



SPECIAL NEEDS HOUSING LAND USE REGULATORY CODE UPDATE

FINDINGS AND RECOMMENDATIONS

TACOMA PLANNING COMMISSION
SEPTEMBER 20, 2006

A. SUBJECT:

Adoption of amendments to the City of Tacoma's Land Use Regulatory Code, Chapters 13.06, 13.06A and 13.05, to modify the associated definitions, permitting requirements and development standards for special needs housing facilities. The proposed changes would apply City-wide.

B. PROPOSAL:

The proposed amendments to the Land Use Regulatory Code are designed to improve the regulations applicable to special needs housing facilities. The proposed amendments would modify the regulations that apply to the following special needs housing facilities:

- Adult Family Home
- Confidential Shelter
- Continuing Care Retirement Community
- Emergency and Transitional Housing
- Extended Care Facility
- Intermediate Care Facility
- Permanent Supportive Housing
- Residential Care Facility for Youth
- Retirement Home
- Staffed Residential Home

The proposed amendments are designed to foster community notification and involvement, improve consistency between the Code and state licensing requirements, provide clearer definitions and remove unnecessary and repetitive terms, provide additional land use code enforcement tools, improve the City's ability to administer its existing standards, and provide the City and community with better tools to address the unique issues associated with these facilities and ensure that they are developed in a manner that is compatible with the surrounding neighborhood. The proposed approach involves four basic components:

1. Clarify and revise the associated definitions for special needs housing facilities

New definitions would be added to address the requirements of the moratorium ordinance and appropriately differentiate certain uses (including permanent supportive housing, group housing, and student housing). In addition, numerous definitions would be revised to improve consistency between

the Code and the State's licensing programs (including foster home, residential care facility for youth, intermediate care facility, adult family home, extended care facility, continuing care retirement community, and retirement home) and a number of existing definitions and terms that are repetitive or unnecessary would be eliminated (including group home, row dwelling, sanitarium, community care facility for youth or adults, and residential care facility for adults).

2. Clarify where special needs housing facilities are allowed and through what type of permit process

A new use table would be added to more clearly indicate in which zones new special needs housing facilities are allowed, to what size, and under what permit process.

3. Limit the size of new facilities

New special needs housing facilities would be limited in size to ensure that they are relatively comparable to the other residential uses allowed in the area (i.e. special needs housing located in a single-family neighborhood would generally be limited to six residents).

4. Provide additional tools in the permitting process

The conditional use permit process would be enhanced by requiring additional public involvement, development standards and a more detailed and specific review process. A more accurate and specific parking requirement would be provided for special needs housing, additional restrictions would be added for nonconforming uses, philanthropic organizations would be removed from the list of conditional uses, and existing special needs housing facilities would be required to register with the City. In addition, a new process would be added for addressing reasonable accommodation requests and for revocation of land use permits in cases where a project is not operated consistent with the conditions of approval or when the approval was obtained based on false information.

C. FINDINGS OF FACT:

1. From 1998 to 2002 the City worked to update its Land Use Regulatory Code to better address correctional and special needs housing facilities. The topic arose after a proposal was submitted by Pioneer Human Services to site a work release center in the City's Hilltop area. Following that proposal, a moratorium was adopted by the City Council to prevent the siting of new work release facilities in the City while the staff and Planning Commission revised the relevant land use regulations to better address these facilities. While that process originally focused on work release facilities, the analysis that ensued, which included separating correctional facilities from other special needs housing in the previously broad definitions, advanced the desire to also review and update the regulations for special needs housing facilities. An update to the regulations associated with special needs housing became the second phase in the City's regulatory update. This update process lasted for more than two years and was directed by a very active advisory panel, which included Neighborhood Council representatives, service providers and other agencies. The intent of that process was to provide regulations that were in compliance with state and federal law, included modern terms and were predictable for the providers and the community. Those amendments included:

- Establishing a number of new definitions, generally based on the State's categorization of facilities.
- Creation of a dispersion requirement for emergency and transitional housing, retirement homes, intermediate care facilities, community care facilities, extended care facilities, and continuing care retirement communities.
- Requiring conditional use permits for emergency and transitional housing in residential and low-intensity commercial zones.
- Limiting the size of facilities so that they are comparable to the size of other uses allowed in the area (the size limitations were also based on the State's categorization of facilities).

