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Agenda

Tacoma Planning Commission

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Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power

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(Agenda also available online at: www.cityoftacoma.org/planning > "Planning Commission" > "Agenda Packets")

MEETING: Regular Meeting

TIME: Wednesday, February 2, 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 – None

D. GENERAL BUSINESS

(4:05 p.m.) **1. Master Program for Shoreline Development**

Description: Discuss public comments concerning the Foss Waterway and consider potential revisions to the upcoming public hearing draft of the Shoreline Master Program.

Actions Requested: Review, Comment, Direction

Support Information: See "Agenda Item GB-1"

Staff Contact: Steve Atkinson, 591-5531, satkinson@cityoftacoma.org

(5:00 p.m.) **2. Billboard Regulations**

Description: Continue to discuss potential code revisions pertaining to billboards

Actions Requested: Review, Comment, Direction

Support Information: See "Agenda Item GB-2"

Staff Contact: Shirley Schultz, 591-5121, shirley.schultz@cityoftacoma.org



(5:30 p.m.) 3. 2011 Annual Amendment Package

- Description: Complete the review of the following draft amendments and authorize the release for the purpose of public review and comment:
- #2011-01 49th and Pine Intensity and Zoning Change
 - #2011-02 Historic Preservation Plan and Code Revisions
 - #2011-04 Water Level of Service Standard
 - #2011-05 Transportation Element
 - #2011-06 Regional Centers & Safety-Oriented Design
 - #2011-07 Park Zoning and Permitting
 - #2011-08 Regulatory Code Refinements
 - #2011-09 SEPA Regulations Amendment
- Actions Requested: Authorize for Public Distribution; Set Public Hearing Date
- Support Information: See "Agenda Item GB-3"
- Staff Contact: Donna Stenger, 591-5210, dstenger@cityoftacoma.org

E. COMMUNICATION ITEMS

1. "Urban Studies Forum: The Urban University", February 3, 2011, UWT – "Agenda Item C-1"
2. Letters of Comment concerning the Shoreline Master Program Update:
 - a. John Roller, NuStar Energy, December 1, 2010 – "Agenda Item C-2a"
 - b. Toby Murray, Chamber of Commerce, December 15, 2010 – "Agenda Item C-2b"
 - c. Gary Brackett, Chamber of Commerce, December 20, 2010 – "Agenda Item C-2c"
 - d. Leslie Ann Rose, Citizens for a Healthy Bay, January 15, 2011 – "Agenda Item C-2d"
 - e. Alexander Mackie, Perkins Coie (to Matthew Parker, Schnitzer Steel), January 19, 2011 – "Agenda Item C-2e"

F. COMMENTS BY LONG-RANGE PLANNING DIVISION**G. COMMENTS BY PLANNING COMMISSION****H. ADJOURNMENT**



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-1

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Shoreline Master Program Update – S-8 Thea Foss Waterway Shoreline District
DATE: January 26, 2011

On February 2nd, staff will be seeking direction from the Planning Commission on whether to revise policies and development regulations pertaining to the S-8 Thea Foss Waterway Shoreline District as proposed in the preliminary draft Tacoma Shoreline Master Program (TSMP) released in September. The Commission has received comments related to the district boundary, use and development regulations, public access requirements and design guidelines.

As part of the discussion, staff will provide an overview of public comments on the proposed TSMP. Commission members may want to bring their copy of the public comment book to the meeting.

In support of this discussion, staff is providing the following materials as background for the Commission's review:

1. A comparison of the existing and proposed regulations for the S-8 shoreline district including the District Boundary, industrial use provisions, design guidelines applicability, mixed-use development provisions, and provisions for temporary uses, with a summary of public comments on those topics;
2. A map of the proposed S-8 Shoreline District Boundary;
3. Code sections from TMC 13.10 that relate to new and existing industrial uses;
4. A chapter from the existing Foss Waterway Design and Development Plan relating to design considerations for the east side of the Foss Waterway;
5. Code sections from TMC 13.10 related to design standards for the east side of the Foss Waterway;
6. A draft of the updated Thea Foss Waterway Design Guidelines and Standards; and
7. A summary of public comments from the November 2007 Thea Foss Waterway Re-Visioning open house and workshop.

If you have any questions on any of the attached materials, please contact Stephen Atkinson at 591-5531 or satkinson@cityoftacoma.org.

DS:sa

Attachments

c. Peter Huffman, Assistant Director

GB1 Attachment 1

Comparison Table S-8 Thea Foss Waterway Shoreline District			
Issue	Existing Shoreline Master Program	Preliminary Draft TSMP	Public Comments
District Boundary			
	Please see attachment 2.	No proposed change.	<ul style="list-style-type: none"> • Rezone NuStar from S-8 to S-10 • Delete any division of property by shoreline district boundaries
New and Existing Industrial Uses			
	Please see attachment 3. New industrial uses may be permitted on the East Foss north of 15 th street where specific conditions are met and subject to public access requirements. Existing industrial uses are not subject to the public access requirements, but cannot expand within the S-8 District beyond their boundaries as they existing on January 1, 1996.	No significant change proposed.	<ul style="list-style-type: none"> • Allow existing industrial uses to expand their operations
Design Guidelines			

GB1 Attachment 1

	<p>Please see attachments 4 and 5. The existing TSMP and Foss Plan include design guidelines that apply to the entirety of the Thea Foss Waterway, including that area N of East 15th Street.</p>	<p>Please see attachment 6. No proposed change in applicability of design guidelines.</p>	<ul style="list-style-type: none"> • Delete design guidelines N of East 15th Street • Include the requirement for City Council Resolution No. 36702 to assure shoreline development contains “design standards” to “discourage nonindustrial uses east of East D Street.”
Mixed-Use			
	<p>Regulations pertaining to mixed-use development are generally specific to the Foss Waterway. Primary regulations include:</p> <ul style="list-style-type: none"> • Ground floor is primarily developed with water-oriented uses • 50% of the esplanade frontage shall contain pedestrian-oriented uses • 20% of the view corridor and Dock Street frontage shall contain pedestrian-oriented uses • Pedestrian-oriented uses shall be clustered at the corners of the structure 	<p>The Preliminary Draft treats mixed-use more generally than the existing TSMP. General requirements include:</p> <ul style="list-style-type: none"> • The mixed-use structure may contain non-water-oriented uses so long as the uses support a water-oriented use or development • Non-water-oriented uses shall not locate on the waterside or shoreline frontage of the ground floor • Residential uses shall not be permitted on the ground floor • Mixed-use shall also provide significant public benefit in the form of public access and shoreline or marine buffer 	<ul style="list-style-type: none"> • What is meant by “the use is part of a mixed-use project that supports a water-oriented use?” • Clarify the definition of “mixed use” – should explain the words “and other uses,” are water-oriented uses required as part of the definition? • Language should clarify that non-water-oriented uses, even as part of a mixed use development, requires a conditional use permit. • What is the appropriate mix of uses for a mixed use structure – 50% residential, 25% office? Other? • Office uses are generally

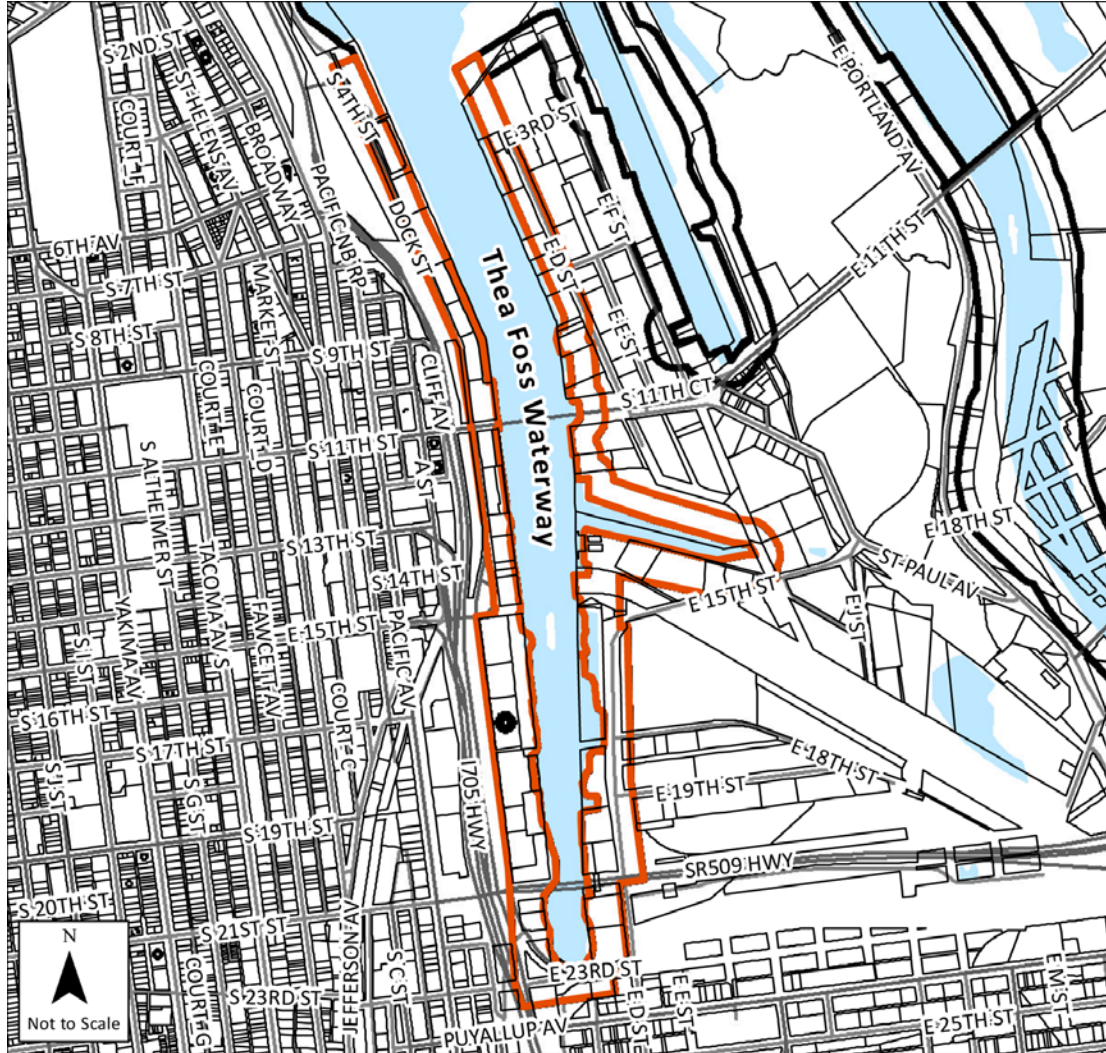
GB1 Attachment 1

		<p style="text-align: center;">enhancement</p> <p>Mixed-use regulations specific to the Foss Waterway include:</p> <ul style="list-style-type: none"> • 20% of the Dock Street frontage shall contain water-oriented uses • 75% of the esplanade frontage shall contain water-oriented uses 	<p>discouraged by the State – we should not be making it easier for offices with no water-relation to locate on our shorelines when there is a glut of vacant office space elsewhere in the City.</p>
Temporary Uses			
	<p>The existing draft only includes provisions for temporary surface parking. Otherwise, mixed-use structures are required to meet both the use and development regulations at the time of construction.</p>	<p>The Preliminary Draft provides some additional flexibility for mixed-use developments on the Foss Waterway to respond to short term market conditions by allowing more non-water-oriented uses on a temporary basis. The Draft establishes two paths for permitting an existing or new structure that does not meet the use requirements.</p> <ul style="list-style-type: none"> • Path one: May be permitted outright so long as 25% of the shoreline frontage is occupied by water-oriented uses and the rest of the frontage requirements are built to suit future conversion to water-oriented uses. 	<ul style="list-style-type: none"> • Strongly object to these provisions – when are short term market conditions over? How will we know? This is a blatant attempt at avoiding City and State regulations. • Are these provisions in the best interests of the public or a small group of real estate people?

GB1 Attachment 1

		<ul style="list-style-type: none">• Path two: May be permitted as a conditional use if no water-oriented uses will be provided so long as the required frontages are built to suit future conversion to water-oriented uses.	
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GB1 Attachment 2



Shoreline District S-8: Thea Foss Waterway, Downtown Waterfront

2. Front Yard Setback (street or road) – same as required in the “S-1” Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the “S-1” Western Slope South Shoreline District.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled “Regulations.” (Ord. 27158 § 9; passed Nov. 4, 2003; Ord. 25797 § 1; passed Dec. 5, 1995; Ord. 25718 § 4; passed Jun. 20, 1995; Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.110 S-8 Shoreline District – Thea Foss Waterway.

A. Intent. The intent of the “S-8” Shoreline District is to improve the environmental quality of Thea Foss Waterway; provide continuous public access to the Waterway; encourage the reuse and redevelopment of the area for mixed-use pedestrian-oriented development, cultural facilities, marinas and related facilities, water-oriented commercial uses, maritime activities, water-oriented public parks and public facilities, residential development, and waterborne transportation; and to encourage existing industrial and terminal uses to continue their current operations and leases to industrial tenants.

B. Description. The “S-8” Shoreline District is hereby described as an area, including all of Thea Foss Waterway, and Wheeler Osgood Waterway between the west line of Dock Street, and the east line of “D” Street, and 200 feet landward of the ordinary high water mark of said Waterways. For the purposes of this section, the west side of the waterway begins at the northwestern corner of the waterway and extends to the southerly end adjacent to the “twin 96-inch” storm drains.

C. Environmental Designation. The “S-8” Shoreline District is hereby designated as an “urban” environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Bulkheads.
2. Commercial, non-water-oriented, over water, only within structures which existed on January 1, 1996.
3. Commercial, water-oriented, upland, or over water.

4. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

5. Educational, historical, cultural, and archaeological areas.

6. Environmental remediation.

7. Habitat improvement.

8. Hotels/motels on the west side and on the east side only, south of the East 11th Street right-of-way.

9. Industrial uses which existed on January 1, 1996, on the east side of the Waterway. (Said industrial uses may continue current operations, and owners of property and structures currently let for industrial purposes may replace existing industrial tenants. Such uses may be expanded, adapted, repaired, replaced or otherwise modified, including changes necessitated by technological advancements; provided, however, that the uses may not be expanded beyond property boundaries owned, leased, or operated by the industrial user on January 1, 1996.)

10. New industrial uses, water-dependent or water related, in the area on the east side of the waterway, and north of the centerline of East 15th Street, in conformance with the regulations set forth in Section 13.10.175.B.15 of this chapter.

11. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

12. Marinas and boat launch facilities, except as set forth in “F” below.

13. Piers, wharves, docks, and floats.

14. Recreation, water-oriented.

15. Residential; upland location only or within over water structures which existed on January 1, 1996, on the west side of the waterway and on the east side only, south of the East 11th Street right-of-way.

16. Roads, railroad and bridge construction.

17. Utilities, underground.

18. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to



Tacoma Municipal Code

or engineering impacts can be demonstrated. The exceptions listed above also apply to this limitation.

(10) In evaluating requests for projects involving the construction of piers, wharves, docks, and floats, the following shall be considered:

(a) Environmental and navigational impact, pier density, waste disposal, oil and gas spillage, parking availability, and impact on adjacent lands.

(b) Whether cooperative use is present or may be present in the future.

(c) Whether existing facilities may be used or expanded to be used in preference to the construction of new facilities. New facilities should require a demonstration of public benefit as appropriate.

(d) Whether an open pile or floating structure is the appropriate design.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-1" Shoreline District – Western Slope South: Piers, wharves, docks, and floats shall be built perpendicular to the shoreline rather than parallel to it.

(2) "S-5" Shoreline District – Point Defiance Conservation and "S-6" Shoreline District – Ruston Way: No piers, wharves, docks, or floats shall be permitted in areas having a high value for shellfish, fishlife, or wildlife.

(3) "S-8" Shoreline District – Thea Foss Waterway: All piers, wharves, docks, or floats shall be consistent with the guidelines of the Thea Foss Waterway Design and Development Plan.

(4) "S-14" Shoreline District – Wapato Lake:

(a) Piers, wharves, docks, and floats shall be permitted only for fishing and swimming purposes.

(b) Piers, wharves, docks, and floats shall be constructed at a maximum density of one per residential lot.

(c) Piers, wharves, docks, and floats shall be built perpendicular to the shoreline rather than parallel to it.

15. Port, Terminal, and Industrial.

a. The following regulations apply to Shoreline Districts within which industrial uses are allowed:

(1) Industrial developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any water pollution which they cause.

(2) Water-dependent port, terminal, and industrial uses shall have shoreline location priority over all other uses in designated shoreline industrial areas.

(3) Petroleum sump ponds shall be covered, screened, or otherwise protected to prevent bird kill.

(4) Where possible, oxidation and waste stabilization ponds shall be located outside the Shoreline District.

(5) Port, terminal, and industrial facilities shall incorporate public viewing access unless such viewing access would interfere unreasonably with operations or would endanger public health or safety.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-8" Thea Foss Waterway Shoreline District: Industrial development shall be limited to that area on the easterly side of the Waterway and north of the centerline of East 15th Street. New industrial uses shall be conditioned as follows:

(a) New industrial developments shall provide public access to the shoreline and/or provide opportunities for public viewing of the industrial use, except as set forth in Section 13.10.175 of this chapter.

(b) Developments on the east side of the Waterway and north of East 15th Street shall be buffered from adjacent shoreline properties which are used for industrial purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect adjacent shoreline properties from visual or noise intrusion, but shall be a minimum of 20 feet wide, together with a solid fence six feet in height. The required view corridor/ side yard may be counted toward the buffer requirement.

(c) Demonstration that adequate consideration has been given to and plans made to mitigate negative environmental impacts including, but not limited to, air, water, aesthetics, noise pollution, and the loss of fish and wildlife habitat shall be required.

(d) Additional landscaping of industrial sites such as the planting of trees and screening of operations shall be provided for in development plans.

(e) For the purposes of determining whether these requirements should be applied, "new development" shall not include any expansion, adaptation, repair, replacement, or other modification, including changes necessitated by technological advances, of any industrial uses which existed on January 1, 1996, on the east side of the Waterway.

(2) "S-9" Shoreline District – Puyallup River: River-front vehicular access shall not be permitted except for emergency and/or maintenance vehicles.

East Side of Thea Foss Waterway

Intent

The intent of this section is to provide development guidance for the east side of Thea Foss Waterway. The east side of the Waterway differs from the west side of the Waterway in that it contains active industrial and commercial development. The long-range intent for the east side is to encourage a transition to mixed use commercial, marinas, retail, and office uses including residential and hotel/motel uses south of 11th Street. However, this plan recognizes existing industrial and terminal uses and allows their continuation until market conditions drive higher uses.

East Side Concept:

Existing commercial and industrial uses are valuable to the success of the waterfront and the economic life of our community. These businesses, coupled with other Waterway uses, can provide synergy that will continue to benefit Tacoma's economic prosperity. However, if change occurs, offering a variety of other mixed uses, these developments must be carefully designed to avoid conflicts that could arise between existing industrial uses and new development. Environmental clean-up of east side properties will allow the redevelopment of, marinas, water-oriented commercial, retail, and office uses and the redevelopment of the area south of 11th Street with residential uses, including hotels or motels.

The Foss Plan promotes public access and the enjoyment of the shoreline while allowing for existing and new commercial interests. This is a response to the current understanding that such a mixture of uses is for the greatest common good of the citizens of Tacoma and the economic life of our community.

Key Design and Development Issues

1. Retain the working waterfront character while encouraging water-oriented commercial, retail and office uses and also encourage residential uses in the area south of 11th Street.
2. Encourage public access and interpretation where there are no conflicts with industrial activities due to safety or security hazards.
3. Improve the visual qualities of the shoreline edge through clean-up, removal of dilapidated structures, and repair of shoreline features. Encourage landscaping treatment near the shoreline to emphasize the natural qualities of the Waterway except where marine dependent activities require bulkheading. The shoreline edge should be restored to a natural condition where possible. Native plant materials and upland habitat enhancement should be accommodated as part of site development.

East Side of Thea Foss Waterway

4. Encourage a cleanup standard that will allow redevelopment with, marinas, water-oriented commercial, retail, and office uses and also the redevelopment with residential uses for the area located south of 11th Street.

For additional design and development criteria, refer to chapter 13.10 of the City of Tacoma *Land Use Regulatory Code*.

Urban Design and Development Guidelines

The design and development guidelines for the east side encourage the integration of the area into a mixture of uses while maintaining the working waterfront with commercial uses and respecting the existing industrial and commercial uses. The purpose of these design and development guidelines is to provide parameters for new development, both public and private, and to explore various options for shoreline uses.

Design/development guidelines for the east side of the Thea Foss Waterway are listed below according to some of the general categories of the design guidelines where they may apply. The intention for the east side is to provide direction where opportunities present themselves in the long term transition to a greater mix of uses that provide additional public access, allow existing upland industrial uses to remain and expand, and allow new water related uses as permitted uses with non-water related projects to meet special conditions in order to be developed. (For a definitive description of what is permitted, refer to Section 13.10 of the City of Tacoma *Land Use Regulatory Code* for shoreline regulations.)

Public Use Areas

- o Existing industrial uses should be encouraged, but not required, to provide public access to the shoreline. New development should integrate public access to the shoreline in the form of a continuous esplanade along the water's edge as development incorporates new uses. Except where unavoidable safety hazards and use conflicts exist, a continuous esplanade along the water's edge should be required of all uses.
- o Establish key public view/access corridors as opportunities become available. Use aesthetically pleasing paving surface and landscaped border plantings wherever possible at the key viewpoints of each view/access corridor.
- o As the Wheeler-Osgood Waterway undergoes remediation and environmental quality improves, develop well marked public access and viewing opportunities that are accessible from the street.
- o Public spaces should be developed to provide access in the form of pocket parks along the east side.

- o East “D” Street should receive visually pleasing public improvements and amenities that enhance access and orientation to the area. This should include landscaped islands at the major intersections such as the east side of the Murray Morgan Bridge.
- o At the Port of Tacoma fishing fleet and moorage site, recognize opportunities for additional public access and interpretation.
- o Public places should be enhanced with seating and bicycle racks to provide a rest stop for bicyclists and boaters such as the small plaza near the fire station.
- o Landscape plantings should be established within the traffic islands located at the entrance of the Murray Morgan Bridge and along the bridge itself to serve as a formal gateway to downtown. The area under the bridge should be developed as a public space.

Esplanade

- o Develop public access esplanade along shoreline where it doesn’t conflict with industrial activities, current structures, or safety considerations. Develop alternate public access mitigation such as viewpoints, plazas, and bicycle stops where conflicts exist.
- o If a shoreline esplanade conflicts with new industrial activities, the esplanade should be rerouted around the activity to ensure continuity of the esplanade and avoid conflicts. Other public access features such as bicycle rest stops, plazas, or viewpoints should be developed that are linked to the esplanade.

For esplanade configuration, refer to the *Public Access* diagram in the Marine Guidelines.

For site furnishings, refer to the *Site Elements Design Guidelines* in the West Waterway.

Exterior Appearance of Buildings

- o Retain maritime design theme and working waterfront character wherever possible.

Signage

- o Provide signage to make the public aware of the public access amenities available to them along the Waterway. Use the Thea Foss Waterway sign standards for visual orientation of the user and to enhance design continuity of the area.

Southeast Commercial District

Existing Conditions

The Southeast Commercial District extends along the east side of the Waterway from South 23rd Street to East 15th Street. The area includes an

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East Side of Thea Foss Waterway

existing fishing fleet, a shipbuilding and repair business, two marinas, a manufacturing business, and a restaurant.

East “D” Street runs north from the Tacoma Dome and along the east side of the Waterway. Two Burlington Northern railway lines cross East “D” Street at East 23rd Street and the intersection is often filled with railroad cars being built into trains. The process takes a great deal of time, blocking the intersection and cutting off access to the Waterway.

Pierce Transit is constructing a regional intermodal transit terminal in the vicinity of the Tacoma Dome. An intermodal transit terminal near the Dome should dramatically alter land uses and traffic patterns south of the Waterway, and it will offer opportunities to improve transit circulation to the downtown and along the Foss Waterway.

Redevelopment Concept

The intended uses for the area include a mix of water-related commercial retail and business office uses. Existing traffic constraints along East “D” Street will be addressed and resolved.

Recommendations

- o Upgrade the “D” Street streetscape through improved maintenance, tree plantings, and street furniture.
- o Upgrade the pedestrian amenities along “D” Street from the Tacoma Dome to Thea Foss Waterway including sidewalks, signage, landscaping, and lighting.
- o Install sidewalks for safe crossing by pedestrian traffic to and from the Waterway.
- o Install the Thea Foss esplanade design standard pedestrian-oriented lighting for safety purposes.
- o Construct a railroad overpass on East “D” Street to mitigate the conflict created by the railroad crossings. The overpass should carry both automobile traffic and pedestrians safely over the rail operations, providing the needed link with the northern portion of the City. The railroad should contribute substantially to this effort.
- o The City and Pierce Transit should coordinate planning and capital improvements in this area.
- o Consider narrowing the street in selected locations to provide landscaping and street furniture.
- o Retain and encourage fishing fleet activities.
- o Continue the public esplanade along the shoreline where it doesn’t conflict with industrial activities. Develop alternate public access mitigation, such as viewpoints and plazas, where conflicts exist.
- o Retain the maritime design character of the area.
- o Provide public access and interpretation according to shoreline management recommendations. If a shoreline esplanade conflicts with

- industrial activities due to safety or security hazards, develop other public access features such as bicycle rest stops, plazas, viewpoints, etc.
- o Improve street ends along the east side of the Waterway and provide public access. This can be accomplished in several ways: building an esplanade that ties in with private efforts, adding plant material, and creating a formal sitting area with trash receptacles and other street furniture, and limiting parking practices to make the small areas more attractive for pedestrian use.
 - o Maintain view/access corridors on these parcels.
 - o Provide signage to make the public aware of the public access amenities available to them along the Waterway. Use the Thea Foss Waterway sign standards.
 - o Emphasize the natural qualities of the Wheeler/Osgood Waterway in developing landscaping treatment near the shoreline. Restore the shoreline edge to a natural condition where possible. Consider native plant materials and upland habitat enhancement as part of site development.

Northeast Commercial/Industrial District

Existing Conditions

The Northeast Commercial/Industrial District extends along the east side of the Waterway from East 15th Street to the northeasterly extent of the Waterway. The area includes a wide range of existing, established industrial and commercial uses. The Murray Morgan Bridge is a landmark in the area. The land under the bridge is fairly flat and interrupted by rows of bridge support columns. A City of Tacoma fire station is located under and north of the bridge.

Redevelopment Concept

It is intended that this area eventually will be used for mixed commercial and marine dependent industrial operations. Such uses are viewed as compatible with the proposed redevelopment direction of the Waterway's west side. Existing industrial uses in the area are encouraged to continue their current operations until such time as market conditions dictate a change in use.

Such uses may expand, repair, replace, or otherwise modify their existing structures and/or operations, including changes necessitated by technological advancements, as necessary to continue their industrial use. Industrial uses may not expand beyond the boundaries of the property now owned, leased, or operated by the industrial user.

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East Side of Thea Foss Waterway

As existing industry relocates, uses compatible to the west side of the Waterway are intended. Preference will be given to marinas, water-dependent or water-related commercial uses, and those uses such as a trade center which allow a significant number of people to enjoy the shoreline and take advantage of the shoreline amenities found on the Waterway.

As traffic access is improved, the area surrounding the Wheeler/Osgood Waterway should be considered for a corporate headquarters, conference center, or large scale redevelopment of a planned community or recreational complex. Such non-water-dependent uses would require public access to be a part of the development. An esplanade around the Wheeler-Osgood Waterway is envisioned to provide the opportunity for public access that has been lost over the years.

Recommendations

- o Enhance the easterly approach to the Murray Morgan Bridge as an entry into the City of Tacoma.
- o Enhance the small plaza near the City of Tacoma fire station with seating and bicycle racks to provide a rest stop for bicyclists and boaters.
- o Investigate development options for the areas under the Murray Morgan Bridge, including a boat launch and parking area.
- o Establish landscape plantings within the traffic islands located at the entrance of the Murray Morgan Bridge and along the bridge itself to serve as a formal gateway to downtown.
- o Require public access to the shoreline for all development requiring a substantial development permit except where unavoidable safety hazards exist. Require a continuous esplanade along the water's edge for all uses except where current structures or unavoidable safety hazards exist. If a shoreline esplanade conflicts with industrial activities, develop other public access features such as bicycle rest stops, plazas, or viewpoints and continuous public access along East "D" Street.
- o Assure that public use and esplanade improvements comply with the Foss Waterway design standards.
- o Develop public street ends to provide access in the form of pocket parks along the east side.
- o Irrespective of the type of development that occurs, improve the visual qualities of the shoreline edge through cleanup, exterior cosmetic improvements, removal of dilapidated structures, and repair of shoreline features.
- o To facilitate capitalization of clean up, permit subsurface utility and infrastructure improvements as part of any clean up.
- o So long as industrial uses remain, encourage improvements such as the aesthetic treatment of storage tanks, cleanup of blighted areas,

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East Side of Thea Foss Waterway

- landscaping, exterior cosmetic improvements, landscape screening, and support of the Waterway environmental cleanup and remediation plan effort. Phase improvements to minimize conflicts that might otherwise occur between remaining industrial uses and new uses.
- o Industrial uses are valuable to the success of the waterfront. These industries, coupled with other waterway uses, can provide synergy that will benefit the economic prosperity of existing and new businesses. Avoid conflicts that arise between existing industrial uses and new developments.
 - o Until market conditions drive upgraded uses, encourage existing industrial uses to continue current operations, and owners of properties and structures currently let for industrial purposes should be encouraged to replace existing industrial tenants as necessary. Permit such uses to expand, adapt, repair, replace, or otherwise modify, including changes necessitated by technological advancements; provided, however, that the uses may not be expanded beyond property boundaries currently owned, leased, or operated by the industrial user.
 - o Permit new water-dependent or water-related uses on the easterly side of the Waterway north of East 15th Street. Where the scope of improvements is sufficient to incorporate new design elements, those elements should be included. Encourage such uses that are consistent with additional development regulations relating to landscaping, buffering, setbacks, public access, and view/access corridors.
 - o Existing industrial uses should be encouraged, but not required, to provide public access to the shoreline. Except where existing structures or unavoidable safety hazards exist, require all uses to provide a continuous esplanade along the water's edge. If a shoreline esplanade conflicts with industrial activities, reroute the esplanade around the industrial activity to insure continuity of the esplanade, and develop other public access features such as bicycle rest stops, plazas, or viewpoints.
 - o Encourage future developments around the Wheeler/Osgood Waterway to take advantage of views of the City and Thea Foss Waterway. Such development should provide public access that is well signed and accessible from the street.

(8) Podium Modulation. For the portion of the exterior wall along the view/access corridors that is above 35 feet in height, at least 50 percent of the length of the podium wall shall be setback a minimum of 8 feet (see Figure 5).

(9) Podium Roof. At least 50 percent of the podium roof shall be improved as recreational space for use by the tenants and/or public. At least 30 percent of this improved recreational space on the podium roof shall be landscaped. The use of native vegetation is encouraged.



2. East Side of the Waterway. The following regulations apply to the east side of the Waterway:

a. Building Height. Any building, structure, or portion thereof hereafter erected shall not exceed a height of 100 feet on the east side of the Waterway, except for the area north of East 15th Street, where an additional four feet of additional height is allowed for every one foot a structure is set back on all sides.

b. Side Yard/View Corridor – same as required in the “S-1” Western Slope South Shoreline District Area Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996. Such side yard/view corridor shall include the pedestrian circulation link required by Section 13.10.175.A of this chapter.

c. Front Yard Setback (street or road) – same as required in the “S-1” Western Slope South Shoreline District Area Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996.

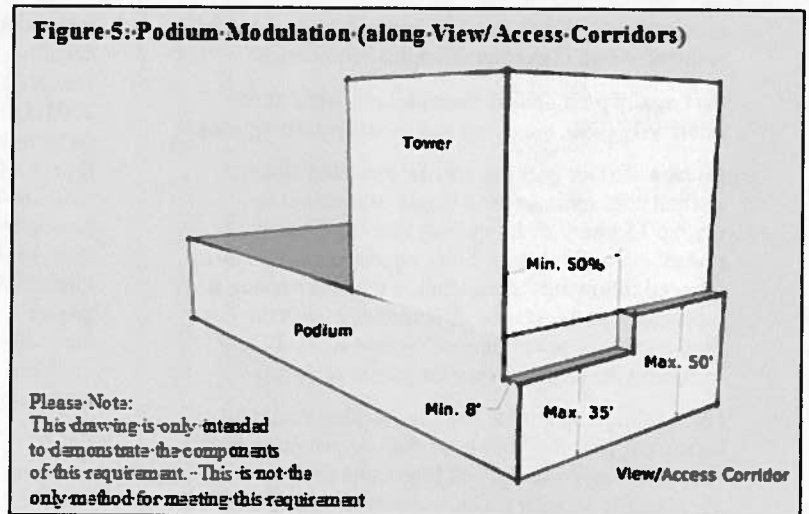
d. Rear Yard Setback – same as required in the “S-1” Western Slope South Shoreline District Area Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996.

e. Lot Area – same as required in the “S-1” Western Slope South Shoreline District.

3. Additional Development Standards. These additional development standards apply to the entire “S-8” Shoreline District.

a. The following structures are allowed above the height limit: television antennas, chimneys, and similar building appurtenances, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining the shoreline, and then only provided they meet structural requirements of the City of Tacoma and provide no usable floor space above the height limitations. This provision does not apply to the

Figure 5: Podium Modulation (along View/Access Corridors)



tower height limit for developments along the west side of the Waterway that utilize the Alternative 2 development option (Section 13.10.110.G.1.g(2)) or to the portion of the west side of the Waterway from the center of the secondary view/access corridor between Development Site 10 and the Municipal Dock site to the center of 11th Street.

b. Parking and Loading Regulations. The following parking and loading regulations shall apply to the “S-8” Thea Foss Waterway Shoreline District:

(1) Parking is not required for any use located in the “S-8” Thea Foss Waterway Shoreline District.

(2) Parking which is developed shall conform to the parking and loading regulations set forth in Section 13.10.175 of this chapter. All parking provided on the east side of the Waterway shall not exceed the amount which would have been required by Section 13.10.175 of this chapter.

(3) Angled street parking, where it conflicts with public transportation use, shall be prohibited.

(4) The following standards shall additionally apply to all parking provided on the west side of the Waterway:

(a) All new parking provided within the “S-8” Shoreline District must be located within a structure, except as provided for in subsection (c) below and except for parking for sites developed as public parks (excluding view/access corridors), any parking necessary to meet the requirements of the Americans with Disabilities Act, loading and unloading areas and within the Dock Street right-of-way. Structured parking facilities may accommodate parking for surrounding uses; provided, that the principal use of a structure may not be a parking facility. For-pay parking is allowed. Twenty percent of stalls in all new parking areas shall be set aside for



Tacoma Municipal Code

public use; provided, that one parking space per new residential unit is exempt from this requirement.

(b) Legally permitted surface parking areas as of January 1, 1996, may continue to serve existing uses.

(c) New surface parking may be provided as an interim principal use for a length of time not to exceed 15 years, and requiring shoreline permit review every five years. Such surface parking may be allowed following demonstration that the parking is landscaped and screened in accordance with the Foss Plan and the requirements of Section 13.10.175, including the requirements for public access.

(d) Landscaping and/or building surface treatment consistent with the Foss Plan shall be provided on the sides oriented toward Dock Street and designated view/access corridors. The waterward side of any building may not be developed with above-grade structured parking.

(e) Access to structured parking may be provided in designated view/access corridors; provided, that the applicant can demonstrate that access across the development site is not reasonably available, that public access along Dock Street and through the view/access corridor is unimpeded, and that the minimum area necessary to provide said access is used.

(f) Above-grade structured parking shall not be allowed as a visible use on the waterward side of any building, and landscaping and/or building surface treatment consistent with the Foss Plan shall be provided on the sides oriented toward Dock Street and designated view/access corridors. Parking uses visible from the building exterior shall be screened or shall incorporate design measures to provide an appearance comparable to the rest of the building not used for parking, utilizing landscaping and building surface treatment.

(g) Structured parking shall be designed to a minimum allowable height.

(h) Subsurface parking is allowed under view/access corridors, provided the structure is designed to a minimum allowable height to optimize public access and views to the esplanade from Dock Street. Public access over subsurface parking structures shall be designed to minimize grade discontinuation and meet the requirements for ADA accessibility.

c. Use and Development and Sign Regulations. Use and development and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations".

* d. Developments within the "S-8" Thea Foss Waterway Shoreline District shall also comply with the goals and intent of the Foss Plan and shall

incorporate unifying design elements as specified in said Plan. (Amended Ord. 27657 Ex. A; passed Dec. 4, 2007; Ord. 27432 § 18; passed Nov. 15, 2005; Ord. 27296 § 32; passed Nov. 16, 2004 (substitute, rescinded by amended Ord. 27657, passed Dec. 4, 2007); Ord. 27158 § 10; passed Nov. 4, 2003; Ord. 26622 § 1; passed May 9, 2000; Ord. 26329 § 4; passed Dec. 1, 1998; Ord. 26174 § 14; passed Dec. 16, 1997; Ord. 25904 § 2; passed May 28, 1996; Ord. 25797 § 1; passed Dec. 5, 1995; Ord. 25718 § 5; passed Jun. 20, 1995; Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.120 S-9 Shoreline District - Puyallup River.

A. Intent. The intent of the "S-9" Shoreline District is to permit recreational development of the riverfront while allowing industrial development of adjacent upland areas, and to encourage continued preservation of Clear Creek, its associated wetlands, and related ecosystems.

The Puyallup River is a shoreline of statewide significance. Primary consideration shall be given to the effects of proposed development on the statutory preferred uses of such shorelines.

B. Description. The "S-9" Shoreline District is hereby described as an area bounded by: lines lying 200 feet landward and generally parallel to the levee of the east and west banks of the Puyallup River, including the Gog-le-hi-te Wetland; the center line of East 11th Street; and the Tacoma City limits as they cross the Puyallup River, and the area within 200 feet of the portions of Clear Creek which experience tidal influence and any wetlands associated with the Creek.

C. Environmental Designation. The "S-9" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.
2. Commercial, water-oriented, except in Clear Creek.
3. Dredging for environmental remediation and habitat improvement projects.
4. Educational historical, cultural, and archaeological areas.



THEA FOSS WATERWAY DESIGN GUIDELINES & STANDARDS

DRAFT
JULY 2009

GB1 Attachment 6

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INTRODUCTION

For many years, the Thea Foss Waterway bustled as a hub of industry and maritime activities. As time has moved on and circumstances have changed, the City of Tacoma, with extensive collaboration from its citizens, has aimed to create a vibrant and viable future for the Foss. While recognizing its past, this document serves to help implement the design aspirations for the future Foss.

Background

Design guidelines are broad statements that point the way to how development in an area should take place. Design guidelines are intentionally broad: they are meant to allow designers considerable creative latitude when designing projects.

In contrast, design standards are statements that indicate when a specific design approach should be used. For example, a design standard might indicate that a specific streetlight model should be installed along area streets. Design standards are particularly beneficial for establishing the identity and continuity of an area.

Communities throughout the nation have used design guidelines and standards to promote the historic, scenic, architectural, and/or cultural values of a particular area.

Intent

The intent of the design guidelines and standards contained in this document is to further implement the design objectives originally laid out in the Thea Foss Waterway Design and Development Plan.

The design guidelines and standards contained in this document have been reviewed to ensure that they interact logically with other City of Tacoma regulatory processes.

The design guidelines and standards are not static and will likely need to change over time to further clarify issues, provide additional specificity, or address unanticipated situations.

Applicability

The design guidelines and standards contained in this document apply to the City of Tacoma “S-8” Shoreline District—Thea Foss Waterway.

However, the guidelines and standards do not all apply uniformly across the “S-8” Shoreline District. For the purposes of this document, the Thea Foss Waterway has been divided into

two design areas: West Foss and East Foss. While some guidelines and standards apply to the entire “S-8” Shoreline District, others only apply in either the West Foss or East Foss. See map below.



Use

These design guidelines and standards have two primary uses. First, project developers and designers should use the guidelines to better understand what design features are desired in projects in the “S-8” Shoreline District. Second, a design review body designated by the City of Tacoma will use the document as a reference when evaluating projects subject to design review.

Project developers and designers should be aware that, while this document covers issues dealt with in other City of Tacoma regulatory documents, this document is a supplement to—and not a replacement of—those other documents. Therefore, **project developers and designers are responsible for complying with all other applicable regulatory documents**, such as the Tacoma Municipal Code.

FORMAT

The design guidelines and standards contained in this document are presented in a consistent fashion, according to the model shown below.

DESIGN
ISSUE

2.5 Transition Areas

DESIGN
ISSUE
OVERVIEW

Transition areas are the spaces between buildings and public spaces. Highly visible to passersby, transition areas should foster a lively, pedestrian-oriented atmosphere. The design of these areas should provide a seamless transition between public and private areas.

DESIGN
GUIDELINE OR
STANDARD

2.5.1 Transition areas should extend the design features of public spaces to the edges of buildings.



WHERE APPLIES
W=west E=east

FURTHER
DETAIL

- Transition areas should use landscaping, materials, lighting, and furniture compatible with that used in the public spaces, but may demarcate the transition area with different design features.
- Not applicable to industrial properties.

VISUAL



TRANSITION AREA

GB1 Attachment 6

1. PUBLIC SPACES

Public spaces around the Thea Foss Waterway must serve a variety of purposes. Besides providing public shoreline access and circulation, public spaces are needed for recreation, contemplation, and inspiration—not to mention a nice spot for lunch!

Public spaces should have some design features in common to provide identity and continuity. Continuity may also be expressed through the regular placement of site details.

1.1 Thea Foss Walkway

The term “Thea Foss Walkway” refers to the trail that is envisioned to encircle the entire Thea Foss Waterway. See concept map below.



The primary intent of the Thea Foss Walkway is to provide public shoreline access, with opportunities for active and passive public recreation. The design of the Walkway should create a linear shoreline park that unifies the Thea Foss Waterway, join larger public spaces, and relate to the designs and activities of upland and in-water facilities. The Walkway should be an inviting, lively, and safe public space that is enjoyable all year, in all kinds of weather.

The Thea Foss Walkway, particularly on the east side of the Thea Foss Waterway, might not always run immediately adjacent to the shoreline due to certain constraints. Indeed, the Walkway may at times need to be located adjacent to a street some distance away from the shoreline. Therefore, a distinction should be made between the Thea Foss Walkway and the terms “esplanade” and “boardwalk,” which only refer to sections of the Walkway that front directly along the shoreline edge.

1.1.1 The Thea Foss Walkway should be compliant with the Americans with Disabilities Act (ADA) and designed to safely accommodate a variety of users, including walkers, joggers, and bicyclists.



- For required Walkway widths, see the Tacoma Municipal Code.
- Where space constraints only allow for sub-optimal trail width, the primary trail should be designated for foot traffic and remain ADA compliant, while bicyclists and other wheeled users should be diverted to a secondary route (such as a route along an adjacent street).

1.1.2 Along the Thea Foss Walkway, similar site details should be provided.



- To bring continuity and make the Walkway easy to follow, the Walkway should typically consist of the active-use surfacing specified in the Surfacing Materials section of Chapter 3, Site Details.
- Site details may be adapted adjacent to a specific development where it can be demonstrated that they continue the design theme of the development and are compatible with the site details provided along the Walkway on the other sides of the development site.

1.1.3 The Thea Foss Walkway should incorporate the minimum amount of lighting necessary for safe nighttime use.



- Please see the Lighting section of Chapter 3, Site Details.

1.1.4 Where space allows, a landscaped strip or area immediately adjacent to the waterward side of Thea Foss Walkway is desirable to filter stormwater runoff before it enters the Thea Foss Waterway.



1.1.5 Public restroom facilities should be provided in buildings on building sites, rather than in separate structures along the Thea Foss Walkway.



1.1.6 Public signage should identify the presence of the Thea Foss Walkway, direct the public to the Walkway, and indicate the intended route of the Walkway where the route may be unclear.



- Please see the Signage—Public section of Chapter 3, Site Details.

1.2 Community Gathering Places

Community gathering places are areas along the Thea Foss Walkway intended for public assembly. Community gathering places should be flexible spaces that can be used either casually or for formal public events. Plazas, open-air amphitheaters, concert stages, and similar amenities are encouraged at community gathering places.



COMMUNITY GATHERING PLACE

1.2.1 The intersection of view/access corridors with the Thea Foss Walkway and pier heads are the preferred locations for community gathering places.



- These locations provide increased depth and width, receive ample natural light, are highly visible, and offer views of the Thea Foss Waterway, downtown Tacoma, Mount Rainier, or Commencement Bay.
- Community gathering places may also be developed on the waterward side of building sites.
- Community gathering places can utilize the full length of view/access corridors.

1.2.2 Community gathering places should be identifiable.



- The design of community gathering places should include features such as art, fountains, unique paving materials, and grade changes.



IDENTIFIABLE COMMUNITY GATHERING PLACE

- The construction of significant visual structures (such as art, fountains, or viewing towers) is encouraged at community gathering places, particularly when in primary view/access corridors where such structures would not obstruct public access and might be visible from downtown Tacoma.
- Community gathering places should be compatible with the Thea Foss Walkway in site details and design. See Chapter 3, Site Details.

1.2.3 Community gathering places should be designed for a variety of active and passive activities.



1.2.4 The design of community gathering places should allow for unobstructed circulation along the Thea Foss Walkway.



1.2.5 The designs of community gathering places should include any required utilities, such as water and power.



1.2.6 Taller, evergreen trees are highly encouraged at community gathering places where appropriate.



- Such trees can help to spatially define a community gathering place, buffer a community gathering space from adjacent uses, and provide shade for users.

1.3 View/Access Corridors

On the west side of the Thea Foss Waterway, fourteen view/access corridors run between Dock Street and the inner harbor line. These corridors are intended to provide visual and physical access to and from the Foss, as well as additional natural light to the west side of the Foss. While view/access corridors may in limited circumstances be the only feasible option for other functions (such as providing access to temporary marina loading and unloading areas), such functions should be accommodated in other locations when practical.

1.3.1 The entire width of view/access corridors should be improved with appropriate site details and amenities, such as landscaping.

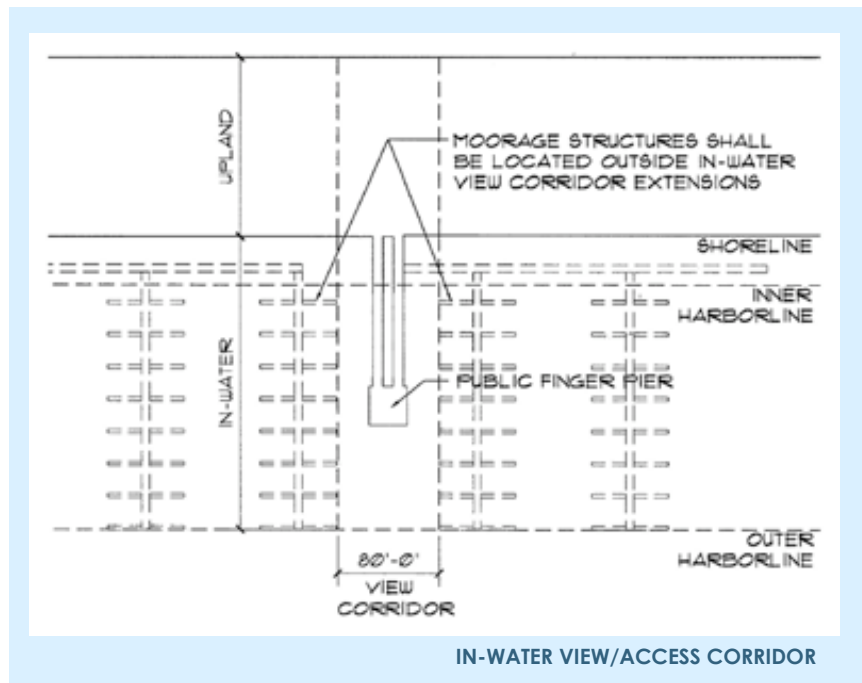


1.3.2 View/access corridors should provide internally consistent site details that complement those of adjacent public spaces in materials, colors, and design.



- Site details might include lighting, special surfacing materials, landscaping, and waste receptacles. See Chapter 3, Site Details.
- Linear lighting configurations utilizing the design standard walkway light are appropriate.

1.3.3 The in-water portion of a view/access corridor may be improved with public facilities, including piers, viewing platforms, and other like structures.



1.4 Side Yard/View Corridors

Side yard/view corridors on the east side of the Thea Foss Waterway are primarily intended to provide physical access, but also provide visual access to the waterway. These corridors either terminate in an outlook or connect segments of the Thea Foss Walkway that run north-south in different upland alignments (such as a segment running along the shoreline and another running along the street).

1.4.1 Side yard/view corridors should feature consistent site details.



- A design standard lighted bollard should be located where a side yard/view corridor connects with the street and along the corridor as needed to provide sufficient lighting. Please see the Bollards section of Chapter 3, Site Details.
- Side yard/view corridors that terminate in an outlook (and therefore constitute a branch off the main Thea Foss Walkway) should incorporate special surfacing materials the entire length of the corridor. Please see the Surfacing Materials section of Chapter 3, Site Details.
- Please see the Fences section of Chapter 3, Site Details.

1.4.2 Outlooks at the end of a side yard/view corridor should feature a walkway light, at least one bench or picnic table, a waste receptacle, a bike rack, and the design standard railing (if necessary).



- See Chapter 3, Site Details.

1.4.3 Outlooks should be situated as close as possible to the shoreline ordinary high water mark to maximize views of the waterway.



- In habitat mitigation areas, habitat considerations should prevail.

1.5 Streetscapes

Streetscapes around the Thea Foss Waterway should do more than just transport vehicles. Typically, streets occupy approximately 25 to 35 percent of any dense urban environment. Being publicly owned, streets are one of the major areas that a city has to implement the design vision for a given area, such as the Foss. As the Foss is intended to be inviting to the public and open to pedestrian and bicycle use (as well as other forms of non-motorized transportation), the streets in the Foss are intended to be a place for people. Of course, this needs to be balanced with the vehicular function of the street, but it is important that the street be seen as a vehicle for moving people, in all forms of transportation, be it people in cars, people on foot, people on bicycles, people in trucks, or people on skateboards. Good street design on the Foss accommodates all forms of moving people.

Specifically, it is desirable that the streetscapes around the Foss be improved with a sidewalk that adjoins properties on the Foss, which in some cases will become the Thea Foss Walkway, where the Walkway cannot be accommodated on private property due to constraints such as hazardous material use or high security needs. Standards for the sidewalk in this case will need to be adjusted to accommodate the City of Tacoma street standards, the desire to give the Walkway design continuity, and safety and clarity for the public user. Design standards and amenities, as outlined in this document, should be incorporated wherever possible.

1.5.1 Reconfigure the street where necessary to allow for a continuous Thea Foss Walkway.



- Coordinate this with the appropriate City of Tacoma departments.

1.5.2 Where the Thea Foss Walkway runs adjacent to the street, the street should feature a curbed sidewalk with landscaping at its edge, to buffer Walkway users from vehicle traffic.



- To bring continuity and make the Walkway easy to follow, the Walkway should typically consist of the active-use surfacing specified in the Surfacing Materials section of Chapter 3, Site Details.

1.5.3 Where the public sidewalk is identified as the Thea Foss Walkway, where appropriate and where space permits, design amenities such as waste receptacles, bike racks, and walkway lights should be located on the public sidewalk.



1.5.4 Where there is no practical alternative to having the Thea Foss Walkway cross a street, the street should feature a crosswalk.



1.5.5 Provide for safe, well-lit bicycle and pedestrian traffic in both directions.



1.5.6 Connect pedestrian and bicycle circulation routes with other like routes.



1.5.7 Create pleasant, publicly accessible street ends.



- Strategies to do this include providing a trail, adding landscaping, creating a sitting area, and limiting parking.

1.5.8 Locate utilities underground where feasible to remove visual clutter.



- Coordinate this with the appropriate City of Tacoma departments.

2. BUILDING SITES

Building sites, whether publicly or privately owned, should be developed in such a way as to take into consideration the special nature of the Thea Foss Waterway. Design teams for a site located in the Foss must recognize that a successful building will not only account for patterns of development on the actual site, but will also successfully implement and contribute to the larger goals of the Foss as a whole. It is desirable that the sites that surround the Foss acknowledge the larger patterns of development on both sides of the Foss, public access goals (as exemplified by the Thea Foss Walkway), and view considerations (such as the view/access corridors and side yard/ view corridors). Public spaces should be prioritized in terms of minimizing shadow impacts, and building massing and form should seek to strengthen the existing public rights of way, including streetscapes and the Walkway.

2.1 View Considerations

The topography and structures in and around the Thea Foss Waterway provide numerous view opportunities. While numerous views are available, the most critical views are of Mount Rainier, the Thea Foss Waterway, Commencement Bay, Union Station and the Washington State Historical Museum, the Port of Tacoma industrial area, and downtown Tacoma. While City of Tacoma regulations are in place to mitigate view impacts, the guidelines below are intended to further maximize views to and from the Thea Foss Waterway.

2.1.1 New buildings should be oriented to maximize view opportunities.



2.1.2 New buildings should identify view impacts to surrounding locations and structures and minimize adverse impacts as much as possible.



- Impacts to potential future surrounding locations and structures should also be identified and minimized.
- All buildings must comply with all applicable provisions of the Tacoma Municipal Code.

2.2 Shading Considerations

The intent of the guidelines in this section is to minimize the shading of public spaces. The shading of public spaces is of particular concern on the west side of the Foss, because its location, topography, and north-south orientation result in early afternoon shadow conditions nearly year-round.

2.2.1 Development projects should minimize the shading of public spaces as much as practical.



- Techniques to minimize shading include the manipulation of building orientation, location, and shape.

2.2.2 In public spaces subject to early shading, sufficient artificial lighting should be provided.



2.3 Site Layout

Buildings should be thoughtfully positioned, programmed, and detailed to maximize the impact of the Thea Foss Waterway public experience. Considerations include, but are not limited to: strengthening the profile of streetscapes (that is, locating the building closer to the street), especially on streets paralleling the Foss; providing more open space on the water side of a building; locating uses with the most public access on the streetscape or Thea Foss Walkway sides of a building; and accentuating the pedestrian-friendly nature of a building at ground-level sides facing the streetscape and the Walkway.

2.3.1 Buildings should be located and designed to give the appearance of being a similar distance from the street.



- This does not mean that the entire building façade must be the same distance from the street. To the contrary, awnings, landscaping, entrance markers, modulation, and other design elements are encouraged.
- Surface parking between the building and street is discouraged.

2.3.2 Location of activities within a building should consider surrounding uses and activities (both inside and outside the building). Potential conflicts arising from light, glare, noise, odors, or hours of operation should be avoided as much as possible by separating uses and activities (vertically and/or horizontally) or by providing physical screening between uses and activities.



- Physical screening can be accomplished through landscaping, building construction, or other techniques.

2.3.3 The preferred location for open space is the waterward side of a building site.



2.3.4 The number and size of vehicular access points should be minimized.



- This minimizes the interruption of pedestrian traffic and adverse visual impacts.

2.3.5 No parts of buildings should protrude into public spaces; however, weather protection features benefiting the public, art visible from public spaces, or building areas provided primarily for public access (such as viewing towers) may be located in or over these areas.



2.4 Exterior Appearance

Buildings around the Thea Foss Waterway are intended to feature design individuality, not to be designed with a strong unifying theme. Design continuity should primarily be established by the cohesive linear design of the Thea Foss Walkway and streetscapes.

At the same time, the Foss has a rich maritime heritage and is considered the hub connecting surrounding districts. To provide compatibility, design elements from public spaces, existing structures, and surrounding districts should be incorporated into all new developments. It is not intended that portions of existing buildings be replicated; instead, the creative, subtle integration of these elements is the objective.

Additionally, the exterior appearance of buildings and building sites should incorporate treatments that make for a comfortable and interesting pedestrian environment.

2.4.1 Buildings should feature an individual design, but designs should incorporate characteristics of the waterfront environment and surrounding districts to foster compatibility. Compatibility can be achieved by the integration of design themes (such as materials, shapes, or colors) from existing buildings into building design; by continuity or a logical transition in building bulk, shape, and height; or by significant physical separation.



2.4.2 Retain a maritime design theme and working waterfront character wherever possible.



WORKING WATERFRONT CHARACTER

2.4.3 When several buildings are proposed for a single development, the buildings should demonstrate internal compatibility. While buildings are not required to look identical, they should maintain a common design theme and provide continuity or a logical transition in building bulk, shape, and height.



- Common design themes should be demonstrated in materials, roof pitches, colors, building separation, and orientation of buildings to each other.

2.4.4 Buildings, particularly those with ground-level sides facing public circulation corridors, should be designed to create an exciting pedestrian environment.



- Maximize transparency, or the appearance of transparency, at the ground level of buildings facing public circulation corridors.
- Ground-level retail should be oriented toward the exterior of buildings.
- The street sides of buildings should focus on providing interest by providing features such as landscaping of varying heights, movable landscaping elements (such as container gardens or window boxes), awnings, exterior wall treatments, building modulation, and the provision of depth in building wall design details.



2.4.5 Architectural detailing, artistic embellishments, and/or murals are encouraged in new projects.



2.4.6 Modulation (horizontal and vertical) and other relief features are encouraged to create interest and avoid long, flat facades.



2.4.7 Creative approaches to the exterior appearance of industrial facilities are encouraged, particularly when such facilities are in areas commonly seen by the public.



- This could include the creative use of materials, paint, texture, landscaping, lighting, or screening.



CREATIVE APPROACH TO INDUSTRIAL FACILITY
PHOTOS COURTESY OF HMFH ARCHITECTS, INC & PETER VANDERWALKER

2.5 Transition Areas

Transition areas are the spaces between buildings and public spaces. Highly visible to passersby, transition areas should foster a lively, pedestrian-oriented atmosphere. The design of these areas should provide a seamless transition between public and private areas.

2.5.1 Transition areas should extend the design features of public spaces to the edges of buildings.



- Transition areas should use landscaping, surfacing materials, lighting, and other site details that are compatible with that used in adjacent public spaces, but may demarcate the transition area with different design features.
- Not applicable to industrial properties.



2.5.2 Transition areas are encouraged to be enhanced with artwork, fountains, landscaping, plazas (for public or private use), or other features promoting public enjoyment (active or visual).



2.5.3 Transition areas are the preferred location for activities such as outdoor dining or outdoor display.



- This minimizes interference with public circulation.

3. SITE DETAILS

Site details bring continuity and identity to the Thea Foss Waterway.

Site details should have a clear function and exhibit a simple utilitarian design. Site details are encouraged to reflect the maritime character of the waterfront. Historic site details may be appropriate when related to historic structures. Exceptional care should be taken in the design, construction, and installation of all site details.



3.1 Art

The Thea Foss Waterway vision embraces public art projects, particularly at view/access corridors, community gathering places, and outlooks, as well as along the Thea Foss Walkway. As many of the nation's most successful public art programs have demonstrated over the past decades, public spaces that bring people together are greatly enhanced by the introduction of art. The Foss seeks to integrate art that is clearly discernable as art, yet may also have a variety of other qualities, that may include:

- **FUNCTION**, such as shelter, safety, or lighting. Examples include canopy shelters, railings, lighted bollards, tree grates, and special surfacing materials.
- **PLAY**, such as playground equipment, skateboard areas, bicycle racks, and objects for pets or children to interact with.
- **EDUCATIONAL**, engaging the history of the Foss, its environmental state (both past and present), or the evolving functions of the Foss.
- **ENVIRONMENTAL**, engaging sustainable materials/systems, such as bioswales, permeable paving, cisterns, solar, or wind.

- **SENSORY/ACTIVE**, engaging all or as many of the senses as possible of those interacting with the artwork. An active, rather than passive, relationship between the work of art and the viewer is highly encouraged.

An important value for the Foss is to strive to incorporate deeper levels of meaning into the art pieces that may or may not be discernable upon first glance. Of particular importance is to engage deeper levels of meaning existent in the Foss, including, but not limited to:

- **HISTORY**, especially maritime history.
- **TRANSPORTATION**, multi-modal and evolving.
- **KINETICISM**, especially regarding the rich marine movements of both natural and human systems.
- **EXCHANGE and TRADE**, as an international port.
- **ENVIRONMENT**, especially the rich and varied marine life present in the Foss.

3.1.1 The use of public art is highly encouraged, particularly at view/access corridors, community gathering places, and outlooks, as well as along the Thea Foss Walkway.



3.1.2 Where applicable, public art should be reviewed by the Tacoma Art Commission.



- The office of the Tacoma Art Commission offers a variety of art information. Please contact the office with any art-related questions you may have.

