the pedestrian is now likely to be ambushed by a car sliding from some underground garage as visually assaulted by gap toothed parking lots and eerie garage facades."

Pg 162. The latest parking inventory in Tacoma showed that even with free on street parking, 40 percent of it remained unused. Thus, there is a much stronger case to remove the off street parking requirement in Tacoma than the other cities which have done so.

Cities such as Seattle, Portland and San Francisco have a far greater demand for parking than Tacoma, yet they have removed the requirement and now let residents and businesses decide how much parking they need.

Q4: How does the requirement to provide free parking pose a barrier to the construction of affordable housing.

Even without considering the land costs, parking spaces can cost \$30,000 each to build or more. Adding this cost to every unit downtown can make a large difference for more affordable units in the \$150,000 to \$250,000 range for condominiums.

As professor Shoup explains:

Off-street parking requirements harm low income and renter families because the own few cars but still pay for parking indirectly, and the hidden costs for all the required parking consume a greater share of their income.

. . .

Imposing hidden costs on the entire population to subsidize parking takes money from the poorest renters to subsidize richer homeowners.

High Cost of Free Parking Page 165. Amit Ghosh, San Francisco' chief of comprehensive planning stated:

*Parking requirements are a huge obstacle to new affordable housing and transit-oriented development in San Francisco. Nonprofit developers estimate that they add 20 percent to the cost of each unit, and reduce the number of units that can be built on a site by 20 percent. We're forcing people to build parking that people cannot afford. We're letting parking drive not only our transportation policies, but jeopardize our housing policies, too. **We want to get away from the situation where people are forced to pay for parking regardless of whether they have a car.***

Pg. 167. In many circumstances, parking spaces mandated for low income housing are not used. Lower income residents do not own as many cars. Page 165. Thus, they are more likely to use public transportation. Requiring offstreet parking for low income housing takes away the choice for residents to use their limited funds for other purposes, serves as a barrier to obtaining housing and essentially forces them to become automobile dependent. **If low-income residents cannot afford to buy both housing and parking together as a package, they are barred from any housing at all.** Thus, many cities such as Seattle now "de-couple" housing and parking and allows them to be purchased separately as needed.

Subsidized Housing

Local and federal agencies have limited funds to build and subsidize housing. Mandating that each resident have a parking space diminishes the number of low income housing units that can be built with any set amount of dollars.

Because of the current requirement to build costly parking spaces with each unit, builders are forced to favor building larger and more expensive residential units which have a lower parking requirement per sq. ft in order to make the project financially feasible. Thus, the city's current parking policy has many unfortunate consequences, which reduce the affordability of housing in downtown Tacoma.

Q5: How does Tacoma's requirement for off street parking increase congestion downtown and increase pollution?

The off-street parking requirements essentially mandate that all Tacomans downtown use cars. Once the pricey housing and parking space package is purchased, the parking space appears as "free" to the resident and takes away any incentive to share a car or use public transportation.

Once someone is forced to spend \$30,000 by the city for a parking space, most of the costs required to live a car centric lifestyle have been expended, leaving little incentive to use mass transit.

Many Tacomans, if given the choice may choose to use mass transportation, bicycle, car share, walk or find other ways of getting around the city. Yet, off street parking takes away the residents ability to weigh the costs and benefits of using mass transit.

Pollution

The city council has recently passed resolution to reduce pollution in the city as well as greenhouse gases. Forcing residents downtown to purchase spaces for cars takes away residents choice to cut down on auto use and needlessly increases congestion in violation of this environmental policy.

At the very least, the City of Tacoma should be neutral with respect to using a car and not require the purchase of parking space when residents consider whether to buy or rent a living space downtown.

Q6: How do other model West Coast cities regulate off street parking?

After studying the matter, most model West Coast cities such as Portland, Seattle and San Francisco have now removed off street parking requirements.

Seattle, Washington

In 2005, Seattle eliminated the requirement for off-street parking in the downtown. See the Seattle Times article 12/10/2006. Yet, Seattle has a far higher demand for parking than downtown Tacoma.

San Francisco, California

Off-street parking requirements have been eliminated in San Francisco. The city has taken a further step and has set a maximum of parking units which can be built of .75 per unit.

In San Francisco, more downtown housing has been approved over the last few years than in the last 20 years combined, said Joshua Switzky, a city planner. The booming real estate market there inspired local officials to revoke minimum-parking requirements in the central core, Mr. Switzky said. "The city's modus operandi is 'transit first,' " he said. "Everyone recognized the existing rules didn't match the policy."

Under San Francisco's new parking maximums, downtown developers are also required to "unbundle" the price of parking from the price of the condo. "Buyers aren't obligated to buy a parking space, and developers don't have the incentive to build spaces they can't sell," Mr. Switzky said. (emphasis added)

No Parking: Condos Leave Out Cars, New York Times, November 12, 2006.

Portland, Oregon

Portland eliminated off-street parking requirements in 2000.

In Portland, where central city parking minimums were eliminated six years ago, developers are breaking ground on projects with restricted parking.

The Civic, a 261-unit project, includes 24 condos without parking. The building is six blocks from downtown and near a major bus and light-rail line, and will offer residents a rental-car-sharing arrangement.

No Parking: Condos Leave Out Cars, New York Times, November 12, 2006.

Q7: How does the off street-parking requirement hurt the attractiveness and aesthetics of new buildings downtown?

Requiring off-street parking undermines the attractiveness of buildings in three significant ways.

First, having the first few floors serve as a parking garage certainly cannot result in the best aesthetic design regardless of the ingenuity of the architect.

Second, if the building uses a surface level parking lot to satisfy the parking requirement, the lot distracts aesthetically from the building creating an adjacent dead zone.

Third, a even a small surface level parking lot or parking garage requires an entrance and exit for cars that runs over the sidewalk and poses gapping holes in the buildings posing an aesthetic as well as a functional detriment.

Q8: What policy should Tacoma adopt for off street parking that would most benefit downtown, encourage the development of an attractive, walkable downtown with high density of residential, workspaces and retail while providing adequate parking?

First, the City of Tacoma should let potential business decide how much parking they need based on the cost and demand for

parking spaces. Certainly, some lenders will likely still require off street parking to obtain financing.

Potential residents, developers, and businesses are in the best position to judge the market and make the decision as to the appropriate amount of parking that should be purchased and built.

Second, the City of Tacoma should then charge the "right price" for on street parking so as to maintain a 15 percent vacancy and use the funds for local improvements. This will keep the on street parking spaces nearly full yet maintain sufficient on street parking availability for people seeking to park. Page 305.

Conclusion

The city of Tacoma should follow other successful and attractive cities such as Portland, Seattle and San Francisco which have infilled their downtown with businesses, retail and residential units and eliminated their off street parking requirement.

Please let me know if you have any questions. I may be reached at (253) 272-1434 or Ebjornson@msn.com.

1 One of the leading comprehensive authorities, analyzing hundreds of different parking studies is The High Cost of Free Parking, Professor Donald C. Shoup (2005) by the American Planning Association. Dr. Professor Shoup is a Fellow of the American Institute of Certified Planners and a professor of Urban Planning at Yale University and is extremely well published. He has a Ph. D in economics. The High Cost of Free Parking is considered authoritative by many planners and has been reviewed extensively. The enclosed analysis is based on the methodology of the author of the text. For more information about Dr. Shoup see <http://shoup.bol.ucla.edu>.

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Friday, February 11, 2011 [13 Comments](#)

Parking Minimums Make NYC Housing More Expensive, NYU Report Finds

by [Noah Kazis](#) on February 11, 2011

You don't need Jimmy McMillan to tell you that housing in New York is expensive. But figuring out why the rent is so damn high, and what to do about it, is a knotty policy question.



Large parking lots, like the one at the Grant Houses on 125th Street, increase the cost of affordable housing and take up space that could be used for more apartments.

Image: [Google Street View](#).

Thanks to [new research](#) from NYU's Furman Center for Real Estate and Urban Policy, one underlying reason for the high cost of New York City housing is crystal clear: The mandatory parking minimums in the city's zoning law, first established more than half a century ago. The evidence is more solid than ever that the city's parking minimums are a major factor making New York City less affordable.

The report, "Minimum Parking Requirements and Housing Affordability in New York City," shows for the first time the extent to which parking minimums actually affect New York City developers. Data compiled by authors Simon McDonnell, Josiah Madar and Vicki Been indicates that in many cases, they only build as much parking as they are required to by law.

Before this research, said McDonnell, "No one had any idea at a broad scale whether developers were building at the minimum." Without the minimums, developers would probably build less parking.

Looking at every large, market-rate and entirely residential building completed in Queens between 2000 and 2008, the authors compared how much parking was required by zoning to how much was actually constructed. Of the 38 buildings that met those criteria, 18 of them had exactly the amount of parking required by the minimum. Another four actually had less than required, perhaps because they received a variance. Only five buildings built more than four more spaces than required. "That would suggest the minimum is quite binding," McDonnell concluded.

Academics have long understood how city-mandated parking can increase the cost of housing. If developers can turn a profit on parking, they'll build it themselves. Any additional parking built because of a mandate is a money-loser (at least compared to the additional housing that might be built in its place), the cost of which must be borne by tenants and buyers. Housing advocates, too, [have argued](#) that requiring more parking drives up housing costs.

Apologists for parking minimums could always contend, however, that developers would build that much parking anyway, in order to meet demand. The new report confirms that the minimums are in fact distorting what gets built. In a majority of the cases studied, parking requirements are binding developers and therefore increasing the price of housing.

McDonnell, Madar and Been don't estimate exactly how much parking minimums increase housing costs, but they do

offer some guideposts. Above-ground structured parking, they say, costs more than \$21,000 per space in New York City, not including the cost of land. Below-ground parking is even more expensive. Even surface parking carries enormous costs given the price of land in New York. In the very least expensive residentially zoned areas in the city, they estimate, just the land required to build a five car parking lot would cost more than \$100,000.

And that's only direct costs. By taking up valuable space and making it harder to build, parking minimums also restrict the supply of housing, driving up costs across New York City. If the oversupply of parking leads to increased car-ownership and increased driving, as all but one study in their lit review shows (that one, tellingly, is from the New York City Department of City Planning), then all the safety, environmental and congestion costs of increased auto use should also be included.