2. Following adoption of these amendments, the State Department of Social and Health Services (DSHS) filed a challenge with the state Growth Management Hearings Board. This challenge claimed that the ordinance was not in compliance with the Growth Management Act (GMA) because it overstepped the City's authority by dictating the internal operations and the type of people that the State could house in its licensed facilities. In particular, DSHS challenged the portion of the City's regulations that prevented juvenile sexual offenders from being located in certain types of state-licensed facilities. Ultimately, Tacoma negotiated a mediated settlement agreement that resulted in the withdrawal of the DSHS claim, but forced the City to modify a number of the provisions of its proposed regulations, including the sections limiting the placement of juvenile sex offenders and the dispersion requirement. At the end of the process, the Commission continued to struggle with issues such as fair share and placement of sexual offenders within the community and indicated that new ways for addressing these issues, outside of the purview of the land use code, should be explored.
3. In 2003, the Planning Commission approved the addition of "fair share" language into the Area Vision for the Central Neighborhood section of the Neighborhood Element in response to the neighborhood's concerns about the disproportionate share of housing, services, and facilities for high risk/special need populations in the Central area.
4. In 2004, two annual amendment applications were submitted to the Commission regarding special needs housing and the land use regulations associated with certain populations. Thomas R. Stenger, Councilman-elect at the time, submitted an application to restrict the number of sex offenders residing on any one tax parcel, limit the total number of sex offenders residing in any one census tract and establish an annual registration fee for landlords for each rental unit housing sex offenders. James Collins, Chair of the St. Joe's Neighbors group, submitted an application requesting that a new policy be adopted providing for an even distribution throughout the City of housing and facilities serving high risk/high need populations and a policy that assures competent management of these facilities. In response to these applications, the Planning Commission found that the proposed "fair share amendments" were consistent with the area vision of the Central Neighborhood section adopted in 2003 and that the Comprehensive Plan should contain policies concerning the fair share distribution of housing for specific types of "high-risk" populations. The Commission recommended that the Housing Element of the Comprehensive Plan be revised to add policies promoting area-wide fair share and housing dispersion (see Finding #12).
5. The existing regulations applicable to special needs housing facilities, which are primarily found in *TMC* Sections 13.06.100 and 13.06.535, provide restrictions on the location of new special needs housing facilities and permitting requirements for certain types of facilities. However, most facilities are permitted outright in the zones where they are allowed. The regulations include the following general provisions:
 - The use definitions generally provide distinctions based on facility size and are commonly aligned with the definitions used by the State.
 - Approval of a Conditional Use Permit is required to site emergency and transitional housing in all residential and some commercial districts.
 - New special needs housing facilities in residential areas are required to be located at least 600 feet from other special needs housing facilities. This dispersion requirement applies to emergency and transitional housing, retirement homes, intermediate care facilities, community care facilities, extended care facilities, and continuing care retirement communities in residential zones. Existing facilities are exempted from this requirement.

- Special needs housing facilities are generally limited in size so that they are relatively comparable in size to the other residential uses that are allowed in the area. For example, the facilities that are allowed in single-family zones are generally limited to six residents.
6. On May 17, 2005 the City Council adopted Substitute Ordinance No. 27360 in response to community concerns about a proposal to convert an existing building, which was formerly used as a congregate care facility, in a residential area into a transitional housing facility. This ordinance enacted an emergency moratorium on permitting for certain types of special needs housing facilities, such as group homes, group residential facilities, lodging houses and emergency and transitional housing. The purpose of the moratorium was to allow the City time to evaluate and adopt code changes to address many of the community concerns and implement a number of policies related to special needs housing that were added to the Comprehensive Plan in 2004. The ordinance directed the Planning Commission to identify potential land use code changes to address these issues and called for the establishment of a Blue Ribbon Panel and an inter-jurisdictional task force to address and provide guidance relating to other potential methods for addressing these types of facilities.
 7. In accordance with the moratorium ordinance and the applicable requirements of the *TMC*, the Commission was required to hold a public hearing and make recommendations to the Council regarding the emergency moratorium. The Commission held a public hearing on the emergency moratorium on June 15, 2005. A majority of the public testimony at the hearing was in opposition to the moratorium. Following the hearing, the Commission recommended that the moratorium be rescinded and full support be provided to the Blue Ribbon Panel and the Inter-governmental Task Force to conduct a comprehensive study of housing and services for populations with special needs and provide recommendations on the appropriate tools to address the community's concerns regarding these types of facilities on a local, regional and state-wide level.
 8. The Commission also reviewed a draft inventory of housing and service facilities for special needs populations, which was prepared by staff as required by Section 2 of the moratorium ordinance. The inventory was based on available data collected from the Community and Economic Development Department, the Tax & License Department, the Human Rights & Human Services Department, the State Department of Social and Health Services, and members of the public. The inventory was mapped to show the physical location of known housing facilities within the use categories included in the moratorium, other types of special needs housing, and human service facilities. This inventory was provided to and reviewed by the Council as part its review of the Commission's recommendation regarding the moratorium.
 9. With the adoption of Resolution No. 36524, the Council created a Blue Ribbon Panel on high-risk/high-needs residents to study issues related to special needs housing facilities and make recommendations regarding the appropriate role of local government in addressing the issues. The Blue Ribbon Panel met every other week from mid-July 2005 through September 2005, then met weekly throughout October 2005. The Panel provided a written report of its findings and recommendations, which was presented to the City Council on November 8, 2005. The Panel's report included the following 7 primary recommendations:
 - Develop a thorough inventory of facilities providing service to high-risk/high-needs individuals.
 - Require a Memorandum of Understanding (MOU) be completed, in cooperation with the neighborhood, by those providing program services or renting multiple properties in areas with a concentration of high-risk/high-needs individuals.
 - Place a higher priority of well-trained and community-connected Community Liaison Officers in areas of high-risk/high-needs concentration.