3.1.3 Art, particularly when interactive or kinetic, should be sited at a location appropriate for its functioning and expected active and visual use.



3.2 Benches

3.2.1 Benches should be considered for view/access corridors, community gathering places, parks, and at various locations along the Thea Foss Walkway.

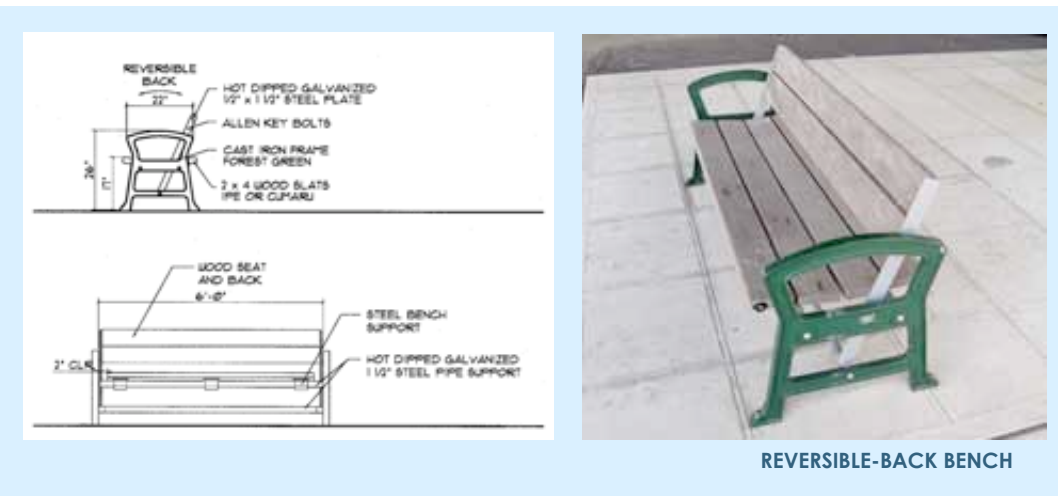


- At certain locations, benches are required. Please see the Tacoma Municipal Code.

3.2.2 One of the two design standard benches specified below shall be used.



- The design standard reversible-back bench is FairWeather model TF-3.
- The design standard backless bench is FairWeather model TF-1.3.
- For both design standard benches, arms shall be forest green and galvanized. All other metal surfaces shall be galvanized steel. Wood slats shall be sustainably harvested ipe or cumaru, or other sustainably harvested wood.
- East Foss benches should be four feet in length.



REVERSIBLE-BACK BENCH

3.3 Bike Racks

3.3.1 The design standard bike rack shown shall be used.



- Hess Tendo, galvanized steel.



HESS TENDO BIKE RACK

3.4 Bollards

Use bollards where they would facilitate the safe and efficient movement of vehicles and pedestrians.

3.4.1 The design standard bollard specified below shall be used for typical applications.



- The design standard is a 36-inch-tall, 8-inch-diameter, steel-pipe bollard with a conical steel top. All painted forest green (Pantone #5605C).
- Removable bollards are encouraged where appropriate.



3.4.2[md3] For side yard/view corridors or for special applications, the design standard lighted bollard specified below shall be used.



- Louis Poulsen DOCK-B, natural aluminum.



3.5 Drinking Fountains

3.5.1 Public drinking fountains are encouraged to be adjacent to or integrated with buildings.



3.5.2 Where applicable, the design standard drinking fountain specified below shall be used.



- Haws 3500D, green.



HAWS DRINKING FOUNTAIN

3.6 Fences

3.6.1 Permanent fences erected to separate public from private areas should be a maximum of four feet high, and made of concrete, brick, metal, or other approved materials (not chain link).



- Any portion of a fence above four feet in height should provide visual transparency.
- Green (vegetated) fences are highly encouraged.
- Not applicable to industrial properties.

3.6.2 At industrial properties, permanent fences erected to separate public from private areas should be the minimum height necessary to ensure safety and security.



3.6.3 At industrial properties, the creative treatment or screening of chain-link fences and alternatives to chain-link fences are encouraged.



ALTERNATIVES TO CHAIN-LINK FENCES AND SCREENING OF CHAIN-LINK FENCE

3.6.4 Permanent refuse, utility, or service installations should be screened with fences of wood, iron, concrete, landscaping, or other approved materials (not chain link) to the minimum height necessary.



- These installations should be located away from public spaces, particularly the Thea Foss Walkway.
- Not applicable to industrial properties.



3.7 Landscaping

Landscaping is highly desirable in the Thea Foss Waterway. Landscaping, besides just pleasing the senses, can perform many other functions. It can buffer pedestrians from passing vehicles, offer shade, provide wildlife habitat, and filter stormwater, to name but a few.



3.7.1 Native, drought-tolerant plantings are preferred.



3.7.2 Existing trees in healthy condition and of appropriate species are encouraged to remain.



3.7.3 To buffer pedestrians from passing vehicles, streets should have landscaped strips adjacent to the curb containing trees and low-growing landscaping or groundcover.



- A more naturalistic landscape may be appropriate at the south end of the Thea Foss Waterway.

3.7.4 Landscaping should be balanced against views.



- Consider low-growing landscaping where views are of concern.
- Contemplate planting trees that will have canopies that begin above pedestrian sight lines and will not significantly obstruct views from buildings (unless used for screening).
- Consider trimming trees with high canopies to reduce view blockage.



3.7.5 Taller, evergreen trees are highly encouraged where appropriate.



3.7.6 Tree roots should be protected where they may be subject to damage.



- Tree root protection techniques include beach rock, landscaping, and tree grates (decorative tree grates are encouraged).



DECORATIVE TREE GRATE

3.8 Lighting

In times of limited visibility, artificial lighting has a tremendous influence on visual character and human activity. The lighting guidelines are intended to:

- Provide safe, well-lit pedestrian surfaces.
- Create a continuous ring of soft, visible light sources around the shoreline edge that will generate reflections and a lively, unified ambiance.
- Reduce light pollution.
- Reinforce the marine industrial history and character of the waterfront.

3.8.1 Areas specified below should provide the corresponding minimum average light level.



- Thea Foss Walkway: 1 foot candle
- Commercial areas: 1 foot candle
- High-volume pedestrian areas (such as bus stops): 2 foot candles
- Parking areas, entries: 2 foot candles
- Parking areas, internal: .5 foot candles

3.8.2 Lighting should be shielded to reduce impacts on residential units.



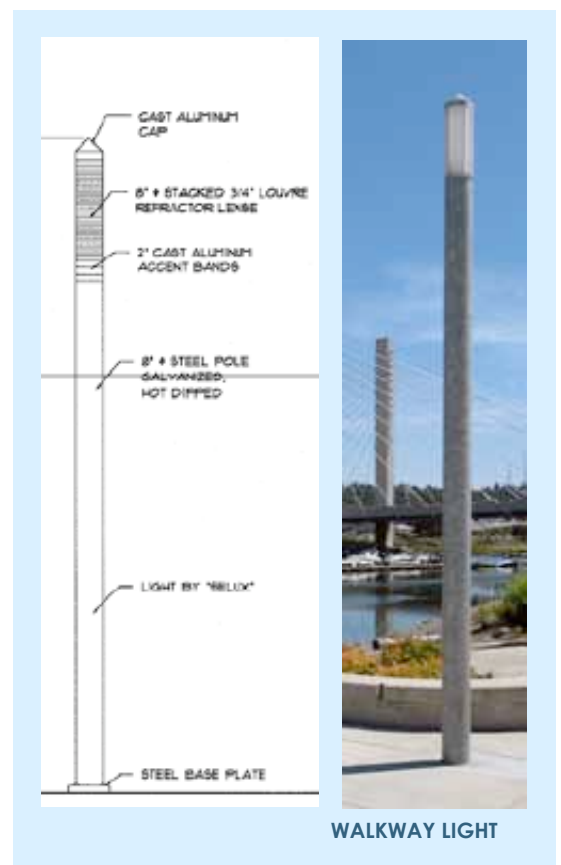
3.8.3 Lighting should minimize adverse impacts to the shoreline environment.



3.8.4 Along the Thea Foss Walkway, view/access corridors, and outlooks, the design standard walkway light specified below shall be used.

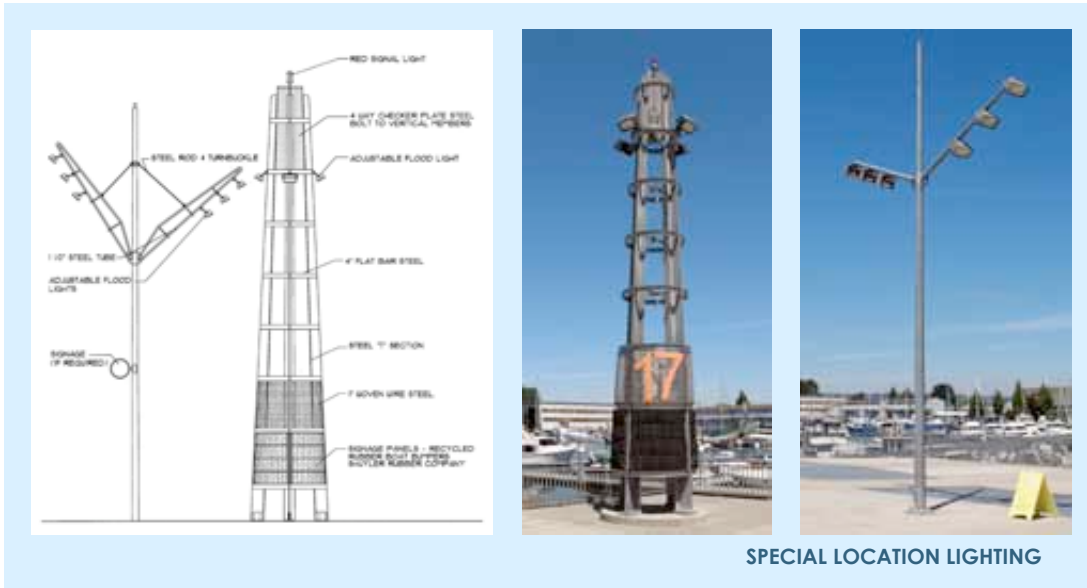


- se'lux MRTC-17-GV
- In portions of the trail designated as esplanade, lights should be located on the waterward side of the esplanade, at a maximum spacing of 60 feet on center.
- Walkway lights are not required at view/access corridors or other public spaces where special location lighting may be provided.



WALKWAY LIGHT

3.8.5 Special location lighting should be considered where the Thea Foss Walkway intersects view/access corridors and at community gathering places.



SPECIAL LOCATION LIGHTING

3.8.6 The design standard pedestrian streetlight specified below shall be used.



- se'lux MRTC-19-GV
- Pedestrian streetlights should be located on the waterward side of the street, at a maximum spacing of 80 feet on center.



PEDESTRIAN STREETLIGHT

3.8.7 Vehicular street lighting should be consistent, per city standards.



3.8.8 In parking areas, lighting should be provided by non-glare, full cutoff, controlled-source fixtures, per city standards.



3.9 Logo

3.9.1 The design standard logo should be used on area signage, bike racks, waste receptacles, benches, and other Thea Foss Walkway site details.



3.9.2 Where applicable, the design standard logo shown below shall be used.



3.10 Low Impact Development

Low impact development (LID) is an approach to stormwater management that emphasizes the conservation and use of existing natural site features integrated with distributed, small-scale stormwater control features in order to more closely mimic natural hydrologic conditions. The use of LID techniques is highly encouraged in the Thea Foss Waterway, where feasible. Due to environmental constraints, however, LID will not be practicable for various sites along the Foss. Please consult with the City of Tacoma Public Works Department before embarking on a LID project.

3.10.1 Minimize the amount of impervious surfacing (including the building footprint coverage) on a site through site planning and design.



3.10.2 Preserve existing and provide new vegetated areas to the maximum extent possible.



3.10.3 Maintain natural drainage patterns.



3.10.4 Seek to direct stormwater runoff from impervious areas into vegetated or pervious areas on the site rather than into the city stormwater system.



3.10.5 Stormwater control features, if required, should be located in close proximity to the impervious surfacing impact.



3.10.6 Small-scale stormwater control features that use natural systems, processes, and materials are preferred.



- Such features include, but are not limited to: dry wells, filter strips, swales, infiltration trenches, permeable pavements, soil amendments, tree-box filters, vegetated buffers, and green roofs.



3.10.7 Site grading should encourage the sheet flow of stormwater runoff and lengthen runoff flow paths over permeable areas.



3.10.8 Ensure soils are appropriate for the intended stormwater control feature functions (such as runoff infiltration, flow control, and water quality treatment).



3.10.9 Green (vegetated) roofs and green walls are highly encouraged in the Thea Foss Waterway.



GREEN WALLS

3.11 Marina Gates

3.11.1 Marina security gates should be located on access ramps or other locations where they do not impede public circulation, particularly circulation on the Thea Foss Walkway.



3.11.2 Marina security gates should be transparent.



3.11.3 Provide safety and security without the use of industrial materials, such as razor wire, barbed wire, and chain-link fences.



TRANSPARENT MARINA SECURITY GATE

3.12 Picnic Tables

3.12.1 Where applicable, the design standard picnic table specified below shall be used.



- FairWeather model F-4



3.13 Railings

3.13.1 The design standard railing shown at right should typically be used on all sections of the Thea Foss Walkway and other publicly accessible areas requiring a handrail.



3.14 Signage—Public

Clear and consistent signs should direct the public to locations of interest in and around the Thea Foss Waterway.

3.14.1 Signs should be located, oriented, and scaled primarily for pedestrians.



3.14.2 Directional and location signs should identify civic buildings, community gathering places, public parks, and other locations of public interest.



- In addition, vehicular signs should provide direction to public parking facilities.

3.14.3 Directional and location signs should identify the Thea Foss Walkway. Such signs should use the city-approved Walkway signage.



- A directional sign should be posted where a public access corridor leading to the Walkway intersects a public street.
- A location sign should be posted where a public access corridor leading to the Walkway intersects the Walkway, and at any other locations along the Walkway where a sign would assist the public in understanding the intended Walkway route.

3.14.4 Directional and location signs should identify shoreline public access locations not associated with the Thea Foss Walkway. Such signs should use the state-approved shoreline public access signage shown at right.



3.14.5 Where appropriate, informational, educational, and interpretive signs relating to the history of the Thea Foss Waterway and Tacoma's maritime history are encouraged.



- Such signs should be kept small and simple.



EDUCATIONAL AND INTERPRETIVE SIGNS

3.15 Signage—Building Sites

3.15.1 Signs should be similar to the building and/or building site in design, color, materials, and appearance.



3.15.2 Corporate logo signs are preferred.



3.16 Surfacing Materials

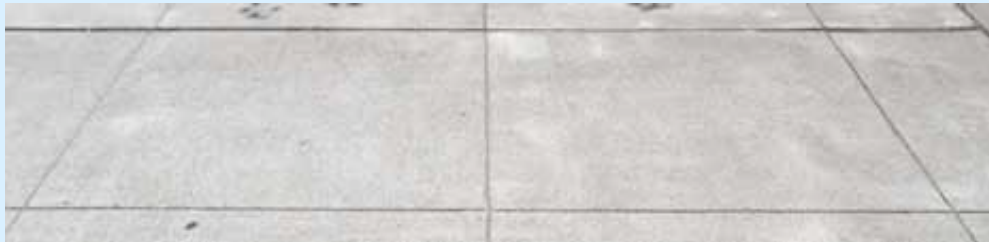
Surfacing materials provide both continuity and variety for the Thea Foss Waterway. In general, surfacing should feature a higher design and construction quality than more typical projects. Special surfacing materials (such as cobblestones and gravel) are encouraged, with consideration for color and low impact development techniques (please see the Low Impact Development section of this chapter).

Regarding the Thea Foss Walkway, surfacing materials are one of the primary ways that the Walkway distinguishes itself as a unique amenity for the public to use and enjoy. Surfacing materials clarify the direction and continuity of the Walkway and distinguish the Walkway from surrounding properties (whether surrounding properties are typical public rights-of-way, public properties, or private properties). While the Walkway surfacing material may need to change around the Foss in order to adapt to different circumstances, the surfacing material should always be visually distinct relative to its surroundings. Walkway surfacing materials should also account for the different users of the Walkway. Pedestrian and bike users are common, and all Walkway sections should be compliant with the Americans with Disabilities Act.

3.16.1 Active-use areas (such as the Thea Foss Walkway and sidewalks) should typically use the design standard surfacing specified below.



- Cast-in-place concrete with broom finish, hard-screed joints, in a 4-foot by 4-foot grid pattern.



ACTIVE-USE SURFACING

3.16.2 For boardwalks, the design standard surfacing materials specified below are preferred.



- Six-inch-wide planks made of ipe or cumaru, or other sustainably harvested wood.

3.16.3 Special surfacing materials (such as granite, cobblestones, and gravel) may be used where the materials are demonstrated to be appropriate for the intended use.



SPECIAL SURFACING MATERIALS

3.16.4 Consider pervious surface materials.



- Due to environmental constraints, pervious surface materials may not be practicable for various sites along the Foss. Please consult with the City of Tacoma Public Works Department before installing pervious surfacing materials.



PERVIOUS PAVING

3.17 Waste Receptacles

3.17.1 The design standard recycling container shall be used.



3.17.2 The design standard waste receptacle specified below shall be used.



- TimberForm Profile Series model 2894-P, with evergreen powder coat.

3.17.3 The design standard waste receptacle specified below shall be used.



- TimberForm Profile Series model 2891-P, galvanized.



WEST FOSS WASTE RECEPTACLE



WEST FOSS WASTE RECEPTACLE

MEMORANDUM

To: Bart Alford, Molly Harris, Shirley Schultz, Stephen Atkinson

From: Nicole Faghin, Karen Stewart, Janet Wright, Susan Jones

Date: December 18, 2007

File No.: 272007.005.003

Subject: Thea Foss Waterway Design and Development Plan
Public Workshop #1 Notes

The following is a summary of the public feedback and comments received at the Thea Foss Plan Update Public Workshop held on November 29, 2007. The purpose of the meeting was to hear comments about what the community likes and doesn't like about the current Thea Foss Plan and to provide suggestions on what they would like to see in an update of that plan. The meeting was attended by approximately 30 members of the public attended the workshop. The meeting began with a presentation on the background of planning in the Thea Foss Waterway and a description of associated planning projects currently underway that affect development along the Thea Foss.

After the presentation the group divided into four breakout groups to give feedback on the following four topic areas:

1. Design Standards and Site Development
2. Public Access, Views and Open Space
3. Parking and Circulation
4. Land Uses and Vision

Facilitators for each of the breakout sessions collected notes. In addition, the public was encouraged to write comments directly onto copies of the existing Thea Foss Waterway Plan to indicate location of specific comments. Written comments were also received from some of the attendees and email comments were sent as a follow up to the workshop. The following summary includes all of these comments received during and after the workshop.

I. Design Standards and Site Development,

Facilitated by Bart Alford, City of Tacoma and Susan Jones, atelierjones

East Side Industrial Uses vs. Public Access

- Expand Design Guidelines to East Side, especially regarding Industrial Areas and remaining Tank Farms. Safety Issues are a big concern!
- Encourage Density on Eastside as well. The “west side only” approach is too TIMID. The vision of a developed FOSS needs to be completed on the east side as well.
- Need Density to make even the West Side economically viable! Right now west side commercial areas are struggling for lack of density. But, where would the industrial uses go?
- Element of time is important. For the short term, the tank farms will probably stay. But for the long term, it is doubtful that the owners will want to or be able to, keep them up. For the future – we should be planning without the tank farms.
- Supportive of the Urban Waters building. Will set a good precedent for future development along the east side of the Foss.
- Could you convert the tank farm to holding tanks for biofuels in the future? And provide public access/ educational opportunities for them? Could be based on a Gasworks Park model/

Public Access

- Can an esplanade be located on the East Side, especially at the northern tip? Could it be designed in a way that allows the tank farms to still be viable, and for safety standards to be met?
- Should the public be allowed to access that area at all?
- Currently there is a conflict between the Tank Farm and Marina Boating.
- There are too many barriers between the water and the city. Public access is challenged. With the possibility of the 11th street bridge going away, it only increases the difficulties of easy public access.
- The 509 Bridge – does not easily accommodate pedestrians – problem.
- The 15th Street Corridor is very difficult to get down to the water. Very confusing.
- Should create visual terminuses at the end of the View Corridors to create a draw to bring more people out.

View Corridors

- Should the properties on either side be setback more?
- Don’t like the terminology of “View Corridor”. Implies no action –just passive looking. How about Public Access Corridors? This suggestion was well received by everyone in attendance.
- City should encourage more casual uses, like hot dog stands, coffee stands. Existing regulations don’t encourage these.
- Need better signage to encourage more public access. Need to emphasize the entry points to the corridors. Perhaps create arcades?
- Signage should clearly point out the connection between the city and water, and between the water and the city, especially for the boaters coming by water towards the city. They don’t know how to get to the city!

- Right now, the corridors feel too much like private alleys, used for loading docks, etc. by the property owners.
- Need to improve the Signage and encourage Paving Upgrades. Albers Mill is an example in the right direction.
- Keep buildings low for less shadowing of waterway. Buildings should be low to allow views of waterway and allow sun to hit the west shore. Sites that are too narrow to bring commerce without height should be used as green space.
- Height limit should be the roadbed of the Murray Morgan Bridge. Is that 100 feet...or less? Tops of buildings should be gardens. Public should be able to see the Bay and the Mountain from many angles.

Parking and Open Space

- Not enough parking spaces – only 20 or so public spaces down on the Foss.
- Needs to be a balance between parking spaces and Parks
- How about a public park underneath the 15th Street overpass?

Public Amenities vs. Density

- Underlying density is too dense. Maximizing the value of every parcel should not be the goal of the city. Instead, should try and maximize public amenities.
- The Simon Johnson site was badly handled, but given that the underlying zoning was much too dense, it was a good solution to a difficult problem. Liked the way the towers got more slender and higher, in exchange for more public amenities at the street level.
- Should restrict zoning on the waterway – and provide more public open space. Not enough ‘public’ stuff.
- Think people not buildings- the Foss is Tacoma’s crown jewel- do not sell it out for private profits.
- Create clear definition of “a mixed use” needed. Do we intend applicants to claim commercial office space as “water related” because they are part of a “mixed use” project? Strengthen clear definitions of what is “water related” and “water enjoyment”.

Sustainability Design Standards

- Encourage Green Roofs for all buildings on the Foss. Perfect opportunity for looking down on the roofs of the buildings from the city. Could become an identity point for Tacoma.
- Need to incentivize developers. Give them extra height? Faster permitting time? Definitely should use stormwater rebates.
- Encourage bioswales to clean and reduce runoff. Some examples include the Environmental Services Building in Tacoma, or at High Point in Seattle.
- Encourage the use of Pervious Pavement – whether asphalt or concrete. Very high strength materials now available, that eliminate the conflicts with fire truck access.

Comments drawn on the map:

- Increase wharf area for more gathering spaces (on NW area of Foss)
- Not safe to walk along bank (north of 11th Street bridge on East side))
- Site development- hub concept for retail, skip the four corners concept
- Combine the two development sites between 11th and 13th Street on the west side
- Open to pocket park at the end of 13th Street on West side
- Prioritize public benefit amenities
- Full vision for East side- mixed use, emphasize commercial activity
- Flexibility in plan to grow into vision
- Break the blocks down on West side, especially north of 19th street
- Create public access east of Pacific Avenue between 17th and 18th Street on West side
- For site just north of 18th Street on West side, place inviting welcome signs for public at each opening
- More public active space at esplanade at end of 16th and 17th Street (Dock Street marina).
- Future park NOT developed (just north of 15th Street on West side)
- Naturalize park (at SW corner of Wheeler Osgood waterway, adjacent to the Foss)

II. Public Access, Views and Open Space,

Facilitated by Shirley Schultz, City of Tacoma and Janet Wright, Reid Middleton

Views/Sunlight

- Concerns re allowed height of buildings on west side, if tall will block sunlight from esplanade. Already have limited sunlight with short winter days.
- Prefer narrower buildings on West side with open space in between to keep views & sunlight
- Promote design of bldgs that “step down” (tiered) towards the water to lessen shading & bulk.
- Think Ruston Way- Point Defiance- on a sunny weekend the public flocks to the Foss.

Public Access

- Want unobstructed esplanade from west to east side (does this mean formal esplanade like on west side, or public walkway?)
- Esplanade should be multi-modal – available for bikes, strollers, walkers, runners
- Tall buildings will affect access and width of esplanade-people may feel “squeezed” between buildings and waterway
- Make place where you don’t feel like you’re in someone’s living room” (Want esplanade to feel like a public space, not just an extension of the housing adjacent to the waterway.)
- Integrate industrial on east side with access- look for international examples of this
- Tacoma is a blue collar town- love this, and want to keep industrial component

- Harbor Island in Seattle is good example of visual access, berm and platforms located where can't get near the water due to industrial uses
- Granville island as an example-vibrant and activities, would like this for the Foss
- Connect esplanade to UWT along abandoned RR tracks
- People already "loop" the whole Foss- using informal routes along the water where possible.
- 11th Street Bridge- look to Prague/Paris for examples of festival, park, market use
- Formal esplanade with bulkhead, riprap, and concrete separates people from the water
- Access around Wheeler-Osgood is better to be walkways/boardwalk- not large expanse of concrete like esplanade due to conservation area. Esplanade design not best for all locations on Foss.
- Restore 11th Street bridge for historic value. Add elevators similar to Pike Place to access waterfront. This plan needs to allow for places to eat and enjoy that are affordable to families- as well as areas to picnic and enjoy the Foss.
- Continuous walking path with bicycle path linked to bicycle/walkways from Pierce County systems to Tacoma systems.
- Highest Priority should be public access, both physically AND visually. Esplanade, yes, and also views of bay and Mountain from the city bluff and from the 509 bridge and from I-5.

Access to Water for Boating

- Access- Want to be on or in water, not just near it
- Thea's Landing is unfriendly for water access but it's the best there is
- More access for small craft
- Need to get close down to water to launch shells- very difficult now
- Also small craft storage & ways to make it useful during daytime (e.g. lockers, showers, etc.)
- Make Foss part of Puget Sound Water Trail
- Much of Foss has steep areas adjacent to water, so capitalize where easier access to water, e.g., north and south ends
- North end of Foss is challenging for beginning boaters- they want to stay in protected waters of Foss
- Multi-level floats can be designed to accommodate motorized and nonmotorized boats
- Different types of boats need different width ramps and docks
- Access needs nearby parking- especially for small craft
- Recognize that varying uses have special needs- e.g. ramps for hand carts holding boats versus car trailers or hand-carried craft
- Involve broadest group of stakeholders in design of boating facilities
- Boating facilities vs. proposed Children's Museum- boating should get priority because is water-dependent, museum is not
- Low moorage for non-motorized boats (south end of Foss)

- "Access" means not only getting near the water but getting on the water. To get on the water in a small boat requires parking, a place to change clothes, a secure rack from which to get your boat, a float of appropriate freeboard and a ramp if you need to wheel a heavy boat.
- Public access for nonmotorized canoes, kayaks, sailing boats- partner with Port of Tacoma.

Open Space

- Would like open space park between 12th & 13th on the west side
- For Wheeler-Osgood, have narrower access with nodes of open space
- Make Wheeler-Osgood a beach area
- Open natural reserve (on south side of Wheeler Osgood waterway adjacent to Foss)
- Ballpark? (on East Side just south of 11th Street bridge)
- Parks and green areas in and under 11th Street bridge- small shops and cheap eats and open sitting areas for family fun.
- Can we set aside land on West side near 15th Street as public park- open space- rule out development or sale. We need perpetual open space there- rather than more development.

Comments drawn on the map:

- Northeast end point of Foss has great views
- Create boat ramp launch at Thea's Landing for human-powered craft
- Several large vessels: Odyssey (Sea Scout) and Curtis are currently moored on the West Side and will be moving to Youth Marine Center on east side.
- Have a trolley over the 11th Street bridge from west side to public parking on east side
- Have an Art Walk in the area adjacent to the Murray Morgan bridge on the west side
- There are views and undeveloped open space at the end of 15th St ROW on East side
- Foss Landing on east side has boat lifts- how to deal with public access on water side of this bldg? Does access have to route around bldg?
- Foss Landing said would pay for floats for new small craft launch on SE area of Foss.
- SE end of Foss good for putting in boats due to low shoreline- about 6-7ft lower than shoreline opposite it on west side
- At south end of Foss, change access to a more natural path or walkway to continue on towards east side
- Area a short distance south of Wheeler-Osgood- there is sandy access to water, but no street to this access point
- Port of Tacoma wants conservation area around Wheeler-Osgood & does not want esplanade
- Want several connections from East D street down to water along east side of Foss (the Foss area north of 11th St bridge)
- Want to restore the Murray Morgan bridge

III. Parking and Circulation,

Facilitated by Stephen Atkinson, City of Tacoma and Karen Stewart, Reid Middleton

Parking

- Generally, need more public parking down along the Foss. Parking garage at Glass Museum provides some spaces.
- Study parking and traffic impacts of condos.
- Reduce demand for parking spaces by providing bus transit (trolley) on both sides of the Foss.
- North of 11th St. impose a cap for parking.
- Urban Waters office building planned to accommodate over 100 people—only 40 parking spaces are planned. How will this use comply with City parking requirements?
- Increasing “private” parking associated with condo developments and the lack of public parking on the waterfront.
- Build parking on the East Side and provide transit across 11th Street bridge.
- There should be free public parking similar to Ruston Way- private condo will restrict public access with expensive pay to park arrangements.
- Need commitment from Pierce Transit to begin a set and regular bus along the water now so it can begin to grow. It’s not asking too much to start now.
- Parking along east side of Foss, Maybe in that dead air space above railroad tracks.

Circulation

- GOAL: Provide multiple modes of access to each area of the waterfront.
- Pedestrian ferry service to other cities, including Seattle.
- Use water taxis to facilitate crossing the waterway.
- Coordinate with Sound Transit to provide “water bus service” from the Foss to Pt. Defiance.
- Work with Pierce Transit and Sound Transit to increase transit options along the Foss.
- Provide safe pedestrian access to the proposed park on the south end of the waterway.
- Construct a park along Wheeler Osgood Waterway with pedestrian linkage across the water.
- New LeMay Auto Museum will bring additional traffic/tourists to the Foss.
- Maintain truck access for industrial uses along east side of the Foss.
- Use “F” St. as public walkway to end of peninsula to be compatible with existing industrial uses along “D” St. that would not be appropriate for adjacent pedestrian trail.
- Murray Morgan Bridge should be repair to support auto and truck traffic.
- Murray Morgan Bridge could be similar to some pedestrian bridges in Europe with artist stalls and public market (e.g., Karl’s bridge in Prague).
- Bring back the 15th St. stairs. (Why were the stairs on 15th street removed?)
- Need to improve connections with the Dome District

- Proposed shuttle or transit along “D” St.
- “D” St. north of 11th should remain industrial.
- Tram/funicular railroad to connect east and west on the north end of the Foss.
- Need more docks and public and guest moorage. Lack of water access, public moorage and boat launches on the east side.
- Lots of walking.
- Walkway and bikeway across MM Bridge and along both sides of Foss and across 509 bridge.

IV. Land Uses and Vision,

Facilitated by Molly Harris, City of Tacoma and Nicole Faghin, Reid Middleton

Vision Statement

- Interest in describing Thea Foss as a “transition zone” between downtown and port/industrial uses.
- Recommended including three broad principles of shoreline master program:
- Encourage Water Dependent Uses
- Promote Public Access
- Protect Shoreline Natural Resources
- Vision should encourage public water dependent use.
- It would be a good idea to distribute the new state guidelines to stakeholders now-our thinking needs to take those guidelines into consideration.
- Vision should be Vision, that is Visual Access to Bay and to Mountain by all taxpayers. Density should be very secondary.

Key Concepts:

- Thea Foss Waterway should serve as a transition zone between the commercial downtown area and the port and industrial users to the east of the Waterway;
- upland uses should provide for and accommodate a range of commercial mixed uses and industrial uses
 - In water uses should provide for access for both motorized and non-motorized uses
 - Public access to the shoreline should be provided wherever possible and feasible.

Land Uses

- Find more opportunities for non-motorized boating community to gain access to waterway.
- Concept of linear park along shoreline edge may be inconsistent with all anticipated uses – may apply in some areas but not others.
- Need to be creative about how to think about providing “continuous” access, particularly for walking trails
- Need to be creative about what is considered Public Access
- Mixed Use needs to be defined:

- Mixed use ok to include residential on West side of Foss and from 11th street to head of Foss
- Mixed Use Should NOT include residential from 11th street North. (general consensus from group).
- Tank Farm use over time needs to be evaluated – probably cannot be used as residential due to contamination but is important entry way to Foss Waterway.
- Look for opportunity to provide public amphitheater for outdoor concerts etc.
- Evaluate requirements for retail on first floor of structures. Regulations may be too inflexible and are creating problems for buildings. Look at alternative to allow offices or other commercial uses on ground floors.
- Urban Waters project – generally seems to be good fit and will be positive change along that section of Foss
- Concern expressed about changes that will negatively affect existing industrial type uses along east side of the Foss
- Murray Morgan Bridge may be very important component of what will occur on Foss depending upon how that issue is resolved – but issue does need to be resolved.
- Multi use by not just using waterfront for condos and high end retail. Bring arts and open spaces for mini concerts and big events like the tall ships. Encourage more non-motorized activities with walking and boating improvements. Celebrate Tacoma's rich history.

Next Steps:

The information from this workshop will be combined with other information received from City Staff and the Foss Waterway Design Review Committee to develop concepts for moving forward with updates to the Thea Foss Design and Development Plan.

Memo re: Thea Foss Design and Development Plan Update
Public Workshop #1 Notes
November 29, 2007
Page 10 of 10



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-2

TO: Planning Commission
FROM: Shirley Schultz, Principal Planner, Current Planning Division
SUBJECT: Billboard Regulations
DATE: January 26, 2011

Staff will be presenting additional information regarding billboards and proposed changes to the City's sign regulations.

At the February 6 meeting, staff will respond to the questions from your last meeting and focus discussion on three considerations: size of billboards, technical specifications, and buffering/dispersal standards. Staff will also present a preliminary draft of some of the potential code changes for review and comment from the Commission.

Attached are materials to facilitate the discussion:

- Summary and preliminary language for proposed code changes to date
- Fact sheet with benchmarking information related to size
- Fact sheet with benchmarking information related to buffering and dispersal
- Fact sheet with benchmarking information related to lighting/images

Each of the fact sheets also presents some policy options for development of new code. They are not the only existing options, but are provided for the purposes of discussion and direction. In addition, further direction is necessary regarding the appropriate location for digital billboards beyond the first ten.

If you have any questions, please contact Shirley Schultz at (253) 591-5121 or shirley.schultz@cityoftacoma.org.

attachments

cc. Peter Huffman, Assistant Director



City of Tacoma
Community and Economic Development Department

Summary of Certain Potential Code Changes Relative to Billboards
January 27, 2011

Based upon discussions to date with the Planning Commission, the following items are presented as proposed changes to TMC13.06.520-522 regarding billboards. The proposed text change is shown, followed by a brief statement about why the change is proposed.

Definitions

The following changes and additions are proposed for the “definitions” section of the sign code.

1. Change the definition of billboard do relate to size and location rather than content. Also, delineate the difference between a standard billboard and a digital billboard. Size is proposed as a criterion because there may be some cases in which a permanent off-premises directional sign might be needed (e.g. where a business isn't visible abutting a street), and that type of sign should be reviewed differently.

~~Billboard, standard. An off-premises sign of xx feet or greater in size. This type of sign is generally composed of poster panels or bulletins mounted on a building wall or freestanding structure, or painted directly on the wall or freestanding structure. sign. A sign which advertises goods, products, events, or services not necessarily sold on the premises on which the sign is located; however, a person, business, or event located on the premises shall not be identified. The sign may consist of:~~

- ~~1. Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of posted paper.~~
- ~~2. Painted bulletins, where the message of the advertiser is painted directly on the background of a wall mounted or freestanding display area.~~

~~Billboard, digital. An off-premises sign utilizing digital message technology capable of changing the message or copy on the sign electronically.~~

2. Change the definition of off-premises sign to relate to ownership and control of the sign rather than the content of the sign. Refine the definition of on-premises sign to reflect this change as well. Signs should be regulated based on size, location, and other objective factors and not on what the text or imagery on the sign contains.

~~Off-premises sign. A sign that identifies or gives directional information to a commercial establishment not located on the premises where the sign is installed or maintained. A permanent sign not located on the premises of the use, product, or activity to which the sign pertains, and which is not owned by, nor is the content controlled by, the owner or lessee of the site upon which the sign is located.~~

On-premises sign. Any sign identifying or advertising a business, person, activity, goods, products, or services primarily located on the premises where the sign is installed or maintained, and which is owned or controlled by the owner or lessee of the premises.

3. Change the definition of sign to remove its current focus on content and provide some examples of different kinds of signs. This text is used by cities such as Spokane, Portland, and Tukwila.

Sign. Any materials placed or constructed, or light(s) projected, that (a) are used to inform or attract the attention of the public and (b) convey a message or image. Common examples and types include placards, A-boards, billboards, posters, murals, diagrams, banners, flags, or projected slides, images or holograms. The scope of the term “sign” does not depend on the content of the message or image conveyed. Display of merchandise is not included in the definition of sign. Any object, device, display, structure, or part thereof, which is used to advertise, identify, direct, or attract attention to a product, business, activity, place, person, institution, or event using words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images

General regulations

The following changes are proposed to the general sign regulations section – applying to all signage.

1. Add a clause to the “administration” section to reference and clarify that State laws regarding signs visible from the highway apply as well, and, when more restrictive, supersede City code. The State law is already referenced in the intent section of the sign code,; and this language is meant to strengthen that reference.

4. In addition to and notwithstanding the provisions of this section, all signs shall comply with all other applicable regulations and authorities, including, but not limited to, Chapter 47.42 RCW: Highway Advertising Control Act – Scenic Vistas Act and Chapter 468-66 WAC -- Highway Advertising Control Act.

2. Remove the term “outdoor advertising sign” from the two places it’s used in the code. It’s not used elsewhere and doesn’t need to be repeated here, especially considering the refined definitions of billboard.

D. Special regulations by type of sign. In addition to the general requirements for all signs contained in this section, and the specific requirements for signs in each zone, there are special requirements for the following types of signs:

9. Billboards (~~outdoor advertising sign~~).

Billboard regulations

The following changes are some of the initial changes proposed to the billboard regulations section based upon discussions with the Planning Commission to this point.

1. Clarify the language regarding the limitation on billboards, when new faces can be added to the inventory. Also, consolidate language and remove performance standards and application requirements from this subsection to a better location.

M. Billboards (~~outdoor advertising signs~~). Special regulations governing billboards are as follows:

1. Number of billboards and exchange and replacement of billboards.

- a. Limitation on number of billboard faces and size. Any person, firm, or corporation who maintains billboard structures and faces within the City of Tacoma shall be authorized to maintain only that number of billboard ~~structures and faces~~ and their associated structures that they maintained on April 12, 1988, except for transfers permitted in ~~subsection 1.c of this section~~. A person who maintains any such billboard ~~structures and faces~~ may, thereafter, relocate a billboard face ~~or structure~~ to a new location as otherwise authorized by this section. No other billboards shall be authorized, and there shall be no greater total number of billboard structures and faces within the City than the number that were in existence on April 12, 1988. In no case shall the number of billboard faces increase, and the square footage of billboard sign area to be relocated shall be equal to or less than the square footage of billboard sign area to be removed.
- b. Additional faces. That number of structures and faces shall include those for which permit applications had been filed prior to April 13, 1988. As unincorporated areas are annexed to the City of Tacoma, the total number of billboard structures and faces in that area will constitute an addition to the number authorized in the City of Tacoma.
2. Separate the exchange programs for standard billboards and digital billboards; incorporate the exchange ratio. Also, consolidate language and remove application requirements from this section (they are provided in the general sign requirements and on the application form).
 - c. Exchange of standard billboard faces: Upon removal of an existing standard billboard face ~~or structure~~, a relocation permit shall be issued authorizing relocation of the face to a new site. There shall be no time limit on the billboard owner's eligibility to utilize such relocation permits. In the event that a billboard owner wishes to remove a billboard and does not have immediate plans for replacement at a new location, an inactive relocation permit shall be issued. There shall be no time limit on the activation of the inactive permit and such permits are transferable upon the billboard owner's written permission. ~~The application for a relocation permit shall include an accurate site plan and vicinity map of the billboard face or structure to be removed, as well as a site plan and vicinity map for the new location. Site plans and vicinity maps shall include sufficient information to determine compliance with the regulations of this chapter. The above provisions shall not apply to billboards whose permit applications were applied for prior to April 13, 1988, and not erected, unless the applicants or owners agree within 60 days to have such billboards, subject to all the provisions of this chapter.~~
 - e. ~~Relocation permits shall be transferable upon the billboard owner's written permission.~~
 - d. Exchange of digital billboards. Upon removal of at least five (5) existing standard billboard faces and exchange of up to ten (10) relocation permits (or any combination of at least 5 existing faces with an adequate number of relocation permits to equal 15), a digital billboard permit shall be issued authorizing installation of a digital billboard in compliance with the standards in this chapter. Should the applicant be unable to secure the exchange of relocation permits, eight (8) faces shall be removed.
 - d. ~~In no case shall the number of billboard faces or structures increase, and the square footage of billboard sign area to be relocated shall be equal to or less than the square footage of billboard sign area to be removed.~~
3. Clarify demolition permits and discuss them separately from the exchange provisions. In general, focus on the term "faces" and remove the term "structure" so that apple-to-apple comparisons can be made.

e. Demolition permits. Removal of all faces from a billboard structure shall also require the issuance of a demolition permit for the structure itself, and removal of billboard faces and their associated structures shall be completed prior to the installation of relocated billboard faces ~~or structures. The billboard owner shall have the right to accumulate the amount of square footage to be allowed, at the owner's discretion, to new sign faces and structures permitted under this chapter.~~

4. Add electrical equipment to the appearance section of the code.
 2. Maintenance. All billboards shall be maintained in good repair in compliance with all applicable building code requirements. The exposed area of backs of billboards must be covered to present an attractive and finished appearance.
 3. Aesthetics and screening. Each sign structure must, at all times, include a facing of proper dimensions to conceal back bracing and framework of structural members and/or any electrical equipment. During periods of repair, alteration, or copy change, such facing may be removed for a maximum period of 48 consecutive hours.

5. Incorporate lighting standards and performance measures.
 4. Indirect or internal lighting shall be the only allowable means of illumination. No flashing signs shall be permitted. In addition:

- a. No flashing signs shall be permitted.
- b. Signs shall not imitate or resemble traffic control devices.
- c. All images shall be static; no animation or motion pictures are allowed.
- d. For digital billboards, the minimum static image time is 8 seconds.
- e. For digital billboards, the maximum transition time for images is 2 seconds.
- f. Digital Billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at the following distances, depending on the size of the Digital Billboard sign face:

<u>Face Size</u>	<u>Distance to be measured perpendicular to the pole:</u>
<u>12' x 25'</u>	<u>150'</u>
<u>10'6" x 36'</u>	<u>200'</u>
<u>14' x 48'</u>	<u>250'</u>

- g. Each digital billboard must have a light sensing device that will adjust the brightness as ambient light conditions change.
- h. Each digital billboard must have a "fail safe" programming that either freezes the static image or turns the billboard off in the case of malfunction.
- i. Digital billboards shall not be operated between the hours of 12:00 a.m. (midnight) and 5:00 a.m.

6. Address height. Based upon Planning Commission discussion, height is proposed to be the same as the height limit for on-premises free-standing signs, or 35 feet.

6. Height. The maximum height of all billboard signs shall be ~~30-35~~ feet, except in the PMI District, where the maximum height shall be 45 feet. For the purpose of this section, height shall be the distance to the top of the normal display face from the main traveled way of the road from which the sign is to be viewed. Rooftop signs including billboards are prohibited.



City of Tacoma
Community and Economic Development Department

Billboard Regulations – Planning Commission Presentation

Size Benchmarking

Following is some information about how certain cities in Washington address billboards and allowable size.

City	Size limit in General Commercial District	Notes
Bellingham	300 square feet	Shall not exceed the size of the billboard it's replacing
Kent	300 square feet	
Seattle	672+ square feet	Embellishments* can add area, limited to 300 square feet in certain zones
Tacoma	300+ square feet	Embellishments can add area
Tukwila	500+ square feet	Up to 672 square feet when provider includes public service announcements and emergency alerts

*Embellishments are cut-outs, shapes, designs – something that adds to the regular rectangular shape.

Staff analysis:

Digital billboards can be limited to current size limits for standard billboards – 300 square feet. Other options include increasing the allowable size for digital boards, allow increased size if the exchange ratio increases, allow increased size in certain cases (in different zoning districts, on busier roads, if there's an increase in the exchange ratio), allow digital billboards which are replacing standard billboards to be the greater of 300 square feet or the size of the billboard being replaced. These standards would apply only to billboards after the first 10 faces are constructed.

Policy Choices:

Item	Current/ No Change Option	Option 2	Option 3
Maximum size	300 square feet+	Greater of 300 square feet or the size of the billboard being replaced at the site	300 square feet, larger for larger exchange ratio

Code Language

City of Bellingham Municipal Code:

Title 20 LAND USE DEVELOPMENT, Chapter 12 GENERAL STANDARDS

20.12.040 - SIGNS

E. Billboard Standards.

1. A billboard may be relocated or replaced under the following provisions:
 - c. A holder of a Billboard Relocation Permit may combine multiple small billboard faces to make larger boards of up to the maximum size (300 square feet).
2. A billboard may be relocated provided:
 - b. A relocated billboard face will not exceed the size of the original face or 300 square feet, whichever is smaller. A holder of multiple Billboard Relocation Permits may trade billboard face areas between permits. For instance, two 140 square foot billboard faces may be relocated as one 280 square foot billboard face. If a billboard face is eliminated in the relocation process, such as by combining multiple faces, the eliminated face may not be recreated.

City of Kent Municipal Code:

Chapter 15.06 Sign Regulations
15.06.040.R Off-Premises Signs

3. Standards

- a. *Maximum size.* As of the effective date of the ordinance codified in this subsection, the maximum size per sign face is three hundred (300) square feet.

Seattle Municipal Code:

SMC 23.55.014 Off-premises signs.

A. Advertising Signs.

4. **Maximum Sign Face Area.** The maximum total area of any advertising sign in Commercial 1 and 2, Industrial and Downtown (except Downtown Mixed Residential/Commercial) zones shall be six hundred seventy-two (672) square feet, with a maximum vertical dimension of twenty-five feet (25') and a maximum horizontal dimension of fifty feet (50'), provided that cutouts and extensions may add up to twenty percent (20%) of additional sign area. The maximum total area of any advertising sign in Downtown Mixed Residential/Commercial (DMR/C) zones shall be three hundred (300) square feet, except for visually blocked signs which may be a maximum of six hundred seventy-two (672) square feet.

City of Tukwila Municipal Code:

Chapter 19.38 BILLBOARDS

19.38.040 New Billboards

No new billboards, neither digital nor standard, will be permitted within the City unless the applicant reduces the total number of existing billboards within the City sending areas.

4. The following requirements shall apply to new billboards within designated receiving areas:
 - b. Area of an individual face shall not exceed 500 square feet. The area of a face can be increased to up to 672 square feet if the billboard operator agrees to make the billboard

available for public service announcements and emergency alerts. Public service announcements shall include, but not be limited to, advertising for civic events such as Tukwila Days and the Backyard Wildlife Fair To qualify for the billboard area increase a billboard provider must provide a total of 28 days of message time for civic events. Emergency alerts shall include those messages necessitating the immediate release of information pertaining to the protection and preservation of public safety. Emergency alerts include, but are not limited, Amber Alerts and emergency evacuation orders. The Director of Community Development, working with the Director of Public Works, Director of Parks and Recreation, Police Chief, and Fire Chief, shall develop administrative rules that shall be used for public service and emergency alerts. The rules shall specify requires message duration and length of display for both public service announcements and emergency alerts.

Bellingham: <http://www.cob.org/web/bmcode.nsf/CityCode?OpenView>

Kent: <http://www.codepublishing.com/wa/kent/>

Seattle: <http://clerk.seattle.gov/~public/toc/t23.htm>

Tukwila: <http://www.ci.tukwila.wa.us/clerk/tmc/title19.pdf>



City of Tacoma
Community and Economic Development Department

Billboard Regulations – Planning Commission Presentation

Buffer and Dispersal Benchmarking

Following is some information about how certain cities in Washington address billboards and their location relative to sensitive uses (buffering) and each other (dispersal).

Buffering

City	Buffer from Residential	Buffer from Other Uses	Buffer from Intersection for visibility/clearance
Bellingham	300 feet, unless not visible	None Stated	100 Feet
Kent	None Stated	None Stated	300 Feet
Seattle	50 feet	500 Feet	None Stated
Tacoma	250 feet	250 feet	None Stated
Tukwila	None Stated	None Stated	Setbacks from ROW

Dispersal

City	Distance between Billboards, Commercial District	Max Billboards in Area
Bellingham	300 feet	4 billboards per 1,320 lineal feet (1/4 mile)
Kent	Not stated	4 structures per 1,000 lineal feet
Seattle	300 feet	5 structures per 2,640 lineal feet (1/2 mile)
Tacoma	100 feet	4 billboards, 2 structures per 1,000 lineal feet
Tukwila	500 feet	None Stated

Staff analysis:

The regulations for dispersal and buffering vary widely among jurisdictions. Tacoma’s current buffering/dispersal regulations will provide sufficient locations for the siting of digital billboards beyond the first 10, which may meet the commercial needs of billboard providers. Changes may be considered to provide a distance from intersections, to simplify the location criteria, to allow for location closer to residential areas if there’s no visual impact, or the like.

Policy Choices:

Item	Current/ No Change Option	Option 2	Option 3
Buffer from Residential	250 feet	Keep at 250 feet, add exception for non-visible	Decrease distance
Buffer from other uses	250 feet	Keep at 250 feet, add exception for non-visible	Keep 250 feet, consider removing uses from list
Buffer from Intersection	None	No buffer but City Engineer has authority to restrict a location, design, orientation if there is a safety concern)	100 feet
Distance between billboards	100 feet, plus other restrictions on lineal feet of zoning	500-foot radius, opposite-side zoning	500-foot radius
Max Billboards in Area	4 faces, 2 structures per 1000 lineal feet	Delete and rely on 500-foot radius	4 faces per 1000 lineal feet (same as existing, but doesn't include structures)

Code Language

City of Bellingham Municipal Code:

Title 20 LAND USE DEVELOPMENT, Chapter 12 GENERAL STANDARDS
 20.12.040 - SIGNS

E. Billboard Standards.

3. Performance Standards.

- d. A billboard shall not be located within 300' of a residential zone unless it can be demonstrated the structure will not have a significant negative visual impact on adjacent residences. This determination shall be made by the Director at least 10 days after written notice is mailed to residential property owners within 300' of the proposed structure.
- f. The minimum spacing between billboards on the same side of the street facing traffic in Commercial and Planned Designations is 300' and in Heavy and Light Industrial Designations is 150'.
- h. Billboards are not allowed in required setbacks from Residential and Public Designations or in the right-of-way, as measured from the vertical extension of any portion of the billboard.
- j. No more than two billboard structures may be located within 100' of all the property corners of an intersection.
- k. The maximum number of billboards on both sides of a street shall be 4 within any 1,320'.

City of Kent Municipal Code:

Chapter 15.06 Sign Regulations
15.06.040.R Off-Premises Signs

3. Standards

- c. *Distance from any intersection.* Off-premises signs shall be located a distance of three hundred (300) feet from any intersection.
- e. *Spacing.* Not more than four (4) sign structures per one thousand (1,000) lineal feet are permitted.

Seattle Municipal Code:

SMC 23.55.014 Off-premises signs.

A. Advertising Signs.

- 5. All advertising signs shall be located at least fifty feet (50') from any lot in a residential zone, and at least five hundred feet (500') from any public school grounds, public park, or public playground, or community center. For purposes of this section, a public park or public playground means a park or playground at least one (1) acre in size and a community center must be publicly owned.

E. Development Standards Applicable to All Off-premises Signs.

1. Dispersion Standard.

b. Advertising Signs.

- (1) Not more than a total of five (5) advertising sign structures shall be permitted when counting both sides of a street within a linear distance of two thousand six hundred forty feet (2640'), one-half (1/2) mile).
- (2) There shall be a minimum distance of three hundred linear feet (300') between advertising sign structures on the same side of the street; a maximum of two (2) advertising sign structures within three hundred linear feet (300') when counting both sides of the street; and, a minimum distance of one hundred radial (100') between advertising sign structures.
- (3) Visually blocked advertising signs shall count as one-half (1/2) a structure, and may be within any distance from each other on the same side of the street as long as they are oriented in opposite directions. Visually blocked advertising signs oriented in the same direction or on opposite sides of the street are subject to the spacing criteria under subsection E1b(2) of this section.

City of Tukwila Municipal Code:

Chapter 19.38 BILLBOARDS

19.38.040 New Billboards

No new billboards, neither digital nor standard, will be permitted within the City unless the applicant reduces the total number of existing billboards within the City sending areas.

- 4. The following requirements shall apply to new billboards within designated receiving areas:

- c. Billboards shall be spaced at least 500 feet away from any existing or proposed billboard.
- e. No portion of the billboard shall be within ten feet of any adjacent right of way.
- f. No portion of the billboard's foundation shall be within 15 feet of the adjacent right of way. The billboard shall meet any required side or rear setback in the zone in which it is located.

5. Billboard Placement, Street Tree Pruning.

Upon application to place a billboard within a designed receiving area, the City and the applicant shall work to determine a billboard location that will not be visually obscured either now or in the future by surrounding street trees. If placement of the billboard cannot be accomplished in such a way that will avoid conflicts between the billboard and current or future street trees pruning of the street trees, is permitted, provided...

Bellingham: <http://www.cob.org/web/bmcode.nsf/CityCode?OpenView>

Kent: <http://www.codepublishing.com/wa/kent/>

Seattle: <http://clerk.seattle.gov/~public/toc/t23.htm>

Tukwila: <http://www.ci.tukwila.wa.us/clerk/tmc/title19.pdf>



Billboard Regulations – Planning Commission Presentation
Technical Details, Benchmarking

Following is some information about how certain cities in Washington address technical details associated with billboards, such as lighting and hours of operation.

City	Lighting Restriction	Image time, transition restriction
Bellingham	No movement	Not Stated
Kent	No Movement	No video
Seattle	Limit on wattage	Seattle does not allow electronic billboards, other electronic signs are regulated to image time, off time
Tacoma	No glare, no flashing	Not Stated
Tukwila	Yes – foot-candles at specified distances	Yes, 8 seconds

Staff analysis:

Of the benchmarked cities, most do not address digital billboards specifically – the code is either silent (as Tacoma’s) or video technology is not allowed. The City of Tukwila has the most recently adopted code which accommodates digital sign technology for billboards. It incorporates what appear to be general digital billboard industry standards relative to static image time, brightness, and display transition time.

Code Language

City of Bellingham Municipal Code:

Title 20 LAND USE DEVELOPMENT, Chapter 12 GENERAL STANDARDS
20.12.040 - SIGNS

E. Billboard Standards.

3. Performance Standards.

- c. Signage shall not be a hologram or appear to move. Three-dimensional extensions from billboard faces are allowed if they do not appear to be three-dimensional from the front. Lighting shall be indirect and glare shielded from traffic and nearby residences. Lighting shall not be within the billboard graphic, move, flash, or blink.

[Staff Note: The Bellingham code does not address electronic signs specifically, and defines a billboard as a changeable copy sign of a certain size.]

City of Kent Municipal Code:

Chapter 15.06 Sign Regulations

15.06.030 Prohibited signs.

The following signs are prohibited in all districts within the municipal boundaries of the city, except as specifically allowed as temporary signs:

- B. Any sign using the words “stop,” “look,” or “danger,” or any other word, symbol, or character which might confuse traffic or detract from any legal traffic control devices.
- E. Signs within seventy-five (75) feet of the public right-of-way which are animated, revolving more than eight (8) revolutions per minute, blinking or flashing, except public service signs such as those which give the time, temperature, and humidity.
- G. All lighted signs which are adjacent to and directed toward a residential district and which detract from the welfare of the residential district.

15.06.040.R Off-Premises Signs

- 5. *Tri-vision panels.* Subject to applicable permitting requirements, the allowable faces on off-premises sign structures listed on the official city of Kent off-premises sign inventory may contain tri-vision panels which rotate, subject to KCC 15.06.030(E). Tri-vision panels are the only type of moving parts authorized on off-premises signs.
- 6. *Unpermitted signs.* Owners of off-premises signs that have unpermitted tri-vision panels as of the date of the ordinance codified in this subsection shall have one (1) year from the effective date of the ordinance enacting this provision to apply for and obtain permits for such.
- 7. *Electronic video signs prohibited.* Off-premises signs that contain electronic video displays similar to or otherwise depicting a television screen are prohibited.

Seattle Municipal Code:

SMC 23.55.014 Off-premises signs.

- E. Development Standards Applicable to All Off-premises Signs.
 - 3. Lighting. No off-premises sign shall be incandescently illuminated by more than one and one-quarter (1 1/4) watts of electrical power per square foot of sign area, or be fluorescently or otherwise illuminated by more than one (1) watt of electrical power per square foot of sign area. Off-premises signs that include lights as part of the message or content of the sign (chasing and message board advertising signs) are prohibited.

[Staff Note: The City of Seattle regulates signs using “video display methods” in SMC23.55.005, but only allows them for on-premises signs. The following do **not** apply to billboards, but are informative nonetheless.]

SMC 23.55.005 Video display methods

- A. Development standards.
 - 7. Duration: Any portion of the message that uses a video display method shall have a minimum duration of two (2) seconds and a maximum duration of five (5) seconds. Calculation of the duration shall not include the number of frames per second used in a video display method. Calculation of the maximum duration shall include the time used for

any other display methods incorporated within that portion of the message displayed using a video display method;

8. Pause Between Video Portions of Message. There shall be twenty (20)seconds of still image or blank screen following every message using a video display method;
10. Between dusk and dawn the video display shall be limited in brightness to no more than five hundred (500) units when measured from the sign's face at its maximum brightness; and
11. Signs using a video display method may be used after dusk only until 11:00 p.m. or, if the advertising is an on-premises message about an event at the site where the sign is located, for up to one (1) hour after said event.

City of Tukwila Municipal Code:

Chapter 19.38 BILLBOARDS

19.38.040 New Billboards

No new billboards, neither digital nor standard, will be permitted within the City unless the applicant reduces the total number of existing billboards within the City sending areas.

4. The following requirements shall apply to new billboards within designated receiving areas:

g. Lighting of billboards:

- 1) The billboard may be illuminated; non-digital billboards shall utilize lights which shine directly on the sign structure. Digital billboards shall not operate at a brightness level of more than 3-foot candles above ambient light as measured using a foot candle meter at a pre-set distance as outlined in Table 3.

Table 3

Billboard Style	Dimensions	Measurement Distance
Posters	12 x 24 feet	150 feet
Bulletins	14 x 48 feet	250 feet

- 2) Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.
- 3) The technology currently being deployed for digital billboards is LED (light emitting diode), but there may be alternate, preferred and superior technology available in the future. Any other technology that operates under the maximum brightness stated in Table 3 above shall be permitted.
- 4) If a digital display is proposed, the rate of change for the sign shall not exceed a frequency of more than once every 8 seconds.
- 5) One sign, 8.5 square feet in size shall be permitted to be attached to the billboard. The sign can only be used to identify the operator of the billboard. Address or billboard identification numbers are permitted and shall not exceed an area of three square feet.

[Staff note: Tukwila also allows larger signs if the operator agrees to use the sign for public service announcements.]

February 2, 2011
Planning Commission
Billboards – Technical Details

Bellingham: <http://www.cob.org/web/bmcode.nsf/CityCode?OpenView>

Kent: <http://www.codepublishing.com/wa/kent/>

Seattle: <http://clerk.seattle.gov/~public/toc/t23.htm>

Tukwila: <http://www.ci.tukwila.wa.us/clerk/tmc/title19.pdf>



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-3

TO: Planning Commission

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

SUBJECT: 2011 Annual Amendment

DATE: January 27, 2011

At the next meeting on February 2, 2011, the Planning Commission will complete their initial review of the proposed amendments to the Comprehensive Plan and Land Use Regulatory Code prior to their release for public review and comment. Once authorized, the proposed amendments including the staff analysis reports and appropriate supporting materials will be compiled together into a single document and made available to the public, state agencies and other required reviewers. The document will be posted online and distributed to libraries and offices of the city. A copy also will be provided to Commission members.

