



MINUTES (Approved as Amended on 4-19-17)

TIME: Wednesday, April 5, 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, Anna Petersen,
Brett Santhuff, Dorian Waller, Scott Winship, Jeremy Woolley
ABSENT: Meredith Neal

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 MARCH 1, 2017

The agenda was approved. The minutes of the regular meeting on March 1, 2017 were reviewed and approved as submitted.

C. PUBLIC COMMENTS

Chair Beale opened the floor for public comments. The following citizens provided comments:

(1) Joan Mell, Attorney:

Ms. Mell reported that she had represented GEO Group as an attorney on a variety of different regulatory issues as well as cases regarding conditions of confinement. She commented that GEO opposed the ordinance enacting the correctional facilities interim regulations and any action to adopt regulatory controls that interfere with the operation of the Northwest Detention Center (NWDC). She reported that they would cite absolute zoning ordinance immunities that apply to federally operated facilities. She commented that GEO was not in the practice of ignoring local jurisdictions, having had worked with them in the past to insure that they were good stewards and neighbors while protecting the safety and security of those detained at the facility. She commented that a litigation challenge on the forefront would be the question of whether NWDC is an essential public facility. She reported having spoken with David Anderson, Washington State Department of Commerce, who wrote the WAC provision on essential public facilities and commented that the detention center would be considered an essential public facility.

(2) Bruce Scott, Tacoma Northwest Detention Center Head of Security:

Mr. Scott asked if changing the definition would change their obligation to meet the regulatory requirements under the NFPA Life Safety Code. He asked if changing the definition for correctional facilities would affect whether they are required to follow local, state, and federal laws. He asked if changing the definition of their facility would impact their accreditations and standards.

D. DISCUSSION ITEMS

1. Correctional Facilities Interim Regulations

Lihuang Wung, Planning Services Division, facilitated a discussion to review Ordinance No. 28417, adopted by the City Council on March 7, 2017, enacting interim regulations for correctional facilities. He reviewed the legislative process for interim regulations under TMC 13.02.055, noting that the Planning Commission would be required to provide a Findings of Fact and Recommendations report including a work plan for the development of permanent regulations. Mr. Wung reviewed that the ordinance modified

the definition of “correctional facility” to differentiate public and private facilities; prohibited private correctional facilities within the City; prohibited public correction facilities in multifamily and light-industrial zones; and would require a Conditional Use Permit (CUP) for public correctional facilities in zones where they were allowed. He reviewed that the Council had adopted the ordinance to better achieve land use compatibility in the Tideflats area; to enhance the notification and community outreach for proposed large industrial projects; to prevent expansion of existing private facilities; to improve regulations for correctional facilities in general; and to protect public health, safety, property, and peace.

Mr. Wung reviewed information for consideration as the Commission developed their Findings of Fact. The first consideration was acknowledging the City Council’s legislative intent. The second consideration was the existing facilities being affected by the interim regulations including the Northwest Detention Center (NWDC), Pierce County Jail, and Remann Hall. The third consideration was that as a nonconforming use the NWDC would still be allowed to expand, but expansions would be limited and subject to approval.

Commissioner Petersen suggested strengthening the second finding of fact by making a health and safety argument that people should not be living in the PMI zone, since the only people allowed were not there by choice. She recommended that they modify the interim regulations to add that public or private detention facilities should not be allowed in the zone.

Commissioner McInnis asked if there were other uses in the code where they differentiated between public and private facilities. Brian Boudet, Planning Services Division Manager, responded that there were special provisions allowing public facilities in districts where similar private facilities were not allowed.

Vice-Chair Wamback commented that he did not support the interim regulations, [although](#) noting that he questioned the legitimacy of many decisions coming from Washington DC, including US immigration policy. He commented that there was no establishment of an emergency in the ordinance and that if there was a true emergency there would be a moratorium and they would not be allowing the large number of businesses in the PMI zone that attract people. He reported that he would be voting no to communicate that they were wasting time and money.

Commissioner McInnis concurred that it was a waste of time, regardless of what people think of the current administration, and had postponed work on good issues.

Commissioner Santhuff commented that while he did not see the emergency status, he felt that correctional facilities should not be allowed in the residential and light industrial zones. He asked if they had accounted for the possibility that there might be ways for facilities to expand the number of beds in the space without increasing trips or parking spaces.