- Place a higher priority on directing resources to enforce existing regulations that apply to housing and other facilities and establish a licensing/permitting process for all group facilities in areas of high-risk/high-needs concentration.
 - Limit the use of the so-called “grandfather clause” for allowing non-conforming use of property in areas of high-risk/high-needs concentration.
 - Develop a clear and consistent City-wide grievance procedure.
 - Develop a City-wide high-risk/high-need placement coordination process with all appropriate local, state and federal programs.
10. The Comprehensive Plan, adopted in 1993 by Ordinance 25360 and amended by ordinance once every year thereafter, is Tacoma's Comprehensive Plan as required by the Growth Management Act (GMA) and consists of separate plan and program elements.
 11. GMA requires that any change to development regulations shall be consistent with and implement the Comprehensive Plan. Development regulations include, but are not limited to, zoning controls, critical area ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances.
 12. The Comprehensive Plan provides general policy guidance promoting the protection of residential areas from incompatible land uses and the limitation of adverse impacts associated with new development. In addition, the City Council adopted a number of new policies in 2004 that provide specific guidance regarding special needs housing and the desire to promote fair share distribution in the community and the region, improve communication between housing providers and the community, and better ensure the adequate management and appropriate operation of special needs housing facilities. The following policies from the Generalized Land Use and Housing Elements of the Comprehensive Plan provide some guidance regarding protection of residential areas and the regulation of special needs housing facilities:

GENERALIZED LAND USE ELEMENT

Protect Established Residential Areas (LU-RDG-1)

Protect, preserve and maintain established residential neighborhood areas where a definite density, housing type and character prevail; nuisances and incompatible land uses should not be allowed to penetrate these areas.

Prohibit Incompatible Land Uses (LU-RDG-2)

Prohibit incompatible land uses from situating within or adjacent to existing or future residential developments and gradually eliminate existing incompatible uses from existing residential areas.

HOUSING ELEMENT

Special Needs Housing/ Support Services (H-HA-4)

Encourage and support emergency and transitional housing as well as needed support services for persons with special needs (e.g. frailty, family size and disability).

Housing Discrimination (H-HF-1)

Ensure the local housing market provides adequate housing opportunities to renters or purchasers of housing regardless of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status or the presence of any sensory, mental or physical disability.

Area-wide Fair Share and Housing Dispersal (H-HF-2)

Disperse affordable housing opportunities, especially for lower income households and persons with special needs, throughout the city, the county and region. Discourage the concentration of facilities for “high risk” populations in any one geographic area. (Note: For the purposes of this

document, “high risk” populations shall include individuals released and/or under supervision of adult and juvenile correctional institutions, mental hospitals and drug rehabilitation programs, homeless persons and other special needs persons residing in group homes not subject to application of the federal Fair Housing Act).

Housing and Service Facilities for High Risk Populations (H-HF-2B)

To promote safe and healthy neighborhoods in Tacoma, efforts should be made to equitably distribute and monitor the location of service facilities and housing for high risk populations. Many of these existing facilities are located in Tacoma and more specifically in the Upper Tacoma community. In addition, a coordinated and equitable distribution system is needed to better disperse housing opportunities for high risk populations throughout Tacoma, Pierce County and the region.