In the interest of conserving resources, a complete draft of the document was not prepared for Commission review. Instead attached is a summary page describing each of the proposed amendments and the status of the Commission's review to date. In some instances, the Commission completed their review of the proposed amendment and staff analysis report and the summary page is the only attachment. For other amendments, the Commission has not reviewed the staff analysis reports and/or there are remaining components of the amendments that the Commission has asked to have further discussion. In these instances, additional information is attached to the summary page for that particular amendment.

After the Commission's review and discussion of the attached materials, the Commission will have the opportunity to vote on each amendment, as may be revised by the Commission. This will be followed by a vote to authorize the release of the entire amendment package for public distribution and comment. The Commission also will be asked to set March 2, 2011 as the date for the public hearing to receive testimony.

If you have any questions concerning the above, please contact me at 591-5210 or dstenger@cityoftacoma.org.

DS:ds

c. Peter Huffman, Assistant Director

Attachments



2011 Annual Amendment Application No. 2011-01
49th & Pine Intensity and Zoning Change

SUMMARY

Application #:	2011-01
Applicant:	Westmall Court Pine Street, LLC
Contact:	Paul Casey, The Casey Group Architects
Type of Amendment:	Land Use Intensity Change, Area-wide Rezone
Current Land Use Intensity:	Low and Single-Family
Current Area Zoning:	C-1 (General Neighborhood Commercial District) and R-2 (Single-Family Dwelling District)
Size of Area:	Approx. 5 acres
Location:	South 49 th & Pine Streets (4910 & 4924 South Pine Street)
Neighborhood Council area:	South Tacoma
Proposed Amendment:	Change the Comprehensive Plan Intensity designation from Low and Single-family to Medium, and change the zoning classification from R-2 and C-1 to R-4L (Low-Density Multiple-Family Dwelling District)

General Description of the Proposed Amendment:

The two-parcel, 5-acre project site currently contains two different intensity designations and two different zoning designations. The majority of the site is designated as Low Intensity, while a small portion is designated as Single-family Intensity. The majority of the site is zoned R-2, while a small portion is zoned C-1. The proposed change would create one intensity classification (Medium Intensity) and one zoning classification (R-4L) for the entire site, to allow for the construction of a multi-family apartment complex of approximately 120 units.

Planning Commission's Action on February 2, 2011:

The Planning Commission will review the staff analysis of the above amendments and on February 2, which incorporates the previous direction from the Commission. Upon completing the review, the Commission will be requested to authorize the release of the proposed amendments, as may be modified, for public review and comment.

Attachment:

Staff Report for Annual Amendment Application #2011-01.



2011 Annual Amendment Application No. 2011-01
49th & Pine Intensity and Zoning Change

STAFF REPORT

Application #:	2011-01
Applicant:	Westmall Court Pine Street, LLC
Contact:	Paul Casey, The Casey Group Architects
Type of Amendment:	Land Use Intensity Change, Area-wide Rezone
Current Land Use Intensity:	Low and Single-Family
Current Area Zoning:	C-1 (General Neighborhood Commercial District) and R-2 (Single-Family Dwelling District)
Size of Area:	Approx. 5 acres
Location:	South 49 th & Pine Streets (4910 & 4924 South Pine Street)
Neighborhood Council area:	South Tacoma
Proposed Amendment:	Change the Comprehensive Plan Intensity designation from Low and Single-family to Medium, and change the zoning classification from R-2 and C-1 to R-4L (Low-Density Multiple-Family Dwelling District), to allow for construction of a multi-family apartment complex on the site.

General Description of the Proposed Amendment:

This amendment proposes to change the Comprehensive Plan Intensity designation and zoning classification for two parcels, comprising approximately 5 acres, located along the west side of South Pine Street, between South 48th and South 50th Streets. The applicant indicates that the proposed changes are designed to allow for the construction of a multi-family apartment complex on the site which would contain approximately 120 units.

The project site currently contains two different intensity designations and two different zoning designations (see Exhibits B and C). The majority of the site is designated as Low Intensity, while a small



Aerial view of the project site



Aerial view of the project site and surrounding area

portion in the southeast corner is designated as Single-family Intensity. Additionally, the majority of the site is zoned R-2 (Single-Family Dwelling District), while a small portion in the northeast corner is zoned C-1 (General Neighborhood Commercial District). The proposed change would create one intensity classification for the entire site (Medium Intensity) and one zoning classification for the entire site (R-4L – Low-Density Multiple Family Dwelling District).

It should also be noted that this area is located within the South Tacoma Groundwater Protection District (STGPD). The STGPD is a zoning overlay district designed to help protect the South Tacoma groundwater aquifer, which serves as a significant source of drinking water for the City. The STGPD includes certain additional restrictions on specific high impact land uses. This proposal does not involve any of those types of uses and while this proposal would change the base zoning for the site, it would not affect its location within the STGPD.

Project Background:

During the assessment phase for this application, the Planning Commission considered expanding the review area to include the two blocks east of and adjacent to this site. These two adjacent blocks lie between South Pine and South Oakes Streets, and between South 48th and South 50th Streets. This consideration revolved around the Commission’s initial consideration that an expansion of multi-family zoning in this area may be more appropriately bounded on the east by South Oakes Street instead of Pine Street. The Commission reviewed some additional analysis relative to the condition of the properties on the two blocks immediately east of and adjacent to the proposed amendment site. This analysis generally showed that these two blocks contain a mix of owner-occupied and rental homes of varying condition, but that there was no significant difference in the rental rates or condition of the homes on these two blocks

when compared against the surrounding single-family residential neighborhood. Based on this analysis and further discussions, the Commission elected not to expand the review area for this application.

Additional Information:

The small parcel, which is located at the corner of South 50th & Pine, currently contains one single-family home. The large parcel, which comprises the majority of the project site, was, since the early 1950's, the site of the South End Boys and Girls Club. In the early 1990's, the site was considered and permits were obtained for construction of an elementary school on the property, but ultimately that project did not move forward. The Boys and Girls Club remained in operation until 2009, when it was closed as part of the Boys and Girls Club efforts to consolidate facilities and programs at the new Topping Regional HOPE Center which is located on South 66th Street. In 2009, the property was sold to the current owners and the existing buildings were subsequently demolished.

The project site is located within the Edison-Gray neighborhood, within the South Tacoma Neighborhood Council area. The site is immediately south of and abuts the Tacoma Mall Mixed-Use Center, which is also recognized as a Regional Growth Center in Vision 2040. The Tacoma Mall shopping center is approximately 2 blocks to the northeast of the site. Properties to the north of the site include small commercial and office uses and large multi-family apartment complexes, many of which are owned by the applicant. The property to the west contains the Tacoma Cemetery. Properties to the east, across South Pine Street, and to the south, across South 50th Street, contain single-family homes.

South Oakes Street is classified as a minor arterial and serves as the primary north-south corridor through this area (the transition from South Pine Street to South Oakes Street occurs at South 47th, just to the north of this site). The portion of South Pine Street adjacent to the project site is in relatively poor condition and does not generally include curb and gutter or sidewalks. South Oakes Street, between 48th and 50th, is in relatively good condition with continuous curb, gutter and sidewalk.

Public Outreach:

On September 28, 2010 staff hosted an open community meeting at the South Park Community Center to discuss and get early public input on the proposed zoning and plan changes proposed in the South 49th and Pine Streets area. 10 people attended the meeting, including Commissioner Beale, two representatives of the applicant, and seven members of the public, including residents of the area, representatives of the South Tacoma Neighborhood Council, and a representative of Safe Streets. Staff provided an overview of the proposed changes, the review process and the purpose of the meeting. The applicant's representatives provided a description of their proposed development. The meeting was then opened for public comments and questions and there was a lively and spirited discussion. Of the seven citizens attending, none of them were generally in favor of the project. The primary concerns expressed and issues discussed at the community meeting revolved around:

- The prospective for additional apartments to bring more crime to the area, which is already experiencing a growing crime problem.
- The prospect of increased density and having more renters in the neighborhood, and the resulting increase in traffic and potential reduction in property values.
- Many were upset about the development that has occurred over the past 5+ years in the adjacent portion of the Tacoma Mall Mixed-Use Center and concerned that the kinds of negative issues that have arisen in that area could spread farther into the neighborhood if more multi-family housing is built.

Staff attended the South Tacoma Neighborhood Council meeting on November 17, 2010. Approximately 40 community members were in attendance at the meeting. Comments varied, although many were consistent with the concerns expressed during the community meeting. At this meeting, the applicant indicated their agreement with much of the community’s concerns regarding recent development in the West Mall area, the business practices they utilize to better ensure quality tenants in their projects, and the community efforts they have been a part of that are trying to address the issues in this area. They also indicated their feeling that much of the problem that has arisen recently has been associated with smaller rental projects and less so with larger projects like they operate and are proposing for this site.


The Planning Commission conducted a site visit to view the area on September 1, 2010. Approximately 10 community members joined the Commission on the tour.

Applicable Provisions of the Growth Management Act (and other state laws):

The proposed amendment concerns a change from a lower intensity zoning to a higher intensity zoning within an area that would be characterized as “urban” under the Growth Management Act (GMA). No specific requirements under the GMA are directly applicable to this amendment; however, it is generally consistent with the GMA goals to focus growth in urban areas and encourage the provision of a variety of housing densities and types. This proposed amendment would allow for construction of a multi-family project on a vacant property that is already classified for non-single-family development. The GMA also requires consistency between the Comprehensive Plan and development regulations, which includes zoning classifications. The proposed amendment involves both a change to the Comprehensive Plan and to the zoning of the property to ensure consistency.

Applicable Provisions of the Comprehensive Plan:

The City of Tacoma Comprehensive Plan contains a variety of goals and policies related to growth and development and the preservation and enhancement of existing neighborhoods. Many of the Plan policies are associated with the basic growth strategy and the applicable Land Use Intensity designation for a particular area. The project site currently contains two different intensity designations and two different zoning designations. The majority of the site is designated as Low Intensity, while a small portion in the southeast corner is designated as Single-Family Intensity. The proposed amendment would change the intensity classification for the whole site to Medium Intensity. The chart below outlines the four Intensity classifications and type of development generally associated with each, and highlights the two that are most associated with this proposal. Following the chart is a sample of some of the key policies associated with these two Intensity classifications.



Designation	General Development Style
Single-family	Single-family homes with community amenities
Low	Duplexes, triplexes and multi-family housing with some limited neighborhood commercial uses
Medium	Multi-family residential and commercial development, including shopping centers, retail, restaurant, and office uses.
High	Larger concentrations of residential and commercial development, such as high-rise residential and office towers and regional shopping centers, as well as industrial development.

GROWTH STRATEGY AND DEVELOPMENT CONCEPT ELEMENT

General Description of Medium Intensity Development:

Medium intensity development generates moderate activity patterns and traffic generation. Commercial or industrial activity of community-wide significance and medium density residential development are examples of medium intensity development. Mixed use centers other than Downtown and the Tacoma Mall area are further examples of medium intensity areas.

General Description of Low Intensity Development:

Low activity patterns and traffic generation characterize low intensity development. Low intensity development is predominantly single-family residential development, but can include duplexes, triplexes, and small-scale multifamily development. Supportive neighborhood convenience commercial establishments and community facilities such as churches, schools, libraries and fire stations also are considered low intensity uses. Open space areas may also be considered a low intensity use and can include recreational areas and parks. To better differentiate the range of uses within low intensity areas, single-family detached housing areas are delineated separately.

General Relationship of Intensity and Zoning Classifications:

Comprehensive Plan Designations	Typical Zoning Classifications	
Medium Intensity	R-4L R-4 C-2 PDB M-1 M-2	Low-Density Multiple Family Dwelling District Multiple Family Dwelling District General Community Commercial District Planned Development Business District Light Industrial District Heavy Industrial District
Low Intensity	R-3 R-4L HMR-SRD T C-1	Two Family Dwelling District Low-Density Multiple Family Dwelling District Historic Mixed Residential District Transitional District General Neighborhood Commercial District
Single Family Detached Housing Area	R-1 R-2 R-2SRD	One-Family Dwelling District One-Family Dwelling District Residential Special Review District

Discussion: The proposal involves both a change in Land Use Intensity and zoning. The proposed R-4L zoning classification is consistent with the proposed Medium Intensity Comprehensive Plan designation and would generally allow for the project outlined by the applicant. The Planning Commission has usually processed plan changes for smaller areas but without companion area-wide rezones, with the understanding that a subsequent site-specific rezone would be filed and processed through the Hearing Examiner. In this case, the applicant has requested both the plan and zoning changes.

Aside from the recommending body (the Hearing Examiner vs. the Planning Commission), there are a few differences between a site-specific rezone and an area-wide rezone. The most obvious procedural difference is that site-specific rezones provide an avenue for specific conditions to be attached to their approval. Through this review there has been some concern expressed about the potential uncertainty associated with an area-wide rezone and whether conditions, which could not be applied through the area-wide process, would be needed in order to keep the project compatible. While an area-wide rezone removes one avenue for conditioning the project based on such comments, the proposed area-wide rezone

would restrict the site to multi-family or similar residential use and generally prevent the development of commercial uses, such as shopping centers, office buildings, and restaurants on the site, all of which could potentially be allowed if the site were just changed to Medium Intensity. This restriction extends for at least two years and likely beyond as future rezones are limited to circumstances where “substantial changes in conditions have occurred.”

GENERALIZED LAND USE ELEMENT

Growth and Development Intent: *(partial)*

Medium and high intensity uses will be encouraged to develop in concentrations in order to better use the land, limit the spread of higher intensity development, protect low intensity residential neighborhoods and enable the economical provision of public facilities and services.

New development should be compatible and “fit in” with the character and nature of existing development. Compatible developments would possess attributes similar and consistent with the main or essential characteristics exhibited by surrounding developments. These characteristics may include building shape and style, orientation and setbacks, architectural details, circulation patterns, location of parking, landscaping, open spaces and streetscape. This does not mean that dissimilar uses cannot be located in the same area, but rather these uses must be designed, scaled and situated in such a way that they are capable of existing in a harmonious manner. An appropriate location for dissimilar uses would be on sites possessing characteristics such as a natural buffer, a location between different intensity levels of development, or a location on a higher volume arterial.

Residential Development Intent: *(partial)*

The single-family detached house, that is, a single home on an individual lot, is the most predominant type of residential structure in the city. It is the preferred living mode for many people and is associated with a relatively quiet and stable neighborhood environment. Other types of housing such as duplexes, apartments, townhomes and condominiums are also needed and desired by large segments of the population. Housing choices are influenced by income, family size, age, lifestyles, and other factors and can change during a person's lifetime. A wide variety of housing types are needed within a community to serve the varied needs of residents.

It is intended that higher intensity residential development locate within mixed-use centers and in concentrations along some major transportation corridors in areas of similar character and intensity.

Density within most predominately single-family neighborhoods will stay at or near existing levels. Density may increase slightly in some neighborhoods as a result of infill development and the development of accessory unit housing. Densities will be higher in medium and high intensity areas than those found in low intensity residential areas.

It is intended that the viability of residential areas will be strengthened by eliminating incompatible land uses, protecting natural physical features, promoting quality design and encouraging repair and rehabilitation of existing residential structures. Adequate streets and public facilities are also important to meet the needs of the citizens living in residential areas. The viability of the city's urban residential areas is essential if they are to continue to provide an acceptable alternative to suburban living.

Multi-family Development Design Guidelines:

The following design guidelines should be used, considered and applied as may be appropriate as conditions of approval for multifamily developments.

Site layout

Compatibility of the proposed multifamily development with the character and scale of nearby single-family areas is important. Buildings designed with a sense of height and bulk not substantially different from that of nearby one-family dwellings should be located on the perimeter and near adjacent single-family areas.

Parking

Parking areas should be screened from adjacent single-family residential areas. No parking or vehicular circulation should occur in setback areas. Natural vegetation and topography will be preserved to the extent possible.

Landscaping

A heavily vegetated buffer of sufficient height to provide for visual screening should be provided in the setback areas near adjacent or abutting residential areas. Natural vegetation and topography should be preserved to the extent possible.

Access

The site should be located on an arterial or have direct access to an arterial street and significant increase in traffic volumes should be avoided as a result of the proposal on residential streets or portions of residential streets where a predominance of single-family houses exists.

Other

Lighting and glare should be shielded or directed away from single-family residential areas. Mechanical equipment or outdoors activities such as storage, loading, utilities, and trash containers which may be visually obtrusive or which create disturbing noises or odors should be oriented away from single-family areas. They should be integrated into the design of the building, soundproofed, and screened from view in an attractive and effective manner. Recreational or service facilities should be located away from single-family areas.

Discussion: The Comprehensive Plan includes significant policy discussions calling for new multi-family development to be designed to ensure reasonable compatibility with surrounding development, particularly when locating adjacent to single-family areas, as is the case here. While the preliminary design shown by the applicant utilizes many of these techniques to improve compatibility, such as placing parking toward the rear of the site, transitioning building heights down on the portions close to the surrounding homes, and locating access at the northeast corner, this is just a preliminary design. Since the R-4L district is designed to serve as a transition zone between higher and lower intensity development, the existing development standards for this district include a number of standards to ensure reasonable compatibility, such as density limitations, setbacks, height limits, and yard space requirements. In addition, environmental review conducted as part of the development process, when specific plans are submitted, provides additional discretionary authority to address potential incompatibilities and ensure that the project is developed consistent with the policies of the Comprehensive Plan.

NEIGHBORHOOD ELEMENT

South Tacoma – Residential Intent: *(partial)*

Single-family areas within South Tacoma offer a variety of housing styles, ages, and values. A majority of this housing is older with some newer infill structures. This variety provides affordable housing for moderate to lower income households especially for workers employed at nearby commercial and industrial facilities.


Multifamily residential uses range from small duplexes and triplexes to large apartment buildings. It is intended that medium density multifamily residential uses continue and that future development be encouraged along arterial streets and near major employment centers such as the Tacoma Mall. At the same time, older single-family neighborhoods such as Arlington, Edison-Gray, Manitou and Oakland/Madrona should be preserved and protected.

Overall, the policy intent is to encourage residential development in areas currently designated for more intense uses either through zoning or land use intensity while minimizing the impact of growth in existing single-family detached housing areas. To address recreation deficiencies in South Tacoma, new residential development should be encouraged to set aside open space and recreation areas to meet the needs of future residents. It is the intent of the following policies to retain or improve the quality of South Tacoma’s housing stock.

Discussion: Even though this site is primarily zoned single-family, it is and has been designated for Low Intensity development in the Comprehensive Plan, indicating that uses other than single-family homes are appropriate. In this manner, redevelopment on this site with multi-family dwellings is consistent with this policy guidance in the Neighborhood Element. If the site is also rezoned to R-4L, the associated development standards will also help to ensure consistency with these policies.

Applicable Provisions of the Land Use Regulatory Code:

The majority of the site is currently zoned R-2 (Single-Family Dwelling District), while a small portion in the Northeast corner is zoned C-1 (General Neighborhood Commercial District). The proposal is to rezone the entire site to one zoning classification (R-4L – Low-Density Multiple Family Dwelling District). The table below provides a brief description of these three zoning designations, as well as the mixed-use districts located in the adjacent Tacoma Mall Mixed-Use Center. The information provided below the table includes selected portions of the zoning code which provide the basic regulatory provision applicable in the R-2 and R-4L Districts.



Zone	Development Style	Height Limit
R-2 <i>Single-Family Dwelling District</i>	Low-density, single-family detached housing along with other neighborhood community uses, such as schools, parks, day care centers and religious facilities.	35 feet
R-4L <i>Low Density Multi-Family Dwelling District</i>	Low-density multiple-family housing that is often located near single-family housing areas and often used as a transition between higher and lower intensity uses. While similar to other multi-family districts, development in these areas is more restricted in scale and density to better ensure compatibility with adjacent neighborhoods.	35 feet
C-1 <i>General Neighborhood Commercial District</i>	Smaller scale office, retail and services uses that serve a small market area. This district is often located adjacent to residential areas and new development is limited to better ensure compatibility.	45 feet

Zone	Development Style	Height Limit
RCX <i>Residential Commercial Mixed-Use District</i>	Mid-rise residential development (largely condos and apts.) with some limited commercial development that is small-scale and serves the immediate neighborhood.	60 feet
UCX <i>Urban Center Mixed-Use District</i>	Dense mix of commercial, residential and institutional development, including regional shopping centers, supporting business and service uses, and other regional attractions.	120 feet

Discussion: The R-4L Low-Density Multiple-Family Dwelling District is the lowest intensity multi-family zoning district in the City. Many of its development standards, including height limits and setbacks mirror those required in the R-2 Single-Family Dwelling District. As with all of the City’s residential districts, this zone also allows similarly sized “non-standard” residential uses, such as townhouse developments and retirement homes, nursing homes, and other special needs housing. The R-4L District also allows, with approval of a conditional use permit, some non-residential uses not otherwise allowed in the R-2 District, such as assembly facilities, correctional facilities, and hospitals.

Amendment Criteria:

Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in TMC 13.02.045.G. Proposed amendments are required to be consistent with or achieve consistency with the Comprehensive Plan and meet at least one of the ten review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.

- 1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions.**

Staff Analysis: This proposal does not involve a technical error in the plan or code.

- 2. Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.**

Staff Analysis: The C-1-zoned portion of this site has not changed since it was originally classified in 1953. The rest of the site was reclassified from R-3 Two-Family Dwelling District to R-2 Single-Family Dwelling District in 1981 as part of a citywide residential downzone study that resulted in many of the areas historically zoned R-3 being downzoned to R-2. The City and this particular area have changed dramatically since those classifications were adopted. Over that time, notable changes have included the construction of Interstate 5 and the development of the Tacoma Mall in the mid-1960s, and the establishment of the Tacoma Mall Mixed-Use Center in the mid-1990s and the significant development that has followed. The most direct change affecting this site was probably when the primary north-south corridor through this area was shifted from South Pine Street to South Oakes Street, which occurred in the mid-1960s. This shift likely explains the small portion of C-1 Commercial zoning located in the northeast corner of the subject site, which is probably the remnant

of a “four-corner” commercial area located at the previously more significant intersection of South 48th & Pine. While the Tacoma Mall Mixed-Use Center, which abuts the site on the north, has been studied at great length over the past few years, this specific area has not be the subject of any recent study by the Commission.

3. The needs of the City have changed, which support an amendment.

Staff Analysis: In accordance with the Growth Management Act and Vision 2040 – the City is required to plan for significant population growth over the next 30 years. The City’s general growth strategy is to concentrate this new population growth in specific areas, notably the Downtown and the 16 other designated Mixed-Use Centers. One key purpose for focusing this growth is to protect and preserve the City’s single-family neighborhoods. This site is located between one of these mixed-use centers (the Tacoma Mall Mixed-Use Center) and a cohesive single-family neighborhood – not located in either but instead within the transition between them. While the City is required to plan for increased growth and this increase in zoning would allow for additional development, there is no indication that this change is necessary to accommodate that growth.

4. The amendment is compatible with existing or planned land uses and the surrounding development pattern.

Staff Analysis: This site is located at the transition between the Tacoma Mall Mixed-Use Center and the adjacent single-family neighborhood, which extends for some distance to the south and southeast. Under the current intensity designation, the site could be redeveloped with a multi-family project containing approximately 75 dwelling units. The applicant indicates their desire to construct around 120 units on the site. This relatively small increase in the number of units allowed on the site would allow this site continue to serve as a transition between higher and lower intensities and the proposed area-wide rezone to R-4L would limit the use of the site to low-density multi-family and retain numerous development standards that help ensure redevelopment would be generally compatible, such as density limitations, height limits and setbacks. It should be noted that without the proposed area-wide rezone, the proposed intensity change from Low to Medium would be much less compatible with the surrounding area as it would potentially allow for a much wider range of uses, including larger scale residential uses, commercial uses and industrial uses.

5. Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.

Staff Analysis: The previous use of the site, as a Boys and Girls Club, was consistent with the Comprehensive Plan and the Low Intensity designation. However, that use recently moved from the site and this application involves the redevelopment of the now vacant property. All indications are that if the current proposal is denied this vacant site would still be developed. That project would likely involve a site-rezone and could include multi-family development, very similar to what has been shown by the applicant, and/or duplex, triplex or townhouse projects, or small-scale commercial projects.

6. The capacity to provide adequate services is diminished or increased.

Staff Analysis: There is no indication that this proposal is based on or affected by any capacity or infrastructure issues. Preliminary City review indicates that while some infrastructure upgrades will be necessary to service the proposed development, no significant alterations to the systems in the area will likely be necessary.

7. Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.

Staff Analysis: Not applicable.

8. Transportation and and/or other capital improvements are not being made as expected.

Staff Analysis: This project is not focused on transportation or other capital improvements, but redevelopment of this property will result in improvements to the systems in the area. As noted above, some of the streets in this area are not developed to City standards. South Pine Street adjacent to the site does not contain sidewalks, wheelchair ramps, or curb and gutter. When this site is redeveloped, upgrades to Pine Street will be required. However, it should be noted that these improvements would be required of any redevelopment of this site, not just the development allowed with the proposed changes.

9. For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.

Staff Analysis: The properties surrounding this site include a variety of uses. The Tacoma Cemetery is located to the west, single-family homes are located to the east and south, and apartment complexes, very similar to that proposed by the applicant, are located to the north. The Comprehensive Plan designates the properties to the north as High Intensity and they are zoned UCX – Urban Center Mixed-Use, a very intense commercial and residential zoning classification, which has a 120-foot height limit and is the same zoning as the Tacoma Mall. The cemetery to the west is designated as Low Intensity while the single-family areas to the south and east are designated as Single-Family Intensity and appropriately zoned R-2 – Single-Family Dwelling District. This site serves as a transition between the high intensity development allowed in the Tacoma Mall Mixed-Use Center and the surrounding single-family neighborhood. While the proposed intensity change and rezone would allow this area to continue to serve that function, it would allow a slightly higher density of development than is currently allowed.

10. A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.

Staff Analysis: The site is currently zoned R-2 Single-Family Dwelling District but is designated by the Comprehensive Plan as a Low Intensity area. As outlined above, the Comprehensive Plan indicates that Low Intensity areas are appropriate for zoning classifications that allow for duplexes, triplexes, and small-scale multi-family and commercial developments. In this manner, the current zoning of this site is inconsistent with the Comprehensive Plan designation. While this discrepancy would often be addressed through the site-rezone process, this applicant has requested a plan and zoning change that would bring these into conformance and allow for additional development potential on the site. The proposal to include an area-wide rezone in this application may provide the Commission and City Council with some additional flexibility to influence and control future development on the site.

Reclassification Criteria:

Applications for area-wide zoning reclassifications are subject to review based on the amendment procedures and the review criteria contained in TMC 13.02.053.3. Proposed reclassifications are required to meet at least one of the six review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff's analysis of the criterion as it relates to this proposal.

(a) Substantial evidence is presented demonstrating that growth and development is occurring in a different manner than presented in the Comprehensive Plan.

Staff Analysis: This site was, until recently, occupied by the South End Boys and Girls Club. Following its closure in 2009 the site was sold and is now vacant and ready for redevelopment. This circumstance does not represent an inconsistency with the growth and development vision of the plan.

(b) The proposed area-wide reclassification is consistent with the Comprehensive Plan and the Generalized Land Use Plan map.

Staff Analysis: The proposal includes both a change in zoning and an associated change to the Generalized Land Use Plan map to ensure consistency.

(c) The reclassification is needed to further implement the Comprehensive Plan.

Staff Analysis: The requested area-wide rezone is not necessary to implement the existing Comprehensive Plan intensity designation or associated growth and development policies.

(d) The proposed reclassification is needed to maintain consistency with proposed amendments to the Comprehensive Plan.

Staff Analysis: This project involves both a change in intensity classification for the site and this companion rezone. The current zoning and intensity classification on the site are not consistent. The proposed rezone would improve consistency and maintain consistency with the revised plan designation, if it is approved. In addition, the proposed rezone would provide additional controls and direction on the desired redevelopment of the site. Without the proposed area-wide rezone, the proposed intensity change from Low to Medium would be significantly less compatible with the surrounding area as it would potentially allow for a much wider range of uses, including larger scale residential uses, commercial uses and industrial uses.

(e) There is substantial evidence presented showing inconsistency between the designated land use intensity in the subject area and the existing zoning.

Staff Analysis: See the staff response under criterion (b), above.

(f) The subject property is suitable for development in general conformance with the zoning standards under the recommended rezone classification.

Staff Analysis: The applicant has provided a site plan and design showing a potential redevelopment of the site under the proposed R-4L zoning classification. This design has been reviewed by staff for general conformance with the standards of the R-4L district as well as other applicable development standards. Based on this preliminary design, staff has not identified any significant concerns that would indicate that this type of project is not feasible on this site.

Concomitant Zoning Agreements (CZAs):

There are no site-specific rezones or associated concomitant zoning agreements affecting this area.

Economic Impact Assessment:

Staff Analysis: The proposed amendment would expand multi-family zoning to include 2 parcels on approximately 5 acres. Future development on the subject parcels, if they were rezoned to R-4L, could include low-density multi-family development (up to about 29 dwelling units per acre). While the applicant has indicated a desire to construct approximately 120 units on the site, the proposed zoning would allow around 145. In either case, such a redevelopment would constitute a multi-million dollar investment into this area, including not only construction on the site but also improvements to the infrastructure in the area. Redevelopment of the property would result in some short-term tax revenue from construction and, given the past use of the site, would result in an increase in the tax base in the area. However, with increased density it is also likely that some increased demand on public services would also result. The overall economic effect of the proposed intensity change and rezone would likely be a small positive impact, although much of that impact would likely also be realized if the property were redeveloped under the existing Comprehensive Plan designation.

Staff Recommendation:

Staff recommends forwarding the proposed land use intensity change and area-wide rezone for public review and comment.

Exhibits:

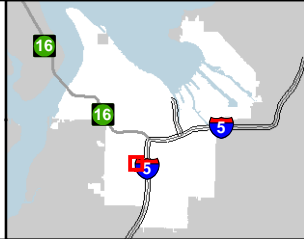
- A. Aerial Photo of the site and surrounding area
- B. Map showing current Land Use Intensity
- C. Map showing current Zoning

49th & Pine - 2009 Aerial Photo



Subject Properties

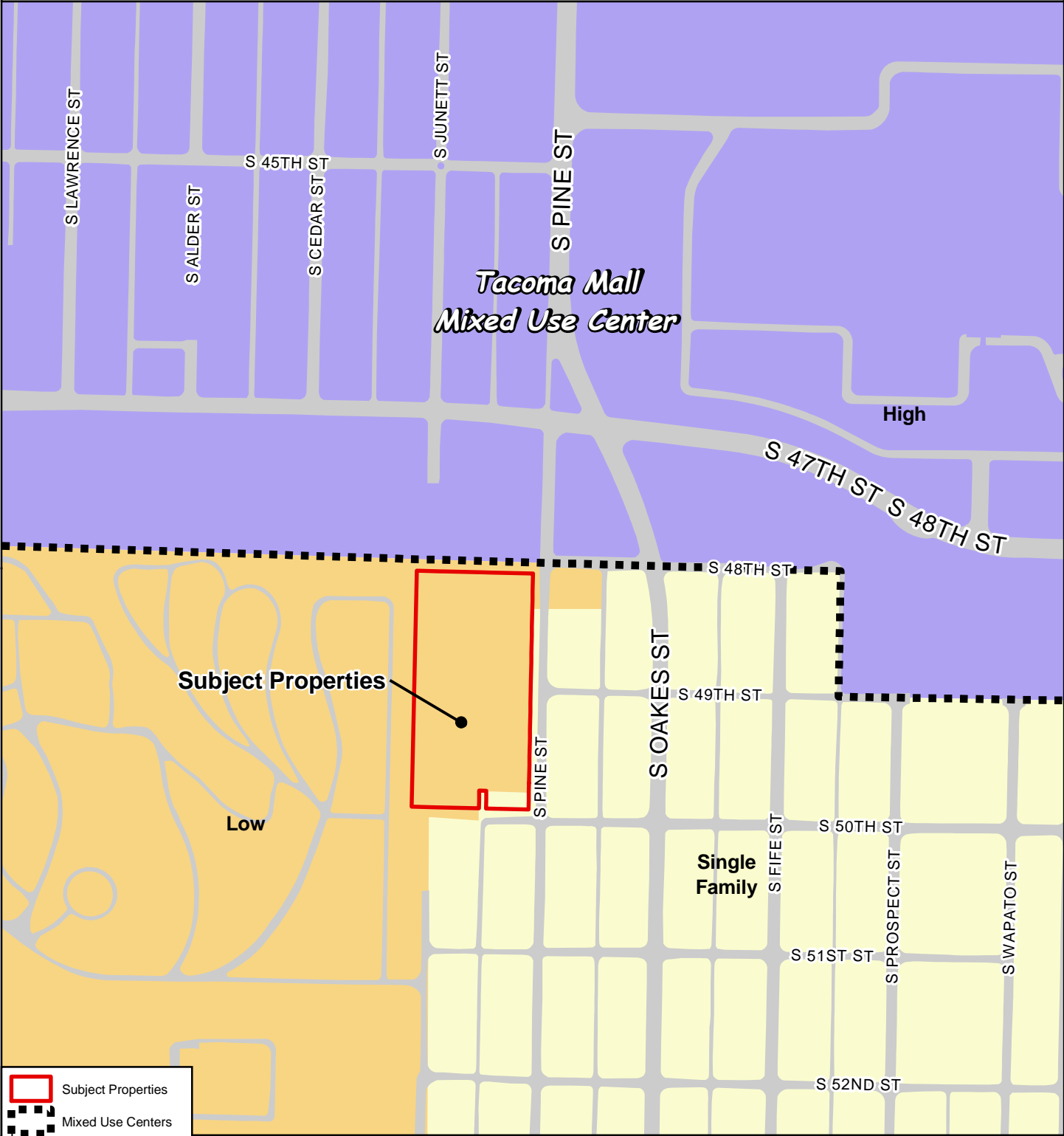
Mixed Use Centers









0 250 500
Feet

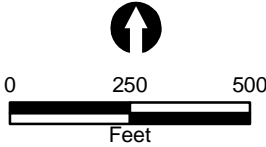
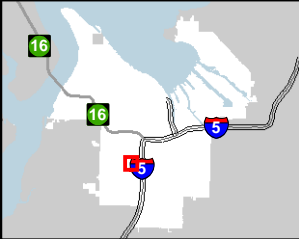
Map is for reference only.

49th & Pine - Existing Land Use Intensity



Legend

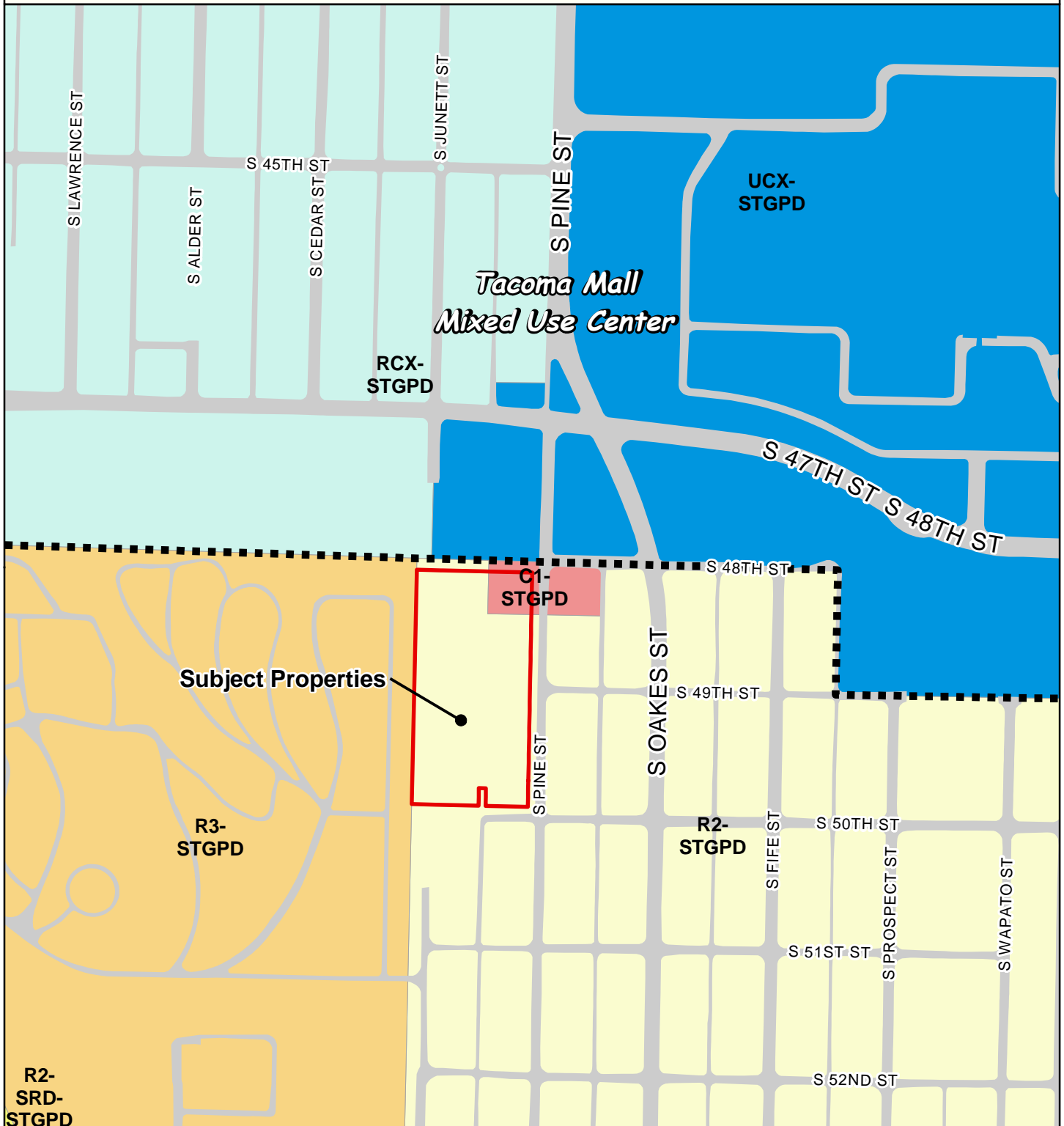
-  Subject Properties
-  Mixed Use Centers
- Land Use Intensity**
-  Single Family
-  Low
-  Medium
-  High



Map is for reference only.



49th & Pine - Existing Zoning

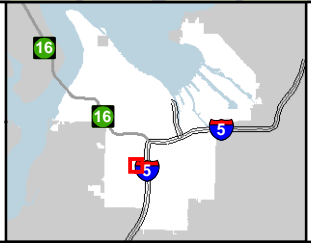


Subject Properties

R3-STGPD

R2-SRD-STGPD

- Subject Properties
- Mixed Use Centers



Map is for reference only.



2011 Annual Amendment Application No. 2011-02
Historic Preservation Plan and Code Revisions

SUMMARY

Application #:	2011-02
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Reuben McKnight, Historic Preservation Officer, Building and Land Use
Type of Amendment:	Comprehensive Plan Text and Regulatory Code Text Changes
Current Land Use Intensity:	Various
Current Area Zoning:	Various
Size of Area:	Not Applicable
Location:	City-wide
Neighborhood Council area:	City-wide
Proposed Amendment:	Creating a new Historic Preservation Element of the Comprehensive Plan and amending the Land Use Regulatory Code to provide updated and improved guidance regarding historic preservation and the City's preservation program.

General Description of the Proposed Amendment:

This proposed amendment would consolidate, revise and add historic preservation policies into a new Historic Preservation Element to provide updated guidance on the importance of historic preservation and direction for program administration, education and outreach; and revise the Land Use Regulatory Code (primarily TMC13.07 – Landmarks and Historic Special Review Districts) for initial implementation of the new and revised policy guidance, compatibility with up-to-date historic preservation best practices and the addition of appropriate standards, guidelines and regulations.

Planning Commission's Action on February 2, 2011:

The Planning Commission will conduct the final review of the staff analysis and proposed Plan and code amendments. On January 19, 2011 the Commission requested additional information relating to (a) notice provided to property owners if not the applicant for landmarks designation; (b) clarification on including interior spaces as a part of landmarks designation, and (c) review of proposed changes to administrative procedures. On February 2, 2011, the Commission will review the attached staff report, consider modifications to the proposed code changes, as appropriate; and authorize the release of the proposed amendment, as may be modified, for public review and comment.

Attachments:

1. Staff report for Amendment 2011-02
2. Proposed modifications to revisions to TMC Chapter 13.07
3. Proposed revisions to TMC Chapter 13.05
4. Proposed revisions to TMC Chapter 13.06 and 13.06A



2011 Annual Amendment Application No. 2011-02
Historic Preservation Plan and Code Revisions

STAFF REPORT

Application #:	2011-02
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Reuben McKnight, Historic Preservation Officer, Building and Land Use
Type of Amendment:	Comprehensive Plan Text and Map Changes, and Regulatory Code Text Changes
Current Land Use Intensity:	Various
Current Area Zoning:	Various
Size of Area:	Not Applicable
Location:	City-wide
Neighborhood Council area:	City-wide
Proposed Amendment:	Creating a new Historic Preservation Element of the Comprehensive Plan and amending the Land Use Regulatory Code to provide updated and improved guidance regarding historic preservation and the City's preservation program.

General Description of the Proposed Amendment:

This proposed amendment will modify the Comprehensive Plan policies to provide improved and updated guidance regarding historic preservation and the City's preservation program and adopt associated amendments to the Land Use Regulatory Code. This project includes:

- Consolidation, revision and addition of historic preservation policies into a new Historic Preservation Element to provide updated guidance on the importance of historic preservation and direction for program administration, education and outreach
- Revision of the Land Use Regulatory Code (primarily Chapter 13.07 – Landmarks and Historic Special Review Districts) for implementation of the new and revised policy guidance, compatibility with up-to-date historic preservation best practices and the addition of appropriate standards, guidelines and regulations.
- Other related code amendments include revisions to TMC 13.06 and 13.06A to remove inadvertent barriers to historic preservation projects, and TMC 13.05, including consolidation of the historic preservation review process with other land use permitting processes.

Additional Information:

In response to increasing public interest in historic preservation, historic districts, and related programs, the Tacoma City Council provided funding in its 2009-10 Biennial Budget for a comprehensive update to the City's historic preservation plan and policies. Preservation plans are designed to recognize our unique

historic and cultural resources, create strategies for their care, and capitalize on their social and economic potential. Typically included within the preservation plan are goals, policy statements, and an action agenda.

There are several primary objectives for the draft Preservation Plan:

- Clearly communicate the goals of the City Historic Preservation Program to the community and city staff
- Provide guidance to current and future property owners regarding the future growth of the City and protection of its historic resources
- Eliminate confusion regarding the purpose, meaning and content of historic preservation ordinances
- Identify and eliminate inconsistencies between various City policies that affect historic resources
- Educate and inform the community about the importance and role of historic resources in Tacoma
- Develop an agenda for future preservation activities as well as a means to measure progress
- Coordinate issues relating to zoning, tourism, development patterns, and design issues that also involve historic resources
- Strengthen the relationship between economic development, planning and historic preservation

General policy areas addressed within the proposed Preservation Plan include:

- Review of compatibility between historic preservation policies and procedures and other city policies and procedures
- Review of preservation incentives
- Commemorative markers and monuments
- Demolition permit review process
- Review of policies and criteria for the creation of new historic districts
- Creation of policies and criteria for conservation district designation

Vision for Historic Preservation in 2020

The draft Preservation Plan contains a 10-year vision statement for historic resources and the preservation program, which is described in these qualitative statements:

1. Historic resources are integral to the City's overall goals and objectives.
2. Historic resources convey the humanity of Tacoma.
3. Historic resources are key to the City's sustainability initiatives.
4. A network of individuals and organizations supports historic preservation throughout the community.
5. Historic preservation is "horizontally integrated" into planning efforts.
6. The City's historic preservation program is readily accessible.
7. Historic preservation looks forward while valuing the past.
8. Historic preservation is solution oriented.
9. The preservation program guides treatment of historic resources.

Summary of Public Outreach

In addition to ongoing feedback and discussion with community stakeholders, such as Historic Tacoma, as well as periodic updates to the Landmarks Preservation Commission, the following is a summary of outreach meetings held to date.

1. February 3, 2009 – City Council Study Session
2. July 29, 2009 – Stakeholders informational meetings
3. September 23, 2009 – Community Workshop
4. October 8, 2009 – Briefing to Master Builders Association
5. November 16, 2009 – Briefing to Neighborhoods and Housing Committee
6. November 18, 2009 – Hillside Development Council
7. December 7, 2009 – Public lecture on historic preservation and economic development
8. December 14, 2010 – Sustainable Tacoma Commission

Key Provisions of the Draft Amendment

Preservation Plan

- Identification of vision and overall goals for historic preservation.
- Specific policies and goals for program functions, including Program Administration, Identification of Historic Resources, Management of Historic Resources, Development Incentives/Benefits, Public Education, and Advocacy.
- Provides guidance for the relationship between sustainability initiatives and preservation.
- Creates framework for evaluating historic and conservation district proposals, and supports the utility of the conservation district tool as a neighborhood planning strategy
- Includes language encouraging additional measures to protect historic resources from demolition and demolition by neglect
- Creates additional tools for the management of the historic preservation inventory update process
- Identifies historical themes in Tacoma and provides for a systematic adoption of historic context statements

Regulatory Code

The proposed amendments to the regulatory code are primarily technical and structural in nature, with the objective of increased efficiency and improved ease of use. Many of the policy initiatives proposed in the Preservation Plan will take additional development to be adopted in the regulatory code. Key proposals in the current Amendment Application include:

- Relocate all design review and approval language for the Landmarks Preservation Commission from TMC 13.07 (Landmarks and Historic Special Review Districts) to TMC 13.05 (Land Use Permitting).
- Refine standards for historic designation, including better clarity for the process for individual landmarks and additional specific criteria for the designation of historic and conservation districts.
- Clear regulatory distinction between historic districts and conservation districts.
- Removal of design guidelines from the regulatory code in favor of administrative design guidelines.
- New criteria for economic hardship.
- Revised and enhanced criteria for design review.
- New criteria for relocation of historic resources.
- Clarification of demolition permitting requirements.
- General technical clean up to definitions and language throughout the code.
- Removal of parking requirements for historic buildings (in TMC 13.06 and 13.06A).

- Language that provides more flexibility for historically designated residential buildings that are nonconforming to underlying zoning.

Applicable Provisions of the Growth Management Act (and other state laws):

Among its fourteen planning goals, Washington State's Growth Management Act (GMA) includes as a goal: "Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance." RCW 36.70A.020 (13)

Although the GMA does not require an historic preservation or cultural resources element in a comprehensive plan, cities and counties planning under the GMA must consider and incorporate the historic preservation goal.

Many Washington State communities use preservation principles for community development by creating historic preservation goals, policies and strategies within their comprehensive plans and development regulations, and interconnecting these with the remaining goals, policies and strategies of their plans, such as housing, economic development, and reducing sprawl.

Related GMA policy areas include:

- Affordable housing: Affordable housing can be achieved through historic preservation and adaptive reuse of existing buildings, neighborhoods and infrastructure.
- Economic Development: Historic preservation can stimulate a local economy and create jobs. The state's Downtown Revitalization/Main Street Program is helping communities revitalize the economy, appearance, and image of their downtown commercial districts using the successful Main Street Approach™. In addition, development incentives for historic preservation attract investment.
- Sprawl reduction and concentrated urban growth: Historic preservation encourages development in established, centralized neighborhoods and districts, utilizing existing road and utilities infrastructure. This encourages growth within urban areas, higher intensity uses for underutilized buildings, and compact, walkable neighborhoods.
- Open space and recreation: Many parks and open spaces contain existing historical interpretive elements, or offer opportunities for historical interpretation. In addition, open space and recreation areas often contain sites of archaeological interest.
- Property rights and permit processing: Regulations related to historic preservation include land use and permitting requirements, with the objective of protecting important cultural and architectural sites for the enjoyment and education of future generations. Such policies and regulations must be carefully crafted to balance the effect on property rights and costs associated with permit processing with the public benefit gained.
- Public Facilities and Services: Public agencies, including the City of Tacoma, Metro Parks and the Tacoma Public School District, are the largest stewards of historic buildings in Tacoma. Historic preservation policies help to define the public sector roles and responsibilities associated with historic buildings.

Applicable Provisions of the Comprehensive Plan:

Historic Preservation is one of the 13 Planning Goals stipulated under the Growth Management Act, and is an optional element in local jurisdiction's Comprehensive Plans. Prior to 2005, there was not a cohesive adopted element specifically addressing preservation in Tacoma's Comprehensive Plan. That year, the City Council adopted a new Culture and History Element, which combined Arts, Culture and International Programs, and Historic Preservation under one element. The current element provides basic policy-level guidance, goals and visions, and provides an introduction to these programs. However, this element is not currently well integrated with other City regulations and policies, and it does not clearly communicate a vision, define what "historic" means for Tacoma, and does not set priorities and objectives for the future of the City's historic preservation program. The proposed Preservation Plan Element would replace the policies pertaining to Historic Preservation in the Culture and History Element.

In addition to the Culture and History element, the Plan has many policies supportive of the preservation of historic resources. A small sampling includes the following:

LU-UAD-19 Historic Preservation

Protect, preserve, and enhance historic resources throughout the city. Encourage appropriate design for contemporary infill in historic and established areas of the city by use of development standards regarding scale, rhythm, compatible materials, and streetscape.

H-NQ-3 Historic/Cultural Amenities

Identify, protect and enhance cultural, architectural, historic and scenic resources within residential areas. Support the rehabilitation of architecturally or historically significant homes as well as other landmark residential and mixed-use buildings while maintaining public safety and historic character.

OS-LF-8 Historic, Cultural, and Art Resources

Pursue incorporation, preservation and, if appropriate, display of historic cultural and art resources within open spaces. Adopt formalized policies, procedures and criteria for accepting, siting, and designing public art, interpretive displays, historical monuments, commemorative displays, or other cultural or artistic installations within publicly-owned open space and parks. The presence of historic and/or cultural features supports the conservation of an area as open space.

NE-1.5 Historic Preservation

Preserve and protect existing historic homes and structures. Discourage demolition of properties listed on, or eligible to be listed on, the National Register of Historic Places and the Tacoma Landmarks Register through the adoption of effective regulations and policies governing City review of projects affecting historic properties.

Applicable Provisions of the Land Use Regulatory Code:

The regulatory code currently contains a chapter that specifically addresses landmarks and historic districts, Chapter 13.07. This amendment will update this chapter consistent with the policies of the Preservation Plan. The amendment will also integrate the permitting and design review procedures for landmarks and historic districts into Chapter 13.05 where other permitting and review procedures are

located. Finally, the proposed amendment removes barriers to historic preservation by eliminating the parking requirement for designated historic buildings, which supports their renovation and adaptive reuse.

Amendment Criteria:

Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in TMC 13.02.045.G. Proposed amendments are required to be consistent with or achieve consistency with the Comprehensive Plan and meet at least one of the eleven review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.

- 1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions.**

Staff Analysis: Not applicable.

- 2. Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.**

Staff Analysis: Not applicable.

- 3. The needs of the City have changed, which support an amendment.**

Staff Analysis: The first Culture and History Element was adopted in 2005. Since then, the City Council and the Landmarks Preservation Commission have identified several areas in which the current language is lacking. As interest in historic preservation related issues from the public and City Council has increased, the need for a comprehensive preservation policy document has become apparent. This review will be the first comprehensive preservation plan adopted by the City of Tacoma.

- 4. The amendment is compatible with existing or planned land uses and the surrounding development pattern.**

Staff Analysis: The goals and policies contained within the draft plan are designed to complement existing land uses and clarify the relationship between historic preservation policy and regulations, and other planning functions. Specifically, the Conservation District language seeks to provide tools for the preservation of the physical characteristics of existing buildings in older, established neighborhoods.

- 5. Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.**

Staff Analysis: Not applicable.

- 6. The capacity to provide adequate services is diminished or increased.**

Staff Analysis: Not applicable.

- 7. Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.**

Staff Analysis: Not applicable.

- 8. Transportation and and/or other capital improvements are not being made as expected.**

Staff Analysis: Not applicable.

- 9. For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.**

Staff Analysis: Not applicable.

- 10. A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.**

Staff Analysis: Not applicable.

Economic Impact Assessment:

The proposed Preservation Plan and related regulatory code amendments do not, in general, represent a significant economic impact to property owners, residents or the City. Although the scope of the plan is broad, much of the effect is further clarification of roles and responsibilities, strategic allocation of administrative resources, streamlining and refinement of existing procedures and requirements, and a stronger linkage between related City policy objectives, including sustainability and economic development. Specific areas that may have an economic impact are described below.

The proposal seeks to reduce economic impacts to owners of historic properties by introducing criteria for economic hardship determination, something that is currently missing from the code. Currently, an owner who is proposing a project that does not meet the historic preservation standards due to financial reasons must rely on the Landmarks Preservation Commission's discretion, without specific guidelines establishing burden. If denied, the only recourse is the Hearing Examiner appeal process. New criteria for economic hardship should provide a less burdensome recourse for cases of clear economic hardship, while providing the Commission with better decision-making tools.

The plan provides guidance for increasing the effectiveness of development incentives and benefits relating to historic properties. Examples of development incentives include the Federal Rehabilitation Tax Credit and the Washington State Special Tax Valuation program, in addition to potential new incentives, including Transfer of Development Rights (TDR) and Current Use Tax Assessment. These programs generally encourage capital investment in underutilized structures by allowing developers and property owners to reduce operating costs on historic buildings and increase equity at a faster rate.

In addition, the potential cost of completing projects is reduced by the removal of certain unnecessary regulatory barriers that discourage preservation, including parking requirements for projects involving City Landmarked buildings, and zoning relief where historic preservation standards are incompatible with zoning development standards. This would reduce the number of variance applications for residential

projects, thus decreasing administrative costs, lowering permit turnaround time, and lowering costs for permit applicants.

Similarly, the proposed shift of design review language from TMC 13.07 to 13.05 reflects a general technical revision of the Land Use code to streamline processes and requirements, which ultimately should make the code easier to interpret and use for both property owners and City staff.

The proposed plan does propose an increase to the protection of historic properties from demolition, which has the potential to increase costs and uncertainty for some property owners. The plan proposes to mitigate this both by improved incentives, as described above, as well as improved predictability through the creation of an enhanced historic property inventory, which the plan recommends as the basis for any demolition permit review procedures, if adopted. At the same time, the plan and proposed code provides criteria for relocation of historic resources, which is designed to provide a viable alternative, in certain cases, to demolition of a historic structure. These proposals, taken together, result in a measured approach to demolition review, while at the same time meeting other policy objectives such as waste-stream reduction (which also may reflect a long-term cost reduction for the City).

Likewise, the proposed plan proposes a broader utility for the Conservation District zoning tool, which seeks to enhance and protect the character of traditional neighborhoods through design guidelines and demolition protections. While this ultimately may limit the development potential for certain sites within these districts, if established, this impact is offset by an anticipated improvement in property values, stability and livability within these neighborhoods. In addition, the Conservation District tool is clearly distinguished both in the proposed regulatory code and the plan from Historic Special Review Districts in purpose, applicability, and level of regulation; this is a distinction that currently does not exist and it should have the effect of reduced costs to both the City and property owners.

For conservation and historic districts, the proposed plan provides improved guidelines for the appropriateness and priority of establishing such districts, which is also a new element designed to aid decision making and resource allocation.

Lastly, the plan discusses the relationship between historic preservation and the City's sustainability initiatives. By encouraging a better linkage between preservation and sustainability, the plan also encourages consistency between City policy objectives. This will carry over into future amendments to historic design guidelines, building and energy codes, and other related policy objectives. Increasing internal consistency will have the ultimate effect of easier, less burdensome and complex regulations for projects to meet.

Staff Recommendation:

Staff recommend that the draft amendments be forwarded for public review and comment.

Exhibits:

- A. Draft Historic Preservation Plan
- B. Draft Code Changes TMC 13.05
- C. Draft Code Changes TMC 13.06 and 13.06A
- D. Draft Code Changes TMC 13.07



**2011 Annual Amendment Application # 2011-02
Historic Preservation Plan and Regulatory Code Amendments**

January 26, 2011

Chapter 13.07 (Landmarks and Historic Special Review Districts)

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

Chapter 13.07		
LANDMARKS AND HISTORIC SPECIAL REVIEW DISTRICTS		
Sections:		
13.07.010	Short title.	13.07.130 Demolition of City landmarks – Automatic conditions.
13.07.020	Landmarks and Historic Districts – Declaration of purpose and declaration of policy.	13.07. 140-110 Demolition of City landmarks – Standards and criteria for review.
13.07.030	Definitions.	13.07.150 Demolition of City landmarks – Specific exemptions.
13.07.040	Tacoma Register of Historic Places – Establishment and criteria.	13.07.160 Appeals to the Hearing Examiner.
13.07.050	Tacoma Register of Historic Places – Nomination and designation process for individual properties.	13.07.165 Appeals to the Hearing Examiner – Factors to be considered.
<u>13.07.055</u>	<u>Rescission of Landmarks Designation</u>	13.07.170 Ordinary maintenance or repairs.
13.07.060	Tacoma Register of Historic Places – Nomination and designation process for Historic Special Review and Conservation Districts.	13.07.180 Minimum buildings standards.
13.07.070	District and landmarks regulation.	<u>13.07.120</u> <u>Historic Special Review and Conservation Districts – Generally</u>
13.07.070	Commission rules of procedure and administrative guidelines	13.07. 190-130 Designation of Old City Hall Historic Special Review District – Declaration of purpose.
13.07.080	Special tax valuation – Local Review Board.	13.07. 200,140 Designation of Old City Hall Historic Special Review District – Findings.
13.07.085	Property eligible for special tax valuation.	13.07. 210-150 Old City Hall Historic Special Review District – Boundary description.
13.07.090	Certificates of approval.	13.07. 220-160 Old City Hall Special Review District – Specific Exemptions.
13.07.095	Certificates of approval – Process and standards for review.	13.07. 230-170 Designation of Union Depot/Warehouse Historic Special Review District – Declaration of purpose.
13.07.100	Demolition of City landmarks – Declaration of purpose. Criteria for the Relocation of a City Landmark	13.07. 240-180 Designation of the Union Depot/Warehouse Historic Special Review District – Findings.
13.07.110	Demolition of City landmarks – Application process.	13.07. 250-190 Union Depot/Warehouse Historic Special Review District – Boundary description.
13.07.120	Demolition of City landmarks – Application requirements.	13.07. 260-200 Designation of Union Station Conservation District.

- ~~13.07.270~~ ~~Guidelines for building design and streetscape improvement review.~~
- ~~13.07.280~~ ~~Union Depot/Warehouse Historic Special Review and Union Station Conservation Districts— Specific exemptions.~~
- 13.07.~~290~~210 Designation of North Slope Historic Special Review District – Purpose.
- 13.07.~~300~~220 Designation of North Slope Historic Special Review District – Findings.
- 13.07.~~310~~230 North Slope Historic Special Review District – Boundary description.
- ~~13.07.320~~ ~~Guidelines for building design and streetscape improvement review of the North Slope Historic Special Review District.~~
- 13.07.~~330~~240 North Slope Historic Special Review District – Specific exemptions.
- 13.07.~~340~~250 Severability.

13.07.010 Short title.

This chapter may be cited as the “Tacoma Landmarks and Historic Special Review Districts Code.”

13.07.020 Landmarks and Historic Districts – Declaration of purpose and declaration of policy.

The City finds that the protection, enhancement, perpetuation, and continued use of landmarks, districts, and elements of historic, cultural, architectural, archeological, engineering, or geographic significance located within the City are required in the interests of the prosperity, civic pride, ecological, and general welfare of its citizens. The City further finds that the economic, cultural, and aesthetic standing of the City cannot be maintained or enhanced by disregarding the heritage of the City or by allowing the destruction or defacement of historic and cultural assets.

The purpose of this chapter is to:

- A. Preserve and protect historic resources, including both designated City landmarks and historic resources which are eligible for state, local, or national listing;
- B. Establish and maintain an open and public process for the designation and maintenance of City landmarks and other historic resources which represent the history of architecture and culture of the City and the nation, and to apply historic preservation standards and guidelines to individual projects fairly and equitably;

C. Promote economic development in the City through the adaptive reuse of historic buildings, structures, and districts;

D. Conserve and enhance the physical and natural beauty of Tacoma through the development of policies that protect historically compatible settings for such buildings, places, and districts;

E. Comply with the state Environmental Policy Act by preserving important historic, cultural, and natural aspects of our national heritage; ~~and~~

F. To promote preservation compatible practices related to cultural, economic and environmental sustainability, including: conservation of resources through retention and enhancement of existing building stock, reduction of impacts to the waste stream resulting from construction activities, promotion of energy conservation, stimulation of job growth in rehabilitation industries, and promotion of Heritage Tourism;

G. To contribute to a healthy population by encouraging human scale development and preservation activities, including walkable neighborhoods; and

F. Integrate the historic preservation goals of the state Growth Management Act and the goals and objectives set forth in the City’s Comprehensive Plan and regulatory language.