Future research, said McDonnell, will broaden the inquiry to smaller projects, other boroughs, and commercial uses.

Based on the author's literature review, the case for making housing more affordable by cutting parking minimums is already incredibly strong. A 2003 report by the New York chapter of the American Institute of Architects [[PDF](#)], for example, noted that many of its members had to cancel projects because parking requirements made them uneconomical. Moreover, they wrote, "Parking requirements often limit the size of a building footprint more than floor area ratio," the piece of the zoning code intended to limit density.

"The largest and most difficult zoning constraint affecting the development of new housing has been the requirement of building on-site parking spaces," stated a report commissioned by New York City to lay out a comprehensive program for reducing housing costs [[PDF](#)]. That 1999 report, updated in 2005, found that even where parking minimums had been cut, as for affordable housing projects, they were still making development expensive or impossible. The report noted that NYCHA had recently abandoned attempts to build out some of its sites because the agency couldn't meet the parking requirements.

As McDonnell, Mahar and Been write, "Setting the minimum parking requirement is likely more high stakes than municipal planners have realized."

**Parking Requirements and Housing Affordability:
A Case Study of San Francisco**

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July 1998

Submitted for possible presentation at the 1999 Annual Meeting of the
Transportation Research Board

UCTC No. 380

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Abstract

Residential parking requirements specify the number of parking spaces that must be provided when new residential units are built. This paper examines the way such parking requirements influence housing affordability. The provision of parking spaces requires land, building materials and equipment which increase the price of housing. On the other hand, off-street parking requirements are said to be needed to prevent streets overcrowded with parked cars. In a case study of six neighborhoods in the City of San Francisco, this study investigated the influence on housing affordability of code-required parking. A hedonic model was fit to data describing housing and neighborhood characteristics in order to statistically explain the sales price of housing units that changed hands in those neighborhoods in 1996. The analysis revealed that single family houses and condominiums were more than ten percent more costly if they included off-street parking than if they did not. Based on the selling prices and the distribution of incomes of San Francisco residents, it was estimated that tens of thousands of additional households could qualify for home mortgages for units without off-street parking if those units could legally be provided under zoning and subdivision ordinances. The policy implications of this finding include the possible consideration of alternative forms of regulation regarding the provision of off-street parking in residential projects.

Housing affordability and parking availability are two of the most vexing problems in the nation's largest cities. In San Francisco, internationally known for its ambience, most working people find it almost impossible to find a house, condo, or apartment at an affordable price. Finding a parking space is nearly as difficult. Many houses are situated on narrow lots, and frequent curb cuts for their driveways reduce on-street parking. Cars circle the block looking for rare empty spaces. Residents say parking problems are a major bane of urban life. In many other urban centers as well—New York, Chicago, Boston, and Seattle—housing costs and parking availability are twin public-policy problems that become enormous when combined.

Although Americans rarely connect housing affordability with parking availability, the two problems are actually intimately linked, presenting planners with something of a conundrum. To ease parking shortages, cities write zoning ordinances and subdivision regulations requiring that new dwelling units provide off-street parking spaces. But parking spaces add significantly to the cost of building houses, requiring more land, more materials and more labor. This, of course,

raises their sales prices or monthly rents. Todd Litman estimated that one parking space per unit increases the cost by 12.5% and that two spaces increases cost by 25% in comparison with no off-street parking(1). Donald Shoup, based on interviews with housing developers, has argued that the cost of providing parking also acts as a ratchet that increases housing prices by more than the direct cost of the parking spaces(2).

Because developers must bear the costs of parking and that raises the basic cost of the housing unit, they believe that the higher priced units are not as marketable unless they increase the number of luxury features included in the units. Thus, because parking places are required, more up-scale features are typically included in the unit and this causes their prices to rise even further. So it seems that reducing the parking problem also reduces housing affordability. If municipalities allowed new housing units to be built without parking spaces, housing prices would be lower but streets could eventually overflow with parked cars.

By requiring the provision of parking spaces as a condition of approval for new housing, urban zoning and subdivision regulations may be inviting more cars into the city. Planners often favor “transit oriented development” to increase public transit use and lessen residents’ reliance on automobiles. It would seem logical to *decrease* the number of parking spaces in neighborhoods

Parking Requirement Impacts on Housing Affordability

18 February 2011

Todd Litman

Victoria Transport Policy Institute



Current development practices result in generous parking supply at most destinations, which reduces housing affordability, increases vehicle ownership and stimulates sprawl. This is regressive, since lower-income households tend to own fewer than average vehicles, and unfair, because it forces residents to pay for parking they don't need. Alternative policies can increase housing affordability and help achieve other transportation and land use planning objectives.

Abstract

Current zoning laws and development standards require generous parking supply at most destinations, forcing people who purchase or rent housing to pay for parking regardless of their needs. Generous parking requirements reduce housing affordability and impose various economic and environmental costs on society. Based on typical affordable housing development costs, one parking space per unit increases costs by about 12.5%, and two parking spaces increase costs by about 25%. Since parking costs increase as a percentage of rent for lower priced housing, housing represents a larger portion of household expenditures for poorer households, and vehicle ownership increases with income, parking costs are regressive and unfair to many lower-income households that own fewer than average cars. Current parking standards are an ineffective mechanism for matching parking supply with demand because the number of vehicles per housing unit varies significantly between households and over time. Various parking management strategies can increase affordability, economic efficiency and equity.

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Parking Requirement Impacts on Housing Affordability
Victoria Transport Policy Institute

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Preface

Hey, I've got a terrific idea! Let's pass a law requiring all residential buildings to have gasoline pumps that provide free fuel to residents and their guests. Fuel costs would be incorporated into residential rents. Think of the benefits! No more worry about money to pay for gas. No delays at gas stations. Everybody would be better off, especially poor folks. Great idea, right?

Wrong. It's a foolish idea. Somebody would have to pay for the pump and gasoline. It would increase everybody's housing costs. It would be unfair to anybody who drives less than average, who would be forced to subsidize their neighbors' gasoline consumption.

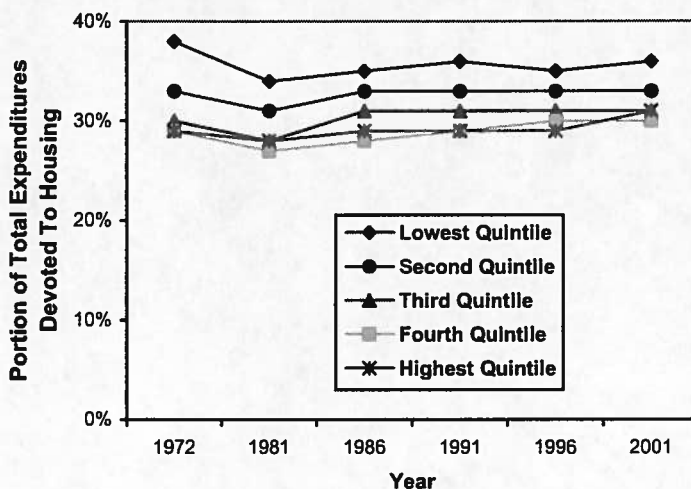
Free gasoline would also encourage wasteful habits. It would increase motor vehicle use, leading to more congestion, pollution, accidents, and sprawl, and it would continue the decline in non-automotive transportation choices, leaving non-drivers worse off. The gasoline tanks would take up space. Gasoline spilled from the pumps would degrade the environment.

Although requiring free gasoline is obviously unfair, wasteful and foolish, it is economically little different from current residential parking standards. Both residential parking and gasoline typically cost about \$50 per month per automobile. Current practices of requiring generous free residential parking contradict society's goals to provide affordable housing, reduce environmental impacts, conserve resources and develop a more efficient and diverse transportation system.

Introduction

Adequate housing is essential for individual and community welfare. There are few trends more tragic than the growing housing problems many people face. An unacceptable number of people are homeless, and many lower-income households devote an excessive portion of their income to housing.

Figure 1 Housing Portion of Consumer Expenditures (BLS, Various Years)



This figure shows the portion of household expenditures devoted to housing by income quintile. Housing averages more than a third of expenditures for the lowest income quintile households.

This report examines the impacts of residential parking requirements (the number of off-street parking spaces mandated at a particular location) on housing affordability. Increasing parking requirements increase housing development costs, which has reduced the supply of lower priced housing and raised costs to consumer. This report does not question the need for some off-street parking. The question issue is how best to determine parking requirements and manage available parking supply. It describes more efficient and equitable strategies that support social and environmental goals.

The parking problem is ultimately simple. Motorists have come to expect generous amounts of free parking at most destinations, and planning practices attempt to provide this. The result is more-than-adequate parking supply at most destinations, but high costs in terms of resources consumed and distortions to development patterns. Current parking practices are comparable to about a 10% tax on development, and much more for lower-priced housing in areas with high land costs. These practices are regressive because lower-income people tend to own fewer than average vehicles: we force five lower-income households to purchase more parking than they need, to insure that one higher income household can park all of its vehicles with no extra cost. Described more positively, more efficient parking practices can provide large savings, increased affordability and improved community design.

Current Residential Parking Requirements

Automobiles typically spend 95% of their existence parked, using either on-street parking supplied free by the community or privately supplied off-street parking. Since on-street parking is an expensive and limited public resource it seems fair to mandate off-street parking. Most local governments require building owners to provide a certain minimum amount of parking based on the assumption that buildings create parking demand. Building owners are forced to include parking costs when selling or renting housing.

Table 1 Typical Parking Standards (“Parking Evaluation,” VTPI, 2005)

Housing Type	Spaces Per Unit
Single family	2.0
“Efficiency” apartments	1.0
1 to 2 bedroom apartments	1.5
3+ bedroom apartments	2.0
Condominiums	1.4

These standards are considered sufficient to meet typical residential parking

These parking requirements are based on recommended standards published by professional organizations such as the *Institute of Transportation Engineers* (www.ite.org) and the *American Planning Association* (www.planning.org). Table 1 shows typical recommended off-street standards. Many municipalities impose even higher parking requirements than these recommended standards, as illustrated in Table 2. These standards tend to be excessive in many situations, resulting in parking facilities that are seldom or never fully used, particularly in areas where per capita vehicle ownership and use tends to be low (Shoup, 1999).

