



TIDEFLATS INTERIM REGULATIONS

TACOMA PLANNING COMMISSION
FINDINGS OF FACT AND RECOMMENDATIONS
OCTOBER 4, 2017

A. SUBJECT:

Tideflats Interim Regulations

B. SUMMARY OF PROPOSED AMENDMENTS:

The proposed Tideflats Interim Regulations consists of the following elements:

Category 1: Expanded Notification for Heavy Industrial Uses

- These amendments would expand notification of heavy industrial use permits to taxpayers and interested parties.
- The notification distances are expanded to 2500' from the subject parcel. For projects located within a designated manufacturing and industrial center, the 2500' notification distance is measured from the boundary of the applicable M/IC boundary.
- This expanded notification applies to all heavy industrial projects city-wide that require a discretionary permit or SEPA determination.
- The amendments are proposed to TMC 13.05.020 Notice process

Category 2: Non-industrial Uses in the Port of Tacoma M/IC

- These amendments would pause certain new non-industrial uses within the Port of Tacoma M/IC. The amendments would apply to the M-2 Heavy Industrial and PMI Port Maritime Industrial zoning districts within the M/IC.
- The specific uses identified include, but are not limited to:
 - Destination/high intensity parks and recreation,
 - Agriculture,
 - Residential uses,
 - Hospitals,
 - Airports,
 - Schools (K-12),
 - Retail,
 - Cultural institutions, and
 - Care facilities.
- Existing non-industrial uses subject to the pause would be considered allowed uses subject to limitations on expansion per TMC 13.06.630 Nonconforming uses.
- These amendments are proposed to Tacoma Municipal Code 13.06.400 Industrial Districts and includes a new section 13.06.400.G Interim Special Use Restrictions for Non-industrial Uses within the Port of Tacoma M/IC.

Category 3: Marine View Drive Residential Development Restrictions

- These amendments would pause all new residential platting and subdivision of land along Marine View Drive.
- Residential development within the S-11 Shoreline District and applicable commercial districts would be paused for the interim period.
- These amendments are proposed to TMC 13.10 Shoreline Master Program, TMC 13.04 Platting and Subdivisions, as well as TMC 13.06.200 Commercial Districts.
- Property owners in the R-1 and R-2 single family zoning districts would be allowed to build a residential unit on existing legal lots under current zoning and development standards.

Category 4: Heavy Industrial Special Use Restrictions

- These interim regulations would pause the establishment of the following heavy industrial uses:
 - Coal terminals and bulk storage facilities
 - Oil or other liquefied fossil fuel terminals, bulk storage, manufacturing, production, processing or refining
 - Bulk chemical storage, production or processing, including acid manufacture
 - Mining and quarrying
- Existing uses as noted above would be considered allowed with limited expansion of 10% storage, production, or distribution capacity during the interim period, subject to a conditional use permit.
- Unlisted uses would be prohibited and subject to TMC 13.05.030 Director Decision Making Authority.
- The changes would be made to Tacoma Municipal Code 13.06.400 and create a new Section 13.06.580 that applies to all industrial zoning districts.

C. FINDINGS OF FACT PART 1: BACKGROUND

1. Comprehensive Plan and Land Use Regulatory Code

The *One Tacoma* Comprehensive Plan, updated in 2015 by Ordinance No. 28335, is Tacoma's comprehensive plan as required by the State Growth Management Act (GMA) and consists of several plan and program elements. As the City's official statement concerning future growth and development, the Comprehensive Plan sets forth goals, policies and strategies for the health, welfare and quality of life of Tacoma's residents. The Land Use Regulatory Code, Title 13 of the Tacoma Municipal Code (TMC), is the key regulatory mechanism that supports the Comprehensive Plan.

2. Comprehensive Plan and Land Use Regulatory Code Amendments

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 Tidelands Area, including the Northeast Tacoma Buffer Zone application, the 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.

3. Consolidation of Applications

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 Tidelands. In addition, the Resolution requested that the Planning Commission consolidate the various applications/requests

into the scope of work for the Tidelands Subarea planning process and to hereby consider the need for interim regulations in the Tidelands subarea while the subarea planning process is under way.