13.07.030 Definitions.

For purposes of this chapter, certain terms and words are hereby defined as follows:

~~“Accessory structure” means any structure which is incidental or subordinate to the main building(s) and is located on the same property as the main building.~~

~~“Administrative Approval” means an approval that may be granted by the City Historic Preservation Officer for an alteration to a City landmark, without Landmarks Preservation Commission (also referred to herein as “Commission”) review, based on authority that may be granted by the Commission pursuant to Chapter 1.42 of the Tacoma Municipal Code (“TMC”).~~

~~“Alteration” means any act or process which changes materially, visually, or physically one or more of the exterior architectural features or significant interior features of a property, including, but not limited to, the construction, reconstruction, or removal of any structure.~~

~~“Building” means any structure that is used or intended for supporting or sheltering any use or occupancy. For the purposes of this chapter, the term “building” includes accessory structures.~~

“Certificate of Approval” means the written record of formal action by the Commission indicating its approval of plans for alteration of a City landmark.

“Certified Local Government” or “CLG” means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established a historic preservation commission and a historic preservation program meeting Federal and State standards.

“City landmark” means a property that has been individually listed on the Tacoma Register of Historic Places, or is that is a contributing property within a Historic Special Review District or Conservation District as defined by this chapter.

“Conservation District” means an area warranting the designation for the preservation and protection of historic character and properties contained therein, without meeting the same higher standard for designation as a Historic Special Review District. Conservation Districts are normally established surrounding or adjacent to an established or proposed historic district or place, resources and overall characteristics of traditional development patterns, and that meets the criteria for such designation as described in Section 13.07.040.C of this code.

“Construction” means the act of adding to an existing structure or erecting a new principal or accessory structure on a property.

“Contributing property” means any property within a Historic Special Review District which is documented in the district’s nomination to the Tacoma Register of Historic Places to contribute architecturally, historically, and/or culturally to the historic character of the district, and properties that date from the historic period of significance for the Historic Special Review District and retain integrity of materials, place, or setting which have not previously been identified during architectural surveys.

“Deconstruction” The disassembly of a building, or a portion thereof, in a manner that keeps individual components and materials intact. These may then be reassembled to the original design, or may be made available for reuse in other improvement projects.

“Demolition” means any act or process which destroys, in part or in whole, a City landmark, including neglect or lack of maintenance that results in the destruction of a historic property. For the purposes of this chapter, demolition does not include

nonhistoric or noncontributing additions to historic buildings if so determined by the Landmarks Preservation Commission or Historic Preservation Officer, or so indicated in the nomination documentation for a building.

“Design guideline” means a standard of appropriate activity which will preserve or enhance the historic and architectural character of a structure or area, and which is used by the Commission and the City Historic Preservation Officer to determine the appropriateness of proposals involving property within Historic Special Review and Conservation Districts.

“Embodied Energy” means the energy consumed to construct a building, including that required to create materials for it, transport them to the site, and then assemble them.

“District” means a geographically definable area possessing a significant concentration, linkage, or continuity of sites buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.

“Exterior architectural appearance” means the architectural character and general composition of the exterior of a property including, but not limited to, the type, color, and texture of a building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

“Historic resource” means any property that has been determined to be eligible by the City Historic Preservation Officer or Washington State Department of Archaeology and Historic Preservation staff for listing in the Tacoma Register of Historic Places, the Washington State Heritage Register, or the National Register of Historic Places, or any property that appears to be eligible for such listing by virtue of its age, exterior condition, or known historical associations.

“Historic Special Review District” means an **area Overlay Zone** with a concentration of historic resources that has been found to meet the criteria for designation as a Historic Special Review District under the provisions of this chapter, ~~which the City finds should be protected from adverse effects to its cultural and historic character resulting from development activities,~~ and has been so designated by City Council.

“Interested party of record” means any individual, corporation, partnership, or association which notifies the Commission, in writing, of its interest in a matter before the Commission prior to Commission action on the matter.

~~“Noncontributing property” means a property within a Historic Special Review District which is documented in the district’s nomination to the Tacoma Register of Historic Places as not contributing architecturally, historically, and/or culturally to the historic character of the district; or which has been so designated in a Historic Special Review District Inventory drafted and adopted by the Commission.~~

“Property” means any building, object, site, structure, improvement, public amenity, space, streetscapes and rights-of-way, or area.

“Reconstruction” means the act of structurally rebuilding a ~~historic resource structure or portion thereof,~~ wherein the visible architectural elements are replaced in kind with materials and finishes that ~~match that accurately convey the character of~~ the original elements.

“Removal” means any relocation of a structure on its site or to another site.

~~“Repair” means any change that is not construction, removal, or alteration.~~

~~“Rehabilitation” means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient, contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values. the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.~~

~~“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.~~

“Significant interior features” means architectural features, spaces, and ornamentations which are specifically identified in the landmark nomination

and which are located in public areas of buildings such as lobbies, corridors, or other assembly spaces.

“Streetscape” means the total visual environment of a street as determined by various elements including, but not limited to, street furniture, landscaping, lighting, paving, buildings, activities, traffic, open space, and view.

“Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

13.07.040 Tacoma Register of Historic Places – Establishment and criteria.

A. Tacoma Register of Historic Places is Established. In order to meet the purposes of this chapter and Chapter 1.42 of the TMC, there is hereby established the Tacoma Register of Historic Places. Historic resources and districts designated to this Register pursuant to the procedures and criteria listed in this chapter are subject to the controls and protections of the Landmarks Preservation Commission established by TMC 1.42 and pursuant to the design review provisions of this chapter.

B. Criteria for the Designation to the Tacoma Register of Historic Places.

1. ~~Threshold Criteria: A property may be included in~~ The Commission may determine that a property is eligible for consideration for listing on the Tacoma Register of Historic Places if it:

a. Is at least 50 years old at the time of nomination; and

b. Retains integrity of location, design, setting, materials, workmanship, feeling, and association such that it is able to convey its historical, cultural, or architectural significance; ~~and~~

~~c. Meets one or more of the designation criteria listed in the section below.~~

2. Designation Criteria: In addition to the above, a property may be designated to the Tacoma Register of Historic Places if it:

a. Is associated with events that have made a significant contribution to the broad patterns of our history; or

b. Is associated with the lives of persons significant in our past; or

c. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity

whose components may lack individual distinction;
or

d. Has yielded or may be likely to yield, information important in prehistory or history; or

e. Abuts a property that is already listed on the Tacoma Register of Historic Places and was constructed within the period of significance of the adjacent structure~~Is part of, adjacent to, or related to an existing or proposed historic district, square, park, or other distinctive area which should be redeveloped or preserved according to a plan based on a historic, cultural, or architectural motif;~~ or

f. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood or City.

C. ~~Special Criteria for the Designation of Historic Special Review Districts and Conservation Districts. The City Council may find it appropriate to create Historic Special Review or Conservation Districts for the purposes of encouraging preservation of character within established neighborhoods and districts, protecting such areas from adverse effects to their cultural and historic assets resulting from unsympathetic development activities, and for the purposes of promoting economic development and neighborhood identity. When determining the appropriateness of the designation of a Historic Special Review District, in addition to the criteria above, the Landmarks Preservation Commission shall consider the following:~~

1. Historic Special Review Districts. Historic Special Review Districts are areas that possess a high level of historic integrity in existing architecture, development patterns and setting, in which these characteristics should be preserved. In addition to the criteria above, a proposed Historic Special Review District should meet the following specific criteria:

a. It is associated with events or trends that have made a significant contribution to the broad patterns of our history; and

b. It is an area that represents a significant and distinguishable entity (whose components may lack individual distinction);

c. It possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

~~The area shall contain a concentration of structures having a special character or special historic, cultural, architectural, engineering, or geographic interest or value as defined by the six criteria above; and~~

~~2. The area shall constitute a distinct section of the City.~~

~~D2. Special Criteria for the Designation of Conservation Districts. Conservation Districts are areas in which there is a clearly established existing character related to historical development patterns and/or the overall appearance of building types that were constructed in a defined period of time. In conjunction with or independent of the establishment of a historic district as set forth in Section 13.07.040, it may be warranted, from time to time, to consider the establishment of a Conservation District. When considering the appropriateness of a Conservation District, the Landmarks Preservation Commission shall consider: A proposed Conservation District should meet one of the following specific criteria:~~

~~1. A potential Conservation District should normally be established surrounding an established or proposed historic district and shall possess special historic, architectural, or cultural significance that is a part of the heritage of the City.~~

a. The area is part of, adjacent to, or related to an existing or proposed historic district or other distinctive area which should be redeveloped or preserved according to a plan based on a historic, cultural, or architectural motif; or

b. It possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

~~2c. Although it shall possess historic character based upon an intact development pattern and a prevailing historic architectural character expressed through its assemblage of buildings, which shares or is sympathetic to the development patterns and period of significance of the adjacent historic district, a Conservation District is not required to meet the criteria for landmark designation as outlined above.~~

3. The boundaries of Historic Special Review Districts and Conservation Districts should be based upon a definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects or by documented differences in patterns of historic development or associations. Although recommended boundaries may be affected by other concerns, including underlying zoning, political or jurisdictional boundaries and property owner sentiment, to the extent feasible, the boundaries should be based upon a shared relationship among the properties constituting the district.

13.07.050 Tacoma Register of Historic Places – Nomination and designation process for individual properties.

A. Process for the nomination of individual properties, generally:

1. Any resident of Tacoma or City official, including members of the City Council, City staff, or members of the Planning Commission, may request consideration by the Landmarks Preservation Commission of any particular property for placement on the Tacoma Register of Historical Places.

2. A written request, which shall be in the form of a completed nomination to the Tacoma Register of Historic Places, shall be made to the Historic Preservation Officer. At a minimum, the nomination form shall contain the following:

a. A narrative statement which addresses the historical or cultural significance of the property, in terms of the Designation Criteria listed in this chapter; and

b. A narrative statement which addresses the physical condition assessment and architectural description; and

c. Specific language indicating which improvements on the site are included in the nomination, including any significant interior spaces within publicly owned buildings; and

d. A complete legal description; and

e. A description of the character-defining features and architectural elements that are worthy of preservation.

f. For nominations that are not sponsored by the property owner, the nomination sponsor must provide evidence that attempts to contact the property owner have been made prior to submittal, and provide contact information for the owner.

3. The Historic Preservation Officer or staff may amend, edit, or complete a nomination form submitted to the City for the purposes of clarity, but may not expand the boundaries of the legal description in the nomination without the consent of the nominating individual, unless such a change is required to correct an error or inconsistency within the nomination.

B. Landmarks Preservation Commission Preliminary Meeting on Nomination.

1. When a nomination form is found by the Historic Preservation Officer to be complete as indicated in this section, the Historic Preservation Officer shall:

a. Schedule the nomination for preliminary consideration at the next available regularly scheduled meeting of the Landmarks Preservation Commission and shall serve the taxpayer(s) of record written notice 14 days in advance of the time and place of the meeting. If the taxpayer of record is not the sponsor of the nomination, the taxpayer of record may request an additional 30 days to respond to the nomination.

b. Notify other City Departments and Divisions, as appropriate, of receipt of the nomination.

2. No person shall carry out or cause to be carried out any alteration of any building, site, structure, or object under consideration by the Landmarks Preservation Commission for designation as a City Landmark, without a Certificate of Approval pursuant to TMC 13.07.090.

3. At this meeting, the Landmarks Preservation Commission shall, by quorum vote, find that the application meets the threshold criteria for designation contained in this chapter, that it does not meet the threshold criteria, or the Commission may defer the decision if additional information is required.

4. If the Landmarks Preservation Commission finds that the nomination appears to meet the threshold criteria, the Commission shall:

a. Schedule the nomination for consideration and public comment at a subsequent public meeting at a specified time, date, and place not more than 90 days from the date of the preliminary meeting.

b. Give written notice, by ~~first class~~ mail, of the time, date, place, and subject of the Commission's meeting to consider designation of the property as a City landmark.

c. This notice shall be given not less than 14 days prior to the meeting to all taxpayers of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers of record of properties within 400 feet of the subject property.

5. If the Commission finds that the property does not meet the threshold criteria, the application is rejected and the Commission may not consider the property for designation for a period of one calendar year. Once a calendar year passes, the process may be restarted.

6. If the Commission, following the preliminary meeting, fails to act on the nomination or schedule it

for further consideration within 45 days or by its next meeting, whichever is longer, the application is rejected as above.

C. Landmarks Preservation Commission Meeting on Nomination.

1. At the meeting to consider approval of a nomination to the Register of Historic Places, the Commission shall receive information and hear public comments on whether the property meets the criteria for designation.
2. The Commission may, by a vote of a majority of the quorum, find that the property meets one or more of the criteria for designation and recommend the property for designation as a City landmark, find that the property does not meet any of the criteria and reject the nomination, or it may defer the decision if additional information is required. The Commission shall set forth findings of fact for its decision.
3. If the Commission finds that the property appears to meet the criteria for designation and recommends the property for designation as a City landmark, the Historic Preservation Officer shall transmit the Commission's recommendation to the City Council for its consideration within 30 days of the decision.
4. No proposed nomination may be extended beyond the boundaries of the land described in the original proposal unless the procedures set forth above are repeated for the enlarged boundaries.
5. If the Commission fails to act within a 45-day period or by its next meeting, whichever is longer, the designation shall be deemed to have been rejected and the designation procedure terminated.
6. If a nomination is rejected, the subject property shall not be considered again for historic designation for a period of at least one calendar year from the date of rejection. Once a calendar year passes, the process may be restarted.

D. City Council Review of Designation.

1. Upon receipt of a recommendation from the Commission, the City Council may approve the same by adoption of a resolution designating the structure as a historic landmark or building, may reject the same, or may refer it back to the Commission for further consideration, as the Council may deem appropriate.
2. If the City Council approves the designation, the designating resolution shall contain the following:
 - a. Location description, including legal description, parcel number, and street address of the City landmark;

b. Criteria under which the property is considered historic and therefore designated as a landmark;

c. Elements of the property, including any significant interior spaces if so nominated, that shall be subject to Landmarks Preservation Commission regulation.

3. Upon adoption of a resolution approving the designation of a historic building as a City landmark, the City Clerk shall transmit a copy of said resolution to Building and Land Use Services, which shall place the City landmark designation on the subject property's records under his or her jurisdiction.

13.07.055 Rescission of Landmarks Designation

A. The City Council, Landmarks Preservation Commission, or the owner of property listed on the Tacoma Register of Historic Places may request removal of said property from the Register.

B. Such a request shall be made in writing to the Landmarks Preservation Commission, and shall include a statement of the basis for removal from the Register, based on the following criteria:

1. Economic hardship. The property cannot be maintained as a City Landmark without causing undue economic hardship to the owner.

a. This criterion shall only apply if a determination of economic hardship has been made by the Commission. See Economic Hardship, TMC 13.05.046.

b. This criterion shall not apply in the case of proposed demolitions that have not been before the Commission through the normal Demolition Review process.

2. Catastrophic Loss. Due to circumstances beyond the control of the owner, such as fire, earthquake, or other catastrophic occurrence, the property has been damaged to the extent that its historic character has been irrecoverably lost.

3. Procedural Error. A property may be removed from the Historic Register if there is clear evidence that the Landmarks Preservation Commission or City Council committed any procedural errors during the consideration of the designation. This criterion does not include dissenting opinions regarding the findings or interpretations of the Commission during the designation process or the Commission's application of the Criteria for Designation.

C. The Landmarks Preservation Commission may itself also request removal of a property from the Historic Register in instances where:

1. The significant structure on the property no longer exists, due to a previous demolition.

2. The Commission finds that retaining the property on the Historic Register does not further the goals and objectives of this Chapter and the Preservation Plan.

D. When a request for removal from the Historic Register is received, or when the Landmarks Preservation Commission resolves to request removal of a property from the Historic Register, the Commission shall:

1. Set a date for Public Hearing within 60 days.
2. Send written notice via mail of the date, time and location of the Public Hearing. This notice shall be given not less than 14 days prior to the meeting to all taxpayers of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers of record of properties within 400 feet of the subject property. For properties proposed for removal under Criterion C1, a public hearing is not required.
3. Following the public hearing, the Commission may leave the comment period open for up to 10 days.
4. At its next meeting, following the close of the comment period, the Commission may, by a vote of a majority of the quorum, find that the property meets one or more of the criteria for removal from the historic register and recommend the same to City Council, find that the property does not meet any of the criteria and reject the request, or it may defer the decision if additional information is required. The Commission shall set forth findings of fact for its decision.
5. If the Commission finds that the property appears to meet the criteria for removal from the Historic Register, and recommends the property for removal from the Historic Register, the Historic Preservation Officer shall transmit the Commission's recommendation to the City Council for its consideration within 30 days of the decision.

13.07.060 Tacoma Register of Historic Places – Nomination and designation process for Historic Special Review and Conservation Districts.

A. Members of the City Council or Landmarks Preservation Commission may propose consideration of a Historic Special Review or Conservation District. A proposal may come in response to a request made by residents or community groups. Such requests should be prioritized using the following criteria:

1. Appropriate documentation of eligibility is readily available. Survey documentation is already prepared or could be easily prepared by an outside party in a timely manner; and

2. For proposed historic districts, the area appears to possess a high level of significance, based upon existing documentation or survey data; or
3. For proposed conservation districts, preliminary analysis indicates that the area appears to have a distinctive character that is desirable to maintain; and
4. A demonstrated substantial number of property owners appear to support such a designation, as evidenced by letters, petitions or feedback from public workshops; and
5. Creation of the district is compatible with and supports community and neighborhood plans; or
6. The area abuts another area already listed as a historic district or conservation district; or
7. The objectives of the community cannot be adequately achieved using other land use tools.

B. District Designation – Landmarks Preservation Commission.

1. Public Hearing. Following a request by the City Council or by a quorum vote of the members of the Landmarks Preservation Commission regarding such a request, Building and Land Use Services staff shall:

- a. Notify other City Departments and Divisions, as appropriate, of the proposed designation.
- b. Schedule a public hearing.
- c. Give written notice, by first-class mail, of the time, date, place, and subject of the Commission's meeting to consider designation of the district as a Historic Special Review District.
- d. This notice shall be given not less than 14 days prior to the meeting to all taxpayers of record of the subject property, as indicated by the records of the Pierce County Assessor, taxpayers of record of properties within 400 feet of the subject property, and to the Neighborhood Council of the affected area. Notice shall also be submitted for publication to the newspaper of record.
- e. Conduct the public hearing in accordance with the notice given, at which the owner or owners of the property involved, the owners of all abutting property, and other interested citizens or public officials shall be entitled to be heard.

2. The Landmarks Preservation Commission shall, by a majority vote of quorum, recommend to the Planning Commission approval, disapproval, or

approval with modification of a proposed Historic Special Review or Conservation District based upon the criteria for designation listed in this chapter, ~~and~~ the goals and purposes of this chapter and the goals and policies contained within the Preservation Plan element of the Comprehensive Plan.

C. District Designation – Planning Commission.

1. Each proposal for a new Historic Special Review District or Conservation District and the respective Landmarks Preservation Commission recommendation shall then be considered by the Planning Commission of the City pursuant to the procedures for area-wide zoning in TMC 13.02.053.

2. Notice of the time, place, and purpose of such hearing shall be given by Building and Land Use Services as provided in the aforementioned section. In addition, each taxpayer of record in a proposed Historic Special Review or Conservation District and within 400 feet of the proposed district shall be notified by mail.

3. In making a recommendation to the City Council, the Planning Commission shall consider the conformance or lack of conformance of the proposed designation with the Comprehensive Plan of the City. The Planning Commission may recommend approval of, or approval of with modifications, or deny outright the proposal, and shall promptly notify the Landmarks Preservation Commission of the action taken.

4. If the Planning Commission recommends approval or approval with modifications of the proposed designation, in whole or in part, it shall transmit the proposal, together with a copy of its recommendation, to the City Council.

5. If the Planning Commission denies the proposed designation, such action shall be final; provided, that the owners or authorized agents of at least 80 percent of the property proposed to be designated, measured by assessed valuation of said property at the time of the Commission's decision, may appeal such disapproval to the City Council within 14 days. For owners of multiple properties, property ownership for the purpose of appeal is calculated as the sum total of the assessed valuation of all affected property.

6. If the proposal is initiated by the City Council, the matter shall be transmitted to the City Council for final determination regardless of the recommendation of the Planning Commission.

D. District Designation – City Council.

1. The City Council shall have final authority concerning the creation of Historic Special Review or

Conservation Districts in the same manner as provided by the City Council in TMC 13.02.053.

2. Pursuant to the aforementioned procedures, the Council may, by ordinance, designate a certain area as a Historic Special Review District and/or Conservation District. Each such designating ordinance shall include a description of the characteristics of the Historic Special Review or Conservation District which justifies its designation, and shall include the legal description of the Historic Special Review District.

3. Within ten days of the effective date of an ordinance designating an area as a Historic Special Review or Conservation District, the Historic Preservation Officer shall send to the owner of record of each property within said district, and to Building and Land Use Services, a copy of the ordinance and a letter outlining the basis for such designation, and the obligations and restrictions which result from such designation, in addition to the requirements of the building and zoning codes to which the property is otherwise subject.

4. Historic District property inventories, identifying contributing and noncontributing properties, shall be adopted upon designation of each historic district and maintained and reviewed annually by the Commission. Such inventories shall be kept on file and available to the public at the Historic Preservation Office.

E. The City Council may, ~~by ordinance, request to~~ amend or rescind the designation of a Historic Special Review District ~~or Conservation District at any time~~ pursuant to the same procedure as set forth in this chapter and TMC 13.02.053 for original designation and area-wide rezones. Amendments or de-designations that are requested by Council shall be transmitted to Council for final determination, regardless of the recommendations of the Planning Commission or Landmarks Preservation Commission.

13.07.070 – District and landmarks regulation.

~~A. All property designated as a City landmark or that is located within a Historic Special Review District or Conservation District, according to the procedures set forth in this chapter, shall be subject to the controls, standards, and procedures set forth herein, as well as the bulk, use, setback, zoning, and other controls of the area in which it is presently located, and the owners of the property shall comply with the mandates of this chapter in addition to the land use and zoning requirements of the area in which such property is presently or may later be located. In the~~

event of a conflict between the application of this chapter and other codes and ordinances of the City, the more restrictive shall govern, except where otherwise indicated.

~~B. Neighborhood compatibility. In certain cases, application of the development standards in the HMR SRD zoning district, as defined under TMC 13.06.118, including those for height, bulk, scale, and setbacks, may conflict with historic preservation standards or criteria and result in adverse effects to historic properties. For the purposes of TMC 13.06.118, properties subject to design review and approval by the Landmarks Preservation Commission shall be exempted from the standards that conflict with the Landmarks Commission's application of historic preservation standards adopted pursuant to this chapter, including the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitation of Historic Buildings and applicable Historic Special Review District Design Guidelines. The issuance of a Certificate of Approval for final design by the Landmarks Preservation Commission shall include specific references to any conflicts between the standards in this chapter and those in TMC 13.06.118F, and specifically request the appropriate exemptions.~~

~~C. Compatibility with downtown design standards. In certain cases, the application of design standards in downtown zones may conflict with historic preservation standards or criteria and result in adverse effects to historic properties. For the purposes of TMC 13.06A.070B, properties subject to design review and approval by the Landmarks Preservation Commission shall be exempted from the basic design standards that conflict with the Landmarks Commission's application of historic preservation standards adopted pursuant to this chapter, including the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitation of Historic Buildings and applicable Historic Special Review District Design Guidelines. The issuance of a Certificate of Approval for final design by the Landmarks Preservation Commission shall serve as the Commission's findings as required in TMC 13.06A.070B.~~

~~D. Upon adoption of this ordinance, and for successive Historic and Conservation District designations, the Landmarks Preservation Commission shall adopt an official inventory of the historic properties that are within and found to contribute to the historic and architectural character of the respective district, as defined by the criteria and purposes contained within this chapter.~~

~~E. Architectural integrity, as it relates to materials, space, and composition in various periods of architecture, shall be respected and, to the extent possible, maintained in contributing properties. Historic District property inventories shall be maintained and reviewed annually by the Commission and shall be kept on file and available to the public at the Historic Preservation Office. The absence of a property on a historic inventory shall not preclude the Landmarks Preservation Commission's authority to review changes to such a property. If a property is not listed on the historic inventory for the district, the property shall be assumed to be contributing.~~

13.07.070 Commission rules of procedure and administrative guidelines

A. The Commission shall adopt and maintain a Rules of Procedure document that provides for the following:

1. Application submittal requirements for nominations to the historic register.
2. Design guidelines for historic special review and conservation districts.
3. Any amendments to the above shall be considered once annually concurrent with updates to the Commission bylaws, and shall require a public hearing.

B. Historic District Inventories. The Commission shall adopt and maintain historic building inventories for buildings within Historic Special Review Districts that identify "Contributing" and "Non Contributing" properties. Architectural integrity, as it relates to materials, space, and composition in various periods of architecture, shall be respected and, to the extent possible, maintained in contributing properties. Historic. The absence of a property on a historic inventory shall not preclude the Landmarks Preservation Commission's authority to review changes to such a property. If a property is not listed on the historic inventory for the district, the property shall be assumed to be contributing.

13.07.080 Special tax valuation – Local Review Board.

Pursuant to TMC 1.42 and authorized pursuant to WAC 254-20 (hereinafter referred to as the "State Act"), the Landmarks Preservation Commission is hereby designated as the Local Review Board to exercise the functions and duties of a local review board as defined and until such time as the City Council may either amend or repeal this provision or designate some other local body or committee as the

Local Review Board to carry out such functions and duties.

13.07.085 Property eligible for special tax valuation.

The class of historic property which shall be eligible for special valuation in accordance with the State Act shall be property which is a historic property meeting the criteria or requirements as set forth and defined in the State Act, and which is designated as a City landmark by resolution of the City Council in accordance with the provisions of this chapter, or is a contributing property within a locally administered Historic Special Review District. Landmarks Preservation Commission shall act as the Local Review Board and enter into the ~~The covenants or agreements referred to in Section 3(2) WAC 254-20 of the State Act and amendments thereto shall be subject to approval by resolution of the City Council and may be executed on behalf of the City and the Local Review Board by the appropriate officers of the City and the Local Review Board, as designated by the resolution approving such covenants or agreements.~~

13.07.090—Certificates of approval.

~~A. Certificate of Approval Required. Except where specifically exempted by this chapter, no person shall carry out or cause to be carried out any alteration of any City landmark, any building, site, structure or object proposed for designation as a City Landmark pursuant to TMC 13.07.050, or alteration or construction of any new or existing structures, buildings, public rights of way, or other public spaces in any Historic Special Review or Conservation District, and no one shall remove or alter any sign or erect or place any new sign, and no permit for such activity shall be issued unless a Certificate of Approval has been issued by the Landmarks Preservation Commission or, subject to the limitations imposed by the Landmarks Preservation Commission pursuant to TMC 1.42, administrative approval has been granted by the Historic Preservation Officer.~~

~~B. When a permit application is filed with Building and Land Use Services that requires a Certificate of Approval, the applicant shall be referred to the Historic Preservation Officer.~~

C. Application Requirements.

~~1. Applications for a Certificate of Approval shall be filed with the Historic Preservation Officer.~~

~~2. The following information must be provided in order for the application to be complete, unless the~~

~~Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:~~

~~a. Property name and building address;~~

~~b. Applicant's name and address;~~

~~c. Property owner's name and address;~~

~~d. Applicant's telephone and e-mail address, if available;~~

~~e. The building owner's signature on the application or, if the applicant is not the owner, a signed letter from the owners designating the applicant as the owner's representative;~~

~~f. Confirmation that the fee required by the General Services Fee Schedule has been paid;~~

~~g. Written confirmation that the proposed work has been reviewed by Building and Land Use Services, appears to meet applicable codes and regulations, and will not require a variance;~~

~~h. A detailed description of the proposed work, including:~~

~~(1) Any changes that will be made to the building or the site;~~

~~(2) Any effect that the work would have on the public right of way or public spaces;~~

~~(3) Any new construction;~~

~~i. Twenty sets of scale plans, with all dimensions shown, of:~~

~~(1) A site plan of all existing conditions, showing adjacent streets and buildings, and, if the project includes any work in the public right of way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions;~~

~~(2) A floor plan showing the existing features and a floor plan showing proposed new features;~~

~~(3) Elevations and sections of both the proposed new features and the existing features;~~

~~(4) Construction details, where appropriate;~~

~~(5) A landscape plan showing existing features and plantings and a landscape plan showing proposed site features and plantings;~~

~~j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;~~

k. If the proposal includes new finishes or paint, one sample of proposed colors and an elevation drawing or photograph showing the proposed location of proposed new finishes or paint;

l. If the proposal includes new signs, canopies, awnings, or exterior lighting:

(1) Twenty sets of scale drawings of the proposed signs, awnings, canopies, or lighting showing the overall dimensions, materials, design graphics, typeface, letter size, and colors;

(2) Twenty copies of details showing the proposed methods of attachment for the new signs, canopies, awnings, or exterior lighting;

(3) For lighting, detail of the fixture(s) with specifications, including wattage and illumination color(s);

(4) One sample of the proposed colors and materials;

m. If the proposal includes the removal or replacement of existing architectural elements, a survey of the existing conditions of the features that would be removed or replaced.

D. Applications for Preliminary Approval.

1. An applicant may make a written request to submit an application for a Certificate of Approval for a preliminary design of a project if the applicant waives, in writing, the deadline for a Commission decision on the subsequent design phase or phases of the project and agrees, in writing, that the decision of the Commission is immediately appealable by the applicant or any interested person(s).

2. The Historic Preservation Officer may reject the request if it appears that the review of a preliminary design would not be an efficient use of staff or Commission time and resources, or would not further the goals and objectives of this chapter.

3. To be complete, an application for a Certificate of Approval for a preliminary design must include the following:

a. Building name and building address;

b. Applicant's name and address;

c. Building owner's name and address;

d. Applicant's telephone and e-mail address;

e. The building owner's signature on the application or a signed letter from the owners designating the applicant as the owner's representative, if the applicant is not the owner;

f. Confirmation that the fee required by the General Services Fee Schedule has been paid;

g. Written confirmation that the proposed work has been reviewed by Building and Land Use Services, appears to meet applicable codes and regulations, and will not require a Land Use variance;

h. A description of the proposed work, including:

(1) General overview of any changes that will be made to the building or the site;

(2) General effects that the work would have on the public right of way or public spaces;

i. Twenty sets of scale plans, as applicable, with all dimensions shown of:

(1) A conceptual site plan of all existing conditions showing adjacent streets and buildings and, if the project includes any work in the public right of way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions;

(2) Elevations of both the proposed new features and the existing features;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. If the proposal includes the removal or replacement of existing architectural elements, a survey of the existing conditions of the features that would be removed or replaced.

4. A Certificate of Approval of a preliminary design shall be conditioned automatically upon the subsequent submittal of the final design and all of the information listed in Subsection C.2. above, and upon Commission approval prior to the issuance of any permits for work affecting the property.

13.07.095—Certificates of Approval—Process and standards for review.

A. The Landmarks Preservation Commission is the designated body that reviews and approves or denies applications for Certificates of Approval.

B. Review Process.

1. When an application for Certificate of Approval is received, the Historic Preservation Officer shall review the application and shall notify the applicant in writing within 28 days whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete.

2. Within 14 days of receiving the additional information, the Historic Preservation Officer shall notify the applicant in writing whether the application

~~is now complete or what additional information is necessary.~~

~~3. An application shall be deemed to be complete if the Historic Preservation Officer does not notify the applicant in writing, by the deadlines provided in this section, that the application is incomplete. A determination that the application is complete is not a determination that an application is vested.~~

~~4. The determination that an application is complete does not preclude the Historic Preservation Officer or the Landmarks Preservation Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and any rules adopted by the Commission.~~

~~5. Within 30 days after an application for a Certificate of Approval has been determined complete or at its next regularly scheduled meeting, whichever is longer, the Commission shall review the application to consider the application and to receive comments.~~

~~6. Notice of the Commission's meeting shall be served to the applicant and distributed to an established mailing list no less than three days prior to the time of the meeting.~~

~~7. The absence of the owner or applicant shall not impair the Commission's authority to make a decision regarding the application.~~

~~8. Within 45 days after the application for a Certificate of Approval has been determined complete, the Landmarks Preservation Commission shall issue a written decision granting, or granting with conditions, or denying a Certificate of Approval, or if the Commission elects to defer its decision, a written description of any additional information the Commission will need to arrive at a decision, and shall provide a copy of its decision to the applicant and Building and Land Use Services.~~

~~9. A Certificate of Approval shall be valid for 18 months from the date of issuance of the Commission's decision granting it unless the Commission grants an extension; provided, however, that a Certificate of Approval for actions subject to a permit issued by Building and Land Use Services shall be valid for the life of the permit, including any extensions granted in writing by Building and Land Use Services.~~

13.07.095 C-Certificates of Approval - Standards for Review.

~~1A. In addition to any district rules, policies, or design guidelines for Historic Districts described~~

~~elsewhere in this chapter, t~~The Landmarks Preservation Commission shall use the following as guidelines when evaluating the appropriateness of alterations to properties listed on the Tacoma Register of Historic Places, a City landmark, excepting applications for demolition:

1. a-For properties listed individually on the Tacoma Register of Historic Places, The-the most current version of the Secretary of the Interior's Guidelines for the Treatment of Historic Properties published and maintained by the United States National Park Service, -including, but not limited to, Standards for Rehabilitation, Restoration, Preservation, and Reconstruction, as appropriate to the proposed project is the primary resource for evaluating appropriateness of rehabilitation projects. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. The basic standards are:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

2. For specific projects that involve Restoration, Preservation, or Reconstruction, the Secretary of the Interior's Standards for Rehabilitation, Restoration, Preservation, and Reconstruction, may be applied as appropriate to the proposed project.

3. For properties located within a Historic or Conservation District, the Commission shall base decisions on the district rules, policies, or design guidelines for Historic or Conservation Districts as described in this chapter.

b. For technical preservation and conservation matters, the Commission may refer to Preservation briefs, and professional technical reports published by the National Park Service on various conservation and preservation practices.

B. Intent and Applicability

1. With regard to individually designated City Landmarks, the Standards are to be applied to ensure that any proposed development will neither adversely affect the exterior architectural features of the resource nor adversely affect the character or historical, architectural, or aesthetic interest or value of such resource and its site.

2. With regard to any property located within a historic district, Design Guidelines are to be applied to ensure that the proposed development conforms to the prescriptive standards for the district adopted by the commission and does not adversely affect the character of the district.

2-3. These standards shall be filed and made available to any property owner and the public at the Historic Preservation Office of the City.

13.07.100 Criteria for the Relocation of a City Landmark.

Relocating a historic structure usually diminishes its integrity, because the association with the original site is a key feature, and therefore it is not permitted in most cases. However, there may be extreme circumstances, in which a building is threatened in its present location and alternatives for preservation on site do not exist. In such a case, the following criteria should apply:

A. The structure is threatened by further deterioration or loss in its present location.

B. All alternatives to relocation have been reasonably considered.

C. The original building and site condition will be accurately recorded before removing the structure from the existing site.

D. Moving procedures are sufficiently planned to protect the key features of the structure.

E. The relocation site provides an appropriate context similar to that of the original.

F. A commitment is in place to complete the relocation and subsequent rehabilitation of the building.

G. There is adequate protection to assure continued preservation of the building at its relocated site.

13.07.100 Demolition of City Landmarks — Declaration of purpose.

A. Historic resources in the City contribute to the general public welfare by fostering civic identity and pride, promoting a sense of local history and place, by encouraging public and private capital investment in underutilized buildings and infrastructure, and by educating the public about past ways of life, individuals, events, and architectural styles.

B. Properties that are placed on the Tacoma Register of Historic Places, either as individual properties or as part of districts, have been determined, through a public process, to represent exceptional examples of a type of architecture, design, engineering, as exceptional examples of the environment at a particular point in history, as representative of historical patterns or events, or because of their exceptional educational or scholarly importance.

C. It is the policy of the City to prevent unnecessary demolition of its City landmarks and to encourage

investment in and adaptive reuse of underutilized historic resources.—Approval of demolitions of City landmarks shall be granted only in special circumstances where it has been determined by the Landmarks Preservation Commission that the property owner has satisfactorily met the conditions and criteria imposed by this section.

13.07.110—Demolition of City landmarks— Application process.

A. Permitting Timelines. Any City landmark for which a demolition permit application has been received is excluded from City permit timelines imposed by TMC 13.05.010.J.

B. Certificate of Approval for Demolition of City Landmark Required. No person shall carry out or cause to be carried out demolition of a City landmark, and no demolition permit shall be issued for the same unless a Certificate of Approval for Demolition of a City Landmark has been issued by the Landmarks Preservation Commission, and all special and automatic conditions imposed on such approval have been determined satisfied by the Historic Preservation Officer.

1. An application for a Certificate of Approval for Demolition of a City Landmark shall be filed with the Historic Preservation Officer. When a demolition permit application is filed with Building and Land Use Services, the applicant shall be referred to the Historic Preservation Officer.

2. Determination of Complete Application.

a. The Historic Preservation Officer shall determine whether an application for historic building demolition is complete and shall notify the applicant in writing within 30 days of the application being filed, whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete.

b. Within 14 days of receiving the additional information, the Historic Preservation Officer shall notify the applicant in writing, whether the application is now complete or what additional information is necessary.

c. An application shall be deemed to be complete if the Historic Preservation Officer does not notify the applicant in writing, by the deadlines in this section, that the application is incomplete. A determination that the application is complete is not a determination that an application is vested.

d. The determination that an application is complete does not preclude the Historic Preservation Officer or

the Landmarks Preservation Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and in any rules adopted by the Commission.

3. Application Review.

a. Preliminary Meeting.

(1) Once the application for historic building demolition has been determined to be complete, excepting the demolition fee, the Historic Preservation Officer shall schedule a preliminary briefing at the next available regularly scheduled meeting of the Landmark Preservation Commission.

(2) The purpose of this meeting is for the applicant and the Commission to discuss the project background and possible alternative outcomes, and to schedule a hearing date.

(3) To proceed with the application, the applicant shall request a public hearing, in writing, to consider the demolition application at the preliminary meeting.

(4) At this meeting, the Landmarks Preservation Commission may grant the request for public hearing, or may request an additional 30 days from this meeting to distribute the application for peer review, especially as the material pertains to the rationale contained in the application that involves professional expertise in, but not limited to, engineering, finance, architecture or architectural history, and law, or, finding that the property in question is not contributing to the Historic District, may conditionally waive the procedural requirements of this section, provided that subparagraphs A and B, of Section 13.07.130, “Demolition of City Landmarks—Automatic conditions,” are met.

(5) If a 30-day peer review is requested, the request for public hearing shall again be considered at the next regular meeting following the conclusion of the peer review period.

b. Public Hearing.

(1) Upon receiving such direction from the Landmarks Preservation Commission, and once the application fee has been paid by the applicant, the Historic Preservation Officer shall schedule the application for a public hearing within 90 days.

(2) The Historic Preservation Officer shall give written notice, by first-class mail, of the time, date, place, and subject of the meeting to consider the application for historic building demolition not less than 30 days prior to the meeting to all owners of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers

of record of properties within 400 feet of the subject property.

(3) The Commission shall consider the merits of the application, comments received during peer review, and any public comment received in writing or during public testimony.

(4) Following the public hearing, there shall be an automatic 60-day comment period during which the Commission may request additional information from the applicant in response to any commentary received.

(5) At its next meeting following the public comment period, the Landmarks Preservation Commission shall make Findings of Fact regarding the application based on the criteria for consideration contained in this subsection. The Landmarks Preservation Commission may approve, subject to automatic conditions imposed by this subsection, the application or may deny the application based upon its findings of fact. This decision will instruct the Historic Preservation Officer whether or not he or she may issue written approval for a historic building demolition.

13.07.120—Demolition of City landmarks— Application requirements.

A. The following information must be provided in order for the application to be complete, unless the Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:

1. Building name and building address;
2. Applicant's name and address;
3. Building owner's name and address;
4. Applicant's telephone and e-mail address, if available;
5. The building owner's signature on the application, or a signed letter from the owners designating the applicant as the owner's representative if the applicant is not the owner;
6. Confirmation that the fee required by the City of Tacoma Fee Schedule has been paid;
7. Written confirmation that the demolition has been reviewed by Building and Land Use Services, appears to meet applicable codes and regulations, and will not require a land-use variance or code waiver;
8. A detailed, professional architectural and physical description of the property in the form of a narrative report, to cover the following:

a. Physical description of all significant architectural elements of the building;

b. A historical overview;

c. Elevation drawings of all sides;

d. Site plan of all existing conditions showing adjacent streets and buildings and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays;

e. Photographs of all significant architectural elements of the building; and

f. Context photographs, including surrounding streetscape and major sightlines.

9. A narrative statement addressing the criteria in this subsection for Applications for Historic Building Demolitions, to include the following areas, as applicable:

a. Architectural/historical/cultural significance of the building;

b. Physical condition of the building;

c. Future development plans for the site, including conceptual drawings, sketches, renderings, and plans.

10. Written proof, acceptable to the Landmarks Preservation Commission, of valid and binding financial commitments for the replacement structure is required before the permit can be issued, and should be submitted with the demolition request. This may include project budgets, funding sources, and written letters of credit.

11. A complete construction timeline for the replacement structure to be completed within two years, or a written explanation of why this is not possible.

12. Reports by professionally qualified experts in the fields of engineering, architecture, and architectural history or real estate finance, as applicable, addressing the arguments made by the applicant.

13.07.130—Demolition of City landmarks— Automatic conditions.

Following a demolition approval pursuant to this section, the following conditions are automatically imposed, except where exempted per TMC 13.07.110.B.3.a(4) and 13.07.150.C, and must be satisfied before the Historic Preservation Officer shall issue a written decision:

A. For properties within a Historic Special Review or Conservation District, the design for a replacement structure is presented to and approved by the

~~Landmarks Preservation Commission pursuant to the regular design review process as defined in this chapter; or, if no replacement structure is proposed for a noncontributing structure, the Commission may, at its discretion, waive this condition and 13.07.130.B and D;~~

~~B. Acceptable proof of financing commitments and construction timeline is submitted to the Historic Preservation Officer;~~

~~C. Documentation of the building proposed for demolition that meets Historic American Building Survey (“HABS”) standards or mitigation requirements of the Washington State Department of Archaeology and Historic Preservation (“DAHP”), as appropriate, is submitted to the Historic Preservation Office and the Northwest Room of the Tacoma Public Library;~~

~~D. Building and Land Use Service permits for the replacement are ready for issue by Building and Land Use Services, and there are no variance or conditional use permit applications outstanding;~~

~~E. Any mitigation agreement proposed by the applicant is signed and binding by City representatives and the applicant, and approved, if necessary, by the City Council; and~~

~~F. Any conditions imposed on the demolition have been accepted in writing (such as salvage requirements or archaeological requirements).~~

13.07.140110 Demolition of City landmarks – Standards and criteria for review.

In addition to the stated purposes and findings located in this chapter, the Landmarks Preservation Commission shall address the following issues when considering an application for historic building demolition:

- A. The reasonableness of any alternatives to demolition that have been considered and rejected, that may meet the stated objectives of the applicant;
- B. The physical, architectural, or historic integrity of the structure in terms of its ability to convey its significance, but not including any damage or loss of integrity that may be attributable to willful neglect;
- C. The importance of the building to the character and integrity of the surrounding district; and
- D. Any public or expert commentary received during the course of the public comment and peer review periods.

~~E. Economic Hardship: A City Landmark be demolished if the Landmarks Preservation Commission finds, pursuant to the Criteria for Economic Hardship located in Chapter 13.05.046, that maintenance, use and/or alteration of the resource in accordance with the requirements of this chapter would cause immediate and substantial hardship on the property owner(s) because of rehabilitation in a manner which preserves the historic integrity of the resource:~~

- ~~1. Is infeasible from a technical, mechanical, or structural standpoint, and/or~~
- ~~2. Would leave the property with no reasonable economic value because it would require an unreasonable expenditure taking into account such factors as current market value, permitted uses of the property, the value of transferable development rights and the cost of compliance with applicable local, state, and federal codes.~~

13.07.150 Demolition of City Landmarks— Specific exemptions.

The following are excluded from the requirements imposed by this chapter but are still subject to Landmarks Preservation Commission approval for exterior changes as outlined elsewhere in this chapter:

~~A. Demolition of accessory structures, including garages and other outbuildings, and noncontributing later additions to historic buildings, where the primary structure will not be affected materially or physically by the demolition and where the accessory or addition is not specifically designated as a historic structure of its own merit;~~

~~B. Demolition work on the interior of a City landmark or object, site, or improvement within a Historic Special Review or Conservation District, where the proposed demolition will not affect the exterior of the building and where no character-defining architectural elements specifically defined by the nomination will be removed or altered; and~~

~~C. Objects, sites, and improvements that have been identified by the Landmarks Preservation Commission specifically as noncontributing within their respective Historic Special Review or Conservation District buildings inventory at the preliminary meeting, provided that a timeline, financing, and design for a suitable replacement structure have been approved by the Landmarks Preservation Commission pursuant to Section 13.07.095 of this chapter, or such requirements have been waived pursuant to TMC 13.07.130.A;~~

13.07.160—Appeals to the Hearing Examiner.

~~A. Referral to the Hearing Examiner. The Landmarks Preservation Commission shall refer to the Hearing Examiner for public hearing all final decisions regarding applications for certificates of approval where the property owners, any interested parties of record, or applicants file with the Landmarks Preservation Commission, within 10 days of the date on the decision, written notice of appeal of the decision or attached conditions.~~

~~B. Form of Appeal. An appeal of the Landmarks Preservation Commission shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information shall be submitted:~~

- ~~1. An indication of facts that establish the appellant’s standing;~~
- ~~2. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion;~~
- ~~3. The requested relief from the decision being appealed;~~
- ~~4. Any other information reasonably necessary to make a decision on appeal.~~

~~Failure to set forth specific errors or grounds for appeal shall result in a summary dismissal of the appeal.~~

~~C. The Hearing Examiner shall conduct a hearing in the same manner and subject to the same rules as set forth in TMC 1.23.~~

~~D. The Hearing Examiner’s decision shall be final. Any petition for judicial review must be commenced within 21 days of issuance of the Hearing Examiner’s Decision, as provided for by TMC 1.23.060 and RCW 36.70C.040.~~

13.07.165—Appeals to the Hearing Examiner—Factors to be considered.

A. The Hearing Examiner, in considering the appropriateness of any exterior alteration of any City landmark, shall give weight to the determination and testimony of the consensus of the Landmarks Preservation Commission and shall consider:

- 1. The purposes, guidelines, and standards for the treatment of historic properties contained in this chapter, and the goals and policies contained in the Culture and History Element of the Comprehensive Plan;

~~2. The purpose of the ordinance under which each Historic Special Review or Conservation District is created;~~

~~3. For individual City landmarks, the extent to which the proposal contained in the application for Certificate of Approval would adversely affect the specific features or characteristics specified in the nomination to the Tacoma Register of Historic Places;~~

~~4. The reasonableness, or lack thereof, of the proposal contained in the application in light of other alternatives available to achieve the objectives of the owner and the applicant; and~~

~~5. The extent to which the proposal contained in the application may be necessary to meet the requirements of any other law, statute, regulation, code, or ordinance.~~

~~B. When considering appeals of applications for demolition decisions, in addition to the above, the Hearing Examiner shall refer to the Findings of Fact made by the Landmarks Preservation Commission in addition to the demolition criteria for review and other pertinent statements of purpose and findings in this chapter.~~

~~C. The Examiner may attach any reasonable conditions necessary to make the application compatible and consistent with the purposes and standards contained in this chapter.~~

13.07.170—Ordinary maintenance or repairs.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any City landmark, which maintenance or repair does not involve a change in design, material, or the outward appearance thereof.

13.07.180—Minimum buildings standards.

A. Prevention of Demolition by Neglect. The Landmarks Preservation Commission shall make a reasonable effort to notify the Building Official of historic properties that appear to meet the criteria for substandard buildings or property under TMC 2.01.060.

B. For buildings listed on the Tacoma Register of Historic Places which are found to be Substandard, Derelict, or Dangerous according to the Building Official, under the Minimum Building provisions of TMC 2.01, the following shall apply:

- 1. Because City landmarks are culturally, architecturally, and historically significant to the City and community, the historic status of a Substandard, Derelict, or Dangerous Building may constitute a

“sufficient reason” for acceptance of alternate timelines and extensions upon agreed timelines; and,

2. Any timelines and plans for the remediation of a dangerous City landmark, including for repair or demolition, shall not be accepted by the Building Official until the applicable procedures as set forth in this chapter for review of design or demolition by the Landmarks Preservation Commission have been satisfied, pursuant to TMC 2.01.040.F.

3. The Building Official may consider the Landmarks Preservation Commission to be an interested party as defined in TMC 2.01, and shall make a reasonable effort to keep the Commission notified of enforcement complaints and proceedings involving City Landmarks.

C. Nothing in this chapter shall be construed to prevent the alteration of any feature which the Building Official shall certify represents an immediate and urgent threat to life safety. The Building Official shall make a reasonable effort to keep the Historic Preservation Officer informed of alterations required to remove an unsafe condition involving a City Landmark.

D. The Historic Preservation Officer shall have the authority to administratively approve changes without prior Landmarks Preservation Commission review per TMC 13.07.095, if, upon consultation with the Building Official and appropriate City Engineering staff, it is determined such changes are necessary to mitigate an immediate and urgent threat of structural failure or significant damage to a City landmark. The circumstances and rationale for such an alteration shall be provided in a report to the Commission at its next regular meeting.

13.07.120 Historic Special Review and Conservation Districts – Generally

A. Design Guidelines.

1. The Landmarks Preservation Commission shall adopt Guidelines for Building Design and Streetscape Review for historic special review districts and conservation districts, to be used as the basis for design review for rehabilitation, new development, and public amenities within the districts. Such guidelines are intended to ensure a certainty of design quality within each district, protect the historic fabric of the districts, enhance the economic viability of the districts through the promotion of their architectural character, and provide a clear set of physical design parameters for property owners, developers, designers, and public agencies.

2. Guidelines at a minimum should address the following subjects: height, scale, massing, exterior cladding and materials, building form and shape, roof shape, fenestration patterns and window materials, architectural details, storefronts (within commercial areas), awnings and signs, additions, parking, main entrances, rhythm of openings, accessory structures, mechanical equipment, streetscape and sustainable design.

3. In instances where design guidelines have not yet been adopted for historic special review or conservation districts, the Secretary of the Interior’s Standards for Rehabilitation may be used.

4. For certain common types of City-managed projects, and for certain projects within the City right-of-way, including streetlighting, sidewalk repair and similar alterations within the right-of-way, the City Public Works Department may propose “standard specifications” for programmatic review and adoption by the Commission, in lieu of case-by-case reviews. Any such standards, rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.

B. District exemptions. The following actions within historic districts are exempt from the requirements imposed pursuant to this chapter:

1. Any alterations to non-contributing properties as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that the demolition of such structures is not exempt from the provisions of this chapter; and

2. Interior alterations to existing properties, unless those modifications affect the exterior appearance of the property. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.190130 Designation of Old City Hall Historic Special Review District – Declaration of purpose.

A. In order that the Old City Hall area and buildings within the area may not be injuriously affected; to promote the public welfare; and to provide for the enhancement of this area and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of its historic heritage, returning unproductive structures to useful purposes, and attracting visitors to the City; and in order that a reasonable degree of control may be exercised over the site, development, and architecture of the private and public buildings erected therein, there is hereby created the Old City Hall Historic Special Review

District, the boundaries of which are more particularly described in Section 13.07.120 hereof.

B. Said district and the buildings and structures therein possess significant aspects of early Tacoma history, architecture, and culture. Historic, cultural, and architectural significance is reflected in the architectural cohesiveness of the area. For the foregoing reasons, many of the features contained in the buildings and structures in said district should be maintained and preserved.

13.07.200140 Designation of Old City Hall Historic Special Review District – Findings.

A. The area encompassed by the Old City Hall Historic Special Review District has played a significant role in the development of the City of Tacoma, the Puget Sound region, and the state of Washington. The district was the location of the early governmental and commercial center of the City. The focus of commerce and transportation was located in this district.

B. The Old City Hall Historic Special Review District is associated with the lives of many Tacoma pioneers through property, business, and commercial activities which were concentrated in the area.

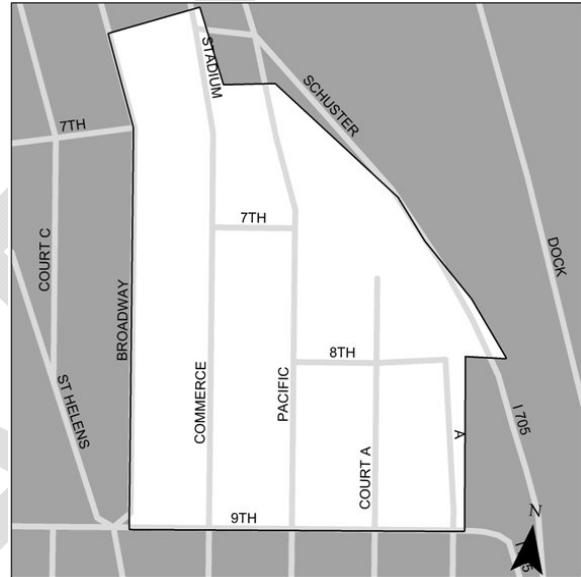
C. Many buildings within the Old City Hall Historic Special Review District embody distinctive characteristics of late 19th Century Eclectic architecture, which reflects Greco-Roman and Renaissance architectural influences. For these and other reasons, the buildings and structures combine to create an outstanding example of an area of Tacoma which is significant and distinguishable in style, form, character, and construction representative of its era.

D. The restoration and preservation of objects, sites, buildings, and structures within the Old City Hall Historic Special Review District will yield information of educational significance regarding the way of life and the architecture of the late 19th century, as well as add interest and color to the City. Restoration of the Old City Hall Historic Special Review District will preserve the environment which was characteristic of an important era of Tacoma's history, and will be considerably more meaningful and significant educationally than if done on the basis of individual isolated buildings and structures.

13.07.210150 Old City Hall Historic Special Review District – Boundary description.

The legal description for the Old City Hall Historic Special Review District is described in Ordinance No. 24877, and shall be kept on file in the City Clerk's Office. The approximate boundaries are described in Map A below.

Map A: Approximate Boundaries of the Old City Hall Historic Special Review District



13.07.220160 Old City Hall Special Review District – Specific Exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

A. Any alterations to non-contributing properties as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that the demolition of such structures is not exempt from the provisions of this chapter; and

B. Interior alterations to existing properties, unless those modifications affect the exterior appearance of the property.

13.07.230170 Designation of Union Depot/Warehouse Historic Special Review District – Declaration of purpose.

In order that the area and buildings within the area may not be injuriously affected, to promote the public

welfare, and to provide for the enhancement of the area and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of its historic and architectural heritage, returning unproductive structures to useful purposes, and attracting visitors to the City, and in order that a reasonable degree of control may be exercised over the site, development, and architecture of the private and public buildings erected therein, including certain infrastructure, there is hereby created the Union Depot/Warehouse Historic Special Review District.

13.07.240180 Designation of the Union Depot/Warehouse Historic Special Review District – Findings.

A. The area encompassed by the Union Depot/Warehouse Historic Special Review District has played a significant role in the development of the City of Tacoma, the Puget Sound region, and the state of Washington. The district was the location of the early railroad, industrial, and commercial center of the City. The focus of early manufacture and commerce was identified with this district.

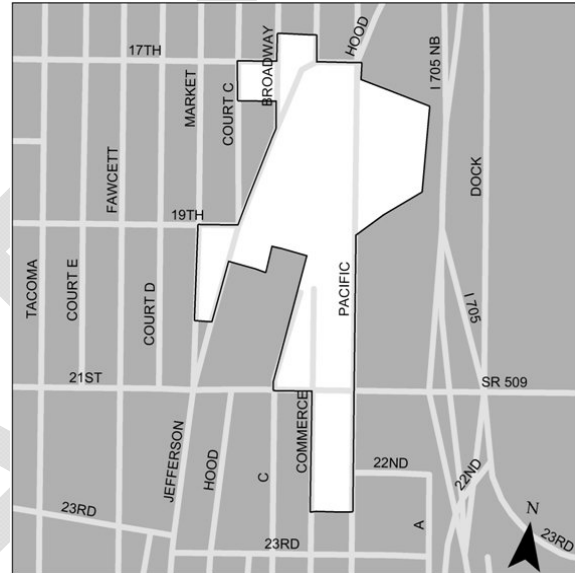
B. The Union Depot/Warehouse Historic Special Review District is associated with the lives of many Tacoma pioneers through property, railroad, and commercial activities which were concentrated in the area. Many of the buildings within the Union Depot/Warehouse Historic Special Review District embody the distinctive characteristics of the late 19th and early 20th century Eclectic architecture, which reflects Greco-Roman, Renaissance, and Baroque architectural influences. For these and other reasons, the buildings and structures combine to create an outstanding example of a historic district in Tacoma dating from circa 1887–1930, which is significant and distinguishable in style, form, character, and construction representative of its era.

C. Restoration and preservation of objects, sites, buildings, and structures within the Union Depot/Warehouse Historic Special Review District will yield information of educational significance regarding the way of life and the architecture of the late 19th and early 20th centuries, as well as add interest and color to the City. Restoration of the Union Depot/Warehouse Historic Special Review District will preserve the sense of place and time and the environment which was characteristic of an important era of Tacoma’s history, and such district planning will be considerably more meaningful and significant educationally than if done on the basis of individual isolated buildings and structures.

13.07.250190 Union Depot/Warehouse Historic Special Review District – Boundary description.

The legal description for the Union Depot/Warehouse Historic Special Review District is described in Ordinance No. 24505, and shall be kept on file in the City Clerk’s Office. The approximate boundaries are described in Map B below.

Map B: Approximate Boundaries of the Union Depot/Warehouse Historic Special Review District



13.07.260200 Designation of Union Station Conservation District.

There is hereby created the Union Station Conservation District, the physical boundaries of which are described in Ordinance No. 24877, and kept on file in the City Clerk’s Office. The approximate boundaries are described in Map C below.

Map C: Approximate Boundaries of the Union Station Conservation District



13.07.270 Guidelines for building design and streetscape improvement review.

A. Intent. The following are hereby established as the design review guidelines for rehabilitation, new construction, and public amenities. These guidelines are intended to ensure a certainty of design quality within the Historic Special Review District and Union Station Conservation District, protect the historic fabric of the districts, enhance the economic viability of the districts through the promotion of their architectural character, and provide a clear set of physical design parameters for property owners, developers, designers, and public agencies.

B. The following guidelines are intended to provide a set of basic standards for architectural and physical design within the Union Station districts. The guidelines will be used by the Landmarks Preservation Commission as a baseline for the design review process, but will not supersede the authority of the Commission to exercise its judgment and discretion on a case by case basis. The guidelines are also set forth to provide assistance to owners,

~~developers, and designers involved in project planning by providing general design and technical recommendations.~~

~~C. From time to time, the Landmarks Preservation Commission may adopt policies and administrative rules for the purpose of clarifying and assisting property owners in interpreting these guidelines. Any such rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.~~

~~D. Design Guidelines. The following predominant historic building elements shall be recognized as essential to the districts’ historic image and used as the basis for design review of proposals for rehabilitation of existing buildings and review of new construction within the districts:~~

~~1. Height. The centerpiece and height benchmark for the districts is the Union Station, with its dome eap height of approximately 96 feet above Pacific Avenue. Wing parapet walls are 30 feet in height above Pacific Avenue. No new buildings constructed in the districts shall exceed 85 feet in height.~~

~~In the rehabilitation of existing buildings, their existing height should be maintained and the parapets and cornices should be kept intact. Any rooftop additions, penthouses, building systems equipment, or roof mounted structures should be set back from existing parapet walls sufficiently to conceal them from view from street level.~~

~~2. Scale. Scale refers to a building’s comparative relationship to neighboring buildings and its fit within the districts. The typical four story building in the districts is 50 feet wide and 100 feet deep. Two such “basic blocks” side by side are proportionally similar to the main section of Union Station and illustrate the scale and size of structural components in the districts.~~

~~Scale is also determined by the proportions of the architectural elements within the composition of the individual building facades. Exterior building facades shall be of a scale compatible with surrounding buildings and shall maintain a zero setback from the sidewalk. Window and door proportions, including the size and design of the wood sash and frame floor height, floor shapes, street elevations, and other elements of the building facades, shall relate to the scale of the surrounding buildings.~~

~~3. Materials. The predominant building material within the districts is masonry, including brick, granite, and terra cotta. Rehabilitation of existing~~

buildings and construction of infill buildings shall utilize masonry as the predominant building material.