Policy Statements

1. Promote safe, healthy and livable residential neighborhoods by avoiding a concentration of service facilities and housing for high risk populations in any neighborhood;
 2. Improve cooperation and communication between housing providers and affected neighborhoods through the use of tools such as Good Neighborhood Agreements (GNAs);
 3. Give funding priority to housing providers that contribute to the deconcentration of service facilities and housing for high risk populations;
 4. Support statewide fair share legislation which would require the placement of offenders, released under the supervision of the State Department of Corrections, in the community in which they resided prior to incarceration.
 5. Investigate citizen complaints regarding facilities that violate City regulations pertaining to service facilities and housing for high risk populations such as emergency and transitional shelters;
 6. Strongly encourage service facilities and housing shelter providers, which serve high risk populations, to develop sound management practices including the provision of professional on-site staff and restrictions on negative behaviors. Establish neighborhood advisory committees to monitor the impact of a facility on the neighborhood and to address community concerns.
13. The City Council held a public hearing on October 18, 2005 regarding a proposed extension to the moratorium. Following the hearing, the Council adopted Ordinance No. 27424, which enacted a 180-day extension to the special needs housing moratorium.
14. The Planning Commission initiated review of the land use regulations associated with special needs housing facilities in June 2005. Initial discussions with staff revolved around the appropriate scope for this review, the Commission’s responsibilities and the interplay between the Commission’s review and the work associated with the two other efforts directed in the moratorium ordinance. While the ordinance specifically requested new definitions and the development of a restrictive overlay district, there were concerns expressed about the timing and scope of the Commission’s review and the potential impacts to protected populations and housing opportunities.
15. The Commission and staff explored numerous methods for addressing the community concerns within the context of the land use regulations. Community and Economic Development Department staff prepared draft amendments to Chapter 13.06 of the Tacoma Municipal Code (the Land Use Regulatory Code) that were designed to address the issues identified in the moratorium ordinance within the framework described in the ordinance. The draft regulations that resulted from this analysis included revisions to the associated definitions, enhancement of the existing conditional use permit process, expansion of the list of uses subject to conditional use approval, expansion of the existing dispersion requirements, and creation of a protective overlay district. While these proposed amendments were

designed to address many of the community's concerns, this analysis also revealed that some of the community's concerns fall outside the reasonable scope of the City's land use regulatory authority.

16. After holding a well-attended public hearing and reviewing a substantial amount of public testimony, the Planning Commission completed its review and forwarded recommendations to the City Council for amendments to the Land Use Regulatory Code in March 2006. Those recommended amendments were intended to address a number of the components of the moratorium ordinance, many of the concerns expressed by the public during the Commission's review process, and, where appropriate, some of the recommendations of the Blue Ribbon Panel. The proposed regulatory code amendments were designed to enhance the existing tools available to the City to address the community concerns about certain types of special needs housing facilities by promoting public involvement in the permit process, enhancing clarity and direction in the Code, restricting the conversion of nonconforming uses in residential areas, better ensuring the appropriate siting and operation of certain types of facilities, and promoting the appropriate scale of facilities when they are located in the City's residential neighborhoods.
17. The City Council held a public hearing on the Commission's recommendations on April 18, 2006. At that hearing, an attorney hired by a number of Hilltop community members provided a legal opinion indicating that additional evidence could and should be gathered to support further restrictions on special needs housing. Also at the hearing, numerous community members requested that the Council authorize another extension to the moratorium to allow additional time to gather evidence to supplement the existing record. In response to these requests, the Council elected to table the Commission's recommendations and adopt an additional six-month extension to the moratorium to allow time to explore additional evidence regarding these uses and the community's concerns and to explore a more comprehensive approach that would utilize land use *and* non-land use tools to address the community's concerns (Ordinance No. 27487). The moratorium is currently scheduled to expire on November 10, 2006.
18. Staff from the City Manager's Office and the Community and Economic Development Department initiated a process to collect additional evidence relative to special needs housing and the problems identified by the community. City staff met with members of the community and housing and service providers to explore the existing record and other methods for gathering additional data and research. The City Manager's Office invited the public to provide information relevant to the topics identified by the Council and the ongoing land use regulatory review by the Planning Commission. Community members submitted numerous letters, reports, and comments for review and inclusion into the record. In addition, staff assembled a significant quantity of research and data related to special needs housing from numerous sources, including academic reports, books, websites, City departments, and outside agencies. In total, this data collection effort resulted in the gathering of nearly 200 individual items regarding special needs housing and the community's concerns and issues. An inventory of the data collection was produced and the data was assembled into 10 volumes and made available for public distribution and review. The 10 volumes of information contain more than 4,000 pages. This data collection includes:
 - Academic reports, books and articles;
 - Government agency data, information and comments;
 - Citizen and citizen group comments;
 - Non-governmental agency comments;
 - Ordinances, court cases and legal opinions;
 - Information on other regulatory approaches; and
 - Newspaper articles

