



MINUTES (Approved on 5-3-17)

TIME: Wednesday, April 19, 2017, 4:00 p.m.
PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402
PRESENT: Chris Beale (Chair), Stephen Wamback (Vice-Chair), Jeff McInnis, Meredith Neal,
Anna Petersen, Brett Santhuff, Dorian Waller, Jeremy Woolley
ABSENT: Scott Winship

A. CALL TO ORDER AND QUORUM CALL

Chair Beale called the meeting to order at 4:05 p.m. A quorum was declared.

B. APPROVAL OF AGENDA AND MINUTES OF APRIL 5, 2017

The agenda was approved. The minutes of the regular meeting on April 5, 2017 were reviewed. Vice-Chair Wamback provided a clarification on page 2. The minutes were approved as amended.

C. PUBLIC COMMENTS

Chair Beale called for public comments. The following citizens provided comments:

- 1) James Black, Vice President of GEO Group:
Mr. Black commented that the Northwest Detention Center had operated for over 13 years and had a record of providing high quality, culturally responsive services in a safe, humane, and secure environment. He commented that the facility was not a prison, but a detention center that met the non-penal needs of residents who are in the custody of federal immigration authorities. Mr. Black reviewed that the staff were hired and recruited locally and that their annual local spending was \$27 million dollars including salary, services, and property taxes. He commented that they were proud supporters of the local communities and were involved in several local charities. He commented that it was his desire that the GEO Group and the facility continue to be a great partner, great neighbor, and responsible business operator.
- 2) Joan Mell, Attorney:
Ms. Mell commented that GEO Group was not in support of Ordinance No. 28417 concerning the correctional facilities interim regulations and were requesting that the Commission to make a recommendation to the City Council to not pass it. She noted that the City Attorney's Office and City Planner had communicated to the Commission their opinion that the Northwest Detention Center was an essential public facility. She commented that GEO Group wishes to be a good neighbor and has a long history of cooperating with the City's regulatory authorities. She commented that she had researched safety and security at the location and found a 2014 memorandum of understanding from the fire chief stating that there were operational procedures in place and that the Fire Department had access to the facility.

D. DISCUSSION ITEMS

1. Application 2018-01: Car Wash Rezone

Stephen Atkinson, Planning Services Division, provided a list of private applications the City had received for consideration during the 2018 Amendment cycle. Taylor Jones, Planning Services Division, provided an overview of the Comprehensive Plan and Land Use Regulatory Code amendment process. She noted

that they were currently in the assessment phase where the Planning Commission would review the applications and determine whether they should be accepted and moved forward to the subsequent phase – technical analysis. She reviewed the criteria that would need to be met for the analysis phase which would result in proposed amendments to the Plan and/or the Code based on the requests of the applications.

Application 2018-01, the “Car Wash Rezone”, was discussed. Ms. Jones noted that the purpose of the request was to rezone three parcels located on 6th Avenue from NCX – Neighborhood Commercial Mixed-Use to UCX – Urban Commercial Mixed-Use to allow car washing facilities as a permitted use. A map of the subject location was reviewed.

Lance Odermat, Vice President of Brown Bear Car Wash, was invited to speak. He commented that their current site at 5950 6th Avenue had become obsolete and they wanted to build a state of the art car wash facility on the three parcels proposed. He reported that they had not found any other properties with the appropriate zoning on 6th Avenue but they wanted to stay on that street. Mr. Odermat reported that commercial car washes were better for the environment than washing at home and that they would spend considerable money to make street front improvements.

Mr. Atkinson noted that staff was proposing a modified approach to addressing the amendment request. The proposed alternative would consider changing the definition of car wash facilities in TMC 13.06 Zoning; creating use allowances or conditional use criteria; and creating use specific design and development standards.

Mr. Atkinson reviewed the assessment criteria. For the criterion concerning whether there had been recent studies of the issue he noted that the recent mixed-use centers review had been focused on implementation and the upcoming commercial zoning review would not be focused on mixed-use centers. For the criterion concerning whether the item was manageable given the department’s resources, he commented that they intended to keep it limited to car wash facilities and vehicle service and repair. Based on the review against the assessment criteria, Mr. Atkinson stated that the staff recommendation to the Commission was to accept the application, with the scope of work modified as proposed by staff, and move it forward for technical analysis during the 2018 Amendment cycle.

Chair Beale asked for clarification on the assessment report which suggested that rezoning the parcels to UCX was not a feasible option. Mr. Atkinson responded that UCX was a regional growth center zoning district, which was not the policy intent of the Narrows Mixed Use Center where the subject parcels were located. Chair Beale asked if there were any other zonings that would be more appropriate, expressing concern that changing the definition for one project would be affecting centers citywide. Mr. Atkinson responded that it would be a consideration that staff would need to make, but the intent was to keep the scope as narrow as possible.

Commissioner McInnis asked if the proposed new car wash definition would apply within all NCX zones. Mr. Atkinson confirmed that it would, noting that there were also potential alternatives.

Chair Beale commented that if they went with the staff recommended alternative they would need to have a discussion about the design of the facility and how it orients to a core pedestrian street.

