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Public Works and Utilities Representatives

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



Agenda

Tacoma Planning Commission

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

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

MEETING: Regular Meeting and Public Hearing

TIME: Wednesday, September 7, 2011, 4:00 p.m.

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

Change of Location
(NOT in Room 16)



A. CALL TO ORDER

B. QUORUM CALL

C. APPROVAL OF MINUTES – N/A

D. PUBLIC HEARING

(4:00 p.m.) 1. Medical Marijuana Moratorium

Description: Conduct a public hearing on the need for and duration of the moratorium (Ordinance No. 28010 adopted by the City Council on August 2, 2011) concerning the establishment of medical marijuana collective gardens or medical marijuana dispensaries.

Actions Requested: Receive testimony

Support Information: See "Agenda Item PH-1" (Written testimony received by the deadline of noon on September 7 will be distributed at the meeting)

Staff Contact: Donna Stenger, 591-5210, dstenger@cityoftacoma.org

E. GENERAL BUSINESS

(4:30 p.m.) 1. Medical Marijuana Moratorium

Description: Immediately after the public hearing, review testimony received, review draft Findings of Fact and Recommendation accordingly, and forward a recommendation to the City Council.

Actions Requested: Recommendation

Support Information: See "Agenda Item GB-1"

Staff Contact: Donna Stenger, 591-5210, dstenger@cityoftacoma.org



(5:00 p.m.) **2. 2012 Annual Amendment: #2012-6 Urban Forestry Code Revisions**

Description: Review the scope of work and main topics relating to proposed code revisions primarily intended to implement the policies of the Urban Forestry Element (adopted 2010) and Open Space Habitat and Recreation Element (adopted 2009).

Actions Requested: Discussion; Direction

Support Information: See "Agenda Item GB-2"

Staff Contact: Ramie Pierce, 591-2048, rpierce2@cityoftacoma.org
Elliott Barnett, 591-5389, elliott.barnett@cityoftacoma.org

(5:45 p.m.) **3. Transfer of Development Rights**

Description: Receive information about local, regional and State Transfer of Development Rights (TDR) initiatives and potential code amendments

Actions Requested: Discussion; Direction

Support Information: See "Agenda Item GB-3"

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

F. COMMUNICATION ITEMS

1. Hearing Examiner's Reports and Decisions – "Agenda Item C-1"
2. Foss Waterway Development Authority's Invitation to "Revisiting the Foss" Workshop Series on September 27–29, 2011 – "Agenda Item C-2"
3. Comments on Shoreline Master Program Update received after the June 10, 2011 deadline of public comment – "Agenda Item C-3"
4. Planning Commission Opening – The City Council is seeking interested and qualified citizens to fill a vacant position on the Planning Commission, representing Council District No. 1 (West End and North End), for a term to expire June 30, 2014. Applications must be submitted to the Mayor's Office by Friday, September 16, 2011. (www.cityoftacoma.org/Planning > "Planning Commission")

G. COMMENTS BY LONG-RANGE PLANNING DIVISION

H. COMMENTS BY PLANNING COMMISSION

I. ADJOURNMENT



City of Tacoma
Community and Economic Development Department

**Agenda Item
PH-1**

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Medical Cannabis Moratorium Public Hearing
DATE: August 31, 2011

At your next meeting on September 7, 2011, the Planning Commission will hold a public hearing beginning at 4:00 p.m. The subject of the public hearing will be the need for and duration of a moratorium to stop the acceptance of applications for medical cannabis collective gardens or medical cannabis dispensaries.

Attached is the Public Hearing Report that summarizes the moratorium, the process for consideration of moratoria, and the public notice process. A copy of the Public Hearing Notice, Ordinance No. 28010 (the emergency moratorium), and Resolution No. 38318 (creating the Medical Cannabis Task Force) are also attached for the Commission's use and reference for the public hearing.

In addition, we also are providing the public comments submitted to date. All comments received by the comment deadline of noon September 7 will be handed out at the meeting.

If you have any questions or requests, you may contact me at 591-5210 or by e-mail at dstenger@cityoftacoma.org.

Attachments

c: Peter Huffman, Assistant Director



MEDICAL CANNABIS EMERGENCY MORATORIUM REVIEW

PUBLIC HEARING REPORT

Tacoma Planning Commission Public Hearing
September 7, 2011

A. SUBJECT:

Emergency moratorium on the acceptance of applications for medical cannabis collective gardens and dispensaries within the City of Tacoma.

B. BACKGROUND:

On August 2, 2011, the City Council enacted an emergency moratorium on medical cannabis collective gardens and dispensaries (Ordinance No. 28010). The moratorium prohibits the acceptance of applications for the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries within the City. The moratorium applies Citywide and was enacted for a duration of six months (until February 1, 2012).

C. LAND USE REGULATORY CODE – PROCESS FOR MORATORIA:

In accordance with Tacoma Municipal Code Section 13.02.055, the process for moratoria is as follows:

1. Declaring a Moratorium

- a. A moratorium and/or interim zoning controls may be considered either as a result of an emergency situation or as a temporary protective measure to prevent vesting of rights under existing zoning and development regulations.
- b. Moratoria or interim zoning may be initiated by either the Planning Commission or the City Council by means of determination at a public meeting that such action may be warranted.
- c. Where an emergency exists, prior public notice may be limited to the information contained in the public meeting agenda. City Council-initiated moratoria or interim zoning shall be referred to the Planning Commission for findings of fact and a recommendation prior to action; provided, that where an emergency is found to exist by the City Council, it may act immediately and prior to the formulation of Planning Commission findings of fact and recommendation.
- d. At its next available meeting immediately following the City Council's referral or action, the Planning Commission shall consider the measure and, if it finds evidence that an emergency exists necessitating the immediate imposition of a moratorium or interim zoning, or that temporary measures are needed to protect the status quo, it shall recommend adoption to the City Council.
- e. The Planning Commission shall respond with its findings of fact and recommendation to the Council within 30 days of the date of the Commission meeting at which it is first made aware of the Council's request.
- f. In emergency situations where the City Council has first enacted a moratorium or interim zoning, but where the Planning Commission's findings of fact and recommendation do not support the action, the City Council shall reconsider, but shall not be bound to reversing, its action.

2. Public Hearing and Action

- a. The Planning Commission will hold at least one public hearing prior to formulating its recommendation to the City Council.
- b. In the case of moratoria or interim zoning, the City Council shall hold a public hearing within at least 60 days of adopting any moratoria or interim zoning, as provided by RCW 36.70A.390.
- c. The City Council shall adopt findings of fact justifying the adoption of moratoria before, or immediately after, it holds a public hearing.

3. Duration of Moratorium

- a. As part of its findings of fact and recommendation, the Planning Commission shall recommend to the City Council a duration for the moratorium and note if a study, either underway or proposed, is expected to develop a permanent solution and the time period by which that study would be concluded.
- b. Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period.
- c. Moratoria or interim zoning may be renewed for an unlimited number of six-month intervals following their imposition; provided, that prior to each renewal, a public hearing is held by the City Council and findings of fact are made which support the renewal.

D. GENERAL INFORMATION:

1. Environmental Evaluation

Procedural actions such as the adoption of legislation, rules, regulation, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment is exempt from SEPA environmental evaluation under WAC 197-11-800(19).

2. Public Review Process

The Medical Cannabis Moratorium was first reviewed by the Planning Commission at its August 17, 2011 meeting. The Planning Commission was provided a copy of the emergency moratorium, Ordinance No. 28010, a copy of recent WA State legislation on Medical Cannabis (E2SSB 5073), and a Fact Sheet prepared by the Association of Washington Cities after E2SSB 5073 was passed. The Planning Commission discussed its responsibilities under the moratorium, one of which is to conduct a public hearing on the moratorium. The Planning Commission authorized the distribution of the moratorium for public comment prior to September 7, 2011, the public hearing date established by Ordinance No. 28010.

3. Notification

Written and/or electronic notice of the Planning Commission's public hearing was sent to community members who testified on the emergency moratorium to the City Council at its August 2, 2011 meeting, all known owners of medical cannabis dispensaries and/or medical cannabis collective gardens, parties of record involved in the Hearing Examiner appeals, citizens who provided comments to the Planning Commission prior to the public hearing on September 7, 2011 concerning the moratorium and possible future regulation of medical cannabis within the City and to members of the Medical Cannabis Task Force. The notice also was provided to all recipients of the Planning

Commission agenda, the Planning Commission's electronic mailing list, City Council members, Neighborhood Councils, business district associations, adjacent jurisdictions, state and other governmental agencies, the Puyallup Tribal Nation, City staff, City Commissions, environment, development, civic and social organizations, major institutions and employers, and other interested individuals and groups. In addition, notice was sent to taxpayers of record for all known properties with existing medical cannabis collective gardens and/or dispensaries and to taxpayers of record for all properties within 400 feet of these properties. In total, the notice was sent to more than 1,700 addresses. Additionally, the public notice was posted on the bulletin boards on the first and second floors of the Tacoma Municipal Building and on the City's internet website.

The notice could also be viewed and downloaded at the Planning Division's website (www.cityoftacoma.org/planning). The notice was also posted on the public information bulletin boards on the first and second floors of the Tacoma Municipal Building.

The notice stated the time and place of the hearing, the purpose of the public hearing, where and how additional information could be obtained and how to provide comments. Advertisement of the public hearing was published in *The News Tribune* on August 31, 2011.

E. COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT RECOMMENDATION:

Staff recommends that the Planning Commission accept and evaluate all oral and written testimony submitted prior to, and given at, the public hearing prior to making a recommendation to the City Council.

F. ATTACHMENTS:

1. Public Hearing Notice
2. Ordinance No. 28010 - Medical Cannabis Moratorium
3. Resolution No. 38318 - Medical Cannabis Task Force



NOTICE OF PUBLIC HEARING

MORATORIUM ON MEDICAL CANNABIS DISPENSARIES & COLLECTIVE GARDENS

On August 2, 2011 the City Council adopted Ordinance No. 28010, placing a six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries. The purpose of the moratorium is to allow the City time to review recent changes in state law and consider potential changes to the City's regulations and requirements.

PLANNING COMMISSION PUBLIC HEARING

Wednesday, September 7, 2011 4:00 pm City Council Chambers
Tacoma Municipal Building, 747 Market Street, 1st Floor

WHAT IS THE PURPOSE OF THE PUBLIC HEARING?

The City Council referred the moratorium to the Planning Commission to develop findings and recommendations regarding the moratorium. The Planning Commission is seeking public comment addressing, at a minimum:

- Is the emergency moratorium needed?
- If so, what is the appropriate duration of the moratorium?

The Planning Commission will make its findings and recommendations on the moratorium on September 7, following the hearing.

Please Note: *This public hearing is on the need for and duration of the moratorium and not to discuss or review any particular changes to the City's regulations or requirements relative to medical cannabis or associated uses.*

WHERE CAN I GET ADDITIONAL INFORMATION?

Additional information, including the complete text of the moratorium (Ordinance No. 28010) adopted by the City Council, is available from the Community and Economic Development Department at the address to the right, and on the Planning Division website:

www.cityoftacoma.org/planning

(click on “Medical Cannabis Moratorium”)

HOW DO I PROVIDE COMMENTS TO THE COMMISSION?

You can testify at the hearing or provide written comments using the return address on this card no later than noon on **Wednesday, September 7, 2011** or by facsimile at (253) 591-2002 or via e-mail at planning@cityoftacoma.org.

If you have additional questions please feel free to contact Donna Stenger at:

(253) 591-5210

The City of Tacoma does not discriminate on the basis of disability in any of its programs, activities, or services. To request this information in an alternative format or a reasonable accommodation, please contact the City Clerk's Office at 591-5505. TTY or speech-to-speech users please dial 711 to connect to Washington Relay Services.



PLANNING COMMISSION
747 MARKET STREET – ROOM 1036
TACOMA WA 98402
(253) 591-5365

PRSTD STANDARD
US POSTAGE
PAID
TACOMA WA
PERMIT NO 2



ORDINANCE NO. 28010

1 BY REQUEST OF MAYOR STRICKLAND AND COUNCIL MEMBER
2 WOODARDS

3 AN ORDINANCE adopting an immediate six-month moratorium on the
4 establishment, location, operation, licensing, permitting, maintenance or
5 continuation of medical marijuana collective gardens or medical
6 marijuana dispensaries that are asserted to be authorized, or actually
7 authorized, under Chapter 69.51A Revised Code of Washington (RCW),
8 or any other laws of the state of Washington; defining "medical
9 marijuana collective gardens" and "medical marijuana dispensaries";
10 referring the moratorium to the Planning Commission to hold a public
11 hearing to develop findings of fact and recommendation by
12 September 7, 2011, including the need for and the duration of the
13 moratorium; setting September 27, 2011 as the date for a public hearing
14 on the moratorium; declaring an emergency in the passage of this
15 ordinance providing that the moratorium will take effect immediately
16 upon adoption and publication and, unless extended, will sunset within
17 six (6) months of the date of adoption; and providing for severability.

