



## AGENDA

**MEETING:** Regular Meeting

**TIME:** Wednesday, July 19, 2017, 4:00 p.m.

**LOCATION:** Room 16, Tacoma Municipal Building North, 1<sup>st</sup> Floor  
733 Market Street, Tacoma, WA 98402

### **A. Call to Order and Quorum Call**

### **B. Approval of Agenda and Minutes of June 21, 2017**

**C. Public Comments** (Must pertain to items on the agenda; limited to three minutes per speaker.)

### **D. Discussion Items**

#### **1. Emergency Temporary Shelters Interim Regulations**

Develop findings of fact and recommendations concerning the need for said interim regulations for the City Council's consideration at its public hearing on July 25, 2017.

(See "Agenda Item D-1"; Lauren Flemister, 905-4146, [lflemister@cityoftacoma.org](mailto:lflemister@cityoftacoma.org))

#### **2. Marijuana Use Buffers Code Amendment**

Develop proposed code amendment, release it for public review, and set a public hearing date.

(See "Agenda Item D-2"; Lihuang Wung, 591-5682, [lwung@cityoftacoma.org](mailto:lwung@cityoftacoma.org))

### **E. Communication Items & Other Business**

- (1) The next Planning Commission meeting is scheduled for August 2, 2017, at 4:00 p.m., in Room 16; tentative agenda (subject to change) includes: Tacoma Mall Neighborhood Subarea Plan; Tideflats Area Land Use Interim Regulations; Emergency Temporary Shelters Interim Regulations; and Residential Infill Pilot Program Update.
- (2) The next Infrastructure, Planning and Sustainability Committee meeting is scheduled for July 26, 2017, at 4:30 p.m., in Room 16; tentative agenda (subject to change) includes: Residential Infill Pilot Program Update; Transportation Commission Annual Report and Work Plan, and Sidewalk Inventory Update; and Healthy Homes Healthy Neighborhoods.

### **F. Adjournment**







## **MINUTES** (Draft)

- TIME:** Wednesday, June 21, 2017, 4:00 p.m.
- PLACE:** Room 16, Tacoma Municipal Building North  
733 Market Street, Tacoma, WA 98402
- PRESENT:** Chris Beale (Chair), Jeff McInnis, Meredith Neal, Brett Santhuff, Dorian Waller,  
Scott Winship
- ABSENT:** Stephen Wamback (Vice-Chair), Anna Petersen, Jeremy Woolley

### **A. CALL TO ORDER AND QUORUM CALL**

Chair Beale called the meeting to order at 4:04 p.m. A quorum was declared.

### **B. APPROVAL OF AGENDA AND MINUTES OF JUNE 7, 2017**

The agenda was approved. The minutes of the regular meeting on June 7, 2017 were reviewed and approved as submitted.

Lihuang Wung, Planning Services Division, noted that it would be the final Planning Commission meeting for Commissioner Winship and Commissioner Neal who would not be seeking reappointment upon term expiration on June 30, 2017. Brian Boudet, Planning Services Division Manager, expressed thanks on behalf of the City, staff, and community for their service and work. Mr. Boudet also presented a recognition proclamation to each Commissioner on behalf of Mayor Marilyn Strickland.

### **C. PUBLIC COMMENTS**

Chair Beale invited citizens to provide comments on items related to the agenda. The following citizens provided comments:

- 1) Connie Bacon, Port of Tacoma Commissioner:  
Ms. Bacon asked that they not adopt interim regulations for the Tideflats. She expressed concern that interim regulations unilaterally decided by the City could be seen as the basis for the upcoming subarea plan, undermining the intention that public input occur and the Port be an equal partner in the process. She commented that the Port Maritime Industrial area was an intertwined set of interrelated businesses and that interim regulations could have significant consequences for other businesses, the regional economy, environment, and infrastructure.
- 2) Jenn Adrien, Economic Development Board of Tacoma – Pierce County:  
Ms. Adrien read a letter from Dan Trimble, Vice-President of Business Retention and Real Estate Development. Mr. Trimble's letter expressed support for the subarea planning process, because it was inclusive of the many stakeholders from the Tideflats. He felt that interim regulations should be reserved for emerging issues and that imposing interim regulations without fully understanding the impact was irresponsible.
- 3) Anders Ibsen, Tacoma City Council:  
Council Member Ibsen commented that long term visioning was essential and that failing to offer clear guidance on the fossil fuel issue would tie up any hope of a productive, successful subarea planning process for the Tideflats. He commented that interim regulations would be a way to ensure that there is a pause on highly intensive uses while the community went through the subarea planning process. If high intensity uses were sited during that time they would be grandfathered in and possibly undermine the end vision of the community. He commented that a

pause for the most intense and controversial uses was prudent and responsible for the future of their community and the integrity of the planning process.

4) Daniel Villa:

Mr. Villa commented that as a new home owner he had a vested interest in seeing Tacoma thrive both economically and environmentally. He asked that interim regulations banning the development or expansion of fossil fuel projects be put in place during the subarea planning process. He commented that investing in green energy could create three times as many jobs for their local work force as fossil fuels. He asked that they consider the consequences of not changing to a carbon free economy as they were preparing for the effects of climate change.

5) Ryan Cruz, Citizens for a Healthy Bay:

Mr. Cruz reported that Citizens for a Healthy Bay supported a subarea plan for the Tideflats, but there was a need for interim regulations to address the urgent risk of major fossil fuel projects or expansions. He noted a recent report by the Sightline Institute which identified Tacoma as the number two community at risk for a new or expanded fossil fuel facility. He commented that a pause on all new fossil fuel projects was essential to give them the time needed to have an open and productive conversation without new projects being grandfathered in.

6) Joe MacKay:

Mr. MacKay commented that a moratorium on fossil fuel projects was very important and that they needed to move towards clean energy.

