



TO: T.C. Broadnax, City Manager
FROM: Peter Huffman, Director, Planning and Development Services
COPY: Economic Development Committee
SUBJECT: Point Defiance Park Project(s) Review
DATE: October 14, 2015

SUMMARY:

At its October 27, 2015 meeting, the Economic Development Committee will receive a briefing on the Development Review Agreement (DRA) project review process that is underway to review and approve, with conditions, Metropolitan Park District of Tacoma's (Metro Parks) Master Plan for Point Defiance Park. At this time, the Economic Development Committee will be requested to make a recommendation to the City Council to authorize the City Manager to execute the DRA; Attachment A.

BACKGROUND:

Metro Parks is in the process of Master Planning Point Defiance for the next 20 years. They are taking the 2008 Conceptual Plan and expanding on it to include more detail on potential program elements and locations. Taken individually, these projects would require multiple Conditional Use Permits that would be unable to encompass the breadth of the scope of work nor manage all the related elements that will be affected by the individual projects.

Fortunately, State statute allows the creation of an optional application procedure that could authorize certain major projects in key locations to be reviewed, rated, approved, and conditioned according to the extent to which they advance the Comprehensive Plan's goals and policies. In addition to demonstrating precisely how it significantly advances the goals and policies of the Comprehensive Plan a project must document specific compliance with the policies and standards set forth in the Comprehensive Plan.

The City has adopted this optional procedure in RCW 36.70B 170-210 and specifically provided a Comprehensive Plan policy set that can facilitate the use of the DRA process for Point Defiance Park; Attachment B.

PUBLIC COMMENTS RECEIVED:

Written Comments - Attachment C

- Toni Magelssen of 6322 North 26th Street – Ms. Magelssen expressed concern that while the DRA will cover a 20-year Master Plan, the Master Plan itself indicates that the projects will be completed by 2026 – a 10-year difference. A related issue is that since the current bond funding does not appear to be enough to cover the 20-year outlook, the DRA should not cover what is not clearly funded. Ms. Magelssen also recommends that the Project Elements Spreadsheet (see page 37 of the Master Plan) should include a second spreadsheet that is sorted by each project's start date to make easier to analyze the order in which each of the 75 projects will be constructed.
- Aaron Blaisdell of Apex Engineering – Mr. Blaisdell expressed his support for the DRA as it will streamline the process for upgrading many of the park's amenities. He also notes that the DRA will eliminate a duplication of staff efforts and provide for a greater accountability of public resources.

Oral Testimony at the Public Hearing

- Jayne Moore of the City Transportation Commission and Metro Parks Active Living Committee.
- Erik Hanberg of the Metro Parks Board.
- Gregory Tanbara of 15 North Summit Road.
- Rick Bacon of 5046 North Lexington Street.

All four citizens provided testimony in support of the DRA. Mr. Tanbara and Mr. Bacon also complimented Metro Parks staff on how it managed, presented and collaborated with citizens and stakeholders at its series of public meetings earlier this year.

Metro Parks Response to Concerns

Prior to opening the public comment period, Metro Parks' Director of Planning and Development, Debbie Terwilleger, responded to questions from the City Council. One inquiry from Councilman Ibsen asked about the issues brought up in Ms. Magelssen's letter (see Attachment C). Ms. Terwilleger advised that the current bond funding for Point Defiance will not cover all of the projects listed in the Master Plan, rather, it represents a list of priorities and possible sequencing, depending on funding. Ms. Terwilleger noted that she will make sure that a spreadsheet, sorted by project date is added to the Project Elements Spreadsheet section of the Master Plan.

ISSUE:

Metro Parks submitted a formal application for a DRA pursuant to RCW 36.70B 170-210. The Master Plan, draft DRA and SEPA Determination were transmitted to the City Council and are posted on the Planning website at: <http://www.cityoftacoma.org/cms/one.aspx?portalId=169&pageId=78180>

Key points are as follows:

- Metro Parks took the lead in the public outreach;
- The City Council held a public hearing on the DRA and Preliminary SEPA Determination on October 13, 2015;
- The City will finalize a SEPA Determination of Non-Significance on October 27, 2015; and
- The City Council is scheduled act on a resolution authorizing the City Manager to execute the DRA on November 10, 2015.

If you have any questions, please contact Ian Munce, Special Assistant to the Director, at (253) 573-2478 or imunce@cityoftacoma.org.

ALTERNATIVES:

The Committee could propose additional DRA conditions.

FISCAL IMPACT:

There is no fiscal impact to the City.

RECOMMENDATION:

The recommendation is the Committee issue a "Do Pass" recommendation to the City Council.