18 WHEREAS, the City of Tacoma acknowledges the needs of persons
19 suffering from debilitating or terminal conditions and the benefits that approved
20 medical use of marijuana may provide these persons and believes that the
21 medical use of cannabis should be conducted in a safe and fair manner for the
22 health, safety, and welfare of the community, and

23 WHEREAS it is the policy desire of the City Council to continue to
24 preserve legal access to medical cannabis for qualifying patients through the
25 City's administration of its enforcement responsibilities under City, State and
26 Federal Law during the moratorium period, and

WHEREAS, the possession or distribution of marijuana has been, and
continues to be, a violation of state law pursuant to Chapter 69.50 RCW
(Washington's Uniform Controlled Substances Act), and federal law, through



1 the Controlled Substances Act ("CSA"); and strict sentencing guidelines
2 enhance the penalties for violations within 1,000 feet of a school, and

3 WHEREAS, Initiative Measure No. 692, approved by 59% of the voters
4 of Washington State on November 3, 1998, now codified as Chapter 69.51A
5 RCW, created an affirmative defense to marijuana charges under state, but not
6 federal law, if the person charged could demonstrate that he or she was a
7 qualifying patient or designated provider, as those terms are defined in
8 Chapter 69.51A RCW, and

9 WHEREAS, the initiative and current Chapter 69.51A RCW are clear
10 that nothing in its provisions are to be "construed to supersede Washington
11 state law prohibiting the acquisition, possession, manufacture, sale or use of
12 Cannabis for non-medical purposes," and

13 WHEREAS, the Washington State Department of Health opines that it is
14 "not legal to buy or sell" medical marijuana, and further opines that "the law
15 (Chapter 69.51.A RCW) does not allow dispensaries," leaving enforcement to
16 local officials, and

17 WHEREAS, the City acknowledges the right of qualified health care
18 professionals to recommend the medical use of cannabis, acknowledges the
19 affirmative defense, under state law, available to qualifying patients from the
20 possession of cannabis, as well as the right of patients to designate a
21 "designated provider" who can "provide" rather than sell cannabis to "only one
22 patient at any one time," and
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1 WHEREAS, the City of Tacoma acknowledges federal prohibition but
2 wants to respond to the changes in state law in a responsible manner that will
3 minimize impacts on patients, providers, and the health, safety, and welfare of
4 the community, and

5 WHEREAS, in 2011, the state legislature passed significant
6 amendments to the law, Engrossed Second Substitute Senate Bill 5073
7 (“E2SSB 5073”) and the Governor signed E2SSB 5073, but vetoed several
8 portions expressing her reservations about provisions that involved state
9 employees in activities that could be interpreted as being in violation of federal
10 laws, and

11 WHEREAS, prior to issuing her partial veto, the Governor received a
12 letter signed by Washington’s top two U.S. Attorneys, Mike Ormsby and Jenny
13 Durkin, dated April 14, 2011, in which they wrote that marijuana is a Schedule 1
14 controlled substance under federal law, and as such, “growing, distributing and
15 possessing marijuana in any capacity, other than as a part of a federal
16 authorized research program, is a violation of federal law regardless of state
17 laws permitting such activities.” Further, the U.S. Attorneys concluded, “state
18 employees who conducted activities mandated by the Washington legislative
19 proposals would not be immune from liability under the CSA,” and
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21 WHEREAS, E2SSB 5073 became effective on July 22, 2011, and
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23 WHEREAS Tacoma has seen the establishment of medical marijuana
24 “dispensaries” within the City limits that offer marijuana and marijuana products
25 to numerous persons, asserting that they are operating as designated providers
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1 within the meaning of Chapter 69.51A RCW, and these business are variously
2 referred to as dispensaries, cooperatives, patient cooperatives, or patient
3 networks, both for profit and not for profit, and

4 WHEREAS Section 404 of E2SSB 5073 effectively eliminates medical
5 marijuana dispensaries as a legally viable model of operation under state law,
6 and

7 WHEREAS these businesses are illegal under both state and federal
8 law, and the City provided notice to these businesses that they are to cease
9 illegal activity, and

10 WHEREAS persons or entities operating these purported medical
11 marijuana dispensaries interpreted the law prior to E2SSB 5073 to allow
12 storefront operation of distribution centers for medical marijuana and many of
13 these dispensaries obtained business licenses to operate their business using
14 false, misleading or vague statements and the City continues to receive new
15 requests and inquiries from persons interested in operating additional
16 dispensaries in Tacoma, and

17 WHEREAS E2SSB 5073 amends Chapter 69.51A RCW, changing the
18 scope and effect of the law and the rights of qualifying patients and their
19 designated providers, and operators of medical dispensaries are already
20 interpreting the newly amended law to assert that they are permitted to
21 continue to operate, and

22 WHEREAS the recent amendments authorize "collective gardens" where
23 up to ten qualifying patients may join together to produce, process, transport,
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1 and deliver up to 45 marijuana or cannabis plants for their own medical use and
2 there is no limit set to the number of medical marijuana collective gardens that
3 may be located at any site, nor any restrictions as to where collective gardens
4 may be located in relation to other uses, and

5 WHEREAS many persons and entities who formerly represented
6 themselves as "dispensaries" have notified the City that they will now operate
7 as collective gardens with a business or administrative office at the same
8 location where the dispensary was located and the City believes that marijuana
9 will be delivered at these locations, and

10 WHEREAS the recent amendments clearly delegate to cities the
11 authority to adopt and enforce zoning requirements, business licensing
12 requirements, health and safety requirements and business taxes on the
13 production, processing, dispensing, and delivery of medical cannabis, and

14 WHEREAS the Tacoma Municipal Code does not currently address
15 medical cannabis or medical marijuana and the Municipal Code could be
16 changed to address ambiguities in the state law, and

17 WHEREAS the City requires time to conduct appropriate research to
18 understand the extent of the changes provided in the new law; to analyze
19 impacts and potential liabilities under federal law; and to determine the
20 appropriate regulatory framework for any provision that is allowed under these
21 laws, and

22 WHEREAS, the production, processing, dispensing, and delivery of
23 medical cannabis, medical marijuana collective gardens or medical marijuana
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dispensaries present issues of public safety for surrounding properties as well as for the property on which the uses and/or facilities exist. Furthermore, the location of such medical marijuana collective gardens or medical marijuana dispensaries near schools, daycare facilities and other lawful uses presents issues relating to the public welfare and the protection of minors, and

WHEREAS the City must ensure that proposed locations for medical marijuana collective gardens or medical marijuana dispensaries are appropriate and that any potential secondary impacts arising from the operation of these uses or facilities are minimized or mitigated, and

WHEREAS the Council finds that a zoning, licensing and permitting moratorium should be established pending local review of appropriate locations and other requirements for these operations, facilities and uses and the impacts of the newly amended law and its interaction with federal law, and

WHEREAS, unless a moratorium is imposed, medical marijuana dispensaries and medical marijuana collective gardens may be located within the City of Tacoma while the City lacks the necessary tools to ensure the location is appropriate and that the potential secondary impacts are minimized and mitigated, and

WHEREAS, pursuant to RCW 35.63.200 and RCW 36.70A.390, the City may adopt an immediate moratorium for a period of up to six months, provided that the City holds a public hearing on and adopts findings of fact related to the proposed moratorium within 60 days after its adoption; Now, Therefore



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BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the Recitals above are hereby adopted by reference as the City Council's preliminary findings of fact, as if fully set forth herein. The City Council may, in its discretion, modify and/or adopt additional findings at the conclusion of the public hearing referenced in Section 7 below.

Section 2. That pursuant to the provisions of RCW 36.70A.390, a moratorium is hereby enacted to prohibit within the City of Tacoma the establishment, location, operation, licensing, permitting, maintenance or continuation of any medical marijuana collective garden or any medical marijuana dispensary, whether for profit or not for profit, asserted to be authorized or whether actually authorized under those portions of E2SSB 5073 signed into law, or any other laws of the State of Washington. No building permit, occupancy permit or other development permit or approval shall be issued for any of the purposes or activities listed above, and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses or the permits for any of these operations that are issued as a result of error or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force and effect.

Section 3. That the City Council deems it to be in the public interest to establish an emergency moratorium pending consideration of changes to regulations, requirements and taxes to address medical marijuana collective



1 gardens and dispensaries in order to preserve the public health, safety and
2 welfare.

3 Section 4. That for the purposes of this moratorium, "Medical
4 marijuana dispensary" means any person, business, corporation, partnership,
5 joint venture, organization, association, agency, cooperative network,
6 consultation operation and/or other entity or person no matter how described or
7 defined, including its associated premises and equipment, which has for its
8 purpose or which is used to grow, sell, provide, select, measure, package,
9 label, dispense, deliver and/or otherwise transfer (for consideration or
10 otherwise) marijuana for medical uses to more than one "qualifying patient" in
11 any fifteen (15) day period, or to any person who does not meet the definition
12 of "qualifying patient" under the terms of Chapter 69.51A RCW; and/or
13 maintains and/or possesses more than the amounts of marijuana permitted to
14 be possessed under RCW 69.51A.040 and Section 401 of E2SSB 5073. The
15 receipt of cash or other legal tender in exchange for, contemporaneously with,
16 or immediately following the delivery of marijuana to a qualifying patient shall be
17 presumed to be a sale. Any person, business, corporation, partnership, joint
18 venture, organization, association, and/or entity which sells, provides, and/or
19 otherwise dispenses marijuana to more than one qualifying patient in any
20 fifteen (15) day period is presumed to be a "medical marijuana dispensary,"
21 unless as part of a "collective garden." A person who is the designated provider
22 for only one qualified patient during any fifteen (15) day period and who
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1 complies with Chapter 69.51A RCW, shall not be deemed a medical marijuana
2 dispensary for purposes of the moratorium.

3 Section 5. That for the purposes of this moratorium, "medical
4 marijuana collective garden" means a group of qualifying patients that share
5 responsibility for acquiring and supplying the resources required to produce and
6 process marijuana for medical use of the 10 members of the collective garden.
7 Examples of a collective garden resource would include, without limitation, the
8 following: property used for a collective garden; equipment, supplies, and labor
9 necessary to plant, grow and harvest marijuana; marijuana plants, seeds, and
10 cuttings; and equipment, supplies and labor necessary for proper construction,
11 plumbing, wiring, and ventilation of a garden of marijuana plants. A medical
12 marijuana collective garden shall satisfy the above definition regardless of its
13 formation, ownership, management, or operation as a business, agency,
14 organization, cooperative, network, consultation operation, group, or person. A
15 person who is designated for only one qualified patient during any fifteen (15)
16 day period and who complies with Chapter 69.51A RCW, or a person who is a
17 qualified patient and who complies with Chapter 69.51A RCW, shall not be
18 deemed a medical marijuana collective garden for the purposes of this
19 moratorium.
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22 Section 6. That no use that constitutes or purports to be a medical
23 marijuana dispensary or a medical marijuana collective garden, as those terms
24 are defined in this ordinance, that was engaged in dispensing prior to the
25 enactment of this ordinance shall be deemed to have been a legally
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1 established use under the provisions of the Tacoma Municipal Code and that
2 use shall not be entitled to claim legal nonconforming status.

3 Section 7. That, pursuant to Section 13.02.055 of the Tacoma
4 Municipal Code, the City Council hereby refers the moratorium to the Planning
5 Commission for its review at its next available meeting on August 17, 2011 and
6 to hold a public hearing on September 7, 2011; to develop findings of fact and
7 recommendation, including the need for and duration of the moratorium.

8 Section 8. That, under TMC 13.02.055, RCW 35.63.200, and
9 RCW 36.70A.390, a public hearing must be held within 60 days of the passage
10 of this Ordinance and September 27, 2011 is hereby set as the date for the
11 public hearing in order to take public testimony and to consider adopting further
12 findings justifying the imposition of the moratorium set forth in Section 2 above.

13 Section 9. That this Ordinance shall be transmitted to Washington
14 State Department of Commerce, pursuant to RCW 36.70A.106.

15 Section 10. That the Planning Commission is hereby directed to
16 develop appropriate zoning regulations pursuant to the newly amended law
17 regarding medical marijuana collective gardens and/or medical marijuana
18 dispensaries. Further, the Commission should evaluate secondary impacts of
19 these uses and facilities which may include, but are not limited to, burglaries
20 associated with cash and marijuana maintained on the site, or an increase of
21 other illegal activities, such as drug use, within the vicinity of these uses and
22 facilities. In particular, and without limitation, the Commission should analyze
23 the impacts of allowing these uses and facilities in residential zones as well as
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1 impacts arising from the proximity of these uses and facilities to schools,
2 daycare facilities, parks, religious and cultural facilities, jails, courthouses and
3 drug and alcohol rehabilitation facilities.

4 Section 11. That the City Manager is hereby authorized to direct
5 appropriate staff to review and develop appropriate business licensing
6 requirements, health and safety requirements and business taxes regarding
7 medical marijuana collective gardens or medical marijuana dispensaries
8 pursuant to the newly amended law for inclusion in the Tacoma Municipal
9 Code.

10 Section 12. The City Manager is hereby directed to work with staff to
11 administer the City's enforcement responsibilities under City, State, and
12 Federal Law during the moratorium period in a manner that will continue to
13 preserve legal access to medical cannabis for qualifying patients.

14 Section 13. That notice of and hearing on this ordinance, in the normal
15 course, would undermine effective City planning by allowing the establishment
16 of, or the submittal of permit applications between the time notice was
17 published and the time the ordinance was passed to vest to City regulations
18 which may be inadequate to protect the public health, safety, and general
19 welfare. Therefore, for this reason, the City Council hereby finds and declares
20 that an emergency exists and that the 180-day interim moratorium imposed by
21 this ordinance shall become effective immediately upon passage of this
22 ordinance and its publication, unless repealed, extended, or modified by the
23 City Council after subsequent public hearings and entry of appropriate findings
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1 of fact pursuant to RCW 35.63.200. Pursuant to Matson v. Clark County Board
 2 of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts
 3 necessary to support this emergency declaration are included in the Recitals
 4 above, all of which are adopted by reference as findings of fact, as if fully set
 5 forth herein. This Ordinance, and the moratorium established herein, shall
 6 expire and terminate on January 29, 2012.

7 Section 14. That if any one or more section, subsection, sentence,
 8 clause or phrase of this ordinance should be held to be invalid or
 9 unconstitutional by a court of competent jurisdiction, such invalidity or
 10 unconstitutionality shall not affect the validity or constitutionality of any of the
 11 remaining section, subsection, sentence, clause or phrase of this ordinance
 12 and the same shall remain in full force and effect.
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14
 15 Passed AUG - 2 2011

Mayor [Signature]
 Mayor

17 Attest:

18
 19 *Wendy [Signature]*
 City Clerk *ACTING*

21
 22 Approved as to Form:

23 *William [Signature]*
 24 City Attorney
 25 *Acting*



RESOLUTION NO. 38318

1 BY REQUEST OF MAYOR STRICKLAND AND COUNCIL MEMBER WOODARDS

2 A RESOLUTION relating to medical cannabis; creating a Medical Cannabis Task
3 Force through a term of February 1, 2012; authorizing the Mayor to
4 appoint members to the Committee and to designate a chair; and
5 authorizing the Public Safety, Human Services and Education Committee
6 to extend the term of the Committee through August 1, 2012, if necessary.

