TO: Elizabeth Pauli, City Manager
FROM: Peter Huffman, Director, Planning and Development Services Department
SUBJECT: Tideflats Interim Regulations
DATE: September 20, 2018

On Tuesday, September 25, 2018, staff will present an overview of the Tideflats Interim Regulations and the proposed schedule for Council to consider reauthorization of the ordinance. At this time, the Council may also introduce potential modifications to the original ordinance.

In support of the Council’s consideration, staff previously provided a summary of the interim regulations, as well as the full Amended Ordinance. In addition, as part of the adoption process Council had requested that staff monitor and report on permit activity in the Port/Tideflats. Attached is a summary of the general permit activity as well as follow up reporting on each of the interim regulations. Lastly, the Interim Regulations were initially adopted predicated on the initiation of the Tideflats Subarea Plan. Staff will provide an update on the status of the planning effort as part of the presentation.

**BACKGROUND**

The City of Tacoma periodically accepts applications to amend the Comprehensive Plan and Land Use Regulatory Code. As part of the 2017-2018 Comprehensive Plan and Land Use Regulatory Code Amendment Application period, the City received multiple applications/requests for zoning and land use process changes in the Tideflats Area, including a Northeast Tacoma Buffer Zone application, the Council Consideration Request for implementation of the Container Port Element of the City’s Comprehensive Plan, and the Director’s Rule relating to Expanded Notification for Large Industrial Projects.

In response to the multiple amendment applications, on May 9, 2017, the Tacoma City Council adopted Resolution No. 39723 initiating a subarea planning process for the Port/Tideflats. In addition, the Resolution requested that the Planning Commission consolidate the various applications/requests into the scope of work for the Tideflats Subarea planning process and to consider the need for interim regulations in the Tideflats subarea while the subarea planning process is under way.

The Planning Commission determined that interim regulations were warranted, and on October 4, 2017 the Commission forwarded its recommendation to the City Council for consideration. In support of these deliberations the Commission conducted a public hearing, at which 81 people testified, and reviewed over 200 written comments.

Following its own public hearing, and substantial community input and deliberation, the City Council, on November 21, 2017 adopted Amended Ordinance No. 28470, establishing interim regulations for the Tideflats and other heavy industrial zoning districts. The ordinance established the interim regulations for an initial 1-year period. The Tacoma Municipal Code, consistent with State law, requires that the City Council re-authorize the interim regulations every 6-months subsequent to the initial 1-year authorization period. At the time of re-authorization, the Council may also consider amendments to the ordinance.
PROPOSED SCHEDULE FOR COUNCIL CONSIDERATION OF EXTENDING THE INTERIM REGULATIONS:
The following schedule has been proposed in order to facilitate Council’s review and consideration of the interim regulations, prior to the expiration of the current ordinance on December 2, 2018.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>September 25</td>
<td>City Council – Study Session to review (a) findings of fact supporting the renewal of the current interim regulations, and (b) potential modifications to the interim regulations.</td>
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<td>October 9</td>
<td>City Council – Resolution to set the public hearing</td>
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<td>October 23</td>
<td>City Council – Public Hearing on the proposed 6-month extension of and any modifications to the current interim regulations</td>
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<td>October 30</td>
<td>City Council – Study Session to review public testimony and provide guidance on any Ordinance modifications</td>
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<td>City Council – First reading of Ordinance</td>
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<td>November 6</td>
<td>City Council – Final reading of Ordinance</td>
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<tr>
<td>December 2</td>
<td>Current Interim Regulations expire</td>
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TIDEFLATS SUBAREA PLAN
On May 9, 2017, the Tacoma City Council adopted Resolution No. 39723 initiating a subarea planning process for the Port Tidelands. The resolution invited the Port of Tacoma and Puyallup Tribe of Indians to participate as partners on the subarea plan and to negotiate an inter-local agreement among the partner agencies that would outline the roles of the City, the Port, and the Puyallup Tribe as well as the responsibilities and funding for the project.