Table 2 Typical Residential Off-Street Parking Standards (Stover & Koepke, 2002)

<p><i>Multifamily, Studio</i> “One space per dwelling unit.” (Orange Co., CA) “1.2 spaces per unit.” (Bellevue, WA) “1.25 per dwelling unit.” (Savannah, GA)</p> <p><i>Multifamily, One Bedroom</i> “One space for each dwelling.” (Bay City, MI) “1.5 spaces for efficiency units.” (Schaumburg, IL)</p> <p><i>Multifamily, Two Bedrooms</i> “1.6 spaces per unit.” (Bellevue, WA) “1.75 spaces per dwelling unit.” (Savannah, GA) “Two spaces per dwelling unit.” (Hillsborough, FL)</p> <p><i>Multifamily, Three Bedrooms</i> “1.8 spaces per unit.” (Bellevue, WA) “2.33 spaces per unit.” (Lake Forest, IL)</p> <p><i>Multifamily, Four Bedrooms</i> “Two spaces per unit.” (Albany, OR)</p>	<p><i>Manufactured Housing</i> “One space per unit.” (Fairbanks, AK) “1.25 spaces per mobile home site.” (Durham, NC) “1.5 spaces per unit.” (Albemarle Co. VA) “Two spaces per unit, plus one per five units for guest parking.” (Prescott, AZ)</p> <p><i>Townhouse</i> “1.5 spaces per dwelling unit.” (Clifton Forge, VA) “Two spaces per dwelling unit.” (Lexington Co. SC) “2.25 spaces for each dwelling unit.” (Plano, TX)</p> <p><i>Single Family</i> Nearly all codes require two off-street spaces per unit. “Detached two spaces per dwelling if access to the lot is on a public street; 2.5 spaces per dwelling if access to the lot is from a private street, common drive, or common parking court.” (Leesburg, VA)</p>
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Quantity versus Quality in Off-Street Parking Requirements

Vinit Mukhija and Donald Shoup

Most local governments' off-street parking requirements promote quantity over quality, focusing on ensuring an ample supply of parking. This has undesirable consequences for the built environment. Parking lots and parking structures routinely overwhelm the architecture and urban design of even the best buildings and neighborhoods. We argue that planners should worry less about the quantity of parking, and pay more attention to its quality. Through examples of zoning reforms adopted by some cities, we show how regulating the quality of parking has the potential to improve urban design.

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Journal of the American Planning Association,
Vol. 72, No. 3, Summer 2006.
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Most local off-street parking requirements emphasize quantity over quality. Local governments often have minimum parking requirements that overwhelm the physical landscape with an excessive supply of unattractive parking,¹ but relatively few impose design requirements on parking lots and parking structures. Off-street parking requirements focus on the ratio of parking spaces to floor area, usually neglecting the consequences for urban design. As a result, most parking lots are asphalt breaks in the urban fabric, and most parking structures present blank walls to the street. Parking lots and garages tend to interrupt the streetscape, expand the distances between destinations, and undermine walkability (see Figures 1 and 2). We argue that planners should worry less about the quantity of parking provided and should pay more attention to its quality.

Off-street parking requirements also reduce architectural quality. Architects often complain that they must shoehorn a building into the space remaining after the parking requirement has been satisfied, compromising the design. Thus reducing or removing parking requirements can make better design possible, and cities can use quality-based parking requirements within an urban design framework to reinforce the desired character of each neighborhood.

The market gives developers a strong incentive to provide adequate parking because lenders are unwilling to finance projects with inadequate parking and tenants are unwilling to rent space in them. But the market provides less incentive to improve parking design because many of the benefits of better parking design accrue to the community rather than to the property owner. Developers are more likely to spend money on a marble-veneer lobby (which will increase the value of the building) than on landscaping the parking lot (which will increase the value of the whole neighborhood).

In this article we show how planners can use the following five strategies to improve urban design.

1. Deregulate or limit the number of parking spaces.
2. Improve the location of parking.
3. Improve the design of surface parking.
4. Improve the design of parking structures.
5. Improve the design of residential garages.



Figure 1. Off-street parking in Los Angeles.

Shifting the focus of parking requirements from quantity to quality will help planners to play a more constructive role in shaping the built environment.



Eliminating Minimum Off-Street Parking Requirements

Minimum parking requirements in zoning ordinances would not be needed if they did not increase the parking supply beyond what the market would provide (Shoup, 2005). Such requirements create a self-perpetuating cycle in which increasing the supply of parking leads to increased demand. Plentiful parking encourages people to buy more cars, and more cars lead cities to require even more parking spaces. Parking lots consume land that could be put to higher-value uses, such as housing, and they detract from the traditional pedestrian ambience of cities. As Alexander, Ishikawa, and Silverstein (1977) wrote 30 years ago:

We suspect that when the density of cars passes a certain limit, and people experience the feeling that there are too many cars, what is really happening is that subconsciously they feel that the cars are overwhelming the environment, that the environment is no longer “theirs,” that they have no right to be there, that it is not a place for people, and so on. After all, the effect of the cars reaches far beyond the mere presence of the cars themselves. They create a maze of driveways, garage doors, asphalt and concrete surfaces, and building elements which people cannot use. When the density goes beyond the limit, we suspect that people feel the social potential of the environment has disappeared. (p. 122)

To preserve and enhance walkability, Alexander and his coauthors suggested that only 9% of a city’s land should be devoted to parking, though there is little empirical basis for this number. Some cities, such as Cleveland, Milwaukee, and Philadelphia, have eliminated parking requirements in



Figure 2. Off-street parking in San Francisco.
Source: San Francisco Planning Department

their downtowns to make them more accommodating to pedestrians. Other cities have reduced or eliminated parking requirements adjacent to public transit stops. An ordinance in Portland, Oregon states, "There is no minimum parking requirement for sites located less than 500 feet from a transit street with 20-minute peak hour service" (City of Portland, 2006).

Removing off-street parking requirements can also ease adaptive reuse and historic preservation. Older buildings rarely meet current minimum parking requirements, and as a consequence many stunning buildings are demolished and replaced by ordinary structures that do meet the requirements. Apart from the irreplaceable loss of heritage, such demolition limits the possibility of a rich and varied collage of buildings from different time periods.² To encourage the conversion of older, economically distressed office buildings to apartments and lofts, some cities exempt these buildings from parking requirements if they are converted to residential uses. Los Angeles, for example, does not require downtown buildings built before 1974 to add

parking spaces if they are converted to dwelling units, guest rooms, or joint live-work quarters.³

Minimum parking requirements are intended to ensure an ample parking supply, and they imply that parking is a problem only when there is not enough of it. But too much parking also creates problems. Most major U.S. cities, including Boston, Chicago, New York, and San Francisco, regulate the maximum rather than the minimum number of parking spaces in their downtowns. Carmel, California, which is famous for its attractive downtown, is an extreme, but highly successful, example of limits on parking. Zoning helps to maintain Carmel's unique pedestrian ambience by prohibiting off-street parking spaces in the central commercial district:

On-site parking is prohibited in the central commercial (CC) land use district. This policy reduces the need for curb cuts in sidewalks and the interference with free pedestrian traffic flow that would result from an excessive number of driveways. This policy is intended

to enhance the opportunities for creating intra-block courts and walkways between properties and buildings.⁴ (City of Carmel-by-the-Sea, 1998b)

The absence of off-street parking (and of cars driving across the sidewalks to reach it) helps make Carmel one of the best places in America to be a pedestrian, and people from all over the world come to walk around (see Figure 3). Few cities will want to prohibit off-street parking, and many may not want to limit it, but they may wish to restrict surface parking lots, as in downtown San Francisco: "No permanent parking lot shall be permitted in [downtown]; temporary parking lots may be approved as conditional uses . . . for a period not to exceed two years from the date of approval" (City of San Francisco, 2006).

Even without reducing their off-street parking requirements, cities like Palo Alto and Pasadena in California have improved urban design by offering developers the opportunity to pay a fee in lieu of providing all the parking spaces required by zoning. The cities then use the revenue to provide shared public parking spaces to replace those the developers would have provided. Public parking spaces built with the in-lieu revenue allow drivers to park once and visit multiple sites on foot, reducing vehicle traffic and increasing foot traffic. The in-lieu option makes it easier to restore historic buildings and rehabilitate historic areas for the reasons noted earlier. And because developers can meet their parking requirements without on-site parking, storefronts can be continuous, without the gaps that parking lots create. Developers can also undertake infill projects without assembling large parcels for on-site parking, and architects have greater design freedom. The public parking structures consume less land than if each development provided its own parking lot, and cities can place the structures where they interfere least with vehicle and pedestrian circulation. To improve the streetscape, some cities dedicate the first floor of public parking structures to retail uses. The in-lieu policy thus contributes to a better looking, safer, and more walkable city.

Some cities allow shared parking among sites where the peak parking demands occur at different times (e.g., banks and bars). Fewer spaces are needed to meet the combined peak demand, and each parking space is occupied more of the time.⁵ For example, Circle Centre, a successful retail/entertainment development in downtown Indianapolis, would have needed 6,000 parking spaces if it were built with unshared parking for every individual use, but only 2,815 shared parking spaces were sufficient to meet the demand (Smith, 1996).

Removing or reducing off-street parking requirements does not restrict parking or reduce the market incentive for

developers to provide an adequate supply. Letting markets determine the number of off-site parking spaces changes, but does not eliminate, planning for parking. Local governments should still regulate parking landscaping, layout, location, pedestrian access, provisions for the handicapped, security, setback, signage, storm water runoff, and urban design. The following section discusses ways to improve urban design by regulating the location and appearance of parking spaces.

Parking Location Requirements

The location and placement of parking greatly affects urban design. Parking lots located between the sidewalk and buildings make walking more onerous. To avoid this, planners can use conventional zoning regulations to require that parking be positioned below, behind, or beside buildings, rather than in front, and that buildings be oriented to the sidewalk.