ATTACHMENTS:

A – DRA

B – City Comprehensive Plan and Land Use Regulatory Code References

C – Public Comments

**DEVELOPMENT REGULATORY AGREEMENT BY AND BETWEEN
THE METROPOLITAN PARK DISTRICT FOR TACOMA AND THE CITY OF TACOMA**

This DEVELOPMENT REGULATORY AGREEMENT (this "Agreement") is entered into this ____ day of _____, 2015, by and between the **Metropolitan Park District of Tacoma**, a municipal corporation ("Metro Parks") and the **City of Tacoma**, a municipal corporation and first class city of the state of Washington ("City") (collectively the "Parties"). The Parties hereby recite and agree to the following terms and conditions listed below:

RECITALS

1. The Parties enter into this Agreement in order to provide an "umbrella" regulatory backdrop against which Metro Parks' Destination Point Defiance Master Plan will be overseen by the City in its regulatory role and implemented by Metro Parks over a potentially extended time period.
2. The Parties understand and acknowledge that this Agreement addresses development considerations and processes only at the most basic level and does not excuse either party from compliance with applicable laws in developing the subject property.

A. AUTHORITY: This Agreement is entered into pursuant to the authority found in RCW 36.70B 170-210, City of Tacoma Comprehensive Plan Open Space Policy OS-SP-2, and Tacoma Municipal Code TMC 13.05.095, as well as RCW 39.34.

B. SCOPE: This Agreement authorizes all land-uses and activities set forth and described in Metro Parks' Destination Point Defiance Master Plan (Attachment A to this Agreement; hereinafter the "Master Plan") along the general lines and schedule set forth in Attachment B in the general locations identified. These land-uses and activities are vested for the 20 year life of this Agreement. However, land-uses and activities that require shoreline permits, critical area review and permitting, historic review under TMC Chapter 13.07 or as amended, storm water approvals will only vest upon the filing of a complete building permit that attaches to that particular project under the Master Plan; accessibility under the Americans with Disabilities Act will be addressed under building code review for each project. The vesting established by this Agreement is limited to zoning and land-uses identified in the Master Plan. After the effective date of this Agreement, the uses set forth in the Master Plan shall be deemed approved, subject to implementing permits and processes for the effective period of this Agreement, and any permit or approval issued by the City after the execution of this Agreement must be consistent with this Agreement.

C. GENERAL CONDITIONS: The following conditions are requirements on all projects applying under TMC 13.05.095 (DRAs):

1. Best available science and best management practices shall be used to address critical areas in locations within, and projects set forth in the Master Plan.

Mitigation for impacts to critical areas and/or buffer shall be per TMC 13.11.270, General Mitigation Requirements, or as amended.

2. All project development will provide some level of environmental sustainability. This is attributable to the design and management of the environment, including stormwater systems and Low Impact Development (LID), in addition to other sustainable decisions that may include building certification through programs such as Leadership in Energy and Environmental Design (LEED). 3. No variances or discretionary permits may be applied for. Changes to standards may only be secured by amendment to this Agreement.

D. PROJECT SPECIFIC STANDARDS AND MITIGATIONS: The following conditions have been developed after Planning and Development Services' Director review of the Master Plan's SEPA Checklist and SEPA Checklist supporting documents, public comments submitted under TMC 13.02.05 and 13.02.045.H, and public comments at the October 13, 2015 public hearing:

1. All forest stewardship and landscaping standards within the Master Plan will be established by Metro Parks in strict accordance with the "*Point Defiance Stewardship Plan, June 30, 2010*" (SEPA Checklist Appendix E). Particular attention shall be paid to the forest management objectives set forth in pages 2 and 3 of this *Plan* and to the 'Stand Management Objectives and Policies' set forth on pages 18-21. More specifically, the two areas in the western part of the Forest Zone designated as Washington Natural Heritage Sites shall receive the highest level of protection (pages 21 and 22) and the bald eagle habitat recommendations (page 22) shall be adhered to. As to 'fire prevention and suppression' (pages 22 and 23) a further consideration will apply – see D1A.

1a. While fire protection measures will be addressed in the developed areas of the Park at the building permit stage, in the undeveloped areas of the Park the Parties commit to the following consultative process: (1) meet within three months of execution of this Agreement to identify and agree upon a scope of work for a fire risk assessment, (2) Metro Parks will commission a report that addresses capital improvements and operational practices to address the risks identified, and (3) the Parties agree to jointly seek funding for the most cost effective measures identified

2. All off-street parking standards within the Master Plan will be established by Metro Parks; PROVIDED that every three years Metro Parks will monitor on-street parking in the neighborhoods adjacent to the Master Plan area, submit a written report to the PDS Director, and take corrective action to address any off-site parking problems identified.
3. Consistent with the investigation of the Traffic Impact Analysis Study, the intersection of North Pearl Street and North Park Avenue (entrance/exit from the Park) shall be improved to adequately accommodate the operation, circulation, and safety of all traffic modes using the intersection.

E. Operations and Safety – Conditions:

1. Corresponding with land use changes within or adjacent to the Park, the intersection of N Pearl Street and N Park Ave (i.e., entrance/exit from the Park) shall be improved to

adequately accommodate the operation, circulation, and safety of all traffic modes using the intersection. The Transportation Analysis has indicated that a new roundabout will be constructed at the entrance, and the study's analysis shows that it can adequately accommodate future traffic demands. Therefore, its construction (assuming adequate design and inclusion of necessary control features) shall be a prerequisite for any Phase 1 (as described in the Transportation Analysis) development or improvements within the Park.