7) Jordan Royer, Pacific Merchant Shipping Association:

Mr. Royer reported that their third air emissions inventory was showing dramatic reductions in pollution because of their push for international regulations in the emissions control area. He commented that they were trying to switch to an even cleaner fuel, liquefied natural gas, for ships running from Tacoma to Alaska.

8) Nathan McCurtain:

Mr. McCurtain commented that Tacoma was at a crucial moment where they could choose to invest in environmentally responsible industries for long term growth or allow the expansion of fossil fuel industries for short sighted gain at the cost of their health and environmental future. The Commission could do its part by implementing a moratorium on fossil fuel expansion.

9) Deirdre Wilson, Port of Tacoma:

Ms. Wilson read a letter on behalf of John Wolfe, Port of Tacoma CEO. Mr. Wolfe's letter stated that the Port was opposed to interim regulations and that any change needed to be studied due to the potential for unintended consequences to other properties. Interim regulations would leave out important regional and statewide voices. More than 29,000 jobs were generated by port activity and uncertainty about interim restrictions posed a risk to their ability to market properties.

10) Nick Mitchell, Tacoma Pierce County Chamber of Commerce:

Mr. Mitchell reported that the Chamber opposed the implementation of interim Tideflats regulations because it was vital that a thorough subarea plan was conducted due to the importance to the local economy. Looking at previous efforts by the City, problems arose when the City attempted to force actions rather than trying to understand complicated issues. He commented that the proposal had already imperiled the Tideflats as a hub for commerce.

11) Bett Lucas, Targa Sound Terminal

Ms. Lucas commented that Targa were opposed to interim regulations related to downzoning along the Hylebos and the concept of a fossil fuel ban. She reviewed several key points from a letter submitted by Targa including that the interim process bypassed stakeholders; that consequences could include adverse impacts to their environment; that their region was reducing emissions without a localized ban; and that petroleum, gasoline, and diesel would continue to be critical to all forms of regional vehicular mobility.

- 12) Marilyn Kimmerling:  
Mr. Kimmerling commented that she was in favor of interim regulations for the Tideflats. She commented that they had a potential emergency because of the proposed LNG facility which was dangerous due to methane emissions and being a possible target for terrorism. She added that the LNG plant would also kill the tourism industry and real estate businesses.
- 13) Chrissy Cooley, South Sound Collaborative:  
Ms. Cooley commented that the Port had removed the Puyallup Tribe from the planning process despite a City Council resolution that placed it as a full coequal partner. She commented that a pause on fossil fuels was necessary as they worked on interim regulations due to Tacoma being the second City most at risk for dirty fossil fuel development. She commented that without a moratorium fossil fuel companies would be fixtures in the community for hundreds of years
- 14) Shirley Low:  
Ms. Low commented that interim regulations for the Tideflats would pause development until the subarea plan was completed and assure that public comments could be made by all interests as intended. She urged the Commission to implement meaningful interim regulations that would prevent grandfathered fossil fuel exports, adding that they had an emerging issue because 2014 federal regulations had halted a moratorium on fossil fuel export.
- 15) James Clark:  
Mr. Clark expressed support for interim regulations that would restrict development on the Tideflats to clean industries and non-hazardous activities. He commented buffer requirements favored development and did not protect the community from pollution and hazards. He commented that the 2016 review of the proposed Methanol Plant revealed regulatory confusion, disrespect for public involvement, and a lack of communication with adjacent communities. He asked that they evaluate all large scale industrial proposals through regional coordination.
- 16) Toby Murray:  
Mr. Murray commented that he supported the Tideflats subarea plan which would allow for a thorough discussion of complex issues. He was opposed to the interim regulations for downzoning along the Hylebos and a possible fossil fuel ban, commenting that a well-defined process could be bypassed by those two non-emergency issues.
- 17) Ellen Moore:  
Ms. Moore expressed concern that the Tideflats subarea plan would take several years making nearby residents vulnerable to fossil fuel developments that could be grandfathered in. She commented that big moneyed interests were interested in Tacoma because of their geography, deep port, and leader's desire to grow the local economy using outdated infrastructure. She commented that if they were serious about fighting climate change, they could not continue to support the fuel infrastructure industry.
- 18) Al Ratcliffe:  
Mr. Ratcliffe expressed support for emergency temporary shelter interim regulations. He commented that the issue was not temporary and the presence of people who are homeless would continue for a long time. He asked Commissioners to review existing regulations regarding encampments so they could have a constructive communitywide response, noting that the existing regulations seemed to want homeless people to go away.
- 19) LaDonna Robertson:  
Ms. Robertson expressed support for the moratorium and halting the PSE LNG in its entirety. She commented that clean energy kept money in the local government, created local jobs, saved money, cut pollution, and saved lives. She commented that pollution emitted by coal and liquefied natural gas plants was linked to asthma, neurological damage, heart attacks, and cancer.
- 20) Bruce Hoeft, Tahoma Audubon Society:  
Mr. Hoeft discussed concerns related to oil trains and climate change. He commented that he had seen people in the Port shortcut their own planning process, reviewing that a public meeting scheduled to discuss the methanol refinery in 2015 had provided little notice and had not invited

them. He commented that they wanted interim regulations so that the subarea planning process could occur in a robust and comprehensive manner.

21) John Carlton:

Mr. Carlton commented that one of the more painful parts of the City's history was the petrochemical industry that had brought health risks to the residents. He commented that they could no longer let the Port do what it wants and encouraged them to put a moratorium on the fossil fuel industry in the port.

22) Dakota Case, Puyallup Tribal Member:

Mr. Case asked that the Commission keep the Tribe involved with the plan and respect their land claims settlement, which stated that they be consulted in matters of the environment and land use.

23) Scott McNabb, Puget Sound District Council:

Mr. McNabb commented that rail capacity was his biggest concern for the environment and local economy. He commented that oil and coal trains had a negative impact on the grain industry and other agricultural shipping. He commented that if they were going to encourage the kinds of land uses needed for long term economic industrial growth they needed to ensure that the Tideflats were protected from future large scale fossil fuel export facilities.