19. Staff from the Legal Department and the Community and Economic Development Department reviewed the collection of data. As directed by the Council, this review focused primarily on three items: identifying the full breadth of the community's concerns; exploring the relationship between special needs housing facilities and the problems identified by the community; and assembling a comprehensive list of potential efforts to address the community's concerns.
20. Following review of the data collection and previous testimony and reports, the following primary community concerns were identified:
- Criminal activity (including homicide, prostitution, vandalism, assault, public urination, drug use and distribution, panhandling, public drunkenness, car thefts, burglaries, car prowls, intimidation and gang activity)
 - Uncaring and unresponsive landlords renting to people with troubled backgrounds and not dealing with issues that arise at their properties (including criminal activity and blight issues)
 - The existing over-saturation of facilities serving high-risk/high-needs people in some areas, which overwhelms the neighborhood. These facilities include mental health treatment centers, criminal reporting centers, drug and alcohol treatment facilities, assistance providers, shelters, subsidized housing, special needs housing, advocacy groups, recovery centers, food banks, transitional housing, case management services, domestic violence assistance centers, low income assistance providers (dental, medical, food, day care, vocational training, etc.), counseling services, incarceration facilities, meal services and health providers.
 - The concentration of high-risk/high-needs people in certain areas, including released prisoners, young people with multiple juvenile violations, seniors suffering dementia, homeless individuals, the mentally ill, disabled, recovering addicts, and sex offenders.
 - People and organizations operating unlicensed, unregulated, undefined group facilities. These informal providers often do not provide an organized assistance program, control their tenants, conduct neighborhood outreach, or take sufficient responsibility for their tenants.
 - The operation of supportive housing facilities where the programs are insufficient to meet the needs of the residents, the management is unresponsive to legitimate community concerns, there is limited control or screening of clients, there is insufficient parking for the employees and clients and/or the facility is poorly maintained.
 - State programs that do not effectively address the needs of the clients or the impacts to the surrounding neighborhood.
 - Failure to consider the surrounding neighborhood in placement decisions, including funding decisions and Department of Corrections' release plans.
 - Too much flexibility for the reuse/conversion of existing non-conforming uses, particularly related to their reuse for high-risk/high-needs facilities.
 - Inadequate maintenance of City-owned properties.
 - Difficulty connecting with citizens from other cultures or for whom English is a second language.
 - General nuisances, including neighborhood blight, illegal land uses, and property maintenance.
21. Following review of the data collection, including the numerous academic reports and agency information, the following general findings were identified regarding special needs housing, the regulation of such housing, and its impacts on the community:
- The studies generally do not find a connection between special needs housing and crime, reduced property values, or a reduced quality of life in neighborhoods.
 - Most of the studies find that the impacts associated with group homes largely depend on the operator, the quality of the program and the upkeep of the property.

- Many of the analyses talk about the types of facilities that are not specifically protected under fair housing laws and thus can more easily be regulated, such as “wet houses” and housing for criminals.
- The analyses generally conclude that regulations need to treat disabled people the same as other groups of unrelated individuals and need to ensure that handicapped persons have an equal opportunity to live in and enjoy the same types of housing and neighborhood environment as other persons.
- Many studies indicate that there may be a saturation point where the goals of normalization and integration could be compromised because a neighborhood would become “institutionalized.” There is no specific information on how close or how many facilities it might take to get to this point of saturation. Some studies indicate that limited dispersion (i.e. 1 block) might hold up if well-supported by documentation that it will benefit the protected populations. However, most analyses agree that the benefits of such a restriction can be difficult to show and that it was the US Legislature’s intent when it adopted the FHAA to generally prevent the use of dispersion requirements.
- Most studies agree that having a size limitation is a reasonable use of local control and an appropriate means for ensuring general compatibility and preserving intended neighborhood character.
- There are numerous studies that call for addressing community concerns by assisting in careful siting and ensuring adequate property management.
- Many of the analyses indicate that dispersion is better achieved through incentives.
- Some of the analyses indicate that permits may be a reasonable method for ensuring proper care, especially for non-licensed facilities.