2. Corresponding with land use changes within or adjacent to the Park, the intersection of N Pearl Street and N 51st Street shall be improved to adequately accommodate the operation, circulation, and safety of all traffic modes using the intersection. The Transportation Analysis has indicated that mitigation measures at this intersection can yield acceptable traffic operations corresponding with Phases 1, 2, and 3 (as described in the Transportation Analysis) development and improvements. The mitigation prescribed in the Transportation Analysis will 1) require concurrence from the Town of Ruston since the proposed change impacts parking along the north side of North 51st Street east of Pearl Street, 2) may require reconstruction of the roadway/curbs to accommodate the proposed lane configurations, which would require City of Tacoma and Washington State Department of Transportation concurrence, and 3) may require corresponding changes to traffic signal equipment and/or infrastructure. Therefore, all intersection/traffic signal-related improvements shall be a prerequisite for any Phase 1 development or improvements within the Park.
3. Corresponding with land use changes within or adjacent to the Park, the intersection of N Mildred Street and N Park Avenue (alignment) shall be improved to adequately accommodate the operation, circulation, and safety of all traffic modes using the intersection. The Transportation Analysis did not specifically address the intersection control needs at this intersection as it relates to other envisioned roadway/walkway improvements within the Park which are mentioned in the Transportation Analysis. Therefore, in association with any Phase 1 development or improvement within the Park, an intersection design plan will be required to be developed and approved by the City of Tacoma which provides acceptable intersection control features and identifies required improvements for implementation.
4. Corresponding with land use changes within or adjacent to the Park, the segment of N Mildred Street between N Park Avenue (alignment) and N 51st Street shall be mitigated to control excessive vehicle speeds related to traffic arriving at and/or departing from the Park. The Transportation Analysis presented two engineering options along with additional enforcement by police. There are likely other options as well. All options must be comprehensively evaluated by the City of Tacoma for approval and implementation by Metro Parks in conjunction with any Phase 1 development or improvements within the Park.
5. Based on the Transportation Analysis, other public right-of-way intersections and/or roadways are not anticipated to be impacted to a degree that mitigation would be required, but the potential additional mitigation and improvements is expressly reserved by the City of Tacoma pending forthcoming development-specific application reviews.
6. As acknowledged in the Transportation Analysis, "all roads, trails, and parking within Pt. Defiance Park are under the jurisdiction of Metro Parks, including their operation and maintenance."

F. Mobility - Conditions:

1. Intersection and/or roadway improvements shall be required to ensure pedestrian mobility, in accordance with Public Right Of Way Accessible Guide-lines (PROWAG) and Americans with Disabilities Act (ADA), at and within the intersection areas being mitigated.
2. Mitigation and improvements at intersections and along roadways shall consider modifications that retain the capability to accommodate bicyclists.

G. Summary:

As mentioned above, the resulting mitigation and improvements resulting from the above conditions are based on the Development Regulation Agreement Transportation Analysis document prepared by the consultant team for Pt. Defiance Park. Its analysis assesses the trip generation and traffic impacts associated with the planned projects as part of the Park's Master Plan and has inherent assumptions and presentation of information. Should any of these assumptions be found to be in error, to the degree that conclusions and resulting conditions are affected, then the City of Tacoma reserves the right to re-evaluate any conclusions, recommendations, and conditions stipulated.

Within the Transportation Analysis, the various Park projects were grouped into phases ("Phase 1," "Phase 2," and "Phase 3") such that specific mitigation and improvement will only be able to be attributable to those groupings/phases. Therefore, mitigation and improvements deemed necessary to accommodate a given "phase" shall be required as part of the approval process for whichever individual project/improvement/change from the corresponding phase is first scheduled for implementation. The City may consider delayed or deferred implementation of mitigation if additional transportation analysis is provided at a more refined level commensurate with the particular project that shows the specific impacts are not representative of the phase assessed in the Transportation Analysis.

1. For any project conducted pursuant to this Agreement and the Master Plan construction staging areas will be removed as soon as their useful life has ended.
2. Any fill that is brought into the Park for project work shall be clean and from an approved source.
3. Low level, downward shielded external lighting shall be required for all new development and shall be designed to minimize impacts to adjacent properties.
4. The *Point Defiance Park Historic Property Management Plan, May 15, 2015* (Appendix H to the SEPA Checklist) shall guide all activities within the Park. Specifically, the Secretary of Interior's Standards shall be the treatment approach for all historic properties in the Park. Further, the model *Inadvertent Discovery Policy* included in Appendix H (at H-11) shall be used for all projects within the Park.
5. The trail development and maintenance recommendations set forth in the *Geotechnical Consultation Erosion and Landslide Evaluation at Point Defiance, June 11, 2004* shall be adhered to.
6. The 10 Minimum storm water requirements set forth on pages 49 and 50 of the *Existing Hydrology and Storm Drainage Requirements Report for Point Defiance Park, June 16, 2015* shall

be adhered to. This requirement is broadly applicable to any projects under the Master Plan and is not intended to vest any project or the Master Plan to storm water regulations in effect at the execution of this Agreement.