4. **Minimum Maintenance.**—All contributing historic buildings in the districts shall be maintained against decay and deterioration caused by neglect or defective or inadequate weather protection.

5. **Storefront Design.**—A major character defining feature of the buildings within the districts is the storefront. The composition of the storefronts is consistent from one building to the next, and serves as a unifying feature of the districts by forming a continuity along the street. Preservation of the storefront is essential to the maintenance of the districts' image and character. Rehabilitation of an existing building shall include preservation of the existing storefront or reconstruction of a new storefront which is compatible with the original in scale, size, and material. New construction shall also include storefronts. Street level retail sales and service uses, as described and defined in TMC 13.06, should be strongly considered for ground floor use along Pacific Avenue in order to more effectively implement storefront design.

6. **Awnings.**—Awnings have been a traditional addition to the facades of buildings within the districts and shall be encouraged within the districts as a functional exterior feature. All awnings shall be compatible with the historic character of the buildings and shall be based in design upon historic counterparts. They shall also:

- a. Reflect the shape and character of the window openings;
- b. Be, or appear to be, retractable in the form of historic awnings;
- c. Constructed with canvas like fabric rather than high gloss in texture;
- d. Not be back lit or translucent;
- e. Be in colors and/or patterns which complement the building and have basis in the historic record;
- f. Be attached to the buildings in a manner which does not permanently damage the structure or obscure significant architectural features.

7. Signs.

a. General.

(1) All new exterior signs and all changes in the appearance of existing exterior signs require Landmarks Preservation Commission approval. This includes changes in message or colors on pre-existing signs.

(2) If there is a conflict between these standards and the requirements in the City's Sign Code, the more strict requirement shall apply.

b. Location and Size of Signs.

(1) Signs shall not dominate the building facades or obscure their architectural features (arches, transom panels, sills, moldings, cornices, windows, etc.).

(2) The size of signs and individual letters shall be of appropriate scale for pedestrians and slow moving traffic. Projecting signs shall generally not exceed nine square feet on first floor level.

(3) Signs on adjacent storefronts shall be coordinated in height and proportion. Use of a continuous sign band extending over adjacent shops within the same building is encouraged as a unifying element.

(4) Portable reader board signs located on sidewalks, driveways, or in parking lots are prohibited.

(5) Existing historic wall signs are a contributing element within the district and should be restored or preserved in place. New wall signs shall generally be discouraged.

c. Messages and Lettering Signs.

(1) Messages shall be simple and brief. The use of pictorial symbols or logos is encouraged.

(2) Lettering should be of a traditional block or curvilinear style which is easy to read and compatible with the style of the building. No more than two different styles should be used on the same sign.

(3) Letters shall be carefully formed and properly spaced so as to be neat and uncluttered. Generally, no more than 60 percent of the total sign area shall be occupied by lettering.

(4) Lettering shall be generally flat or raised.

d. Color.

(1) Light colored letters on a dark colored background are generally required as being more traditional and visually less intrusive in the context of the Union Station District's predominantly red brick streetscapes.

(2) Colors shall be chosen to complement, not clash with, the facade color of the building. Signs should normally contain not more than three different colors.

e. Materials and Illumination

(1) Use of durable and traditional materials (metal and wood) is strongly encouraged. All new signs shall be prepared in a professional manner.

(2) In general, illumination shall be external, non-flashing, and non-glare.

~~(3) Internal illumination is generally discouraged, but may be appropriate in certain circumstances, such as:~~

~~(i) Individual back-lit letters silhouetted against a softly illuminated wall.~~

~~(ii) Individual letters with translucent faces, containing soft lighting elements inside each letter.~~

~~(iii) Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.~~

~~However, such signs are generally suitable only on contemporary buildings.~~

~~(4) Neon signs may be permitted in exceptional cases where they are custom-designed to be compatible with the building's historic and architectural character.~~

~~f. Other Stylistic Points~~

~~(1) The shape of a projecting sign shall be compatible with the period of the building to which it is affixed, and shall harmonize with the lettering and symbols chosen for it.~~

~~(2) Supporting brackets for projecting signs should complement the sign design, and not overwhelm or clash with it. They must be adequately engineered to support the intended load, and generally should conform to a 2:3 vertical-horizontal proportion. Screw holes must be drilled at points where the fasteners will enter masonry joints to avoid damaging bricks, etc.~~

~~8. Color. Building colors should contribute to the distinct character of the historic building. Original building colors should be researched and considered in any new color scheme. Whether contrasting or complementary, the colors should reflect the design of the building. Building colors should utilize a limited palette. Colors should be selected to emphasize building form and highlight major features of the building. Color schemes using several colors should be avoided and surfaces which are not historically painted should not be painted.~~

~~9. Views. All new construction in the Union Station District should be designed to preserve existing views and vistas. Of particular importance are views of Commencement Bay, Mount Rainier, and Union Station.~~

~~E. Streetscape Guidelines. Streetscaping is essential in the development of the districts in order to create value and enhance private development efforts. Proper design of streetscapes and public open spaces provides a unifying theme and unique identity for the districts, complements and extends the presence of Union Station, encourages pedestrian circulation, and~~

~~creates a gateway to downtown and the waterway. The pattern of traffic routes and open space is based upon the historic function of the district and has a direct relation to such physical features as views from the upper floors of the building, sunlight, facade visibility, and streetscape appearance. Any significant loss or reconfiguration of existing open space and street corridors is discouraged.~~

~~The following improvements are to be encouraged:~~

~~1. Sidewalk paving. Paving should be of brick or brick and brushed concrete. Existing granite curbs should be maintained or reconstructed, where possible.~~

~~2. Street paving. Where feasible, historic street paving and gutters, either brick or cobblestone, should be preserved and restored.~~

~~Where feasible, existing railroad or streetcar rails should be preserved in place.~~

~~3. Streetlights. Historic streetlights should be used throughout the district as unifying elements.~~

~~G. The Landmarks Preservation Commission may, at its discretion, waive mandatory requirements imposed by Section 13.07.290 of this chapter. In determining whether a waiver is appropriate, the Landmarks Preservation Commission shall require an applicant to demonstrate by clear and convincing evidence that, because of special circumstances not generally applicable to other property or facilities, including size, shape, design, topography, location, or surroundings, the strict application of those mandatory requirements of Section 13.07.290 would be unnecessary to further the purposes of this chapter. Such waiver shall not exceed the requirements set forth in the underlying zoning district, except where specifically provided for in TMC 13.06A.070.B.~~

13.07.280—Union Depot/Warehouse Historic Special Review and Union Station Conservation Districts—Specific exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

A. Any alterations to non-contributing properties, as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that the demolition of such structures is not exempt from the provisions of this chapter; and

B. Interior alterations to existing properties, unless those modifications affect the exterior appearance of the structure.

13.07.290210 Designation of the North Slope Historic Special Review District – Purpose.

A. In order that the North Slope Neighborhood and buildings within the Neighborhood may not be injuriously affected; to promote the public welfare; to provide for the enhancement of the North Slope Neighborhood and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of Tacoma’s historic heritage, maintaining productive and useful structures, and attracting visitors to the City; and in order that a reasonable degree of control may be exercised over the siting, development and architecture of public and private buildings erected in the North Slope Neighborhood so that the goals set forth in this section and in this chapter may be realized, there is hereby created the North Slope Historic Special Review District, the boundaries of which are more particularly described in Section 13.07.340 hereof.

B. The North Slope Neighborhood and the buildings therein reflect significant aspects of Tacoma’s early history, architecture, and culture. Such historic, architectural, and cultural significance is also reflected in the architectural cohesiveness of the neighborhood. For the foregoing reasons, many of the features contained in the buildings and structures in the Neighborhood should be maintained and preserved.

C. Except where specifically exempted by TMC 13.07.095 and TMC 13.07.330, all visible alterations and construction within the historic district boundaries, including alterations to elements and spaces within the public rights-of-way, are subject to the review and approval of the Landmarks Preservation Commission prior to the initiation of work.

13.07.300220 Designation of the North Slope Historic Special Review District – Findings.

The architectural, cultural, historical, and educational value of the North Slope Neighborhood is such that the protection and enhancement of its built environment and streetscape is important to the public welfare. In particular, the District is important for its association with the follow themes:

A. Role in the Development of Tacoma. The area north of Division Avenue from the bluff to Sprague Street was one of several residential neighborhoods that developed after Tacoma was selected to be the terminus of the Northern Pacific Railroad. New

Tacoma and the North End were considered to be a desirable place to live, near downtown Tacoma. The community was settled irregularly over its history in a fairly dense residential pattern, and it is common to find structures from the late 1800s next to houses built in the 1930s.

B. Association with Tacoma Pioneers, Property, Business and Commercial Activities. The New Tacoma and North End community is predominantly residential, although there are scattered pockets of small commercial buildings that served the community. These commercial buildings are concentrated mostly along Division Avenue and K Street. The residents of the community represented a complete cross-section of different classes and occupations, from a United States ambassador to France to a Slovakian boat builder.

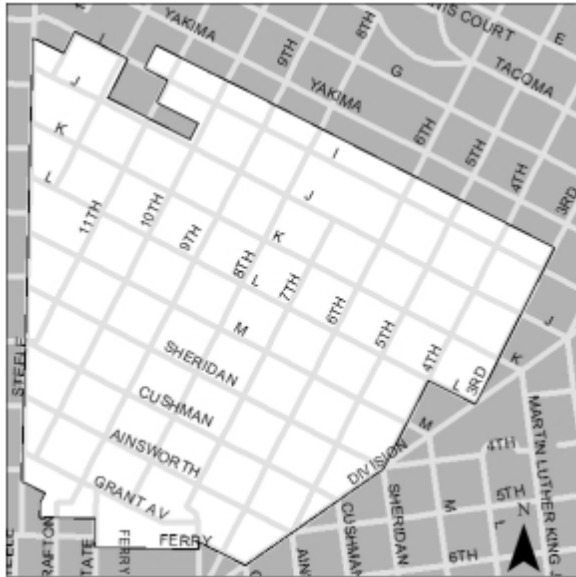
C. Architectural Characteristics. The architectural characteristics of the New Tacoma and North End community are variable, although there is a remarkable number of architect-designed houses in the neighborhood. Most homes built in the earliest period of growth from 1880 to the crash in 1893 were Queen Anne and Stick style houses, of both modest and grand proportions. After the turn of the century, more Craftsman and bungalow-style houses were built, as well as a few Colonial Revival structures. Those homes built after the turn of the century tended to be larger and more impressive, until the late 1920s when many one-story bungalows were built. After the Great Depression, another building boom took place in the neighborhood, with considerably smaller single-family brick residences constructed in simple forms, and two- or three-story multi-family apartment complexes.

D. Educational Uses and Preservation of the Area’s Heritage. Restoration and preservation of objects, sites, buildings, and structures within the North Slope Neighborhood will yield information of educational significance about the way of life of Tacoma’s citizens, and the architecture of the late 19th and early 20th centuries, and will add interest and color to the City. Maintaining this neighborhood as a whole will preserve the sense of time, place, and the environment which formed an important characteristic of Tacoma’s history. District-wide planning will be considerably more meaningful and educationally significant than if done on the basis of individual, isolated buildings

13.07.310230 North Slope Historic Special Review District – Boundary description.

The legal description for the North Slope Historic Special Review District is described in Ordinance No. 26611, and shall be kept on file in the City Clerk’s Office. The approximate boundaries are described in Map D below.

Map D: Approximate Boundaries of the North Slope Historic Special Review District



13.07.320 Guidelines for building design and streetscape improvement review of the North Slope Historic Special Review District.

A. Intent. These guidelines are intended to ensure a certainty of design quality within the North Slope Historic Special Review District, protect the historic fabric of the district, enhance the economic vitality of the district through promotion of its architectural character, and provide a clear set of physical design parameters for property owners, developers, designers, and public agencies. These guidelines are hereby established as the design review guidelines for rehabilitation, new construction, and public amenities, including street furniture, streetlighting, paving and sidewalks, and street trees and planting strips.

B. Architectural integrity, as it relates to scale, proportion, texture, color, compatible materials, space, and composition in various periods of

architecture, should be respected and, to the extent possible, maintained in contributing properties.

C. The following guidelines are also intended to provide a basic set of standards for architectural and physical design within the North Slope Historic Special Review District. These guidelines will be used by the Tacoma Landmarks Preservation Commission as a base line for the design review process. These guidelines will also assist owners, developers, and designers involved in project planning by providing general design and technical recommendations. When applying the guidelines, the Commission will be considerate of clearly documented cases of economic hardship or deprivation of the owner’s reasonable use of the property.

D. From time to time, the Landmarks Preservation Commission may adopt policies and administrative rules for the purpose of clarifying and assisting property owners in interpreting these guidelines. Any such rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.

E. For certain common types of City managed projects, and for certain projects within the City right of way, including streetlighting, sidewalk repair and similar alterations within the right of way, the City Public Works Department may propose “standard specifications” for programmatic review and adoption by the Commission, in lieu of case-by-case reviews. Any such standards, rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.

F. Design Guidelines. The following predominant building elements in the district shall be recognized as essential to the historic image of the neighborhood, and shall, along with the Secretary of the Interior’s Standards for the Rehabilitation of Historic Buildings, be utilized as the basis for design review of proposals for rehabilitation and new construction within the district.

1. Height. Goal: Balance the overall height of new construction with that of nearby structures. In the rehabilitation of existing buildings, the present height of the structure should remain intact. New buildings should step down to be comparable in height to adjacent structures.

2. Scale. Goal: Relate the size and proportion of new buildings to those of the neighborhood. Scale refers to a building’s comparative relationship to neighboring structures, and its fit within the district.

Building facades should be of a scale compatible with surrounding buildings, and maintain a comparable setback from the property line to adjacent buildings as permitted by applicable zoning regulations.

Scale is also determined by the proportions of the architectural elements within the composition of the individual building facades. Window and door proportions (including the design of sash and frames), floor heights, floor shapes, roof shapes and pitches, and other elements of the building exterior should relate to the scale of the neighborhood.

3. Massing. Goal: Break up the facades of buildings into smaller varied masses, comparable to those contributing buildings in the neighborhood. Variety of forms is a distinguishing characteristic of the North Slope residential community. Smaller massing—the arrangement of facade details, such as projections and recesses—and porches all help to articulate the exterior of the structure and help the structure fit into the neighborhood.

4. Sense of Entry. Goal: Emphasize entrances to structures. Entrances should be located on the front facade of the building and highlighted with architectural details such as raised platforms, porches, or porticos to draw attention to the entry. Entrances not located on the front facade should be easily recognizable from the street.

5. Roof Shapes and Materials. Goal: Utilize traditional roof shapes, pitches, and compatible finish materials on all new structures, porches, additions, and detached outbuildings wherever such elements are visible from the street. Maintain the present roof pitches of existing pivotal, primary, and secondary buildings where such elements are visible from the street.

Typically, the existing historic buildings in the neighborhood either have gable roofs with the slopes of the roofs between 5:12 to 12:12 or more, and with the pitch oriented either parallel to or perpendicular to the public right of way, or have hipped roofs with roof slopes somewhat lower. Most roofs also have architectural details such as cross gables, dormers, and/or widow's walks to break up the large sloped planes of the roof. Wide roof overhangs, decorative eaves or brackets, and cornices can be creatively used to enhance the appearance of the roof.

6. Exterior Materials. Goals: Use compatible materials that respect the visual appearance of the surrounding buildings. Buildings in the North Slope Neighborhood were sided with shingles or with lapped, horizontal wood siding of various widths. Subsequently, a few compatible brick or stucco-

covered structures were constructed, although many later uses of these two materials do not fit the character of the neighborhood. Additions to existing buildings should be sided with a material to match, or be compatible with, the original or existing materials. New structures should utilize exterior materials similar to those typically found in the neighborhood.

7. Rhythm of Openings. Goals: Respect the patterns and orientations of door and window openings as represented in the neighboring buildings. Typically, older buildings have doors and transoms that matched the head height of the adjacent windows. Doors also tend to be paneled or contain glazed openings. Windows are vertically oriented. Large horizontal expanses of glass are created by ganging two or more windows into a series. Most windows are either single or double hung, with a few casement windows being incorporated into the designs. Many of the buildings had the upper sash articulated into smaller panels, either with muntin bars, leaded glazing, or arches. Most older windows were also surrounded with substantial trim pieces or window head trim.

8. Additional Construction. Goal: Sensitively locate additions, penthouses, buildings systems equipment, or roof mounted structures to allow the architectural and historical qualities of the contributing building to be dominant. While additions to contributing buildings in historic districts are not discouraged, they should be located to conceal them from view from the public right of way. Some new additions, such as the reconstruction of missing porches or the addition of dormers in the roof, may need to be located on the front facade of the building. When an addition is proposed for the front of the building, appropriate and sensitive designs for such modifications should follow the guidelines for scale, massing, rhythm, and materials.

9. Parking. Goal: Minimize views of parking and garages from the public right of way. Most early houses provided space for storing various means of transportation, from horses and carriages to automobiles; however, these structures were nearly always entered from the alley rather than from the street. Parking lots and banks of garage doors along the front facade of a building do not conform to the character of the neighborhood. Off street parking lots have no historic precedent in this neighborhood, and should be located behind the building and away from the street. Proposed residential driveway approaches requiring curbeuts off a street or arterial are generally prohibited, unless the applicant can demonstrate by clear and convincing evidence that, because of special circumstances not generally applicable to other property or facilities, including size, shape,

~~design, topography, location, or surroundings, the strict application of this standard prevents alley-accessed parking. If approved, such curbeuts and approaches shall be consistent with the standards approved for the historic district and on file in the Public Works Department. Setting garages and carport structures back from the front of the building reduces their visual importance.~~

~~10. Signage. Goal: New signs for existing and new buildings shall complement the architecture and style of the residential neighborhood. Signs should not dominate the building facades or obscure the structure's architectural features. Colors, materials, and lettering should be appropriate to the character of the surroundings and be compatible with the building's period and style. Care should be taken not to damage historic building materials in the installation process.~~

~~G. Street Improvements. The architectural character of the district is significantly enhanced by the complementary residential nature of existing street amenities, including brick and cobblestone street paving, historic streetlights, planting strips, sidewalks, historic scoring patterns in walks and driveways, healthy trees, and a restrained use of signage. These elements should be retained or enhanced. Installation, repair, or replacement of streetlights, curbs, alley approaches, sidewalks, and street surfaces shall be consistent with the standards approved for the historic district and kept on file with the Public Works Department.~~

13.07.330240 North Slope Historic Special Review District – Specific Exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

- A. Any alterations to non-contributing properties as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that modifications to accessory structures and the demolition of noncontributing or accessory structures are not exempt from the provisions of this chapter;
- B. Interior modifications to existing structures, unless those modifications affect the exterior appearance of the structure;
- C. Any alterations to private residential structures that are specifically exempted from permit requirements in the Residential Building Code as adopted by the City (such as painting and minor repairs such as caulking or weather-stripping);

D. The installation, alteration, or repair of public and private plumbing, sewer, water, and gas piping systems, where no Right-of-Way restoration is required;

E. The installation, alteration, or repair of public and private electrical, telephone, and cable television wiring systems, provided that the installation of solar panels, wind generators, and cellular antenna towers is not exempt;

F. The landscaping of private residences;

G. The maintenance of existing parking conditions and configurations, including curb cuts, driveways, alleys, and parking lots (new installations are subject to review by the Commission per TMC 13.07.320.F(9));

H. Signs not exceeding the limitations for a home occupation permit and those installed by the City for directional and locational purposes.

I. The following types of projects within the public rights-of-way: ADA accessibility ramps and installations, in-road work, traffic signaling equipment, utility markers, and equipment required by the United States Postal Service.

13.07.340250 Severability.

In the event that any section, paragraph, or part of this chapter is for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.



**2011 Annual Amendment Application # 2011-02
Historic Preservation Plan and Regulatory Code Amendments**

January 26, 2011

Chapter 13.05 (Land Use Permit Procedures)

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

Chapter 13.05

LAND USE PERMIT PROCEDURES

Sections:

13.05.005	Definitions.
13.05.010	Application requirements for land use permits.
13.05.020	Notice process.
13.05.030	Land Use Administrator – Creation and purpose – Appointment – Authority.
13.05.040	Decision of the Land Use Administrator.
<u>13.05.045</u>	<u>Historic Preservation Land Use Decisions</u>
<u>13.05.046</u>	<u>Compatibility of historic standards with zoning development standards</u>
<u>13.05.047</u>	<u>Certificates of approval, historic</u>
<u>13.05.048</u>	<u>Demolition of City Landmarks</u>
<u>13.07.049</u>	<u>Minimum buildings standards, historic</u>
13.05.050	Appeals of administrative decisions.
13.05.060	Applications considered by the Hearing Examiner.
13.05.070	Expiration of permits.
13.05.080	Modification/revision to permits.
13.05.090	Land Use Administrator approval authority.
13.05.095	Development Regulation Agreements.
13.05.100	Enforcement.
13.05.105	<i>Repealed.</i>
13.05.110	<i>Repealed.</i>

13.05.005 Definitions.

As used in this chapter, the following terms are defined as:

A. Abate: To repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this title by such means and in such a manner and to such an extent as the Land Use Administrator determines is necessary in the interest of the public health, safety, and welfare of the community

B. Administrative Approval, Historic: An approval that may be granted by the City Historic Preservation Officer for an alteration to a City landmark, without Landmarks Preservation Commission review, based on authority that may be granted by the Commission pursuant to Chapter 1.42 of the Tacoma Municipal Code (“TMC”).

BC. Aggrieved Person: In an appeal, an “aggrieved person” shall be defined as a person who is suffering from an infringement or denial of legal rights or claims.

D. Alteration of a City Landmark: Any act or process which changes materially, visually, or physically one or more of the exterior architectural features or significant interior features of a property listed on the Tacoma Register of Historic Places individually or as a part of a district, including, but not limited to, the development, reconstruction, or removal of any structure.

CE. Appeal, for Standing: An aggrieved person or entity has “standing” when such person or entity is entitled to notice under the applicable provision of the Tacoma Municipal Code, or when such person or entity can demonstrate that such person or entity is within the zone of interest to be protected or regulated by the City law and will suffer direct and

substantial impacts by the governmental action of which the complaint is made, different from that which would be experienced by the public in general.

DF. Application, Complete: An application which meets the procedural requirements outlined in Section 13.05.010.C, or for development activities that require a Certificate of Approval, per 13.05.047.

G. Certificate of Approval, Historic: The written record of formal action by the Commission indicating its approval of plans for alteration of a City landmark.

H. City landmark: A property that has been individually listed on the Tacoma Register of Historic Places, or that is a contributing property within a Historic Special Review District or Conservation District as defined by this chapter.

I. Conservation District means an area designated for the preservation and protection of historic resources and overall characteristics of traditional development patterns, and that meets the criteria for such designation as described in Section 13.07.040.C of this code.

J. Contributing property, Historic: Any property within a Historic Special Review District or Conservation District which helps to convey the historic significance and traditional character of the area and that meets the criteria for determining significance, as set forth in Chapter 13.07.040 (C) of this code. This status may be documented in the district's nomination or in other findings adopted by the Landmarks Preservation Commission. Note that within this designation, the City may assign subordinate categories of significance.

K. Demolition of a City Landmark: Any act or process which destroys, in part or in whole, a City landmark, including neglect or lack of maintenance that results in the destruction of a historic property, except where otherwise indicated by this chapter.

LE. Department: As used in this chapter, "Department" refers to the Community and Economic Development Department.

M. Design guideline, Historic: A standard of appropriate activity which will preserve or enhance the historic and architectural character of a structure or area, and which is used by the Landmarks Preservation Commission and the City Historic Preservation Officer to determine the appropriateness of proposals involving property within Historic Special Review and Conservation Districts.

N. Exterior appearance of a City Landmark: the architectural character and general composition of

the exterior of a property as experienced from the outside, including, but not limited to, the type, color, and texture of a building material and the type, design, and character of all windows, doors, fixtures, signs, and appurtenant elements.

O. Historic resource: any property that has been determined to be eligible by the City Historic Preservation Officer or Washington State Department of Archaeology and Historic Preservation staff for listing in the Tacoma Register of Historic Places, the Washington State Heritage Register, or the National Register of Historic Places, or any property that appears to be eligible for such listing by virtue of its age, exterior condition, or known historical associations.

P. Historic Special Review District: An Overlay Zone with a concentration of historic resources that has been found to meet the criteria for designation as a Historic Special Review District under the provisions of TMC 13.07 and has been so designated by City Council.

Q. Landmarks Preservation Commission: the volunteer citizen body appointed by City Council whose primary responsibility is the oversight of the City's historic resources, including the designation of historic resources and districts to the Tacoma Register of Historic Places, reviewing proposed developments and alterations affecting to the properties on the Register and authorizing Certificates of Approval; raising community awareness of the City's history and historic resources, and serving as the City's primary subject matter resource in the areas of history, historic planning, and preservation, as provided for in this chapter and TMC 1.42 and 13.07.

R. Noncontributing property, Historic: A property within a Historic Special Review District or Conservation District which is documented in the district's nomination as not contributing architecturally, historically, and/or culturally to the historic character of the district, or which has been so designated in a Historic Special Review District Inventory drafted and adopted by the Landmarks Preservation Commission, or which has been specifically found to be noncontributing by a vote of the Commission.

FS. Open Record Hearing: A hearing, conducted by a single hearing body or officer authorized to conduct such hearings that create a record through testimony and submission of evidence and information.

GT. Owner: Any person having any interest in the real estate in question as indicated in the records of the office of the Pierce County Assessor, or who

establishes, under this chapter, his or her ownership interest therein.

~~HU~~. Person in Control of Property: Any person, in actual or constructive possession of a property, including, but not limited to, an owner, occupant, agent, or property manager of a property under his or her control.

~~IV~~. Premises and property: Used by this chapter interchangeably and means any building, lot, parcel, dwelling, rental unit, real estate, or land, or portion thereof.

~~IW~~. Project Permit or Project Permit Application: Any land use or environmental permit or license required for a project action, including, but not limited to, subdivisions, binding site plans, planned developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by the critical area preservation ordinance, site-specific rezones authorized by a Comprehensive Plan or sub area plan, but excluding the adoption or amendment of a Comprehensive Plan, sub area plan, or development regulations, except as otherwise specifically included in this subsection. This chapter does not apply to Exempted Activities under Section 13.11.140.

~~KX~~. Public Meeting: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the decision. A public meeting does not constitute an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation shall be included in the project permit application file.

~~Y~~. Repair of a City Landmark: to fix or mend features of a property without any change in character, new construction, removal, or alteration.

~~LZ~~. Violation: Any act which results in non-compliance with any of the standards outlined within this title or conditions imposed from land use permits granted by the City.

~~MAA~~. Work Plan: Any document containing information detailing all of the required approvals, processes, timelines, actions, reports, etc., that are necessary to remedy a violation of this title and that said approvals, processes, timelines, actions, reports, etc. will be undertaken in order to gain compliance with this title.

13.05.045 Historic preservation land use decisions.

A. The City finds that the protection, enhancement, perpetuation, and continued use of landmarks, districts, and elements of historic, cultural, architectural, archeological, engineering, or geographic significance located within the City are required in the interests of the prosperity, civic pride, ecological, and general welfare of its citizens. The City further finds that the economic, cultural, and aesthetic standing of the City cannot be maintained or enhanced by disregarding the heritage of the City or by allowing the destruction or defacement of historic and cultural assets.

The purpose of this section is to provide regulatory procedures for historic preservation decision making bodies.

B. Authority and Responsibilities.

1. Landmarks Preservation Commission. Pursuant to TMC 1.42, and for the purposes of this chapter, the Landmarks Preservation Commission shall have the authority to:

a. Approve or deny proposals to alter individual properties or contributing properties within historic and conservation districts that are listed on the Tacoma Register of Historic Places, as provided in TMC 13.07, and authorize the issuance of Certificates of Approval for the same, and adopt standards, design guidelines, and district rules to be used to guide this review

b. Where appropriate, encourage the conservation of historic materials and make recommendations regarding mitigation measures for projects adversely affecting historic resources.

2. Historic Preservation Officer. Pursuant to TMC 1.42, and for the purposes of this chapter, the Historic Preservation Officer shall have the authority to:

a. Grant administrative Certificates of Approval, subject to such limitations and within such standards as the Commission may establish.

b. On behalf of the Landmarks Preservation Commission, draft and issue Certificates of Approval or other written decisions on matters on which the Commission has taken formal action.

c. Upon request by other City entities, review permit applications and other project actions for appropriateness and consistency with the purposes of this chapter, TMC 13.07, and the Preservation Plan element of the Comprehensive Plan.

d. With respect to the goals and policies contained within this chapter and the Comprehensive Plan, represent the Historic Preservation Certified Local Government program for Tacoma and review, advise, and comment upon environmental analyses performed by other agencies and mitigation proposed, including NEPA and SEPA, Section 106, and other similar duties.

e. Advise property owners and the public of historic preservation code requirements.

f. Assist the Land Use Administrator, as needed, with requests for interpretations of codes relating to landmarks and to historic districts, as provided in those codes.

13.05.046 Compatibility of historic standards with zoning development standards

A. All property designated as a City landmark or that is located within a Historic Special Review District or Conservation District, according to the procedures set forth in TMC 13.07, shall be subject to the controls, standards, and procedures set forth herein, as well as in Title 13 Land Use Regulatory Code and other controls of the area in which it is presently located, and the owners of the property shall comply with the mandates of this chapter in addition to all other applicable Tacoma Municipal Code requirements for -the area in which such property is presently or may later be located. In the event of a conflict between the application of this chapter and other codes and ordinances of the City, the more restrictive shall govern, except where otherwise indicated.

B. Coordination with Residential Zoning Code. In certain cases, application of the development standards in the residential zones, as defined under TMC 13.06.100, including those for height, bulk, scale, and setbacks, may conflict with historic preservation standards or criteria and result in adverse effects to City Landmark properties. For the purposes of TMC 13.06.100(B), properties subject to design review and approval by the Landmarks Preservation Commission shall be exempted from the standards that conflict with the Landmarks Commission's application of historic preservation standards adopted pursuant to this chapter, including the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitation of Historic Buildings and applicable Historic Special Review District Design Guidelines. The issuance of a Certificate of Approval for final design by the Landmarks Preservation Commission shall include specific references to any conflicts between the

standards in this chapter and those in TMC 13.06.100, and specifically request the appropriate exemptions.

C. Coordination with Downtown Zoning. In certain cases, the application of design standards in Downtown Tacoma zoning districts, as defined by TMC 13.06A, may conflict with historic preservation standards or criteria and result in adverse effects to historic properties. For the purposes of TMC 13.06A.070B, properties subject to design review and approval by the Landmarks Preservation Commission shall be exempted from the basic design standards that conflict with the Landmarks Commission's application of historic preservation standards adopted pursuant to this chapter, including the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitation of Historic Buildings and applicable Historic Special Review District Design Guidelines. The issuance of a Certificate of Approval for final design by the Landmarks Preservation Commission shall serve as the Commission's findings as required in TMC 13.06A.070B.

13.05.047 Certificates of approval, historic.

A. Certificate of Approval Required. Except where specifically exempted by this chapter, a Certificate of Approval is required before any of the following actions may be undertaken:

1. Alteration to the exterior appearance of any City landmark, or any building, site, structure or object proposed for designation as a City Landmark pursuant to TMC 13.07.050;

2. Alterations to the exterior appearance of any existing buildings, public rights-of-way, or other public spaces, or development or construction of any new structures, in any Historic Special Review District.

3. Except where otherwise specified, development of construction of new structures or site improvements, and changes to floor plans of existing structures, within Conservation Districts.

4. Removal or alteration of any existing sign, or installation or placement any new sign, on a City Landmark or property within a Historic Special Review or Conservation District.

5. Demolition of any structure or building listed on the Tacoma Register of Historic Places, or that is located within a Historic Special Review or Conservation District.

6. No City permits for the above activities shall be issued by the City until a Certificate of Approval has

been issued by the Landmarks Preservation Commission or administrative approval has been granted by the Historic Preservation Officer.

7. When a development permit application is filed with Building and Land Use Services that requires a Certificate of Approval, the applicant shall be directed to complete an application for Certificate of Approval for review by the Landmarks Preservation Commission or by the Historic Preservation Officer.

B. Application Requirements. The following information must be provided in order for the application to be complete, unless the Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:

1. Property name and building address;
2. Applicant's name and address;
3. Property owner's name and address;
4. Applicant's telephone and e-mail address, if available;
5. The building owner's signature on the application or, if the applicant is not the owner, a signed letter from the owners designating the applicant as the owner's representative;
6. Confirmation that the fee required by the General Services Fee Schedule has been paid;
7. Written confirmation that the proposed work has been reviewed by Building and Land Use Services, appears to meet applicable codes and regulations, and will not require a variance;
8. A detailed description of the proposed work, including:
 - a. Any changes that will be made to the building or the site;
 - b. Any effect that the work would have on the public right-of-way or public spaces;
 - c. Any new development or construction;
9. 5 sets of scale plans, or a single legible electronic copy in a format approved by CEDD staff, with all dimensions shown, of:
 10. A site plan of all existing conditions, showing adjacent streets and buildings, and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions;
 11. A floor plan showing the existing features and a floor plan showing proposed new features;

12. Elevations and sections of both the proposed new features and the existing features;

13. Construction details, where appropriate;

14. A landscape plan showing existing features and plantings and a landscape plan showing proposed site features and plantings;

15. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

16. If the proposal includes new finishes or paint, one sample of proposed colors and an elevation drawing or photograph showing the proposed location of proposed new finishes or paint;

17. If the proposal includes new signs, canopies, awnings, or exterior lighting:

a. 5 sets of scale plans, or a single legible electronic copy of the proposed signs, awnings, canopies, or lighting showing the overall dimensions, materials, design graphics, typeface, letter size, and colors;

b. 5 copies or a single electronic copy of details showing the proposed methods of attachment for the new signs, canopies, awnings, or exterior lighting;

c. For lighting, detail of the fixture(s) with specifications, including wattage and illumination color(s);

d. One sample of the proposed colors and materials;

18. If the proposal includes the removal or replacement of existing architectural elements, a survey of the existing conditions of the features that would be removed or replaced.

C. Applications for Preliminary Approval.

1. An applicant may make a written request to submit an application for a Certificate of Approval for a preliminary design of a project if the applicant waives, in writing, the deadline for a Commission decision on the subsequent design phase or phases of the project and agrees, in writing, that the decision of the Commission is immediately appealable by the applicant or any interested person(s).

2. The Historic Preservation Officer may reject the request if it appears that the review of a preliminary design would not be an efficient use of staff or Commission time and resources, or would not further the goals and objectives of this chapter.

3. The Historic Preservation Officer may waive portions of the above application requirements in writing that are determined to be unnecessary for the Commission to approve a preliminary design.

4. A Certificate of Approval of a preliminary design shall be conditioned automatically upon the subsequent submittal of the final design and all of the information listed in Subsection B above, and upon Commission approval prior to the issuance of any permits for work affecting the property.

D. Applications for a Certificate of Approval shall be filed with the Permit Center.

E. Process and standards for review.

1. When an application for Certificate of Approval is received, the Historic Preservation Officer shall:

a. Review the application and determine whether the application requires review by the Landmarks Preservation Commission, or, subject to the limitations imposed by the Landmarks Preservation Commission pursuant to TMC 1.42, without prejudice to the right of the owner at any time to apply directly to the Commission for its consideration and action on such matters, whether the application is appropriate for administrative review.

b. If the application is determined appropriate for administrative review, the Historic Preservation Officer shall proceed according to the Administrative Bylaws of the Commission.

2. If the Application requires review by the full Commission, the Historic Preservation Officer shall notify the applicant in writing within 28 days whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete.

3. Within 14 days of receiving the additional information, the Historic Preservation Officer shall notify the applicant in writing whether the application is now complete or what additional information is necessary.

4. An application shall be deemed to be complete if the Historic Preservation Officer does not notify the applicant in writing, by the deadlines provided in this section, that the application is incomplete. A determination that the application is complete is not a determination that an application is vested.

5. The determination that an application is complete does not preclude the Historic Preservation Officer or the Landmarks Preservation Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and any rules adopted by the Commission.

6. Within 30 days after an application for a Certificate of Approval has been determined complete or at its next regularly scheduled meeting,

whichever is longer, the Commission shall review the application to consider the application and to receive comments.

7. Notice of the Commission's meeting shall be served to the applicant and distributed to an established mailing list no less than three days prior to the time of the meeting.

8. The absence of the owner or applicant shall not impair the Commission's authority to make a decision regarding the application.

9. Within 45 days after the application for a Certificate of Approval has been determined complete, the Landmarks Preservation Commission shall issue a written decision granting, or granting with conditions, or denying a Certificate of Approval, or if the Commission elects to defer its decision, a written description of any additional information the Commission will need to arrive at a decision, and shall provide a copy of its decision to the applicant and Building and Land Use Services.

10. A Certificate of Approval shall be valid for 18 months from the date of issuance of the Commission's decision granting it unless the Commission grants an extension; provided, however, that a Certificate of Approval for actions subject to a permit issued by Building and Land Use Services shall be valid for the life of the permit, including any extensions granted in writing by Building and Land Use Services.

F. Economic Hardship

1. After receiving written notification from the Commission of the denial of Certificate of Approval, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that hardship exists.

2. When a claim of economic hardship is made due to the effect of this ordinance, the owner must prove that:

a. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

b. the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

c. efforts to find a purchaser interested in acquiring the property and preserving it have failed.

3. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that

will result in preservation of the property. Such efforts must be shown to the Commission.

4. The Commission shall hold a public hearing on the application within sixty (60) days from the date the complete application is received by the Historic Preservation Officer. Following the hearing, the Commission has thirty (30) days in which to act on the application. Failure to act on the hardship application within the (30) day timeframe will waive the Certificate of Approval requirement for permitting.

5. All decisions of the Commission shall be in writing.

6. The Commission's decision shall state the reasons for granting or denying the hardship application.

7. Denial of a hardship application may be appealed by the applicant within (14) business days to the Hearing Examiner after receipt of notification of such action.

8. Economic Evidence. The following shall be required for an application for economic hardship to be considered complete:

a. For all property:

i. The amount paid for the property:

ii. The date of purchase, the party from whom purchased, and a description of the business or family relationship, if any, between the owner and the person from whom the property was purchased;

iii. The cost of any improvements since purchase by the applicant and date incurred;

iv. The assessed value of the land, and improvements thereon, according to the most recent assessments;

v. Real estate taxes for the previous two years;

vi. Annual debt service, if any, for the previous two years;

vii. All appraisals obtained within the previous five years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;

viii. Any listing of the property for sale or rent, price asked and offers received, if any;

ix. Any consideration by the owner for profitable and adaptive uses for the property, including renovation studies, plans, and bids, if any; and

b. For income-producing property:

i. Annual gross income from the property for the previous four years;

ii. Itemized operating and maintenance expenses for the previous four years;

iii. Annual cash flow for the previous four years.

F. Appeals to the Hearing Examiner. The Landmarks Preservation Commission shall refer to the Hearing Examiner for public hearing all final decisions regarding applications for certificates of approval and applications for demolition where the property owners, any interested parties of record, or applicants file with the Landmarks Preservation Commission, within 10 days of the date on the decision, written notice of appeal of the decision or attached conditions.

1. Form of Appeal. An appeal of the Landmarks Preservation Commission shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information shall be submitted:

a. An indication of facts that establish the appellant's standing;

b. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion;

c. The requested relief from the decision being appealed;

d. Any other information reasonably necessary to make a decision on appeal. Failure to set forth specific errors or grounds for appeal shall result in a summary dismissal of the appeal.

2. The Hearing Examiner shall conduct a hearing in the same manner and subject to the same rules as set forth in TMC 1.23.

3. The Hearing Examiner's decision shall be final. Any petition for judicial review must be commenced within 21 days of issuance of the Hearing Examiner's Decision, as provided for by TMC 1.23.060 and RCW 36.70C.040.

4. The Hearing Examiner, in considering the appropriateness of any exterior alteration of any City landmark, shall give weight to the determination and testimony of the consensus of the Landmarks Preservation Commission and shall consider:

a. The purposes, guidelines, and standards for the treatment of historic properties contained in this chapter, and the goals and policies contained in the Preservation Element of the Comprehensive Plan;

b. The purpose of the ordinance under which each Historic Special Review or Conservation District is created;

c. For individual City landmarks, the extent to which the proposal contained in the application for Certificate of Approval would adversely affect the specific features or characteristics specified in the nomination to the Tacoma Register of Historic Places;

d. The reasonableness, or lack thereof, of the proposal contained in the application in light of other alternatives available to achieve the objectives of the owner and the applicant; and

e. The extent to which the proposal contained in the application may be necessary to meet the requirements of any other law, statute, regulation, code, or ordinance.

5. When considering appeals of applications for demolition decisions, in addition to the above, the Hearing Examiner shall refer to the Findings of Fact made by the Landmarks Preservation Commission in addition to the demolition criteria for review and other pertinent statements of purpose and findings in this chapter.

6. The Examiner may attach any reasonable conditions necessary to make the application compatible and consistent with the purposes and standards contained in this chapter. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any City landmark, which maintenance or repair does not involve a change in design, material, or the outward appearance thereof.

13.05.048 Demolition of City Landmarks

A. Application requirements. In addition to the application requirements listed in 13.05.047, the following information must be provided in order for the application to be complete, unless the Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:

1. A detailed, professional architectural and physical description of the property in the form of a narrative report, to cover the following:

a. Physical description of all significant architectural elements of the building;

b. A historical overview;

c. Elevation drawings of all sides;

d. Site plan of all existing conditions showing adjacent streets and buildings and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays;

e. Photographs of all significant architectural elements of the building; and

f. Context photographs, including surrounding streetscape and major sightlines.

2. A narrative statement addressing the criteria in this subsection for Applications for Historic Building Demolitions, to include the following areas, as applicable:

a. Architectural/historical/cultural significance of the building;

b. Physical condition of the building;

c. Narrative describing future development plans for the site, including:

d. Description of immediate plans for the site following demolition.

3. For replacement construction/redevelopment of the site, the following information is required:

a. A complete construction timeline for the replacement structure to be completed within two years, or a written explanation of why this is not possible.

b. Conceptual drawings, sketches, renderings, and plans.

c. Written proof, acceptable to the Landmarks Preservation Commission, of valid and binding financial commitments for the replacement structure is required before the permit can be issued, and should be submitted with the demolition request. This may include project budgets, funding sources, and written letters of credit.

4. If a new structure is not planned for the site, the application shall contain a narrative describing the rationale for demolition, a written request for waiver of TMC 13.05.050.B.2 and B.4.

5. If a new structure is not planned for the site, the application requirements in this section and 13.05.047 relating to new construction are not required in order for an application to be complete.

6. Reports by professionally qualified experts in the fields of engineering, architecture, and architectural history or real estate finance, as applicable, addressing the arguments made by the applicant.

B. Permitting Timelines.

1. Any City landmark for which a demolition permit application has been received is excluded from City permit timelines imposed by TMC 13.05.010.J.

2. An application for a Certificate of Approval for Demolition of a City Landmark shall be filed with the Building and Land Use Services Permit Intake

Center. When a demolition application is filed, the application shall be routed to the Historic Preservation Officer.

3. Determination of Complete Application. The Historic Preservation Officer shall determine whether an application for demolition is complete consistent with the timelines and procedures outlined in TMC 13.05.047.E.1 through E.5.

3. Application Review.

a. Preliminary Meeting. Once the application for historic building demolition has been determined to be complete, excepting the demolition fee, the Historic Preservation Officer shall schedule a preliminary briefing at the next available regularly scheduled meeting of the Landmark Preservation Commission.

i. The purpose of this meeting is for the applicant and the Commission to discuss the historic significance of the building, project background and possible alternative outcomes, and to schedule a hearing date, if necessary.

ii. To proceed with the application, the applicant shall request a public hearing, in writing, to consider the demolition application at the preliminary meeting.

iii. At this meeting, the Landmarks Preservation Commission may grant the request for public hearing, or may request an additional 30 days from this meeting to distribute the application for peer review, especially as the material pertains to the rationale contained in the application that involves professional expertise in, but not limited to, engineering, finance, architecture or architectural history, and law, or finding that the property in question is not contributing to the Historic District, may conditionally waive the procedural requirements of this section, provided that subparagraphs A and B, of Section 13.05.048.C, "Demolition of City Landmarks – Automatic conditions," are met.

iv. If a 30-day peer review is requested, the request for public hearing shall again be considered at the next regular meeting following the conclusion of the peer review period.

b. Public Hearing. Upon receiving such direction from the Landmarks Preservation Commission, and once the application fee has been paid by the applicant, the Historic Preservation Officer shall schedule the application for a public hearing within 90 days.

i. The Historic Preservation Officer shall give written notice, by first-class mail, of the time, date, place, and subject of the meeting to consider the application

for historic building demolition not less than 30 days prior to the meeting to all owners of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers of record of properties within 400 feet of the subject property.

ii. The Commission shall consider the merits of the application, comments received during peer review, and any public comment received in writing or during public testimony.

iii. Following the public hearing, there shall be an automatic 60-day comment period during which the Commission may request additional information from the applicant in response to any commentary received.

iv. At its next meeting following the public comment period, the Landmarks Preservation Commission shall make Findings of Fact regarding the application based on the criteria for consideration contained in this subsection. The Landmarks Preservation Commission may approve, subject to automatic conditions imposed by this subsection, the application or may deny the application based upon its findings of fact. This decision will instruct the Historic Preservation Officer whether or not he or she may issue written approval for a historic building demolition.

C. Automatic Conditions. Following a demolition approval pursuant to this section, the following conditions are automatically imposed, except where exempted per TMC 13.05.048.B or elsewhere in this chapter, and must be satisfied before the Historic Preservation Officer shall issue a written decision:

1. For properties within a Historic Special Review or Conservation District, the design for a replacement structure is presented to and approved by the Landmarks Preservation Commission pursuant to the regular design review process as defined in this chapter; or, if no replacement structure is proposed for a noncontributing structure, the Commission may, at its discretion, waive this condition and 13.05.050.B.2 and 13.05.050.B.4;

2. Acceptable proof of financing commitments and construction timeline is submitted to the Historic Preservation Officer;

3. Documentation of the building proposed for demolition that meets Historic American Building Survey ("HABS") standards or mitigation requirements of the Washington State Department of Archaeology and Historic Preservation ("DAHP"), as appropriate, is submitted to the Historic Preservation Office and the Northwest Room of the Tacoma Public Library;

4. Building and Land Use Service permits for the replacement are ready for issue by Building and Land Use Services, and there are no variance or conditional use permit applications outstanding;

5. Any additional mitigation agreement, such as relocation, salvage of architectural features, interpretation, or deconstruction, proposed by the applicant is signed and binding by City representatives and the applicant, and approved, if necessary, by the City Council; and

6. Any conditions imposed on the demolition have been accepted in writing (such as salvage requirements or archaeological requirements).

D. Specific exemptions. The following are excluded from the requirements imposed by this chapter but are still subject to Landmarks Preservation Commission approval for exterior changes as outlined elsewhere in this chapter.

1. Demolition of accessory buildings, including garages and other outbuildings, and noncontributing later additions to historic buildings, where the primary structure will not be affected materially or physically by the demolition and where the accessory or addition is not specifically designated as a historic structure of its own merit;

2. Demolition work on the interior of a City landmark or object, site, or improvement within a Historic Special Review or Conservation District, where the proposed demolition will not affect the exterior of the building and where no character defining architectural elements specifically defined by the nomination will be removed or altered; and

3. Objects, sites, and improvements that have been identified by the Landmarks Preservation Commission specifically as noncontributing within their respective Historic Special Review or Conservation District buildings inventory at the preliminary meeting, provided that a timeline, financing, and design for a suitable replacement structure have been approved by the Landmarks Preservation Commission, or such requirements have been waived, pursuant to Section 13.05.048.

13.05.049 Minimum buildings standards, historic.

A. Prevention of Demolition by Neglect. The Landmarks Preservation Commission shall make a reasonable effort to notify the Building Official of historic properties that appear to meet the criteria for substandard buildings or property under TMC 2.01.060.

B. For buildings listed on the Tacoma Register of Historic Places which are found to be Substandard, Derelict, or Dangerous according to the Building Official, under the Minimum Building provisions of TMC 2.01, the following shall apply:

1. Because City landmarks are culturally, architecturally, and historically significant to the City and community, the historic status of a Substandard, Derelict, or Dangerous Building may constitute a “sufficient reason” for acceptance of alternate timelines and extensions upon agreed timelines; and

2. Any timelines and plans for the remediation of a dangerous City landmark, including for repair or demolition, shall not be accepted by the Building Official until the applicable procedures as set forth in this chapter for review of design or demolition by the Landmarks Preservation Commission have been satisfied, pursuant to TMC 2.01.040.F.

3. The Building Official may consider the Landmarks Preservation Commission to be an interested party as defined in TMC 2.01, and shall make a reasonable effort to keep the Commission notified of enforcement complaints and proceedings involving City Landmarks.

4. Nothing in this chapter shall be construed to prevent the alteration of any feature which the Building Official shall certify represents an immediate and urgent threat to life safety. The Building Official shall make a reasonable effort to keep the Historic Preservation Officer informed of alterations required to remove an unsafe condition involving a City Landmark.

C. The Historic Preservation Officer shall have the authority to administratively approve changes without prior Landmarks Preservation Commission review per TMC 13.05.048, if, upon consultation with the Building Official and appropriate City Engineering staff, it is determined such changes are necessary to mitigate an immediate and urgent threat of structural failure or significant damage to a City landmark. The circumstances and rationale for such an alteration shall be provided in a report to the Commission at its next regular meeting.



**2011 Annual Amendment Application # 2011-02
Historic Preservation Plan and Regulatory Code Amendments**

January 26, 2011

Chapter 13.06 and 13.06A (Zoning)

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

13.06.100 Residential Districts.

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

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

A. District purposes. The specific purposes of the Residential Districts are to:

1. Implement the goals and policies of the City's Comprehensive Plan.
2. Implement the Growth Management Act's goals and county-wide and multi-county planning policies.
3. Provide a fair and equitable distribution of a variety of housing types and living areas.
4. Protect and enhance established neighborhoods.
5. Provide for predictability in expectations for development projects.
6. Allow for creative designs while ensuring desired community design objectives are met.

7. Strengthen the viability of residential areas by eliminating incompatible land uses, protecting natural physical features, promoting quality design, and encouraging repair and rehabilitation of existing residential structures.

B. Districts established.

1. R-1 Single-Family Dwelling District. This district is intended for low-density, single-family detached housing. Other compatible uses such as residential care homes and shelters are also appropriate. The district is characterized by low residential traffic volumes and properties located within the View Sensitive Overlay district. It is most appropriate in established areas with a relatively quiet and stable neighborhood environment.

2. R-2 Single-Family Dwelling District. This district is intended primarily for low-density, single-family detached housing but may also allow limited lodging uses and uses such as limited holiday sales for Christmas and Halloween. The district is characterized by low residential traffic volumes and generally abuts more intense residential and commercial districts.

3. R-2SRD Residential Special Review District. This district is intended primarily for low-density, single-family detached housing, but it also may allow a limited number of two- and three-family dwellings by conditional use permit where the location, amount, and quality of such development would be compatible with the single-family character of the area and enhance the area's overall quality.

4. HMR-SRD Historic Mixed Residential Special Review District. This district is designed to apply to existing neighborhood areas or portions of existing neighborhood areas which have been designated as an historic special review district because the

buildings within reflect significant aspects of Tacoma’s early history, architecture, and culture as set forth and according to the procedures in Chapter 13.07, and which are characterized by a mix of residential buildings, including single family residential dwellings and multiple family dwellings, and where it is desirable to protect, preserve, and maintain the historic buildings. Single-family dwellings will continue to be the predominant land use within the HMR-SRD district. Conversion of existing multiple-family uses to single-family uses will be encouraged, but not required.

~~If any conflict is found between the regulations of this chapter and the guidelines and criteria of the Historic Special Review Districts found in Chapter 13.07, the guidelines and criteria shall prevail.~~

5. R-3 Two-Family Dwelling District. This district is intended primarily for two-family housing development. Uses such as single-family dwellings, three-family dwellings, and some lodging and boarding homes may also be appropriate. The district is characterized by low residential traffic volumes and generally abuts more intense residential and commercial districts.

6. R-4-L Low-Density Multiple-Family Dwelling District. This district is intended for low-density multiple-family housing, mobile home parks, retirement homes and group living facilities. It is similar to the R-4 Multiple-Family Dwelling District, but more restrictive site development standards are intended to minimize adverse impacts of permitted and conditional uses on adjoining land. The district is characterized by amenities and services associated with single- and two-family residential districts, and it is located generally along major transportation corridors and between higher and lower intensity uses.

7. R-4 Multiple-Family Dwelling District. This district is intended primarily for medium density multiple-family housing. Other appropriate uses may include day care centers, and certain types of special needs housing. The district is characterized by a more active living environment and is located generally along major transportation corridors and between higher and lower intensity uses.

8. R-5 Multiple-Family Dwelling District. This district is intended for high-density multiple family housing, as well as residential hotels, retirement homes, and limited mixed-use buildings. The district is generally located in the center of the city in close proximity to employment centers, conveniences,

services, major transportation corridors, and public transportation facilities.

C. Land use requirements.

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.100. All portions of 13.06.100 and applicable portions of 13.06.500 apply to all new development of any land use variety, including additions, and remodels, in all districts in Section 13.06.100, unless explicit exceptions or modifications are noted. The requirements of Section 13.06.100.A through Section 13.06.100.C are not eligible for variances. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply. For individually designated properties listed on the Tacoma Register of Historic Places, and for contributing buildings within Historic Special Review Districts, where there is a conflict between the regulations of this chapter and historic guidelines and standards, the historic guidelines and standards shall prevail pursuant TMC 13.05.046.

2. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E.

3. Use table abbreviations.

P = Permitted use in this district.
TU = Temporary Uses allowed in this district subject to specified provisions and consistent with the criteria and procedures of Section 13.06.635.
CU = Conditional use in this district. Requires conditional use permit, consistent with the criteria and procedures of Section 13.06.640.
N = Prohibited use in this district.

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

13.06.510 Off-street parking and storage areas.

A. Purpose. To ensure the safe and adequate flow of traffic in public right-of-way, it is deemed in the interest of the public health, safety, and general welfare that off-street parking areas be required as a necessary part of the development and use of land,

and to ensure that required parking areas are designed to perform in a safe and efficient manner.

Minimum parking requirements are particularly important in order to ensure resident, visitor, customer, and employee parking within reasonable distance to the uses served, reduce congestion on adjacent streets; and to minimize, to the extent possible, spillover parking into adjacent residential areas. The requirements herein set forth are also established to discourage under-used parking facilities and to minimize the amount of land dedicated to parking, consistent with the Comprehensive Plan, that encourages economic development, transit use, carpooling, energy conservation, and air quality improvement by providing for: only the minimum number of stalls necessary, compact stalls, shared parking between uses, transportation demand management, and incentives for reducing the size of parking areas.

Applicability. Buildings, structures, or uses hereafter established, built, enlarged, increased in capacity, or changed in principal use in all districts shall provide the following off-street parking areas:

1. Off-street parking spaces - quantity. The quantity of off-street parking shall be provided in accordance with the standards of the tables below.

a. Fractions. Fractions resulting from required parking calculations will be rounded up or down to the nearest whole number.

b. Multiple uses. Where an establishment on a lot contains multiple types of uses, the required parking spaces shall be equal to the total spaces determined by computing each use type separately, except where specifically stated otherwise herein.

c. Use not listed. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the City Traffic Engineer. Such determination shall be based upon the requirements for the use specified in this section that is most nearly comparable to the unspecified use and traffic engineering principles and studies.

d. Historic buildings and sites. Structures and sites that are listed on the Tacoma Register of Historic Places shall be exempt from all parking quantity requirements.

13.06A.060 Development standards.

Development Standards Table.

Districts	Maximum Allowable Floor Area Ratio (FAR) ¹						Height Limits	Non-Res Parking ^{2, 3, 4, 6}	
	"As of Right"		With Design Standards		With Special Features			Min	Max
	Non-Res	Res	Non-Res	Res	Non-Res	Res		(stalls/floor area sf) ⁵	
DCC	3	3	6	6	12	12	400'	2.4/1000	3.6/1000
DMU	2	3	4	5	6	7	100'	2.4/1000	3.6/1000
DR	1	2	2	4	4	6	90'	1.2/1000	3.6/1000
WR	3	4	4	5	6	7	100'	1.2/1000	3.6/1000

Notes:

1. The FAR for non-residential and residential uses within a given development are individually calculated and may be added together for a cumulative total, provided that the respective maximum FAR for each use is not exceeded. For example, in the DCC, an "as-of-right" development may have a total FAR of 6, with a FAR of 3 in non-residential use and a FAR of 3 in residential use in a single development.
2. For the purposes of calculating maximum allowable FAR, hotels shall be considered a residential use.
3. A minimum FAR of 1 shall be achieved for structures within the Downtown Commercial Core district. The gross floor area shall be used to calculate the minimum FAR.
4. Building Height will be measured consistent with the applicable Building Code, Height of Building and excludes parapets, mechanical penthouses, elevator overruns and machine rooms, and decorative architectural features (e.g., spires, towers, pergolas, pyramids, pitched roofs) not intended for residential, office or retail space.
5. Maximum Building Height within 150' east of the centerline of the right-of-way of Yakima Avenue shall be 60 feet, in order to create a transition to lower-rise residential development to the west.
6. Minimum parking ratios for non-residential development located east of Market Street, or located east of Jefferson Avenue from South 21st to South 28th streets shall be reduced by 50 percent in recognition of the availability of transit.
7. The first 3,000 square feet of each street level establishment, whether inside or outside the IFSA, is exempt from parking requirements.
8. Maximum parking ratios may be exceeded for providing parking available to the public and which is not dedicated to individual owners, tenants and lessees of the building.
9. Tandem parking is permitted only for residential development subject to approval of the Traffic Engineer.
10. Development shall also comply with the requirements of 13.06.510(C) Loading Spaces.
11. No variances shall be granted to these development standards unless otherwise indicated.
12. Buildings lawfully in existence on January 10, 2000, the time of reclassification to the above districts, including buildings within the IFSA, do not need to conform to these standards; however, additions will need to conform. No addition can increase nonconformity to these standards or create new nonconformity.
13. Unless otherwise specified herein, the off-street parking area development standards contained in TMC 13.06.510, which include minimum stall size and height, aisle width, paving and access requirements, but not including minimum quantity requirements, shall apply to all new off-street parking provided.
14. For buildings that contain multiple types of uses, the required number of parking spaces shall be equal to the total number of spaces determined by computing each use types separately, except where specifically stated otherwise herein.
15. Structures and sites that are listed on the Tacoma Register of Historic Places shall be exempt from all parking quantity requirements.

* * *



**2011 Annual Amendment Application No. 2011-04
Water Level of Service**

SUMMARY

Application #:	2011-04
Applicant:	Tacoma Public Utilities – Tacoma Water – Resource Planning
Contact:	Susan Clark, Water Resource Planning Coordinator, 502-8204
Type of Amendment:	Comprehensive Plan Text Change
Current Land Use Intensity:	Not Applicable
Current Area Zoning:	Not Applicable
Size of Area:	Not Applicable
Location:	Tacoma Water’s LOS applies throughout the City of Tacoma
Neighborhood Council area:	Not Applicable
Proposed Amendment:	Amend the Capital Facilities Element of the Comprehensive Plan by revising the existing level of service standard for “Water (Potable)”

General Description of the Proposed Amendment:

The proposed amendment would revise the existing level of service standard (LOS) for “Water (Potable)” as contained in the Capital Facilities Element of the Comprehensive Plan, as follows:

Existing Water LOS: 562 gallons per day per Equivalent Residential Unit (ERU)

Proposed Water LOS: 442 gallons per day per Equivalent Residential Unit (ERU) and/or as contained in Tacoma Water’s current Washington State Department of Health approved water system plan

The purpose of the proposed amendment is to resolve the current inconsistency, and any future inconsistencies which may arise, between the fixed Capital Facilities Element LOS and the ERU figure Tacoma Water recalculates every six years for incorporation into its Washington State Department of Health (DOH) approved water system plan (WSP).

Planning Commission’s Action on February 2, 2011:

The Planning Commission has completed the review of the staff analysis and proposed amendment on October 20, 2010. The Commission will consider authorizing the release of the proposed amendment for public review and comment.