Commissioner Neal asked if a Conditional Use Permit (CUP) process would address design. Mr. Atkinson responded that it would, adding that in the past they had created specific criteria for some issues.

Vice-Chair Wambach noted that other intense vehicle oriented uses were allowed in NCX on pedestrian streets. He commented that it would be important that cars were not queuing in the public right of way which was one of the issues that he would want to see addressed in a conditional use process. He suggested that the City also work with the applicant to incentivize them to stay in their current location.

Chair Beale asked if they could keep it as a rezone application but also analyze C-1 as an alternative option. Mr. Atkinson responded that they could look at the alternatives to ensure that they are limited in scope and focus the area of applicability within NCX.

Vice-Chair Wambach motioned that the Planning Commission accept the application, with the scope of work and approach modified as recommended by staff, and move it forward for technical analysis during

the 2018 Amendment cycle. Commissioner Waller seconded the motion. The motion was approved unanimously.

2. Application 2018-03: S. 80th Street Rezone (PDB)

Mr. Atkinson provided an overview of Application 2018-03 “S. 80th Street Rezone (PDB)” seeking a rezone for a propriety on South 80th Street from Planned Development Business District (PDB) to Light Industrial (M-1). Jo Ryan, Van Ness Feldmand, representative of the applicant, was invited to speak. She discussed the history of the property, reviewing that in 2004 the code changed and warehouse/storage uses were no longer allowed in the PDB zoning. Ms. Ryan reported that the owners were concerned that they might not be able to maintain their uses at the location and wanted to get ahead of the citywide rezone process. She suggested that the best fit for the area to maintain the continuity of uses would be to zone it M-1, because the site would not be suitable for retail or commercial uses. Mr. Atkinson reviewed that there had been some initial discussions about eliminating the PDB zoning, which had not been effective for commercial or industrial uses. He discussed how the application met the assessment criteria. He noted that two of the parcels in the area were in the Accident Potential Zone (APZ) and that as part of the APZ study they would want to look at whether the general commercial designation had the potential to increase the intensity of uses in the location. Mr. Atkinson noted that other property owners in the PDB zoning had expressed similar concerns about non-conforming uses in the district and difficulties expanding the uses. He reported that the staff recommendation was to consider a modification to look at the entire PDB zoning at the site and proceed to technical analysis. The Commission would continue to review the application and make a determination on whether to accept it at a future meeting.

Chair Beale recessed the meeting at 5:10 p.m. The meeting resumed at 5:14 p.m.

3. Correctional Facilities Interim Regulations

Chair Beale reported that the operators of the Northwest Detention Center facility had requested to meet with Commissioners individually and asked if any Commissioners wanted to disclose having met with them. Commissioner McInnis and Commissioner Waller reported having met with representatives. Commissioner Neal reported having spoken with representatives about meeting.

Lihuang Wung, Planning Services Division, facilitated a discussion to review the draft Findings of Fact and Recommendations Report and draft Letter of Recommendation in response to Ordinance No. 28417 concerning the Correction Facilities Interim Regulations. He reviewed handouts provided at the meeting including a letter from the legal counsel of GEO group that indicated the City had considered the facility as an essential public facility in 2008; a memo from the City Attorney’s office that provided information from the Washington Administrative Code (WAC) and the Revised Code of Washington (RCW) concerning essential public facilities; copies of the cited WACs and RCWs; and a document prepared by staff in response to the information that had been received.

Mr. Wung reviewed the draft Findings of Fact and Recommendations Report as included in the Commission’s agenda packet. He discussed the 3-phased action strategy proposed for recommendation to the City Council that suggested immediate, short-term, and long-term actions. The immediate action would be modifying the interim regulations to clarify provisions concerning siting and permitting of correctional facilities. The short-term action would be developing permanent regulations by September 6 to address such issues as essential public facilities, public versus private facilities, and conditional use permit. The long-term action would be evaluating land use on the Tideflats through a Subarea Plan.

Mr. Wung then reviewed staff recommended revisions to the draft Findings of Fact and Recommendation Report based on new information received prior to the meeting. The revisions included: (1) modifying Finding #26 to recognize that, based on RCW and WAC, private correctional facilities would be considered essential public facilities and could not be prohibited, but could be regulated and conditioned; (2) modifying Scope of Work #2 to suggest that the issue of essential public facilities be further examined and the code revised accordingly; and (3) modifying Recommendation #1 to recommend that the interim regulations be modified to regulate private and public correctional facilities in the same manner. The last modification would also be made to the draft Letter of Recommendation.

Commissioner Woolley asked if there was still interest in altering the work plan from a 6 month timeline to a 12 month timeline. Mr. Wung responded that staff believed the 3-Phased Action Strategy would be able to address the Commission's concerns and accomplish what the Council desired in a 6 month time frame.

Commissioner Santhuff asked if the Northwest Detention Center would not be considered a non-conforming use with staff's recommended changes and if future expansion would be limited to a CUP. Mr. Wung confirmed that was correct and noted that the proposal would make public and private correctional facilities allowed with a CUP only in M-2 and PMI zones.