H. Storm and Sanitary Sewers - Conditions:

1. All improvements shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual, Side Sewer and Sanitary Sewer Availability Manual, Tacoma Municipal Code 12.08, Tacoma Municipal Code 2.19, Tacoma Municipal Code 10.14, Tacoma Municipal Code 10.22 and all other applicable manuals in effect at time of vesting land use actions, building or construction permitting.
2. Provide future projected wastewater flows to the City of Tacoma sanitary system. Projected wastewater flows will allow the City of Tacoma to analyze the wastewater systems ability to accommodate future development within the park.
3. Any utility construction, relocation, or adjustment costs shall be at the applicant's expense.

I. Conditions applicable to building/development permits:

1. All stormwater shall be managed in compliance with the City of Tacoma Stormwater Management Manual (SWMM) that is in effect at the time of full building permit submittal.
2. The applicant shall review and comply with all applicable SWMM Minimum Requirements.
3. At time of development the downstream stormwater conveyance system shall be reassessed to ensure adequate capacity and function. If capacity or function is found to have been impacted then the downstream system shall be cleaned, repaired, or retrofit to provide adequate stormwater capacity and function.
4. Coverage under the NPDES Construction General Permit is required for any clearing, grading, or excavating that will disturb one or more acres of land area and that may discharge stormwater from the site into surface water(s), or into storm drainage systems that discharge to a surface water, per the Washington State Department of Ecology (Ecology). Contact Ecology's Office of Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary. Additional information is also available online at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. City approval does not release the applicant from state or other permitting requirements.
5. At time of building permit the existing sanitary waste system shall be assessed for adequate capacity and function. Capacity shall meet all City of Tacoma standards and/or the current Uniform Plumbing Code.
6. A new development or redevelopment will be classified as large if the proposed wastewater flow will be equal to or greater than 10% of the capacity of the public sanitary sewer system serving the development or if the development will include 100 units or more. If the project is classified as large, peak daily wastewater flow calculations shall be prepared by a licensed engineer and provided to the city for review. For further information please reference the Side Sewer and Sanitary Sewer Availability Manual.
7. If pumping of sewage is required due to site conditions, plans and calculations for the pump system shall be prepared per City standards and submitted to Environmental

Services - Site Development Group for review and approval prior to issuance of a side sewer connection permit.

J. Streets, Driveways, and Sidewalks – Conditions:

1. Congruent with the improvement of the intersection at N Pearl St and N Park Ave, cement concrete sidewalk shall be constructed along N Park Ave, abutting the site, between N Pearl St and the Northeast corner of N Bristol St meeting Public Right Of Way Accessible Guide-lines (PROWAG) and Americans with Disabilities Act (ADA) requirements, and be installed to the approval of the City Engineer. Any utility adjustment shall be at the expense of the applicant.
2. Cement concrete sidewalk shall be constructed along the west side of N Mildred St from Five Mile Drive south to the existing sidewalk along N Mildred St at approximately the intersection of N 51st St meeting Public Right Of Way Accessible Guide-lines (PROWAG) and Americans with Disabilities Act (ADA) requirements, and be installed to the approval of the City Engineer. Any utility adjustment shall be at the expense of the applicant.
3. A Work Order is required for any infrastructure to be constructed within the City of Tacoma Right-of-Way. A licensed professional civil engineer must submit the street plans for review and approval following the City's work order process. To initiate a work order, contact the Public Works Private Development at (253) 591-5760. A performance bond is required for all work orders per TMC 10.22.070.F.

K. Tacoma Power

For utility systems currently operated and maintained by Metro Parks Tacoma within Point Defiance Zoo and Park, Metro Parks will design and construct utility upgrades to meet Tacoma Power material, assembly/construction, and operating standards with the understanding that Tacoma Power may in the future assume operation and maintain these facilities to what will become secondary / service metered locations.

L. Tacoma Water

For utility systems currently operated and maintained by Metro Parks Tacoma within Point Defiance Park, Tacoma Water will design and Metro Parks will construct utility upgrades to meet Tacoma Water material, assembly/construction, and operating standards with the understanding that Tacoma Water will in the future assume ownership, operate, and maintain these facilities up to and including the meter.

Tacoma Water agrees that project specific analysis can be reviewed on an Annual and/or 5-Year Programmatic Review schedule with Metro Parks Tacoma under the DRA and an administrative amendment process.

M. Modifications: Modifications to this agreement must be applied for by written application to the PDS Director. Such modifications will only be approved if the PDS Director determines that they are within the scale and scope of the Master Plan and any project thereunder described in this Agreement and its attachments.

N. Termination: This Agreement may be terminated at any time by either party upon 90 days written notice with or without cause.