In response, on May 11, 2017, the Port of Tacoma Commission adopted Resolution 2017-03-PT that expressed the Port of Tacoma’s desire to partner with the City of Tacoma on a Subarea Plan and to begin negotiation of an inter-local agreement (ILA). The Port of Tacoma’s resolution further invited Pierce County to enter into the agreement as a formal partner.

On July 12, the Mayor, City Manager, and staff representatives, attended a Tribal Council meeting to formally invite the Tribal Council’s participation and to discuss the subarea planning effort. In response, on August 17, City staff received a commitment from the Puyallup Tribe to participate as a full partner in the Subarea Plan and ILA, and committing $200,000 towards the effort.

Following this, staff from the partner agencies began meeting to discuss the ILA and the process for developing and adopting the Agreement.

On December 4, 2017 the City of Tacoma and Port of Tacoma conducted a joint study session, with representatives from the Puyallup Tribe of Indians and Pierce County, to discuss the content of an ILA and the issues/concerns to be resolved.
On Monday, September 10, 2018, Mayor Woodards convened a meeting including representatives of the City, the Port of Tacoma, the Puyallup Tribe of Indians, and Pierce County to identify a path forward to an agreement and the Subarea Plan. At that meeting, an alternative Intergovernmental Agreement concerning Cost Sharing for the Subarea Planning in the Tacoma Tideflats was considered, refined and received consensus of the participating government representatives. The proposed Intergovernmental Agreement was then presented as a discussion item in Study Session on September 18, 2018.

ADDITIONAL INFORMATION:
The following links provide additional information on the Interim Regulations and related Subarea Plan.
- Interim Regulations: [www.cityoftacoma.org/tideflatsinterim](http://www.cityoftacoma.org/tideflatsinterim). This page includes the full public record of the adoption of the Tideflats Interim Regulations.
- Interactive Map: [https://wspdsmap.cityoftacoma.org/website/PDS/TIR/](https://wspdsmap.cityoftacoma.org/website/PDS/TIR/). This map enables a parcel search to determine if the interim regulations may apply to a specific property.
- Tideflats Subarea Plan: [www.cityoftacoma.org/tideflatsplan](http://www.cityoftacoma.org/tideflatsplan). This page includes information on the Tideflats Subarea Plan and relevant background information.

For more information, please contact Stephen Atkinson, Principal Planner, at (253) 591-5531 or satkinson@cityoftacoma.org.

Attachment

A. Tideflats Interim Regulations Permit Summary
Tideflats Interim Regulations

On November 21, 2017, the Tacoma City Council adopted Ordinance No. 28470 - Tideflats Interim Regulations. Provided below is a summary of the permit activity related to the Interim Regulations.

General Permit Activity in the Port Tideflats

- In reviewing the zoning districts that comprise the core area of the Port of Tacoma MIC, including the Port Maritime Industrial Zone (PMI), the S-9, S-10, and S13 Zoning Districts, there have been over 130 permits applied for since the Interim Regulations became effective on December 2, 2017.
  - Of the permits:
    - 16 permits were for new construction
    - 20 permits were for Land Use actions
    - 13 permits were for Site Development
  - Of note for new construction –
    - Four were for continuing work at Puget Sound Energy,
    - Four were for warehousing uses, and
    - Four were for Parcel 77 – the new auto import terminal at the base of the Blair Waterway.
    - Of the remaining four, two were stormwater/wastewater system upgrades, placement of a temporary office building for the Port, and addition of a storage building on East E Street.
  - Of note for Land Use –
    - Nine were exemptions for repair/maintenance to existing development,
    - Three were parcel line adjustments for shipping uses,
    - Four were for the Port (either the auto terminal or shipping uses on the Central Peninsula),
    - Two were zoning verifications,
    - One was for geotechnical investigation, and
    - One was the SEPA associated with a wastewater upgrade.
  - Of note for Site Development – All were associated with the above-noted new building permits, other than some excavation work for environmental cleanup at Petrich Marine Dock.