Although Los Angeles did not begin to require off-street parking for retail and commercial buildings until 1946, cars and parking transformed the character of its commercial spaces in the first half of the 20th century. Richard Longstreth documented these changes. His work explains how merchants valued the sidewalk orientation of their businesses. Faced with an increase in the demand for parking, merchants initially provided parking spaces behind their buildings. Thus, major retail corridors like Wilshire Boulevard "maintained a sense of street-front drama by adhering to the pattern of showing facades and offering rear parking" (Longstreth, 1992, p. 152). Wilshire Boulevard set an example of pedestrian orientation for the region's smaller retail precincts during the 1930s and 1940s, but merchants finally abandoned pedestrians to make life more convenient for motorists and, as Liebs (1985) wrote, "the long-standing tenet of Main Street commercial site planning—line the shops along the sidewalk with room for parking only at the curb—was finally cast aside" (p. 14).

In a Planning Advisory Service report on how to prepare zoning ordinances, Lerable (1995) showed how the placement of parking lots can influence the pedestrian quality of the streetscape. The bottom panel of Figure 4 illustrates his recommended approach, placing parking lots behind buildings so that the only gap between shops is the access to parking. An even more desirable approach would close all gaps between the shops and provide access to the parking lot from a side street or rear alley. This would eliminate curb cuts on the main street, reduce driving across sidewalks to access the off-street parking, and allow the maximum amount of curb parking. Curb parking buffers the pedestrian



San Francisco's Off-Street Parking Requirements:

***Understanding the impacts of these
requirements on housing costs
and consumer choice***

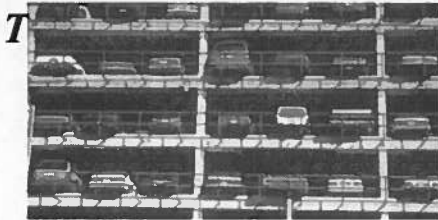
A Guide for Neighborhood Organizations



A recent analysis *Transportation for a Livable City* by a UC Berkeley graduate student examined the impact of San Francisco's residential parking requirements from the points-of-view of consumers, developers, lenders, neighborhood organizations, and policy makers, all of whom desire to make the best choices for San Francisco's current and future livability. This guide summarizes useful information from this report for neighborhood organizations, and suggests actions that will result in greater housing availability at a more affordable price.

Key Findings:

- Most of today's housing **bundles** the price of parking with housing
- This means that any interested buyer or renter pays a price for parking that is inseparable from the overall price of the housing.
- A parking space in San Francisco can cost 2-3 times the price of a new car
- Study estimates range from an average price for a parking space of \$50,000 to \$70,000, although prices vary widely by neighborhood.
- With few exceptions, San Francisco currently **requires** at least one parking space for every new unit of housing (known as "one-to-one").
- Many neighborhoods are concerned that **not enough** parking is built with new housing, while some feel that there is too much parking and not enough transit
- The view of many is that not having enough off-street parking for new residents results in fewer available on-street parking spaces.
- Much of San Francisco's older housing has no off-street parking.
- 11% of owner-occupied and 38% of renter-occupied households in San Francisco **do not have** a vehicle.
- Housing without parking sells/rents **as quickly** as housing with parking.
- San Francisco is fairly unique, in that most of its parking has a **price**, experienced both in a dollar figure and in time spent searching for a parking space.
- In contrast, 99% of car trips in America have free parking.



he Policy Outcomes:

- Residential parking requirements suppress the overall supply of housing, as the space requirements for parking often constrain the amount of housing possible on a given site.
- Developer profits — and consequently, the opportunity for the city to extract public benefits from development — are reduced, because developers get lower per-square foot profits on housing with parking versus without.
- Housing options for low- and moderate-income people are increasingly limited, because bundled parking forces all buyers and renters to pay for a parking space, whether they intend to use it or not.
- The current argument over off-street parking is not about how much parking is appropriate for the location or for the intended consumer of the housing, but how much above one-to-one the parking ratio should be.
- Sometimes parking requirements lead to building designs that place blank walls next to sidewalks instead of active storefronts or front yards.

**Both of these points are explained in greater detail in Chapter 4 of the analysis*

Case Study: A Lot with 7,000 buildable square-feet – A Look at the Parking Requirement's Impact

Using the figures from the analysis, this case study presents a specific example in how the parking requirement impacts the availability and affordability of housing.

On a lot of 7,000 square feet with a 60 foot height restriction, a developer would be able to build 20 parking spaces and, therefore, 20 units of housing, at 800 square feet each. Given the space constraints, she would have two floors with eight units each and a top floor with four units. For this building, selling each unit at \$500,000 (including parking), she would make a total profit of \$4.7 million.

If she could build out the unused fourth floor space, she could build 24 units of housing with the same 20 parking spaces. In this scenario, her building costs marginally increase while her selling prices increase more. Assuming the 11% price discount for the four units that sell without parking (and no sales time difference), the developer now makes a \$5.6 million profit.

If she could build even more housing without parking, she might seek to build up to the height limit, giving her another floor of housing, with eight more units. Under this scenario, again assuming the price discount for units without parking, she makes a \$7.3 million profit, or more than a 150% increase over her profit when restricted to one unit of housing per parking space.



Criteria

This analysis considered a series of recommendations for policy changes using several criteria, including:

- Any new policy is not a prohibitive barrier to most new development
- The market price for parking is readily apparent
- Parking allocated is responsive to demand
- The parking allocation is appropriate to the location

The Recommendations:

Short-Term

- **Unbundle the price of parking from housing**
Provides consumers the choice of housing without parking, to see a real price associated with parking and make their transportation preferences accordingly
- **Eliminate the parking minimum**
Changes the debate on parking provision, gives developers more building options, and allows for more flexible neighborhood-by-neighborhood planning
- **Eliminate the “independently accessible” requirement**
Gives greater flexibility to developers and consumers
- **Encourage City CarShare as a tradeoff for less than one-to-one parking**
Provides alternative transportation options to residents in new housing

Long-Term Considerations

- **Lower and Strengthen the Maximum**
Creates City expectations of appropriate parking allotments based on localized characteristics, such as transit accessibility
- **Implement a Market-Rate Residential Parking Permit Program**
[Explained in greater detail on the following page]
- **Create a City-Supported Development Fund**
Allows the City to finance projects it deems important to future success that may have difficulty securing financing in private markets

O



ne Issue at a Glance --

**Neighborhood Organizations’
Concern:**

Proposed Solution:
Market-Rate Residential Parking Permit Program (MRPP)

Why MRPP?

The current Residential Parking Permit (RPP) program is not designed to assure residents of a reasonable chance of finding on-street parking, leading to a desire for more off-street parking. Residents are often opposed to new housing with reduced parking because they fear increased competition for on-street parking, even while they may welcome greater vitality that more residents and – in the case of mixed-use projects – more jobs, shops, and services may bring to the neighborhood. Reforming the RPP program to reserve scarce on-street spaces for people who need it – particularly current residents – is therefore essential to gaining support for new housing with reduced parking.

What is it?

Currently, San Francisco collects a \$29 annual fee for parking permits in neighborhoods controlled by the Residential Parking Permit (RPP) program. MRPP involves a higher price, particularly for those neighborhoods with higher on-street parking usage. Prices are set at levels to discourage some potential drivers from parking in the neighborhood, allowing much more efficient usage of on-street parking space.

How does it work?

MRPP can be administered in two different ways. In one, it is administered similarly to the City's current RPP program. Residents pay a predetermined amount based on their location and receive full parking access in their neighborhood. In another, people can purchase a price-tiered permit that allows them a certain level of access to on-street parking, based on the price level. In both of these scenarios, parking is priced according to demand. Further, people pay a price that has a much greater likelihood of altering transportation choices than the current \$29.

How can it be implemented?

MRPP functions as a tax, which is different from the City's current RPP program. Today's \$29 is a fee, defined as only covering the costs required to administer it and the street cleaning it supports. In order to implement MRPP, voters would have to approve it by a 2/3 vote. It could gain more support with the following provisions:

- Current RPP participants are "grandfathered" into MRPP at the \$29 fee level.
- Permits can be bought, sold, and traded.
- Permit prices can be tiered based on applicants' income levels.
- Monies raised through MRPP go back to the neighborhoods for street beautification and neighborhood activities.



For More Information

Contact:

Transportation for a Livable City

(415) 431-2445

<http://www.livablecity.org>

Tom Radulovich, Exec. Director

Jeremy Nelson, Policy Director

The original policy analysis is available through Transportation for a Livable City. The author, Luke H. Klipp, conducted his study as part of the program of professional education at the Goldman School of Public Policy, University of California at Berkeley. It is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the Goldman School of Public Policy, by the University of California, by Transportation for a Livable City, or by any other agency.

Postage Permit Transportation for a Livable City
1095 Market Street, Suite 402
San Francisco, CA 94103

VIEWPOINT

Off-street parking mandate impedes downtown growth

BY ERIK BJORNSON

Peter Callaghan's recent column, "More parking only strangles our downtown" (TNT, 3-15), identifies the mere tip of the iceberg that Tacoma's antiquated off-street parking requirement is having on the development of downtown Tacoma.

Long abandoned by attractive West Coast cities, the requirement is causing downtown Tacoma to grow in a sprawlsh manner, pocketed with vacant lots, and is posing a significant barrier to the construction of affordable, market-rate housing.

In his authoritative text published by the American Planning Association, cited by Callaghan, urban planning professor Donald C. Shoup explains:

"Off-street parking requirements especially harm the (central business district). High density is a prime advantage of the

CBD because it offers proximity to many social cultural and economic activities. "Parking requirements thus reduce the CBD's attractiveness by undermining the essential features that make it attractive - high density and accessibility."

Planner Mott Smith is even more blunt in his article "Onsite Parking: The Scourge of America's Commercial Districts": "Onsite parking requirements, which have crept into many cities' laws over the past 50 to 70 years, have sucked the potential out of commercial properties on main streets and in downtowns everywhere."

Understandably, cities such as Portland, Bellingham, Seattle, Olympia and San Francisco long ago removed their off-street parking requirement in order to revitalize their downtowns.