7 WHEREAS, on November 3, 1998, by 59 percent of votes, Washington
8 voters approved Initiative Measure No. 962, codified in RCW 69.51A, which
9 created an affirmative defense to marijuana charges under state, but not federal,
10 law, and

11 WHEREAS, in its 2011 City of Tacoma State Legislative Agenda, the City
12 Council included the following: "The City supports the voter approved right for
13 those with certain terminal or debilitating chronic conditions to obtain medical
14 cannabis for personal use. The law and regulations are vague and confusing for
15 patients, providers and law enforcement. The City supports changes to the law
16 and regulations which add clarity and certainty to protect qualifying patient's safe
17 and legal access to medical cannabis," and

18 WHEREAS the State Legislature and the Governor passed Engrossed
19 Second Substitute Senate Bill 5073 ("E2SSB 5073") with modifications, including
20 the Governor's veto of provisions directing state employees to conduct activities
21 that could be interpreted as being in violation of federal laws, and

22 WHEREAS E2SSB 5073 authorizes cities to adopt and enforce zoning
23 requirements, business licensing requirements, health and safety requirements,
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and business taxes on the production, processing, and dispensing of cannabis within their jurisdiction, and

WHEREAS, at its meeting of July 28, 2011, the Public Safety, Human Services and Education Committee discussed policy themes relating to medical cannabis and expressed its intent to advance proposals for a moratorium and a Medical Cannabis Task Force ("Task Force") focused on medical cannabis, and

WHEREAS, on August 2, 2011, the City passed Ordinance No. 28010, adopting an emergency six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries, to allow time to develop and adopt appropriate zoning, business licensing, health and safety, and tax requirements for the production, processing, and dispensing of medical cannabis, and

WHEREAS Ordinance No. 28010 directed the Planning Commission to develop appropriate zoning regulations, and the City Manager to review appropriate business licensing, health and safety, and tax requirements, and

WHEREAS the City Council wishes to have citizens that would be impacted by future regulation appointed to a committee to provide feedback and recommendations to the Planning Commission, City Manager, and City Council, and

WHEREAS the Public Safety, Human Services and Education Committee may, at a future date, wish to provide direction to the Task Force regarding public outreach, and

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WHEREAS, at its meeting of July 28, 2011, the Public Safety, Human Services and Education Committee discussed the following policy themes that should guide the work of the Task Force:

- The changes in state law are an opportunity to provide legal, safe, and secure access to medical cannabis for patients
- Consideration of federal prohibition of marijuana
- The use and distribution of medical cannabis should be conducted in a safe and fair manner for the health, safety, and welfare of the community
- The policy direction of the City Council should not put City employees at risk of violating federal prohibitions
- Single-family neighborhoods and community organizations, such as schools and churches, should have greater insulation from the production, processing, and dispensing of medical cannabis
- The City Council should limit the size, number, and concentration of collective gardens
- The City should pay similar attention to community impacts and compliance with existing laws for the provision of medical cannabis authorization,

and

WHEREAS the City Council desires the Task Force to include, but not be limited to, representatives from the following areas:

- Medical cannabis collective garden/dispensary operator
- Physician/MD/medical professional
- Neighborhood representative
- Anti-drug organization representative
- Non-profit organization serving patients with chronic illness
- Patient with a chronic illness
- Former law enforcement employee
- Private individual with legal experience
- Business community representative
- Representative of the Tacoma-Pierce County Health Department
- Community Member or Small Business Owner,

and



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WHEREAS the City Council is delegating appointment authority and the designation of the Task Force chair to the Mayor; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That a Medical Cannabis Task Force is hereby created to provide feedback and recommendations regarding medical cannabis regulation to the Planning Commission, City Manager, and City Council, and to perform public outreach at the request of the Public Safety, Human Services, and Education Committee for a term through February 1, 2012, with the potential extension of the term of the Committee by the Public Safety, Human Services, and Education Committee through August 1, 2012.

Section 2. That the City Council will consider, but not be limited to, representatives from the following areas to serve on the Medical Cannabis Task Force:

- Medical cannabis collective garden/dispensary operator
- Physician/MD/medical professional
- Neighborhood representative
- Anti-drug organization representative
- Non-profit organization serving patients with chronic illness
- Patient with a chronic illness
- Former law enforcement employee
- Private individual with legal experience
- Business community representative
- Representative of the Tacoma-Pierce County Health Department
- Community Member or Small Business Owner.

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Section 3. That the Mayor is authorized to appoint members and a Task Force Chair to the Medical Cannabis Task Force.

Adopted AUG 23 2011

Mark Jordan
Mayor

Attest:

Wendy Lewis
City Clerk *ACTING*

Approved as to form:

[Signature]
City Attorney

Medical Cannabis Moratorium
Planning Commission Public Hearing
September 7, 2011

Public Comments Received (as of
8/31/2011)

The Law Office of Kent W. Underwood LLC

1111 Fawcett Ave., Suite 101, Tacoma, WA 98402-2024 Ph. (253) 627-2600 Fax (253) 591-7086

August 17, 2011

RECEIVED
AUG 17 2011
CITY CLERK'S OFFICE

Mayor Strickland
Tacoma City Council

RE: Ordinance No. 28010, Moratorium on Medical Cannabis

Dear Mayor and members of the Tacoma City Council:

I write to express my concerns that the specific language in Tacoma City Ordinance No. 28010 (the ordinance), the Moratorium on Medical Cannabis, is inconsistent with the Mayor's statement of intent, and that the ordinance constitutes an unlawful restraint on activities permitted under RCW 69.51A.

I am requesting that the mayor and the council amend the ordinance to more accurately reflect the intent stated by Mayor Strickland specifically that it is not the intent of the council to close down any currently operating medical cannabis organization, some of which are commonly referred to as "dispensaries" and/or collective gardens.

Under the specific language of the ordinance, there is an

...immediate six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries that are asserted to be authorized, or actually authorized, under Chapter 69.51A Revised Code of Washington (RCW)...

Ordinance pg. 1

This provision clearly disallows any current collective garden or other medical cannabis organization from operating or continuing in their current activities, in direct contradiction of the mayor's stated intent.

The ordinance refers to the Washington State Department of Health having opined that RCW 69.51A does not allow dispensaries. No legal analysis of either RCW 69.51A or ESSSB 5073 is included. It is unknown upon what basis the Department of Health opines. It appears that the Department of Health has not reviewed section 413.

CC: Mayor
Council
CEO
CMO
Legal

Additionally, the ordinance cites to ESSSB 5073 section 404 as eliminating medical marijuana “dispensaries.” Again, there is no legal analysis and no basis for concluding that “dispensaries” are prohibited.

Section 2 of the ordinance prohibits the continuation of activities described earlier in the ordinance. Such activities may be commonly referred to as dispensaries. This is in direct conflict with the mayor’s stated objectives and intent.

Moreover, the ordinance describes what is commonly referred to as dispensaries and concludes those activities are unlawful. There is no legal analysis.

Section 4 is overbroad in that it seems to define as prohibited activities that are otherwise permitted under ESSSB 5073 section 413. Specifically, the ordinance prohibits any person, organization or entity from providing to more than one qualifying patient within any 15-day period, it is presumed to be a dispensary, unless part of a collective garden, and prohibited. Again, no legal analysis was done, and there is no reference to ESSSB 5073, section 413, which permits a private non-commercial exchange. Consequently, the ordinance prohibits otherwise permitted activities.

The ordinance claims to continue to allow for patients to have access to medicine but does not provide a method for so doing in the event a patient is unable to grow or otherwise procure medicine.

ESSSB 5073 section 413 provides for resolution of the above-mentioned problems. E.g. Patients who grow cannabis may take their overage to a private exchange, and patients who are otherwise unable to procure medicine can obtain it at the private exchange.

The ordinance was adapted without an opportunity for the public to review the ordinance or for a thorough vetting. I request the council to reevaluate the ordinance or amend it to reflect the council and the mayor’s intent of not closing down existing facilities, and to provide a more thorough legal analysis.

If you have any questions, please do not hesitate to contact me at (253) 627-2600.

Sincerely,


Kent W. Underwood

From: tracy earles [mailto:tracy777redeemed@yahoo.com]
Sent: Friday, August 26, 2011 12:18 PM
To: Frantz, Shanta
Subject: RE: City of Tacoma Medical Cannabis Task Force Draft Resolution Proposal

Dear Ms. Frantz and Mr. Harrington,

Thank you so much for your swift reply to my inquiry regarding the Tacoma Medical Cannabis Task Force. My hope was to offer options to the Mayor and City Council in the development and implementation of an effective model for a task force that will represent our city.

This is new to all of us and can seem quite overwhelming to all parties involved. I have spent countless hours researching other models in cities that have implemented a pro-medical cannabis ordinance and developed a task force to assure standardized regulations that safeguard patients, the city and medical cannabis facilities. I am quite pleased that the Mayor, City Council and departments such as yours have responded so swiftly and with such meticulous attention to support the ease of access for patients in our city. It has been refreshing and reignites the hope that liberation is within reach for all that seek alternative care options in their personal wellness plan.

John, I am sorry for your loss. I can not begin to fathom the grief you have endured in losing your sibling to the evil that is cancer. It is a horrible way for anyone to lose their life. I am glad that she utilized her option to stave off some of the side effects from the pharmaceuticals with medical cannabis. I hope that it provided some ease and comfort for her during her battle. It seems as though it did or else you would not be the voice for its medicinal benefits that you are. People such as yourself have a powerful testimony and will continue to advocate for patients right to choose just because you have personally seen the benefits of this powerful medicine in action. I thank you for speaking up and taking a stand on behalf of your sister and patients everywhere.

I know that a lot of people would like to see medical cannabis in pharmacies. Personally, I do not see that happening for quite a while. Medical Cannabis is an herb and I agree with treating it as such. There are many herbs that are available to people through many different channels and I support the ease of access and minimal cost that this option provides.

I often times hear concerns regarding the amount of dispensaries that have popped up over the last couple of years and my response and true belief is that each individual patients needs are different and they have the right to utilize their options in finding facilities that can provide the specialized care they require. Each care provider within this industry offers varied options in medicine, advocacy, education and support. With the abundance of choices that are available to patients, it is assured that at least one or two of the care facilities in operation will be able to care for the patient in the best way that fits his or her needs. Choice is critical!

All that being said, I appreciate your time and all the effort being put forth to make this a viable option for medical cannabis patients within the city of Tacoma. I know that this bold step will be

a great example for our surrounding communities and will be the catalyst for great things to come within Washington State as a whole.

Thank you so much!

Sincerely,

Tracy Earles
Vice President / Hashford Compassion Club
President / Puget Sound Reform Coalition



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-1

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Medical Cannabis Moratorium
DATE: August 31, 2011

The City Council passed Ordinance No. 28010 on August 2, 2011, and referred the matter to the Planning Commission to conduct a public hearing, and to develop findings and a recommendation on the moratorium. Following the public hearing, the Commission will review the draft Findings and Recommendation.

Please note that the **yellow** highlights within the “Draft Recommendation Letter” and “Draft Findings and Recommendation” are placeholders that will be updated per the outcome of the public hearing before forwarding to the City Council.

Attached are three documents for your information and your discussion at the meeting:

1. Draft Recommendation Letter to the City Council
2. Draft Findings and Recommendation
3. Draft 12-Month Work Plan

If you have any questions or requests, you may contact me at 591-5210 or by e-mail at dstenger@cityoftacoma.org.

Attachments (3)

c: Peter Huffman, Assistant Director



**City of Tacoma
Planning Commission**

September 7, 2011

Honorable Mayor and Members of the City Council:

On August 2, 2011, the Council adopted Ordinance No. 28010, enacting an emergency six-month moratorium on the acceptance of applications for the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries within the City.

As required by the Tacoma Municipal Code, the Commission conducted a public hearing on September 7, 2011 concerning the moratorium. The Commission also received written testimony. The oral and written testimony generally “favored” “opposed” continuing the moratorium. The majority of those who testified felt that it “was” “was not” important to put a temporary hold on the permitting of medical cannabis collective gardens and dispensaries while the City has a chance to consider relevant regulations and other associated requirements.

Although imposition of moratoria should be used infrequently and with caution, in this instance, the moratorium provides an opportunity to define and properly regulate the production, processing, and dispensing of medical cannabis to meet the needs of qualifying patients and to reduce potential adverse impacts on the larger community. While the Commission supports having a moratorium, we are concerned that the six-month duration would require that draft code be ready for public review within eight weeks and final recommendation to the City Council within three months.

On August 23, 2011, the Council adopted Resolution No. 38318 creating a Medical Cannabis Task Force to be comprised of citizens that may be impacted by future regulations. One of their duties is to provide feedback to the Planning Commission, the City Manager and the City Council. The Task Force is an integral part of the City’s effort on this matter but we anticipate that adding this necessary stakeholder review to an already compressed schedule will constrain the opportunity for comprehensive and thoughtful review.

The Commission notes that currently the City does not specifically regulate the production, processing or dispensing of medical cannabis and that creation of such regulations could affect a wide range of residents and businesses in our community. Recent changes in State law authorize the City to develop regulations and requirements, but provide little guidance on how these regulations should be structured.

The Commission finds that due to the complexity of this issue and the mandate to consider feedback from the Task Force on draft regulations, there will need to be a work plan that provides ample time for the Commission and the Task Force to conduct the necessary review that mutually meets the Council’s expectations and our assigned responsibilities. This review also will require staff and the Commission to coordinate with the Tacoma Police Department, Tax and License Department, Tacoma-Pierce County Health Department, Tacoma Power, and the Legal Department on their related efforts to consider requirements related to medical cannabis.

Finally, the Commission is very concerned about the impact of developing regulations pertaining to medical cannabis will have on other planning work items. Conducting the required public hearing on the

Mayor and Members of the City Council

Medical Cannabis Moratorium

September 7, 2011

Page 2

moratorium within 30-days of receiving notice by the Council as required by City code already has affected the Commission's review timelines for two of our current work items, the Downtown Parking Code revisions, and amendments to the Critical Areas Preservation Code. The Commission also is embarking on its regular work calendar for the 2012 Annual Amendment, which includes review of seven proposed amendments, as well as continuing our work on other ongoing planning activities for this year. The Commission and staff's ability to manage existing responsibilities in addition to fulfilling a new requirement to develop regulations to provide safe and secure access to medical cannabis will be severely constrained within the moratorium's current six month schedule.

It is the Commission's understanding that the Legislature will likely propose further amendments during the next session and, if adopted, those could change the requirements and/or framework for regulating medical cannabis. If the six month moratorium schedule is retained, with an end date of February 1, 2012, and state law changes again, the City's new regulations could be rendered moot and we would likely have to amend our regulations again to comply with the revised state law. Extending the moratorium provides the opportunity to incorporate any such changes in state law into Tacoma's regulations. As such, the Commission believes that a one-year term for the moratorium would be more appropriate. I am providing a 12-month work plan for the development of regulations that provides a reasonable schedule for the necessary review by the Task Force, the general citizenry and others.