4. Subarea Planning

Subarea planning allows for the establishment of a shared, long-term vision, and a more coordinated approach to development, environmental review, and strategic capital investments in a focused area. As a designated Manufacturing and Industrial Center per the Puget Sound Regional Council's VISION 2040 the Port/Tidelands Subarea Plan must comply with VISION 2040 and the subarea planning requirements therein, which typically includes the following elements:

Plan Concept or Vision

- Preservation of industrial land base
- Economic role of the Center
- Relationship to Comprehensive Plan
- Market analysis

Environment

- Protection of sensitive areas
- Stormwater management
- Air pollution and greenhouse gas emissions

Land Use

- Employment growth targets
- Description of industrial and manufacturing uses
- Incompatible land uses
- Mitigation of aesthetic impacts

Economy

- Economic development strategies
- Key sectors and industry clusters

Public Services and Facilities

- Capital plans and investments to meet targeted growth

Transportation

- Freight movement
- Employee commuting
- Transit and mode splits

5. Interim Regulations Procedures

Tacoma Municipal Code 13.02.055 describes the procedural requirements for establishing interim regulations. The code requires the following procedural elements:

- Interim regulations must be initiated by the City Council or Planning Commission at a public meeting;
- The Council or Commission must determine, through findings of fact, that interim regulations are warranted;
- The ordinance must address the scope and duration of the interim regulations;
- The ordinance must include a work plan to develop permanent regulations;
- The Interim regulations may be effective for up to 1-year, and may be renewed every 6 months thereafter.

City Council Resolution No. 39723 initiated interim regulation review in accordance with the non-emergency procedures within 13.02.055.

D. Findings of Fact Part 2: Assessment of Need for Interim Regulations

6. VISION 2040 Manufacturing and Industrial Centers

The Puget Sound Regional Council's VISION 2040 Multicounty Planning Policies and the City's One Tacoma Comprehensive Plan designate the Port/Tideflats as a Manufacturing/Industrial Center (MIC). These areas are focal points for targeted regional employment growth. The designation provides regional funding priority for major transportation projects (e.g., Port of Tacoma Road, Taylor Way, SR 167, and freight projects). Regional planning policies protect MICs from encroachment of non-industrial uses.

7. Regional Industrial Employment Forecasts

Puget Sound Regional Council forecasts show industrial jobs region-wide increasing from 305,100 jobs in 2012 to 389,000 jobs in 2040, an increase in 83,900 total jobs (<https://www.psrc.org/sites/default/files/industriallandsanalysisreport.pdf>).

8. Regional Industrial Land Supply

PSRC forecasts employment and land supply for the Tacoma-Puyallup industrial area. Exhibit 6.18 to the Industrial Lands Analysis identifies the total land area, vacant land area, and underutilized land area for each sub-regional industrial area. The analysis indicates that the Tacoma-Puyallup industrial area includes approximately 13% of the regional vacant industrial land supply and 15% of the underutilized land supply.

9. Regional Economic Contribution of Industrial Land

According to PSRC's Industrial Lands Analysis Report "(i)n 2012, total wages paid out by industrial activities on industrial lands summed to \$24.4 billion. Overall, the annual earnings from industrial jobs on industrial lands averaged \$80,000 in 2012. Wages associated with industrial jobs on industrial lands equaled 23.2% of all wages paid out across the region in 2012. By comparison, the average wage across the four-county central Puget Sound region in 2012 was \$59,700. Retail Trade, one of the largest segments of the regional work force, supported an average wage of \$36,300, while Finance and Insurance paid an average wage of \$86,900 (page E-9)."

10. Conversion of Industrial Lands

PSRC estimates that non-industrial employment on industrial lands will grow from 36% of total jobs on industrial lands in 2012 to 45% by 2040 (page E-10, Industrial Lands Analysis Report). PSRC forecasts for the Tacoma-Puyallup subarea show "higher growth in non-industrial jobs, with such jobs representing 70% of all jobs in the subarea (page 6-16)." The employment forecasts for 2040 suggest the existing land supply is sufficient to accommodate both the industrial and non-industrial employment forecasts, but that rising land values, proximity to nearby commercial centers, and other factors, will require some shift in management strategies due these non-industrial trends.