These cities are now able to infill vacant lots and acquire greater density downtown, thereby increasing the attractiveness to pedestrians. Because each parking space costs \$25,000 to construct, Tacoma has placed itself at a significant

disadvantage in its efforts to attract investment downtown in relation to other cities such as Seattle and Portland.

The off-street parking requirement also unjustifiably impedes the development of affordable, market-rate housing downtown.

As Shoup explains: "Off-street parking requirements harm low-income and renter families because they own few cars but still pay for parking indirectly."

Imposing hidden costs on the entire population to subsidize parking takes money from the poorest renters to subsidize richer homeowners.

The University of California conducted a study in San Francisco and determined that the off-street parking requirement increased the price of housing by 12.5 percent and kept thousands of affordable housing units from being built. San Francisco subsequently removed the requirement.

Because the city still mandates that one parking space must be built for every new

residential unit downtown, builders are deterred from dividing new buildings into smaller, more affordable units because such a configuration would require a much larger and expensive parking garage.

Creating more affordable, market-rate housing by removing this barrier is desirable because it would enable more Tacoma to work and live downtown without the expenditure of public funds.

The Tacoma City Council recently pledged to reduce air pollutants produced in the city. But requiring a parking space at every destination virtually mandates car use in the central business district, assuring traffic congestion in the future.

With renewed investment interest in downtown, Tacoma must make a fundamental decision about the future urban design they desire for downtown Tacoma. Shoup describes the choice as one between becoming more like San Francisco or Los Angeles.

In San Francisco, the off-street parking

requirement has deterred downtown housing and pedestrian activity, retaining a requirement to be built such as Los Angeles' disconnected sidewalks. Pedestrians walk Tacoma to be built such as Los Angeles' disconnected sidewalks. Pedestrians walk Tacoma to be built such as Los Angeles' disconnected sidewalks.

Tacoma must make a fundamental decision about the future urban design they desire for downtown Tacoma. Shoup describes the choice as one between becoming more like San Francisco or Los Angeles.

In San Francisco, the off-street parking requirement has deterred downtown housing and pedestrian activity, retaining a requirement to be built such as Los Angeles' disconnected sidewalks. Pedestrians walk Tacoma to be built such as Los Angeles' disconnected sidewalks.

Erik Bjornson is a Tacoma writer about downtown



Bjornson

Published
in the
News Tribune
4/18/2007

Off-Street Parking Requirement Impedes Downtown Revitalization Efforts

Peter Callahan's recent article "[m]ore parking only strangles our downtown" identifies the mere tip of the iceberg that Tacoma's antiquated off-street parking requirement is having on the development of downtown Tacoma. Long abandoned by attractive west coast cities, the requirement is causing downtown Tacoma to grow in a sprawlish manner, pocked with vacant lots, and is posing a significant barrier to the construction of affordable market rate housing.

In his authoritative text published by the American Planning Association, cited by Callahan, Urban Planning Professor Donald C. Shoup explains:

Off-street parking requirements especially harm the [central business district]. High density is a prime advantage of the CBD because it offers proximity to many social cultural and economic activities.

Parking requirements thus reduce the CBD's attractiveness by undermining the essential features that make it attractive-high density and accessibility.

Planner Mott Smith, is even more blunt in his article Onsite Parking: The Scourge of America's Commercial Districts

Onsite parking requirements, which have crept into many cities' laws over the past 50 to 70 years, have sucked the potential out of commercial properties on main streets and in downtowns everywhere.

Understandably, cities such as Portland, Bellingham, Seattle, Olympia, San Francisco have long ago removed their off-street parking requirement in order to revitalize their downtowns. These cities are now able to infill vacant lots, acquire greater density downtown thereby increasing the attractiveness to pedestrians. Because each parking space costs \$25,000 to construct, Tacoma has placed itself at a significant disadvantage in its efforts to attract investment downtown in relation to other cities such as Seattle and Portland.

The off-street parking requirement also unjustifiably impedes the development of affordable market rate housing downtown.

As professor Shoup explains:

Off-street parking requirements harm low income and renter families because they own few cars but still pay for parking indirectly . . .

Imposing hidden costs on the entire population to subsidize parking takes money from the poorest renters to subsidize richer homeowners.

The University of California conducted a study in San Francisco and determined that the off-street parking requirement increased the price of housing by 12.5 percent and kept thousands of affordable housing units from being built. San Francisco subsequently removed the requirement.

Because the city still mandates that one parking space must be built for every new residential unit downtown, builders are deterred from dividing new buildings into smaller more affordable units because such a configuration would require a much larger and expensive parking garage.

Yet, creating more affordable market rate housing by removing this barrier is highly desirable because it would enable more Tacomans to work and live downtown without the expenditure of public funds.

The Tacoma City Council recently pledged to reduce air pollutants produced in the city. Yet, by requiring a parking space at every destination, the off-street parking requirement virtually mandates car use in the central business district, assuring traffic congestion in the future.

With renewed investment interest in downtown, Tacomans must make a fundamental decision about the future urban design they desire for downtown Tacoma.

Professor Shoup describes the choice as one between becoming more like San Francisco or Los Angeles.

In San Francisco, the off-street parking requirement has been removed and the downtown has grown in a dense, attractive and pedestrian friendly manner. Alternatively, retaining the off-

street parking requirement would force downtown Tacoma to be built in car centric sprawl such as Los Angeles where buildings are disconnected from each other and few pedestrians walk the streets.

Tacomans have justifiably recognized the value of attracting jobs and investment downtown, creating affordable housing, reducing pollution and traffic congestion as well as creating an attractive pedestrian friendly downtown.

With the Tacoma City Council reviewing parking policies this year, now is the time to change our antiquated building codes so that downtown Tacoma can grow in a manner that reflects our community values by becoming more vibrant, attractive, and inclusive.

Erik Bjornson is a Tacoma attorney who often writes about downtown issues.



City of Tacoma
Sustainable Tacoma Commission

September 28, 2011

Dear Planning Commissioners;

The Sustainable Tacoma Commission supports the proposed changes to the downtown off-street parking requirements and the critical areas preservation codes. The changes help implement recommendations and strategies outlined in the 2008 Climate Action Plan. Specifically that Plan calls for:

- Reducing or eliminating parking minimums required for residential/mixed use developments;
- Adopting parking maximums for new developments or major remodels
- Increasing tree planting and maintenance, and
- Implementing and Funding the Open Space Habitat and Recreation Plan

Thank you for considering these important changes. All of our efforts will lead us towards reduced greenhouse gas emissions and a more livable, healthy community.

Sincerely,

A handwritten signature in blue ink that reads "Philip C. Coughlan". The signature is written in a cursive style with a long, sweeping underline.

Philip C. Coughlan
Co-Chair
Sustainable Tacoma Commission



Tacoma - Pierce County

Health Department

Healthy People in Healthy Communities

www.tpchd.org

Governed by a local Board of Health

September 16, 2011

Chelsea Levy
City of Tacoma
747 Market Street, Room 1036
Tacoma, WA 98402

RE: Off-street Parking update; ; SR0149782

Dear Chelsea Levy:

The Tacoma-Pierce County Health Department's (Health Department) Environmental Health Program received the above mentioned checklist on September 07, 2011 and has reviewed your proposal.

There are no objections to the proposal as presented.

Thank you for the opportunity to respond. If you have further questions, please contact me at 253 798-2851 or by e-mail at bharp@tpchd.org.

Sincerely,

Brad D. Harp
Environmental Health Program

BDH:sfr

EXECUTIVE COUNCIL FOR A GREATER TACOMA
PO Box 111347 Tacoma, WA 98411
(253) 779-0265

Tacoma Planning Commission
Jeremy Doty, Chair
747 Market Street, Room 1036
Tacoma, WA 98402-3793

Chairman Doty and Members of the Planning Commission:

We write today to express our concern about proposed changes to the off-street parking regulations in downtown Tacoma, and how these changes might negatively affect the goals we share with the city on building density, vitality, and economic growth in our downtown core.

As we understand the proposed changes, perhaps the most troublesome in our minds is the proposal to institute a maximum parking requirement within the International Financial Services Area (IFSA) while reducing the existing off-street parking maximum from 3.6 stalls per 1,000 square feet to 2.5 stalls per 1,000 square feet.

As it has been explained to us, the goal of this change is to promote density within the downtown. Certainly, as many members of our Council are active in downtown real estate development, we share this goal. But as we look at the challenges we face—filling the 909 A Street building, for instance—we do not believe that the proposal as currently contemplated would work to achieve the goal it sets forth to accomplish.

By setting a maximum parking requirement, the City makes it more difficult for our economic development efforts to attract new, large businesses into the downtown. A business that may be otherwise interested in locating here may be discouraged by the requirements, and in such a competitive marketplace, that discouragement will be hard to overcome.

There are other concerns that we have with the proposal, and we would request that you consider appointing a group of Planning Commission members, City Council members, and local developers to continue talking informally about how best to achieve these commonly shared goals of density, vitality, and economic development in our downtown.

Sincerely,

A handwritten signature in black ink that reads "Tom Luce". The signature is written in a cursive, flowing style.

Tom Luce
Director, Executive Council for a Greater Tacoma



Tatoosh Group

Cascade Chapter Sierra Club

Exploring, Enjoying and Protecting Pierce County... *and Beyond*

September 30, 2011

Tacoma Planning Commission
747 Market St, 9th Floor
Tacoma, WA 98402

Re: Downtown Off-Street Parking and CAPO Update

Dear Chair Doty and Planning Commissioners:

The Sierra Club Tatoosh (Pierce Co.) Group just wanted to complement you and staff, particularly, Chelsea Levy, for the work that has been on amending the requirements regarding Downtown Off-Street Parking. Most significant, is probably the proposed Reduced Parking Area with the reduced parking requirements. These changes should, in the long run, promote walking, biking, and use of public transit while reducing auto traffic (and its congestion, toxic and CO2 emissions, safety hazards, noise, etc.) and help make downtown a better place to live and do business.

Also, much thanks to the Commission and Karla Kluge and her staff on proposing updates to CAPO which greatly improve the rules by providing clarity and understanding of the code and streamlining the administration of it. Since our Group has been actively working with Tacoma Metro Parks to remove non-native invasive plant species in the parks, we really appreciate the modification in the rules under the proposed 13.11.200 which makes it a little easier for environmental and community groups to participate in such work projects to remove bad plants and plant the appropriate native ones.

