



TO: T.C. Broadnax, City Manager
FROM: Peter Huffman, Director, Planning and Development Services
COPY: Infrastructure, Planning and Sustainability Committee
SUBJECT: Point Defiance Park Project(s) Review
DATE: February 11, 2015

SUMMARY:

At the meeting on February 11, 2015, the Infrastructure, Planning and Sustainability Committee will receive a briefing on the status of the Development Review Agreement (DRA) project review process that is underway to review and approve, with conditions, Metro Parks Tacoma's Master Plan for Point Defiance

BACKGROUND:

Metro Parks Tacoma 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 TMC 36.70B 170-210 and specifically provided a Comprehensive Plan policy set that can facilitate the use of the DRA process for Point Defiance. Attachment A.

ISSUE:

Metro Parks Tacoma has submitted a formal application for a DRA pursuant to TMC 36.70B 170-210. The current status of application review is set forth in Attachments B and C.

Key points are as follows:

- Metro Parks Tacoma is taking the lead in public outreach
- The City will be the SEPA Lead
- City Council public hearing and action is scheduled for the fall of 2015

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

ALTERNATIVES:

This is an information briefing only. There are no alternatives presented.

FISCAL IMPACT:

This is an information briefing only. There is no fiscal impact

RECOMMENDATION:

This is an information briefing only. There is no recommendation.

ATTACHMENTS:

- A “City Comprehensive Plan and Land Use Regulatory Code References”
- B “Metro Parks Tacoma Summary of Point Defiance Development Regulation Agreement”
- C “BCRA Development Regulation Agreement Summary”

Comprehensive Plan Policy and Land Use Regulatory Code References

Attachment A

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.



Attachment B

December 1, 2014

Summary of Point Defiance Development Regulation Agreement (DRA):

Metro Parks Tacoma 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. This includes, and will continue to include, extensive public review with multiple opportunities for input. This is a huge undertaking and requires much thought and coordination between all entities and especially requires the public to have heavy participation throughout this process.

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. The City's Development Regulation Agreement (DRA) is considered to be the best review process whereby this 20 year Plan can be managed. In other words the DRA will be one comprehensive review of the park programs, that will also address parking, stormwater, access, etc. rather than multiple narrowly defined reviews that overlap.

Metro Parks and BCRA are starting preliminary conversations with City staff in order to scope out what will need to be included in the DRA. We are anticipating that with all the necessary negotiations to iron out the details and the development of the Master Plan itself, plus the requirement for public review, that the creation of the DRA will stretch over 10 months before it will be ready to submit to the City to be reviewed through the City Council. Our desire is to have a very thorough course of review by all departments and also multiple public meetings happening over that time, so that when it is formally submitted it there are no surprises because it's been thoroughly vetted.

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Point Defiance Park – Development Regulation Agreement

What is a Development Regulation Agreement?

The DRA process is an alternative method by which large project meeting specific criteria can be reviewed and approved in the City of Tacoma. The DRA process provides a degree of flexibility in the application of the City's development regulations so that any required mitigation and conditions of approval 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, conditions that may include but are not limited to project vesting, timing, and funding of on- and off-site improvements.

How Does a DRA Work?

The DRA approval process allows for site-specific negotiated public benefits in exchange for certainty concerning the regulations that will apply to the project over an agreed upon period of years. In addition, the DRA process creates a high level of predictability and assurances to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development.

Why the DRA process?

- Cost/time savings for limiting individual approval processes – with regards specifically to Point Defiance Park, because the underlying city zoning designation is R1 (residential, single-family), every development project requiring land use approvals would have to go through a discretionary Conditional Use Permit review process. This process is time-consuming and unpredictable.
- Vests projects to existing codes and mitigation requirements in place at time of establishment of DRA - The DRA is a review process that creates a degree of flexibility in the application of the City's development regulations in exchange for a demonstrated and negotiated public benefit. The approval of the DRA creates a level of predictability and vests the listed projects to the agreed upon development standards.

What doesn't the DRA process include?

- Shoreline permits – Any project within 200' of a *Shoreline of Statewide Significance* will need to apply for a Shoreline Master Development Permit demonstrating consistency with the City of Tacoma's adopted Shoreline Master Program. The DRA process cannot circumvent the Shoreline Master Development Permit review process. Review of any development project within the shoreline environment will involve City, State and Federal agencies.





- For phased implementation of a DRA, each identified capital project will require additional review to ensure consistency with the approved DRA. A Development Regulation Agreement and the development standards in the 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. Any permit or approval issued by the City after the execution of the Agreement must be consistent with the Development Regulation Agreement.
- Future potential development that was not included in the DRA can either be managed through a modification to the DRA or may be reviewed under a separate Conditional Use Permit.

What is the DRA process?

Requirements

- Program Plan. Includes a graphic site plan with proposal elements approximate location and sizes and anticipated phasing of project development. BCRA will prepare specific design guidelines and development standards as part of the negotiated DRA to provide criteria to appropriately preserve the character of the Park. Included in the DRA will be appropriate mitigation measures for proposed development and phasing. Will include criteria for sustainable site and building design.
- SEPA. The DRA will include overall non-project environmental review to a level that is sufficient to assure protection of the natural environment and critical areas and other regulated environmental issues and that may be relied upon with amendments as needed for development projects. City staff has indicated that an EIS will not be required and SEPA review can be conducted through the use of a standard SEPA checklist. Additional environmental research will be requested to supplement the SEPA findings. Stormwater management, location of wetlands that are near to potential development, traffic impacts, assessment of identified priority habitat and species, and additional reporting of cultural and historic resources are all areas of concern that are being reported.
- Management. Management of the review process will be detailed within the DRA to include oversight analysis of individual project compliance with regulation(s). The DRA will need to include thresholds and procedures for modifications and penalties for noncompliance.
- Public review. The public has already been made aware through the Comprehensive Plan process that a Development Regulation Agreement is under consideration. We need to be very proactive so that the public is kept informed and understands what is going on. Metro Parks will need to provide frequent opportunities for the public to comment on what is proposed through the City review process. However, it would also be in the best interest of Metro Parks to maintain an ongoing dialogue through several sources such as the website, the News Tribune and the Third Thursday open sessions. Currently we have a public meeting planned in each of the first four months of 2015. There will be a public hearing at City Council at the end of the process when the DRA is being finalized.



What work has been done to date?

BCRA has been working with City staff since June of 2013, laying the groundwork for the process that the DRA will take. BCRA has worked with City Staff to make changes to the existing Comprehensive Plan and Municipal Code that lays the foundation for the DRA process. The Open Space Habitat and Recreations Element now recognizes Point Defiance as a city-wide and regional destination and allows for the review and development of special features - including publicly or privately operated commercial and retail establishments - under the DRA process. We have been communicating with City staff regularly through this process and presented to the Planning Commission and City Council. Final Council approval of the proposed Comprehensive Plan Amendment occurred in July of 2014. They are eager to work with us and help draft the conditions that will make this Agreement a workable document for us all. Ultimately this document will become the legal process that regulates development at the park and so will not only be thoroughly vetted by City of Tacoma and Metro Parks Tacoma but will need their legal counsel to review and approve.

Working closely with Metro Parks and City staff, it is anticipated that we will have a DRA ready by summer 2015. At that point, the City Manager can recommend it to City Council for review and public hearing. Once the DRA is in final form, it will go through 2 readings at City Council before it is completed. It is anticipated that it will take approximately 2 months at the City Council prior to final adoption. Our schedule at this point shows City Council approval happening in the fall of 2015.