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

Sincerely,

JEREMY C. DOTY
Chair, Planning Commission

Enclosure



MEDICAL CANNABIS EMERGENCY MORATORIUM REVIEW

FINDINGS AND RECOMMENDATIONS

TACOMA PLANNING COMMISSION
September 7, 2011

A. SUBJECT:

Emergency moratorium on the acceptance of applications for medical cannabis collective gardens and medical cannabis dispensaries within the City of Tacoma.

B. BACKGROUND:

On August 2, 2011, the City Council enacted an emergency moratorium on medical cannabis collective gardens and dispensaries (Ordinance No. 28010). The moratorium prohibits the acceptance of applications for the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries within the City. The moratorium applies Citywide and enacted for a duration of six months (until February 1, 2012).

C. FINDINGS OF FACT:

1. On November 3, 1998, Washington voters approved Initiative No. 962, codified in RCW 69.51A which created an affirmative defense for marijuana charges under state, but not federal law for qualifying patients and/or their designated providers for the use of marijuana for certain medical conditions.
2. During 2010 and 2011 a number of medical cannabis dispensaries applied for business licenses with the City. The City subsequently revoked or denied these licenses because the dispensaries are illegal. A number of dispensaries appealed these decisions and these appeals are before the City Hearing Examiner.
3. In its 2011 City of Tacoma State Legislative Agenda, the City Council declared that, “The City supports the voter approved right for those with certain terminal or debilitating chronic conditions to obtain medical cannabis for personal use. The law and regulations are vague and confusing for patients, providers and law enforcement. The City supports changes to the law and regulations which add clarity and certainty to protect qualifying patients’ safe and legal access to medical cannabis”.
4. The State Legislature passed Engrossed Second Substitute Senate Bill 5073 (“E2SSB 5073”) which modifies RCW 69.51A. The Governor approved the legislation with significant modifications, including the veto of provisions directing state employees to conduct activities that could be interpreted as being in violation of federal law for the use, possession or distribution of marijuana.
5. The City Council directed that the revocation and licensing denial actions pertaining to medical cannabis dispensaries be stayed pending the outcome of the 2011 legislative session. The changes made in state law by E2SSB 5073 did not alter the City’s position that the dispensaries are illegal

and the revocation and denial appeals are proceeding. No hearing date has been set by the Hearing Examiner.

6. E2SSB 5073 authorizes cities and local jurisdictions to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes on production, processing, and dispensing of medical cannabis within their jurisdictions.
7. E2SSB 5073 allows the establishment of medical cannabis collective gardens where up to ten qualifying patients may join together to produce, process, transport and deliver up to 45 cannabis plants for their own medical use.
8. E2SSB 5073 set no limit on the number of medical cannabis collective gardens that may be located at any site nor limitations as to where collective gardens may be located in relation to other uses.
9. On July 28, 2011, the City Council Public Safety, Human Services and Education Committee discussed policy themes related to medical cannabis and expressed its intent to forward proposals for a moratorium on medical cannabis collective gardens and dispensaries and the creation of a Medical Cannabis Task Force (“Task Force”).
10. On August 2, 2011, the City Council adopted Ordinance No. 28010, enacting an emergency moratorium and referred the moratorium to the Planning Commission for its review and to develop findings of fact and recommendation including the need for and duration of the moratorium.
11. The purpose of the moratorium is to allow time to develop and adopt zoning, business licensing, health and safety requirements and taxes for production, processing and dispensing of medical cannabis and to allow the City reasonable time to review the associated regulations to ensure that the proposed regulations achieve their intended purpose.
12. The moratorium directs the Planning Commission to develop appropriate zoning regulations for medical cannabis collective gardens and/or medical cannabis dispensaries and authorizes the City Manager to direct appropriate staff to review and develop appropriate business licensing requirements, health and safety requirements, and business taxes for medical cannabis collective gardens and/or medical cannabis dispensaries.
13. The moratorium applies City-wide and is in effect for six months (until February 1, 2012).
14. RCW 35.63.200 and Tacoma Municipal Code (TMC) 13.02.055 permit the establishment of moratoria when it is necessary as a protective measure to prevent vesting under current regulations or to maintain the status quo.
15. With regards to the duration of moratoria, the Code provides:

“Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period.” [Excerpt from TMC 13.02.055.D.]
16. With the adoption of Ordinance No. 28010, the City Council declared that an emergency existed and that immediate adoption of a moratorium was necessary to prevent the permitting or licensing of new medical cannabis collective gardens or dispensaries that might be inconsistent with the proposed medical cannabis regulations under review and that could potentially undermine the moratorium’s goals.
17. TMC Chapter 13.02 sets forth the procedures and criteria for amending the City’s development regulations, including temporary moratoria.

18. TMC 13.02.055 provides that following adoption of an emergency moratorium, the Planning Commission is required to conduct a public hearing and provide findings and recommendations to the City Council before the Council, after further review, takes final action to retain, rescind or modify the emergency moratorium. The Commission's findings and recommendations are required to address the need for and the appropriate duration of the moratorium.
19. The emergency moratorium was initially presented to and discussed by the Planning Commission at its August 17, 2011 meeting. The Commission authorized the distribution of the moratorium ordinance for public review and to receive comment at a public hearing on September 7, 2011, the date established by Ordinance No. 28010 (declaring the emergency moratorium) for the Commission's public hearing on the matter.
20. Written and/or electronic notice of the Planning Commission's public hearing was sent to community members who testified on the emergency moratorium to the City Council at its August 2, 2011 meeting, all known owners of medical cannabis dispensaries and/or medical cannabis collective gardens, parties of record involved in the Hearing Examiner appeals, citizens who provided comments to the Planning Commission prior to the public hearing on September 7, 2011 concerning the moratorium and possible future regulation of medical cannabis within the City and to members of the Medical Cannabis Task Force. The notice also was provided to all recipients of the Planning Commission agenda, the Planning Commission's electronic mailing list, City Council members, Neighborhood Councils, business district associations, adjacent jurisdictions, state and other governmental agencies, the Puyallup Tribal Nation, City staff, City Commissions, environment, development, civic and social organizations, major institutions and employers, and other interested individuals and groups. In addition, notice was sent to taxpayers of record for all known properties with existing medical cannabis collective gardens and/or dispensaries and to taxpayers of record for all properties within 400 feet of these properties. In total, the notice was sent to more than 1,700 addresses. Additionally, the public notice was posted on the bulletin boards on the first and second floors of the Tacoma Municipal Building and on the City's internet website.
21. The notice included general information regarding the time and place of the public hearing, a description of the purpose of the public hearing, where additional information could be obtained and how to submit public comment.
22. A copy of the moratorium ordinance was available for review at the offices of the Community and Economic Development Department, at all branches of the Tacoma Public Library and also was posted for public review on the City's website.
23. On August 23, 2011, the City Council adopted Resolution No. 38318 creating a Medical Cannabis Task Force to be comprised of citizens that would be impacted by future land use regulation, health and safety requirements, licensing and taxes to provide feedback and recommendations to the Planning Commission, the City Manager and the City Council.
24. The Medical Cannabis Task Force is to serve a term through February 1, 2012 coincident with the expiration of the six-month moratorium but the term can be extended to August 1, 2012 by action of the City Council Public Safety, Human Services and Education Committee.
25. The Medical Cannabis Task Force has not met or scheduled their first meeting.
26. The Planning Commission held a public hearing on the moratorium on Wednesday, September 7, 2011. xx people provided testimony at the hearing. A majority of those who spoke at the hearing were "in favor" "opposed" of the continuation of the moratorium.
27. In addition to the testimony received at the September 7, 2011 public hearing, xx written comments were submitted in response to the public notice.

28. The Planning Commission reviewed all testimony offered at the September 7, 2011 public hearing and all written testimony submitted to the Commission prior to the comment deadline.
29. The testimony at the public hearing and the information contained in the public record indicate that public opinion “supports” “opposes” continuation of the moratorium to prevent new medical cannabis collective gardens and dispensaries while the City reviews and considers regulations for such establishments.
30. Based on the moratorium ordinance adopted by the City Council and the public testimony provided during this review, the Commission has identified the following items in need of review:
- The City has no regulations in place to address medical cannabis collective gardens or dispensaries;
 - City regulation of medical cannabis collective gardens is needed to add clarity to state law and certainty to protect qualifying patients’ safe access to medical cannabis in accordance with state law; and
 - City regulation of medical cannabis collective gardens is needed to ensure the protection of the health, safety and welfare of the City’s citizens and business community.
31. In order to make an informed recommendation on land use regulations, the Planning Commission envisions a thorough evaluation of the issues related to medical cannabis regulation, and the adequacy of the City’s existing regulatory framework. Due to the complexity of the issues, this review will likely require coordination with other City efforts led by the City Manager that may involve amendments to the Tacoma Municipal Code including but not limited to the Tax and License Code, Health and Sanitation Code, Buildings Code and Public Safety and Morals Code.
32. In order to consider properly this issue, Planning Commission review will also necessitate input from community stakeholders, including medical cannabis providers, qualified patients, designated providers, physicians, law enforcement personnel, neighborhood groups and the business community in addition to the feedback and recommendations from the Medical Cannabis Task Force.

D. CONCLUSIONS:

On August 2, 2011, the City Council declared an emergency and adopted an immediate, six-month moratorium on the acceptance of applications for medical cannabis collective gardens or medical cannabis dispensaries.

After a review of the findings in the moratorium, State law, and the public comments provided, the Commission concludes that a moratorium is needed while the City considers a possible regulatory framework for medical cannabis. The Commission also concludes that the production, processing, dispensing and delivery of medical cannabis to qualifying patients should be conducted in a responsible manner to minimize impacts on qualifying patients, designated providers, and the health, safety and welfare of the community.

State law and City Code allow a moratorium to be in effect for a longer period of up to one year if a work plan to address the permanent regulatory requirements requires a longer period. The Commission notes that any new land use regulations could impact a wide range of residents and businesses in our community. The need for extensive coordination with other City Staff and the

required feedback on proposed regulations from the Medical Cannabis Task Force will necessitate a schedule that can accommodate timely review and comment by others.

The Commission also is concerned about the potential of the new task to develop code for medical cannabis may have on other planning work underway or planned to occur this fall including amendments to downtown parking requirements and our regular work on the 2012 Annual Amendment. The Commission and staff's ability to manage existing responsibilities in addition to this new task will be severely constrained within a six-month schedule.

A one-year schedule is more reasonable and will allow for the citizen feedback that the City Council has requested. The Commission proposes a work plan to address medical cannabis regulations, conduct necessary review, coordinate with other City efforts and to consider feedback and input from the Medical Cannabis Task Force.

E. RECOMMENDATION:

The Planning Commission finds that there is a need for an emergency moratorium to preserve the status quo while the City develops and considers regulations pertaining to medical cannabis.

The Commission further recommends that the City Council continue the emergency moratorium on medical cannabis collective gardens and dispensaries adopted under Ordinance No. 28010 for a period of one year (August 1, 2012) in accordance with the attached work plan.

The Commission further recommends that the term of the Medical Cannabis Task Force be extended to August 1, 2012 as authorized by Resolution No. 38318 and consistent with the attached work plan.



Medical Marijuana

DRAFT

PROPOSED 12-MONTH WORK PLAN
September 7, 2011

Date	Event
August 2, 2011	City Council adopts emergency moratorium; Ordinance No. 28010.
August 17	Planning Commission discussion of Ordinance No. 28010, State law, Council direction and proposed code amendment schedule.
August 17	Provide notice for Commission public hearing on emergency moratorium.
August 23	Medical Cannabis Task Force created by adoption of Resolution No. 38318.
August 31	Planning Commission Draft Findings of Fact and Recommendation on moratorium completed.
September 7	Planning Commission conducts public hearing on emergency moratorium. Findings of Fact and Recommendation on moratorium forwarded to Council.
September	Medical Cannabis Task Force convenes and may provide written or verbal feedback to the Public Safety Committee and/or City Council on Planning Commission's Findings of Fact and Recommendation.
September 15	Public Safety Committee review of Planning Commission's Findings of Fact and Recommendation on the emergency moratorium. "Do pass" recommendation sought.
September 15	City Clerk provides notice of Planning Commission's recommendation on moratorium in advance of City Council public hearing.
September 27	City Council conducts public hearing on moratorium. First Reading of Ordinance to retain, rescind or modify moratorium.
October 4	City Council extends moratorium for 12 months expiring August 1, 2012.
October 20	Draft benchmarking report prepared that: (1) summarizes regulatory approaches and land use code options used by other Washington municipalities and by selected jurisdictions in other states with medical marijuana laws; and (2) proposes a regulatory approach and possible land use code options for Council consideration and review.
October	Medical Cannabis Task Force review of proposed regulatory approach and possible land use code options. Task Force may provide written or verbal feedback to the Public Safety Committee.
October	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
October 27	Public Safety Committee discussion of draft benchmarking report and direction on proposed regulatory approach and possible land use code options.
November 9	Draft benchmarking report and a revised report per Public Safety direction on proposed regulatory approach and possible land use code options prepared for Commission review.

November	Medical Cannabis Task Force review of revised draft report and may provide written or verbal feedback to the Planning Commission.
November 16	Commission discussion of draft benchmarking report and revised report on proposed regulatory approach and potential land use code options per input from Task Force and direction of the Public Safety Committee. Commission provides direction to staff on the development of land use code.
November	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
December 14	Preliminary analysis report and code amendments based on Commission's direction prepared.
December	Medical Cannabis Task Force review of preliminary analysis report and code amendments. Task Force may provide written or verbal feedback to the Planning Commission
December	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
December 28	Revised preliminary analysis report on code amendments based on Task Force input prepared for Commission review.
January 4	Commission discussion of preliminary code amendments and input from Task Force and staff associated with other City efforts. Commission provides direction on revising preliminary code amendments
January	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
January 18	Preliminary public review draft code prepared for Medical Cannabis Task Force review.
January	Medical Cannabis Task Force review of preliminary public review draft code. Task Force may provide written or verbal feedback to the Planning Commission.
February 8	Public review draft code and staff report completed.
February 15	Commission authorizes proposed land use code amendments for public review and sets a public hearing date.
February 22	Distribution of public notice for Planning Commission public hearing.
February 23	Public Safety Committee discussion of draft land use code amendments.
February	Medical Cannabis Task Force review of public review draft code. Task Force may provide written or verbal feedback to the Planning Commission.
February	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
March 21 , 2012	Planning Commission public hearing on draft land use code amendments.
March 30	Last day to submit written comments on draft amendments
March	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
April 11	Draft Responsiveness Report on Public Hearing testimony prepared for Commission review.