11. Employment Allocation

VISION 2040 allocates an additional 97,000 jobs to Tacoma by 2040.

12. 2014 Pierce County Buildable Lands Analysis

The Pierce County Buildable Lands Analysis assesses the land capacity to absorb the VISION 2040 employment allocations. Appendix D to the report allocates 8% of the City's overall employment allocation to the Tideflats MIC, an estimate of 7,555 new jobs by 2040. The report identifies a total land area of 3,912 acres within the Tideflats MIC and sufficient land capacity to absorb the allocated employment.

13. Non-industrial Uses in the Port/Tideflats

The Port Tideflats are predominantly zoned Port Maritime Industrial (PMI) and Heavy Industrial (M-2) zoning districts. Some areas to the periphery are zoned Light Industrial (M-1). Current policies support the retention and protection of manufacturing and industrial lands for manufacturing and industrial use, and to expand a diversified employment base in these areas. However, the City's current zoning

districts allow expansive uses, including certain non-industrial uses that typically require a large land area to accommodate. These uses include:

- Golf Courses
- Schools (K-12)
- Juvenile Community Facilities
- Airports
- Agricultural uses (excluding marijuana production and processing)
- Destination Parks and Recreation (such as stadiums, arenas, museums, zoos, and aquariums).

14. Likelihood of Industrial Development in Tacoma's Port/Tideflats

In addition to the regional industrial employment growth forecasts and availability of developable land within the Port/Tideflats, two major new energy projects have recently been proposed in the Port Tideflats as well as a significant expansion of an existing facility: 1. A liquefied natural gas facility that was permitted and is now under construction, 2. A gas to methanol plant that was proposed for the Tideflats but later withdrawn, and 3. An expansion of an existing refinery to produce ethanol. Multiple oil, gas and petrochemical refineries, terminals, and bulk storage sites currently operate in the Port Tideflats. In addition, a permit application was submitted and approved for a surface mine along Marine View Drive.

15. Likelihood of Residential Development in Close Proximity

The 2014 Pierce County Buildable Lands Report documents significant development capacity along the City's steep slopes overlooking the Port/Tideflats along Marine View Drive. In addition, the City has seen increased development pressure on these sites. Multiple plats have been submitted to develop slope properties. With continued rising demand for housing in the City of Tacoma, there is a significant likelihood that additional developments will occur on the slopes above Marine View Drive in close proximity to the Port/Tideflats and during the subarea planning process. Many of the concerns raised about Port/Tideflats industrial activities originate from residential developments along these hillsides that have less separation from the industrial waterfront. New residential development in these areas will likely introduce new interested parties and potential for nuisance complaints during the subarea planning process.

16. 1975 Energy Policy and Conservation Act

In 2015, as part of an omnibus budget bill, the U.S. Congress lifted the ban on the export of crude oil that had been in place since the 1975 Energy Policy and Conservation Act was adopted. The ban was lifted with the purpose of expanding new markets for the distribution of crude oil resulting from the increased production associated with shale fracking. This ban did not apply to other refined oil products, including gasoline. According to the Washington Post (https://www.washingtonpost.com/news/wonk/wp/2014/01/08/u-s-oil-exports-have-been-banned-for-40-years-is-it-time-for-that-to-change/?utm_term=.b07af10d5a90) gross energy exports in the U.S. have risen significantly since 2003. The result is a likelihood of an increased demand for new bulk storage facilities located on West Coast ports to tap into these growing markets.

17. Magnuson Amendment

In 1977 Congress adopted the Magnuson Amendment to the Marine Mammal Protection Act to limit oil tanker traffic in the waters of Puget Sound. According to this amendment:

“(a) The Congress finds that—

(1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;

(2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and

(3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after October 18, 1977, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of October 18, 1977), other than oil to be refined for consumption in the State of Washington.”

