

**Members**

Jeremy C. Doty, Chair  
 Thomas C. O'Connor, Vice-Chair  
 Chris Beale  
 Peter Elswick  
 Donald Erickson  
 Sean Gaffney  
 Scott Morris  
 Ian Morrison  
 Matthew Nutsch



# Minutes

## Tacoma Planning Commission

**Community and Economic Development Department**

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

**Public Works and Utilities Representatives**

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

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**(Approved on 2-16-11)**

MEETING: Regular Meeting

TIME: Wednesday, January 5, 2011 4:00 p.m.

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

Members Present: Jeremy Doty (Chair), Thomas O'Connor (Vice-Chair), Chris Beale, Peter Elswick, Donald Erickson, Scott Morris, Matthew Nutsch, Ian Morrison

Members Absent: Sean Gaffney

Staff Present: Donna Stenger, Jana Magoon, Steve Atkinson, Brian Boudet, Ian Munce, Shirley Schultz, Lucas Shaddock, Lisa Spadoni, Lihuang Wung, Noah Yacker (BLUS); Jeff Capell (Legal); Josh Diekmann (Public Works)

Others Present: Shelley Kerslake (legal counsel); Kim Van Zwalenburg (DOE)

Chair Doty called the meeting to order at 4:03 p.m. There were no minutes to approve.

### **GENERAL BUSINESS**

#### **1. Master Program for Shoreline Development**

Mr. Steve Atkinson continued to facilitate the Planning Commission's review and discussion of the public comments received on the preliminary draft Shoreline Master Program released in September 2010. The discussion focused on issues relating to public access.

Mr. Atkinson highlighted the many facets that are involved in developing a fair and equitable public access provisions to balance such questions as public versus privately owned land, water-dependent versus non-water-dependent uses, and industrial versus non-industrial uses of the City's shoreline. He also provided information concerning constitutionality issues, the



requirements of the Shoreline Management Act, and the Department of Ecology's guidance on public access.

Mr. Jeff Capell, Deputy City Attorney, further explained the legal context that must be considered when developing public access requirements and answered questions from the Commissioners concerning nexus and proportionality. Mr. Capell also reviewed prior court cases and their findings.

Mr. Atkinson sought the Commission's guidance on the following four questions:

- (a) *Applicability – Should the use/development provide access?*  
The Commission concurred with staff's recommendations that public access should apply to shoreline permits when certain conditions exist: the use creates/increases demand, the proposed development impacts existing access or interferes with the public's use of navigable waters, the development/use is on public land or proposed by a public entity and the use is water-related, water enjoyment or non-water dependent. The Commission felt that this should be clearly defined in the code.
- (b) *Preference – Should the access, where applicable, be on-site or off-site?*  
The Commission concurred with staff's recommendations that on-site access should always be preferred to off-site access unless off-site access would provide greater public benefit.
- (c) *Waiver – Can on-site access be achieved?*  
The Commission concurred with staff's approach that an analysis is needed to determine whether on-site access is feasible. The review should consider off-site access as part of the review before waiving the access requirement.
- (d) *Options – Should we consider off site alternatives?*  
The Commission indicated that off site should be considered only after on-site access is determined infeasible. The Commission discussed the proposed option for a voluntary contribution to a public access fund instead of providing the off-site access directly. This provision is also referred to as a fee-in-lieu provision. Mr. Atkinson noted that this option generated public comments both for and against the option and staff suggests that the option be eliminated due to its controversial nature.

Commissioner Morrison distributed four pieces of information for the Commissioners' reference; they were the court cases on *Nollan v. California Coastal Commission*, *Dolan v. City of Tigard*, *Henderson Homes v. City of Bothell*, and *Trimen Development v. King County*.

## **2. Billboard Regulations**

Ms. Shirley Schultz returned with answers to concerns that were expressed by Commissioners regarding signs visible from highways and how they are regulated by State and federal laws. Discussion ensued on the size of signs in relation to sightlines and the speed of the traffic on adjacent roadway. The Commissioners expressed a desire to hear from the Traffic Engineering staff to obtain more information to aid them in making a final recommendation.