April	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
April	Medical Cannabis Task Force review of public testimony on draft code. Task Force may provide written or verbal feedback to the Planning Commission.
April 18	Planning Commission discussion of hearing testimony, staff responses, and possible revisions to draft code amendments.
April 25	Draft recommendation and Findings of Fact prepared for Commission review.
May 2	Planning Commission completes review and makes recommendation to City Council on land use code amendments.
May	Medical Cannabis Task Force review of Commission’s recommendation. Task Force may provide written or verbal feedback to the City Council.
May	Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.
May 8	City Council sets hearing date on Commission’s recommendation to amend the Land Use Regulatory Code.
May 10	Public Safety Committee discussion of Commission’s recommendation on land use code amendments.
May 10	City Clerk provides public notice for City Council public hearing.
May 15	City Council study session on proposed amendments as recommended by the Planning Commission.
May 22, 2012	City Council conducts public hearing on proposed amendments as recommended by the Planning Commission.
June 5	City Council study session to discuss hearing testimony and possible revisions to the draft code based on public comment and further review.
June	Medical Cannabis Task Force review of Council revisions, if any. Task Force may provide written or verbal feedback to the Public Safety Committee or City Council.
June 28	Public Safety Committee “do pass” recommendation on code amendments.
July 10	City Council – first reading of ordinance(s) to adopt amendments
July 17	City Council – second reading and adoption of amendments
July 27	Submit final amendments to State
July 30	Effective date of amendments
August 1, 2012	Moratorium expires Medical Cannabis Task Force sunsets



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-2

TO: Planning Commission

FROM: Donna Stenger, Long-Range Planning Division Manager

SUBJECT: Annual Amendment # 2012-6: Urban Forestry Code Revisions

DATE: September 1, 2011

On September 7th, the Planning Commission will begin its discussion of proposed changes to the landscaping-related provisions of the Land Use Regulatory Code, intended to implement recent policy direction on Tacoma's urban forest. Staff from the City's Environmental Services and Long-Range Planning Divisions will provide an overview of the project's proposed scope and objectives. The presentation will summarize the relevant policy direction, and place the code discussion in the broader context of implementation steps currently underway. Staff will then provide an overview of the City's current landscaping code approach, and initiate a discussion of code concepts regarding landscaping.

Our urban forest (which is broadly defined to include all trees and vegetation) has been the focus of extensive policy discussion and City Council direction over the past several years. In 2010, the City Council adopted the Urban Forest Policy Element, following the 2008 adoption of the Open Space Habitat and Recreation Element. These elements recognize that the urban forest provides a broad range of public benefits and set far-reaching goals to improve its health and function, and increase its extent. The new elements increase the emphasis on the natural and environmental benefits. In addition, the Comprehensive Plan and other City policy documents recognize other important roles of the urban forest, including its function as part of streetscapes (complete streets), and as an integral urban design and aesthetic consideration. This body of policy direction, summarized in Attachment 1, will inform the development of proposed landscaping code changes.

This project will focus on changes to the City's code governing landscaping (and related issues). The Plan calls for a range of actions that could be implemented through code changes, including the following:

- Achieve a 30% citywide tree canopy coverage by the year 2030;
- Incorporate flexible code approaches tailored to the needs of differing land uses;
- Seek opportunities to increase storm water benefits through landscape requirements;
- Integrate public safety considerations into landscape requirements;
- Enhance the urban forest connection between natural areas and developed areas.

Though the focus is on code, the project is best understood within the context of related efforts currently underway. Staff from the Urban Forestry Program are working on a variety of fronts to achieve urban forest goals. Key ongoing efforts include the following: City projects; incentives and assistance; education and outreach; technical guidance; and, review of regulatory

approaches. Furthermore, the regulatory changes currently under consideration fall into two broad categories: Code pertaining to public property and rights-of-way; and, code pertaining to private property development. It is this last category, governed by the Land Use Regulatory Code and therefore under the Planning Commission's purview, which will be the focus of our effort.

Tree canopy coverage will be a central concept to this project. Canopy coverage is generally defined as the area of ground covered by the extent of tree foliage. It is closely linked with benefits including oxygen production, air temperature reduction, air and water quality benefits, greenhouse gas reduction, wildlife habitat, noise reduction, building energy conservation, prolonged infrastructure life, and sociological/physiological and aesthetic benefits. Canopy coverage is an excellent tool with which to set community-wide goals and is increasingly being utilized as an indicator for the overall health of the urban forest. Some jurisdictions are also taking the step of building canopy coverage into their regulatory approach. Attachment 2 provides a summary of other jurisdictions' approaches to tree canopy goals and regulations.

Tacoma's 2009 tree canopy coverage has been estimated by the University of Washington Seattle at 19%. This benchmark establishes the amount of progress that must be made in order to achieve the "30 by 30" vision. The canopy coverage goal is not meant to indicate that every area of the City must achieve 30% coverage—rather, specific targets could be developed for each land use, such that the citywide average would be 30%.

In summary, staff will be seeking the Commission's input and guidance on how best to incorporate the latest policy direction into Tacoma's landscaping code. Tacoma's current landscaping code approaches are characterized by an emphasis on promoting aesthetics, screening and buffering, and uniformity (particularly of street trees). Attachment 3 summarizes the current landscaping code approach. This project will consider opportunities to better incorporate urban forest health and extent, and to consider the application of canopy-based approaches to the code.

To facilitate the Commission's review and discussion, staff has prepared three attachments:

- #1: City Landscape-Related Policies Summary
- #2: Examples of Canopy Goals and Regulations
- #3: Current TMC Landscape Code Triggers & Requirements

If you have any questions or requests please contact Ramie Pierce at 591-2048 or trees@cityoftacoma.org, or Elliott Barnett at 591-5389 or elliott.barnett@cityoftacoma.org.

Attachments (3)

c: Peter Huffman, Assistant Director

Attachment #1

CITY LANDSCAPE-RELATED POLICIES SUMMARY

Policy Title	General Policy Guidance
<u>Policy</u>	<u>Goals</u>
Urban Forest Policy - Comp Plan	UF-PR-1 Promote tree retention through incentives and credits UF-PR-2 Flexible Regulatory Approaches UF-PR-3 Protect trees during development UF-PCM-5 30% Tree canopy cover by 2030 UF-PCM-9 Survival of newly planted trees UF-PCM-10 Landscape Maintenance Management Plans UF-PD-2 Design infrastructure with thorough consideration of trees UF-PD-3 & 4 Soil conservation and reduce compaction UF-PD-5 Align landscaping regulations with Low Impact Development (LID) techniques for stormwater management UF-S-2-4 Diversity in species, type and age UF-S-8 Encourage green roofs on new buildings and retrofits UF-RPD-4 Alternatives to tree grates
Open Space Habitat and Recreation – Comp Plan	OS-GI-3 “Green corridors” to connect natural areas OS-GI-5 Native and climate-adapted tree planting and maintenance OS-GI-6 Incentives and outreach for voluntary plantings OS-GI-7 Sustainable development practices citywide OS-GI-8 Street design to incorporate green infrastructure approaches OS-HA-1 Achieve a citywide gain in habitat functions OS-HA-2 Habitat Corridors are priority for conservation & restoration OS-HA-7 Sustainable City practices within Habitat Corridors OS-HA-12 Identify regulatory approaches to protect Habitat Corridors
Environmental Policy Element – Comp Plan	E-LID-1 Encourage use of LID stormwater techniques E-LID-2 Development in Mixed-Use Centers (MUCs) to provide vegetated cover, including LID stormwater techniques E-SA-5 Preserve large trees within residential neighborhoods; new tree plantings to preserve existing views E-FW-2 Encourage landscaping that supports wildlife habitat E-FW-3 Plant native landscaping to improve habitat function E-FW-10 Promote natural corridors as part of developments
GLUE – Comp Plan	LU-UAD-10 Emphasize individualized streetscape design LU-UAD-16 Enhance public safety through Crime Prevention Through Environmental Design (CPTED) LU-UAD-19 Incorporate CPTED in development activities LU-MUD-1 Ensure compatibility within MUCs, including landscaping LU-MUD-10 Green infrastructure and landscaping in MUCs LU-MUD-18 Provide landscaping to enhance environment of MUCs LU-RDG-14 Multi-family development compatibility, including landscaping, to buffer lower density neighborhoods

	<p>LU-RDD-2 Compatibility with existing development, including landscaping</p> <p>LU-RDD-4 Emphasize natural qualities, including trees</p> <p>LU-RDD-13 Utilize landscaping to improve livability</p> <p>LU-CDD-3 Attractive, well-maintained landscaping in pedestrian areas</p> <p>LU-CDD-8 Landscaping to enhance commercial areas</p> <p>LU-CDHI Landscaping/street trees in high intensity commercial areas</p> <p>LU-IDD-3 Landscaping to screen industrial parking, loading, storage, utility areas</p> <p>LU-IDLI-5 Landscaping to minimize industrial development’s impacts</p>
Transportation - Comp Plan	<p>T-TSM-3 Design streetscapes for traffic calming (includes trees and landscaping)</p> <p>T-MS-12 Implement Complete Streets (includes trees and landscaping)</p>
Neighborhoods - Comp Plan	<p>C-4.6 Use LID techniques, including bioretention systems</p> <p>NET-1 Protect and preserve the natural environment</p> <p>NET-1.2 Retain vegetation that is visually attractive</p> <p>NET- 1.2 Maintain or provide new vegetation</p> <p>NET-4.3 Require developers to provide and maintain landscaping</p> <p>ST-6.4 Trees in rights-of-way and in mini-parks</p> <p>W-7.4 Tree preservation</p> <p>N-7.3 Public notification for tree cutting</p> <p>ST-2.4 Landscaping beautification of business districts</p> <p>ST-6.7 Encourage streetscape with street trees</p> <p>DT-4.4 Street trees for creating interface and within medians</p>
Shoreline Management Plan (Planning Commission recommended draft)	<p>6.7 Promote continuous landscape planting as a unifying urban design feature to link shoreline areas</p> <p>7.10.2 Parking areas require landscaping</p> <p>Thea Foss Waterway Design Guidelines: Guidelines for types of trees and vegetation preferred, view considerations and streetscapes.</p>
Climate Action Plan	<p>26. Increase tree planting requirements or incentives</p>
Complete Streets Design Guidelines – Mixed-Use Centers (MUCs)	<p>1.2.2 Street trees and landscaping are integral to livability of MUCs</p> <p>2.2.1 Street trees are an essential streetscape component</p> <p>2.2.1 Consider CPTED in landscaping choices</p> <p>2.4.2 Incorporate LID stormwater techniques in street design</p> <p>2.4.3 Street trees and landscaping contribute to:</p> <ul style="list-style-type: none"> • Pedestrian comfort • Calming traffic • Neighborhood identity • Environmental benefits • Economic benefits/energy savings
Complete Streets Design Guidelines – Residential	<p>2.2 Street trees and LID stormwater approaches serve multiple goals</p> <p>2.3.4 Street trees are standard for all street designs</p> <p>2.3.7 LID stormwater approaches should be routinely incorporated in local residential street design</p>

Attachment #2

EXAMPLES OF CANOPY COVER GOALS AND REGULATIONS				
CITY	CITY WIDE CANOPY COVER GOAL	CURRENT CANOPY COVER	CANOPY COVER GOAL BY LAND USE	REGULATIONS BASED ON LAND USE
SEATTLE	30%	23%	Yes	In Progress
PORTLAND	30-40%	30%	Yes	In Progress
LAKE FOREST PARK	43% minimum	Not Defined City Wide	Yes	Yes
WOODINVILLE	No	?	?	Yes
VANCOUVER	Not Defined City Wide	19.7%	Yes	Removals Only
PUYALLUP	In Progress	In Progress	In Progress	In Progress
RENTON	In Progress	29%	In Progress	Potentially in the Future
TACOMA	30%	19%	In Progress	In Progress

Attachment #3

CURRENT TMC LANDSCAPE CODE TRIGGERS & REQUIREMENTS

Exemptions and exceptions: These requirements apply citywide, though there are exceptions and/or exemptions from various landscape requirements in each zone district depending on the specific development proposal. This table presents only a few examples of many exemptions and exceptions.

Exemption	
Single-family dwellings	No landscaping requirement in any district.
Two-family and three-family dwellings	Landscaping required only when located in a Mixed-Use district.
Exception	
Overall site landscaping	Percentage does not include area covered by structures. Therefore, if the entire site is covered, no overall site landscaping is required.
Perimeter landscaping	May be broken by primary structures. Therefore, if the entire site is covered, no perimeter strip is required.

This table summarizes the landscaping requirements for each type of zone district.

Zoning Districts:	Triggers	Requirements
Single Family Residential	Conditional uses only (new or expanded). Does not apply to residential development	<ul style="list-style-type: none"> • Overall site percentage • Site perimeter strip • Parking area trees • Street trees
Multiple Family Residential	All new development; except single, two- and three-family dwellings	<ul style="list-style-type: none"> • Overall site percentage • Site perimeter strip • Parking area trees • Street trees
Mixed-Use	All new development, including structures and/or parking lots and alterations to existing development	<ul style="list-style-type: none"> • Overall site percentage for residential uses only • Buffer planting areas • Foundation planting • Parking lot perimeter strip • Trees planted along walkways • Trees required at parking lot aisle ends • Trees required in parking aisles • Street trees
Commercial	Same as Mixed-Use	<ul style="list-style-type: none"> • Overall site percentage • Site perimeter strip • Buffer planting areas • Parking area trees • Trees planted along walkways

		<ul style="list-style-type: none"> • Street trees
Industrial	Same as Mixed-Use	<ul style="list-style-type: none"> • Overall percentage of parking lot area • Perimeter strip along arterial streets • Buffer planting areas • Trees planted along walkways • Street trees
Downtown	Same as Mixed-Use	<ul style="list-style-type: none"> • Overall percentage of parking lot area • Perimeter landscaping strip adjacent to sidewalks required around parking lots • Planters to obscure view of parked cars on new or altered parking garages • Street trees



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-3

TO: Planning Commission

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

SUBJECT: Transfer of Development Rights (TDR)

DATE: August 31, 2011

At your September 7, 2011 meeting the Planning Commission will hear about current transfer of development rights (TDR) initiatives involving the State, Cascade Land Conservancy, and King and Pierce Counties. This presentation is intended to set the stage for work that City staff, stakeholders, and consultants are currently undertaking to design a TDR program for consideration by the Planning Commission and City Council over the next 18 months.