2011 Annual Amendment Application No. 2011-05
Transportation Element

SUMMARY

Application #:	2011-05
Applicant:	Community and Economic Development Department (CED) and Public Works Department (PW)
Contact:	Diane Wiatr (CED) and Jennifer Kammerzell (PW)
Type of Amendment:	Comprehensive Plan Text and Map Changes, and Regulatory Code Text Changes
Current Land Use Intensity:	NA
Current Area Zoning:	NA
Size of Area:	NA
Location:	Citywide
Neighborhood Council area:	All
Proposed Amendment:	Amend the Transportation Element of the Comprehensive Plan to: address the use of alternative transportation modes; update the Unfunded Project List; and update the Classification of Arterials Map.

General Description of the Proposed Amendment:

The proposed amendment includes the following four components:

1. Adding discussion and policy provisions to the Transportation Element to address the use of such vehicles and devices as low speed vehicles (LSVs), Segways, skateboards, longboards and others as alternative modes of transportation;
2. Updating the “Long-Term Transportation Improvement Projects List – Unfunded” (or “Unfunded Project List”) in the Transportation Element;
3. Updating the “Transportation Figure 1 – Classification of Arterials” in the Transportation Element to reflect recent Council actions to classify and declassify certain street segments as arterials;

Planning Commission’s Action on February 2, 2011:

Review the attached Staff Report; consider modifications to staff’s recommendations on the proposed amendment, as appropriate; and authorize the proposed amendment, as may be modified, for public review and comment.

Attachment:

Staff Report for Annual Amendment Application #2011-05



2011 Annual Amendment Application No. 2011-05
Transportation Element

STAFF REPORT

Application #:	2011-05
Applicant:	Community and Economic Development Department (CED) and Public Works Department (PW)
Contact:	Diane Wiatr (CED) and Jennifer Kammerzell (PW)
Type of Amendment:	Comprehensive Plan Text and Map Change
Current Land Use Intensity:	NA
Current Area Zoning:	NA
Size of Area:	NA
Location:	Citywide
Neighborhood Council area:	All
Proposed Amendment:	Amend the Transportation Element of the Comprehensive Plan to: address alternative transportation modes such as skateboards, electric personal assistive mobility devices and low speed vehicles; revise and add new projects to the Unfunded Project List; and update the Classification of Arterials Map

General Description of the Proposed Amendment:

The proposed amendment includes the following three components:

1. Adding discussion and policy provisions to the Transportation Element to address the use of unconventional vehicles and devices such as low speed vehicles (LSVs), electric personal assistive mobility devices (EPAMDs), skateboards, longboards and others as alternative modes of transportation;
2. Updating the “Long-Term Transportation Improvement Projects List – Unfunded” (or “Unfunded Project List”) in the Transportation Element with 21 projects, of which one would revise an existing project in the Arterial Street Projects category, two would revise existing projects in the Neighborhood Action Strategies (NAS) category, 5 would be added to the Arterial Street category, and 13 would be added to the NAS category.
3. Updating the “Transportation Figure 1 – Classification of Arterials” in the Transportation Element to reflect recent and pending Council actions to classify and declassify certain street segments as arterials.

Additional Information:

1. Unconventional Vehicles and Devices:

The City Council adopted a motion on June 15, 2010, directing the Planning Commission to study proposed revisions to the Transportation Element to allow for Low Speed Vehicles (LSVs), EPAMDs and skateboards as legitimate means of transportation on City streets and/or sidewalks.

Long-range Planning staff held discussions with Public Works staff and law enforcement including Tacoma Police Chief Ramsdell regarding unconventional vehicles to ascertain how best to integrate them safely on the street system with automobiles. However, roadway users including motor vehicles as well as human-powered devices are largely regulated by Washington state laws and the City of Tacoma is required to abide by those regulations. The state laws for vehicles and devices have guided staff recommendations.

Staff presented findings about skateboard law and possible policy and code changes to the City Council's Public Safety and Human Services and Education Committee on September 23, 2010. Council Member Campbell explained he had introduced the motion to consider a comprehensive plan amendment in order to recognize longboards and skateboards as legitimate transportation modes and to allow their use on roadways. The Committee concurred the City could not change its traffic ordinance regarding skateboards without changing state law. There was not consensus to add allowing skateboards on city streets to the Council's legislative agenda to pursue changing state law at this time

A brief synopsis of state laws for unconventional vehicles and devices is below:

Skateboards

Skateboards are in a category similar to pedestrians and are not allowed on Washington roadways by state law except when crossing a street or in cases where there is no sidewalk on low-speed streets. In order for skateboards to be allowed on streets in Tacoma, state law would need to be changed and some Council members and Planning Commissioners would like to see this action taken.

Skateboards are allowed on sidewalks by state law except where prohibited by local determination. Tacoma's current code prohibits skateboards in an area of downtown in the "B" Business District zone, which is a zoning district that is no longer in existence. Skateboards are prohibited downtown because of the damage they can cause to public and private property when used for tricks and jumps.

Electric Personal Assistive Mobility Devices (EPAMD)

Electric Personal Assistive Mobility Devices (also known by the brand name Segway) may be operated on roadways, shoulders, sidewalks, and alleys. These devices are rarely seen in Tacoma, but are allowed by state law and Tacoma Municipal Code.

Low Speed Electric Vehicles

Washington State law defines Low Speed Electric Vehicles as either Neighborhood Electric Vehicles (NEV) or Medium Speed Electric Vehicles (MEV). NEVs can achieve speeds of 20 but not more than 25 miles per hour. MEVs can achieve speeds of 25 but not more than 35mph. Both vehicles are allowed on roadways with posted speeds of 35mph, and both vehicles must follow federal safety regulations for safety equipment such as brake lights, mirrors, turn signals, headlamps, etc. Staff recommends encouraging the use of Low Speed Vehicles within the defined parameters of state law.

2. Unfunded Projects:

The 21 unfunded projects were among the project ideas submitted by various Neighborhood Councils and individuals in the spring of 2010, in response to the Public Works Department's community outreach efforts for the annual update of the 2011-2016 Six-Year Comprehensive Transportation Program ("Six-Year Program"). An initial screening of the project ideas suggested that these projects did not meet the selection criteria for inclusion in the Six-Year Program, but should be considered for inclusion in the Unfunded Project List to gain eligibility for future funding. When funding becomes available, unfunded projects may be selected and moved to the Six-Year Program for detailed budgeting and implementation. The Unfunded Project List reflects the desires of the community and exemplifies the City's intent to

maintain the service level of the transportation system citywide and meet the concurrency requirements of the Growth Management Act.

3. Transportation Figure 1 – Classification of Arterials:

Certain streets are classified as principal, minor or collector arterials, based on such factors as traffic volume and speed, roadway geometry, location and adjacent land uses. Street classifications help determine the need and type of improvements, determine traffic control and operation standards, and secure appropriate funding. Classifications and declassifications of arterial streets occur on an as needed basis by City Council ordinances to reflect the true characteristics of the streets. The proposed amendment would update the information shown in Transportation Figure 1 to reflect modifications to the Tacoma Municipal Code that have occurred since the last time the map was updated. These changes are:

- Norpoint Way between 29th Street NE and 49th Avenue NE *classify as principal arterial*
- Marshall Avenue between SR 509 and Alexander *no longer an arterial (vacated)*
- Mullen street between South 48th and Center Street *no longer an arterial (vacated)*

The City Council will be considering a reclassification of Tacoma Avenue between I-5 and South 48th Street from arterial to a residential street designation. The City Council's Environment and Public Works Committee reviewed this proposal in November 2010. The City Council will consider the reclassification in March 2011 and the revised Classification of Arterials map includes the proposed reclassification of Tacoma Avenue.

4. Electric Vehicle Infrastructure:

The Growth Management Act (RCW 36.70A.695), as amended in 2009, requires certain jurisdictions, including Tacoma, to adopt zoning regulations by July 1, 2010 that would allow Electric Vehicle (EV) infrastructure, including battery recharge facilities and battery swap-out stations. The Land Use Regulatory Code and the Transportation Element were amended as a part of the 2010 Annual Amendment to meet this requirement.

Two companies, Coulomb and Ecotality, have federal contracts to provide charging stations to several areas in the U.S. including the Puget Sound area. They will locate as many as 1200 EV charging stations in the region, primarily in King County, but about 200 are allocated to the Pierce County area. These are 220V stations that take several hours to completely charge a battery. It is expected that there will also be one 440V station that charges in about ½ hour located in Tacoma. City staff and a stakeholder group are looking at possible local destinations including public facilities, hospitals, and destination attractions to site charging stations. The proposed policies supporting the use of electric vehicles complement the efforts to have the necessary infrastructure in place to serve these vehicles and extend their range of travel.

Public Outreach:

Public outreach on the proposed amendments included:

1. Staff made presentations to two downtown stakeholder groups to explain the proposed policy revisions pertaining to skateboards, the current restrictions on the use of skateboards in a portion of the downtown area, and possible consideration of allowing skateboards downtown. The two presentations were to the Business Improvement Area (BIA) Board (November 15, 2010) and to the Downtown Merchants Group (DMG) (December 2, 2010).

There were two very different responses from these groups. The BIA did not support lifting the current skateboard restrictions in downtown. The DMG guardedly supported allowing skateboards downtown for

travel, perhaps on defined routes, but prohibiting the use of skateboards for tricks. The only change the BIA was interested in supporting is changing the skateboard restriction boundary from the outdated “B” Business District zone that is currently in the Regulatory Code to the current BIA boundary, which would expand the area where skateboards are prohibited.

2. The twenty-one projects that are being added or revised in the “Transportation Improvement Projects List – “Unfunded” are a result of community outreach through the Comprehensive 6 Year Transportation Program amendment process. Presentations were given to the Community Council and six Neighborhood Councils (Northeast, West End, South Tacoma, South End, Eastside, New Tacoma) asked for personal presentations at their April or May 2010 monthly meeting. Staff also presented to neighborhood groups, such as T.E.A.M. Project requests were made by City staff, Neighborhood Councils, Foss Waterway Development Authority, and other interested citizens. Other presentations include:

- September 16, 2010 TAG – Technical Advisory Group presentation (development stakeholders)
- September 23, 2010 Community Council presentation (neighborhood councils)
- October 5, 2010 Cross-District Association presentation (neighborhood business districts)

3. The proposed update to Figure 1 Map will reflect the community’s needs and current and future demands. In addition to City Council meetings, a presentation was given to the City Council’s Environment and Public Works Standing Committee on September 8, 2010 and a community meeting was held on October 8, 2009 at Lincoln High School.

4. The City continues to meet with regional stakeholders on Electric Vehicle infrastructure as a participant in a federal program that is locating charging stations through a Department of Energy federal grant primarily in the King County area. The program extends to Tacoma to increase travel distance and encourage electric vehicle use. Staff began outreach on EV Infrastructure on December 9, 2010 at a meeting with agency stakeholders including University of Washington Tacoma, Metro Parks, Pierce Transit and the Tacoma-Pierce County Chamber. The Chamber held a meeting on January 11 targeted at property owners of public parking to inform them about Electric Vehicle charging options. Additional discussion and outreach will occur as a part of the Plan amendment process concerning the proposed modifications concerning electric vehicles.

Applicable Provisions of the Growth Management Act (and other state laws):

The Growth Management Act, as amended in 2009, requires certain jurisdictions, including Tacoma, to adopt zoning regulations by July 1, 2010 that would allow Electric Vehicle (EV) infrastructure, including battery recharge facilities and battery swap-out stations. The Land Use Regulatory Code and the Transportation Element were amended as a part of the 2010 Annual Amendment to meet this requirement. The proposed amendment adds additional discussion about EV infrastructure strengthens policy and adds new policy to promote the use of electric vehicles.

The Act also requires that the transportation element shall include the following sub element “... facilities and services needs, including ... identification of state and local system needs to meet current and future demands.” The proposed revisions to the unfunded project list reflect the community’s needs and current and future demands.

Applicable Provisions of the Comprehensive Plan:

Existing policies in the Transportation and Environmental Policy elements recognize the environmental impacts associated with vehicle emissions and support the use of alternative fuel vehicles as a means to reduce or eliminate these impacts. The proposed amendment is also consistent with Tacoma’s Climate

Action Plan goals regarding reducing carbon emissions from transportation. The updates to the unfunded projects reflect the interests and input of Tacoma residents. The proposed new policies and Transportation Element updates are consistent with the following existing policies:

T-MMP-3 Environmental Sustainability

Encourage and improve the appeal of modes of transportation with negligible carbon emissions, such as walking, biking and using assistive devices, thereby reducing the miles traveled by single occupancy vehicles.

T-ES-3 Congestion Management

Encourage the use of alternative modes and thereby slow the increase in the use of single-occupant vehicles and the increase of environmental degradation associated with their use.

Y-ICCP-4 Citizen Participation

Ensure citizen participation in all transportation planning to accommodate their needs and desires

T-NT-1 Identification of Projects

Assign high priority to pedestrian and bicycle projects that serve the following objectives: address safety issues; provide access to designated centers; encourage safe and active routes to schools; provide linkages to the transit, ferry, and school bus systems; complete planned pedestrian or bicycle facilities or trails; and provide system connectivity.

T-NT-2 Potential Corridors

Recognize, encourage, and support street systems, rail corridors, rights-of-way, off-road trail systems, easements, utility corridors, state highway systems, greenbelts, and other corridors as potential links to the bicycle and pedestrian system.

T-NT-8 Safety

Consider pedestrian and bicycle safety in all infrastructure decisions, particularly at crosswalks and intersections.

T-TSM-1 Street Classifications

Adhere to nationally recognized arterial functional class standards to help differentiate roads designed to carry high volumes of traffic and those designed for residential use.

T-ES- 2 Noise and Air Pollution

Encourage the reduction of noise and air pollution from various modes of transportation; promote the use of alternative fuels for vehicles and ensure the City of Tacoma meets ambient air quality standards.

Amendment Criteria:

Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in TMC 13.02.045.G. Proposed amendments are required to be consistent with or achieve consistency with the Comprehensive Plan and meet at least one of the eleven review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.

- 1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions.**

Staff Analysis: Not applicable.

2. **Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.**

Staff Analysis: Not applicable.

3. **The needs of the City have changed, which support an amendment.**

Staff Analysis: The City of Tacoma’s Climate Action Plan promotes the use of vehicles that do not produce carbon emissions and elements of the proposed amendment help support this goal.

4. **The amendment is compatible with existing or planned land uses and the surrounding development pattern.**

Staff Analysis: Not applicable.

5. **Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.**

Staff Analysis: Not applicable.

6. **The capacity to provide adequate services is diminished or increased.**

Staff Analysis: Not applicable.

7. **Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.**

Staff Analysis: The stated goal of the Transportation Element of the Comprehensive Plan is to “achieve a multimodal transportation system that efficiently moves people and goods with optimum safety and speed, maximizes the conservation of energy, and minimally disrupts the desirable features of the environment.” The addition of new policies for zero emission vehicles to the Transportation Element will support this goal.

8. **Transportation and and/or other capital improvements are not being made as expected.**

Staff Analysis: Not applicable.

9. **For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.**

Staff Analysis: Not applicable.

10. **A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.**

Staff Analysis: Not applicable.

Economic Impact Assessment:

Economic impacts of the proposed amendments are expected to be minimal. The amendments add policy to support non-traditional modes of transportation. Revising the arterial classification map and the unfunded project list will not affect economic interests.

Staff Recommendation:

Staff recommends that the proposed amendment be forwarded for public review and comment.

Exhibits:

- A. Draft Amendment to the Environmental Stewardship section of the Transportation Element of the Comprehensive Plan regarding zero emission vehicles and unconventional devices
- B. Proposed projects for the Transportation Element's Unfunded List
- C. Classification of Arterials Map

Exhibit A

Transportation Element Section I – General Goal and Policies

Environmental Stewardship

Policy Intent

The City of Tacoma recognizes that environmental stewardship must be a central focus in establishing a transportation system that serves today's users and future generations. This is consistent with the City of Tacoma's compliance with the Washington Clean Air Act, the Commute Trip Reduction Law, the National Environmental Policy Act, and the State Environmental Policy Act. It also supports the City's interest in reducing stormwater and air pollution by lessening the use of petroleum fuel vehicles.

~~The City of Tacoma is required to comply with the Washington Clean Air Act, the Commute Trip Reduction Law, the National Environmental Policy Act, and the State Environmental Policy Act. Policies that exist in other parts of the transportation element~~ that reduce car use, support transit, and encourage transit, walking and bicycling are key to reducing transportation-related environmental impacts can be found throughout the Comprehensive Plan. In addition, The City's Climate Action Plan guides the City toward reductions in greenhouse gas (GHG) emissions by such measures as decreasing use of the conventional internal combustion engine automobile.

Transportation contributes to more than 50% of Tacoma's GHG emissions. In an effort to achieve the GHG reductions laid out in its Climate Action Plan, the City encourages the use of a variety of vehicles and devices for transportation that are free of emissions. These vehicles and devices include Low Speed Electric Vehicles, bicycles, skateboards, and other forms of active transportation. Low Speed Electric Vehicles (LSV) are defined by State law and must have head lamps, stop lamps, seat belts, parking brakes, a vehicle identification number and also must be licensed and insured. LSVs include Neighborhood Electric Vehicles that reach maximum speeds of 20 – 25mph and Medium Speed Electric Vehicles that reach maximum speed of 25 – 35 mph. LSVs are allowed on local roadways; however, for safety and maintaining free traffic flow, such vehicles should only be driven on streets where conditions are appropriate and consistent with State law.

Electric Vehicles (EV) need predictable and convenient charging options before they will be considered a reliable choice to the average driver and Washington State Law (SSHB 1481) mandates implementation of EV charging station programs. Most Electric Vehicles can receive charges of varying volts from 110, 220 to 440 in a variety of public and private settings. Tacoma recognizes the provision of charging stations will encourage EV ownership and is working to supply them to the public. EV charging technology is still evolving and the City will keep up with advances as they develop.

The intent of the following policies is to encourage the use of emission-free vehicles and devices and to plan and implement transportation projects that will not negatively impact the quality of the environment and will contribute to the City's overall efforts in addressing issues associated with global warming and climate change.

~~It is the intent of the following policies that planning and implementation of transportation projects will not greatly impact the quality of the environment or worsen existing conditions, and will contribute to the City's overall efforts in addressing issues associated with the global warming and climate change.~~

Policies

T-ES-1 Minimum Environmental Disruption

Ensure environmentally sensitive design and management of the transportation system to minimize the disruption of natural and desirable manmade elements of our environment.

T-ES-2 Noise and Air Pollution

Encourage the reduction of noise and air pollution from various modes of transportation; promote the use of alternative fuels for vehicles; and ensure the City of Tacoma meets ambient air quality standards.

T-ES-3 Congestion Management

Encourage the use of alternative modes, and thereby slow the increase in the use of single-occupant vehicles and the increase of environmental degradation associated with their use.

T-ES-4 Stormwater Management

Employ Best Management Practices (BMPs) for stormwater management, Low Impact Development (LID) measures, and effective street cleaning to alleviate a major source of groundwater pollution due to roadway uses.

T-ES-5 Urban Design

Give maximum consideration to aesthetics and beautification while insuring compatibility with safety standards in the design and location of both local and state owned transportation facilities to ensure a positive contribution to the appearance and form of the city.

T-ES-6 Public Awareness

Initiate and support public awareness campaigns that focus attention on the societal and environmental impacts and costs of travel choices, and that increase the public's awareness and acceptance of the range of travel choices available. Partner with Pierce Transit to organize a marketing campaign that improves the "image" of bus transit and encourages ridership.

T-ES-7 Electric Vehicles

Encourage and promote the use of electric vehicles as they are developed in all automobile, truck and commercial vehicle classes. Neighborhood Electric Vehicles and Medium Speed Electric Vehicles may travel Tacoma's street network where appropriate and consistent with state law. Encourage the use of such vehicles in a way that conditions are safe and don't impede traffic flow.

T-ES-8 Emission-free Vehicles and Devices

Where appropriate and applicable, encourage the use of transportation devices that have a minimal impact to the environment and do not emit greenhouse gases such as skateboards and bicycles, electric personal assistive mobility devices, Low Speed Electric Vehicles and other innovations.

T-ES-9 Skateboards

Recognize skateboards as an environmentally friendly means of transportation and valid mode of travel. Skateboards are allowed on sidewalks but not roadways except crossing at intersections per Washington State Law. Explore revising State law to allow individual jurisdictions to manage skateboard use on local roadways.

T-ES-10 Electric Vehicle Infrastructure

Provide for a broad range of charging opportunities at public and private parking venues.

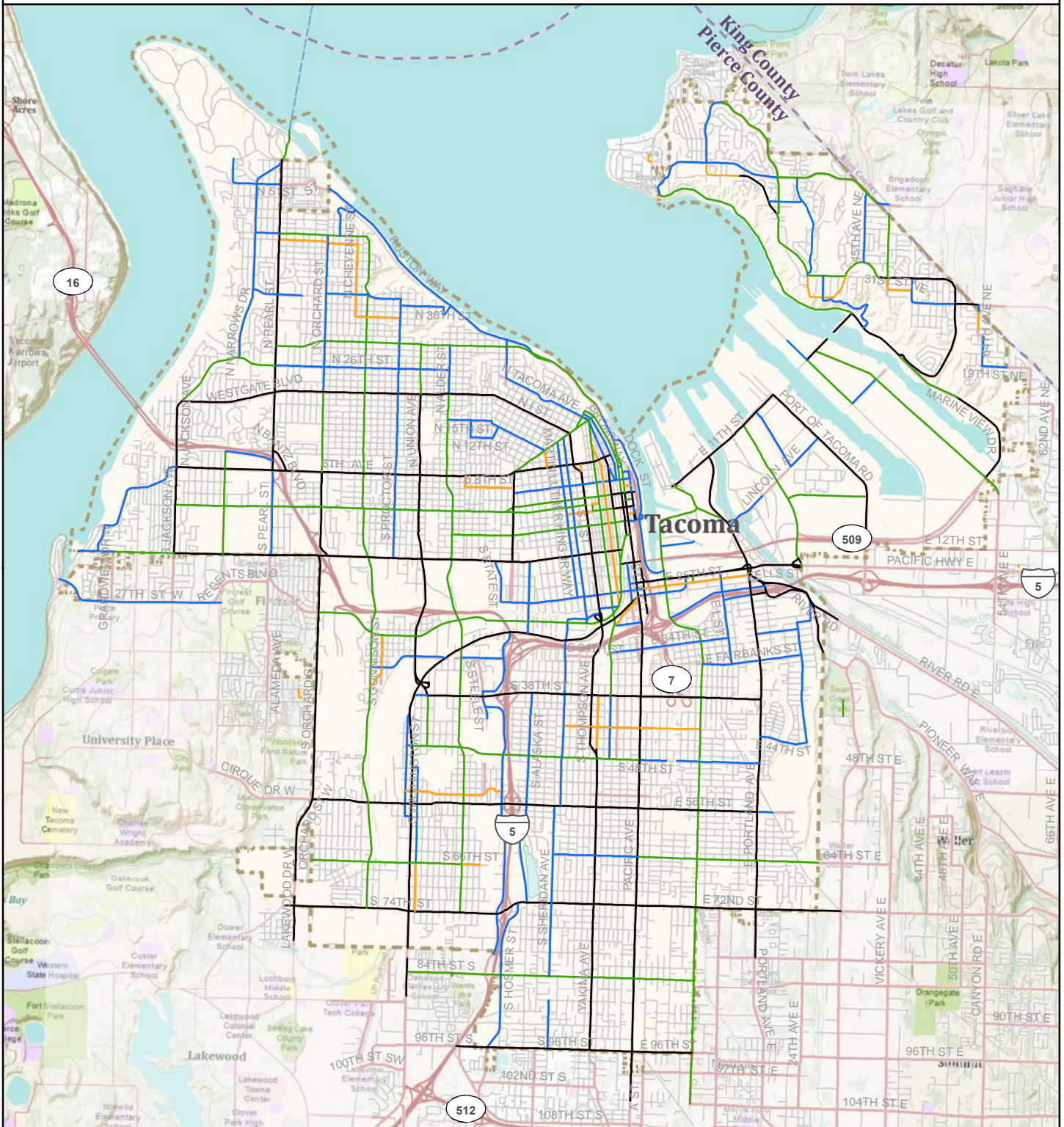
PROJECT REQUESTS FOR THE TRANSPORTATION ELEMENT UNFUNDED LIST

PROPOSED PROJECT	Location
1. Tacoma Avenue Beautification – Design & rebuild Tacoma Ave between Division Ave and Center St to include landscaping, streetscape, pedestrian crossings (S 4 th , 8 th , 10 th) and light rail accommodations.	Tacoma Ave. from 4 th to S. 25 th
2. UWT Hillclimb – Design & build extension of UW Tacoma hill climb (S 19 th) from Jefferson to Market to include stairs, ADA ramps, decorative paving, landscaping, streetscape, art, and lighting.	South 19 th from Jefferson to Market
3. Lincoln Park Freeway Lid – Design & construct a landscaped lid over I-5 between Yakima/Thompson and Tacoma/G Streets to reconnect downtown with neighborhood.	Yakima from Center to S 34 th and Tacoma from Center to S 34 th
4. S 23 rd & Pacific Crossing – Design & build signalized crossing at S 23 rd & Pacific Ave, which includes decorative pavement	S 23 rd & Pacific Ave
5. Browns Pt Blvd Improvement Project Phase II – Roadway improvements between 38 th Ave NE and Norpoint way NE to include sidewalks.	Browns Pt Blvd from 38 th Ave NE to Norpoint Way NE (to the north-west)
6. Northwood Arterial Improvements – Provide sidewalks and curbing along main thoroughfares within city limits, 24 th St NE, 65 th Ave NE, and 19 th St NE	64 th Ave NE between 26 th Street NE and 28 th Street NE; 65 th Ave NE between 19 th Street NE and 24 th Street NE; 19 th Street NE between 65 th Ave NE and city limits east
7. Northshore Parkway Improvements – Provide uphill (eastbound) passing lane, bike lanes, sidewalks on north side, and landscaping between Nassau and Norpoint Way	Northshore Parkway from Nassau to Norpoint Way
8. Dash Point State Park Access – Provide parking along Northshore Parkway and a path between parking & trail system in Dash Point	
9. Marine View Drive Improvements – Extend two-way left turn lane to driveway of 1902 Marine View Drive, which includes widening roadway	Marine View Drive from 1902 Marine View Drive to Norpoint Way
10. Browns Pt Blvd Improvement Project Phase III – Roadway improvements between 33 rd St NE at the west near 43 rd Ave NE and 33 rd St NE at the east near Meeker Ave to include sidewalks and access to Alderwood Park & Kobetich Library	Browns Point Blvd from 33 rd St NE at the west near 43 rd Ave NE and 33 rd St NE at the east near Meeker Ave

PROPOSED PROJECT	Location
11. St Helens Gateway Renovation Project – Improve the intersection of St Helens, 6 th Ave, and Baker St to include a rain garden, art, landscaping, converting Baker to one-way, and pedestrian crosswalk treatments consistent with the Broadway LID.	St Helens and 6 th Avenue and Baker
12. S 66 th & South Tacoma Way Roundabout – Install a new roundabout for better cross traffic	S 66 th & South Tacoma Way
13. Manitou Rehabilitation – Repave Manitou between Tyler and Gunnison to eliminate ruts and cracks. Neighborhood does not want a slurry seal.	Manitou from Tyler to Gunnison
14. S 58 th & Puget Sound Intersection Traffic Calming – Install traffic calming devices and/or realign Puget Sound to provide better sight distance	S 58 th & Puget Sound Avenue
15. 6 th Ave Traffic Calming – Install landscape medians on 6 th Ave between Jackson and Orchard	6 th Ave from Jackson to Orchard
16. Jackson Ave Traffic Calming – Install traffic calming devices on Jackson between S 19 th and SR 16	Jackson between S 19 th and SR 16
17. East Fairbanks between Portland & Roosevelt Avenue – Reconstruct to eliminate potholes and to restabilize roadway	East Fairbanks between Portland & Roosevelt
18. South Thompson between South 37 th and 46 th Street - Reconstruct to eliminate potholes and to restabilize roadway	South Thompson between South 37 th and 46 th Street
19. Pacific Avenue between South 25 th & 30 th Streets - Reconstruct to eliminate potholes and to restabilize roadway	Pacific Avenue between South 25 th & 30 th Streets
20. South 74 th Street between South Tacoma Way and West City Limits - Reconstruct to eliminate potholes and to restabilize roadway	South 74 th Street between South Tacoma Way and West City Limits
21. North Alder between North 15 th & 19 th Streets - Reconstruct to eliminate potholes and to restabilize roadway	North Alder between North 15 th & 19 th Streets

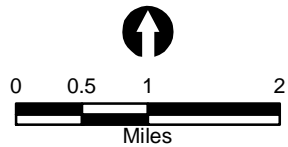
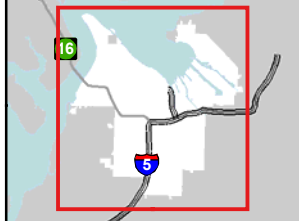
NAS = Neighborhood Action Strategy

Transportation Figure 1 Classification of Arterials



Arterials

- Principal
- Collector
- Minor
- Not Classified



Map is for reference only.





2011 Annual Amendment Application No. 2011-06
Regional Center Update and Safety-Oriented Design

SUMMARY

Application #:	2011-06
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Donna Stenger
Type of Amendment:	Comprehensive Plan Text and Map Changes
Current Land Use Intensity:	Various
Current Area Zoning:	Various
Size of Area:	City-wide
Location:	City-wide
Neighborhood Council area:	City-wide
Proposed Amendment:	Update the Comprehensive Plan to reflect changed circumstances including the countywide and regional planning context, to align regional growth center boundaries, and to refine policy direction for safety-oriented design considerations.

General Description of the Proposed Amendment:

The proposed amendments include modifications to the following elements of the Comprehensive Plan:

- **Introduction** – update, revise or add new descriptions pertaining to the Growth Management Act, the State Environmental Policy Act, the Shoreline Management Act, Vision 2040, Transportation 2040, required elements of the Comprehensive Plan, adopted goals from other Plan elements, and the planning process.
- **Growth Strategy** – refine the Tacoma Growth Concept Map and the Generalized Land Use Plan Map for center designations and associated land use intensity clean-ups, and add map depicting regional centers.
- **Generalized Land Use** – revise and add new text and policies to address consideration of safety and security in building and site design and for public spaces.
- **Downtown Tacoma** – refine Figure 1 depicting the downtown area and remove references to the “working definition” of downtown; also revise TMC Chapter 13.05.095 to remove references to “working definition” of downtown.

Planning Commission’s Action on February 2, 2011:

The Planning Commission will review the staff analysis of the above amendments and on February 2 will focus on revisions to proposed text and policies concerning safety-oriented design and review proposed map revisions associated with this amendment. Upon completing the review, the Commission will be requested to authorize the release of the proposed amendments, as may be modified, for public review and comment.

Attachments:

Staff Report for Annual Amendment Application #2011-06, including the following exhibits:

A. Proposed Plan amendments:

1. Revised text and policies concerning safety and security in building and site design and public spaces
2. Revisions to the Downtown Element relative to the Regional Growth Center
3. Map showing differences between the Downtown Regional Growth Center and “working definition”
4. Map showing the regional growth and manufacturing/industrial centers
5. Map highlighting the proposed Port-Industrial M/IC boundary refinements
6. Map showing proposed intensity and boundary change for 34th & Pacific Mixed-Use Center
7. Map highlighting the proposed intensity refinements along Center Street for consistency with the adopted South Tacoma M/IC boundary
8. Map showing the proposed refinements to the South Tacoma M/IC boundary and Habitat Corridors

B. Proposed Code amendments:

1. Proposed revision to TMC Chapter 13.05



2011 Annual Amendment Application No. 2011-06
Regional Centers and Safety-Oriented Design

STAFF REPORT

Application #:	2011-06
Applicant:	Community and Economic Development Department
Contact:	Donna Stenger
Type of Amendment:	Comprehensive Plan Text and Map Changes
Current Land Use Intensity:	N/A
Current Area Zoning:	N/A
Size of Area:	N/A
Location:	Citywide
Neighborhood Council area:	Citywide
Proposed Amendment:	Update the Comprehensive Plan to reflect changed circumstances including the countywide and regional planning context, to align regional growth center boundaries, and to refine policy direction for safety-oriented design considerations.

General Description of the Proposed Amendment:

The proposed amendment addresses multiple topics that have been combined together because they will amend the same elements of the Comprehensive Plan. Three primary actions are proposed:

1. Planning context

Update text describing the state, regional and countywide planning context and revising maps depicting three regionally designated centers: the Downtown and Tacoma Mall growth centers and the port manufacturing/industrial center and adding a new map depicting regionally designated centers. This action also will affirm that the downtown regional growth center replaces the working definition of downtown previously adopted by the City Council.

2. Safety-oriented design

Enhance existing and provide additional policy guidance for safety and security considerations in building and site design using techniques such as CPTED – Crime Prevention Through Environmental Design

3. Minor amendments

Make minor text and map changes to reflect the recent administrative reorganization of current and long-range planning functions, clarify the relationship between the Generalized Land Use Map and policies, correct the 34th & Pacific Mixed-Use Center boundary, and adjust the South Tacoma Manufacturing/Industrial Center & Habitat Corridor boundaries and land use intensity changes associated with these adjustments.

Additional Information:

1. Planning context amendments

Part of these proposed modifications are intended to improve consistency with Vision 2040 and Transportation 2040. In 2008, the Puget Sound Regional Council (PSRC) adopted Vision 2040, the regional growth strategy for the Central Puget Sound region. Local jurisdictions within King, Pierce, Kitsap, and Snohomish counties are required to amend their respective Comprehensive Plans for consistency with the regional growth strategy. Vision 2040 provides new guidance on environmental sustainability, growth and employment targets, affordable housing, transportation, and economic development. Adjusting Tacoma's Comprehensive Plan for consistency will likely be accomplished over multiple years. As a first step, this year's proposed amendments will include modifying the discussion of Vision 2040 to explain the regional growth strategy and the relationship of the strategy to Tacoma's planning. The amendment also adds a new discussion explaining Transportation 2040, also a regionally adopted document that is a companion to Vision 2040 and lays out the strategy for future transportation investments.

Vision 2040 designates certain areas within the region as growth centers that are the focus for accommodating the majority of the region's future growth and development. There are more than two dozen designated regional growth centers. The centers are intended to attract residents and businesses because of their proximity to services and jobs, a variety of housing types, access to regional amenities, high quality transit service, and other advantages. In addition, the strategy designates manufacturing/industrial centers where industrial uses are currently concentrated and expected to expand. PSRC summarizes the role of Regional Growth Centers and Manufacturing/Industrial Centers as follows:

“Centers are the hallmark of VISION 2040 and it's Regional Growth Strategy. Designated regional growth centers have been identified for housing and employment growth, as well as for regional funding. Regional manufacturing/industrial centers are locations for increased employment.”

Tacoma has three regionally designated centers. Downtown and the area around the Tacoma Mall are designated as regional growth centers and the port industrial area is a designated manufacturing/industrial center. The South Tacoma industrial area is classified as a candidate regional manufacturing/industrial center in Tacoma's Comprehensive Plan. The proposed amendment includes adding a new map to the Plan depicting the regional centers recognizing the importance of their designation locally and regionally. In accordance with Vision 2040 and Transportation 2040, regionally designated centers are priority areas for regional funding for transportation and infrastructure improvements.

In 2006, the City Council adopted Substitute Resolution No. 37070, which among other things adopted a “working definition” of downtown to be used for planning purposes. Since that time, the working definition has been applied in multiple planning activities. The boundaries of the working definition align closely with the downtown regional growth center. The amendment proposes to replace references to the working definition in the Comprehensive Plan and regulatory code with the downtown regional growth center.

2. Safety-oriented design

One of the proposed revisions will add text and policy to address the integration of public safety and security considerations as a component of site and building design particularly for public spaces and facilities. The purpose of the proposed policy revisions is to establish explicitly a long-range goal of improving design of public improvements to create active, attractive, and pleasing “people-oriented spaces” without sacrificing functionality, and while better ensuring the safety and security of users of these spaces.

The City currently uses the principles of Crime Prevention through Environmental Design (CPTED), on a limited basis but has an interest in expanding its applicability. CPTED is a multidisciplinary approach

based upon the theory that the proper design of the built environment can reduce the incidence of crime. CPTED strategies seek to limit the opportunity for crime to occur by increasing the perception of the risk of apprehension by providing more opportunities for the offender to be seen and promoting appropriate access and use of spaces. The City has incorporated many CPTED principles into its development regulations; however, better integration of the principles with other development requirements is needed. Over the past two years, various staff members throughout City government have been working closely with citizens to make Tacoma “a clean, safe, and attractive community.” Various teams have tackled different projects to reduce crime and blight. The proposed policy guidance on how to best integrate safety concerns in building and site design to deter crime will supplement these past efforts and further one of the City Council’s priorities.

Public Outreach:

Staff have made presentations, or have presentations scheduled, on the downtown regional growth center, its proposed replacement for the working definition of downtown for planning purposes and the regional guidance that the downtown regional growth center is a priority for growth and for transportation and infrastructure investments. Presentations were made, or are scheduled to be made, to the New Tacoma Neighborhood Council (January 12, 2011); North End Neighborhood Council (scheduled for February 7, 2011); Central Neighborhood Council (January 6, 2011 and scheduled for February 3, 2011); Upper Tacoma Business District Association (January 20, 2011); Stadium Business District Association (January 19, 2011); Tacoma Dome Business District Association (January 13, 2011); Hillside Development Council (scheduled for March 23, 2011); and the Hilltop Public Advisory Committee (scheduled for February 17, 2011).

Applicable Provisions of the Growth Management Act (and other state laws):

The proposed amendments include updating sections in the Comprehensive Plan that discuss the Growth Management Act (GMA) to reflect changes made to the Act since the Plan was last revised. The proposed changes also add new sections to describe the two other major State planning laws, the Shoreline Management Act and the State Environmental Policy Act. These changes will help provide the reader an understanding of the context within which local planning is conducted. GMA also requires that local plans be consistent with countywide and multicounty planning policies. The multicounty policies are contained in Vision 2040. The proposed map revisions will align the regional designations with those in the Comprehensive Plan. Proposed text changes to update the discussion of Vision 2040 will ensure that Tacoma’s Plan accurately describes the most recently adopted regional growth strategy.

Applicable Provisions of the Comprehensive Plan:

The majority of the proposed amendments are technical in nature and could be categorized as minor improvements. The exception is the proposed new section addressing consideration of safety and security in building and site design. The Plan is replete with references to protecting the health and safety of the public. These can be found in the Plan’s goals and in multiple policies. The issue of safety is broad in its meaning and application. Many of the Plan’s existing intent and policies address physical safety in terms of having structurally sound buildings, avoiding hazards, and reducing the potential for accidents with such things as appropriate traffic speeds and reducing pedestrian and vehicle conflicts. The proposed policy amendments are intended to address another aspect of safety, which deals with a person’s comfort when using public spaces and places. Places that are well designed are welcoming to users and establish a sense of security.

One approach is applying the principles of CPTED, which is based on the premise that certain aspects of buildings and sites can be designed to deter the incidence of crime and reduce the fear of crime occurring. CPTED is successful when a public space or property is visually accessible, easy to access, there is a distinct sense of ownership, and it is properly maintained and cared for. Existing policies, which explicitly refer to CPTED, include:

LU-UAD-16 Design for Safety

Design buildings and sites to promote safety of residents, workers, shoppers and other visitors. Integrate Crime Prevention Through Environmental Design (CPTED) principles in the design standards for new development.

OS-LF-7 Renovation, Maintenance and Security

Seek to ensure that Tacoma's open space system provides a sense of security, safety, and well-being for its users. Partner with Metro Parks Tacoma and other stakeholders to address concerns. Proactively seek to eliminate illegal activities such as dumping, transient encampments, littering and graffiti by fostering positive community engagement in the area, application of Crime Prevention Through Environmental Design (CPTED) principles, and other means. Recognize that community engagement is the best way to ensure safety.

C-6.2 Neighborhood Safety

Provide support for regulations, guidelines and programs (e.g., CPTED, Block Watch, Weed & Seed) that enhance safety of both the residential and commercial areas.

2.2D.A Improve Downtown Safety and Perception

The City should apply CPTED (Crime Prevention Through Environmental Design) principles in the design of new, public spaces by requiring placement of physical features, activities and people in ways that provide maximum visibility and foster positive social interaction among legitimate users of private and public space.

The proposed amendments will add additional policy guidance consistent with these policies and others.

Applicable Provisions of the Land Use Regulatory Code:

Many of the City's development standards have been revised in recent years to incorporate the principles of CPTED. Examples include requirements that:

- Require public seating/benches to utilize designs that discourage loitering or sleeping
- Limit the height of fences in the front of buildings in X-districts
- Restrict completely solid screening fences along alleys in X-districts
- Require landscaping, except for certain buffers, to be chosen and maintained to allow eye-level visibility
- Require parking garage openings to maintain a level of visibility into and out of the garage
- Require separation of freestanding light poles and trees
- CPTED is one method for achieving the points required for Development Regulation Agreements

Amendment Criteria:

Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in

TMC 13.02.045.G. Proposed amendments are required to be consistent with or achieve consistency with the Comprehensive Plan and meet at least one of the eleven review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.

1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions.

Staff Analysis: Several of the proposed revisions will correct errors and make the Comprehensive Plan more accurate. The boundary of the regionally designated port manufacturing/industrial center as depicted in the Comprehensive Plan needs to be adjusted to align with the regional center boundaries, the City boundary, Interstate 5 and current zoning. The 34th and Pacific mixed-use center inadvertently excludes a portion of a parcel zoned for mixed-use. A property transfer of City open space necessitates an adjustment to the Habitat Corridor map as well as to the South Tacoma manufacturing/industrial center. The Introduction chapter includes a list of all of the goals in the Comprehensive Plan but is incomplete. As new elements have been added to the Plan or modified, the list has not been updated.

2. Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.

Staff Analysis: The working definition of downtown has been in place for four years but is not reflected in the Comprehensive Plan. The proposed amendment will add a new map to the Plan reflecting the downtown regional growth center, which is closely aligned with the working definition. The regional growth center will replace the working definition as the new boundary to be used for planning purposes and for prioritizing transportation and infrastructure investments. The proposed amendment will clarify the downtown planning boundary and affirm the Council's previous direction.

3. The needs of the City have changed, which support an amendment.

Staff Analysis: The proposed changes concerning incorporating considerations of personal security and safety in the design of buildings, sites and public spaces will assist in the City's efforts to facilitate the use of CPTED principles first for new and/or renovations to public facilities and to encourage private developers to voluntarily use the principles in project design.

4. The amendment is compatible with existing or planned land uses and the surrounding development pattern.

Staff Analysis: N/A

5. Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.

Staff Analysis: N/A

6. The capacity to provide adequate services is diminished or increased.

Staff Analysis: N/A

- 7. Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.**

Staff Analysis: N/A

- 8. Transportation and and/or other capital improvements are not being made as expected.**

Staff Analysis: N/A

- 9. For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.**

Staff Analysis: The proposed land use intensity changes affect properties within the South Tacoma manufacturing/industrial center and are consistent with the center designation.

- 10. A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.**

Staff Analysis: As described previously, the proposed amendments establish a beginning framework for achieving consistency with the multicounty planning policies (Vision 2040) by updating the explanatory text and maps for consistency with the revised regional growth strategy. The proposed amendments also revise the explanatory text and goals of the Growth Management Act to accurately reflect recent changes in state legislation.

Economic Impact Assessment:

The proposed amendments are technical in nature and will have no economic impact.

Staff Recommendation:

Staff recommends that the proposed amendments be forwarded for public review and comment

Exhibits:

- Proposed Plan amendments:
- Proposed Code amendments:

*Note – These amendments show all of the changes to the *existing* text of the Comprehensive Plan. The sections included are only those portions of the plan that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

Generalized Land Use Element

Section I – General Growth and Development

* * *

Urban Aesthetics and Design

Urban aesthetics and design encompasses all aspects of the physical built environment. Quality design can provide a sense of place and instill pride in the community.

Intent

The built environment defines the habitability and the well being of community. It is therefore the intent of the City to promote and inspire design excellence. New development that is well designed and redevelopment which emphasizes the importance of aesthetics in design with respect to scale, proportion, orientation and the use of materials, will further enhance Tacoma's built environment.

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's historic neighborhoods and business districts are also a vital character defining element within the city. Tacoma aspires to be:

- Pedestrian-oriented. The City understands the importance of human scale, pedestrian access and non-motorized circulation to the livability of the city.
- A desirable and inviting place to live, work and play. Public squares and assembly

points provide areas for community activities and serve as focal points. Street furniture, landscaping, lighting and artworks are elements of the pedestrian environment and define the character of the streetscape. Rehabilitation of older buildings and contemporary infill creates visual interest and complexity.

- A safe place to live, work and play. Safety and security are major considerations. Functional urban design can increase the perception of safety by creating spaces that encourage positive human interaction, discourage criminal activities, and contribute to the appearance of a clean, well maintained built environment.
- A distinctive place. Tacoma's current and future character is and will be based on a combination of its unique physical setting (waterfront setting, marine views, topography and geology, flora and fauna, rivers and streams, mountain views, and climate), its history (historic structures, economies, activities and events), and its people (past and present, property owners, residents, public officials and employees, workers, developers, architects, etc.). The built environment is and should continue to be reflected by its setting and its people.

In addition, positive design is essential to Tacoma's strategic positioning as a vibrant, active place. The image of Tacoma as perceived by residents and visitors is in part based upon public and private development, the natural environment and the variety of activities and attractions available in which people can participate and enjoy. Contrast and harmony are qualities that provide interest to the design of public and private buildings. Tacoma's distinct character is a strategic asset that can be leveraged through compatible, high quality, new urban development.

Policies

LU-UAD-1 Development Standards

Craft development standards that are easy to use and administer and encourage quality site and building design consistent with the goals and policies herein. Refine development standards as needed to accomplish design goals per changing demographics, development conditions, and community interests.

LU-UAD-2 Design Review

Explore the development and use of a design review program that accomplishes the following objectives:

- Encourages desired types of development.
- Creates a review process that is predictable for all participants.
- Allows for the opportunity for public input.
- Provides flexibility in how developments can meet objectives.
- Focuses heightened levels of review on significant or key projects and/or locations
- ~~Optimizes public safety- security by reducing opportunities for crimes against persons and property~~

LU-UAD-3 Distinct Character and Identity of the City

Enhance the distinct character and identity of Tacoma by:

- Emphasizing pedestrian-oriented design at all levels of design (city, neighborhood, site, and building).
- Recognizing and retaining existing scale, proportion and rhythm and using compatible materials in new development and redevelopment.
- Embracing the natural setting and encouraging regional character in new development.
- Balancing the historic, working-class character of the community and its physical development with the community's desire to be progressive, innovative and accepting of new ideas and methods.

LU-UAD-4 Public Projects

The City should lead by example, ensuring that public and publicly-funded projects exhibit a commitment to high-quality design and aesthetics, environmental sustainability, development compatibility and sensitivity, pedestrian-orientation and preservation of important cultural and historic resources.



Recent development along the Foss Waterway is a good example of enhancing the unique character of the City.

LU-UAD-5 Design Quality

Promote design quality by creating clear and detailed standards that are crafted to encourage desired types of development. Standards should include guidance for:

- Compatible site design.
- Attractive pedestrian pathways and spaces.
- Safe and connected vehicular access.
- Compatible and attractive building massing and design.
- Integration of building details.
- Use of durable, high quality materials.
- Landscape design
- Signage design
- Safety and security

LU-UAD-6 Design Awards

Consider the creation of a design awards program that recognizes quality design.

LU-UAD-7 Design Competitions

Consider design competitions to seek design innovation for common and/or desired types of development.

LU-UAD-8 Viewpoints, Gateways, and Focal Points

Designate key viewpoints, gateways, and focal points in the city. Create policies, standards, and guidelines that address the design and treatment of viewpoints, gateways and focal points to reinforce and/or enhance the unique character of neighborhoods and the city.



Encourage sustainable design techniques in new construction.

LU-UAD-9 Environmental Quality and Sustainable Design

Reduce the impact of new development on the environment and promote sustainable design within the city. Specifically:

- Promote the use of sustainable design techniques in the design of public (streets, parks, and buildings) and private development. Encourage sustainable design in buildings, including energy efficiency, water quality and efficiency, use of sustainable materials, etc. Promote certification programs such as Leadership in Energy and Environmental Design (LEED) and Built Green.
- Encourage the use of vegetation for landscaping for buffer, screening, environmental and beautification purposes. Encourage the use of drought tolerant species to conserve water and ensure plant survival.
- Encourage reuse of existing buildings and new development that minimizes waste-stream production.

LU-UAD-10 Streetscape Design

Create streetscape design standards that will provide safety and accessibility for all modes. The standards should promote pedestrian activity by ensuring wide sidewalks, street trees, landscaping, crosswalks, and other pedestrian amenities. Emphasize/encourage individualized streetscape design to reinforce/enhance the character of individual neighborhoods within the city.

LU-UAD-11 Pedestrian Access and Orientation

Improve the pedestrian environment by making it easier, safer, and more comfortable to walk in Tacoma. Provide convenient and attractive pedestrian, bicycle, and transit linkages. Create standards for:

- Sidewalk/pathway widths and design.
- Weather protection.
- Building location and orientation.
- Pedestrian-oriented space.
- Pedestrian-oriented façades.
- Internal pedestrian circulation.



Design streets to balance the needs of all users and reinforce/enhance the character of the neighborhood and city.



Design to promote pedestrian activity.

LU-UAD-12 Open Space and Amenities

Provide a diverse array of vibrant and usable open spaces including large and small parks, plazas, playgrounds, green spaces, and gathering spaces. Specifically:

- Enhance existing open space in the City by improving the function, amenities, maintenance, landscaping, programming, etc.
- Continue to add additional open space and other public amenities throughout the city.
- Create detailed design guidelines for open space to ensure that new open space is safe, accessible, appealing, and contributes to environmental quality.
- Create design standards that encourage the development of plazas, public atriums and other pedestrian-oriented spaces in conjunction with new development.
- Create design standards that provide for usable and attractive on-site open space for residential uses. This includes private yards for lower intensity residential uses and a variety of spaces for higher intensity multifamily uses (including common areas, private balconies).
- Encourage the use of artwork and detailed design elements within and adjacent to public spaces.
- Encourage pedestrian amenities such as hillside assist features (escalators) and street furniture to provide pedestrian convenience and comfort.

LU-UAD-13 Internal Vehicular Access and Parking

Promote site design techniques that provide for motorist safety and convenience while minimizing vehicular access and parking area impacts on the pedestrian environment. Ensure that parking does not dominate the urban realm by creating standards to locate parking to the side and rear of buildings and to screen with landscaping. Developments should provide a safe and convenient network of vehicular circulation that connects to the surrounding road/access network and provides opportunities for future connections to adjacent parcels. For large developments, encourage site design that breaks down large parking areas into smaller units to promote pedestrian activity.

LU-UAD-14 Beautification Efforts

Encourage the enhancement of residential, commercial and industrial areas through tree planting, underground wiring programs, clean up, maintenance improvements and other methods.

LU-UAD-15 Neighborhood Design

Aid neighborhoods in preserving and enhancing their individual identity.

Safer By Design

People respond to the built environment in many different ways whether consciously or unconsciously. Many design professionals have come to realize that design can positively influence people's sense of security and comfort by reducing their fear of potentially becoming a victim of crime. Feeling safe influences where we choose to live, how we travel and which places that we choose to visit. Crime prevention and ensuring public safety are two important design objectives. Crime and The fear of crime can have a serious impact on the perceived quality of life of residents, employees, and visitors desirability of neighborhoods, business areas and public spaces. Proper design not only can reduce the fear of crime but also has been found to deter the incidence of crime. Creating an environment in which people feel safe and opportunities for crime are reduced can be achieved through the application of safety-oriented design principles. One such program is Crime Prevention Through Environmental Design (CPTED) which promotes the use of four fundamental strategies: natural surveillance, natural access control, territorial reinforcement and maintenance. These principles are intended to work in concert with each other, and be balanced against other equally important design objectives. For example, a site that is built with a tall fence to enhance territoriality could undermine the ability for natural surveillance by obstructing views into and through a site.

CPTED principles and other strategies for crime prevention must also be balanced against other equally important design objectives such as pedestrian orientation, greening urban areas or connectivity of uses and spaces. Design considerations for safety can effectively discourage crime but it is not intended that the application of these principles will result in unattractive places. People are drawn to areas that are both beautiful and where they feel safe and comfortable and as a result treat these areas with greater respect and appreciation.

CPTED is different from community policing in that it encourages the prevention of crime through proper design while policing is the response to incidents and results in identification of criminals and arrests. CPTED is based on the idea that if an area is designed

well and used appropriately, the likelihood of the area being targeted for crime may be reduced.

The design principles can be used on small or large projects and applied to new or existing development. The principles work best when applied during the design phase so that they are integrated with the overall building and site design and thus avoiding costly changes later in the development phase. One of the key constraints of CPTED may be the cost of implementation. Although many CPTED strategies are relatively cost-free and easy to accomplish in a short time frame, other aspects may require significant investments of capital and phased implementation over several years especially for the retrofit of existing development or uses. CPTED requires trained staff and an educated public to realize its full potential as a crime prevention methodology. Implementation priority should be first placed on public spaces, particularly on the design and construction of major public improvements. Properly implemented safer-by-design practices can yield long term cost savings for the City by reduced management and maintenance costs as well as reduced calls for service.

Natural Surveillance

Natural surveillance is the placement of physical features and activities to maximize visibility. The fundamental premise is that people feel safer in public areas when they can see what others are doing and others can see what they are doing. Simple ways to achieve this strategy include using windows along a street frontage and providing unobstructed sight lines by properly controlling landscaping.

Natural Access Control

Physical and symbolic barriers can be used to channel the movement of people to appropriate areas and discourage them from entering and using areas where they aren't intended to be. Access control tends to rely on doors, shrubs, fences, topography, lighting, and other physical improvements.

Territorial Reinforcement

Clear definition of what is public space and what is private space is a way of expressing ownership and the respect of the territory of others. People feel comfortable in and are more likely to visit places that feel owned and cared

for.

Maintenance

The more dilapidated and deteriorated an area, the more likely the area is to attract unwanted activities. Maintenance also needs to be considered at the design stage, as the choice of materials and finishes will impact the ability to maintain the site over time.

LU-UAD-16 Enhance Public Safety

Seek to reduce opportunities for crime by considering CPTED principles and other design strategies in the planning, design, development, and maintenance of public spaces.

LU-UAD-17 Lead By Example

Demonstrate best practices on existing City owned facilities by undertaking CPTED site assessments and safety audits and programming necessary improvements to improve community safety.

LU-UAD-18 Public Spaces

Apply safety-oriented design principles to new public spaces or major improvements to existing spaces to foster positive social interaction among all users of the space.

LU-UAD-19 Community Safety

Ensure that issues of community safety and crime prevention are adequately considered in land use, development, and redevelopment activities.

LU-UAD-1620 Design for Safety

Design buildings and sites to promote safety of residents, workers, shoppers and other visitors. Integrate Crime Prevention Through Environmental Design (CPTED) principles as appropriate into the City's design and development standards for new development.

LU-UAD-21 Development Thresholds

Establish thresholds for using CPTED strategies in development review and approval. Focus should be given to projects located in areas where community safety is an issue and on spaces associated with private development that are intended for use by the general public.

LUA-UAD-22 Advocacy and Education

Promote an understanding of the benefits of CPTED among design, development, and investment interests.

LUA-UAD-22 Safer Development

Work with the development industry to utilize the voluntary integration of CPTED design principles for new development and substantial improvements to existing projects, particularly for multifamily housing and projects that attract large numbers of people.

LUA-UAD-23 Surveillance

Promote natural surveillance through the design and placement of features on sites in ways that provide opportunities for people to observe the space, uses, activities, and people around them. Areas can be designed to foster observation through building orientation, the placement of windows, entrances and exits, the design of parking areas, the location of utility and refuse containers, and the use of low and non-opaque landscaping screening and fencing.



Provide for a diverse array of public and private open spaces to enhance the livability and character of the city.

LUA-UAD-24 Access Control

Guide the movement of people to and from buildings and spaces by placement of real or perceived barriers to discourage access to dark and unmonitored areas and to encourage access at designated entrances and exits. Use features such as gates, fencing, walls, landscaping, pavement treatment, and lighting.

LUA-UAD-25 Territoriality

Clearly delineate private spaces from public and semipublic spaces using techniques such as paving treatments, landscaping, art, signage, screening, and fencing.

LUA-UAD-26 Maintenance

Maintain landscaping, lighting and other features in public spaces to ensure the continued effectiveness of safety-oriented design components.

LU-UAD-1727 Service and Utility Elements

Locate and design service and utility elements to minimize negative impacts on the pedestrian environment, visual character, and overall livability of developments. Create design standards that address the design and location of service delivery areas, trash and recycling areas, utility meters, electrical conduit, rooftop mechanical equipment, and other similar elements.

LU-UAD-1828 Utility Lines

Encourage the agencies responsible for utility lines to work together to achieve the long-range goal of undergrounding all utility lines.

LU-UAD-19 Historic Preservation

Protect, preserve, and enhance historic resources throughout the city. Encourage appropriate design for contemporary infill in historic and established areas of the city by use of development standards regarding scale, rhythm, compatible materials, and streetscape. (Also see CH-HP policies in the Culture and History Element.)



Protect and build upon Tacoma's unique historic resources.

2011 Annual Amendment Application No. 2011-06
Proposed Changes to the Downtown Comprehensive Plan Element

The Project Scope

The Downtown Plan Update aims to provide the City with a working set of goals, policies and actions to realize a healthy, vibrant downtown. The Plan first describes recent changes throughout downtown and then addresses quality of life through the introduction of new programs that will build city capacity to revitalize recognized stress points or gaps in the existing urban fabric.

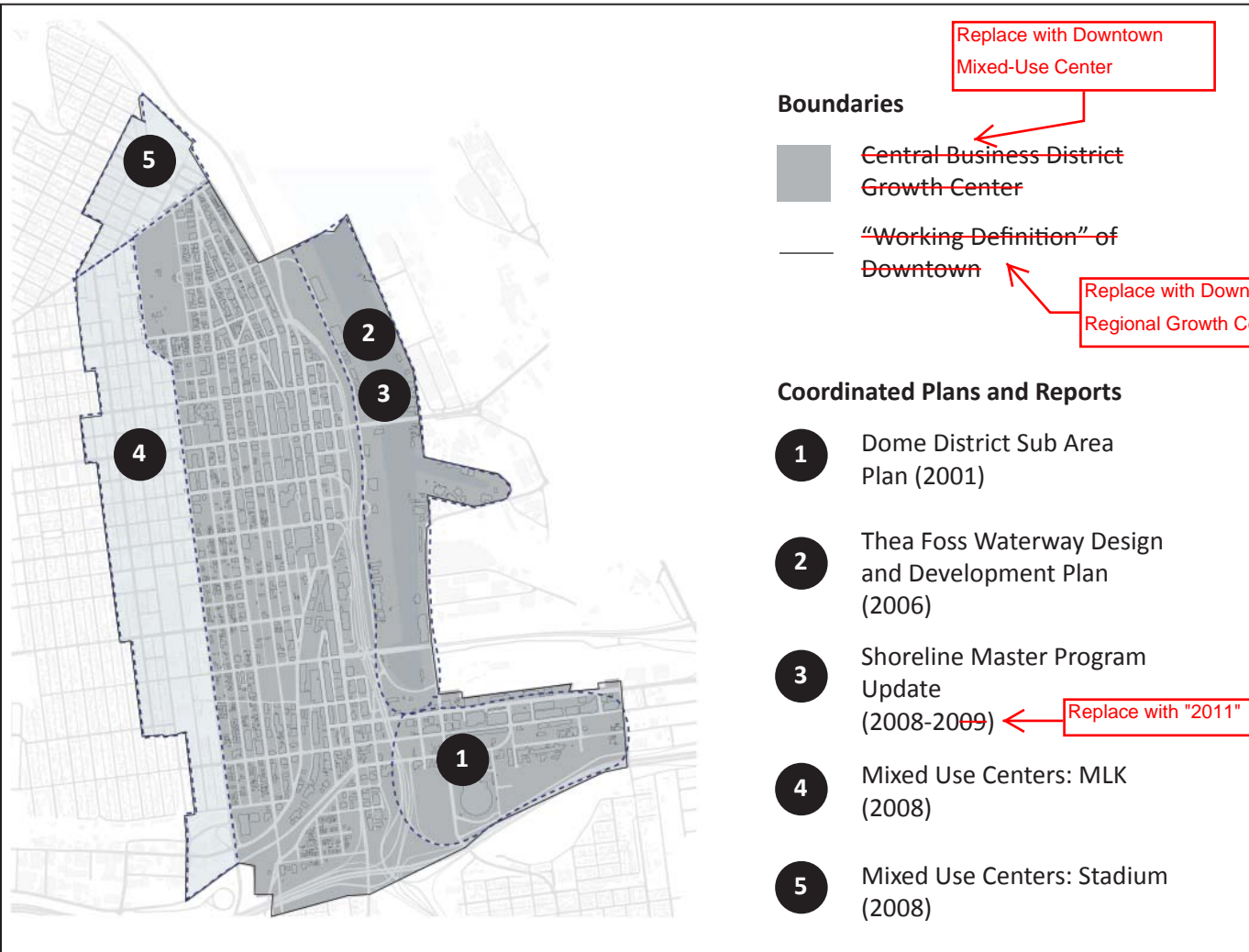
Geographically, the update is a coordinating document. In conjunction with the concurrent updates of Mixed Use Centers for MLK and Stadium, this plan covers the area the City Council has defined by resolution, the working definition of Downtown. However, land-use policy changes primarily affect the Central Business District, supplemented by the existing updates of Sub-Area Plans for Dome District and the Foss Waterway (see Figure 1 below).