18. Oceanic Resources Management Act

During the 1980’s concerns over proposed oil and gas drilling off the coast of Washington resulted in adoption of the Ocean Resources Management Act (ORMA). The ORMA recognizes that “Washington’s coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources” and that “Some uses may pose unacceptable environmental or social risks at certain times (<http://app.leg.wa.gov/rcw/default.aspx?cite=43.143&full=true>).” Furthermore, “When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources” and “(i)t is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.” While the City of Tacoma is not required to plan under the ORMA, the State policy intent clearly indicates that oil and liquid fossil fuels pose risks to sensitive and fragile oceanic natural resources upon which multiple other economic sectors rely.

19. Environmental Risks to Critical Areas

The Port/Tideflats is an area with multiple environmentally sensitive areas, including fish and wildlife habitat conservation areas, streams, wetlands, and aquifer recharge areas. The subarea planning process will include an environmental review that will allow the City to conduct a more scientifically rigorous, area-wide review of the potential impacts from development in the Port/Tideflats, the scale of those impacts, and potential mitigation measures.

20. Environmental Hazards to Port/Industrial Uses

The Port/Tideflats is an area with potential risks of geologic, flood, and other natural disasters. The subarea planning process will include an environmental review that will allow the City to conduct a more scientifically rigorous, area-wide review of the potential risks to new and existing uses, development, and infrastructure, as well as the compounding impacts of a natural disaster occurring in an area with potentially hazardous chemicals and other materials.

21. Public Health, Safety, and Nuisance Impacts to Surrounding Neighborhoods and Employees

Some industrial and manufacturing uses carry a higher probability of health and safety concerns, or a higher risk of nuisance impacts to adjacent uses. These risks may vary considerably depending on the type of use, the location, and the building and operational design and management. Certain types of impacts may be minimized and mitigated adequately by existing regulatory structures (such as storm water management). The City has received complaints pertaining to traffic impacts, greenhouse gas emissions, odor, noise, water consumption, and lighting. The Subarea Planning process will provide a mechanism to review these complaints and potential risks and to evaluate alternative methods of minimizing and mitigating these public health, safety and nuisance risks.

22. Climate Policy (2015)

The 2015 update of the City’s Comprehensive Plan, *One Tacoma*, included new goals and policies pertaining to the assessment of climate risks, adaptation measures, mitigation of climate causing greenhouse gas emissions, and the promotion of community resilience strategies.

23. Climate Change Resiliency Study (2016)

This study marks the beginning of a process undertaken by the City of Tacoma's Environmental Services and the Planning and Development Services Departments to better understand and proactively manage climate risks in order to protect local residents, make sound investments, and ensure that the City can prosper, even in a changing climate.

Three systems were considered in the study:

- Built infrastructure, with a focus on surface water, wastewater, solid waste, and transportation assets;
- Natural systems, including streams, lakes, wetlands, open spaces, and restoration sites; and
- Social systems, including general health and social services and potentially at-risk populations and neighborhoods.

24. Washington Coastal Resilience Project (2016-2018)

The City of Tacoma is participating as a case study in the Washington Coastal Resilience Project. Washington's Coastal Resilience Project is a three-year effort to rapidly increase the state's capacity to prepare for natural events that threaten the coast. The project will improve risk projections, provide better guidance for land use planners and strengthen capital investment programs for coastal restoration and infrastructure. These are the tools that coastal communities need to become more resilient to disasters.

25. Transportation

Multiple Transportation studies have been conducted for the Port Tidelands that analyze growth forecasts and scenarios, existing conditions, improvement concepts, and recommended projects. However, these studies do not use the same current data or development assumptions and in some cases differ by geographic applicability. These studies include:

- Emergency Response/Intelligent Transportation System Study (2016)
- Transportation Master Plan (2015)
- Tidelands Areas Transportation Study (2011, Port of Tacoma)
- East Thea Foss Waterway Transportation Corridor Study (2008)

26. Emergency Response

The City of Tacoma and the Port of Tacoma partnered with other agencies and private companies to initiate a study of Emergency Response systems in the tidelands area. The team included representatives from Tacoma's Planning and Development Services, Fire, and Public Works departments, as well as Tacoma Rail. In addition to active involvement from the Port of Tacoma, the Puyallup Tribe of Indians, U.S. Oil, Targa Sound Terminals, and Puget Sound Energy all participated in the study.

The Emergency Response/Intelligent Transportation System (ER/ITS) study addresses existing and future traffic congestion as well as infrastructure and operating deficiencies for emergency response in the tidelands.