24) Amy McColm:

Ms. McColm commented that future generations would use more solar panels and electric cars. She commented that public policy that doesn't lead to green energy would allow a dirty dying industry to prop itself up in Tacoma. She commented that today's children opposed policies allowing pollution to continue even if they didn't know it yet. She commented that interim regulations were needed to protect Tacoma from new fossil fuel export projects.

25) Neal Rogers:

Mr. Rogers commented that he supported emergency temporary shelters interim regulations, but was concerned that there was nothing in the process inviting comment from the people who would benefit from the services. There were also no requirements for services beyond addressing physical health, specifically help with mental health and social integration.

26) Anne Locsin:

Ms. Locsin discussed how Lake Charles, Louisiana had become the target of the petrochemical industry for development and was now known as 'petrochemical alley' and also 'cancer alley'. She commented that the petrochemical industry wanted to use Tacoma to expand their business. She commented that they were facing current impacts, were scared for the future, and that interim regulations would help them sleep at night.

27) Sarah Wood:

Ms. Wood read a letter from Deputy Mayor Robert Thoms and Council Member Connor McCarthy. They expressed support for the northeast Tacoma buffer zone to be considered as part of the Tideflats area interim regulations. They believed that buffers limiting future residential developments near the border of the Port Maritime Industrial area would be prudent as well. Residents seeking to protect quality of life during the subarea planning process wished to have buffers considered.

28) Chris Karnes, Sustainable Tacoma Commission:

Mr. Karnes expressed support for interim regulations to restrict the permitting of fossil fuel facilities within the Port of Tacoma. He discussed the most recent greenhouse gas inventory cataloging emissions that affect climate, expressing concern that the City was not doing enough to curb transportation emissions and that further fossil fuel facilities would result in higher emissions. He expressed concern that the City would not be able to meet its commitment to the Paris Accord. He commented that the climate crisis was an emergency and the City was in the right to implement regulations as part of preserving the health, safety, and well-being of residents.

## 29) Steve Storms:

Mr. Storms commented that he supported the Tideflats interim regulations begrudgingly because many cities on the coasts had already banned transportation of fossil fuels. He commented that there were many things that could be done such as immediately banning fossil fuels, but the interim plan was the best they could do.

## 30) Nanette Reetz:

Ms. Reetz commented that she was in favor of interim regulations for the Tideflats area, noting that they had worked tirelessly to do the due diligence that the City officials and Port did not do. She commented that she was tired of elected officials accommodating industry over the welfare of the citizens. She asked that they include the Puyallup Tribe in all decision making.

## 31) Dean McGrath, ILWU Local 23 President:

Mr. McGrath commented that they were against future large scale fossil fuel exporting but he was concerned about the impact on current uses in the Port. He commented that they needed to be careful that they didn't negatively impact anyone already in existence. He noted that the shipping industry was in a crucial moment and small changes could have significant consequences.

## 32) John Ostrowsky, business owner:

Mr. Ostrowsky commented that they supported the Tideflats subarea plan, but not the interim plan. He commented that he understood that the oil industry was dirty and dangerous, but they had also made enormous progress in helping to minimize the impacts to the environment.

## 33) Tal Edman, Edman Company President:

Mr. Edman asked that the Commission evaluate the unintended consequences that could come along with the interim regulations, specifically the buffer zone proposal. He commented that homeowners have a responsibility to understand the area before purchasing a home there. He commented that he understood that the homeowner's annoyances, but that did not grant them a right to push out legal businesses.

## 34) Cheryl Kopec:

Ms. Kopec expressed support for the Tideflats subarea plan and the interim regulations. She commented that they were asking for interim measures to stop fossil fuel industries from trying to move in while they go through the subarea planning process.

## 35) James Dodd:

Mr. Dodd asked why, instead of supporting fracking, they didn't embrace tidal electrical generators that would generate millions of dollars and would be able to offset renewable energy credits. He commented that a power feasibility study for the concept had already been done.

## 36) Claudia Riedener:

Ms. Riedener commented that arguments against Tideflats interim regulations were tied to economic benefits, noting that economic benefits did not include health care costs or the loss of safety. She commented that they could not let the petrochemical industry take out money and not give anything back. She commented the interim regulations were crucial.

## 37) Roxanne Murray:

Ms. Murray reviewed comments made by representatives from Targa Sound Terminal, commenting that there was no such thing as a sustainable oil company.

## 38) Caroline Lake, Port of Tacoma General Counsel:

Ms. Lake expressed opposition for the interim regulations, commenting that they were unnecessary, legally defective, and disruptive. She reviewed that the GMA Port Container Element protected container ports from incompatible uses and not the other way around. She reported that State law requires collaboration with the Port when dealing with the Container Port Element. State law also limited non industrial uses within the Container Port Element and did not support elimination or reduction of those uses. She asked that they focus their energy and resources on the subarea plan instead.

## 39) Janet Higby:

Ms. Higby commented that the Puget Sound was in a perilous condition and they needed to preserve it. She commented that the port was late with their plan, which should have been done back in the 1960s, and that she hoped that they would consider life.

Chair Beale recessed the meeting at 5:32 p.m. The meeting resumed at 5:40 p.m.

**D. DISCUSSION ITEMS****1. Tideflats Area Land Use Interim Regulations**

Stephen Atkinson, Planning Services Division, provided a review of the City Council's request to consider the need for interim regulations concerning land uses in the Tideflats area and determine the path forward. He reviewed that interim regulations were enabled by TMC 13.02.055 which had been initiated by the City Council at a public meeting in the same resolution that began the subarea planning process. If the Commission concurred that there were findings of fact in support of interim regulations, they would provide a recommendation back to the City Council on the scope, specific regulations proposed, and the duration of those regulations. They were required to recommend a work plan for the development of the permanent regulations and the work plan would be the subarea planning process in this case. He noted that the Commission was not obligated to hold a public hearing before forwarding the findings of fact and recommendations to the City Council, but staff was recommending one.