Background/Reason for TDR Initiatives

Transferring development rights from rural and resource lands to established urban areas is a means by which agricultural, forest and resource lands can be permanently protected, property rights can be respected without encouraging sprawl, and new investments can be focused on revitalizing existing urban centers. This planning tool has been tried and tested across the country and after the 2011 State legislative session is now central to the Growth Management Act (GMA) implementation.

By March 2012 the Puget Sound Regional Council (PSRC), in partnership with King, Pierce, and Snohomish Counties and the cities within these Counties, will complete their commitment to using TDRs to carry out the regional growth strategy found in Vision 2040. The first task is to calculate the total number of development rights available in the region for sale and transfer and then allocate TDR targets to each city within the three affected counties. Cities will be able to elect whether or not to accept all or part of their target. If a city chooses to accept its target, the city will be eligible for a new opportunity to apply a form of tax increment financing to fund infrastructure improvements in designated TDR receiving areas. Pierce County will participate in this financing incentive for cities within Pierce County. King County already has been making capital grants to cities accepting TDRs and may use the new financing approach for participating cities. King County also is interested in transferring development rights to the cities of Tacoma and Puyallup to protect natural resource lands within the WRIA 10 watershed.

Next Wednesday's presentation will focus on an explanation of the new GMA legislation and potential benefits to the City and on the potential to use TDRs from rural and resource lands in King and Pierce Counties. However, the City's TDR program currently being drafted also will consider how TDRs could be used to advance three other in-city objectives: (1) open space preservation, (2) historic preservation, and (3) preservation of affordable housing. Preparation of the City's TDR program is funded through a \$109,000 grant from the federal Environmental Protection Agency (EPA). The major foci of the City's effort are determining the workable economics of TDR use in the Tacoma marketplace, refining appropriate receiving areas, and collaborating with King and Pierce Counties to identify appropriate sending areas within each respective county. The project scope of work is attached.

Prior City Actions

The City Council has previously taken actions in support of exploring Tacoma's TDR options and has, in fact, established the high level policy framework for sending and receiving sites. Specifically, in 2007 the Council added policies to the Comprehensive Plan calling for the City to work proactively to develop a feasible TDR program and designated the City's mixed-use centers as appropriate "receiving areas" for the transfer of development rights from other locations in the City, County, or region. The 2008 adoption of the Open Space Habitat and Recreation Element strengthened the policy support for TDR and identified open space lands within the city targeted for conservation, and indicated that these are appropriate in-city TDR "sending areas". Most recently, the 2009 mixed-use centers code update amended the land use code to allow the use TDRs to achieve a height bonus, if and when a TDR program is adopted by City Council.

Next Steps

The City has used its established purchasing procedures to select a consultant team lead by Design, Community & Environment with team members Community Attributes International, Planning & Implementation Strategies, and Foster Pepper. The market analysis described in Task E 2 in the attachment is scheduled to be completed by the end of this month. Staff will then go back to the City Council in November to complete Task E 1 ("... to obtain policy direction regarding potential county-based TDR sending areas of interest for a regional TDR pilot project"); a TDR introduction and grant project overview was provided to City Council on July 19, 2011.

Shortly thereafter, staff will return to the Planning Commission to review the economic analysis (Task E 2) and work with the Commission to develop a draft TDR code consistent with City Council direction (Task E 3). This work will occur outside the annual amendment cycle. The grant schedule can be met if the Planning Commission releases a draft TDR code for public comment in May 2012 and holds a public hearing in June 2012.

As the discussion on the use of TDRs moves forward, staff anticipates there will be opportunities to refine current codes in order to craft a functional and effective TDR program. For example, it may be appropriate to supplement the current height bonus with other bonus features (such as added bulk or density) and/or to adjust the existing height bonus palette options (such as ground floor retail and structured parking) that in certain circumstances essentially compete with TDRs for a developer's attention. These potential changes will be discussed as part of the components that make for an effective TDR program.

The discussion at your next meeting will allow the Planning Commission to become better informed about TDR initiatives at the local, regional, and statewide levels and discuss any questions you may have.

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

Attachment

c: Peter Huffman, Assistant Director

Exhibit A

Scope of Work for the City of Tacoma

With \$109,000 in EPA grant funds, and a \$52,775 match (i.e. \$20,000 cash and \$32,775 of in-kind staff support), the City of Tacoma will complete the following tasks and provide the following deliverables within the timelines provided below:

Tasks and Associated Deliverables:

ELEMENT #1

Task E(1): Tacoma will work with the counties to identify potential county-based TDR sending areas for inclusion in the economic / transfer ratio analysis in Task E(2) below. Tacoma will hold a Council study session to obtain policy direction regarding potential county-based TDR sending areas of interest for a regional TDR pilot project.

Deliverables: potential county-based TDR sending site areas identified on county maps

Timeline: 10/2010 – 9/2011

Task E(2): Tacoma will conduct an economic analysis of its Mixed Use Centers as regional TDR receiving areas to determine feasible transfer ratios for both county-based sending sites, and in-city sending sites (note: counties will provide city with estimated value/selling price of county-based TDRs).

Deliverables: Report that includes summary results of TDR economic analysis, recommendations for appropriate transfer ratios, and narrative that explains sending site prioritization, if any.

Timeline: 10/2010 – 9/2011

Task E(3): Tacoma will develop draft code for a city TDR program that includes the transfer process for in-city TDR sending sites and county-based TDR sending sites, and the subsequent transfer ratios for these two types of sending sites.

Deliverables: draft TDR program regulations/code

Timeline: 4/2011 – 4/2012

Task E(4): Tacoma will evaluate and strongly consider adopting a regional component in its final TDR program. Tacoma will work with the county(ies) to develop a final interlocal agreement (ILA) or adopted Department of Commerce Interlocal Terms and Conditions Rule that identifies the Cities Mixed Use Centers as a Regional TDR receiving site pilot project. The final ILA will include identified county-based sending site areas, the TDR transfer process, and the transfer ratio(s). Tacoma will draft a TDR ordinance for City Council action on the final regional TDR ILA.

Deliverables: (1) Final TDR ILA and ordinance or Interlocal Terms and Conditions Rule , and (2) Council consideration and action on final TDR ILA and ordinance

Timeline: 4/2012 - 9/2012

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION

TO THE

TACOMA CITY COUNCIL

FILE NO.: 124.1296

PETITIONER: Puyallup Tribe of Indians

SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate an alley right-of-way generally located between East 30th and East 31st Streets extending between Portland Avenue and East "R" Street, in Tacoma.

RECOMMENDATION OF THE HEARING EXAMINER:

The requested vacation petition is recommended for approval, subject to conditions.

PUBLIC HEARING:

After reviewing the report of the Department of Public Works, Real Property Services Division, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on August 25, 2011.

COPY



FOSS WATERWAY DEVELOPMENT AUTHORITY

535 Dock Street, Suite 204 - Tacoma, WA 98402-4630
Phone: (253) 597-8122 Fax: (253) 597-8129
www.theafoss.com

August 22, 2011

Tacoma Planning Commission
733 Market Street
Tacoma, WA 98402

RE: "Revisiting the Foss" - A Discussion about the Future of the Foss

We are extending an invitation to a series of 90-minute workshops on September 27th, 28th and 29th from 8:00am to 9:00pm to promote discussion of the past, current and future developments of the west side of the Foss Waterway. The Foss Waterway Development Authority has partnered with Merritt Arch to revisit the Strategic Master Plan of the waterway to determine the future direction of the area. The goal of these workshops is to acquire information, suggestions and commentary that will be helpful in our efforts to effectively develop an economic plan for the Foss Waterway. This will assist in establishing the direction for future investments, development and community uses within our current economic realities.

We welcome any opportunities for pre-meetings with community 'interest' groups to provide information to local businesses and organizations that are interested in the development of the Foss. These could be group or one-on-one meeting to discuss any ideas or suggestions. We welcome questions and/or comments prior to the workshops and ask that these be directed to Carly Snapp at csnapp@merrittarch.com. Please see the attached flyer for more information regarding the workshops.

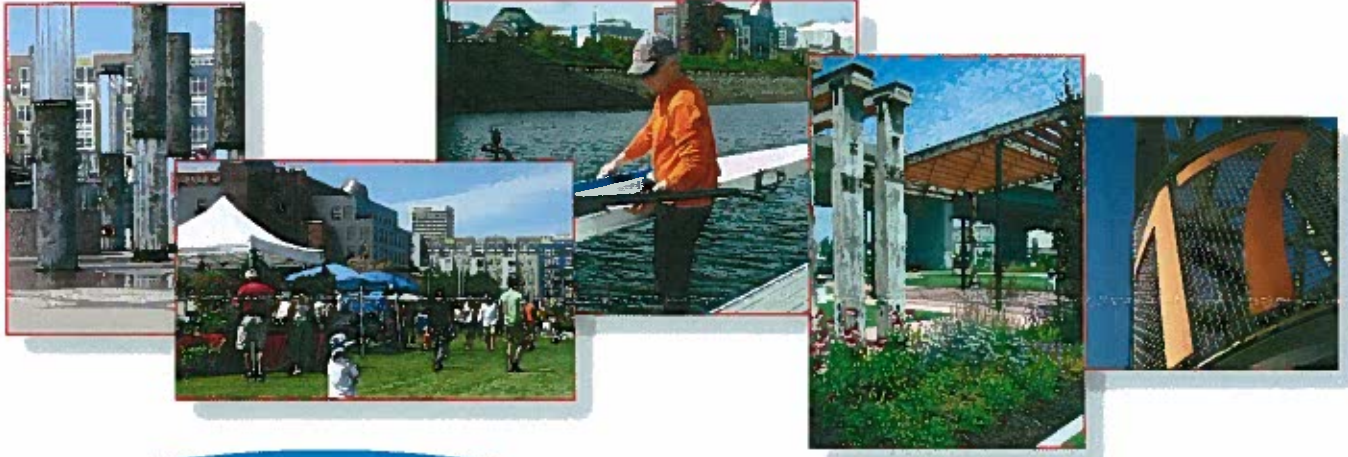
We thank you for your interest in the future of our waterway and we look forward to your participation.

Sincerely,

Su Dowie
Interim Executive Director

cc: FWDA Board of Directors

REVISITING THE FOSS WATERWAY MASTER REDEVELOPMENT STRATEGY



DESIGNATED PARKING
AREAS WILL BE MARKED
ALONG DOCK STREET NEAR
SOUTH 15TH STREET

IF YOU WOULD LIKE TO
SCHEDULE A PRE-MEETING
WITH YOUR COMPANY OR
ORGANIZATION TO
DISCUSS THE DETAILS OF
THE STRATEGIC PLAN
AND HAVE A ONE-ON-ONE
DISCUSSION, PLEASE
CONTACT CARLY SNAPP AT
CSNAPP@MERRITTARCH.COM
OR BY PHONE AT 253-383-5300.



WHAT:

90-MINUTE WORKSHOP SESSIONS TO BRAINSTORM & DISCUSS
THE PAST, PRESENT & FUTURE OF THE FOSS WATERWAY

WHEN:

TUESDAY, WEDNESDAY & THURSDAY
SEPTEMBER 27TH, 28TH & 29TH
WORKSHOP SESSIONS FROM 8:00AM TO 9:00PM EACH DAY

WHO:

ALL GROUPS, INDIVIDUALS & ORGANIZATIONS THAT
ARE INTERESTED IN THE DEVELOPMENT EFFORTS OF
THE FOSS WATERWAY

WHY:

THE FOSS WATERWAY DEVELOPMENT AUTHORITY HAS
PARTNERED WITH MERRITT ARCH TO REVISIT THE MASTER
REDEVELOPMENT STRATEGY OF THE WATERWAY TO ADDRESS
CURRENT AND FUTURE NEEDS. THE INCORPORATION OF
PUBLIC FEEDBACK IS AN IMPORTANT STEP IN FACILITATING
THIS PROCESS.

WHERE:

ESPLANADE CONDOMINIUMS RETAIL SPACE (SW CORNER)
1515 DOCK STREET
TACOMA, WA 98402

From: Michael Beck [mailto:mikehbeck@msn.com]
Sent: Thursday, August 11, 2011 5:04 PM
To: Planning
Subject: Recreation Trail

As a resident of Tacoma, after living in Seattle for many year, I am struck by the inability of being able to ride a bike or walk from the Thea Foss Waterway to Point Defiance along the waterfront. While the Esplanade is absolutely first rate, one is forced to cross Shuster Parkway and ride or walk with cars and trucks just feet away. This is both unsafe and counter productive. In Seattle, there are many opportunities to ride for miles on bike/hiking trails either on the waterfront or on recreational only vehicles.

I strongly urge you to find a way to continue the Dome to Defiance Trail through the Sperry site. This is Tacoma's chance to add another world class gem to its recreational arsenal and continue to give people another reason to visit and live here.

Respectfully,

Mike Beck
mikehbeck@msn.com
253-719-5397

From: Ed Busch [mailto:edbusch1945@yahoo.com]

Sent: Saturday, June 11, 2011 8:28 AM

To: Planning

Subject:

WE BELIEVE RUSTON WAY SHOULD CONTINUE ALONG THE WATERWAY AND THE TWO SHIPS MOORED IN THE AREA BE LOCATED IN A DIFFERENT AREA OF COMMENCEMENT BAY. PORTLAND, OREGON HAVE A BEAUTIFUL SHORELINE WALKWAY AND WE SHOULD BE ABLE TO DO SO WITH OUR SHORELINE. THANK YOU, ED AND LINDA BUSCH. 3016 NARROWS DRIVE, TACOMA, WASHINGTON, 98407. [EMAIL-EDBUSCH1945@YAHOO.COM](mailto:EDBUSCH1945@YAHOO.COM).