To summarize our views, we strongly support both the changes to the code regarding downtown off-street parking and the refining updates to the CAPO.

Thanks again to the Commission and City staff for their good work on these recommendations.

Sincerely,

Bliss Moore, Vice Chair and Ivy League (Invasive Species Control Program) Coordinator
Sierra Club Tatoosh Group
253-752-6472 (h)
6116 N. Park Ave.
Tacoma, WA 98407

cc: Dorothy Walker, Chair, Sierra Club Tatoosh Group

DOWNTOWN:

On the go!



Tacoma-Pierce County Chamber | 950 Pacific Ave, Suite 300 | Tacoma, WA 98402
253-627-2175 | dotg@tacomachamber.org

September 6, 2011

City of Tacoma Planning Commission
747 Market Street – Room 1036
Tacoma, WA 98402

Dear Planning Commission,

Thank you for the opportunity to provide comment on the City of Tacoma Off-Street Parking Requirements Proposal.

Downtown On the Go is the transportation advocate for downtown Tacoma. Our Board of Directors represents twenty downtown businesses, organizations, and agencies, and approximately 30,000 employees and more than 3,500 students that commute to downtown Tacoma on a daily basis. *Downtown On the Go's* goal is to reduce the downtown drive alone rate by 11 percent by 2015.

We cannot meet our goals if we do not support land use decisions that support a focus on the movement of people rather than cars and provide opportunities for alternative transportation. Eliminating the minimum on parking requirements not only meets the objectives of *Downtown On the Go*, but also of the Tacoma Climate Action Plan and Tacoma's Commute Trip Reduction goals. We encourage you to move forward with this proposal.

Additionally, since downtown Tacoma already has a significant amount of downtown parking, there is no need to add more until residential, office and retail density demand it. Retaining the parking maximums will keep the focus on economic vibrancy and the movement of people rather than cars, and keep the proportion of parking to people in balance. Without parking taking up space in our downtown core just to meet code, opportunities will arise for new development and street front retail that create a dynamic and vibrant downtown.

Downtown On the Go advocates for transportation choices and land use policies that promote a vibrant and integrated downtown. While we recognize the need for parking, we also know that a balance of options is what leads to a livable downtown where businesses want to open stores on our streets and companies want to bring their offices here. Cyclists, pedestrians, drivers and transit riders are all part of our local economy. Giving opportunities to all modes by limiting the amount of vehicle parking required will help us realize this vision for downtown Tacoma.

Thank you again for the opportunity to comment.

Sincerely,
Kristina Walker

Downtown On the Go Manager
Tacoma-Pierce County Chamber

DOWNTOWN: **On the *go!***

Downtown: On the Go! Board of Directors

Executive Committee

Judi Hyman, Downtown Merchants Group & TWOKOI Restaurant
Patti Sutton, Propel Insurance
Chris Green, Economic Development Board of Tacoma-Pierce County
Rachel Smith, Sound Transit

Dominic Accetturo, Kidder Mathews
Charles Bowers, Group Health - Tacoma Medical Center
Karen Bunger, CH2M HILL
Jennifer Burley, University of Washington Tacoma
Ana Grover-Barnes, DaVita, Inc.
Steve Kallberg, Franciscan Health System
Laura Kinney, MultiCare Health System
Natalie McNair-Huff, TrueBlue
Scott Morris, Pierce Transit
Tom O'Connor, O'Connor and Associates
Shannon Payton, BLRB architects
Kat St. Pierre, Columbia Bank
Bruce Stirling, GeoEngineers
Dan Voelpel, Tacoma Public Schools
Diane Wiatr, City of Tacoma

EXECUTIVE COUNCIL FOR A GREATER TACOMA
PO Box 111347 Tacoma, WA 98411
(253) 779-0265

Tacoma City Council
Environment and Public Works Committee
747 Market Street, Room 1036
Tacoma, WA 98402-3793

Chairman Fey and Members of the Planning Commission:

We write today to express our concern about proposed changes to the off-street parking regulations in downtown Tacoma, and how these changes might negatively affect the goals we share with the city on building density, vitality, and economic growth in our downtown core.

We testified earlier at a Public Planning Commission meeting, and our comments are on record there. As we understand the proposed changes, perhaps the most troublesome in our minds is the proposal to institute a maximum parking requirement within the International Financial Services Area (IFSA) while reducing the existing off-street parking maximum from 3.6 stalls per 1,000 square feet to 2.5 stalls per 1,000 square feet.

As it has been explained to us, the goal of this change is to promote density within the downtown. Certainly, as many members of our Council are active in downtown real estate development, we share this goal. But as we look at the challenges we face—filling the 909 A Street building, for instance—we do not believe that the proposal as currently contemplated would work to achieve the goal it sets forth to accomplish.

By setting a maximum parking requirement, the City makes it more difficult for our economic development efforts to attract new, large businesses into the downtown. A business that may be otherwise interested in locating here may be discouraged by the requirements, and in such a competitive marketplace, that discouragement will be hard to overcome.

We respectfully request that you amend the proposal to take away the maximum parking requirement.

Sincerely,

A handwritten signature in black ink that reads "Tom Luce". The signature is written in a cursive, flowing style.

Tom Luce
Director, Executive Council for a Greater Tacoma



City of Tacoma
Community and Economic Development Department

**Agenda Item
GB-3**

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: South Downtown Sub-Area Plan and Environmental Impact Statement (EIS)
DATE: October 13, 2011

At your October 19, 2011 meeting, the Planning Commission will have a brief presentation on the proposed sub-area plan for the south end of Downtown Tacoma which is currently underway.

Background

This project is being undertaken by the City of Tacoma under a sub-contract with the Puget Sound Regional Council (PSRC). PSRC has been awarded a Sustainable Communities Regional Planning Grant by the U.S. Department of Housing and Urban Development (HUD), Office of Sustainable Housing and Communities. The PSRC grant is for “Growing Transit Communities: A Corridor Action Strategy for the Central Puget Sound Region”. This HUD grant is in Category 2 – Detailed Execution Plans and Programs. PSRC’s program is focused on executing the region’s long-term growth strategy, VISION 2040. If the region is to meet VISION 2040’s resource protection, climate change, smart growth, and sustainability goals, the City of Tacoma, as one of the region’s metropolitan cities, must support approximately 8 percent of the region’s total population and employment growth between 2000 and 2040. Much of this growth can be accommodated in a revitalized downtown Tacoma, which has targets for an additional 60,000 jobs and 70,000 people by 2030.

The Sub-Area Plan/EIS will focus on the fact that the South Downtown, which includes the areas generally known as the Tacoma Dome, Brewery, and UWT/Museum Districts and parts of the Hillside and Foss Waterway Districts, has significant and well-documented capacity for additional density, access to multi-modal transportation (e.g. transit, light rail, and commuter rail), and further development will facilitate significant restoration of degraded areas. The Tacoma Dome multimodal transportation station offers both significant potential for redevelopment and job creation, as well as an access point to the region’s largest job centers. Further, the Sub-Area Plan/EIS will build on existing neighborhood partnerships, bring in county and regional stakeholders and additional private investment, and program further public investments (such as the Prairie Line Trail shown in Figure 2).

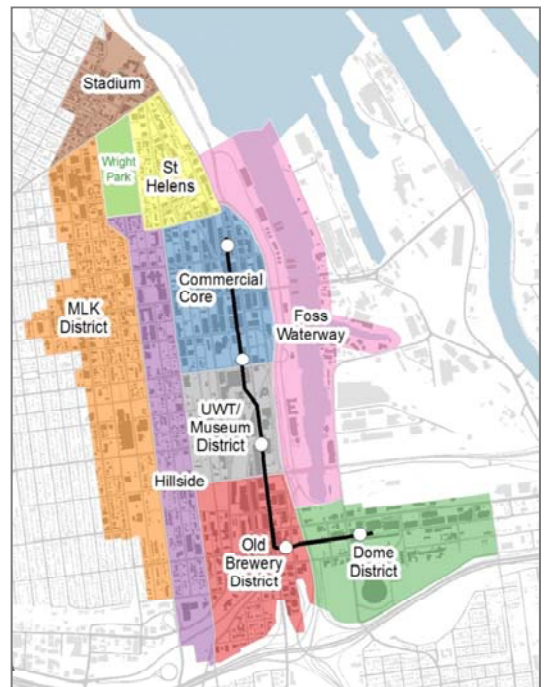


Figure 1: Downtown Regional Growth Center Character Areas

South Downtown Sub-area Plan

October 13, 2011

Page 2 of 2

The SEPA approach being used in conjunction with the development of the sub-area plan is a new tool authorized by the Growth Management Act in 2010. It allows cities to conduct upfront environmental review on an area-wide basis relieving subsequent investors from conducting expensive environmental analysis. The new approach is described in the attached article under the heading “**Transit-Infill Review**”.

The \$500,000 expenditure for the Sub-Area Plan/EIS project is estimated to save \$5.8 million in separate project-by-project environmental reviews, attract new regional investment incited by improved permit processing times (for large projects reduced from years to weeks), and provide a model approach to streamlining and facilitating major Transit Oriented Development (TOD) redevelopments in existing metropolitan centers. It is estimated that for every 10,000 new jobs added to downtown Tacoma over the next 10-15 years, approximately half will result in shorter commutes from nearby neighborhoods. These shorter commutes result in cost savings associated with less vehicle operations and emissions, less congestion externalities and accident risks. Taken together these cost savings (discounted to present values) are in excess of \$20 million.

If you have any questions or requests, please contact Ian Munce at 573-2478 or by e-mail at imunce@cityoftacoma.org.