The policy background was discussed. Mr. Atkinson reviewed other related policies included in the Container Port Element, the Shoreline Master Program, the 2015 Comprehensive Plan Update, and the Vision 2040/PSRC Centers Planning. He noted that there had been a lot of work on a regional economic strategy through the PSRC that included industrial employment forecasts and concluded that there was adequate land supply for industrial job growth, but only if they continued to protect it. Mr. Atkinson reported that there was a likelihood of development during the time period in which they would be engaged in the subarea planning process. They had also seen interest in new residential development on the slopes adjacent to the Tideflats which carried the potential for new complaints and use conflicts. He noted that allowed uses would still need to go through environmental review but they had less discretion to review those permits compared to a Conditional Use Permit.

Mr. Atkinson discussed the events leading to the subarea planning process. He reviewed that during the application period for the 2017-2018 Annual Amendment they had received multiple applications to amend the Comprehensive Plan and Land Use Regulatory Code including a Council Consideration Request and an application from the Northeast Tacoma Neighborhood Council. He noted that the City Council Resolution had recommended consolidation of the applications into the subarea planning process, allocated funding for the subarea planning, and remanded the issue of interim regulations to the Planning Commission.

Mr. Atkinson discussed a series of findings structured as point/counterpoint. Regarding comments that the subarea planning process would be more inclusive, he responded that interim regulations would help maintain the integrity of the process. Regarding concerns that they couldn't evaluate potential impacts through an interim process, he commented that they could identify uses with a greater risk of adverse impact. Regarding timeliness, he noted that the process would be concluded in 2-3 years, but that the ultimate schedule was contingent on a scope of work yet to be determined. Regarding concern about the immediate impacts to northeast Tacoma residents, Mr. Atkinson commented that land use regulations were not effective for immediate relief from legally permitted uses. Regarding the request to protect residents from encroachment of industrial uses, he noted that there was also a need to prevent residential uses from encroaching on industrial land and that the interim regulations could not solve the issue of off-site impacts, but could place a pause on new development that would exacerbate existing use conflicts.

Mr. Atkinson reported that the staff's preliminary recommendation was that the interim regulations were warranted; that they could use what had been presented to create findings and interim regulation options; that they were recommended holding a public hearing; and they were recommending a number of guiding parameters to consider while determining the scope of regulations.

Commissioners provided the following questions and comments:

- Commissioner Santhuff suggested that they needed to look at having a pause on residential development of steep slopes, critical areas, and some development sites as well.
- Chair Beale asked if the interim regulations would be limited to fossil fuel uses or if they would be identifying other types of uses that could be harmful. Mr. Atkinson responded that the potential regulations were broader and considered environmental protection, public safety, and the potential for hazards.
- Chair Beale commented that he was in favor of staff's recommendations for the interim regulations. He added that he would like to see fossil fuel uses and uses that could be potentially dangerous to workers on the list of uses being paused.
- Commissioner Santhuff commented that he was generally supportive of the idea of interim regulations and the idea of a buffer zone. He commented that they should make sure that the available land is utilized for container shipping, agricultural products, and sustainable renewable resources. He suggested that they consider adding it as a finding of fact.
- Commissioner McInnis commented that he would be okay with moving the interim regulations to the next stage but he didn't want them to gut the subarea planning process before it occurs, so his support would depend on what the regulations look like. He commented that if the regulations had a negative impact on existing businesses, he would have to reconsider. He added that encroachment goes both ways, noting that one of the goals of the Container Port Element was not to let development encroach on the port.
- Commissioner Neal expressed concern that the proposed timeline did not allow adequate time to review the issues. She suggested that she would like to see benchmarking of other communities that have port/maritime uses including what regulations had been put in place and the associated legal issues. She also was concerned with adding more residential units on the bluff because she didn't want additional conflicts of use there.

## **2. Emergency Temporary Shelters Interim Regulations**

Lauren Flemister, Planning Services Division, facilitated a discussion to review interim regulations concerning emergency temporary shelters and begin to develop findings of fact and recommendations. Ms. Flemister reviewed that Ordinance No. 28432 had enacted interim zoning and land use controls as an emergency measure to respond to the need for temporary emergency shelters. She reviewed that the ordinance was consistent with the Housing and Public Facilities Element; that current zoning did not address the need for temporary shelters; that it would give the Director of Emergency Management, in consultation with public officials, the authority to approve and provide oversight over emergency temporary shelters; and that it would provide an exemption from land use regulations and standards. She reported that the purpose of the ordinance was to mitigate the ongoing suffering of people occupying homeless encampments and looked specifically at hygiene facilities, sanitary facilities, temporary shelter, outreach, and connection to services. She discussed the antecedents to the ordinance, reviewing that Resolution No. 39716 instructed the City Manager to prepare the Emergency Temporary Aide and Shelter Program and Ordinance No. 28430 declared the state of emergency. The Emergency Temporary Aide and Shelter Program had three phases: mitigating conditions of existing encampments, emergency sheltering and transition services, and providing long-term housing.

Commissioners provided the following questions and comments:

- Commissioner McInnis asked if they had planned anything for providing long term housing. Ms. Flemister responded that there had been discussion of tiny home development, repurposing disused hotels, funding vouchers, and providing bridge funds for rent.
- Commissioner Waller asked how involved the Tacoma Housing Authority was in the process. Ms. Flemister responded that they would be more involved in Phase Three when most of the interagency coordination and outreach would be occurring.
- Commissioner Neal asked if phase two would be mainly handled by the City. Ms. Flemister responded that service providers would also be involved in phase two.
- Chair Beale asked how the interim regulations were different from the original tent city ordinance aside from exempting City operations from the regulation concerning how long a site could be

located in one place before having to move. Ms. Flemister responded that the main change was the emergency state which allowed them to take necessary short term actions.