Chair Beale commented that he supported the interim regulations based on Homeland Security’s statements expressing a desire to expand detention facilities and carry out an immigration policy that was the opposite of the City’s policies of social justice and equity. He suggested including in the Findings of Fact some of the City’s policies on social justice and equity, some supporting Comprehensive Plan policies, and the Welcoming City status. Chair Beale noted that the local public correctional facilities were also nonconforming and suggested the City consider eventual pathways to permitting their expansion. He commented that they should examine the 10% expansion allowance and that if the Council’s intent was to not allow an expansion of the ICE facility, they might want consider removing that allowance. He added that they should look at amortization as a possible tool if the long term goal was to eliminate the facilities.

Mr. Wung reviewed the timeline for the development of permanent regulations, which depended largely on what issues to be addressed. He noted that they would need to consider issues related to essential public facilities as defined by the GMA, whether the conditional use permit process would be appropriate, and other code clarification issues.

Chair Beale, noting concern from Commissioners about other projects’ progress being affected by the interim regulations, asked if it would help to extend the timeline to allow staff adequate time to address some of their other major work items. Commissioner McInnis commented that he would like to see some of the questions looked at over a longer timeline.

Vice-Chair Wamback noted that the WAC 365-196-550 considered correctional facilities essential public facilities whether they were public or private facilities. He commented that he personally felt that it was an illegitimate land use based on an illegitimate federal policy, but that people had made the decision to allow it there and if people were going to use their personal disagreements with federal policy in their zoning code, he didn't know where it would end. Vice-Chair Wamback commented that extending the timeline to 12 months might help the Commission's work load, but would not be sufficient to gain his support as he felt the proper process was not being followed.

Commissioner Petersen commented that if they were making minor modifications, they should probably no longer allow people to have home occupations in the area in question.

Commissioner McInnis commented that he would vote no on whether to support the interim regulations, but he felt there were some valid questions about the zoning to consider if they could move the item into their normal process.

Commissioner Winship concurred with Commissioner McInnis, noting that he was personally opposed to for-profit prisons, but he was troubled by the process and did not see an emergency. He commented that he would support taking those issues from the interim regulations that would be legitimate topics for the Commission and putting them into the Commission's work program.

Commissioner Petersen concurred with Vice-Chair Wamback, adding that there were problems with the code regarding correctional facilities that they would need to address, but she would prefer that it be included in their work program as part of the update that they are already doing.

Commissioner Woolley commented that he had concerns on what the ultimate limit of changing it to a nonconforming use would be. He commented that there were some changes to the zoning that did have merit and suggested that they could move forward with modifying the ordinance. He commented that he would feel more comfortable voting yes if they made modifications.

Commissioner Santhuff commented that regardless of whether it was considered an essential public facility or not, what they had before them had value in examining what zonings were appropriate for correctional facilities and by requiring CUPs for facilities whether they were private or public. He commented that he was in favor of the interim ordinance as they had it and most of the Findings of Fact.

Mr. Boudet asked for guidance from the Commission on the 6 month versus 12 month timeframe preference. Chair Beale suggested that 12 months might be a compromise that they could concur on. Commissioner McInnis commented that if it was presented the same way he would still vote no.

Chair Beale commented that the Council had limited options for changing the zoning code and there were challenges with fitting it into the process. He commented that in looking at the short term program it was somewhat disrespectful to the Commissioners as volunteers, but they couldn't ignore the social aspect of why it was being done. He reported that while campaigning for City Council he had been told by a distressed resident that unless he was doing something about President Trump and immigration, they didn't care. He commented that the City Council represented over 205,000 people and were probably hearing things that the Commission did not. Chair Beale commented that the Council was clearly trying to respond to the community's concern and that the Commission needed to be responsive to those requests whether or not it actually fits within the given structure.

Mr. Wung noted that staff would compile, based on the Commission's comments and suggestions, a draft Findings of Fact and Recommendations Report and a draft Letter of Recommendation for the Commission's review and approval at the next meeting on April 19, 2017.