Replace with "previously"

add "and subsequently updated to the Downtown Regional Growth Center.

Replace with "Downtown Mixed-Use Center"

FIG 1: PROJECT STUDY AREA BOUNDARIES + ADJACENT MIXED USE CENTERS
~~WORKING DEFINITION OF DOWNTOWN~~

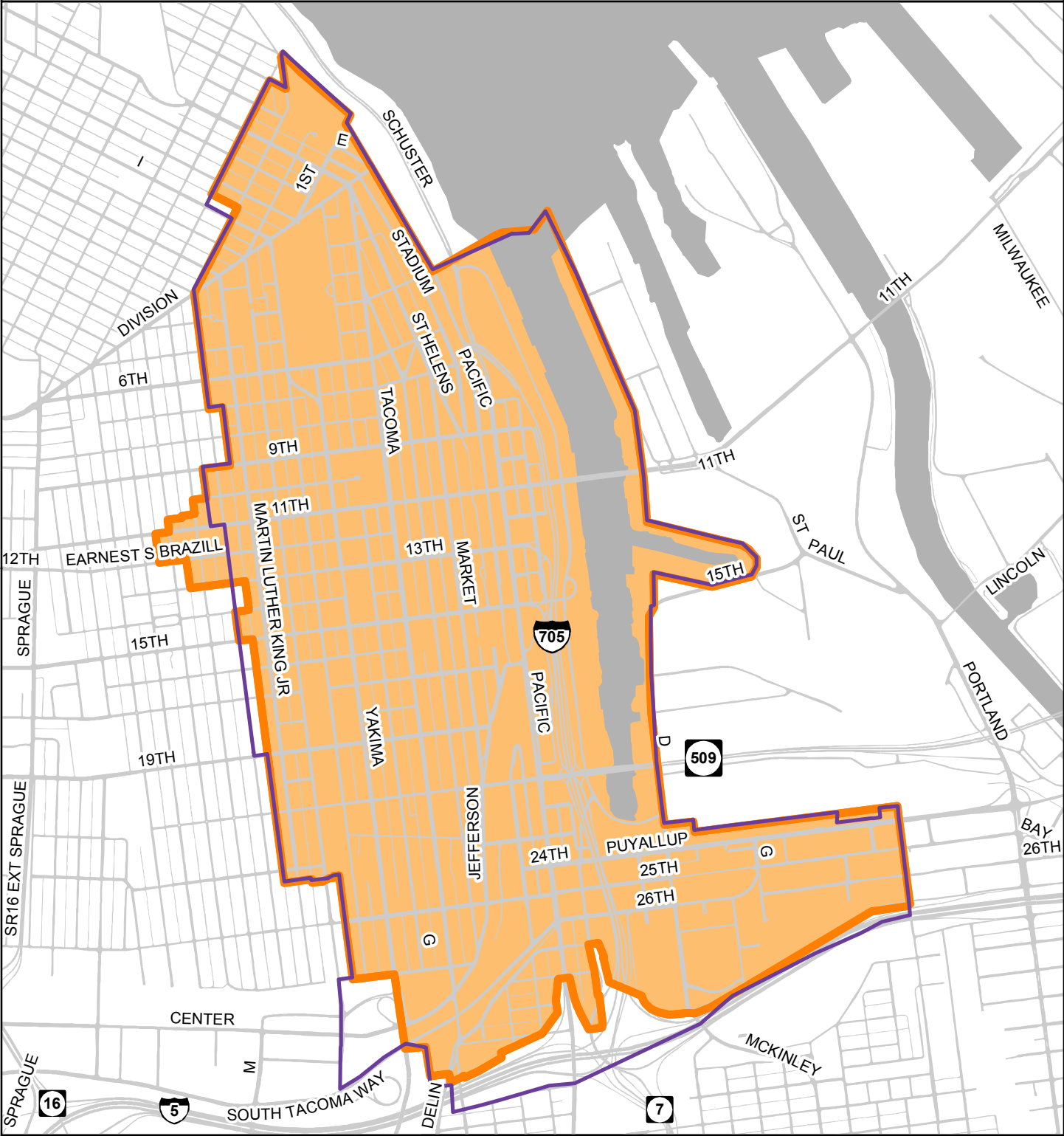


Replace with Downtown Mixed-Use Center

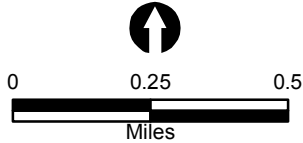
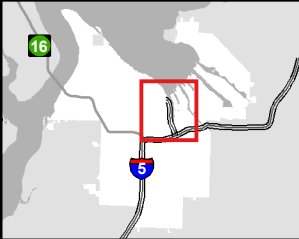
Replace with Downtown Regional Growth Center

Replace with "2011"

Downtown Regional Growth Center and Working Definition



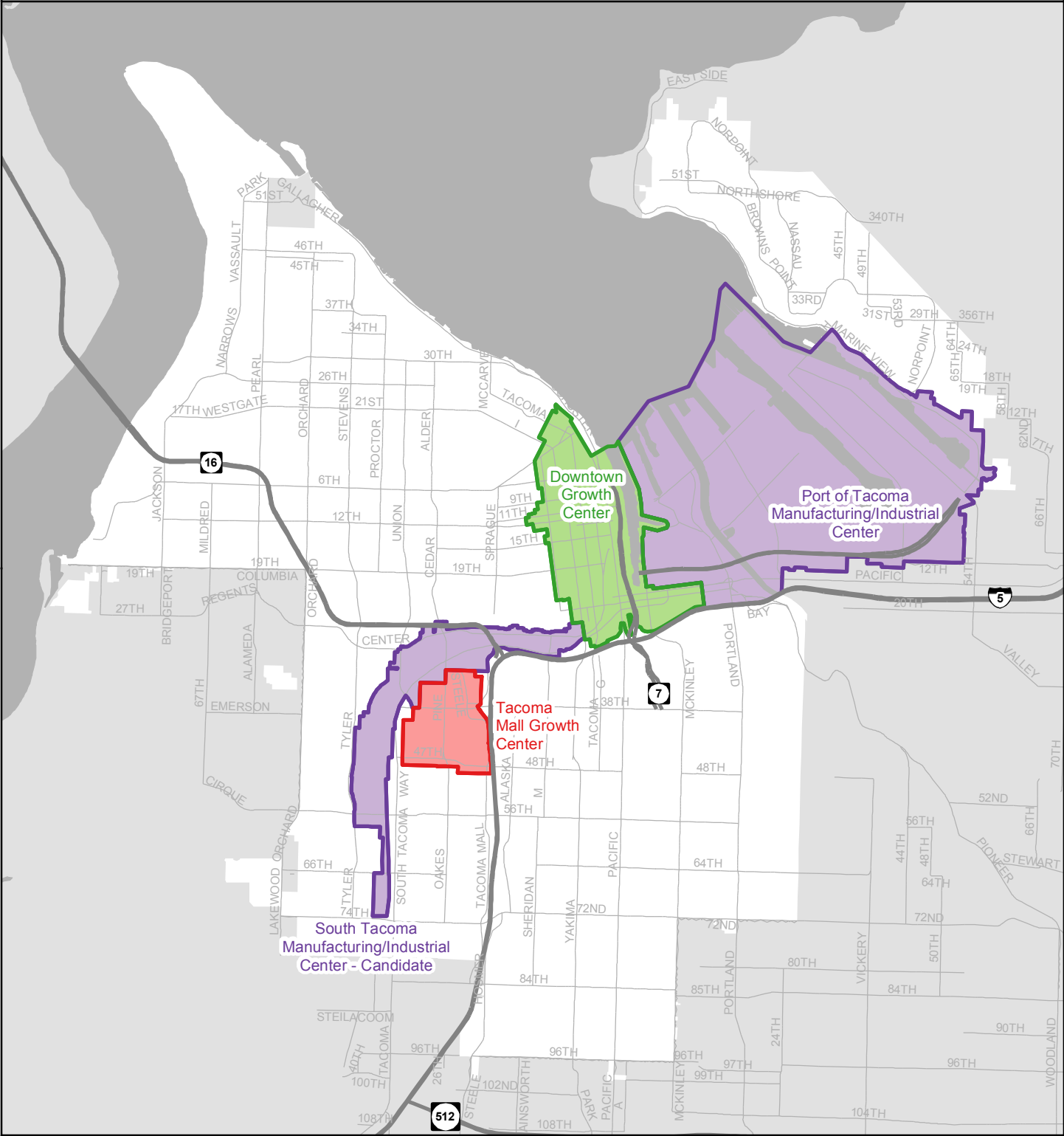
- Working Definition of Downtown
- Downtown Tacoma Regional Center



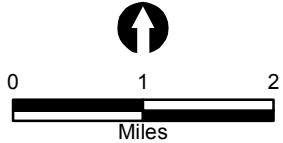
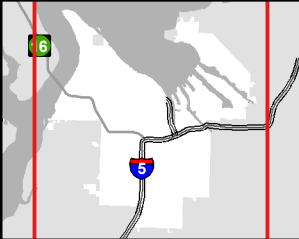
Map is for reference only.



Regional Centers



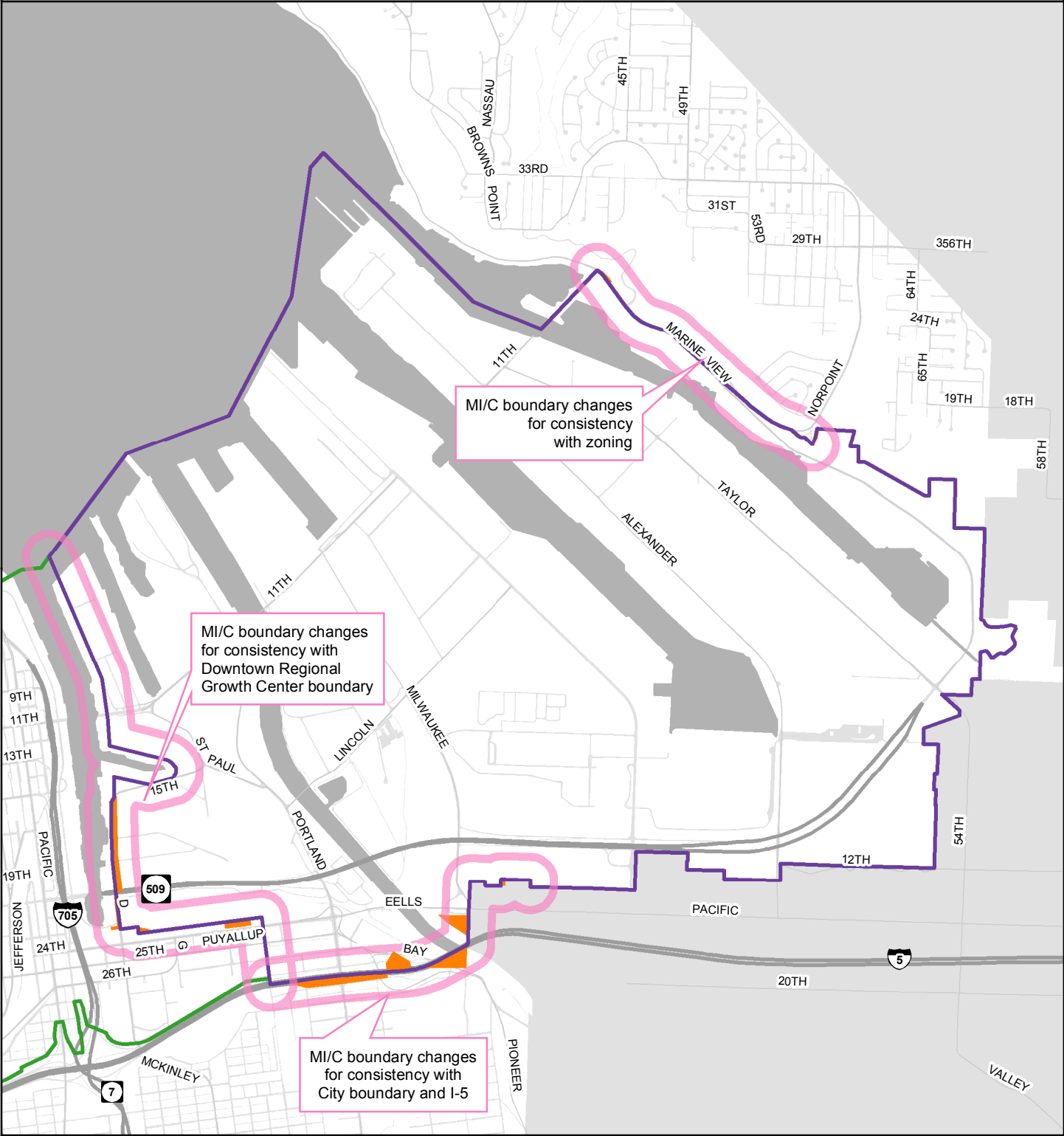
- Tacoma Mall Growth Center
- Downtown Growth Center
- Manufacturing/Industrial Centers



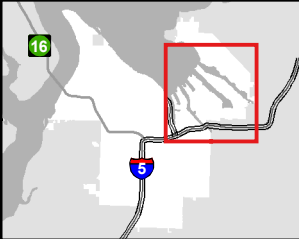
Map is for reference only.



Port of Tacoma Manufacturing/Industrial Center (M/IC) Boundary Refinements



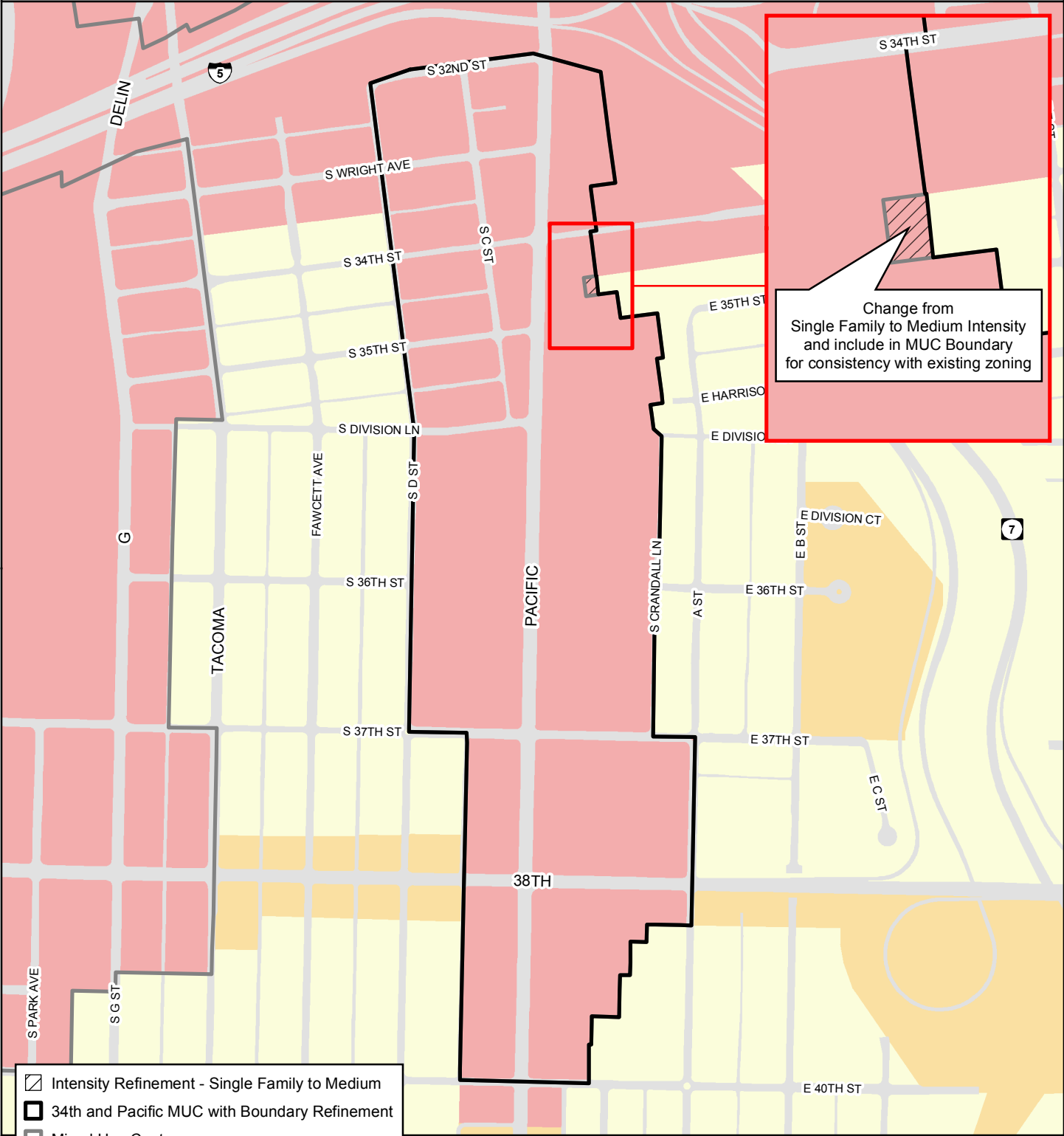
- Downtown Growth Center
- Port M/IC with Boundary Refinements
- Port M/IC Boundary Refinements
- Boundary Refinement Areas



Map is for reference only.



34th and Pacific Mixed Use Center Boundary and Intensity Refinements

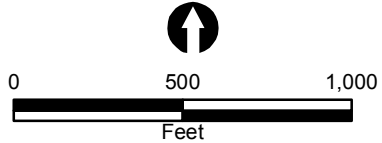
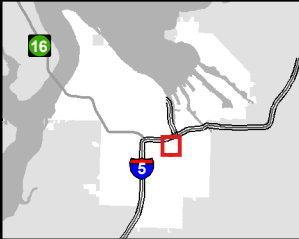


Change from
Single Family to Medium Intensity
and include in MUC Boundary
for consistency with existing zoning

- Intensity Refinement - Single Family to Medium
- 34th and Pacific MUC with Boundary Refinement
- Mixed Use Centers

Land Use Intensity with Refinements

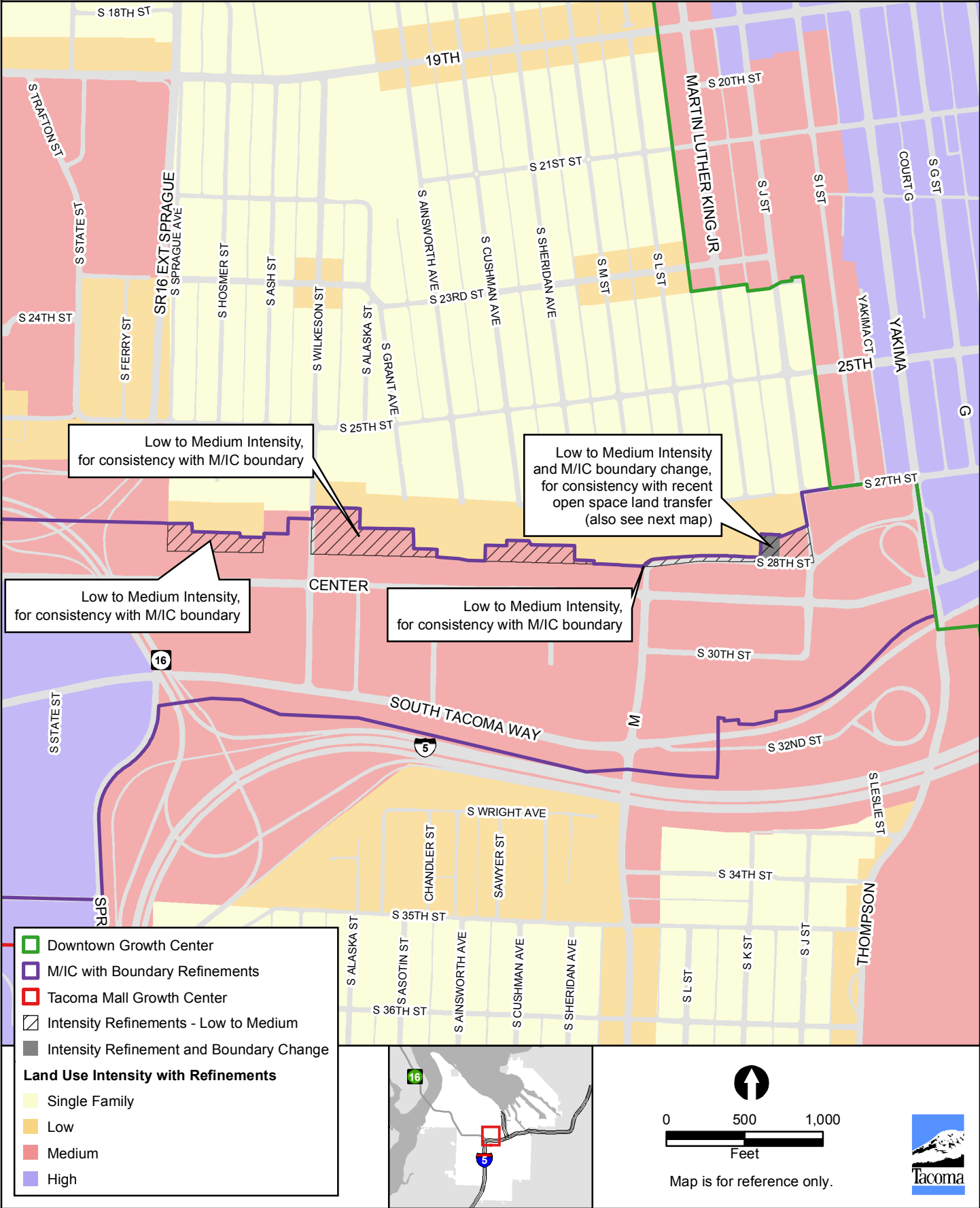
- Single Family
- Low
- Medium
- High



Map is for reference only.



South Tacoma Manufacturing/Industrial Center (M/IC) Associated Intensity Refinements along Center Street

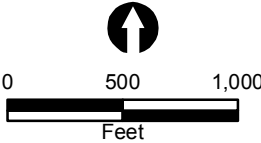
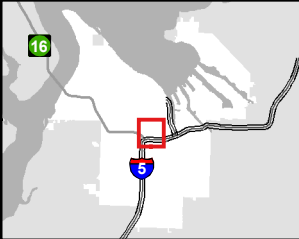


Habitat Corridor Edit Associated with Open Space Land Transfer



Area removed from
Habitat Corridors and ST-M/IC

- Downtown Growth Center
- M/ICs with Boundary Refinements
- Tacoma Mall Growth Center
- Habitat Corridors with Boundary Edit
- Area Removed from Habitat Corridors



Map is for reference only.





2011 Annual Amendment Application No. 2011-06
Regional Centers and Safety-Oriented Design

DRAFT LAND USE REGULATORY CODE CHANGES
 January 27, 2011

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

CHAPTER 13.05 – LAND USE PERMIT PROCEDURES

* * *

13.05.095 Development Regulation Agreements.

A. Purpose. Pursuant to RCW 36.70B.170-210, the purpose of this section is to create an optional application procedure that could authorize certain major projects in key locations to be reviewed, rated, approved, and conditioned according to the extent to which they advance the Comprehensive Plan's goals and policies. In addition to demonstrating precisely how it significantly advances the goals and policies of the Comprehensive Plan by achieving the threshold set forth in subsection 13.05.095(D) TMC, a threshold established based on the Comprehensive Plan goals and policies, a project located within the areas described in B(1) or B(2) must document specific compliance with the policies and standards set forth in the Downtown Element of the Comprehensive Plan.

It is anticipated that there will be a degree of flexibility in the application of the City's development regulations so that any conditions are tailored to the specifics of the proposed project and community vision in such a manner as to ensure that significant public benefits are secured. Project approval is embodied in a contract designed to assure that anticipated public benefits are realized according to agreed upon terms and conditions that may include, but are not limited to, project vesting, timing, and funding of on- and off-site improvements.

The City is authorized, but not required, to accept, review, and/or approve the proposed Development Regulation Agreements. This process is voluntary on the part of both the applicant and the City.

B. Applicability. Development Regulation Agreements shall only be allowed for one of the following project types:

1. Proposed projects located within the International Financial Services Area (IFSA), as defined in the City's Amended Ordinance No. 27825, with a building footprint of at least 15,000 square feet and a proposed height of at least 75 feet;
2. Proposed projects located within the Downtown Regional Growth Center~~“Working Definition of Downtown,” as set forth in Figure 1 in the Downtown Element of the City Comprehensive Plan~~, provided that the real property involved is subject to a significant measure of public ownership or control, and provided that the project includes a building footprint of at least 15,000 square feet and a proposed height of at least 75 feet;
3. Proposed projects located within the IFSA or the Downtown Regional Growth Center~~Working Definition of Downtown~~ where the City Landmarks Commission formally certifies that the proposed project is either a historic structure or is directly associated with and supports the preservation of an adjacent historic structure;
4. Proposed projects located on a public facility site, as defined in subsection 13.06.700.P TMC, that are at least five acres in size and are not a public utility site.

* * *



2011 Annual Amendment Application No. 2011-07
Parks Permitting and Zoning

SUMMARY

Application #:	2011-07
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Elliott Barnett, Associate Planner
Type of Amendment:	Regulatory Code Text Change
Current Land Use Intensity:	Various
Current Area Zoning:	Various
Size of Area:	City-wide
Location:	City-wide
Neighborhood Council area:	City-wide
Proposed Amendment:	Revise development regulations for parks, recreation and open space land uses in order to streamline the permit process in residential zoning districts, while ensuring appropriate compatibility with residential neighborhoods.

General Description of the Proposed Amendment:

The proposed amendment would revise TMC Chapter 13.06, Land Use Regulatory Code, by (a) making parks, recreation and open space uses Permitted outright in residential zoning districts; (b) designating certain parks and recreation features and facilities that are likely to have substantial impacts to residential neighborhoods as Conditional uses; and, (c) modifying development standards for parks, recreation and open space pertaining to setbacks, landscaping, transit support facilities, pedestrian and bicycle support standards and signs. The intent is to streamline and improve the City's review process for development activities that fit into those categories, while ensuring that parks, recreation and open space uses are compatible with residential neighborhoods.

Planning Commission's Action on February 2, 2011:

The Planning Commission conducted a review of the staff analysis and draft code on January 19, 2011 and requested additional information or changes relating to (a) benchmarking the size of signs, and (b) criteria for sign variances. In addition, staff have continued to review the draft code and have identified several opportunities for clarification. On February 2, 2011, the Commission will review the additional information as attached; consider staff recommendations for changes to the January 19th draft; and authorize the release of the proposed amendment, as modified, for public review and comment.

Attachments:

1. Draft code revisions
2. Sign benchmarks
3. Variance criteria

ATTACHMENT 1: Draft code revisions

Staff recommend the following changes to the January 19th code draft.

- **Clarify the intent to require street trees and parking lot landscaping (as opposed to buffering)**

Replace the previously proposed language with the following in the Residential, Commercial, and X-Districts Landscaping Exemptions sections (TMC 13.06.502.B, C and D): Park and recreation uses are only required to meet the Planting Requirements of this table. Passive open space areas of such uses are exempt from all landscaping requirements of this table.

In the Industrial Districts Landscaping Exemptions section (TMC 13.06.502.E): Park and recreation uses are only required to meet the Minimum Landscaping Area-Overall site requirements and the Planting Requirements of this table. Passive open space areas of such uses are exempt from all landscaping requirements of this table.

- **10 foot setback for parking lots**

Add parking lots to proposed TMC 13.06.602.A.4(p), requiring a 10 foot setback.

- **Refine transit-related code sections**

Refine the previously proposed addition to the transit support facilities table (TMC 13.06.511.D.1) by specifying that high-impact recreation facilities are required to provide 2 Benches and Foundation Pads; and, destination facilities to provide 2 Foundation Pads and Shelters.

Add the following phrase to TMC 13.06.512.B. Walkways - 5. Transit Access: This standard does not apply to residential structures of 4 dwelling units or fewer, or to park and recreation uses without buildings adjacent to the street.

- **Signs**

Refine the previously proposed additions to TMC 13.06.520 (Signs) as follows:

For parks under one acre or 100 feet of frontage in residential zones:

Reduce allowed sign area from 40 to 30 feet.

For parks over that size:

Reduce permitted sign height from 15 to 8 feet for Permitted outright parks;

Reduce permitted sign area from 40 to 30 for additional signs on larger park sites;

Allow one sign per street frontage (rather than one for every 500 feet of street frontage).

- **Minor edits to clarify code language**

- Various places: Add the word passive before "open space"
- TMC 13.06.512.D. Bicycle Parking: Add Adjacent public bike racks can be counted toward this requirement.
- TMC 13.06.560.C.1(b) Parks section: Remove the following sentence: 5. Other high-intensity recreation facilities which generate similar impacts on adjacent residential areas.
- TMC 13.06.560.C.1(d): Reword to "Development of more than 20 off-street parking spaces..."
- Repeat TMC 13.06.560.C.3 reference to pre-existing parks, recreation, open space and school uses in TMC 13.06.640 Conditional use permit section.

ATTACHMENT 2: Sign benchmarks

City of Vancouver – Section 20.960.040 Lower Density Residential Districts:

- One free-standing sign per frontage, allowed up to 32 square feet per face and 8 feet in height.
- One fascia sign per site, maximum of 32 square feet in area.

City of Portland – Chapter 32.32.010 Standards in Residential Zones and Open Space Zone:

- One sign per street frontage for Parks and Open Areas, up to 10 square feet in area and 10 feet in height.

City of Bellingham – Chapter 20.12.040 Signs:

- City-owned public general use type signs “limited to a size and message to adequately identify the use”, subject to the Municipal Arts Commission.
- If not City-owned, subject to most stringent adjacent requirements (i.e., 16 feet in sign area for non-residential uses; 50 feet in area for subdivisions).

City of Seattle – Title 23.55 Signs:

- One ground or wall sign up to 15 square feet of area per sign face on each street frontage allowed for nonresidential use signs in single-family zones.
- Sign kiosks permitted in parks (with City review).

City of Auburn – Chapter 18.56 Signs:

- One sign per frontage, maximum height 10 feet, one square foot of area for every three feet of frontage (up to 32 square feet per face), not to exceed two per property.
- One wall sign per frontage, one square foot of area for every three feet of frontage (up to 32 square feet), not to exceed two per building.

ATTACHMENT 3: Tacoma Municipal Code Sign variance criteria

The following is Tacoma's current criteria for variances to the Sign Code.

13.06.645 Variances.

A. Administration.

...

5. Variance to sign regulations.

a. Applicability. These variance criteria in subsection b apply to any variance for regulations found in Section 13.06.520, 13.06.521, and 13.06.522, governing signs; except that:

(1) Sign setback. Variance to sign setback shall be subject to the criteria found in Section 13.06.645.B.1.

(2) Sign height. Variances to sign height shall, in no instance, allow the height of a sign to exceed 35 feet or allow the height of a sign on a site with freeway frontage to exceed the height of the building on the same site, whichever is lower. A variance to sign height also requires a finding by the Land Use Administrator that special circumstances exist relating to one or more of the following: property location; topography; parcel shape and size; site distance; or limited view to property and sign in question.

(3) General restriction. The Land Use Administrator may not grant a variance in any instance to allow a sign to exceed an additional 25 percent of the permitted sign size or height. This limitation applies when more restrictive than subsection 5.a.2 above. Standardized corporate design and/or increased development costs are not cause for variance.

b. Criteria. The Land Use Administrator may approve a sign variance for one or more of the following reasons:

(1) The proposed signage indicates an exceptional effort to create visual harmony between the signs, structures, and other features of the property through the use of a consistent design theme, including, but not limited to, size, materials, color, lettering, and location.

(2) The proposed signage will preserve a desirable existing design or siting pattern for signs in an area, including, but not limited to, size, materials, color, lettering, and location.

(3) The proposed signage will minimize view obstruction or preserve views of historically or architecturally significant structures.

(4) In a shopping center or mixed-use center, the proposed sign plan provides an integrated sign program consistent with the overall plan for the center.

(5) In a shopping center or mixed-use center, the variance is warranted because of the physical characteristics of the center, such as size, shape, or topography, or because of the location of signs in existence on the date of passage of this section.



2011 Annual Amendment Application No. 2011-08
Regulatory Code Refinements

SUMMARY

Application #:	2011-08
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Brian Boudet
Type of Amendment:	Regulatory Code Text Changes
Current Land Use Intensity:	Various
Current Area Zoning:	Various
Size of Area:	Not Applicable
Location:	City-wide
Neighborhood Council area:	City-wide
Proposed Amendment:	Various amendments to the Land Use Regulatory Code to address inconsistencies, correct minor errors, and provide additional clarity

General Description of the Proposed Amendment:

The proposed amendments involve general text corrections to the TMC Title 13 Land Use Regulatory Code, including 13.02 – Planning Commission, 13.04 – Platting and Subdivisions, 13.05 – Land Use Permit Procedures, 13.06 – Zoning, and 13.06A – Downtown Tacoma. A general summary of the proposed amendments is as follows:

- **Modifications to the Use Tables**, pertaining to such matters as craft-type uses, taverns and restaurants that serve limited alcohol, industrial uses in the Downtown Districts, and car washes.
- **Modifications to Definitions**, primarily consolidating all definitions in Chapters 13.06 and 13.06A into one section.
- **Modifications to Procedures**, pertaining to such matters as plat permit standards, ADU permitting process, the Reasonable Accommodation request and approval process, and Land Use Administrator’s authority over shoreline permit extensions.
- **Modifications to Development Standards**, pertaining to such matters as setback requirements and exceptions, maximum allowed accessory building size, pipestem lots, townhouse design standards, ownership of open space tracts in plats, setback requirement on corner lots, residential transition requirement, concealment for wireless facilities , Landscaping Types, separation requirement between drive-throughs and bus stops, building size limitations in C-1 and T, and design requirements.

Planning Commission’s Action on February 2, 2011:

The Planning Commission conducted its review of the staff report and draft code on January 19, 2011 and requested additional information or clarifications relating to pipestem lots, the applicability triggers for design and development standards, and certain landscaping requirements. On February 2, 2011, the

Commission will review the additional information attached, which includes specific excerpts from the draft code that contain revisions based on the Commission's comments and additional clarifications; consider modifications, as appropriate; and authorize the proposed amendment, as may be modified, for public review and comment.

Attachments:

1. Specific excerpts from the draft code amendments

9. All block indications, lot numbers, and lot lines with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines.
10. The accurate location, material, and size of all monuments. Monuments shall meet the specifications of the Survey Recording Act and Public Works Department.
11. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
12. Zoning districts as set forth in the Tacoma zoning ordinances.
13. Private restrictions:
 - a. Boundaries of each type of use restriction;
 - b. Other private restrictions for each definitely restricted section of the subdivision.
14. Certification by a registered land surveyor to the effect that the plat is a true and correct representation of the lands actually surveyed and that all monuments shown thereon actually exist, or, in lieu of their placement, that a bond has been provided in conformance with Section 13.04.360 of this chapter, and that their location, size, and material are correctly shown.
15. Certification of approval by the City Engineer of all locations, grades, and dimensions of the plat and the construction specifications.
16. Dedication of all streets, alleys, ways, easements, parks, and lands for public use as shown on the plat and as required by the City of Tacoma.
17. All private easements (new or existing).
18. All critical areas requiring delineation in accordance with Chapter 13.11.
19. All building setback lines.
20. Common open spaces shall be dedicated, reserved or otherwise held in common by a homeowners' association or by a proportional ownership interest shared among all of the property owners within the subdivision, or alternatively, and only if acceptable to the receiving public agency, dedicated to the public.

* * *

13.04.230 Lots.

* * *

D. Pipestem Lots. The creation of pipestem lots shall be allowed, except in limited circumstances. The intent of these limitations is to minimize negative impacts of inconsistent development patterns while allowing land to be divided when more traditional layouts are not achievable. The creation of pipestem lots is not allowed when a lot configuration can be provided that is consistent with the established pattern on the block without significantly reducing the number of allowed lots (see examples provided below). Pipestem lots shall provide a lot extension or primary accessway which connects to a public or private street. The creation of a pipestem lot is allowed under the following circumstances:

1. No more than one out of every three proposed lots is a pipestem lot; and

2. One of the following are met:

a. An existing dwelling which has been on the site for at least five years precludes a land division that is consistent with 13.04.230.A and would otherwise not meet the lot width, frontage, or setback requirements without a pipestem configuration(see examples for "R-2" District below); or

b. The site has dimensions which preclude a land division that is consistent with 13.04.230.A and would otherwise not meet the lot width, frontage, or setback requirements without a pipestem configuration.

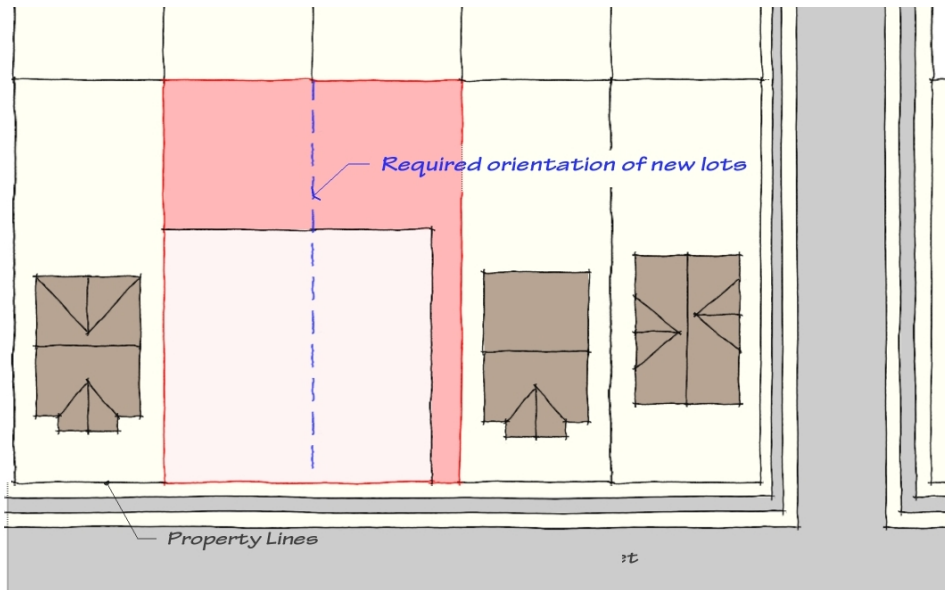
Examples of allowed pipestem layouts

In the first example, even though there is an established pattern on the block, the existing home prevents a property division consistent with that pattern. In the second example, the width and size of the property lends itself to a pipestem lot being created.



Example of a prohibited pipestem layout

In this example there is an established pattern on the block and a division consistent with that layout can be provided without significantly reducing the number of possible lots. Instead of creating a pipestem lot, the property should be divided consistent with the existing pattern.



* * *

~~b. Service, loading, and garbage areas. Developments shall provide a designated area for service elements (refuse and disposal). Such elements shall be sited along the alley, where available. Such elements shall not be located along the street frontage. Where there is no alley available, service elements shall be located to minimize the negative visual, noise, odor, and physical impacts and shall be screened from view from the street and sidewalk.~~

H. Common requirements. To streamline the Zoning Code, certain requirements common to all districts are consolidated under Section 13.06.500. These requirements apply to Section 13.06.100 by reference.:

~~Refer to Section 13.06.500 for the following requirements in Section 13.06.100 districts:~~

13.06.501 Building design standards

13.06.502 Landscaping and/or buffering standards.

13.06.510 Off-street parking and storage areas.

13.06.511 Transit support facilities.

13.06.512 Pedestrian and bicycle support standards.

13.06.520 Signs

13.06.602 General restrictions (contains certain common provisions applicable to all districts, such as general limitations and exceptions regarding height limits, yards, setbacks and lot area)

13.06.140 PRD Planned Residential Development District.

* * *

B. Procedures. Application for reclassification to a PRD District shall be made in accordance with the provisions of Chapter 13.05 and Section 13.06.650. Applications for reclassification to a PRD District shall bear the written consent of the owners of all property within the proposed PRD. Applications for a major modification to an existing PRD District shall bear the written consent of the owners of the specific properties proposed to be modified.

An application for site approval shall accompany a request for reclassification to a PRD District. Applications filed subsequent to such a reclassification shall be considered by the Land Use Administrator. Where only a portion of the development is submitted for site approval, a preliminary plan for the remainder of the development shall also be submitted, indicating the intended layout for the remainder of the development.

The Hearing Examiner shall conduct a public hearing on all applications for site approval which accompany a reclassification request. In acting upon a request for site approval, the Hearing Examiner or Land Use Administrator shall consider, but not be limited to, the following criteria:

* * *

4. A plan or plans at a scale of not less than one inch equals 200 feet for the proposed development showing:

a. Proposed name of the development, north point, scale, date, legal description, and names and addresses of the developer, engineer, surveyor, land planner, and landscape architect.

b. The basic layout of the site or portion thereof, including lot design, if any, building locations, street layout, and roadway widths.

c. Horizontal alignment data for all streets and vehicular accessways.

d. Any areas proposed to be dedicated or reserved for public parks, schools, or playgrounds, or otherwise dedicated or reserved for public purposes.

e. Other undedicated open space set aside for the use of the residents of the development in common.

f. A general land use plan for the proposed district indicating the areas to be used for the various purposes.

g. Types of dwellings and site locations there~~offer~~.

* * *

C. General requirements.

* * *

20. There shall be adequate provisions to insure the perpetual maintenance of all non-dedicated accessways and all other areas used, or available for use, in common by the occupants of the PRD District.

* * *

F. Area regulations.

1. Setback regulations. A minimum 20-foot building setback shall be maintained from the district property line on the perimeter of the PRD District. Setbacks from dedicated arterial streets within the PRD District shall be maintained in accordance with the requirements of the residential district with which it is combined.

The distance separating buildings, exclusive of accessory buildings, shall be not less than twice the standard side yard setback for the applicable base zoning district~~15 feet~~, except that a building on a platted lot may be attached to any building or buildings on any adjoining platted lot or lots, or, if unattached, a building setback equal to that required in the base zoning district~~of not less than seven and one half feet~~ shall be maintained from such adjoining lot line or lines. Accessory buildings shall not be permitted within required setback areas.

Building setbacks from the PRD District boundary, from dedicated streets adjacent to and within the PRD District, and from other buildings shall be increased by one-half foot for each one foot the height of such a building or structure exceeds 35 feet.

* * *

6. Common Open Space. A minimum of one-third of the gross site area of the PRD District shall be provided as common open space. For the purpose of this section, common open space shall be defined as land which is provided or maintained for the general enjoyment of the residents of the PRD District or the general public and not used for buildings, dedicated public rights-of-way, private access/road easements, driveways, traffic circulation and roads, private yards, required sidewalks, utility areas, storm water facilities (unless also developed as a recreational area), parking areas, or any kind of storage. Common open space includes, but is not limited to woodlands, open fields, streams, wetlands, other water bodies, habitat areas, steep slope areas, landscaped areas, parks, beaches, community gardens, courtyards, or recreation areas.

* * *

13.06.145 Small-lot single-family residential development.

* * *

6. Functional yard space. All lots shall provide at least one contiguous yard space equivalent to at least 10 % of the lot size. (See examples below) This usable yard space shall:

- a. Feature minimum dimensions of 15 feet² on all sides, except for lots that are less than 3,500 SF, where the minimum dimensions shall be no less than 12 feet.
- b. Not include alleys or driveways space
- c. Not be located within the front yard

13.06.502 Landscaping and/or buffering standards.

A. General requirements. The landscaping section is divided into four sections, with one each specifically addressing the landscaping requirements for development in Residential Zoning Districts, Commercial Zoning Districts, Mixed-Use Zoning Districts, or Industrial Zoning Districts. In addition to the standards outlined in each of those tables, the general requirements contained herein and the landscaping types outlined in subsection F apply to all districts.

1. Intent. The landscaping requirements, as a whole, are intended to contribute to the aesthetic environment of the City; provide green spaces that can support the urban citywide tree canopy; wildlife, such as birds, in the urban environment; help reduce storm water runoff; filter pollution; and buffer visual impacts of development.

2. Applicability. Unless specifically exempted, landscaping shall be provided consistent with this section for all new development, including structures and/or parking lots, as well as alterations to existing development, as outlined below.

a. Alterations. Three thresholds are used to gauge the extent of landscaping standard compliance on alterations to existing development:

(1) Level I alterations to a site include all remodels and/or additions within a two-year period whose combined value is less than 50% of the value of the existing development or structure, as determined by the Building Code, excluding purchase costs of the property and/or structure. The requirement for such alterations is only that the proposed improvements meet the standards and do not lead to further nonconformance with the standards. For example, for an expanded parking area, landscaping would be required for the new parking area, but the applicant would not be required to bring an existing parking area into conformance with these landscaping standards.

(2) Level II alterations to a site include all remodels and/or additions within a two-year period whose combined value ranges from 50% to 200% of the value of the existing development or structure, as determined by the Building Code, excluding purchase costs of the property and/or structure. All standards that do not involve repositioning the building or reconfiguring site development shall apply to Level II.

(3) Level III alterations to a site include all remodels and/or additions within a two-year period whose combined value exceeds 200% of the value of the existing development or structure, as determined by the Building Code, excluding purchase costs of the property and/or structure. Such developments shall be brought into conformance with ALL of the applicable landscaping standards.

(4) The standards do not apply to remodels that do not change the exterior form of the building. However, if a project involves both exterior and interior improvements, then the project valuation shall include both exterior and interior improvements.

(5) No alteration shall increase the level of nonconformity or create new nonconformities to the development or design standards.

2. Required landscape plans shall be prepared by a licensed landscape architect, certified nursery professional, or certified landscaper. Exempted developments:

a. Residential developments with less than 7 units.

b. Non-residential and mixed-use developments featuring less than 500 square feet of landscaping.

3. Native landscaping. The retention and use of new native landscaping is encouraged and permitted for any and all landscaping. New landscaping materials shall include species native to the Puget Sound lowland region of the Pacific Northwest or non-invasive naturalized species that have adapted to the climactic conditions of the region in the following minimum amounts:

a. 50 percent of trees.

b. 75 percent of ground cover and shrubs.

4. Landscaping, visibility and safety. Except in cases where required landscaping is intended to provide dense visual buffers, trees and shrubs shall be selected and maintained to maximize visibility at eye level for safety. To meet this requirement, shrubs shall be chosen and maintained at no taller than 3 feet. Trees shall be selected and pruned (once tall enough) to maximize views below 7 feet in height. Limited flexibility in the selection of trees and shrubs shall be allowed to address unique circumstances such as unusual topography, existing features, or where strict adherence to this standard is not necessary to meet the intent. This provision does not apply to buffers required along property lines that abut residentially-zoned property and to Landscaping Type A ~~in subsection D~~.

5. Street trees.

a. Street trees shall be compatible with other trees in the vicinity by variety, species, and planting pattern. Trees and any associated grates must comply with any applicable, adopted business area improvement plan, streetscape design plan, and/or the City's Tree Planting Program.

b. Street trees should generally be evenly spaced to create or maintain a rhythmic pattern, but can be provided with variations in spacing and/or grouped to accommodate driveways, building entrances, other streetscape amenities, etc. To achieve consistency with an existing, well-established pattern of tree spacing, the quantity of required street trees may be modified.

c. Street trees shall, when possible, be planted within the right-of-way adjacent to the curb and between the pedestrian lane/sidewalk and curb. When this is not possible, street trees may be located within the right-of-way and behind the sidewalk. If neither of these preferred locations is possible, such as when existing infrastructure prevents trees from being planted within the right-of-way, trees located within 10 feet of the right-of-way may be counted as street trees.

d. In cases where street trees are provided adjacent to a required buffer, the trees provided as street trees may be used to reduce the number of trees required in the buffer area.

65. General tree size standards. Unless specified otherwise, deciduous trees provided to meet these requirements shall be a minimum 2-inch caliper at the time of planting, as measured 4½ feet above the root ball or grade (diameter at breast height, or DBH). For projects that involve the planting of more than one deciduous tree, up to 50% of the required trees can be a minimum 1½-inch caliper. Evergreen trees provided to meet these requirements shall be a minimum of 6 feet tall at the time of planting and shall be species with the ability to develop a minimum branching width of 8 feet within 5 years. For project that involve the plating of more than one evergreen tree, up to 50% can be a minimum of 5 feet tall. In all cases, smaller trees may be integrated into the landscaping provided they are in addition to the required larger trees.

7. General tree variety standards. In order to improve and protect the health, aesthetic quality, and sustainability of the City's urban forest, projects shall provide a mix of trees. For projects that involve the planting of between four and ten trees, at least two different kinds (genre) of trees shall be included. For projects involving the planting of more than ten trees, at least three different kinds (genre) of trees shall be included.

86. General shrub size standards. Unless specified otherwise, shrubs provided to meet these requirements shall be from a minimum 3-gallon container.

97. Landscaping quantity calculations. When a specified amount or number of trees or plants is specified, that shall be the minimum number required. Any requirement resulting in a fraction, when applied, shall be rounded up or down to the nearest whole number. In cases where the minimum is expressed as a ratio of a number of trees or shrubs per a specified amount of area or length of site frontage or buffer (such as 3 trees per 100 feet of street frontage), the number of required trees or shrubs shall be calculated by applying the ratio to the square footage of the area or length of the associated frontage or buffer. For example, under a street tree requirement of 3 trees per 100 feet of street frontage, a site with 50 feet of street frontage would require 2 trees ($50 \times 3/100 = 1.5$, which rounds up to 2) and a site with 90 feet of street frontage would require 3 trees ($90 \times 3/100 = 2.7$, which rounds up to 3). The same planting may satisfy more than one requirement, unless specifically noted otherwise.

10. Minimum landscaped area – overall site. Where a minimum amount of landscaped area is identified for an entire site, that percentage shall be considered the minimum requirement. More specific requirements that also apply, such as buffering or parking lot landscaping, may necessitate more landscaping than this minimum.

118. Credits for retaining existing trees and shrubs. These requirements are provided to encourage tree preservation because of the greater visual and ecological benefits of mature plantings.

a. The following tree planting credits are available for existing trees, provided an arborist's or landscape architect's appraisal determines that the tree(s) is healthy and can be saved. If retained trees are damaged during or after construction, replacement shall be based upon the same ratios.

- One required tree for every retained tree of at least equal size;
- Two required trees for every retained tree that is 8 inches to 20 inches in diameter (measured at breast height);
- Three required trees for every retained tree 20 inches to 32 inches in diameter (measured at breast height);
- Four required trees for every retained tree over 32 inches in diameter (measured at breast height).

b. Existing shrubs, which comply with the minimum plant size specifications of this table, may count towards the required landscape plantings. Invasive plants, such as blackberry and scotch broom, shall not count towards the required plantings.

129. Minimum unpaved planting area per tree. Trees shall be provided with the following minimum planting areas:

- a. Parking lot trees and other trees on private property; 60 square feet, 5-foot minimum width.
- b. Street trees in the right-of-way; 24 square feet; 4-foot minimum width.
- c. Street trees in right-of-way with tree grates; 16 square feet; 4-foot minimum width.

130. Minimum tree trunk setbacks. Trees shall be planted a minimum of 2 feet from a sidewalk or curb, 5 feet from a structure, and 10 feet from pedestrian light standards or parking lot light standards. However, limited flexibility in the placement of trees shall be allowed to address unique circumstances such as unusual topography or where other required or existing features limit the ability to strictly meet this standard.

144. Installation. Landscaping meeting the standards of this section shall be installed by the time of final occupancy.

152. Maintenance. Landscaping shall be maintained in a healthy, growing, and safe condition, and replaced or repaired as necessary, during the plant establishment period and for the life of the project. Pruning of required trees or shrubs shall be for the purpose of maintaining the tree or shrub in a healthy growing condition and/or to enhance its natural growing form. Trees and shrubs shall not be excessively pruned such that it adversely affects the healthy living condition of the plant, significantly damages the natural growing form of the plant, or eliminates or significantly reduces the purpose for the planting. Modifications to the landscaping shall be in conformance with these standards and subject to approval of the City.

13.06.511 Transit support facilities.

A. Purpose. It is found and declared that new development and redevelopment in the City of Tacoma creates a need for transit support facilities, namely benches and shelters, and that such development should provide for such facilities based on existing or potential transit ridership and Pierce Transit standards. Such seating and weather protection, where warranted, are needed for those who depend on transit for daily transportation; these facilities also help encourage use of the transit system, which is consistent with the Comprehensive Plan.

B. Applicability. These provisions apply Citywide to all new development ~~and; alternations~~ remodels that, within a two-year period, exceeding 5060 percent of the value of existing development or structures, building value as determined by the Building Code, and additions to existing buildings over 5,000 square feet of floor area or 75 percent of floor area on streets where regularly scheduled transit service is provided. The standards do not apply to remodels that do not change the exterior form of the building. However, if a project involves both exterior and interior improvements, then the project valuation shall include both exterior and interior improvements. No alteration shall increase the level of nonconformity or create new nonconformities to the development or design standards.

* * *


D. Facility standards. Two benches and foundation pads are to be provided at a bus stop within 500 feet of the proposed project where at least five transit riders are expected to board buses on an average weekday. Two foundation pads and shelters are to be provided at a bus stop within 500 feet of the proposed project where at least ten transit riders are expected to board buses on an average weekday. Where there are multiple transit stops within 500 feet of the project site, Pierce Transit shall be consulted as to the need for an appropriate location for the transit support facilities.

TABLE 13.06.511.D.1	2 Benches and Foundation Pads (for future transit provided shelters)	2 Foundation Pads and Shelters
Office	16,000–32,000 square feet of floor area	Over 32,000 square feet
Retail and service	5,000–10,000 square feet of floor area	Over 10,000 square feet
Shopping center	4,000–8,000 square feet of floor area	Over 8,000 square feet
Convenience market	2,000-4,000 square feet of floor area	Over 4,000 square feet
Fast-food restaurant	1,000-2,000 square feet of floor area	Over 2,000 square feet
Manufacturing	45,000–90,000 square feet of floor area	Over 90,000 square feet
Single-Family Housing	60–120 dwelling units	More than 120 dwelling units
Duplexes, Triplexes and Multi-family Housing	30–60 dwelling units	More than 60 dwelling units

Note: These project thresholds are generally based on trip generation rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition, and Pierce Transit data showing 3% of weekday vehicular trips are on transit.

E. Exemptions. Projects shall be exempt from these requirements wWhenre the required transit support facility(ies) (a bench or shelter) already exist(s) at the nearest bus stop pair (the closest stops on both sides of the street); or when Pierce Transit determines that the required facilities would not enhance the capacity or function of the transit system, such as when there are accessibility issues or pending route changesprojects shall be exempt from these requirements.

13.06.512 Pedestrian and bicycle support standards.

<p>A. General Applicability.</p>
<p>1. Application. The pedestrian and bicycle support standards apply to all new development; and alternations that, within a two-year period, exceed 50 percent of the value of existing development or structures, as determined by the Building Code, unless specifically exempted herein. The standards do not apply to remodels that do not change the exterior form of the building. However, if a project involves both exterior and interior improvements, then the project valuation shall include both exterior and interior improvements. No alteration shall increase the level of nonconformity or create new nonconformities to the development or design standards.</p>
<p>2. Standards. Each item of this section shall be addressed individually. Exceptions and exemptions noted for specific development situations apply only to the item noted.</p>
<p>3. Additions. Additions up to 5,000 square feet of floor area or 75 percent of floor area, whichever is less, shall be exempt from these standards. Larger additions shall meet the requirements of this table at a ratio of at least 1 to 5 (such that a 1 percent increase in floor area will necessitate provision of 5 percent of the requirements of this table for the site; a 2 percent increase in floor area will necessitate provision of 10 percent of the requirements; and so forth, up to where a 20 percent or larger increase in floor area will necessitate provision of 100 percent of the requirements).</p>
<p>34. Super regional malls. Additions to super regional malls which add less than 10,000 square feet of floor area shall be exempt from these standards. Larger additions shall meet the requirements of this table at a ratio of at least 1 to 3 for the entire mall site (in the same manner described above, under subsection 3), except that additions of an anchor tenant or 140,000 or more square ft. shall require full provision of these requirements for the entire mall site.</p>
<p>45. Temporary. Temporary structures are exempt from the standards of this section.</p>
<p>6. Remodel. Remodel projects valued below 50 percent of the building value, as determined by the Building Code are exempt from the standards of this section.</p>
<p>57. Residential or Mixed-Use. Residential structures of 4 dwelling units or fewer only need to comply with the standards of subsection B, below. Mixed-use structures shall comply with all of the standards.</p>
<p>68. Historic. In any conflict between these standards and those applied by the Tacoma Landmarks Preservation Commission, the standards of the commission shall prevail.</p>
<p>79. Fractions. Any requirement resulting in a fraction when applied shall be rounded up or down to the nearest whole number.</p>
<p style="text-align: center;">* * *</p>
<p>C. Street Furniture. To support transportation choices, including walking, the following standards shall be met to assist pedestrian safety, comfort, and mobility, including resting places at reasonable intervals.</p>
<p>1. Minimum. A minimum of one fixed bench or equivalent seating area for every 250 feet of street frontage. This requirement determines quantity and not distribution, not required if site has less than 250 feet of street frontage. Projects in the PMI District are exempt from this requirement.</p>
<p>2. Minimum on designated pedestrian streets in Mixed-Use Center Districts. A minimum of one fixed bench or equivalent seating area for every 150 feet of street frontage. This requirement determines quantity and not distribution, not required if site has less than 150 feet of street frontage.</p>
<p>3. Design. Furniture shall be consistent with any applicable adopted business area improvement plans and shall utilize designs that discourage long-term loitering or sleeping, such as dividers or individual seating furniture. <u>See examples below.</u></p>
<div style="display: flex; justify-content: space-around;">    </div>
<p>4. Credit. Any adjacent public street furniture can be counted toward this requirement.</p>
<p>D. Bicycle Parking. To support transportation choices, including biking, the following standards shall be met for more visible and secure locations for bicycle parking.</p>

* * *

Person. Person shall mean and include a person, firm, partnership, association, corporation, company, or organization, singular or plural, of any kind.

* * *

Pipestem lot. An interior lot in which the buildable area is not bound laterally by a public or private road, and which gains access by means of a lot extension, a driveway easement, or the terminus of a private or public road. Also commonly referred to as flag lots. **See diagram to right.**

* * *

Public benefit use. As used in Chapter 13.06A – Downtown Tacoma, public benefit uses shall include any of the following uses:

1. Day care available to the general public
2. Human services, such as employment counseling and walk-in clinics
3. Recreation, such as health clubs
4. Community meeting rooms
5. Art gallery or museum
6. Drop-in centers for youth or seniors

Public facility. Any facility funded in whole or part with public funds, which provides service to the general public, including, but not limited to, public schools, public libraries, community centers, public parks, government facilities, or similar uses.

* * *

Replacement value. The value of a building as calculated using the latest “Evaluation Table” printed in the *Building Standards* magazine, published by the International Conference of Building Officials, based on the existing occupancy and the most closely appropriate type of construction.

* * *

Roof line or ridge line. The top edge of the roof or top of a parapet, whichever forms the top line of the building silhouette, excluding any cupola, pylon, chimney, mechanical equipment, or other minor projection.

* * *

Searchlight. An apparatus for projecting a beam or beams of light.