- Chair Beale commented that they needed to do intensive outreach to ensure that the voices of people being served were involved in the process.
- Commissioner McInnis asked if the temporary shelter at Portland Avenue East and Puyallup Avenue was still on track to open June 26. Ms. Flemister responded that it was on track, but that half of the ordered shelters would arrive later.
- Chair Beale recommended that they suggest reexamining the existing regulations concerning time duration.
- Commissioner McInnis commented that he wanted them to make sure that they don't stop at phase two.
- Commissioner Neal asked if there were any performance measures in place and how they would measure success. Ms. Flemister responded that for phases one and two the vision of success was taking care of the people in known encampments.
- Commissioner Santhuff asked if the emergency temporary shelters might have broader applicability for other situations like housing people after natural disasters. Ms. Flemister responded that the shelter they were using was similar to what was used by FEMA and the emergency management team had been heavily involved.
- Commissioner Waller asked if the work was being done mostly by the City and non-profit organizations. Ms. Flemister responded that there had been significant private sector support and some financial help.

### **3. Marijuana Use Buffer Interim Regulations**

Mr. Wung facilitated a discussion to determine the best path forward for developing interim regulations to clarify the definitions of marijuana use buffers. He reviewed that the City Council had adopted Resolution No. 39742 requesting that the Commission consider amending the Tacoma Municipal Code concerning marijuana use buffers, specifically adding local definitions of playgrounds and recreation facilities. The proposed change was to add text taken from current state law with modification to include playgrounds owned by Metro Parks Tacoma. He reviewed that the resolution was in response to a case where a variance had been requested for a marijuana business near a playground owned by Metro Parks as it was not specifically buffered in the code.

Mr. Wung reviewed that the path forward could be through the interim regulations process or the code amendment process, noting that this important matter could be handled in a more streamlined and effective manner through the code amendment process, which would take slightly longer. He reported that after the state changed their definitions, the City may need to revisit the code accordingly. Mr. Wung also reviewed the preliminary Findings of Fact, noting that there was a need for clarifying the code and that there would be no impact to existing or prospective marijuana businesses.

Mr. Wung concluded by suggesting that the Commission proceed with the code amendment process, whereby the Commission would develop draft code revisions, conduct a public hearing, and forward the proposal to the City Council for consideration for adoption. The Commissioners concurred.

### **4. Planning Commission Annual Report for 2016-2017**

Mr. Wung provided a review of the final draft of the annual report which highlighted the Commission's accomplishments between July 2016 and June 2017 and outlined the 2017-2019 Planning Work Program. Upon approval by the Commission, the report would be submitted to the City Council for their information, as required by the Municipal Code.

Commissioner Santhuff recommended a minor amendment to the report to note the significant amount of public comments received as part of their regular public comment process.

Mr. Boudet reviewed a discussion with the Infrastructure, Planning, and Sustainability Committee on June 14<sup>th</sup> regarding the Planning Work Program which had included questions about whether Marijuana Use

Buffer regulations could be completed faster and discussion of the subarea planning process for the Tideflats.

Commissioner Santhuff motioned to approve the Annual Report for 2016-2017 as amended. Commissioner Waller seconded. The motion was approved unanimously.

#### **E. COMMUNICATION ITEMS & OTHER BUSINESS**

Mr. Boudet facilitated a discussion about whether the public comment process should be adjusted. Commissioner Neal suggested that postponing further public comment regarding the Tideflats until they reach the public hearing might be beneficial so that they could move through the necessary work. Discussion ensued on whether the Commission's bylaws would need to be amended to that effect. Commissioners concurred with not taking action on the bylaws until more Commissioners were present and suspending public comments regarding Tideflats interim regulations.

#### **F. ADJOURNMENT**

At 7:23 p.m., the meeting of the Planning Commission was concluded.





City of Tacoma  
Planning and Development Services

**Agenda Item  
D-1**

**To:** Planning Commission  
**From:** Lauren Flemister, Senior Planner, Planning Services Division  
**Subject:** **Emergency Temporary Shelters Interim Regulations**  
**Meeting Date:** July 19, 2017  
**Memo Date:** July 14, 2017

At the last meeting on June 21, 2017, the Planning Commission reviewed Ordinance No. 28432 (adopted on June 6, 2017) whereby the City Council enacted interim zoning and land use controls as an emergency measure to permit the City to site temporary emergency shelters in response to a declared public emergency. The adoption of this ordinance was a follow-up action of the Council's declaration of a state of public health emergency relating to the conditions of homeless encampments, as per Ordinance No. 28430 (adopted on May 9, 2017).

At the next meeting on July 19, 2017, the Commission will review the attached draft findings of fact and recommendations report, which is intended to help inform the Council regarding the need, duration, and scope for the interim regulations. The report also includes a work plan for developing permanent regulations prior to the expiration of the interim regulations on November 14, 2017. The Commission will be asked to consider approving the draft report and forwarding it to the Council for its consideration in time for the Council's July 25, 2017 public hearing.

If you have any questions, please contact me at (253) 905-4146 or [lflemister@cityoftacoma.org](mailto:lflemister@cityoftacoma.org).

Attachment

c. Peter Huffman, Director





# Interim Regulations – Emergency Temporary Shelters

## Amendment to the Tacoma Municipal Code

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### Planning Commission Findings of Fact and Recommendations Report July 19, 2017 *Draft*

#### **A. Subject**

The emergency interim zoning regulations pertaining to emergency temporary shelters, as enacted by the City Council on June 6, 2017, per Ordinance No. 28432 (see Exhibit “1”).

#### **B. Summary of Interim Regulations**

The adoption of emergency Ordinance No. 28432 is intended to limit the ongoing suffering of individuals, families, and youth occupying homeless encampments by allowing provision of emergency temporary shelters. This is part of a three-phase plan that consists of mitigation of the conditions in homeless encampments in the first phase, providing emergency sheltering and transition services in the second phase, and providing long-term housing in the third phase. Ordinance No. 28432 addresses the types of services/sheltering included in the second phase.