O. Miscellaneous Provisions:

1. Dispute Resolution. In the event of a dispute between Metro Parks and the City arising out of or relating to this Agreement, the Metro Parks Executive Director and the City Manager, or their designated representatives, shall review such dispute and options for resolution. If the dispute cannot be resolved by Metro Parks Executive Director and the City Manager, the dispute may be submitted to mediation, and if still not resolved, shall be submitted to binding arbitration in accordance with the rules and procedures set forth in chapter 7.04 RCW, and the judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

2. Hold Harmless/Indemnification. Metro Parks agrees to indemnify, defend, save, and hold harmless the City, its officials, employees, volunteers, and agents from any and all liability, demands, claims, causes of action, suits, or judgments, including costs, attorney fees, and expenses incurred in connection therewith, of whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance by Metro Parks of this Agreement, except for those damages caused by or arising out of the negligence, wrongful, or willful misconduct of the City, its elected and appointed officials, officers, employees, or agents.

The City agrees to indemnify, defend, save and hold harmless Metro Parks, its officials, employees, volunteers, and agents from any and all liability, demands, claims, causes of action, suits, or judgments, including costs, attorney fees, and expenses incurred in connection therewith, of whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance by the City of this Agreement, except for those damages caused by or arising out of the negligence, wrongful, or willful misconduct of Metro Parks, its elected and appointed officials, officers, employees, or agents.

In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by Metro Parks and the City, including claims by Metro Parks or the City's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of Metro Parks and the City, their officers, officials, employees, and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.

In the event of litigation between the parties to enforce rights under this section, reasonable attorney's fees and costs shall be allowed to the prevailing party.

3. No Third Party Beneficiary. Nothing in this Agreement shall be construed as creating any separate entity or joint venture between the Parties, nor shall anything in this Agreement be considered to create any third party beneficiary rights in any third party and is neither expressly nor impliedly enforceable by any third party.

4. Notices. All notices, demands, or requests which may or are required to be given by one party to the other under this Agreement shall be given in writing and hand delivered, or sent by United States registered or certified mail, postage prepaid, return receipt requested, and addressed to the appropriate party's address below. Notices shall be deemed to have been given upon receipt or attempted delivery when delivery is not accepted. Either party may change its address upon notice given to the other.

Metro Parks:

Metropolitan Park District of Tacoma
Attn: Executive Director
4702 South 19th Street
Tacoma, WA 98405

City:

City of Tacoma
Attn: City Manager
747 Market Street, Rm. 1200
Tacoma, WA 98402

5. Enforcement, Interpretation, and Venue. The laws of the state of Washington shall govern the validity, performance, interpretation, and enforcement of this Agreement. Should either party institute arbitration for enforcement or interpretation of any provision contained herein, the venue of such arbitration shall be in Pierce County, Washington.

The prevailing party in any arbitration or litigation arising out of this Agreement shall be entitled to reasonable attorney's fees, costs and expert witness fees.

The Parties agree that each of them were adequately represented by independent Council, and that both Parties shared equally in the drafting of this Agreement. Therefore, this Agreement shall not be construed either for or against the City or Metro Parks as drafter, but this Agreement shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result.

6. Integration and Amendment. There are no oral agreements between the parties affecting the meaning, content, purpose, or effect of this Agreement. No additions to, or alterations of the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both parties.

7. Invalid Provisions. If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby, if such remainder would then continue to serve the purposes and objectives of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF TACOMA

METROPOLITAN PARK DISTRICT OF TACOMA

T.C. Broadnax, City Manager

Jack C. Wilson, Executive Director

Peter Huffman, Director, Planning &
Development Services

Name:
Title:

Approved as to Form:

Deputy City Attorney

Comprehensive Plan - Open Space Habitat and Recreation Element

OS-SP-2 Point Defiance Park

MPT’s conceptual plan for their signature 768-acre park, referred to as Destination Point Defiance, was developed over multiple years with broad public input and support. It includes commercial, educational and recreational features (including the zoo, a lodge, eating establishments, gift shops, a visitor’s center, additional pavilion buildings, a farmers market, entertainment and educational facilities, and bike and kayak rental facilities) that broaden the use of the park and expand its function as a unique destination. While the current (2014) Land Use Intensity Designation is Low, the City recognizes the unique role that Point Defiance Park plays as a citywide and regional destination. Therefore, or until the Land Use Designation changes, alternative review processes such as Development Regulation Agreements may provide an appropriate avenue for City review of more intensive, destination-oriented features within the park.

TMC Section 13.06.560 Parks, recreation and open space.

C. 5. Development Regulation Agreements. Per the provisions of TMC 13.05.095, Development Regulation Agreements are an optional application procedure for major projects in key locations. In the case of park, recreation and open space uses, DRAs may facilitate application review by encompassing one or more features defined as Conditional in this section; and, DRAs can authorize alternative development standards and additional land uses to those authorized by the zoning district, that support and complement the plan and functions of a major park, recreation or open space location.

TMC Section 13.06.601 Public Facility Sites – Development Regulation Agreements Authorized.

For a Public Facility Site, as defined in subsection 13.06.700.P TMC, that is at least five acres in size, the regulations set forth in Chapter 13.06 TMC shall not apply if a Development Regulation Agreement, pursuant to the provisions of Section 13.05.095 TMC, has been approved for the site and is complied with.