From: s2clair2@gmail.com [mailto:s2clair2@gmail.com]
Sent: Wednesday, August 03, 2011 2:43 PM
To: jdoty@bcradesign.com; knute000@sprynet.com; morrison.ian.s@gmail.com; Sean Gaffney
Cc: Steve Atkinson; Ian Munce J.D. AICP
Subject: extend S-6 zoning through Sperry, BNSF and Temco; Foss Waterway continuous shoreline public access to create inner harbor for downtown

Dear Chairman Doty, Vice Chairman Erickson, Commissioner Morrison and Commissioner Gaffney,

Thank you for your work planning a prosperous healthy waterfront for the future of Tacoma. Thank you also for your bold steps to stop favoring outdated, polluting misuses of our shoreline over public access. Onsite connected shoreline public access will build a vibrant city and a citizenry who care, whereas offsite pockets of mitigation rarely deliver quality experiences for anyone.

Regarding S-6 and S-7

We support extending S-6 Urban Conservancy through Sperry and encourage you to continue the extension through the BNSF property and Temco to Thea's Park. **It's time to correct the contradictory shoreline zoning** definitions between Old Town and Thea Foss waterway. **No agency or individual has been accountable** to enforce the Tacoma Municipal Code's guarantees to protect and preserve the character and quality of life for the 100 year old neighborhoods and schools of Annie Wright and Stadium High. Current S-7 zoning allows for mothballed ships and floating barges to be permanently moored along Schuster Parkway and the entrance to our Old Town. These barges could hold piles of recycle or giant glaring electronic billboards running on their own power sources. We urge you to plan for a healthier, more attractive future and extend S-6 through Temco.

The Washington State Shorelines Hearings Board supported public access through Sperry Ocean Dock in the SHB appeal ruling 22 years ago and again last month.

SHB 1988-89 Sperry permit appeal ruling: "The applicant shall provide the City of Tacoma with the minimum fifteen (15) foot wide access easement on that portion of the frontage of the site owned in fee by Sperry Ocean Dock, Limited. The access easement shall be developed by the applicant"

SHB Sperry permit appeal ruling July 2011, paragraph 14) *The evidence before the Board failed to support Sperry's argument that any and all forms of public access at the site would present an unavoidable health or safety hazard to the public. The potential harm to the public based on proximity to the railroad can be effectively avoided by separating the public from the railroad with a fence similar to the fence already in place along much of the Sperry boundary. The existing fence is topped with barbed wire and provides an effective barrier between any trail users and the railway line.*

SHB Sperry permit appeal ruling July 2011, paragraph 15: *The fact that Sperry has proposed to grant the City an easement over that portion of the Sperry access road that would allow public access into the new Chinese Reconciliation Park further demonstrates that some form of public access at this site may be feasible without creating an unavoidable health or safety hazard to the public.*

SHB Sperry permit appeal ruling July 2011, Order paragraph 1: *The conditional use permit is remanded to the City of Tacoma to evaluate what level of public access is feasible on or near the site...*

Regarding S-8

The goals and aspirations of the community are reflected in the **Foss Waterway Development founding documents to create a vibrant inner harbor for downtown Tacoma, on both east and west sides of the waterway**. Thea Foss can attract commercial development of its empty lots and outdated buildings when all properties are required to provide the same friendly, wide, ADA compliant, linked public waterfront esplanade forming an extraordinary destination ringing the waterway for the enjoyment of visitors and Tacomans, bringing success for local businesses and new jobs.

Thank you for your work to help **complete the Dome to Defiance walkway at and along our beautiful waterfront,**

Sara Clair
Vice President
Greater Metro Parks Foundation

RONALD L. COLEMAN
602 North Stadium Way
Tacoma, WA 98403
(rcoleman@dpearson.com)

June 10, 2011

SENT VIA EMAIL TO PLANNING@CITYOFTACOMA.ORG

Planning Commission
Community & Economic Development Department
City of Tacoma
747 Market Street, Room 1036
Tacoma, WA 98402

Re: Tacoma Shoreline Master Program

Dear Planning Commission Members:

Thank for allowing for public comment at the hearing on June 1, 2001. I am supplementing my comments with this letter.

I appreciate very much your proposal to move the S-6 Ruston Way Urban Conservancy Zoning to include Tahoma Salt Marsh and Sperry Ocean Dock in your April 2011 draft of the Shoreline Master Program update. This move is very beneficial to the City of Tacoma. Nonetheless, while I urged you to extend S-6 all the way to the Thea Foss Waterway, after listening to public comments, I appreciate the fact many are concerned about the apparent minimal loss of shoreline between Temco and the waterway. Thus, if you are inclined not to extend it the entire way, I would urge to at least extend S-6 to the edge of Temco. In any event, Temco should remain in S-7.

I also would urge you to give serious consideration to including maximum height limits and moorage length limits along the shoreline of Commencement Bay. In S-6, S-7, or for that matter S-8, along the Commencement Bay shoreline, no barge or vessel should be allowed to be moored for more than 30 days in any four consecutive months; vessels which are moored should not be greater than 35 feet in height, excluding the mast; and in S-6 and S-8 vessels longer than 100 feet should not be allowed to run their engines while at berth. These vessels should be towed into the Bay at least 1000 feet before they engage the engines. Only ships loading or unloading at Temco should be allowed to run their engines close to the shoreline.

No variances, waivers or other excuses of incompatibility to provide the physical public access should be permitted or accepted along S-6, S-7 and S-8. The City of Tacoma needs to do everything it can to guarantee and deliver a continuous waterfront experience for the public. This experience has proved to be an invaluable benefit and a true treasure for the City of Tacoma which needs to be preserved and expanded.

I urge you not to rescind the Foss Waterway (2005) or the Ruston Way (1981) Plans. These documents reflect the goals and aspirations of the community and were ratified by the City Council. It does not appear the staff have incorporated key sections of these plans and they should not be empowered to retire these vital guiding documents. These documents rightfully encouraged Thea Foss Waterway to become an inner harbor for public recreation. The April 2011 draft of the SMP clearly does not reflect that goal or vision as shown in Chapter 6.5 and 6.7. As a matter of fact, I was on the Planning Commission from 1980 to 1985 when the Planning Department and Tacoma's elected officials had the vision to set in motion what today is a diamond for the City of Tacoma with Ruston Way public access. It would appear if the current Planning Department were in charge, then we would never have had Ruston Way the way we have it today. For reasons unknown to me, the various drafts seem to believe that the SMP is only there to serve businesses in the Port of Tacoma, and to support the comments of the Chamber of Commerce, both written and oral. This is unfortunate and not good for the City of Tacoma. There is room for both to benefit. The Port has plenty of room and plenty of water access and this is not needed to otherwise interrupt the public access along the Commencement Bay shoreline.

Another area where the draft should be revised is at red number pages 28-9 which comment on the fact the draft supports the various goals and policies of the SMA by prioritizing water-dependent and water oriented uses consistent with the public interest. It sets forth several specific objectives for economic development within the shoreline jurisdiction itself. It is my request that this section be revised to provide something along the following:

It is in the public's interest to define Economic Impact Assessment priorities of the shoreline based upon zone classifications, not to have one Pro-Port, anti-citizen and anti-small business list of shoreline priorities for Tacoma's entire SMP. It is much more reasonable for S-10 Port to have the number one priority "preference should be given to water-dependent uses. Secondary preference should be given to water-related and water enjoyment uses." (found at page 16, staff report, red numbers page 28.)

However, it is not reasonable or practical to enforce Pro-Port desires and interests on other residential and conservancy shoreline zones around Tacoma. Other shoreline zones should list their own priorities. There are three priorities for S-6, S-7 and S-8 and they should be along the following:

- (1) Encourage new economic uses in order of what is in the best interest of Tacoma and the existing neighboring properties. Preference should be given to water-related and water-enjoyment uses.
- (2) Encourage new economic development to locate in areas that would benefit from new businesses and varied shoreline uses with no net loss of shoreline. (page 16 staff report, red number 28).
- (3) All new developments should include expanding or improving attractive, public, continuous sea level infrastructure of walkways and bikeways to connect the shoreline walkways and bikeways of Thea Foss Inner Harbor with Point Defiance Park.

The stated Economic Impact Assessment number 6 should only be relevant to S-10 and should

certainly not be included in the assessment lists for the other shoreline zones. The inclusion of this item for the other shoreline zones illustrates quite clearly that the Planning Department draft is doing its best to discourage the public water-related and water enjoyment uses.

While Sperry Ocean Dock business will be grandfathered in on S-6, for many reasons the Sperry Ocean Dock business could be relocated to somewhere else in the Port where it actually belongs and would be adjacent to other similar size businesses. The Port of Tacoma website makes it clear that the average depth of the waterway is 51 feet and the Commencement Bay depth averages 600 feet. The Marad ships parked at Sperry draw only 27 feet. The Sperry Ocean Dock property should be used as the offsite mitigation for all S-10 development. The Marad berthing business at Sperry is not compatible with the adjacent parks, schools, small businesses and neighborhoods.

Based on many of the comments at the June 1 hearing, while the expansion of the Port is acknowledged to be to its present current size at more than 2,400 acres, the Port is capable actually of continuing to extend its waterways to accommodate growth, consistent with its history of removing bridges and other transportation infrastructure so as to expand its business. Nonetheless, it must be kept in mind that the shoreline between Thea Foss and Point Defiance cannot expand. All Port type activities, the Core Port Area and the Container Port Element should be controlled and confined to the area between the Middle Waterway and the Hylebos Waterway and should be prevented from interfering with the City of Tacoma's shoreline from Thea Foss to Point Defiance with the exception of the Temco grain terminal. Ruston Way Urban Conservancy consists of only 12 acres, S-7 is 11 acres, and S-8 is 9 acres, according to Table 1 of the Redevelopment Potential. The Port should not be permitted to control any of the shoreline along the southern Commencement Bay or Thea Foss Waterway.

Remove Exhibit A: Draft Shoreline Master Program C. S-7 Schuster Parkway Shoreline District 2b and c. While there is no doubt that the Bayside Trail and Schuster embankment would benefit from substantial investment, the path should not be included in the SMP as an alternative for public access along Commencement Bay. The so called Bayside Trail is neither a trail nor is it beside the Bay. There is a significant amount of wetlands and an actual river of storm water in the winter which overflows and undermines the bluff near the Stadium High School and elsewhere on the bluff. The hillside remains very fragile and the Bayside Trail will never serve as a substitute for the public walkway along Commencement Bay.

In the draft at red numbers page 48, the Port Terminal and Industrial use designations should be restricted to S-10.

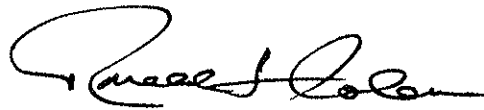
In Chapter 6.7.1.8, there should be removed: "except where this Program does not permit such development and only when overriding considerations of the public interest will be served." This should be removed because it negates the intent of the first half of the sentence. In addition, it would be beneficial if the following were added: "the same maximum height limit of 35 feet should apply to vessels moored along the shore so the height it the same limit as structures built on the shore." This is referencing 6.7.1.8 and 6.7.1.13.

Finally, there should be eliminated the Public Access Policies Chapter 6.5.1.9 and Regulations Chapter 6.5.2.A.7 entirely as they pertain to S-6, S-7 and S-8. The only areas being

considered in S-6, S-7 and S-8 exist along Thea Foss Waterway which must enforce the continuation of the water esplanade to attract appropriate development and investment to deliver the inner harbor experience and at Sperry Dock which has a history of violations, pollution and habitat mismanagement.

In closing, I want to again express my appreciation for the effort and time commitment you are making for the benefit of the City of Tacoma. Please keep in mind you are not acting just for today but you are “planning” for tomorrow, just as was done when your predecessors planned for the existing Ruston Way public access and walkway. There is no need to pit the public access goal for the shoreline from Point Defiance to Thea Foss against the goal of the Port of Tacoma. There is room for both goals and both can be achieved. They are not inconsistent and efforts need to be made to establish the difference and each would benefit and all of the citizens of Tacoma would benefit from each.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Coleman". The signature is fluid and cursive, with a large initial "R" and "C".

Ronald L. Coleman

From: Linda Heaton [mailto:lindamheaton@yahoo.com]
Sent: Wednesday, August 03, 2011 10:10 AM
To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercettransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com
Cc: Planning; satkinson@cityoftacoma.org; Wung, Lihuang; imunce@cityoftacoma.org
Subject: S6 Zoning

I spoke briefly at your June public meeting and followed with an email summation. The points I made were in support of S6 Zoning indicating waterfront is finite and we should make public goals the primary objective for our Tacoma waterfront and optimize public access. For your reference I have copied the text of that email following this email.

Since my June email I have spoken to my book club, supper club, P.E.O. Chapter and Soropitimidist International about this zoning issue; expressing the same points made to the Planning Commission in my earlier email. **64 citizens of Tacoma, Pierce County and South King County were willing to sign their names over this email or write their own.** Some may have done, however, I stressed that redundancy lessened the impact and wasted your valuable time. To that end, I am not wasting my time by typing the names of those 64 people but will supply them if you should request.

Once again, I strongly urge you to support S6 zoning be extended along the Ruston – Schuster waterfront to the Thea Foss. This needs to be done NOW for a vision process to begin and Tacoma's waterfront secured for public access by all citizens.

Regards, Linda

Text of June email:

I spoke briefly at your June public meeting and provide the following review, as well as some additional comments and will add here that I am a proponent of extending the S6 zoning.

I opened my comments with this quote: "It's hard to create a space that will not attract people; what is remarkable is how often this has been accomplished." – William H. Whyte

As Planning Commissioners I'm confident you are cognizant that there is a dramatic rise of interest in waterfronts as people everywhere seek great public spaces that can be enjoyed by the community as a whole.

Because waterfront is finite:

I suggest we make public goals the primary objective for our Tacoma waterfront. The best solutions for waterfronts put public goals first, not short-term financial expediency. As long as plans adhere to the notion that the waterfront is an inherently public asset steps can be taken to guarantee community engagement – and, ultimately, local ownership and pride – will flow from this basic premise.

I suggest we create a shared community vision for the waterfront. Unlike a master plan, a vision process does not lock a project into a prescribed solution. It is a citizen-led initiative that outlines a set of goals – ideals to strive for – that set the stage for people to think boldly, make breakthroughs, and achieve new possibilities. This is now -- for Tacoma's future.