27. Baseline

The Tidelands Subarea Plan will include an area-wide environmental review under the State Environmental Policy Act (SEPA). This review will include an inventory and assessment of the existing environmental conditions of the Port/Tidelands as well as different area-wide development scenarios. A pause on certain types of development during this planning period (non-industrial uses in the tidelands, new residential development, as well as certain types of heavy industrial uses) helps to ensure a more consistent and stable baseline while the environmental review is being conducted.

28. Relationship to Other Emergency Ordinances

In addition to the Resolution directing the Planning Commission to evaluate the need for interim regulations for the Port/Tidelands, the City Council also recently adopted, via emergency ordinances, interim regulations relating to temporary shelters and correctional facilities. Both of these interim

regulations geographically coincide with and impact the Port/Tideflats and subarea planning discussions.

E. Findings of Fact Part 3: Planning Mandates

29. Planning Mandates and Guidelines

GMA requires that any amendments to the Comprehensive Plan and/or development regulations conform to the requirements of the Act, and that all proposed amendments, with certain limited exceptions, shall be considered concurrently so that the cumulative effect of the various changes can be ascertained. Proposed amendments to the Comprehensive Plan and/or development regulations must also be consistent with the following State, regional and local planning mandates and guidelines:

- The State Growth Management Act (GMA);
- The State Environment Policy Act (SEPA);
- The State Shoreline Management Act (SMA);
- The Puget Sound Regional Council's *VISION 2040* Multicounty Planning Policies;
- The Puget Sound Regional Council's *Transportation 2040*, the action plan for transportation in the Central Puget Sound Region (adopted on May 20, 2010);
- The Puget Sound Regional Council's Subarea Planning requirements;
- The Countywide Planning Policies for Pierce County;
- TMC 13.02 concerning the procedures and criteria for amending the Comprehensive Plan and development regulations.

F. Findings of Fact Part 4: Public Notification and Involvement

30. Public Hearing Notification Process:

- (a) **Public Hearing.** A public hearing was set for September 13th at 6:00 pm at the Greater Tacoma Convention Center. Public comments were accepted through September 15th at 5:00 pm.
- (b) **Informational Meeting.** An informational Session was scheduled on September 6th from 5:00 – 7:00 pm for citizens to learn more about the proposed interim regulations and the legislative process.
- (c) **Public Hearing Notice:**
 - A notice announcing the public hearing on September 13th and the informational meeting on September 6th was distributed to the City Council, Neighborhood Councils, business district associations, civic organizations, environmental groups, the development community, the Puyallup Tribal Nation, adjacent jurisdictions, major employers and institutions, City and State departments, Tideflats stakeholders and other known stakeholders and interested entities. The notice was also mailed to taxpayers of record within 2500 feet of the boundaries of the South Tacoma and Port of Tacoma Manufacturing and Industrial Districts as well as other zoning districts that allow heavy industrial uses, and within 1000' of the boundary for the proposed residential use restrictions along Marine View Drive.
 - **Social Media.** Facebook Event Pages were created and disseminated for both the informational meeting and the public hearing.
 - **News Media.** An advertisement was placed on The News Tribune on August 29, 2017 and a press release was issued through the City's Media and Communications Office on August 28, 2017.
 - **60-Day Notices.** A "Notice of Intent to Adopt Amendment 60 Days Prior to Adoption" was sent to the State Department of Commerce (per RCW 36.70A.106), and Joint Base Lewis-McChord (per RCW 36.70A.530(4)). Finally, the proposal was submitted to the Department of Ecology SEPA Register (per the requirements of RCW 43.21.C and WAC 197-10) on

August 29, 2017. A request for consultation was sent to the Puyallup Tribe of Indians on July 26th and again on August 29. These notices were sent more than 60 days prior to the Council's scheduled action in November 2017, so that their comments, if any, can be addressed in a timely manner during the Planning Commission and City Council review process.