Attachment

c: Peter Huffman, Assistant Director

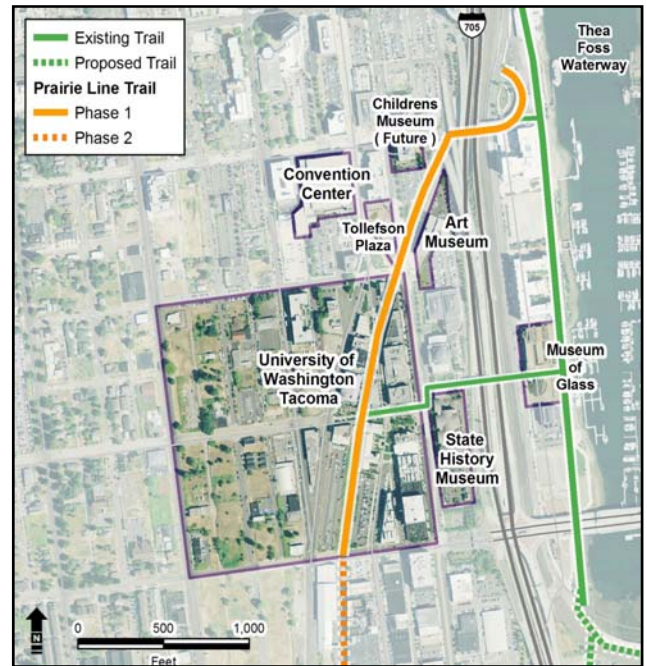


Figure 2: Proposed Prairie Line Trail

Environmental & Land Use Law Newsletter



Published by the Environmental and Land Use Law Section of the Washington State Bar Association

Volume 38

June 2011

Number 1

Section Report

By Jill Guernsey, Section Chair

Thank you to all members and subscribers to the ELUL Section. We are pleased to announce that almost everyone rejoined the Section despite the increase in dues. The Executive Committee continues to work hard to provide value for your dues. This year, we will again be sponsoring three mini-CLEs free to all Section members/subscribers, the ever-popular Newsletter, grants to all three Washington law schools for students interested in environmental and land use law, and the Midyear Program Reception.

By the time this Newsletter reaches you the 2011 Midyear at Alderbrook will have taken place. We thank this year's co-chairs, Jessica K. Ferrell, Marten Law PLLC, Seattle, and Phil A. Olbrechts, Olbrechts & Associates, PLLC, Granite Falls, for an excellent program on Land, Water, and Restoration: Local to National Trends.

We also thank those who provided funds so that scholarships could be awarded to nine individuals enabling them to attend the Midyear: Cascadia Law Group PLLC; Chuck Wolfe, Attorney at Law; Foster Pepper PLLC; Gordon Derr LLP; Gordon Thomas Honeywell LLP; Hillis Clark Martin & Peterson, P.S.; K&L Gates LLP; Marten Law PLLC; McCullough Hill Leary PS; Plauché & Stock LLP; and Stoel Rives LLP.

Thank you too for completing the survey we sent out in February. We will announce the results soon.

Editor's Message

By Michael P. O'Connell, Newsletter Editor

Welcome to the June issue of the ELUL Newsletter. This issue includes articles, updates and law school reports. The first article, by Courtney Kaylor, addresses use of mediation to resolve land use conflicts. The second article, by Jeremy Eckert, addresses use of SEPA by cities to encourage economic development and sustainable communities.

This issue also includes Matthew Love and Christopher Zentz's update on federal court decisions on federal environmental law, Richard Settle's update on significant recent judicial decisions in land use law, Andrea McNamara Doyle's update on Environmental Hearings Boards decisions, and Ed McGuire's update on Growth Management Hearings Board decisions. Finally, this issue also includes reports from each of Washington's law schools.

The Editorial Board welcomes Matthew Love as the newest member of the Editorial Board. The Editorial Board invites suggestions for articles for the next Newsletter. If you have any comments or questions regarding the Newsletter or its content, please contact me or any other member of the Editorial Board listed on the back page of this issue. Thank you for your interest in and support of the Newsletter.

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19 RCW 7.07.030(3).

20 RCW Chapter 58.17.

21 RCW Chapter 36.70A.

22 RCW Ch. 36.70B.

23 RCW Ch. 43.21C.

24 See e.g., *League of Residential Neighborhood Advocates v. City of Los Angeles*, 498 F.3d 1052 (9th Cir. 2007) (settlement agreement allowing construction of church without required conditional use permit invalidated).

Using SEPA to Encourage Economic Development and Sustainable Communities

By Jeremy Eckert, Foster Pepper PLLC¹

This article reviews and analyzes State Environmental Policy Act ("SEPA") tools that cities can use to encourage economic development and sustainable communities. The SEPA tools include categorical exemptions, three forms of "upfront SEPA," and functional equivalence. Used together, these SEPA tools can limit (or eliminate) SEPA-based challenges for urban projects, providing cities with a competitive edge to attract sustainable urban development.

A Challenging Task: Encouraging Urban Development

Washington State's cities are responsible for encouraging economic development and sustainable communities under the State's Growth Management Act ("GMA," Chapter 36.70A RCW). Generally, the GMA attempts to direct growth away from areas that have high resource and environmental values and into urban areas where infrastructure exists. In other words, encouraging urban development is an essential part of the State's environmental policy. Within this framework, the GMA attempts to balance environmental, housing, and economic development goals. Although environmental review is a necessary requirement to maintain the State's ecological integrity and policies, environmental review can also be used to obstruct rather than promote sustainable development.

In 1971, nearly 20 years before GMA's enactment, the Legislature enacted SEPA (Chapter 43.21C RCW) to ensure adequate environmental review of proposed projects. Since 1971, federal, state and local governments have adopted numerous additional environmental and growth management laws and regulations. Although specific environmental review occurs through these additional laws and regulations, SEPA review is fundamental to achieving the State's environmental and growth management goals. At the same time, SEPA review, including related administrative and judicial review, can delay and increase costs of projects with significant overall environmental, economic development and sustainability benefits, obstructing rather than promoting the State's environmen-

tal, growth and economic development policies in some cases.² For example, recently SEPA was used to challenge the State's first "Living Building," a commercial building located in a dense urban neighborhood and designed to generate 100% of its energy and water needs on-site, in addition to reaching numerous other "green building" benchmarks. Project opponents argued that the project requires an environmental impact statement, largely because the project will block their views.³ The legal challenge has cost the developer tens of thousands of dollars; and, if the opponents are successful, they will delay the project for a year or more and substantially increase project costs. The SEPA-based appeal of the Living Building is one example that demonstrates how SEPA review can work in some cases at cross-purposes with the State's environmental, growth and economic development policies.

This article reviews and analyzes the SEPA tools that are available for cities (and counties within unincorporated urban growth areas) to reduce regulatory delay and increase certainty for cities and urban developers. Specifically, this article reviews categorical exemptions, upfront SEPA review, and functional equivalence. Additionally, recent legislative enactments provide new financing mechanisms for the State's fiscally strained cities to fund the implementation of selected SEPA tools.

Categorical Exemptions

**Table 1: SEPA CATEGORICAL EXEMPTIONS
(WAC 197-11-800(1)(c))**

Project	Exemption Level
Residential Development	20 units
Multi-family Development	20 units
Commercial Development	12,000 square feet

Categorical exemptions provide a cost-effective tool for expediting development of projects that will not have a significant adverse environmental impact by exempting such projects from SEPA's environmental review requirements.⁴ Specifically, cities may use their legislative authority to exempt from SEPA review projects that would develop up to 20 residential units, 20 multi-family units, and 12,000 square feet of commercial development. The exemptions provide a substantial development incentive for projects at or below the categorical exemption levels. However, the exemptions are limited, and some developments that cities want to encourage are beyond the exemption levels. For example, the six-story Living Building in Seattle would not be eligible for the categorical exemption. Additionally, a mixed-use development near a Sound Transit rail stop would not be exempt from SEPA because the residential development likely exceeds 20 units and the retail space would likely exceed 12,000 square feet. Accordingly, projects that cities want to encourage (*i.e.*, the Living Building, transit-oriented-development, etc.) remain vulnerable to timely and costly SEPA review processes and appeals.

Upfront SEPA

For projects not eligible for a categorical exemption, SEPA provides cities with three forms of upfront SEPA to minimize or eliminate SEPA-based appeals at the project level. The three forms of upfront SEPA are: (1) infill exemptions; (2) planned actions; and (3) transit-infill review.⁵ If adopted, each tool requires the city to prepare or reference a non-project environmental impact statement (“EIS”) that analyzes the environmental impacts of future development at the planning stage for a specified sub-area. If a new EIS is necessary, the city is responsible for preparing and defending the non-project EIS. Once the non-project

EIS is complete, all projects that are consistent with statutory criteria and the sub-area’s development regulations may rely on the non-project SEPA review and mitigation measures.

The intent of upfront SEPA is to streamline urban development by reducing or eliminating duplicative environmental review and reducing or eliminating potential SEPA-based administrative appeals *at the project level*. As a practical matter, however, the form of upfront SEPA will have differential consequences for both the city that completes (and initially funds) the upfront EIS and the developer who relies on that EIS, as further described in Table 2.

Table 2: “UPFRONT SEPA”

	Planned Actions (RCW 43.21.031)	Infill Exemption (RCW 43.21C.229)	Transit-Infill Review (RCW 43.21C.420)
Date enacted	1995	2003	2009
Non-project EIS required?	Yes Or reference another relevant non-project EIS	Yes Or reference another relevant non-project EIS	Yes
City’s EIS cost recovery authorized?	No	No	Yes
Projects that may rely on non-project EIS	All projects in the specified subarea except essential public facilities	Only projects that are “mixed use” or residential	All projects in the specified subarea
“Shelf-life” of the non-project EIS	Not specified	Not specified	<ul style="list-style-type: none"> • The non-project EIS must be issued by July 18, 2018 • The project must vest ten years after the EIS is issued
EIS notice provisions	As provided in WAC 197-11-510	As provided in WAC 197-11-510	Extensive notice provisions
Project appeals for projects that are consistent with sub-area plan	Subject to appeal under WAC 197-11-172(2)(b)	Subject to appeal under WAC 197-11-305	Not subject to administrative or judicial appeals if the project vests within ten years of the EIS’s issuance

Planned Actions, RCW 43.21.031

To date, cities have predominantly relied on “planned actions” (RCW 43.21C.031) to complete the upfront environmental review of a sub-area. Planned actions have been used successfully to encourage economic development and sustainable communities.⁶ However, planned actions have several practical limitations. First, preparing and potentially defending a non-project EIS is expensive. Other statutory provisions prohibit cities from recovering funds associated with completing a non-project EIS for a planned action ordinance, creating a significant cost for Washington State’s fiscally strained cities. Second, essential public facilities may not be included in a planned action

and rely on the planned action’s non-project EIS. Finally, projects relying on the non-project EIS *are vulnerable to SEPA-based challenges* at the project level: (1) if the project does not meet the requirements of the planned action ordinance or (2) where the earlier-completed EIS does not adequately address all probable significant adverse impacts of a particular proposed project (WAC 197-11-172(2)(b)).⁷ In effect, SEPA’s planned action provisions allow a project opponent, instead of challenging the non-project EIS years earlier when it was prepared, to “second guess” the non-project EIS at the project level. This undermines the purpose of SEPA’s planned action provision to increase regulatory certainty and reduce delay for the development of urban projects.