22. Following a review of the data collection and the previous reports of the Planning Commission, Blue Ribbon Panel and Inter-governmental Task Force, the following list of *non-land use* programs or efforts that had been discussed/proposed for assisting the City in addressing the community’s concerns were identified:

- Enhancing the licensing standards for landlords to hold them more accountable for property maintenance and the behavior of their tenants
- Requiring landlords with multiple properties in problem areas to participate in the Crime-Free Housing Program
- Requiring licensing for assistance programs to ensure they are competent and responsive to neighborhood concerns and to ensure proper care and internal controls
- Using existing laws more aggressively
- Bolstering the City’s code enforcement procedures to increase their effectiveness and timeliness
- Enhancing police patrol in specified areas
- Expanding the use of Community Liaison Officers, especially in areas of high concentration
- Revising the City’s funding procedures for programs to promote dispersion
- Exploring inclusionary zoning as a method to promote dispersion
- Working with State agencies to bolster their requirements or modify their programs to better respond to community issues
- Developing a thorough inventory of facilities providing services to high-risk/high-need individuals
- Requiring Good Neighbor Agreements for those providing services or renting multiple properties in areas of concentration and group homes throughout the City of Tacoma
- Developing a City-wide grievance procedure
- Developing a placement coordination process with local, state and federal programs
- Improving the maintenance of City-owned properties

- Improving the coordination and communication between the City and the Departments of Corrections and Social and Health Services to achieve a better understanding of and participation in their release processes
23. The moratorium, the proposed regulatory scheme and the proposed amendments to the Land Use Regulatory Code have been presented to and discussed by the Planning Commission at more than 17 public meetings over the past year and a half. The proposed regulatory approach was also discussed at general public meetings and stakeholder meetings and the data collection process was discussed at numerous focus group meetings. The Commission reviewed the proposed changes and authorized distribution of the current proposed amendments for public review and comment at their public meeting on August 2, 2006.
 24. Proper written notice of the Planning Commission's public hearing was issued on August 4, 2006. The notice was distributed to City departments, state agencies, business owners, civic and environmental organizations, major institutions and employers, adjacent jurisdictions and other governmental agencies, housing and service providers, other interested individuals, members of the Blue Ribbon Panel, and representatives of the Neighborhood Councils. In addition, a copy of the notice and the proposed amendments were made available at local public libraries, at the offices of the Community and Economic Development Department and published on the City's internet website, and advertisement of the public hearing was published in The News Tribune on August 9, 2006.
 25. The notice included general information regarding the time and place of the public hearing, a summary of the proposed changes, a description of the purpose of the public hearing, information pertaining to the environmental determination, and where additional information could be obtained.
 26. The Planning Commission held a public hearing on the current draft amendments on Wednesday, August 16, 2006. Eleven individuals, representing a wide range of neighborhood groups, service and housing agencies, and community interests testified at the public hearing.
 27. In addition to the testimony received at the public hearing, seven comment letters were submitted in response to the public notice. Copies of these written comments were provided to the Planning Commission.
 28. The public testimony received by the Commission included expressions of support and opposition, concerns, comments and questions. Testimony from all sides was poignant and sincere and demonstrated the widespread interest and broad range of opinion on this subject. In summary, the testimony focused on the following nine primary issues:
 - Concerns that the proposed regulations could negatively affect a wide variety of positive housing facilities, including those that serve seniors, the disabled, homeless individuals, the poor, released convicts, and sex offenders.
 - The City needs to look at utilizing other tools instead of, or in conjunction with, the proposed land use regulations.
 - The proposed amendments focus on regulating housing that includes services. This type of supportive housing is the model for effective assistance, maintaining independence, reducing costs, and improving quality of life. This type of housing should be encouraged instead of further regulated or prohibited. The real problem is often the housing facilities that do not include the support services needed by the residents.
 - There is still some confusion over whether various types of facilities would be affected by the proposed regulations.