TMC Section 13.11.11 Scope and Applicability. (Critical Areas Preservation)

B. Critical areas outside a shoreline district that involve a development activity that is reviewed, pursuant to Section 13.05.095 TMC (Development Regulation Agreements), except for projects identified in subsection 13.05.095(B)4 TMC, shall be considered during the Development Regulation Agreement review process; a separate critical areas permit is not required. Any approval(s) pursuant to Section 13.05.095 TMC shall, to the maximum extent feasible, avoid potential impacts to critical areas, and any unavoidable impacts to critical areas shall be fully mitigated, either on- or off-site.

TMC Section 13.05.095 Development Regulation Agreements.

A. Purpose. Pursuant to RCW 36.70B.170-210, the purpose of this section is to create an optional application procedure that could authorize certain major projects in key locations to be reviewed, rated, approved, and conditioned according to the extent to which they advance the Comprehensive Plan’s goals and policies. In addition to demonstrating precisely how it significantly advances the goals and policies of the Comprehensive Plan by achieving the threshold set forth in subsection 13.05.095(D) TMC, a threshold established based on the Comprehensive Plan goals and policies, a project located within the areas described in B(1) or B(2) must document specific compliance with the policies and standards set forth in the Downtown Element of the Comprehensive Plan.

Comprehensive Plan Policy and Land Use Regulatory Code References

It is anticipated that there will be a degree of flexibility in the application of the City's development regulations so that any conditions are tailored to the specifics of the proposed project and community vision in such a manner as to ensure that significant public benefits are secured. Project approval is embodied in a contract designed to assure that anticipated public benefits are realized according to agreed upon terms and conditions that may include, but are not limited to, project vesting, timing, and funding of on- and off-site improvements.

The City is authorized, but not required, to accept, review, and/or approve the proposed Development Regulation Agreements. This process is voluntary on the part of both the applicant and the City.

B. Applicability. Development Regulation Agreements shall only be allowed for one of the following project types:

1. Proposed projects located within the International Financial Services Area (IFSA), as defined in the City's Amended Ordinance No. 27825 and illustrated in Figure 1, with a building footprint of at least 15,000 square feet and a proposed height of at least 75 feet;

Figure 1: International Financial Services Area (IFSA)



2. Proposed projects located within the Downtown Regional Growth Center, as set forth in the Growth Strategy and Development Concept Element of the City Comprehensive Plan, provided that the real property involved is subject to a significant measure of public ownership or control, and provided that the project includes a building footprint of at least 15,000 square feet and a proposed height of at least 75 feet;

3. Proposed projects located within the Downtown Regional Growth Center where the City Landmarks Commission formally certifies that the proposed project is either a historic structure or is directly associated with and supports the preservation of an adjacent historic structure;

4. Proposed projects located on a public facility site, as defined in subsection 13.06.700.P TMC, that are at least five acres in size and are not a public utility site.

Comprehensive Plan Policy and Land Use Regulatory Code References

C. Application process. An application for a Development Regulation Agreement may only be made by a person or entity having ownership or control of real property within one of the qualifying areas identified in subsection B above. Applications for a Development Regulation Agreement shall be made with the Planning and Development Services Department, solely and exclusively on the current form approved by said Department, together with the filing fee set forth in the current edition of the City's Fee Schedule, as adopted by resolution of the City Council. The City Council shall be notified once a complete application has been received. The City shall give notice under Sections 13.02.057 and 13.02.045.H TMC as if the application were for a land use intensity change.

D. Review criteria. The City Manager, and such designee or designees as may be appointed for the purpose, shall negotiate acceptable terms and conditions of the proposed Development Regulation Agreement based on the following criteria:

1. The Development Regulation Agreement conforms to the existing Comprehensive Plan. Except for projects on a public facility site of at least five acres in size, conformance must be demonstrated by the

project, as described in the Development Regulation Agreement, scoring 800 points out of a possible 1000 points, according to the following scoring system (based on the Downtown Element of the City Comprehensive Plan):

a. Balanced healthy economy. In any project where more than 30 percent of the floorspace is office, commercial, or retail, one point shall be awarded for every 200 square feet of gross floorspace (excluding parking) up to a maximum of 290 points.

b. Achieving vitality downtown. Up to 40 points shall be awarded for each of the following categories: (i) CPTED design ("Crime Prevention Through Environmental Design"), (ii) sunlight access to priority public use areas, (iii) view maximization, (iv) connectivity, (v) quality materials and design, (vi) remarkable features, (vii) access to open space, and (viii) street edge activation and building ground orientation.

c. Sustainability. Up to 50 points shall be awarded for each of the following categories: (i) complete streets, (ii) transit connections, and (iii) energy conservation design to a L.E.E.D. (Leadership in Energy and Environmental Design) certification to a platinum level or certified under another well-recognized rating system to a level equivalent to certification to a platinum level.

d. Quality Urban Design. Up to 60 points shall be awarded for each of the following categories: (i) walk ability, (ii) public environment, (iii) neighborly outlook, and (iv) support for public art.