- **Website.** Public review documents were posted to the City of Tacoma's website at www.cityoftacoma.org/tideflatsinterim

31. Consultation with the Puyallup Tribe of Indians

- On July 26, 2017 the City of Tacoma sent a letter of request for consultation to Chairman Sterud of the Puyallup Tribe of Indians, inviting early involvement and comments from the Puyallup Tribe throughout the development of the interim regulations.
- On August 16th, staff received a comment letter from Chairman Sterud of the Puyallup Tribal Council in support of staff's initial recommendations as presented to the Commission on August 2nd and August 16th.
- On August 29th, the City of Tacoma sent an additional letter to Chairman Sterud regarding the Planning Commission's public comment period and hearing, and highlighting key changes to staff's recommendations within the Commission's public review draft.

32. Public Comments:

Notification for the public hearing and comment period was sent to approximately 14,000 taxpayers of record as well as other interested parties. Approximately 300 people attended the hearing and 81 people provided testimony to the Commission. In addition, approximately 200 written comments were submitted prior to the close of the public comment period.

The comments received reflect broad and diverse viewpoints and interests among residents, businesses, labor interests, property owners, environmental representatives, adjacent jurisdictions, and Puyallup Tribal members. Staff provided the following summary of public testimony and comments to the Planning Commission as part of the Commission's deliberations on September 20, 2017.

Category 1: Expanded Notification for Heavy Industrial Uses

- Overall, comments have been supportive of expanding notification.
- Some concerns expressed that the notification does not go far enough, that certain uses are of a city-wide import and notification should reflect that.

Category 2: Non-industrial Uses in the Port of Tacoma M/IC

- Some confusion over why these uses are included.
- Concern expressed that these uses cannot expand, but industrial uses can.
- Concern over the scope of uses identified.

Category 3: Marine View Drive Residential Development Restrictions

- Concerns over the immediate and long term impacts of heavy industry on nearby residential areas.
- Some acknowledgement that recent residential developments in this area may not have been appropriate.
- General recognition that a transition area is appropriate.
- Some concern was expressed that these restrictions put greater focus on residences and not on impacts from heavy industry.

Category 4: Heavy Industrial Special Use Restrictions

- The scope of uses identified (should be broader/should be more narrowly focused)
- Expansion of existing uses

- Economic impact of the restrictions
- Environment and health impacts from heavy industry (existing and new)
- Risks and vulnerability to environmental hazard and natural disaster
- Opposition to any restrictions
- General support for the restrictions

Other Themes:

- Support for the Subarea Planning Process
- Timeline for adoption
- Concern over potential impacts to Joint-Base Lewis-McChord and other communities
- Job creation and retention
- Existing regulations are adequate and effective to address community concerns
- Concerns and questions regarding consultation with the Puyallup Tribe of Indians
- Basis for interim regulations:
 - No emergency basis identified
 - Fossil fuel facilities are an emergency issue
 - Existing uses are already impacting residents and workers and causing health impacts
- Legal concerns:
 - Recent cases pertaining to fossil fuel bans and Interstate Commerce;
 - Reasonable use of residential lots along Marine View Drive
 - State Environmental Policy Act (SEPA) review
 - Port Container Element and Growth Management Act requirements
 - Correctional facilities and essential public facilities

G. Findings of Fact Part 5: Planning Commission Review

29. Planning Commission Records.

Planning Commission agendas, minutes, handouts, and presentations are available at www.cityoftacoma.org/tideflatsinterim and at http://www.cityoftacoma.org/government/committees_boards_commissions/planning_commission/agendas_and_minutes/

30. Determination of Need.

On June 21 the Commission began its deliberation as to the need for interim regulations and staff presented findings in support of a determination of need. The Commission preliminarily determined that interim regulations were warranted.

31. Consideration of Options.

On August 2 the Commission discussed initial concepts for a scope of work for the interim regulations and provided staff with guidance to develop an initial draft document.

32. Public Review Document.

On August 16 the Commission reviewed, modified and released a public review draft for comments and set a public hearing.

33. Public Hearing.

On September 13 the Commission conducted a public hearing at the Greater Tacoma Convention Center. Approximately 300 people attended and 81 people provided testimony.

34. Review of Comments.

On September 20, the Commission reviewed public testimony and comments and discussed potential modifications to the draft proposals in response to public testimony received.