- The proposed definitions, and particularly the definition for “permanent supportive housing,” should be modified to more clearly indicate the types of facilities that are included.
 - The NCX District should be treated the same as the RCX District because they are both generally located in similar areas, adjacent to residential areas.
 - The public involvement process for Conditional Use Permits should be modified to ensure that the public is sufficiently notified, has sufficient methods for providing comments and that those comments are made a part of the decision record.
 - The proposed amendments are a significant improvement but may still be discriminatory because they continue to focus on facilities that provide support services.
29. Staff prepared a written Issues and Observations report summarizing the public comments and providing staff analysis of each of the points raised. The report outlined the rationale behind the current draft regulations and the proposed approach, answered the questions posed in the comments, and provided some alternatives for the Commission’s consideration to address some of the public concerns.
30. The Planning Commission reviewed all testimony from their public hearing and written testimony submitted to the Commission prior to the comment deadline. Following significant discussion with the Commission regarding the public testimony, staff was directed to prepare revisions to the draft regulatory code amendments that would address many of the public concerns and requested the City Attorney’s Office to provide a legal opinion regarding the proposed regulations and the legal authority for the City to impose greater land use restrictions.
31. The City Attorney’s office provided a memorandum to the City Manager in response to a request to address a perceived disparity between previous legal opinions and to provide an opinion on whether the additional data and documentation that has been collected provides the necessary support for additional regulation of special needs housing, including items such as overlay districts, expanded dispersion requirements, and an expansion of the list of uses subject to conditional use permit approval. The memorandum indicates that the previous legal opinions, including those by the City Attorney’s Office and the legal opinion provided on behalf of Central Neighborhood community members, are not in conflict and generally agree on the legal standards by which regulations associated with special needs housing must be judged. These legal opinions provide that the imposition of additional restrictive regulations on special needs housing would need to be supported by evidence showing either a benefit to the users of such housing or a clear connection between such uses and the problems addressed by the regulations. The memorandum also provides the City Attorney’s opinion that the additional data that was collected does not support the imposition of additional, restrictive regulations, such as overlay districts, expanded dispersion requirements, and an expansion of the list of uses subject to conditional use permit approval. A copy of this memorandum was provided to the Commission for consideration.
32. The Commission acknowledges the concerns expressed regarding the City’s current public notice and permit review procedures and notes that this is a common concern expressed by the public. Unfortunately, modifying those processes at this time and as part of this project would likely result in a disjointed and confusing permit process. However, while this may not be the appropriate time to amend these policies, the Commission does recommend that a comprehensive review be conducted of the City’s land use permit review and notice procedures, to include addressing appropriate notice distances, permit review processes, and permit review and decision authority. Additionally, the Commission also feels that minor administrative changes to the existing public meeting process should be instituted to ensure that public comments are appropriately recorded and considered until such a comprehensive review can be accomplished.

33. The moratorium adopted by the City Council specifically calls for the development of new regulations that would implement these Comprehensive Plan policies in order to promote safe and healthy neighborhoods in the City. The proposed amendments are intended to implement many of these policies.
34. Chapter 13.02 of the *Tacoma Municipal Code (TMC)* sets forth the procedures and criteria for amending the City's development regulations.
35. In accordance with *TMC* 13.02.040.E, the Planning Commission is vested with the duty to assist the City Council by formulating effective and efficient land use regulations that are consistent with and implement the Comprehensive Plan.
36. The proposed land use regulatory amendments are designed to address some of the community concerns and the requirements of the moratorium ordinance within the scope of the recommended framework and the legal limitations of the City's land use authority. The proposed regulations would enhance the City's regulations associated with special needs housing facilities to provide additional clarity, enhanced community involvement and improved development and review standards. The proposed regulations would modify the standards for nonconforming uses, provide additional land use code enforcement tools, improve the Code's consistency with state licensing standards, improve the associated definitions, remove ambiguous uses from the conditional use process, improve the City's ability to administer its existing distribution standards, remove repetitive and unused terms, and limit the size of new facilities to ensure that they are relatively comparable in size to the other residential uses allowed in the City's neighborhoods. The proposed regulations would also and improve the existing permit review process for emergency and transitional housing by providing increased neighborhood notification and involvement when new facilities are sited, enhancing the standards and requirements for new facilities to better ensure that they are designed and operated in an appropriate manner, provide a more predictable permitting process for applicants, the City and the community, and provide a process through which the potential impacts from such facilities can be identified and addressed.
37. It is important to note that these proposed Land Use Regulatory Code amendments are not intended to address all of the community issues that have been raised during this process. The discussion and testimony that has occurred over the past year and a half has focused on a wide variety of issues, from regulating specific populations, preventing negative personal behaviors, ensuring general neighborhood attractiveness and regulating certain types of uses. These proposed land use regulations are based on land uses and are not designed to directly affect the behaviors of individuals or specific populations. These regulations provide additional development standards and permitting requirements for certain types of housing facilities. Ultimately, the issues that have been identified by the community can not be fully addressed by land use regulations. The City Council, in recognition of this, created a Blue Ribbon Panel and an Inter-governmental Task Force to explore other avenues for addressing the community's concerns. Both of these bodies have made their own recommendations to the Council. More recently, during the review of the Commission's original recommendations the Council called for a more comprehensive approach that involved land use *and* non-land use components. The list provided above, under Finding #22, demonstrates the wide range of possible solutions that have been suggested and discussed throughout this process. There are numerous City departments currently exploring and pursuing many of these other options for addressing community concerns, including improved code enforcement tools and implementation, enhanced landlord licensing standards, improved police enforcement tools, enhanced property maintenance control, and the utilization of "good neighbor agreements." These proposed land use regulatory amendments are intended to be complimentary and compatible with these additional non-land use efforts and be an

integral part of the comprehensive approach for addressing the neighborhood concerns that have been identified.