2. Appropriate project or proposal elements, such as permitted uses, residential densities, nonresidential densities and intensities, or structure sizes, are adequately provided to include evidence that the site is adequate in size and shape for the proposed project or use, conforms to the general character of the neighborhood, and would be compatible with adjacent land uses.

3. Appropriate provisions are made for the amount and payment of fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, and other financial contributions by the property owner, inspection fees, or dedications.

4. Adequate mitigation measures including development conditions under chapter 43.21C RCW are provided.

5. Adequate and appropriate development standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features are provided.

6. If applicable, targets and requirements regarding affordable housing are addressed.

7. Provisions are sufficient to assure requirements of parks and open space preservation.

8. Best available science and best management practices shall be used to address critical areas within the property covered by a Development Regulation Agreement adopted pursuant to this section. Review of a development activity's critical area impacts that go beyond those exempted activities identified in Section 13.11.140 TMC shall occur during the Development Regulation Agreement review process, and a separate critical areas permit is not required. Any Development Regulation Agreement approval(s) shall,

Comprehensive Plan Policy and Land Use Regulatory Code References

to the maximum extent feasible, avoid potential impacts to critical areas, and any unavoidable impacts to critical areas shall be fully mitigated, either on- or off-site.

9. Interim uses and phasing of development and construction is appropriately provided. In the case of an interim use of a property or portion of a property, deferments or departures from development regulations may be allowed without providing a demonstrated benefit to the City; provided, that any departures or deferments to the Code requested for a final use of the property shall comply with criterion No. 10 below. The agreement shall clearly state the conditions under which the interim use shall be converted to a permanent use within a stated time period and the penalties for noncompliance if the interim use is not converted to the permanent use in the stated period of time.

10. Where a phased Development Regulation Agreement is proposed, a site plan shall be provided and shall clearly show the proposed interim and final use subject to the agreement.

11. In the case of a Development Regulation Agreement where the proposed use would be the final use of the property, it shall be clearly documented that any departures from the standards of the Code, requested by the applicant, are in the judgment of the City, off-set by providing a benefit to the City of equal or greater value relative to the departure requested. In no case shall a departure from the Code be granted if no benefit to the City is proposed in turn by the applicant.

12. Conditions are set forth providing for review procedures and standards for implementing decisions, together with conditions explicitly addressing enforceability of Development Regulation Agreement terms and conditions and applicable remedies.

13. Thresholds and procedures for modifications to the provisions of the Development Regulation Agreement are provided.

14. A build-out or vesting period for applicable standards is provided.

15. Any other appropriate development requirements or procedures necessary to the specific project or proposal are adequately addressed.

16. If appropriate and if the applicant is to fund or provide public facilities, the Development Regulation Agreement shall contain appropriate provisions for reimbursement, over time, to the applicant.

17. Appropriate statutory authority exists for any involuntary obligation of the applicant to fund or provide services, infrastructure, impact fees, inspection fees, dedications, or other service or financial contributions.

18. Penalties for noncompliance with the terms of the Development Regulation Agreement are provided.

19. The building(s) shall be L.E.E.D. certified to a gold level or certified under another well-recognized rating system to be comparable to a building that is L.E.E.D. certified to a gold level.

E. Other standards and requirements.

1. Compliance with the provisions of subsection D above will ensure that the terms of the Development Regulation Agreement are consistent with the development regulations of the City then in effect, except that in the case of Shoreline Management Districts (Chapter 13.10 TMC) and Landmarks and Historic Special Review Districts (Chapter 13.07 TMC), specific compliance with the regulations and procedures of these codes is required.

2. The Development Regulation Agreement shall specify any and all development standards to which its terms and provisions apply. All other applicable standards and requirements of the City or other agencies shall remain in effect for the project.

F. Public hearing and approval process.

1. If the City Manager deems that an acceptable Development Regulation Agreement has been negotiated and recommends the same for consideration, the City Council shall hold a public hearing and then may take final action, by resolution, to authorize entry into the Development Regulation Agreement. In addition, the City Council may continue the hearing for the purpose of clarifying issues or obtaining additional information, facts, or documentary evidence; advice may be sought from the Planning Commission.

Comprehensive Plan Policy and Land Use Regulatory Code References

2. Because a Development Regulation Agreement is not necessary to any given project or use of real property under the existing Comprehensive Plan and development regulations in effect at the time of making application, approval of a Development Regulation Agreement is wholly discretionary, and any action taken by the City Council is legislative only and not quasi-judicial.

3. The decision of the City Council shall be final immediately upon adoption of a resolution authorizing or rejecting the Development Regulation Agreement.

4. Following approval of a Development Regulation Agreement by the City Council, and execution of the same, the Development Regulation Agreement shall be recorded with the Pierce County Auditor.

G. Modifications. Once a Development Regulation Agreement is approved, no variances or discretionary permits may be applied for. Changes to standards may only be secured by amendment to the Development Regulation Agreement pursuant to amendment thresholds and process set forth in the Development Regulation Agreement.