2. Code Cleanups (an application for 2017–2018 Amendment)

Mr. Wung reviewed that for every Annual Amendment staff identified a number of code cleanups including updating information, addressing inconsistencies between different sections of the code, correcting errors, and clarifying language. He reported that the issues being reviewed came from staff who worked on the code, from customers, and feedback from community outreach. The expected outcomes were to improve administrative efficiency and enhance customer service.

Mr. Wung reviewed that there were 21 potential issues in four categories: landscaping issues, parking requirements, breweries, and other issues. He noted that when the Code Cleanups application moved forward for technical analysis, some items might be dropped and some might be pulled out and handled separately if they necessitated policy discussions.

Chair Beale commented on the issue relating to off-street parking for efficiency multifamily units and wondered whether 20 stalls was the appropriate exemption, adding that he thought that they had already exempted them from off street parking requirements. Mr. Wung responded that the language in the current code added ambiguity as to whether 20 was the maximum or minimum and that staff had deliberated some alternatives that would be brought forward for the Commission's review at a later date.

Vice-Chair Wamback commented that he was interested in the Reduced Parking Area (RPA) issue and the possible expansion of the RPA boundary. He suggested that it would be good to have an overview of the RPA program to consider how well it had worked and whether it should be considered for a longer term review.

Chair Beale commented that there was a provision in the code about limiting clearing in critical area buffers that he felt should be revisited as part of the cleanup package as it had been an issue for people doing volunteer restoration with Metro Parks.

Mr. Wung suggested that the Code Cleanups application be accepted by the Commission, with its scope of work subject to modifications as staff proceeds with technical analysis of individual issues. The Commission concurred.

3. Planning Work Program for 2016–2018 – Mid-Term Adjustment

Mr. Boudet facilitated a discussion to consider adjustments to the Planning Work Program for 2016–2018 in response to a large number of private applications, Council Requests, and emerging priorities. He reviewed the six private applications that had been received for the 2018 Amendment cycle, including a 6th Avenue rezone to allow a car wash in the mixed-use center; a code amendment to allow outdoor tire storage; a rezone for an existing warehouse industrial building on South 80th Street; downzoning of properties along the east Hylebos from PMI and M2 to PDB and M1; design review within mixed-use centers in the North End; and a code amendment to modify how building height measurements were done in a view sensitive district. Council requests included the Correctional Facilities interim regulations, Container Port Element implementation, the Port/Tideflats Subarea Plan, Urban Design Studio, and expanded notification for large industrial projects. Ongoing and emerging priorities included open space and steep slopes regulations, homeless encampments, the shoreline master program periodic review, mixed-use center implementation, the residential infill pilot program, sign code update, and historic demolition review.

Chair Beale asked if the City of Lakewood had taken any steps to create a regional planning agency for the south Puget Sound. Mr. Boudet responded that a final decision had been postponed.

Vice-Chair Wamback asked if the Port/Tideflats Subarea Plan concept was a formal request of the City Council. Mr. Boudet responded that the Mayor had put out a news release announcing that the City and the Port would begin negotiations on an interlocal agreement for the subarea plan, but nothing was on the schedule and there was still a funding question.

Vice-Chair Wamback asked if the Container Port Element request was going to be introduced to the Council. Mr. Boudet responded that there was no specific move to adopt something formally.

Mr. Boudet reviewed a potential option for adjustment of the work program including moving some items off cycle, putting some items on the track for the 2018 Annual Amendment, and moving others to the 2019 amendment cycle. The schedule for the mid-term adjustment process was reviewed. Mr. Boudet stated that staff would continue to facilitate the Commission's review of the proposed work program adjustment as well as the review by the Infrastructure, Planning and Sustainability Committee, with the goal of accomplishing the adjustment by June-July 2017.

E. COMMUNICATION ITEMS & OTHER BUSINESS

Mr. Wung provided the following updates.

- Commissioners were invited to attend the upcoming Planning and Development Services Public Forum on April 10 at Meeker Middle School.
- Three Commission positions would be expiring in June. Commissioners were encouraged to reapply if they wished to be reappointed.
- The April 19 meeting would include the private amendment application for a rezone from Brown Bear Car Wash as they were required to make a decision within 120 days of submittal.

F. ADJOURNMENT

At 6:03 p.m., the meeting of the Planning Commission was concluded.