As adopted, the interim regulations are effective through November 14, 2017 or until the City’s zoning regulations for emergency temporary aid and shelter are permanently updated. The interim regulations contain the following key provisions:

- Allowing the Director of Emergency Management to approve the nature, form, scope, design, and location, and provide oversight over, the erection, installation, implementation, management, and operation of emergency temporary shelters, when and where practicable;
- Exempting shelters from land use regulations and standards, except to the extent that federal or state law mandates compliance with a particular land use regulation or standard and compliance has not been excepted pursuant to operation of state or federal law or a declaration of emergency by the Governor or federal official or agency vested with authority to declare a public emergency; and
- Requiring the management of shelters to take into account: (a) access to basic health, support, and transportation services; (b) minimizing impacts on neighborhoods or environmentally sensitive areas; (c) ensuring safety and security of the occupants; (d) accommodation for those with access and functional needs; and (e) public outreach and engagement.

#### **C. Background**

The Puget Sound region is experiencing extremely high numbers of homeless. In the South Sound and Pierce County, Tacoma, as the largest city, has been experiencing increasing numbers of homeless individuals and homeless encampments. In April 2014, the City passed Ordinance No. 28216, which adopted regulations to create a defined permitting process for temporary homeless camps operated and supported by religious institutions. The code associated with this Ordinance is codified in *TMC* Section 13.05.020.

In April of 2017, complaints arose regarding homeless activity in the downtown area and the growth of encampments, including locations under the 15th Street Bridge and the A Street pedestrian

underpass. Concurrently, the Neighborhood and Community Services Department led a cleanup of the area known as “The Jungle”, which was located at the East 26th Street Bridge and under the I-705 overpass. This cleanup included connecting encampment occupants with services and site reclamation. In response to these growing encampment issues and clean-up efforts, the City Council and City staff began to reassess and explore alternatives to the City’s approach to homelessness and encampments.

On May 2, 2017, Councilmember Keith Blocker put forward a Council Consideration Request (CCR) to reexamine current land use regulations for Temporary Homeless Camps (TMC 13.05.020). The request asked that a review consider increased flexibility for religious organizations and allowance on other private or public sites. Additionally, a decision was made by Mayor Strickland, in concert with City Council and at the time, the Interim City Manager, to develop an emergency temporary aid and shelter program in response to the homelessness crisis; this policy directive led to Resolution No. 39716. Resolution No. 39716 responded to the homelessness crisis by directing the Interim City Manager to promptly prepare and present to the City Council an Emergency Temporary Aid and Shelter Program to respond to the homelessness crisis, and to prepare and present an ordinance declaring a state of emergency relating to the current homeless crisis, authorizing the suspension of certain regulations to facilitate the Emergency Temporary Aid and Shelter Program, and providing for approval of such emergency services contracts as are necessary to support this program.

On May 9, 2017, Ordinance No. 28430 was passed and declared a state of public health emergency relating to the conditions of homeless encampments (see Exhibit “2”). In response to this state of emergency, Ordinance No. 28432 was passed.

#### **D. Findings of Fact**

1. The Planning Commission concurs with the City Council’s findings, as outlined in Ordinances 28430 and 28432, including the following key findings and statements relative to these land use interim regulations:
  - a) Temporary emergency shelter sites provide needed community services in response to the declared public health emergency
  - b) The provisioning of basic emergency shelter, temporary transitional shelters, and related supportive services for persons experiencing homeless is consistent with numerous policies of the *One Tacoma* Comprehensive Plan and the community priorities identified in Tacoma 2025, to increase housing security so that everyone has shelter
  - c) The current zoning and land use controls governing emergency housing do not address the need for establishment and operation of temporary emergency shelters by the City under the circumstances of a public emergency, and require additional review and public hearings to develop suitable land use controls applicable during a declared state of emergency, and
  - d) It is in the best interest of the public health, safety, and welfare to adopt the interim zoning and land use controls
2. Homeless encampments often occur without appropriate sanitation facilities or proper trash receptacles and often become contaminated with garbage, human wastes, used needles and dirty dressings resulting in occupants facing serious health and sanitation issues.

3. Conditions in homeless encampments are personally stressful and expose occupants to communicable diseases like tuberculosis and respiratory illnesses, violence, malnutrition and harmful weather exposures and exasperate common conditions such as high blood pressure , diabetes, and asthma because there is no safe place to store medications or syringes properly.
4. Behavioral health issues such as depression or alcoholism often develop or are made worse for people living in homeless encampments, and these conditions frequently co-occur with a complex mix of severe physical, psychiatric, substance use, and social problems.
5. The housing and homelessness crisis presents an existing and on-going threat of significant harm to human health and life requiring immediate action.
6. The time it will take to create permanent regulations that address the immediate need is not in line with a crisis response.
7. The current regulations lay out directives for religious institutions in non-emergency conditions; the interim regulations provide the City with broad authority to address the homelessness crisis

#### **E. Conclusions**

The Planning Commission concludes that:

1. Given the public health and welfare concerns associated with the homelessness crisis, there is just cause for the interim regulations and a need to adopt permanent regulations to address ways to mitigate the issue of homelessness;
2. The enacted interim regulations and need for permanent regulations support the City's strategic goals for a safe, clean, attractive, and sustainable city; and
3. These regulations consistent with the Growth Management Act, will benefit the City as a whole, will not adversely affect the City's public facilities and services, and are in the best interests of the public health, safety and welfare of the citizens of Tacoma.

#### **F. Recommendations**

Move forward with interim regulations as currently written, and proceed with the development of permanent regulations following the tentative schedule as outlined in Exhibit "3". The proposed scope for the permanent regulations should include consideration of the following issues:

1. Create regulations for general emergency authority and response.
2. Modify regulations passed in accordance with Ordinance No. 28216 (*TMC Section 13.05.020*).
3. Create regulations to address ongoing and additional issues surrounding serving and housing homeless individuals and families.