Not noted on this report are the permits applied for prior to the adoption of the interim regulations. Key among these are the permits for the US Oil Ethanol project, which was in the permit process last summer.

General Permit Activity in the South Tacoma Manufacturing and Industrial Center

- In reviewing the M-2 Heavy Industrial Zoning within the South Tacoma Manufacturing and Industrial Center, there have been approximately 146 permits since the Interim Regulations became effective on December 2, 2017.
  - Of these permits:
    - 17 were for Land Use actions
    - 3 were for new construction
    - 62 were for Commercial Alterations
  - Of note:
    - Multiple permits were associated with the lot consolidation and new construction associated with the expansion of a light industrial fabrication operation.
    - A number of permits and SEPA determinations are included in this data that are associated with Tacoma Public Utilities, though the projects are located outside the City of Tacoma.
Expanded Notification for Heavy Industrial Uses

What it does:

• These amendments expand public notification of heavy industrial use permits to taxpayers and interested parties.

• The taxpayer notification distances increase from 1000 feet to 2500 feet from the site of the proposal. For projects located within a designated manufacturing and industrial center (M/IC), the 2500-foot notification distance is measured from the boundary of the applicable center.

• This expanded notification applies to all heavy industrial projects city-wide that require a discretionary permit (such as a conditional use permit) or SEPA determination.

What has happened during the interim period?

• No expanded notifications were issued for permits in the Port/Tideflats during the interim regulations. No projects were permitted during this timeframe that met these applicability requirements.

• One expanded notice was issued for permits in the South Tacoma Manufacturing and Industrial Center.

Non-industrial Uses in the Port of Tacoma Manufacturing/Industrial Center (M/IC)

What it does:

• Certain new non-industrial uses are prohibited in the City’s Heavy Industrial zoning districts (M-2 and PMI) within the Port of Tacoma M/IC, including:
  o Destination/high intensity parks and recreation,
  o Agriculture,
  o Residential uses,
  o Hospitals,
  o Airports,
  o Schools (K-12),
  o Retail,
  o Cultural institutions, and
  o Care facilities.

• Existing non-industrial uses may expand and are not subject to limitation.

What has happened during the interim period?

• Staff received one inquiry relating to the establishment of an airport use in the Port Tideflats that is currently prohibited by the interim regulations.
Marine View Drive Residential Development Restrictions

What it does:
- These regulations pause all new residential platting and subdivision of land along Marine View Drive and the adjacent hillside.
- Property owners in the R-1 and R-2 single family zoning districts will be allowed to build a single residential unit on existing legal lots.
- New construction requires a notice on title regarding the proximity of the residential building to heavy industrial uses.

What has happened during the interim period?
- Staff has received multiple inquiries from property owners along the hillside interested in platting new residential developments in the area currently subject to interim regulations.
- No new single family construction has occurred during the interim regulations that was not previously approved.
- Some existing residences have applied for permits to perform bathroom remodels, updates, roof replacements, and other routine maintenance or updates.

Heavy Industrial Zoning

What it does:
- These interim regulations pause the establishment of the following new heavy industrial uses citywide:
  - Coal terminals and bulk storage facilities,
  - Oil or other liquefied fossil fuel terminals, bulk storage, manufacturing, production, processing or refining,
  - Chemical Manufacturing,
  - Mining and quarrying,
  - Smelting.
- Existing uses may expand under current permit procedures and land use standards.

What has happened during the interim period?
- During the development of the interim regulations, staff reviewed tax and license data to identify existing businesses in the Port Tideflats that met the use definitions included in the interim regulations. A map of these businesses are included below.
• Four permits are associated with ongoing work at the Puget Sound Energy site.
• Permits for the U.S. Oil Ethanol project were in review prior to the adoption of the interim regulations.
• Of these 14 uses, 8 did not apply for permits during this period.
• For several uses, permit activity was minor, including a determination of depth of utilities, commercial plumbing for restroom remodels, and outfall replacements.
• U.S. Oil permits include a Commercial Alteration to install a new foundation, support structure and containment for two product transfer pumps. This project relates to prior permits.