38. Pursuant to the WAC 197-11 and Tacoma's SEPA procedures, a Determination of Environmental Nonsignificance was issued on January 11, 2006 (File No. 40000062452). This decision was made after review of a completed environmental checklist. The environmental checklist and Preliminary DNS were provided to the Planning Commission, the Washington State Department of Ecology, Tacoma's Neighborhood Councils, and other appropriate entities. Legal notice announcing the availability for review was placed in *The News Tribune* on January 12, 2006. No appeals of this determination were filed and it was determined final on February 6, 2006. The current proposed regulations fall within the scope of this original environmental review and thus, additional environmental review is not required.
39. The proposed amendments to the Land Use Regulatory Code were prepared under the auspices of the Planning Commission with public participation consistent with GMA requirements and the procedures of Chapter 13.02 of the *Tacoma Municipal Code*.

D. CONCLUSIONS:

With the adoption of Substitute Ordinance No. 27360 on May 17, 2005, the City Council imposed a development moratorium on group homes, group residential facilities, lodging houses, emergency and transitional housing and high-risk/high-needs residents. The purpose of the moratorium was to prevent the continued concentration of certain types of special needs housing facilities within the City of Tacoma and to allow time to review existing policies and regulations to ensure that they provide the necessary tools to adequately address the impacts associated with such facilities. The moratorium ordinance directed three separate efforts to address the concerns of the community. The Planning Commission was charged to explore proposed amendments to the City's Land Use Regulatory Code to address some of the numerous community concerns relative to special needs housing. In addition to the Planning Commission's work, the Blue Ribbon Panel and an inter-jurisdictional task force were created to review and make recommendations based on a larger scope, including the full range of potential solutions. The Blue Ribbon Panel completed its work and presented its recommendations directly to the City Council in November 2005. The Panel's recommendations included a number of different potential solutions, from modified land use requirements to increased code enforcement, enhanced communication and tracking, neighborhood agreements, police patrol, licensing requirements and standards, and inter-agency cooperation.

The Planning Commission has worked diligently to analyze the concerns of the community and service providers and form recommendations that, within the framework of the City's land use authority and the direction in the moratorium ordinance, appropriately address these types of housing facilities. The proposed amendments represent more than a year of study and work on behalf of the Commission and staff to address the Council's objectives. The proposed amendments would address a number of the components of the moratorium ordinance and many of the concerns expressed by the public during this process. These proposed amendments would enhance the existing land use regulatory tools available to the City to address the concerns about certain types of special needs housing facilities by promoting public involvement in the permit process, enhancing clarity and direction in the Code, restricting the conversion of nonconforming uses in residential areas, better ensuring the appropriate siting and operation of certain types of facilities, and promoting the appropriate scale of facilities when they are located in the City's residential neighborhoods.

However, it is important to recognize that these proposed regulations do not address all of the community concerns relative to special needs housing. Additionally, much of the public testimony received by the

Commission related to community issues not directly related to special needs housing, such as personal behaviors, criminal activity, general nuisances, and irresponsible landlords. These regulations are not designed to address all of the community's concerns but they do attempt to provide one part of the solution. There are numerous other tools that the City Council should consider to tackle some of the additional concerns that are not addressed by these proposed land use regulations. These efforts should include continuing to explore the recommendations of the Blue Ribbon Panel, the recommendations of the Inter-governmental High-risk/High-needs Task Force, and the suggestions received in public testimony. These include exploring the potential for enhancing licensing standards for landlords, licensing of assistance programs, bolstering the City's code enforcement procedures, enhancing police patrol, revising the City's funding procedures for programs, exploring inclusionary zoning, and working with State agencies to bolster their requirements or modify their programs. These initiatives could provide additional tools to reinforce the proposed land use regulations and alternative means to address some of the community's concerns that do not readily fit within the scope of the land use regulations.

E. RECOMMENDATIONS:

The Planning Commission recommends that the City Council adopt the proposed amendments to the Land Use Regulatory Code as described above and as recommended by the Commission on September 20, 2006. The Commission also recommends that the Council direct and provide the necessary resources to conduct a comprehensive review of the City's land use permitting and public review procedures and, in the interim, recommends that the Land Use Administrator modify the administrative procedures associated with public meetings to ensure appropriate consideration of public comments. In addition, the Commission recommends that the City Council continue to pursue, as it feels appropriate, the numerous other regulatory and non-regulatory approaches that have been recommended by the Blue Ribbon Panel, the Inter-Jurisdictional Task Force on High-risk/High-needs Residents, and the public and implement the other methods that are being developed as part of the comprehensive approach for addressing neighborhood issues. In this way, many of the issues that could not be address within the practical and legal limits of the City's land use authority may be discussed, analyzed and addressed.