#### **G. Exhibits**

*(Staff Note: The following materials had previously been provided to the Planning Commission at the meeting on June 21, 2017 and are not included here in this July 19<sup>th</sup> draft of the report, but will be included in the final version of the report if and when approved by the Commission.)*

1. Ordinance No. 28432, June 6, 2017, Enacting Emergency Temporary Shelters Interim Regulations
2. Ordinance No. 28430, May 9, 2017, Declaring a State of Emergency
3. Work Plan/Schedule for Developing Permanent Regulations (as of June 6, 2017)





City of Tacoma  
Planning and Development Services

**Agenda Item  
D-2**

**To:** Planning Commission  
**From:** Lihuang Wung, Planning Services Division  
**Subject:** **Marijuana Use Buffers Code Amendment**  
**Meeting Date:** July 19, 2017  
**Memo Date:** July 13, 2017

At the last meeting on June 21, 2017, the Planning Commission reviewed the City Council's request (per Resolution No. 39742, adopted on June 6, 2017) for the Commission to consider interim regulations concerning marijuana use buffers. The Commission determined that, instead of following the interim regulations process, this important and relatively straightforward matter should and can be accomplished in a fairly streamlined and effective manner through the normal code amendment process, whereby the Commission would develop and forward the final draft code amendment, after conducting a public hearing, to the Council for consideration for adoption.

At the next meeting on July 19, the Commission will review the attached findings of fact and recommendations report, which documents the Commission's determination and includes the text of the proposed code amendment. The Commission will consider authorizing the distribution of the report for public review, and setting September 6, 2017 (tentatively) as the date for a public hearing to receive public comment on the proposal.

If you have any questions, please contact me at (253) 591-5682 or [lwung@cityoftacoma.org](mailto:lwung@cityoftacoma.org).

Attachment

c. Peter Huffman, Director





# Marijuana Use Buffers

## Proposed Amendment to the Tacoma Municipal Code

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### Planning Commission Findings of Fact and Recommendations Report July 19, 2017 Draft

#### A. Subject:

Proposed code amendment concerning marijuana use buffers.

#### B. Summary of the Proposal:

The proposal would amend the Tacoma Municipal Code ("TMC"), Section 13.06.565 Marijuana Uses, Subsection B.3, as follows (deletions shown in ~~red strikethroughs~~ and additions in blue underlines):

3. For purposes of this Section and the standards applicable to state-licensed marijuana uses, the terms and definitions provided in WAC 314-55 shall ~~generally~~ apply ~~unless the context clearly indicates otherwise~~ except for the following definitions:

(a) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government, or a metropolitan parks district.

(b) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government, or a metropolitan parks district.

By adding local definitions of "Playground" and "Recreation center or facility" to the City's zoning of marijuana uses and including "metropolitan parks district" in the ownership paradigm, the proposal would protect said facilities owned by Metro Parks Tacoma ("MPT") to the level of buffering intended by the state, but currently not covered by state definitions found at Washington Administrative Code ("WAC") 314-55-010(24)-(27).

The proposal was initiated by the City Council via Resolution No. 39742 (see Attachment "1"), adopted on June 6, 2017, whereby the Planning Commission was requested to consider recommending said code amendment to the City Council for adoption on an interim basis, i.e., as interim regulations, until such time as the state corrects its own definitions.

#### C. Findings of Fact:

##### 1. Legislative Background:

- a. State Initiative 502 ("I-502") was approved by Washington voters in November 2012, providing a framework for licensing and regulating the production, processing, and retail sale of recreational marijuana.
- b. The Cannabis Patient Protection Act ("CPPA") was enacted by the State Legislature in April 2015, establishing regulations for the formerly unregulated aspects of the marijuana system and aligning it with the recreational system.

- c. The Washington State Liquor and Cannabis Board (“LCB”) is the agency responsible for licensing and regulating marijuana. The LCB established the first set of marijuana related administrative procedures and standards in December 2013, began to issue marijuana licenses in March 2014, and has since been carrying out its rulemaking process on a periodic basis.
- d. In response to I-502, the CPPA, and applicable rules of the LCB, the City Council has taken the following legislative actions relating to marijuana uses:
  - Enacting interim regulations on November 5, 2013, effective for one year from November 17, 2013 to November 16, 2014, pending the results of the LCB’s first rulemaking (Substitute Ordinance No. 28182); and extending the interim regulations on September 30, 2014, for six months, through May 16, 2015 (Ordinance No. 28250);
  - Enacting permanent marijuana regulations on February 17, 2015, superseding the interim regulations (Amended Ordinance No. 28281);
  - Imposing a moratorium on permitting marijuana retail uses on January 12, 2016, for six months, through March 10, 2016, in response to the LCB’s expansion of the cap on retail marijuana stores in Tacoma (Substitute Ordinance No. 28343); and
  - Amending the Public Nuisances Code and the Land Use Regulatory Code concerning marijuana uses on May 24, 2016, and terminating the moratorium (Amended Ordinance No. 28361).

2. Initiation of the Proposed Code Amendment:

- a. The consideration for the proposed code amendment was initiated by the City Council on June 6, 2017, via Resolution No. 39742 (see Attachment “1”), which was prompted by an LCB-denied variance application for a marijuana production facility within 1,000 feet of an MPT-owned playground, as articulated in a memorandum from the City Attorney’s Office to the City Manager, dated May 1, 2017, that called out the issue and suggested the need for said code amendment (see Attachment “2”).
- b. The adoption of Resolution No. 39742 was also in response to the Council Consideration Request submitted by Deputy Mayor Robert Thoms on May 4, 2017, that urged the City Council “to amend the City of Tacoma’s marijuana regulation ordinance to include Metropolitan Park District parks, recreation centers, facilities, and playgrounds in the 1,000 foot buffer zone for marijuana uses” (see Attachment “3”).
- c. Resolution No. 39742 indicates that City staff has discovered a gap between the state’s intent to require greater setback buffers for public playgrounds and recreational centers and facilities and the state’s definitions for these sites. This gap arises from the state’s unintended omission of “metropolitan parks districts” from the ownership paradigm in the WAC definitions of “Playground” and “Recreation center or facility.” The City understands that the state intends to correct this omission in its definitions, but it may take some time to do so.
- d. Resolution No. 39742 suggests that the City can alleviate the problems that have arisen in permitting marijuana uses and prevent further conflicts from occurring, by adding these two definitions in the TMC on an interim basis, until such time as the state corrects its own definitions.
- e. Resolution No. 39742 also stipulates the text of the proposed code amendment, which is also mentioned above in the section of “Summary of the Proposal.” The text exemplifies the legislative intent of the City Council, does not deviate from the existing definitions of the WAC, and can be reasonably expected to be in compliance with the state’s definitions when corrected.