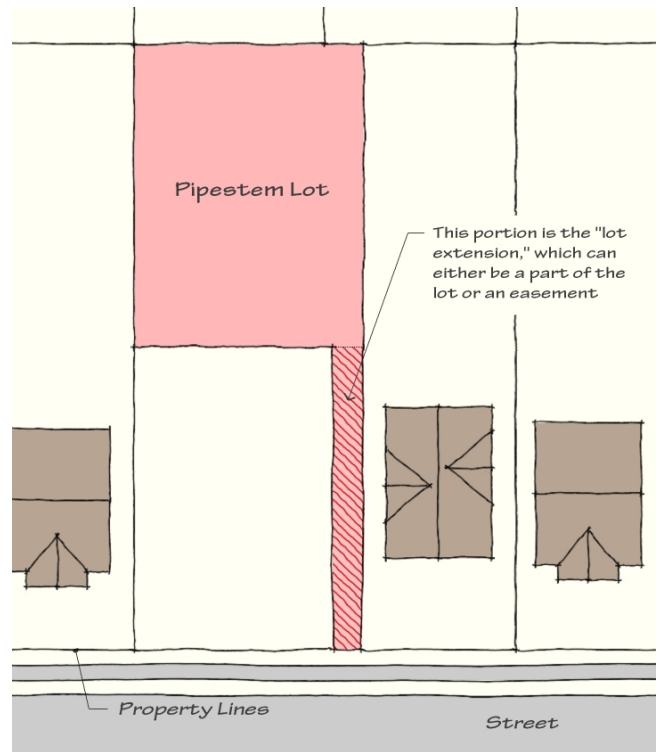
* * *

Shopping center. ~~A unified grouping of two or more commercial establishments, such as retail, eating and drinking, office, and personal service uses, which are located on a single site with common/shared parking facilities. Shopping centers may occupy a single structure or separate structures that are physically or functionally related, but establishments with accessory uses, such as a grocery store with an accessory coffee shop, are not, by themselves, considered a shopping center.~~ ~~A unified group of retail businesses and service uses on a single site with common parking facilities.~~ A shopping center may include pads for future buildings.

* * *

Sign. Any object, device, display, structure, or part thereof, which is used to advertise, identify, direct, or attract attention to a product, business, activity, place, person, institution, or event using words, letters, figures, designs, symbols, fixtures, colors, illuminations, or projected images.

Sign, abandoned. A sign that no longer correctly directs any person or advertises a bona fide business, lessor, owner, product, or activity conducted or available on the premises where such sign is located.





2011 Annual Amendment Application No. 2011-09
SEPA Regulations Amendment

SUMMARY

Application #:	2011-09
Applicant:	City of Tacoma, Community & Economic Development Dept.
Contact:	Shirley Schultz and Ian Munce
Type of Amendment:	Comprehensive Plan Text Amendments Regulatory Code Text Changes
Current Land Use Intensity:	City-Wide
Current Area Zoning:	N/A
Size of Area:	N/A
Location:	N/A
Neighborhood Council area:	All
Proposed Amendment:	Revise the Environmental Code (TMC Chapter 13.12) to update and simplify existing procedures for SEPA administration; and amend the <i>Comprehensive Plan</i> to clarify the City's "substantive authority" under SEPA to condition, modify, or deny a permit based on environmental impacts.

General Description of the Proposed Amendment:

The Environmental Code (*Tacoma Municipal Code* Chapter 13.12) contains the City's procedures for implementing the State Environmental Policy Act (SEPA). SEPA requires local jurisdictions to adopt procedures to integrate environmental review with project and non-project review and approval. The proposed amendment would revise existing regulations to: (a) reorganize, update, and simplify the existing procedures; (b) ensure consistency with other codes, including the Critical Areas Protection Ordinance; (c) clarify the application of SEPA requirements when a project is otherwise exempt from review for a Critical Areas permit; and (d) address recent State legislation regarding infill development and environmental review in conjunction with planning activities.

The proposed amendment also includes changes to the Introduction Element and the Environmental Policy Element of the *Comprehensive Plan* to clarify the City's "substantive authority" under SEPA to condition, modify, or deny permits based on environmental impacts. The proposed Plan amendments are intended to clarify the City's authority to require studies and review of environmental impacts related to contaminated soils (specifically, to projects taking place within ASARCO plume areas that are identified as having a high probability of contamination), and air quality.

Planning Commission's Action on February 2, 2011:

The Planning Commission completed the review of the proposed amendment and staff analysis on January 5, 2011. The Commission will consider authorization for public release of the proposed amendment for public review and comment. The attached sheet shows the one minor additional revision proposed, which staff will discuss at the meeting.

- (f) Evidence – Burden of Proof. In each particular proceeding, the appellant shall have the burden of proof, and the determination of the responsible official shall be presumed prima facie correct and shall be afforded substantial weight. Appeals shall be limited to the records of the responsible official.
- (g) Continuation of Hearing.
 - (i) Cause. A hearing may be continued by the Hearing Examiner with the concurrence of the applicant for the purpose of obtaining specific pertinent information relating to the project which was unavailable at the time of the original hearing.
 - (ii) Notification. The Hearing Examiner shall announce the time and place of a continued hearing at the time of the initial hearing or by written notice to all parties of record.

(5) The Examiner’s decision for an appeal shall be made in accordance with Chapter 1.23 of the Tacoma Municipal Code.

C. Appeals of non-land use actions.

- (1) Appeals for environmental determinations which are not related to land use actions (i.e., permits issued pursuant to TMC 13.05), including building permits, shall be made to Superior Court.
 - (a) The SEPA appeal period commences upon issuance of the underlying permit, not with the issuance of the SEPA determination.
 - (b) Appeals shall be made to Superior Court within 21 days of the action.
- (2) Appeals of non-project actions (e.g., decisions made in the course of planning under the Growth Management Act/GMA or the Shoreline Management Act/SMA) shall be appealable to the Growth Management Hearings Board.
 - (a) Appeals of GMA actions shall be made within 60 days of the City’s publication of the adopting ordinance;
 - (b) Appeals of SMA actions shall be made within 60 days of the City’s publication of the Department of Ecology’s approval of the adopted document.
- (3) Appeals of other actions shall be processed in accordance with the appeal provisions of the underlying action.

C. Notice of Action

Pursuant to RCW 43.21C.080, notice of any action taken by a governmental agency may be publicized by the applicant for, or proponent of, such action in the form as provided by Building and Land Use Services and WAC 197-11-990.

The publication establishes a time period wherein any action to set aside, enjoin, review, or otherwise challenge any such governmental action on grounds of noncompliance with the provisions of SEPA must be commenced, or be barred. Any subsequent action of the City for which the regulations of the City permit use of the same detailed statement to be utilized and as long as there is not substantial change in the project between the time of the action and any such subsequent action, shall not be set aside, enjoined, reviewed, or thereafter challenged on grounds of noncompliance with RCW 43.21C.030(2)(c).

Part Nine - Definitions

13.12.900 Purpose of this part and adoption by reference. The terms in this Chapter are primarily adopted from those set forth in WAC 197-11-700 to -700. Except for the

2011 URBAN STUDIES FORUM:

THE URBAN UNIVERSITY

THURSDAY, FEBRUARY 3, 2011
7:30 A.M. – 3:30 P.M.

WILLIAM W. PHILIP HALL
UNIVERSITY OF WASHINGTON TACOMA CAMPUS



This dynamic forum will examine the role of urban universities, offering insights into how communities and universities interact, work together, and enable social and economic change.

All events are free and open to the public; however advance registration is required. Continental breakfast and box lunch included.

For a detailed schedule and to register go to:
tacoma.uw.edu/events/urban

- Breakfast roundtable: Economic and Social Impacts of Urban Universities with Mayor Marilyn Strickland, Wim Wiewel, President, Portland State University, and Bruce Mann, Economics Professor, University of Puget Sound
- Keynote address from Wim Wiewel, President, Portland State University
- Panels on University as Developer and University as Community Partner
- Facilitated community dialogue to identify opportunities for campus-community-commerce collaborations

W UNIVERSITY of WASHINGTON | TACOMA



Thank you to **John Korsmo Construction, the City of Tacoma, Olson Kundig Architects, BCRA** and the **Port of Tacoma** for their generous sponsorship of this year's forum.



December 1, 2010

The Honorable Jeremy Doty
Chair, Tacoma Planning Commission
747 Market Street, Rm. 1036
Tacoma, WA 98402

RE: ZONING ISSUE

Dear Chair Doty,

As part of the ongoing discussion and updates pertaining to the Shoreline Master Plan, I would like to bring to attention that our property, located at 250 East D Street, is currently split down the middle by zoning boundaries S-8 (mixed use on the Foss) and S-10 (heavy industrial).

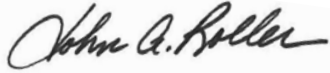
This letter is serving as a formal request to have our entire property classified as S-10 zoning to match our current operations and to be consistent with all other zone boundaries.

A fuel terminal owned by Shore Terminals LLC (dba NuStar) is located on the property in question. This terminal has served Tacoma and the Pacific Northwest since the 1920s, providing for the storage and delivery of gasoline, diesel, and renewable fuels. Hundreds of gas stations in the region are served from this terminal. The proposed changes related to the Shoreline Master Plan calling for "public access" on private property such as ours present a significant safety hazard to the public and in fact goes against the U.S. code of federal regulations related to safety and security.

We understand and support the City of Tacoma's desire to revitalize and beautify the community, as well as provide public access to the shoreline where it makes sense, but we strongly believe that the impact on local industry and the community's fuel supply must be considered as decisions are made. Companies like NuStar have been operating and providing quality jobs in the region for decades, and have been an important part of the local economy. NuStar has also worked hard to be a good corporate citizen, supporting charitable and civic organizations financially in Tacoma and through volunteer support. And most importantly, we continually work to ensure that our operations are meeting the highest standards of safety and environmental excellence. As a result, we have gone over fifteen years without an environmental reportable incident and over 10 years without a reportable or lost-time injury.

I ask that you please grant our request for zoning classification to S-10 and look forward to discussing this with you in a timely fashion. Thank you for taking our concerns into consideration.

Sincerely,

A handwritten signature in black ink that reads "John A. Roller". The signature is written in a cursive style with a prominent initial "J".

John Roller
Vice President and General Manager, Terminal Operations
NuStar Energy L.P. West Region

CC:

Deputy Mayor, Jake Fey, District 2
Sean Gaffney, Planning Commission, District 2
Stephen Atkinson, Urban Planner, City of Tacoma
Shay Bluntzer, Director of Government Affairs, NuStar Energy L.P.
Ana Bertolucci, Regional Manager of Public Affairs, NuStar Energy L.P.
Bill Stowell, Area Manager, NuStar Energy L.P.
Ted Lilyblade, Terminal Manager, NuStar Energy L.P.



December 15, 2010

The Honorable Mayor Marilyn Strickland
and Councilmembers
Tacoma City Council
747 Market Street, Rm. 1200
Tacoma, WA 98402-3766

Dear Mayor Strickland and Councilmembers,

At your Study Session of December 6, a presentation about the Shoreline Master Program referred to the Public Trust Doctrine as the rationale for public access and fee-in-lieu on private property.

This newly introduced concept for public access and fee-in-lieu raised an immediate concern among our members as to its appropriate applicability. In the ensuing conversation, expert opinion was sought, and has been shared with the Chamber.

Please find attached a discussion of the issues associated with the Public Trust Doctrine and the attempt to utilize this common law concept for SMP and public access.

Sincerely,

Toby Murray
Chair of the Board

encl.

cc: Planning Commission



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December 13, 2010

Gary D. Brackett, CCR
Manager, Business and Trade Development
Tacoma-Pierce County Chamber
950 Pacific Ave., Ste. 300, 98402
PO Box 1933
Tacoma, WA 98401-1933

Dear Gary:

I was surprised to hear that the City of Tacoma recently suggested that the public trust doctrine supports a mandate for public access across private property in the evolving shoreline update, and particularly its claims for public access in the industrial Shoreline areas S 7, 8 and 10, regardless of present conditions or possible future demand created by industrial development proposals.

The public trust doctrine is a common law doctrine dating to the founding of the country, in which the public's right of navigation on navigable waters allowed the government special privilege to alter or modify the waters of the U.S., and the submerged lands, for public benefit without compensation to abutting property owners. But that right, referred to as "Riparian" in the older cases, was carefully distinguished from the rights of owners of "Fast Lands," which are the lands abutting shorelines of navigable streams but above the line of ordinary high water. The public authority over riparian lands was carefully distinguished from the property owner's right to control and exclude others from the abutting fast lands—a right described as a "fundamental" property right and one not altered by the government except with compensation.

The Supreme Court has made it abundantly clear over the years, including most recently in the *Kaiser Aetna v. U. S.* case in Hawaii, that the government's rights to manage the waters and submerged lands for public benefit does not include the right to secure or require public access across private lands.

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Perkins Coie LLP

The public trust doctrine in Washington State is no different than the federal doctrine and has the same limitations. In a recent case summarizing the public trust doctrine, the Washington State Court of Appeals stated:

According to the public trust doctrine, the State holds state shorelines and waters in trust for the people of Washington, and “the state can no more convey or give away this jus publicum [FN8] interest than it can ‘abdicate its police powers in the administration of government and the preservation of the peace.’ ”

FN8. Jus publicum refers to the principle that the public has an overriding interest in the **navigable waterways** and the **lands under them**. *Caminiti*, 107 Wash.2d at 668, 732 P.2d 989.

Samson v. City of Bainbridge Island, 149 Wn. App. 33, 202 P.3d 334 (2009).

Note the key concept—that the public trust doctrine applies to “navigable waters” and “the lands under them,” not the privately held lands abutting them.

The two determinative Supreme Court cases, *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*, dealt with the limits of public authority to provide public access to water across private lands. The cases expressed three fundamental constitutional principles that will govern any request for public access in the City of Tacoma:

- The public access requested must arise from a demand created by the development to which the condition is imposed. This is called nexus. (*Nollan*)
- The nature and amount of public access required where nexus exists must bear a reasonable relationship to the demand created by the development to which the condition is imposed. This is called proportionality. (*Dolan*)
- Finally and significantly, the burden of proof is on the local government to prove that the necessary nexus and proportionality are present to support the condition. (*Dolan*)

Our own Supreme Court has made it very clear that when local governments desire to impose a condition setting aside private lands for a public purpose (whether by dedication or condition), governments must demonstrate that the condition is reasonably necessary (nexus and proportionality) at the given location. Without such proof, such a condition is an unlawful tax under RCW 82.02.020 and the fact that the government imposes the condition by some general notion of public good enshrined in a statute or City Code does not validate the condition.

Case by case, project site by project site, if the City of Tacoma desires to secure public access to any privately owned shoreline properties, as a result of a development proposal, it must prove nexus, proportionality and reasonable necessity on the record of that case. The City may not demand public access or a fee in lieu solely by some vague reference to the public access guidelines of the Shoreline Management Act or the public trust doctrine if such efforts are to be successful.

And speaking of the guidelines, the City should be reminded of the Governing Principles, set forth in Chapter 173-26 WAC, which were carefully mediated and facilitated by a wide range of interests, including the state, business and environmental leaders. The key concepts are stated very clearly:

The governing principles listed below are intended to articulate a set of foundational concepts that underpin the guidelines, guide the development of the planning policies and regulatory provisions of master programs, and provide direction to the department in reviewing and approving master programs. ...

WAC 173-26-186.

The Governing Principles specifically note that the burden is on local government to develop a lawful approach to regulation of private property; not, as the City's draft plan proposes, to put the burden of protecting "protected rights" on the back of the property owner.

(5) The policy goals of the act, implemented by the planning policies of master programs, may not be achievable by development regulation alone. **Planning policies should be pursued through the regulation of development of private property *only to an extent that is consistent with all relevant constitutional and other legal limitations*** (where applicable, statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private property.

WAC 173-26-186, emphasis supplied.

The Governing Principles are, by turn, merely a regulatory reflection of the statutory protections for private property built into the Shoreline Management Act. Here, it is well to remember a key legislative caveat concerning protection of property rights in developing shoreline policy stated in the Shoreline Management Act:

... coordinated planning is necessary in order to *protect the public interest* associated with the shorelines of the state while, at the same time,

Gary D. Brackett, CCR
December 13, 2010
Page 4

recognizing and protecting private property rights consistent with the public interest. ...

RCW 90.58.020, emphasis supplied.

Before Tacoma bases a regulatory mandate for public access to shorelines across private property on anything other than the fundamental requirements of nexus, proportionality and reasonable necessity at a given location, they must provide more than simple platitudes about public interest and the public trust doctrine. To do otherwise is to invite challenges to the document as written and if adopted, to find any condition imposed thereunder void as an unauthorized tax under RCW 82.02.020, and the constitutional principles enshrined in *Nollan* and *Dolan*. The citizens of Tacoma deserve a master plan that recognizes and protects the right of shoreline property owners to exclude the public unless such access is in fact warranted by the nature of the project, and not merely the happenstance of shoreline proximity. The drafts need to be revised to reflect the Governing Principles and common law requirements for protections of private property against unwarranted claims of public access.

Sincerely yours,



Alexander W. Mackie

AWM:kr

cc: Louis Bray



TACOMA-PIERCE COUNTY CHAMBER
P O W E R T H R O U G H
C O N N E C T I O N S

December 20, 2010

Stephen Atkinson, Planner
City of Tacoma
747 Market Street, Rm. 900
Tacoma, WA 98402

Dear Stephen,

You and I discussed very briefly an earlier comment the Chamber submitted relative to unintended consequences arising from the SMP update and the incorporation of CAPO into it.

We particularly discussed how the unintended consequence would impact adjacent properties – clarifying that we did not refer to additional upland extension beyond the defined 200 ft. of SMA, but instead to a lateral extension of mitigation areas into adjacent developed properties.

Please note that there are two different principles governing the CAO/CAPO and SMP: “best available science” and “no net loss of ecological function.” Different standards contain the seeds of dissonance and discord. There are areas in S-7, S-8 and S-10 potentially impacted by this issue.

First are mitigation or restoration sites: Typically a constructed mitigation site or habitat site will be a wetland, salt marsh, etc. or a critical area where one did not previously exist. We need to ensure in the City code that, when a critical area is constructed, is not imposing a new, larger buffer on adjacent properties. When the CAPO buffers are included in the shoreline code they will not only extend water ward or landward; in some instances (Tahoma salt marsh) they will extend along the shoreline onto the adjacent (in this case Sperry) site. If you look at the middle waterway, Puyallup River and North Beach (former St. Paul waterway) sites, Simpson will be hemmed in by buffers extending landward from constructed habitat sites.

Second are off-site mitigation and fee-in-lieu programs: As these become implemented (this is for habitat. - public access is a different issue), the City will be selecting the mitigation or enhancement site, rather than the project applicant. For example, if you happen to own the industrial (or other private) land adjacent to the mitigation site, a buffer could extend on to your property regardless of whether you as the neighbor benefit from the project.

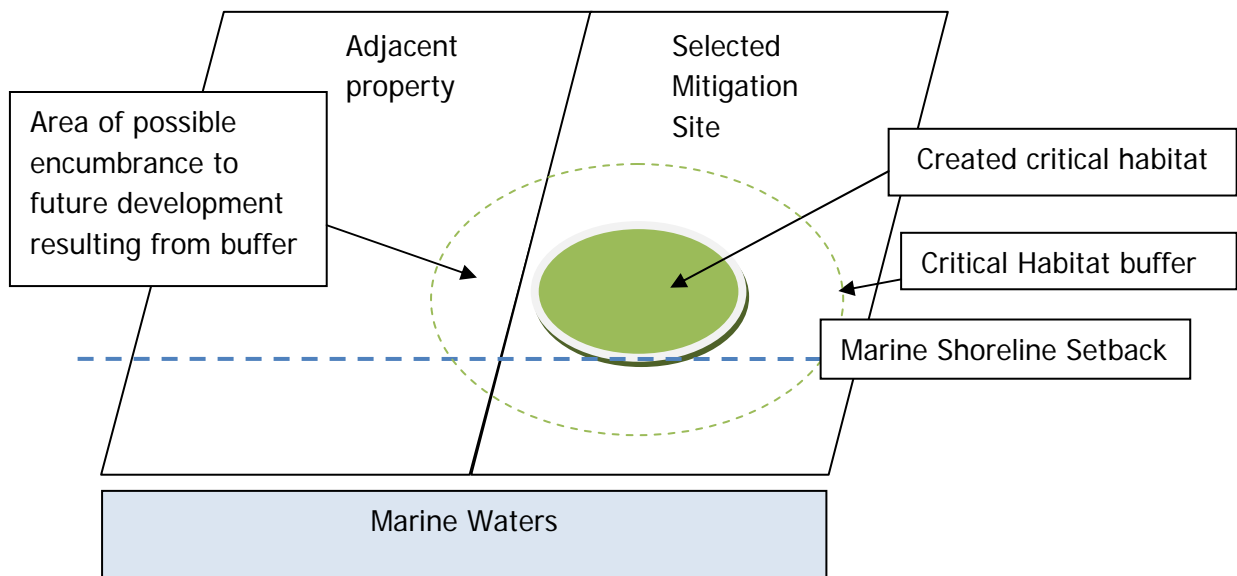
Some might say “that won’t happen, as municipalities recognize mitigation sites don’t have critical areas buffers”, but the municipality doesn’t have the only say on buffers on habitat. Already the Washington Department of Fish and Wildlife and U.S. Army Corps of Engineers are considering impacts to buffers of mitigation sites on Hylebos Creek. It only takes some plain

language to recognize and correct the unintended consequences of habitat on neighboring properties.

Scenario/Concern:

Mitigation activities create or improve habitat on a parcel. In nearly all cases, the improvement or creation of habitat results in the creation or expansion of associated critical habitat area protection buffers, as defined by the local jurisdiction’s guiding Critical Area Ordinance. In some instances, the associated buffer may extend onto adjacent properties and result in the limitation of future development of the adjacent property. As demonstrated in the following figure:

Hypothetical Mitigation Development Scenario



House Bill 1653 bill was intended to correct the “GMA/SMA” conflict regarding which law has precedence in the Shoreline Zone. Under the law, CAO will be the predominant law in the

shoreline (with buffers and without preference for water-dependent use) until a Department of Ecology-approved shoreline master program goes into effect. The “Ecology approved” language is the stickler. Even if a City adopts a Shoreline Master Program, there are several in effect that were never approved by Ecology and that leave a City exposed to third party suit. Several cities have adopted an SMP that stated it now supersedes the CAO (or CAPO in Tacoma’s instance), only to have someone sue because it wasn’t approved by Ecology as protective enough.

Extending "buffers" across areas that are fully developed doesn't accomplish anything because there is no ecological "function" to protect, none to be lost. So, if someone asserts that buffers are needed to avoid loss of ecological function, it isn't best available science. Best available science would say buffers on fully developed sites are not needed; stormwater compliance is what's needed.

During the CAPO update, the City agreed buffers would be zero for water-dependent uses. We don't see this provision anywhere in the preliminary draft SMP Update. The City did point out that under section 6.4.3.C the intent is to eliminate buffers for water-dependent uses.

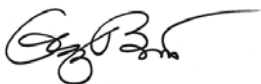
We recognize the City understands the section may not be that clear as written and the intent is to rewrite to make it explicit. The City should eliminate requiring standard regulatory buffers in all districts and instead rely on requiring no net loss as mandated by RCW 36.70A.480 (4).

Recommended Solution:

The document that guides the development of in-lieu mitigation sites shall require that all of the mitigation (e.g. critical areas and all associated buffers) shall be contained on the mitigation property and shall not be developed in such a way that extends onto or limits the future development of adjacent properties. This could be accomplished through a buffer reduction request or ideally an automatic administrative waiver.

The Chamber looks forward to hearing how you will address our concerns in the ordinance language. Please feel free to contact if you have any questions.

Sincerely,



Gary D. Brackett, CCR
Manager, Business and Trade



January 15, 2011

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The Honorable Jeremy C. Doty, Chair
and Planning Commissioners
Tacoma Planning Commission
Tacoma Municipal Building
747 Market Street, Rm. 1036
Tacoma, WA 98402

Dear Chair Doty and Planning Commission Members:

The purpose of this letter is to provide Citizens for a Healthy Bay's (CHB) response to issues raised by the Tacoma - Pierce County Chamber of Commerce (Chamber) regarding the draft Shoreline Management Plan in its letter dated November 16, 2010 to the Commission.

Executive Director

Bill Anderson

CHB is a community-based non-profit environmental organization that represents the interests of community stakeholders of Tacoma's marine and freshwater shorelines. CHB carries out its mission *to cleanup, restore and protect Commencement Bay, the Puyallup River Watershed and their surrounding waters and habitats* consistent with the application of sound scientific principle and reliance on sound, best available science.

Board of Directors

Cheryl Greengrove

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Allen Zulauf

In its 21-year history, CHB has consistently promoted the position that a healthy environment, a vibrant urban community and a strong business and industrial climate are not mutually exclusive but can be achieved through cooperation and collaboration.

Regulatory Burden and Cost of Compliance

The Chamber asked that the Commission and City staff conduct an evaluation of any new regulatory burden demanded of businesses and property owners and the costs of compliance with any new, incremental, and cumulative changes in regulations, permitting or directives for those entities along the Tacoma shoreline.

The provisions of the Shoreline Management Act (SMA) are intended to provide for the management of all development and uses within the jurisdiction whether or not a shoreline permit is required.¹ In general, the effects of the updated SMP are limited to new development and so pose no burden or cost to existing facilities and operations.

Permitting and administrative requirements under the SMP are intended to evaluate the consistency of a proposed activity with the SMP and to assure that the public's interests in Tacoma's shorelines are protected. Where possible, the City's Land Use Dept. does integrate compatible permitting activities as directed by WAC 173-27-020.

Existing or proposed anti-business provisions not part of Shoreline Management Act

The Chamber asked that the Commission address existing or proposed anti-business provisions not part of SMA.

The Shoreline Management Act (SMA) and Shoreline Management Plan (SMP) for the City of Tacoma provides for all reasonable and appropriate uses, including business and industry, of

A tax-exempt
501(c)(3) Washington
nonprofit corporation

¹ WAC 173-26-191(2)(a)(iii)(A)

the City's shoreline resources to insure development of the shoreline is implemented in a prudent manner. As such, the City's draft SMP is not anti-business; instead the draft SMP is consistent with the SMA in determining allowable uses and resolving use conflicts on its shorelines through the application of the following preferences and priorities:

- Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
- Reserve shoreline areas for water-dependent and associated water related uses. Harbor areas...and other areas that have reasonable commercial navigational accessibility and necessary support facilities, such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation...
- Reserve shoreline areas for other water-related and water-enjoyment uses...
- Locate single-family residential uses where they are appropriate...
- Limit non-water-oriented uses to those locations where the above described uses are inappropriate...²

Parcels divided into more than one shoreline district

Chamber asked that the Commission delete any division of property by shoreline district boundaries.

Under the SMA, the SMP must contain a system to classify shoreline areas into specific environmental designations based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community...³ As such, property ownership and/or existing uses does not automatically convey the appropriate shoreline environmental designation for the shoreline in question.

CHB's review of the Draft Proposed Shoreline Designations (09-13-10) map did not find specific parcels/facilities that were divided into more than one shoreline district.

However, CHB notes that the mouth of Hylebos Creek north of SR509 (Marine View Drive) as well as parcels on the east and west sides of the creek mouth, which are owned by the Port of Tacoma, are located in the S12 – Hylebos Creek Urban Conservancy designation. The existing land use for both properties is not considered to be water-dependent. The S10 – Port Industrial – High Intensity designation would be inappropriate for the mouth of Hylebos Creek, the adjoining Mowitch NRDA restoration site and related shorelines. It may be possible to split the uplands away from the more environmentally sensitive areas of the creek and add them into S10. CHB understands that this issue is under discussion by Port and City staff.

Allow expansion of industrial facilities beyond 1996 property lines in the S8 – Thea Foss Waterway – Downtown Waterfront shoreline.

The Chamber requested that the prohibition within the S-8 District of industrial expansion beyond 1996 property lines be deleted as the TSMP affords this opportunity to new businesses.

49% of the acreage within the S8 shoreline district is currently in industrial and commercial use. Expansion of existing industrial facilities is not precluded in the S-8 shoreline designation, which does allow for new water oriented industrial uses **where appropriate**.

Land use within the S8 shoreline district is evenly distributed between industrial/commercial and mixed use. 42.2 acres or 43% of the S8 Shoreline District is in industrial use.⁴ An additional 5.8 acres or 6% of the S8 Shoreline District is in commercial use.⁵ Thea Foss and Wheeler-Osgood Waterways are designated as mixed use combining residential, commercial, tourist, retail and industrial facilities. 51% of the acreage in the S8 shoreline district is in use as or available for mixed use to include residential, tourist, retail, open space and other non-industrial and commercial uses.

² WAC 173-26-251(2)(i) – (v)

³ WAC 173-26-211(2)(a)

⁴ Table 1, Tacoma Waterfront Lands Analysis, September 2008 prepared for the City of Tacoma by BST Associates.

⁵ Table 1, Tacoma Waterfront Lands Analysis, September 2008 prepared for the City of Tacoma by BST Associates.

Log rafting in Commencement Bay

The Chamber asked the Commission to delete restriction of log rafting anywhere within Commencement Bay.

Wood waste affects sediment quality and has a direct correlation to water quality for which guidelines have been established under the Shoreline Management Act (SMA) (RCW 90.58).⁶

Accumulated debris from log rafting and storage poses both biological and chemical threats to the aquatic environment. Remedial action has been conducted and/or is being planned for log-rafting/storage areas located in Commencement Bay because of the adverse environmental impact due to accumulations of wood debris. Log rafting/storage in Commencement Bay could create new problem sites in the future and thus harm the public interest in protecting and enhancing the ecological functions and values of Commencement Bay.

Remove proposed habitat buffers within fully developed industrial land

The Chamber asked that the Commission refuse the addition of habitat buffer overlays onto fully developed industrial land.

Shoreline fish and wildlife habitat corridors are critical areas⁷ and are managed by the City of Tacoma's Critical Areas Ordinances (CAO). The SMP must provide for management of designated critical areas that are located within the shoreline jurisdiction and provide a level of protection to critical areas within the shoreline area that is at least equal to that provided by the CAO.⁸

Public Access

The Chamber asked the Commission to delete public access proposals to other than publicly-owned shoreline.

Public access is a mandate of the SMA and the City of Tacoma cannot set aside the requirement that the shoreline master plan provide for public access to the shorelines.

Public access provisions apply to all shorelines of the state...⁹ Public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations. The SMA directs that local programs shall:

- Promote and enhance the public interest with regard to rights to access waters...
- Protect the rights of navigation and space necessary for water-dependent uses.
- ...Protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.
- Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize...interference with the public's use of the water.¹⁰

The SMA further directs that the master program should seek to increase the amount and diversity of public access to the state's shorelines, consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.¹¹

Through means of public access shoreline planning in cases where it is demonstrated that on-site public access is infeasible by reason of incompatible uses, safety, security, or impact to the shoreline environment, a local government may institute master program provisions for public access in lieu of uniform site-by-site public access requirements.

⁶ Publication number 07-09-096 prepared by David Kendal, U.S. Army Corps of Engineers and Teresa Michelsen, Washington Department of Ecology

⁷ 06301 Citizens for a Healthy Bay v. City of Tacoma (Nov. 1, 2007) #06-3-0001 Final Decision and Order

⁸ WAC 173-26-221(2)(a)(ii)

⁹ WAC 173-26-221(4)(a)

¹⁰ WAC 173-26-221(4)(b)(i-iv)

¹¹ WAC 173-26-221(4)(d)(i)

January 15, 2011
The Honorable Jeremy C. Doty, Chair
Page Four

CHB concurs that meeting the site access requirements mandated by the SMA is not always feasible or desirable within the S10 shoreline district and portions of the S8 shoreline district. The Public Access Alternatives Plan (PAAL) drafted by the City of Tacoma provides a comprehensive plan for public access in lieu of site-by-site public access requirements. It is CHB's opinion that the City's PAAL approach affords the general public a more meaningful opportunity to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations over a uniform site-by-site approach.

The public access requirement is not retroactive and is only triggered by shoreline permit applications for certain projects constructed in the shoreline environment. Not all projects will trigger the need to provide public access.

Fee-in-Lieu of Public Access Project

The Chamber asked the Commission to delete the fee in lieu option for other than an established public access nexus.

CHB considers that the fee-in-lieu approach being studied by the City of Tacoma to be a reasonable means to meet the public access mandate while allowing for an alternative to the uniform site-by-site public access requirement. CHB cautions that any final fee-in-lieu plan adopted by the City of Tacoma must be carefully crafted and managed to insure that the plan results in actual, on-the-ground, implemented public access projects. Fees collected must be sufficient to fund planning, development, construction and maintenance for the resulting public access site(s).

Intent of the City's SMP

The Chamber asked the Commission to retain the intent language in the existing, adopted SMP.

The purpose and intent statements contained in the draft SMP are consistent with the intent purpose statements in the Washington State Shoreline Management Act of 1971 (RCW 90.58) as amended. The purpose and intent of the City's SMP must be consistent with those of the SMA. As such, no change to the purpose and intent of the draft SMP can be made.

Process for declaration of exemption from SMP

The Chamber asked the Commission to retain the existing process for declaration of exemption from SMP.

The requirements for exemption of a shoreline substantial development permit under the draft SMP are consistent with WAC 173-27-040 (List of Exemptions) and 173-27-050 (Letter of Exemption). The City's updated SMP must be consistent with the SMA. As such, no change to the draft SMP can be made.

Development process under the SMP

The Chamber asked the Commission to simplify the proposed processes complicating and multiplying requirements and costs for the SMP development process.

The proposed permitting and review process under the draft SMP is consistent with and conforms to the mandates of RWC 90.58.140(3) and directives under WAC 173-27 (Shoreline management permit and enforcement procedures)¹². As such, no change to the draft SMP can be made.

¹² Requires local governments to establish a program, consistent with rules adopted by the department of ecology, for the administration and enforcement of the permit system for shoreline management. The local program should be integrated with other local government systems for administration and enforcement of land use regulations. It is the intent of these regulations to provide minimum procedural requirements as necessary to comply with statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances. It is also the intent of these regulations to provide for integration of the shoreline permit into a consolidated environmental review and permit process.

January 15, 2011
The Honorable Jeremy C. Doty, Chair
Page Five

Industrial lands available for water-dependent uses.

The Chamber asked that the City establish a goal of no net loss of industrial lands available for water-dependent uses.

CHB recognizes the important economic, civic and social contributions made by Tacoma's industrial community however there is nothing to suggest that availability of shoreline acreage for water-dependent industrial use is at risk. 409.9 acres or 23% of the 1,830.5 acres located in Tacoma's shoreline districts¹³ are currently under industrial use. Furthermore, not all existing industrial operations located within Tacoma's shoreline districts are water-dependent uses.

The SMP requires the City of Tacoma to ensure, at a minimum, no net loss of shoreline ecological functions and processes. Water-dependent industrial use is one of several prioritized uses allowed in the shoreline environment but not necessarily the highest priority under the SMA. Such a policy statement could be considered to be inconsistent with the SMA.

Before additional public access is pursued, the City should maintain its existing system, and tie these systems together with upland trails.

The Chamber stated that the City of Tacoma has a robust system of public access both open (Ruston Way, etc.) and closed (Bayside Trail above Schuster Parkway). Before additional public access is pursued, the City should maintain its existing system, and tie these systems together with upland trails.

The City of Tacoma's Public Access Alternatives Plan (PAAL) developed as part of the SMP update process takes advantage of existing public access resources and ties them into an overall plan that enhances the public's ability to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations.

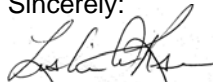
Identify and quantify nature conservancy shoreline and credit property owners for their contribution to protection of environmental resources.

The Chamber asked that the City identify and quantify nature conservancy shoreline and credit property owners for their contribution to protection of environmental resources.

Habitat sites that are sited within Tacoma's shoreline management areas were constructed through the regulatory process as mitigation for adverse impacts to the shoreline ecosystem caused by pollution or shoreline alteration and development. As such, property owners have already received credit for these habitat sites. No additional credit by the City of Tacoma is due.

Thank you for your consideration of our remarks. CHB looks forward to continuing to continue to cooperatively and collaboratively engage with all shoreline stakeholders to achieve a final adopted shoreline master plan that will benefit all interests and use long into the future.

Sincerely:



Leslie Ann Rose, Senior Policy Analyst
Citizens for a Healthy Bay

cc: Mayor Marilyn Strickland and Members of the City Council
Stephen Atkinson, City of Tacoma

¹³ Table 1, Tacoma Waterfront Lands Analysis, September 2008 prepared for the City of Tacoma by BST Associates.



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January 19, 2011

Matthew Parker
Northwest Regional Director
Schnitzer Steel Industries, Inc.
1902 Marine View Drive
Tacoma, WA 98422-4108

Re: City Position on Open Space

Dear Matt:

It was very helpful to attend the Planning Commission meeting last week, as the City planner and attorney provided their rationalization for the City's open space program. They also noted that in response to public comment, they are eliminating the fee in lieu program as too complex and controversial. (The environmental groups complained it was not enough money, industry complained it was too much.) They reasserted the position that the City was advancing a "substantial public interest" by requiring public access, even across waterfront industrial properties, which would be assessed on a "case-by-case" basis.

The City position was supported by a December 21 memorandum from Jeff Capell, Deputy City Attorney, and a detailed PowerPoint from the Lead City Planner. The thrust of both the memorandum and the PowerPoint was based on a head note in the decision discussing the local authority to impose conditions based on an articulated "substantial public interest."

The language relied on provides:

1. Although the outright taking of an uncompensated, permanent, public-access easement would violate the Takings Clause, conditioning appellants' rebuilding permit on their granting such an easement would be

lawful land-use regulation if it substantially furthered governmental purposes that would justify denial of the permit. The government's power to forbid particular land uses in order to advance some legitimate police-power purpose includes the power to condition such use upon some concession by the owner, even a concession of property rights, so long as the condition furthers the same governmental purpose advanced as justification for prohibiting the use.

483 U.S. at 825.

Both the City attorney and the more detailed Planning Commission presentation then proceed to argue that requiring public access as a condition to a shoreline permit "substantially furthers" a governmental purpose and would therefore be lawful.

The problem with the City view is that they cherry pick the words of the head note, and attempt to shape them to a rationalization for the City's view that it may require public access as a condition of a shoreline permit without the need to show that the project being permitted gives rise to the need for public access either by increasing demand or eliminating an existing public benefit. In the words of the planner, demand for additional public access need not be shown if the requirement furthers the "substantial public purpose" of providing additional public access.

It cannot be denied that the Shoreline Management Act seeks to further public access, but it also provides that such requirement must be consistent with private rights, and state law puts the burden on the government to prove both nexus and proportionality before private lands may be appropriated (dedicated or reserved) for public purpose.

It is unfortunate that the City has taken its cue from a head note and not the language of the decision itself, because had they done so they would have seen:

- The right to exclude the public from private property is one of the fundamental rights of ownership.
- A number of cases have attempted to require public conditions beyond that directly tied to the impact of a specific project (the City's rationale here) and in every case the action has been declared unlawful.

Having listened to the presentation by the Tacoma City Staff, and reviewed the note of the City Attorney, my only conclusion is that the City's attempt to create a rationale for forcing private property owners to dedicate public access merely as a condition of a permit to build along the privately owned industrial lands of properties such as Schnitzer's or comparable properties on

the shores of the City of Tacoma would be doomed to the same fate as that of the California Coastal Commission, tried on precisely the same rationale—complete failure.

Attached to this letter is a more detailed explanation of the legal arguments used by the Coastal Commission and the language of the *Nollan* Court in explicitly rejecting those arguments, language that shows the futility of the planning staff's rationalization and language that shows the City should reject the current proposals.

My recommendation is that we should ask that the City to delete the public access requirement in the S-10 district as they should recognize the futility of any such effort. In the alternative, the City must, to comply with the mandate of the State guidelines (Chapter 173-26 WAC), revise its public access provisions in the draft Shoreline Master Program to add four very specific requirements as essential preconditions to any such requirement:

- The burden is on the applicant to prove compliance with the shoreline master program, but on the City to prove nexus and proportionality to impacts caused by the specific proposal before any requirement for public access in any form, direct or indirect, is imposed as a condition of the requested permit.
- The decision on any Shoreline permit that does include a requirement for public access in any form must make written findings that the proposed project specifically burdens a protected interest the public may have in that specific waterfront either by creating an additional demand for the specific access proposed to be required or by reducing access that is already present.
- The decision must make written findings demonstrating how the condition imposed is directly linked to and designed to resolve the interference or increased burden identified as a direct and proximate result of the permit under review.
- The decision must make written findings demonstrating how the condition recommended is reasonably proportional and designed to resolve the problem created by the project and not advance any other unrelated “public objective.”

The elements noted above come directly from *Nollan*, *Dolan* and the Washington cases discussed in the materials attached and would be preconditions to any valid public access requirement in the context of a proposal for the development of private lands.

Finally, although the City has abandoned the 2% fee in lieu proposal (and we should support that abandonment as the type of one-size-fits-all condition specifically rejected in *Citizens v. Sims*), we need to continue to fight to eliminate the jeopardy and likely litigation that will ensue if the

Matthew Parker
January 19, 2011
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City persists in seeking to adopt a program imposing on industrial shoreline permits a public access condition not directly associated to burdens created with the proposed permits.

The more detailed analysis is attached.

Sincerely yours,

A handwritten signature in black ink that reads "AW Mackie kr". The signature is written in a cursive style.

Alexander W. Mackie

AWM:kr

Enclosure (Limitations on "Furthering Substantial Governmental Purpose" When Considering Public Access Requirements for Washington State Shorelines under the Shoreline Management Act)

cc: Louise Bray w/enc.

**LIMITATIONS ON “FURTHERING SUBSTANTIAL GOVERNMENTAL PURPOSE”
WHEN CONSIDERING PUBLIC ACCESS REQUIREMENTS FOR WASHINGTON
STATE SHORELINES UNDER THE SHORELINE MANAGEMENT ACT**

In a recent presentation to the Tacoma City Planning Commission, the staff and City attorney latched onto the language of a Reporter’s head note in the case of *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d. 677(1987), suggesting that public access could be required as a condition of a shoreline permit if the public access requirement “furthers a substantial government purpose.” Unfortunately, the City cherry picked the language of the decision and failed to look closely at arguments made by the California Coastal Commission in support of the public easement claimed in that case and the complete repudiation of those arguments by the Supreme Court in rejecting requirements for public access not directly tied to burdens created by the specific project, whether or not the requirement also furthered a substantial governmental purpose.

It is important in any case to look carefully at the full text of the case to understand the reasons the court reached the result it did. Such detailed analysis shows the “substantial public purpose” basis for imposing public access requirements for shoreline projects independent of specific burdens created by the project have been used time and again by planners seeking to secure public rights above and beyond that directly attributed to a project, and time and again specifically rejected by the courts.

What follows is a detailed discussion of the language of the *Nollan* case (the law is not only what the Court said, but what they did on the facts of the particular case) and a discussion of a number of other cases where local governments attempted to impose conditions that went beyond those necessary to address immediate impacts to serve some other laudable public purpose, only to be told by the courts that the actions were unlawful as beyond the reach of police power and conditions on project-related permits.

The misconception that furthering substantial public purpose interest may provide an independent grounds for public access comes from a misreading of the *Nollan* case. The case must be read in its entirety and carefully because at the end of the day the Court in fact looked at rationales for public access requirements almost identical to those put forth by the City Planning Department and not only held the rationalizations invalid, but warned against seeking to use the guise of public benefit to attempt to acquire by condition that which they necessarily must acquire by condemnation.

There is no question the State’s Shoreline Management Act creates a substantial public interest in securing additional public access to the shorelines of the state. For that reason, the City master program should address means of securing additional public access, both from public and private owners. But the fact that public access “furthers a substantially governmental purpose” alone does not make it lawful to secure public access from private property owners absent some direct and immediate burden that needs to be addressed as a proximate result of the permit in question. We will see this theme repeated in a number of Washington state cases noted below, but it is helpful at the outset to review the precise actions before the Court in the *Nollan* case.

The Nollans live on a California coastline just south of Ventura California. They were seeking a permit to rebuild a substantially deteriorated summer cabin to create a 1,600 single-family home. As a condition of approving the permit to build, the California Coastal Commission (which issues permits for development on the shorelines of the California coast similar to our Shoreline permit process) included a condition that the Nollans provide a public pathway paralleling the shoreline to allow the public to pass in front of their home. The Nollans objected and appealed.

The California Coastal Commission relied on a host of findings and justifications to support the public access requirement. The fundamental interest articulated by the Commission was to improve public access to the beach and in this case to enable the public to walk from a state park located just north of the Nollan home to a public activity area just to the south.¹ The argument was that the expansion of the size of the home contributed to a “walling off effect,” which deprived the public of views of the water and access to the water (though no access from the highway to the water had ever existed here) and that the linear pathway would alleviate that “psychological barrier” to the waters the public had a right to enjoy.

The question before the Supreme Court was whether the Coastal Commission’s interest in advancing public access to the waters of the state warranted a condition for a public easement across the front of the Nollan property as a condition of the permit. The Supreme Court failed to find any connection between the walling effect of a row of houses and the need for a linear pathway on the waterfront and specifically rejected the Commission’s arguments for a public easement as having nothing to do with the identified problem (view blockage).

To understand why the substantial public interest in securing access to the water was insufficient to require the dedication or set aside of land for public access, it is important to look at both the facts and the language of *Nollan* carefully.

The Court began its analysis by noting that absent the request for a permit, the State of California could certainly secure a public path on private property, but it must do so by condemnation. The question then is what additional authority, derived from the police power to condition project permits, justifies a public access condition power in conjunction with a requested permit. The Court begins by acknowledging the ability of the government to condition permits to advance legitimate public interests. In the words of the Court:

We have long recognized that land-use regulation does not effect a taking if it “substantially advance[s] legitimate state interests” and does not “den[y] an owner economically viable use of his land,” ... (“[A] use restriction may constitute a ‘taking’ if not reasonably necessary to the effectuation of a substantial government purpose”). Our cases have not elaborated on the standards for determining what constitutes a “legitimate state interest” or what type of connection between the regulation and the state interest satisfies the requirement that the former “substantially advance” the latter. They have made clear, however, that a broad range of governmental purposes and regulations satisfies these requirements. See

¹ A picture of the coast line in question is attached, showing the approximate area of the Nollan home.

... (scenic zoning); ... (landmark preservation); ... (residential zoning). ...
The Commission argues that among these permissible purposes are protecting the public's ability to see the beach, assisting the public in overcoming the "psychological barrier" to using the beach created by a developed shoreline, and preventing congestion on the public beaches.
We assume, without deciding, that this is so-in which case the Commission unquestionably would be able to deny the Nollans their permit outright if their new house (alone, or by reason of the cumulative impact produced in conjunction with other construction) would substantially impede these purposes, [view blockage] unless the denial would interfere so drastically with the Nollans' use of their property as to constitute a taking.

483 U.S. at 834-36, citations omitted, emphasis supplied.

This is the language of the decision that was summarized in the head note relied upon by the City to support their arguments for a general right to demand public access to further the public interest expressed in the Shoreline Management Act for additional public access to the waters of the state.

But, in using the "substantially furthering a governmental interest which would warrant denial" as the basis for their position, the City has cherry picked language they find supportive of their desire to promote public access, and failed to read the rest of the decision and holding of the Court in that case that public access could not be required as a condition of increasing the size of the Nollan's coastal home.

If the City had taken a closer look at the decision, and what the Court did as well as said, they would find that the fact that the Shoreline Management Act supports a substantial public interest in public access does not justify a public requirement for the use and occupancy of private property along the shoreline as a condition of a development permit in the absence of creating specific need for the type of access required.

The language of the Court, omitted in the City presentation or discussion, is instructive in understanding the limitations in pursuing a governmental purpose in the absence of any direct connection with the problem created.

We have repeatedly held that, as to property reserved by its owner for private use, "the right to exclude [others is] 'one of the most essential sticks in the bundle of rights that are commonly characterized as property.' ... *where governmental action results in "[a] permanent physical occupation" of the property, by the government itself or by others, ... "our cases uniformly have found a taking to the extent of the occupation, without regard to whether the action achieves an important public ... benefit or has only minimal economic impact on the owner ...*

483 U.S. at 831-832.

The Court also rapidly dismissed the argument that an easement was not “permanent” occupation by the public.

We think a “permanent physical occupation” has occurred, for purposes of that rule, where individuals are given a permanent and continuous right to pass to and fro, so that the real property may continuously be traversed, even though no particular individual is permitted to station himself permanently upon the premises.

483 U.S. at 832.

Where the Court looked to a right to deny permits based on the governmental actions that furthered a substantial public interest, they cited cases approving residential zoning (*Euclid*), landmark preservation (*Penn Central*), and scenic zoning (*Agins*). Another common thread in all is that the restrictions advance a valid governmental interest (identified in each of the cases) and was grounds for denial of the permit if the conditions were not met. A common thread in all of the cases is that a right of the public to physically use and occupy the private property proposed for development was not at issue.

The City’s attempt to use the Shoreline Management Act’s expression of public interest in public access as justification for public access requirements as a condition of securing a permit for shoreline development independent of the need for access created by the project reveals a fundamental misunderstanding of the point the Court was trying to make. The Supreme Court recognized that there was a very important public purpose in securing public access to the shorelines. But the fact that the public interest was strong was not enough by itself to warrant a public access condition on private property independent of the burden created by the project.

A few of the arguments put forward by the Coastal Commission in support of the public access requirement, and rejected by the Court, echo very closely the rationalizations put forward by the City using the Shoreline Management Act and Public Trust Doctrine as providing the “public interest” sufficient to support a public access mandate in all shoreline cases.

The key fact in the case and principal rationale of the Coastal Commission was that California had a shoreline park to the north of the Nollan property, and a shoreline park to the south of the Nollan property and the State of California had a substantial public interest in providing public access between the two, which would alleviate the psychological barrier to the water caused by the larger house. As a rationale for the imposition of the pathway connection the Commission specifically found:

- that the new house would increase blockage of the view of the ocean,
- ...contributing to the development of “a ‘wall’ of residential structures”
- ...prevent the public “psychologically ... from realizing a stretch of coastline exists nearby
- *that they [the public] have every right to visit,*” emphasis supplied
- The new house would also increase private use of the shorefront.

These effects of construction of the house, along with other area development, would cumulatively “*burden the public’s ability to traverse to and along the shorefront.*”

As a consequence the Commission argued the public interest in access to the shoreline gave right to an ability to impose the linear path condition. As argued by the Commission:

[they] could properly require the Nollans to offset that burden by providing additional lateral access to the public beaches in the form of an easement across their property ...

483 U.S. at 829.

The Commission also argued that they had imposed such conditions on more than 40 properties, as if the fact of historical use justified the practice. The Court would have none of it. In reversing the Court of Appeals, which had upheld the Commission’s rationale, the Court said:

The Commission’s principal contention to the contrary essentially turns on a play on the word “access.” *The Nollans’ new house, the Commission found, will interfere with “visual access” to the beach.* That in turn (along with other shorefront development) will interfere with the desire of people who drive past the Nollans’ house to use the beach, thus creating a “psychological barrier” to “access.” *The Nollans’ new house will also, by a process not altogether clear from the Commission’s opinion but presumably potent enough to more than offset the effects of the psychological barrier, increase the use of the public beaches, thus creating the need for more “access.” These burdens on “access” would be alleviated by a requirement that the Nollans provide “lateral access” to the beach.*

483 U.S. at 838.

But as the Court concluded, seeking public access on private property is more than a simple manipulation of language to express a public benefit. The Court is scathing in its rejection of tortured rationale used by the Commission to achieve a result they find absolutely beyond the reach of regulatory exaction.

Rewriting the argument to eliminate the play on words makes clear that there is nothing to it. It is quite impossible to understand how a requirement that people already on the public beaches be able to walk across the Nollans’ property reduces any obstacles to viewing the beach created by the new house. It is also impossible to understand how it lowers any “psychological barrier” to using the public beaches, or how it helps to remedy any additional congestion on caused by construction of the Nollans’ new house. We therefore find that the Commission’s imposition of the permit condition cannot be treated as an exercise of its land-use power for any of these purposes.

483 U.S. at 838-839.

This paragraph expresses the very limited scope the “nexus” requirement faces when looking at imposing a regulatory condition. The important language in the decision for our purposes was that the condition imposed had to address a burden created by the Nollans’ new permit, not simply an exercise in rationalization to secure new public access. It is this connection or “nexus” that is required for a valid condition and completely overlooked in the Planning Department’s justification for public access beyond that created to respond to demand or burden created by the specific project.

The Supreme Court had previously noted:

Had California simply required the Nollans to make an easement across their beachfront available to the public on a permanent basis in order to increase public access to the beach, rather than conditioning their permit to rebuild their house on their agreeing to do so, we have no doubt there would have been a taking.

483 U.S. at 381.

Having rejected the public desire to make public access more convenient, and finding construction of the house had nothing to do with interfering with that desire, the Court recited a number of cases that had held that the public right to navigation and fishing did not give right to trespass on any private lands. Finally, and in direct rejection of the notion put forward by the City that the public may “trade” a permit for construction on the water in exchange for a concession on public access due to the public’s significant interest in that access, the Court held:

...the right to build on one’s own property—even though its exercise can be subjected to legitimate permitting requirements—cannot remotely be described as a “governmental benefit.” And thus the announcement that the application for (or granting of) the permit will entail the yielding of a property interest cannot be regarded as establishing the voluntary “exchange,”

483 U.S. at 833.

The Court conceded that a home could create a view blockage, and that a reasonable condition to protect existing views could pass constitutional muster. But it could find no connection between the burden—view blockage—and the remedy—a linear path. As noted by the Court, the essential nexus required before a public access condition could be imposed was not between the public’s substantial interest in using the shoreline and the request to build on private property, but rather some direct connection between the construction and the problem sought to be cured by the condition. This is a point completely missed by staff when they said that *Nollan* was simply a case of not stating the public interest in using the shoreline strongly enough, and that under their analysis of the case mitigating direct impacts was only one basis for requiring public access.

Reading the *Nollan* case closely, not only what the Court said, but what it did, proves the fallacy of the City position. The public has no right to pursue other public interests, no matter how important, if the construction in question does not directly burden that interest. As the public has

no “right” to access the waters of the state over private property, the mere request to develop property that does not give rise to additional public demand to access the water or deny access previously present means the City is utterly without authority to pursue its public access plan—except through condemnation.

The Court cautioned that particularly where a City was attempting to secure public rights over private lands, the activity is to be viewed with suspicion and that clever wording of the declaration of public interest will not substitute for a substantial connection between activity and condition. As stated:

*We view the Fifth Amendment’s Property Clause to be more than a pleading requirement, and compliance with it to be more than an exercise in cleverness and imagination. As indicated earlier, our cases describe the condition for abridgement of property rights through the police power as a “substantial advanc[ing]” of a legitimate state interest. **We are inclined to be particularly careful about the adjective** where the actual conveyance of property is made a condition to the lifting of a land-use restriction, since in that context there is heightened risk that the purpose is avoidance of the compensation requirement, rather than the stated police-power objective.*

481 U.S. at 841, emphasis supplied.

And finally, the language of reversal at the end of the decision is a direct and immediate repudiation of the City of Tacoma’s expressed justification for the proposed plan—that because public documents exist expressing a great and pressing interest in public access, that creates sufficient justification for public access requirements.

“Finally, the Commission notes that there are several existing provisions of pass and repass lateral access benefits already given by past Faria Beach Tract applicants as a result of prior coastal permit decisions. The access required as a condition of this permit is part of a comprehensive program to provide continuous public access along Faria Beach as the lots undergo development or redevelopment.” App. 68.

*That is simply an expression of the Commission’s belief that the public interest will be served by a continuous strip of publicly accessible beach along the coast. The Commission may well be right that it is a good idea, but that does not establish that the Nollans (and other coastal residents) alone can be compelled to contribute to its realization. Rather, California is free to advance its “comprehensive program,” if it wishes, by using its power of eminent domain for this “public purpose,” see U.S. Const., Amdt. 5; but if it wants an easement across the Nollans’ property, **it must pay for it.***

483 U.S. at 841-42, emphasis supplied.

In the final analysis the *Nollan* case stands for precisely the opposite result of that argued by the City. As stated by the Court and transferred to the City fact pattern, if the City of Tacoma wishes to extend the right of public access across private industrial properties, and a proposed development **does not** increase the demand for that type of public access, the City may not condition the permit on a requirement to provide the desired access, “it must pay for it” independent of the strength of the public purpose to be served.

A quick summary of related cases, where a city attempted to secure the dedication or reservation of private lands for public purposes without some direct connection, shows that the courts have continually rejected municipal efforts to acquire public rights in private lands not directly tied to cause and effect resulting from the specific project.

Dolan v. Tigard.² There was a substantial public purpose in allowing the City to continue its public pathway along Fanno Creek as called out in City plans. But the Court could find no link between the need of additional stormwater and additional parking (both tied to the business expansion) and a requirement to allow the public to use the land along the creek. The Court found no evidence of a connection and emphasized that the burden was on the public agency to prove the connection exists.

Unlimited v. Kitsap County,³ *Burton v. Clark County*⁴ and *Benchmark v. Battle Ground*.⁵ In each of these cases there is a clear legitimate public purpose in connected streets and safe streets. But in each case the condition imposed was not related to a problem created by the project under review. The condition was imposed simply because the property was there and the government wanted the additional benefit of an amenity not related to the project. In each case, absent a clear connection between the project proposed and the need to use the streets in question, the “substantial public interest” in safe and connected streets could not be advanced by a condition not directly tied to an impact to the project under review.

Isla Verde v. Camas.⁶ The City had a public interest in providing open space for wildlife. But in *Isla Verde*, the Supreme Court made it clear that merely because there is a general public interest expressed in a particular objective (in this case protecting wildlife), even one embedded in statute or local regulation, the local government must demonstrate the condition is reasonably necessary, in this location, to ameliorate an impact caused by the particular project under review. Failure to specifically demonstrate the necessary connection rendered the condition under review unlawful.

² *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994).

³ *Unlimited v. Kitsap County*, 50 Wn. App. 723, 750 P.2d 651, review denied, 111 Wn.2d 1008 (1988).

⁴ *Burton v. Clark County*, 91 Wn. App. 505, 958 P.2d 343 (1998), review denied, 137 Wn.2d 1015, 978 P.2d 1097 (1999).

⁵ *Benchmark Land Co. v. Battle Ground*, 146 Wn.2d 685, 49 P.3d 860 (2002).

⁶ *Isla Verde v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002).

Most recently in *Citizens v. Sims*,⁷ our Court of Appeals looked at a claim by King County that it had a substantial public interest in clean water to protect fishlife and for that reason could limit the amount of clearing on rural lands under its jurisdiction. In an “as written” as opposed to an “as applied” decision, the Court absolutely rejected the notion that a substantial public interest, no matter how worthy, justified imposing open space limitations on private property without the “particularized determination” that such conditions were reasonably necessary at the given location.

The City presentation made Wednesday night, boiled to its essence, is that the City has a public access program that mirrors the priorities of the Shoreline Management Act to secure additional public access to the waters of the state. In pursuit of that substantial public interest, therefore, the City may condition the mere use of the waterfront property by a requirement to provide public access. This is precisely the rationale set out in the final paragraphs of the Supreme Court decision and the basis for rejecting the City view—that such activity will be viewed with suspicion and that without a direct connection between the project and the need for specific access, the City goal, noteworthy as it is, may only be achieved through acquisition.⁸

Having listened to the presentation by the Tacoma City Staff, and reviewed the note of the City Attorney, my only conclusion is that the City’s attempt to further a “substantial public interest” by forcing private property owners to dedicate public access merely as a condition for permission to build along the privately owned shores of the City of Tacoma would be doomed to the same fate as what the California Coastal Commission tried on precisely the same rationale—complete failure.

I recommend that Schnitzer Steel request that the City Council eliminate any specific requirement for public access as a condition for shoreline development in the S-10 zone, since the City has already recognized that public access and the industrial shoreline activity do not mix. The City needs to revise its public access provisions to provide for four elements:

- The burden is on the applicant to prove compliance with the shoreline master program, but on the City to prove nexus and proportionality to impacts caused by the specific proposal before any requirement for public access in any form, direct or indirect, is imposed as a condition of the requested permit.
- The decision on any Shoreline permit that does include a requirement for public access in any form must make written findings that the proposed project specifically burdens a protected interest the public may have in that specific waterfront either by creating an

⁷ *Citizens Alliance for Property Rights v. Sims*, 145 Wn. App. 649, 187 P.3d 786 (2008) (cert. denied, 165 Wn.2d 1030, 203 P.3d 378).

⁸ I note that the City slide show copied a syllabus at the beginning of the decision as the basis for its presentation to the Planning Commission. Care must always be used in attempting to use a syllabus as a substitute for reading an entire case. As the decision notes:

The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader.

483 U.S. at 825.

additional demand for the specific access proposed to be required or by reducing access that is already present.

- The decision must make written findings demonstrating how the condition imposed is directly linked to and designed to resolve the interference or increased burden identified as a direct and proximate result of the permit under review.
- The decision must make written findings demonstrating how the condition recommended is reasonably proportional and designed to resolve the problem created by the project and not advance any other unrelated “public objective.”

The City is spending a great deal of time and resources following a public access program that is not consistent with the goals and guidelines of the Shoreline Management Act discussed in my prior paper and should turn its attention to fixing the problem early and not create a “we/they” tension with its important industrial waterfront owners.

Alexander W. (“Sandy”) Mackie
Perkins Coie LLP, Seattle, Washington
1/19/11