I suggest we optimize public access. When the public's vision comes first in a waterfront revitalization project, new developments can be tailored to meet the community's shared goals and expectations. Waterfronts are too valuable to simply allow developers, business, industry, or the Port of Tacoma to dictate the terms of growth and change. This is not to say that these entities should be unwelcome or discouraged – on the contrary, it is necessary to the future of a healthy waterfront. But whatever is built must contribute to the goals set forth by the community, not detract from them. And, of course, development should never interfere with pedestrian connections.

New Points

As indicated, I am a proponent of a walkable waterfront from the Dome to Defiance, as well as from the heart of the city to the waterfront. There are so many possibilities for optimizing public access by focusing on destinations rather than open space or parks and enable a genuine community-led process to take root. These destinations should be incorporated into a vision for the waterfront as a whole. A walkable waterfront with a wide variety of activity along it will successfully connect destinations. Connections mean enticing people to the waterfront on foot or bike rather than relying exclusively on the car. Marine access certainly is a consideration. Some of the best waterfronts feature pedestrian promenades and bike lanes unimpeded by cars or parking lots.

Great waterfronts are places that are full of people, day and night. They are the sites of festivals, markets, fireworks displays, concerts and other high-energy gatherings. In a similar vein parks should not serve as the “reason to be” of the entire waterfront. Passive open space puts a damper on the inherent vibrancy of waterfronts. Vancouver, Canada, for example, has relied too heavily on “greening” their waterfront without mixing uses (destinations) that draw people for different reasons at different times.

I strongly urge you to support S6 zoning be extended along the Ruston – Schuster waterfront to the Temco border. This needs to be done NOW for a vision process to begin and Tacoma's waterfront secured for public access by all citizens.

Regards, Linda

From: Laurie Humphrey [mailto:lclancy@pugetsound.edu]

Sent: Tuesday, August 16, 2011 10:47 AM

To: Marilyn.Strickland@cityoftacoma.org; Boe, David; Woodards, Victoria; Mello, Ryan; Lonergan, Joe; Campbell, Marty; Lauren.Walker@cityoftacoma.org; Spiro.Manthou@cityoftacoma.org; Jake.Fey@cityoftacoma.org; regala.debbie@leg.wa.gov; jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercetransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com; regala.debbie@leg.wa.gov; darneille.jeannie@leg.wa.gov; imunce@cityoftacoma.com; Arellano, Rey; Planning

Cc: community@walkthewaterfront.org

Subject: Please support extending S-6 Urban Conservancy zone.

To improve livability and sustainable transportation, increase opportunities for healthy recreation, and celebrate the natural resource of our Commencement Bay shoreline the Foss and Ruston Way walkways need to be connected with ADA compliant, family-friendly walkways and safe bike lanes.

Please support extending the S-6 Urban Conservancy zone, preserve and respecting the Ruston Way Plan and Foss Waterway Design and Development Plan, and completing the Dome to Defiance shoreline walkway and bikeway, as I do.

Laurie

Laurie Humphrey P'09
Annual Giving Office Manager
University of Puget Sound
1500 N Warner St CMB #1056
Tacoma, WA 98416
253.879.2647

To make a gift, please visit
<http://giveto.pugetsound.edu>

From: Babe Lehrer [mailto:501lehrer@comcast.net]
Sent: Tuesday, August 02, 2011 10:13 PM
To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com;
morrison.ian.s@gmail.com; smorris@piercetransit.org; pelswick@windermere.com;
smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com
Cc: Planning; satkinson@cityoftacoma.org; Wung, Lihuang; imunce@cityoftacoma.org
Subject: reminder

Please know that I support extending S-6 Urban Conservancy zoning through Sperry and all the way to Thea Foss waterway, and would appreciate your support in making this happen.

Babe Lehrer
501Lehrer@Comcast.net

From: Kirsten Robinett [mailto:Kirsten.Robinett@alaskaair.com]

Sent: Tuesday, August 16, 2011 1:29 PM

To: Marilyn.Strickland@cityoftacoma.org; Boe, David; Woodards, Victoria; Mello, Ryan; Lonergan, Joe; Campbell, Marty; Lauren.Walker@cityoftacoma.org; Spiro.Manthou@cityoftacoma.org; Jake.Fey@cityoftacoma.org; regala.debbie@leg.wa.gov; jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercetransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com; darneille.jeannie@leg.wa.gov; imunce@cityoftacoma.com; Arellano, Rey; Planning
Cc: community@walkthewaterfront.org
Subject: Walk the Waterfront Vote Yes

Dear Planning Commission and City Council Members:

I am writing you in support of extending the S-6 Urban Conservancy zone, preserving and upholding the Ruston Way Plan and Foss Waterway Design and Development Plan, and completing the Dome to Defiance shoreline walkway and bikeway.

To improve livability and sustainable transportation, increase opportunities for healthy recreation, and celebrate the natural resource of our Commencement Bay shoreline, the Thea Foss and Ruston Way walkways need to be connected with ADA compliant, family-friendly walkways and safe bike lanes.

I am a resident living in the Stadium District and know how important this project is. Please vote YES tomorrow to pass this important project and improve our community.

Sincerely,

Kirsten Robinett
Product Manager, Onboard Food & Beverage Services

Residence:
1 Broadway #111
Tacoma WA 98402

****Please consider the environment before printing this e-mail****

From: Rick Rose [mailto:xc_skier@earthlink.net]

Sent: Wednesday, August 03, 2011 3:26 PM

To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercettransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com

Cc: Planning; satkinson@cityoftacoma.org; Wung, Lihuang; imunce@cityoftacoma.org

Subject: SMP update

Members of the Planning Commission -

Tacoma's waterfront stands at a crossroads of continuing a vision of a walkable waterfront laid out by other planners before you or to regress into industrial exclusivity.

The recommendation brought forth by the staff in the Planning Division for moving the eastern boundary of the S-6 Ruston Shoreline District from its existing location on the eastern side of the Jack Hyde Park to the eastern side of the Sperry Ocean Dock site does two things for the community.

- First, it continues this pedestrian waterfront vision and satisfies the demand by Tacoma's citizens for more waterfront experiences. This expansion of the S-6 shoreline district is a placeholder for future development to be in alignment with the aspirations of Tacoma citizens.
- Second, this recommendation will allow Sperry Ocean Dock the ability to continue its existing operation indefinitely. Contrary to the statements made by union leaders, there will be no jobs lost.

The desire by the Port of Tacoma and others for this area to remain industrial and port centric does not fit within the guidelines of Washington State's Container Port Element. There is insufficient upland space as well as road and rail infrastructure in this subject area to support port oriented activities. With competition from a new port in British Columbia, anticipated competition from eastern ports as the result of the Panama Canal project, worldwide shipping volumes down, and vacant land for terminals deep within the Port; it does not make sense for this overextended reach into a non-port specific area.

I urge members of the Planning Commission support the expansion of the S-6 Shoreline District that will keep the flame alive for a pedestrian path from the Tacoma Dome to Point Defiance.

Sincerely,

Rick Rose

VP, Walk the Waterfront

From: Steve Schain [mailto:steveschain@harbornet.com]
Sent: Sunday, August 14, 2011 11:56 PM
To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com;
morrison.ian.s@gmail.com; smorris@piercetransit.org; pelswick@windermere.com;
smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com
Cc: Planning; satkinson@cityoftacoma.org; Wung, Lihuang; imunce@cityoftacoma.org
Subject: SMP extension of S-6 to S-7

I am gratified to see the Planning Commission prepared to vote this Wednesday on the SMP draft that includes extending the S-6 to the S-7, limiting expansion of Sperry Ocean Dock and providing the basis for protecting public access. I won't repeat the arguments I have made in my letters and public testimony. But I will add that your voting to send the plan on to the city council with this recommendation reminds me of the historic actions taken by the planning commission in the early 1980s that gave us Rustin Way as we know it today. Your approval of this plan will be equally historic.

--

Steve Schain, Ph.D, CPG
420 N Stadium Way
Tacoma, WA 98403
(253) 961-7593
steveschain@harbornet.com

From: Surinderjit Singh [mailto:cbayjit@hotmail.com]

Sent: Tuesday, August 16, 2011 1:58 PM

To: marilyn strickland; Boe, David; Woodards, Victoria; Mello, Ryan; Lonergan, Joe; Campbell, Marty; lauren walker; spiro manthou; Jake Fey; regala debbie; jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercetransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com; darneille jeannie; imunce@cityoftacoma.com; Arellano, Rey; Planning

Cc: community@walkthewaterfront.org; friends@saveourwaterfrontnow.org; ebjornson@msn.com

Subject: Re, Extending S-6 urban conservancy zone.

Dear Planning Commission and City Council,

In the TSMP, I support extending S-6 Urban Conservancy zone through and beyond Sperry, but I do not support expanding the definitions of allowed uses within the Urban Conservancy S-6 shoreline. I strongly encourage you to strike all sentences mentioning rescinding or changing the Ruston Way Plan or Foss Waterway Design and Development plan. These two key visionary documents have been integral in the renovation of our waterfront and serve as guides to decision making far beyond the 200 feet of shoreline governed by the TSMP.

Make this vision of the community a reality. In the long run this will pay dividends to our city and its citizens.

Surinderjit Singh, MD, MS, Emeritus.

701. N. Stadium Way,

Tacoma, WA. 98403

August 16, 2011

From: Dale Stirn [mailto:dalestirn@stirncosteel.com]

Sent: Monday, August 15, 2011 10:18 AM

To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercettransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com; Planning; Marilyn.Strickland@cityoftacoma.org; Boe, David; Woodards, Victoria; Lonergan, Joe; Campbell, Marty; Lauren.Walker@cityoftacoma.org; Spiro.Manthou@cityoftacoma.org; Jake.Fey@cityoftacoma.org; Petty, Ryan; regala.debbie@leg.wa.gov; darneille.jeannie@leg.wa.gov; kprice@nenc.org; imunce@cityoftacoma.org; Community@walkthewaterfront.org; ebjornson@nenc.org; LorenC@mcconstruction.com

Subject: FW: TNT Sperry Dock Article of Aug. 9 - Favor S-6 Designation

Please read below my thoughts on the Shoreline. I favor the change to an S-6 Designation along the Schuster Parkway portion of Commencement Bay

Dale F Stirn

STIRNCO

Steel Structures, Inc.

Tel: 425-307-1372 800-953-3023

23515 NE Novelty Hill Rd

Suite B221 #138

Redmond, Wa. 98053-1996

www.stirncosteel.com

From: Dale Stirn

Sent: Friday, August 12, 2011 12:56 PM

To: jordan.schrader@thenewtribune.com

Subject: Sperry Dock Article of Aug. 9

Thank you for your article about the Sperry Dock issue on our water front. The issues are complex, and I, as a business owner, and as an industrial building contractor active in the Port of Tacoma, am somewhat sympathetic to Mr. Coy's plans for developing his property. And, of course, we all want to do things that will create jobs, the Longshoremembers claiming that this deep water area represents a real business opportunity for their members.

But, I have also enjoyed my bike rides and walks along the waterfront from my down town Tacoma residence, and, as a result, have become familiar with the issues being addressed. I have also had the good fortune to spend times on other cities' waterfront promenades and have seen what these promenades bring, not only to the quality of life for all who live nearby and enjoy these features, but the economic expansion these promenades bring. Downtown San Diego thrives, in large part to its waterfront. Our favorite weekend retreat is Vancouver, B.C. which has a waterfront free of any industrial usages. The resulting mix of residences and businesses generate an incredible amount of wealth for Vancouver.

Does anyone really understand what Schuster Parkway would look like if the longshoremen and Coy get their way? The huge cranes we can see in the Port of Tacoma would necessarily blanket Schuster Parkway for the longshoremen to gain the efficiencies they need to be earning \$80.00+/hr loading and unloading ships. An expansion of industrial use would render the entire area unattractive to the public who would have to navigate past these monstrosities to get to the various parks farther north along the walkways. Is this really what you are visualizing as a “good solution” for Tacoma?

Tacoma has the opportunity to define itself in a way that will lead to long term positive growth. As other areas take the “short sighted” approach to create jobs “now”, and despoil their most attractive features, we will be able to offer our and their populaces an oasis where they can come and enjoy the natural beauty of Commencement Bay, Mount Rainier, the Cascades and the Olympics. Opening up the entire esplanade from the southern tip of Thea Foss Waterway to our natural gem, Point Defiance Park, will provide us a gold mine for growth and a positive city image. Hotels and residences will flourish over the next 100 years, and this area of Tacoma will be featured among the best areas to live in the country.

Which of the two scenarios I have just painted is the one you really want for Tacoma?

Dale F Stirn

STIRNCO

Steel Structures, Inc.

Tel: 425-307-1372 800-953-3023

23515 NE Novelty Hill Rd

Suite B221 #138

Redmond, Wa. 98053-1996

www.stirncosteel.com

From: Lynann Wiegman [mailto:lynannwiegman@gmail.com]

Sent: Wednesday, August 03, 2011 8:18 AM

To: jdoty@bcradesign.com; tom@oconnorandassociates.net; knute000@sprynet.com; morrison.ian.s@gmail.com; smorris@piercettransit.org; pelswick@windermere.com; smgaffney@earthlink.net; cbeale@ci.puyallup.wa.us; mnutsch@hotmail.com

Cc: Planning; satkinson@cityoftacoma.org; Wung, Lihuang; imunce@cityoftacoma.org; eugenewiegman@msn.com

Subject: S-6 Urban Conservancy zoning through Sperry

To:: Tacoma Planning Commission

From: Dr. Eugene and Kathleen Wiegman, 405 N. Stadium Way, 98403, 253-627-4440

e-mail eugenewiegman@msn.com

Tacoma wishes to be known as a family friendly town. So the choice that you as a member of the Planning Commission needs to make should be to insure to the citizens of Tacoma-Pierce County JB-LMC have the shoreline available for all types of recreation - small boats, walking, biking, and small concerts. This would take time to plan for these waterfront activities. It will take time and money but if the right zoning is not put in place NOW Tacoma will have lost a big opportunity for the residents, visitors to the museums, environment, and the resident of the Foss Waterway will be the looses. S-6 Urban conservancy is the only way to go to keep are community a a clean, healthy, vibrant, and family friendly.