- f. Resolution No. 39742 does not declare an emergency for the matter, nor does it specify when the Planning Commission must provide its findings of fact and recommendations concerning the need for the interim regulations. Nevertheless, it is understood that the City Council intends to move forward with the proposed code amendment in a fairly swift manner.

### 3. Impacts of the Proposal:

- a. The proposed code amendment would not have any impact to existing marijuana businesses, including retailers, producers and processors. In staff's original analysis of the buffer zones as set forth in Amended Ordinance No. 28361 (adopted on May 24, 2016), playgrounds, for mapping purposes, were included and assumed to be in all parks, including those owned by MPT. As illustrated in an up-to-date map of the locations of current marijuana businesses (see Attachment "4"), all MPT-owned parks that contain playground equipment are already located within the mapped buffer zones. Adding definitions of "Playground" and "Recreation center or facility" to the code would not result in any additional facility being identified outside of existing buffered zones that could impact existing businesses; on the contrary, said code amendment should help ensure that all public playgrounds are buffered, as was intended.
- b. The proposed code amendment is not expected to have much, if any, impact to future marijuana businesses. As articulated in the memorandum from the City Attorney's Office (see Attachment "2"), it is highly unlikely that the LCB will grant licenses for prospective variance applications, if any, similar to the one that had prompted the consideration for the proposed code amendment, regardless of how the City handles those applications.

### 4. Interim Regulations Process vs. Code Amendment Process:

- a. The interim regulations process initiated by Resolution No. 39742 will be carried out through the following general steps, in accordance with TMC 13.02.055 and based on the situations associated with this particular issue :
  - The Planning Commission develops findings of fact and recommendations to help the City Council justify the imposition of the interim regulations. The Council subsequently enacts the interim regulations, with a public hearing.
  - The interim regulations can be effective for 6 months, or 12 months with a work plan for the development of permanent regulations. Since it is unknown when this matter will be included in the LCB's rulemaking schedule, it will be appropriate to set the interim regulations effective for 12 months.
  - Upon the expiration of the interim regulations, if the state has not corrected its definitions, the Council will need to extend the interim regulations for 6 months, with a public hearing. Further extensions of the interim regulations may be needed and shall be done in 6-month intervals, each with a public hearing held by the Council and supportive findings of fact.
  - Upon the state's correction of its definitions, the Commission will develop draft permanent regulations accordingly, conduct a public hearing, and make a recommendation to the Council. The Council will conduct a public hearing and adopt the permanent regulations, superseding the interim regulations.
- b. Alternatively, the proposal could be handled through the normal code amendment process in accordance with TMC 13.02.045, whereby the Planning Commission develops draft permanent regulations, conducts a public hearing, and makes a recommendation to the City Council, and the Council conducts a public hearing and adopts the permanent regulations. This process will

be repeated when the state's definitions are corrected, and if it is determined that the permanent regulations need to be amended accordingly.

- c. The normal code amendment process is more streamlined than the interim regulations process, but will achieve the same effects, primarily due to the fact that the proposed code amendment is relatively straightforward, uncontroversial, and of no impact to existing or future marijuana businesses. It is also a process less dependent on the uncertain rulemaking schedule of the LCB.
- d. Concerning the project timeline, the imposition of the interim regulations can be expected to occur in September 2017, while the code amendment process may not be completed until October 2017. However, more time will be needed for following up on the interim regulations process, i.e., developing permanent regulations or extending the interim regulations, depending on the progress of the state. The code amendment process, on the other hand, needs to be revisited only if necessary, which can be accomplished within a relatively short time frame.

#### **D. Conclusions and Recommendations:**

The City Council adopted Resolution No. 39742 on June 9, 2017 (see Attachment "1"), requesting the Planning Commission to consider adding local definitions of "Playground" and "Recreation center or facility" to the City's zoning of marijuana uses and including "metropolitan parks district" in the ownership paradigm, in order to protect said facilities owned by Metro Parks Tacoma to the level of buffering intended by the state, but currently not covered by state definitions found at Washington Administrative Code. By adopting the resolution, the City Council has initiated an interim regulations process, whereby the Planning Commission is requested to consider recommending said code amendment to the City Council for adoption on an interim basis, until such time as the state modifies its definitions.

The Planning Commission concurs with the City Council concerning the need for the proposed code amendment, but believes that this important and relatively straightforward matter should and can be accomplished in a more streamlined manner through the normal code amendment process, whereby the Planning Commission would develop the final draft code amendment, conduct a public hearing, and forward it to the City Council for consideration for adoption.

With this approach being recommended, the Planning Commission will proceed with scheduling a public hearing, tentatively for September 2017, to receive public comment on the proposed code amendment as depicted in "Section B. Summary of the Proposal," and subsequently formulate a recommendation to the City Council for its consideration.

#### **E. Attachments:**

*(Staff Note: The following materials had previously been provided to the Planning Commission at the meeting on June 21, 2017 and are not included here in this July 19<sup>th</sup> draft of the report, but will be included in the final version of the report if and when approved by the Commission for distribution for public review.)*

1. Resolution No. 39742 Initiating the Consideration for Interim Regulations (June 6, 2017)
2. Memorandum from the City Attorney's Office to the City Manager (May 1, 2017)
3. Council Consideration Request from Deputy Mayor Robert Thoms (May 4, 2017)
4. Location Map of Current Marijuana Businesses (May 24, 2017)