H. Enforcement. Unless amended pursuant to this section and the terms of the agreement, or terminated, a Development Regulation Agreement is enforceable during its term by a party to the Development Regulation Agreement. A Development Regulation Agreement and the development standards in the Development Regulation Agreement govern during the term of the agreement or for all or that part of the specified build-out period. The Agreement will not be subject to a new or amended zoning ordinance or development standard adopted after the effective date of the Agreement, unless otherwise provided in the Agreement or unless amended pursuant to this section. Any permit or approval issued by the City after the execution of the Agreement must be consistent with the Development Regulation Agreement.

Frantz, Shanta

From: Toni Magelssen <tmagelssen@ymail.com>
Sent: Thursday, October 08, 2015 9:42 AM
To: Frantz, Shanta
Subject: Fwd: Pt Defiance Master Plan Development Regulation Agreement

Ms. Frantz, These are my comments regarding our discussion today. Thank you.

Sent from my iPad

Begin forwarded message:

From: Toni Magelssen <tmagelssen@ymail.com>
Date: October 8, 2015 at 9:31:52 AM PDT
To: "cityclerk@cityoftacoma.org" <cityclerk@cityoftacoma.org>
Subject: Pt Defiance Master Plan Development Regulation Agreement

To Whom It May Concern,

Due to the fact all Area Elements of the Pt Defiance Master Plan are to be completed by 2026 there is no need for a 20 year agreement. A 10 year window would be more appropriate for three reasons.

One, funding for these Area Elements will run out within a few years as 25% of the 198 million 2014 bond measure has already been set aside for the new aquarium. These 2014 bond funds will dissolve quickly especially since those funds are for more parks than just Pt. Defiance. In reality, no one knows when the next Bond vote will occur or if voters will approve more funding for MPT.

Two, no agreement, when funds are obviously very limited should extend for 20 years.

Three, to date Metro Parks Tacoma has not provided the public or anyone at the City of Tacoma with a Project Elements Spreadsheet which has each element listed in the order of CIP Year (start date of each project). The current Project Elements Spreadsheet makes it very difficult to determine the order in which Elements (projects) will occur as it's sorted by Area not CIP Year. It's baffling why an additional Project Elements Spreadsheet sorted by CIP Year has not been provided by MPT which would be a useful tool to analyze the order in which each of the 75 Elements will begin construction.

Respectfully Submitted,
Toni Magelssen
6322 North 26th #8115
Tacoma, WA 98407
tmagelssen@ymail.com
253.304.2850

Sent from my iPad

Frantz, Shanta

From: Munce, Ian
Sent: Tuesday, October 13, 2015 3:59 PM
To: Frantz, Shanta
Subject: FW: Resoulation 39269 MTP Dev Reg Agreement

From: Punsalan, Amanda **On Behalf Of** Inet- City Clerk
Sent: Tuesday, October 13, 2015 3:54 PM
To: Strickland, Marilyn; Boe, David; Woodards, Victoria; Walker, Lauren; Ibsen, Anders; Mello, Ryan; Campbell, Marty; Lonergan, Joe; Thoms, Robert; Pauli, Elizabeth (Legal); Broadnax, T.C.; Munce, Ian
Cc: Sorum, Doris
Subject: FW: Resoulation 39269 MTP Dev Reg Agreement

Greetings,

Please see public comment below in regards to the public hearing being held tonight.

Thank you,

Amanda Punsalan | City of Tacoma - City Clerk's Office
733 Market Street, Room 11 | Tacoma, WA 98402
253.591.5178 | apunsalan@cityoftacoma.org

PUBLIC RECORDS DISCLOSURE: This e-mail is a public record of the City of Tacoma and is subject to public disclosure unless lawfully exempt.

-----Original Message-----

From: Aaron-BRAC [<mailto:ablaisdellbrac@gmail.com>]
Sent: Tuesday, October 13, 2015 3:50 PM
To: cityclerk@cityoftacoma.org
Cc: Addy Tseng; Su Dowie; Peter Kram; Scott Bauer; Dahl; Brett Freshwaters; Heather Moss; Jen Drake; Julie Wilfong; shons@tacomaparks.com
Subject: RE: Resoulation 39269 MTP Dev Reg Agreement

Dear Mayor Strickland, Deputy Mayor Boe and City Council Members,

This e-mail is in support of Resolution 39269 for a Development Regulation Agreement (DRA) with the Metropolitan Park District for Point Defiance Park. This agreement will streamline the process for upgrading many of the park amenities and allow the citizens of Tacoma use of the parks during the regulatory period. This DRA will also set the foundation for future projects that impact the community by eliminating duplication of staff efforts and provide greater accountability for public resources. As a resident of this great city, I urge you to support this resolution.

Thank you for your time,

Aaron Blaisdell, Principal
Apex Engineering, PLLC
2601 South 35th Street, Suite 200
Tacoma, WA. 98409

(253) 473-4494

Chair, Business and Responsive Advisory Council - MetroParks Tacoma