Ms. Schultz also presented a video that showed an example of a digital billboard in another jurisdiction. This led to a discussion on the size and scale of billboards and how they fit in with

overall goals for pedestrian orientation particularly in Mixed-Use Centers. Ms. Schultz reported on the upcoming public meeting that is scheduled for January 31, 2011.

The Commissioners again expressed that in addition to their recommendations to the City Council on code revisions that there should also be included a statement to the effect that they have reservations about the proposed regulations because they are to satisfy a settlement agreement with Clear Channel which may not be the best way to determine public policy. The Commissioners also expect that staff will return with more information regarding electrical performance, “off” times for billboards, benchmarking for how height is measured and state requirements for billboards before they pass on final recommendations to the City Council.

### **3. Annual Amendment #2011-09 – SEPA Regulations Amendment**

Ms. Shirley Schultz briefly went over salient points about this amendment. She pointed out that the bulk of the proposed changes are organizational rather than substantial. She highlighted some of the proposed changes, the conditions that trigger the need to have a SEPA applied to a project and how appeals occur. The Commission requested that Ms. Schultz provide the final language in the appeal section that was missing from the draft staff report, and with that, the Commission concluded that the staff report would be complete and the draft code ready for distribution for public review.

### **4. Annual Amendment #2011-06 – Regional Centers & CPTED**

Ms. Donna Stenger continued to facilitate the Commissioners’ review and discussion of the proposed amendments contained in this application, focusing on the proposed text and policy additions to the Comprehensive Plan to address the use of Crime Prevention Through Environmental Design (CPTED) and its principles. Ms. Stenger provided a brief overview of the proposed changes to be incorporated into the Urban Aesthetics and Design section of the Generalized Land Use Element of the Comprehensive Plan. She pointed out that the proposed policies are mostly aimed at public development and public spaces. The City at this point does not have any formal design review process in place but consideration of safety issues could be a key element if a design review process is established in the future.

The Commissioners suggested not placing undue emphasis on the “crime prevention” aspect. They stated that “Safety-Oriented Design” or “Safety by Design” would be more in keeping with what the original purpose of the amendment and that is to assure that there is “equity in the use of public spaces through incorporation of safer design principles.” Ms. Stenger responded that staff will modify the proposed text changes accordingly.

## **COMMUNICATION ITEMS**

Chair Doty acknowledged receipt of the following:

1. Hearing Examiner’s Reports and Decisions
2. Memo of December 21, 2010 from Jeff Capell, Assistant City Attorney, regarding Appearance of Fairness Doctrine
3. Memo of December 22, 2010 from Jennifer Kammerzell, Public Works, regarding Arterial designation of East 34<sup>th</sup> Street

## **COMMENTS BY LONG-RANGE PLANNING DIVISION**

Ms. Stenger stated that the proposed Amendment application for the Container Port Element will not be under consideration as a part of the 2011 annual amendments. Developing the element is a joint effort between the City and the Port of Tacoma. This unusual collaboration needs additional discussions among all the effected parties which cannot be completed before the annual amendments are scheduled for public review. Development of the plan element will continue but will be proceed on a different timeline.

## **COMMENTS BY PLANNING COMMISSION**

In keeping with the principles under the “Appearance of Fairness Doctrine”, Commissioner Beale disclosed that he had met with Gary Brackett and Mike Weinman of the Chamber of Commerce on December 17, 2010, regarding the Shoreline Master Program Update. Commissioner Erickson disclosed that he had also met with the same gentlemen. Commissioner Morrison disclosed that he had met with a representative from Schnitzer Steel regarding the same subject. Commissioner Morrison also mentioned that he has accepted a part-time job with a local law firm and has requested from his employer that he would not be involved in any land use work concerning the City of Tacoma.

## **ADJOURNMENT**

The meeting adjourned at 6:40 p.m.