Commissioner McInnis asked if there had been differentiation between public and private correctional facilities prior to the interim regulations. Mr. Wung confirmed that there had been no prior differentiation.

Commissioner Petersen commented that she was not comfortable with correctional facilities being allowed in industrial areas due to health and safety concerns and because allowing residential uses in those areas limited space for industrial uses. Chair Beale recommended that they add a provision in the Findings about lahar danger in the area. Commissioner Neal noted that it was also in a flood zone.

Chair Beale proposed amending Finding # 6 to include language recognizing that the federal immigration policy is counter to the City's policy stance, specifically the Welcoming City policy.

Commissioner Petersen asked if they could limit the expansion of existing facilities per the WAC. Brian Boudet, Planning Services Division Manager, responded that there was guidance in the WAC on how the limitations would work, but it would still be an essential public facility question.

Commissioner Neal commented that it might be more appropriate to locate a facility like Remann Hall in a residential zoning than in an industrial zoning.

Commissioner Waller asked if there were examples from other jurisdiction of private correctional facilities having similar issues or zoning efforts. Commissioner Woolley suggested that staff research examples from other jurisdictions if they move forward with permanent regulations.

Vice-Chair Wamback commented that he appreciated the work done by staff, but nothing had changed his opinion regarding the ordinance and his concerns about the procedure used. He expressed concern that the item was opening the door to using the land use code to fight political agendas.

Mr. Wung reviewed that the Commissioners would be voting on the Findings of Fact and Recommendations Report as presented in the agenda packet with the three changes proposed by staff and several changes proposed by Commissioners during the meeting. Vice-Chair Wamback suggested that the memo from the City Attorney, the attachment concerning essential public facilities, and the email from staff generated by the facility owner should be included as attachments. He added that there should be findings of fact referencing each attachment or they should not be included. Chair Beale concurred.

Commissioner Santhuff motioned that the Commission recommend putting forward the Findings of Fact and Recommendations Report as presented in their meeting packet with the supplemental revisions to the draft Findings of Fact and Recommendations report which they received at the meeting; amendments to Finding #20 to include language about the floodplain and lahar zone risk in the port area and the related health and safety concerns; modifying Finding #26 to reference the memo from the City Attorney regarding essential public facilities and including the memo as an attachment to their recommendations; and an additional Finding to include clarifications regarding Finding #6. Commissioner Woolley seconded. Chair Beale commented that he agreed with the action taken by the Council, that there were many things that they could do with land use and zoning to fight socially unjust policies, and that he felt that private and public correctional facilities should be differentiated. He commented that he would be voting against the motion because he felt that they should not be allowing private prisons with a CUP. Commissioner Petersen commented that she was conflicted as she felt it was the right thing to do in principle and had brought to light additional issues regarding zoning. Commissioner McInnis commented that it was frustrating that there were important issues that had been raised that they would not be discussing further. Commissioner Woolley commented that there was general consensus for the investigating oversights in the code and if it had gone through a proper procedure they would have had more time to address them. Commissioner Santhuff commented that he did not like having private prisons or detention centers in the City, but was glad that they had clarification regarding essential public facilities and that he

looked forward to working through the code issues. Commissioner Neal commented that she agreed with some of the intent, but felt like there wasn't enough time allowed for the conversation regarding land use issues around correctional facilities. The motion failed six to one with Commissioner Santhuff voting yes and Commissioner Waller abstaining (Commissioner Winship was absent).

Chair Beale commented that he would speak to the Council at the study session the following Tuesday on behalf of the Commission as to why the vote had failed. Commissioner Waller requested that the Chair draft a memo of the comments he planned on sharing for the Commission to review.

Mr. Boudet asked if it was the decision of the Commission to not provide a recommendation to the Council, as action had not been taken. Discussion ensued on the possibility of attempting a motion that went back to the original language or crafting an alternative motion. Mr. Boudet noted that, by code, the Planning Commission was required to provide some recommendation to the City Council. After deliberation, Commissioners expressed general concurrence for Chair Beale to compose a letter to the City Council noting the various reasons they were not able to pass the package. Mr. Wung suggested that the letter should articulate the Commission's overall concerns regarding the interim regulations and why the Commission had not reached a consensus on approving the draft Findings of Fact and Recommendations Report, and that the unapproved draft report and associated attachments should be forwarded along to reflect and keep the Council informed of the Commission's observations, concerns and deliberations to date. Such packet of information would be timely for the Council's consideration prior to the public hearing on April 25, Mr. Wung noted. Commissioners concurred with the recommended approach. Commissioner Neal made a motion to that effect and Commissioner Waller seconded. The motion was approved seven to one with Vice-Chair Wamback voting against.

E. COMMUNICATION ITEMS & OTHER BUSINESS

Mr. Wung provided the following updates:

- The City Council would be conducting a public hearing on Correctional Facilities interim regulations on April 25.
- The City Clerk was continuing to accept applications through June 11 for the three expiring Planning Commission positions representing District No. 1, Development Community, and Public Transportation.

F. ADJOURNMENT

At 7:07 p.m., the meeting of the Planning Commission was concluded.