Infill Exemptions, RCW 43.21C.229

The Legislature amended SEPA twice in an attempt to address planned action shortcomings. The 2003 “infill exemption” (RCW 43.21C.229) authorizes a city to enact new categorical exemptions beyond the levels authorized in WAC 197-11-800 (discussed above) if the city’s comprehensive plan was subjected to environmental analysis through a non-project EIS prior to adoption. The exemptions may extend to all residential and “mixed-use” developments that are consistent with a sub-area plan for which a non-project EIS was completed. When used, the infill exemption is an effective tool to reduce the scope of SEPA-based appeals for certain types of urban development (e.g., the Living Building or transit-oriented development). In fact, it is unclear why more cities do not use the infill exemption. Perhaps elected officials are not aware of the tool, or perhaps they are concerned about potential adverse public response to enactment of additional categorical exemptions.

However, the infill exemption does have certain limitations. Like planned actions, the infill exemption does not authorize a city to recover the costs associated with the non-project EIS. The infill exemption is also limited to residential and mixed-use development, but the statute does not define “mixed-use.” Apparently, the development must include some residential development to be eligible, and purely commercial and/or industrial and/or institutional development is excluded. Finally, projects relying upon the infill exemption remain vulnerable to SEPA appeals based on claims under WAC 197-11-305.⁸

Transit-Infill Review, RCW 43.21C.420

Enacted in 2009, “transit-infill review” (RCW 43.21C.420) is intended to expedite transit-oriented-development by addressing the limitations of planned actions and the infill exemption. First, transit-infill review explicitly authorizes cities to charge developers a fee to recover all costs associated with the non-project EIS. Second, all development (e.g., commercial, industrial, mixed-use, residential, and public facilities) may rely on the non-project EIS. Finally, transit-infill review *eliminates all SEPA-based appeals* for subsequent urban development projects if:

- (1) The city completes a non-project EIS for a sub-area plan and development regulations designed to accommodate infill development;
- (2) The infill development is consistent with the sub-area plan and development regulations; and
- (3) The developer submits an application sufficient to vest the project within a period specified by the city, *not to exceed ten years* after the issuance of the final EIS.⁹

Unlike planned actions, project opponents may not “second guess” the non-project EIS at the project level in an attempt to establish a litigable SEPA issue. Accord-

ingly, using transit-infill review, cities can encourage urban development (e.g., the Living Building or transit-oriented-development) by eliminating project-based SEPA appeals, provided that the specific project satisfies the above criteria.

Cities considering using transit-infill review should be aware of the statute’s eligibility criteria, extensive mailed notice, and upfront public participation provisions. These provisions vary depending on population and region of the State. Additionally, transit-infill review contains a sunset provision. That provision establishes a July 18, 2018 cut-off date for EISs that may be used for transit-infill review. After July 18, 2018, projects may continue to rely on the non-project EIS for limitations on further SEPA only if the EIS was issued by the city before July 18, 2018. In effect, cities have approximately a seven year window to complete a non-project EIS for transit-infill review purposes.

Functional Equivalence

A “functional equivalence” provision enacted in 1995 (RCW 43.21C.240) arms GMA planning jurisdictions (for the purposes of this article, “cities”) with a cost-effective tool to limit the time, expense, and scope of SEPA review. Functional equivalence allows cities to determine that existing local, state, and federal laws or rules provide adequate analysis and mitigation of some or all of the specific adverse environmental impacts of a proposed project. This allows the city to streamline the review process without the preparation of a costly EIS.¹⁰

However, cities that rely on functional equivalence do not immunize development projects from potential SEPA-based judicial and administrative appeals. The regulations enacting functional equivalence allow project opponents to identify environmental “impacts resulting from changed conditions, impacts indicated by new information, [or] impacts not reasonably foreseeable in the GMA planning process” (WAC 197-11-158(3)). If such impacts are identified, the project may require an EIS, and that EIS is then subject to an adequacy appeal. This process may stall the project for years and greatly increase project costs, perhaps to a point of infeasibility. In short, SEPA’s functional equivalence provision may not provide the same level of certainty and expedition as upfront SEPA.

From a practical perspective, however, functional equivalence can play a supporting role to narrow the scope of potential SEPA-appeals. For example, a jurisdiction that has enacted a planned action ordinance may also use functional equivalence when issuing a threshold determination for a proposed project. The city’s threshold determination would state that the requirements for environmental analysis, protection, and mitigation have been adequately addressed in the city’s development regulations, comprehensive plan, and in other applicable federal, state and local laws or rules, *including the mitigation identified in the planned action ordinance*. Therefore, if a project opponent successfully challenges the planned action on the basis of a

no longer adequate non-project EIS, the city may rely upon functional equivalence to demonstrate SEPA compliance nevertheless.

Moving Forward: Urban Development and SEPA

Project opponents repeatedly use SEPA as their primary legal means to challenge urban development. The use of the State's most fundamental environmental law to block urban development is particularly ironic because the State has made strong policy decisions to encourage urban development as a means to protect farms and forests (by directing growth away from those lands) and to reduce the State's greenhouse gas emissions (by making transit and transit-oriented-development available in urban areas).

Categorical exemptions, the three forms of upfront SEPA, and functional equivalence used separately or in combination provide effective tools to foster sustainable urban development. By utilizing these tools, cities can provide urban developers with significant reductions in regulatory uncertainty and potential delay caused by time consuming and costly SEPA-based appeals. In short, these complementary SEPA tools may enable cities to promote and expedite economic development and sustainable communities.

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- 1 The author thanks his colleagues Dick Settle and Pat Schneider for their assistance with this article. Mr. Settle, Mr. Schneider, and Mr. Eckert assisted in drafting RCW 43.21C.420 (the most recent upfront SEPA statute). The author also thanks Deborah Munkburg, principal and partner at inova planning communication design llc, for her valuable insights.
- 2 See WAC 197-11-330(5) (in making a SEPA threshold determination, the lead agency may not balance beneficial aspects of a proposal with adverse environmental impacts).
- 3 See WAC 197-11-330(5) (here, the beneficial environmental aspects of the Living Building may not be used to offset the building's potential adverse environmental impacts, including any viewshed impacts). See also WAC 197-11-444(2)(b)(iv); *Polygon Corp. v. City of Seattle*, 90 Wn.2d 59, 578 P.2d 1309 (1978).
- 4 Defined in WAC 197-11-720, "categorical exemption" "means a type of action, specified in these rules, which does not significantly affect the environment (RCW 43.21C.110 (1)(a)); categorical exemptions are found in Part Nine of these rules. Neither a threshold determination nor any environmental document, including an environmental checklist or environmental impact statement, is required for any categorically exempt action (RCW 43.21C.031). These rules provide for those circumstances in which a specific action that would fit within a categorical exemption shall not be considered categorically exempt (WAC 197-11-305)."

- 5 These terms are used for descriptive purposes in this article, and the descriptive term may not appear in the relevant SEPA statute authorizing the tool.
- 6 Planned action success stories abound. For example, the City of Everett used a planned action to complete environmental review for the Paine Field sub-area as an incentive for Boeing to keep its operations in Washington State. Today, Paine Field is home to the Boeing manufacturing plants for the 747, 767, 777, and 787 aircraft. In addition to economic development, cities have successfully used planned actions to encourage urban revitalization projects, with examples including Mill Creek Town Center and Federal Way City Center.
- 7 See, *Davidson Serles & Associates v. City of Kirkland*, 159 Wn. App. 148, 244 P.3d 1003 (2011).
- 8 For example, a SEPA-based challenge under WAC 197-11-305(1)(b) (ii) may assert that a project relying upon the infill exemption is one project in a series of exempt actions that are physically or functionally related to each other, and that together the projects may have a probable significant impact upon the environment.
- 9 The ten-year vesting requirement creates a potential timing issue for sub-area plans with a build-out scenario exceeding ten years.
- 10 See, e.g., *Moss v. City of Bellingham*, 109 Wn. App. 6, 31 P.3d 703 (2001), *review denied*, 146 Wn.2d 1017, 51 P.3d 86 (2002).

Environmental Law Update

Federal Environmental Law Update

By Matthew A. Love and Chris D. Zentz, Van Ness Feldman, P.C.

I. National Environmental Policy Act ("NEPA")

The Wilderness Society v. United States Forest Service, et al., 630 F.3d 1173 (9th Cir. 2011).

In *The Wilderness Society v. United States Forest Service*, the Ninth Circuit revisited the so-called "federal defendant" rule, which categorically prohibits private parties and state or local governments from intervening of right on the merits of claims brought under NEPA. The Ninth Circuit ultimately joined other circuits in abandoning the rule as conflicting with the Federal Rules of Civil Procedure ("FRCP").

Under the FRCP, upon timely motion, any party may intervene of right in a case in which a person "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a) (2). In contrast, the "federal defendant" rule "categorically precludes private parties and state and local governments from intervening of right as defendants on the merits of NEPA actions." See *Churchill Cnty v. Babbitt*, 150 F.3d 1072, 1082, *as amended*, 158 F.3d 491 (9th Cir. 1998).

In this case, the United States Forest Service ("Forest Service") adopted a travel plan that would allow motorized vehicles to use nearly 1,200 miles of roads and trails