35. Recommendation.

On October 4, the Commission reviewed final modifications to the draft Interim Regulations in response to the public testimony and made a recommendation to the City Council to adopt the Planning Commission's proposal.

At this meeting the Commission made the following modifications to the public review document:

Category 1: Expanded Notification for Heavy Industrial Uses

- The Commission made no modifications to this proposal.

Category 2: Non-industrial Uses in the Port of Tacoma M/IC

- The Commission, by consensus, removed the M-1 Light Industrial District from the proposal.
- The Commission, by consensus, removed correctional facilities from the proposal.
- The Commission, by consensus, modified the proposal to allow expansion of existing uses per existing non-conforming provisions of TMC 13.06.

Category 3: Marine View Drive Residential Development Restrictions

- Without a majority supporting the proposed prohibition on all residential development, the Commission, by consensus, modified the proposal to allow one home per existing legal lot and to require a special notice as part of any new building permit disclosing the proximity of the M/IC and the potential impacts resulting from living within close proximity of a heavy industrial district.

Category 4: Potential New and Expanded Heavy Industrial Uses

- The Commission maintained the following uses within the proposal:
 - Coal terminals and bulk storage facilities
 - Oil or other liquefied fossil fuel terminals, bulk storage, manufacturing, production, processing or refining
 - Bulk chemical storage, production or processing, including acid manufacture
 - Mining and quarrying
- Due to a lack of majority, smelting was removed from the list of uses subject to this proposal.
- By majority, the Commission modified the proposal to add limitations on the expansion of existing uses with approval of a conditional use permit, up to a 10% maximum.

Having completed the review of the exhibits and modifications, the Commission considered the full package of Findings and Recommendations and finalized, by a 4-2 vote, the proposed Tideflats Interim Regulations and forwarded their recommendation to the City Council.

H. Findings of Fact Part 6: SEPA Review

Interim regulations are exempt from SEPA review, per WAC 197-11-800(19) as procedural actions and WAC 197-11-880 in circumstances of emergency. Interim regulations are an available procedural step to pause significant intervening projects during development of a subarea plan including long-term policy and development regulations for the Port Tideflats area. In addition, interim regulations are responsive to an emergent situation where a temporary protective measures are necessary while planning efforts are undertaken to address an area or issue of concern.

I. EXHIBITS:

Exhibit A: Tideflats Interim Regulations

J. CONCLUSIONS:

1. The Commission concludes that interim regulations are warranted for the duration of the Tideflats Subarea Planning process to maintain the status quo until such time as the Subarea Plan is completed:
 - Conversion of industrial lands is a critical regional issue and current codes allow significant non-industrial uses within the Port Tideflats, as well encroachment by potentially incompatible residential land uses. Therefore, limitations on non-industrial uses both within the Port/Tideflats and along the related slopes above Marine View Drive are appropriate until such time as the subarea plan is completed;
 - Significant new heavy industrial development projects are likely to occur during the subarea planning timeframe that could pre-empt the subarea planning process. Therefore, limitations on new certain new heavy industrial uses are appropriate until such time as the subarea plan is completed;
 - A subarea planning process typically takes 2 years to complete. However, the schedule and length of the process is dependent upon the final scope of work developed through a public process, the breadth and depth of issues to be reviewed, and the legislative process. While a shorter subarea planning process would limit the overall risk of projects occurring during the planning timeframe, there is a likelihood that the permanent regulations, developed through the subarea plan, may require more than the typical timeframe to complete which would increase the risks of significant new developments occurring during the plan and code development;
 - Beyond the issues relating to incompatible land uses, pre-emption of the planning process, or risks of new development occurring during the planning timeframe, there are also multiple goals, policies, studies, programs, and emergency ordinances that pertain to the Port/Tideflats and which have been adopted in a piecemeal fashion. It is clear at this time that these issues must be addressed through a comprehensive manner through the subarea planning process. It is appropriate, therefore, to place a pause on significant new developments until such time as this planning effort has been completed, to ensure that new uses and development are fully compliant with the City's goals and policies and that plans and strategies are in place to invest in the necessary supportive infrastructure and mitigation measures.
2. The Commission concludes that a subarea planning process is the best course of action to comprehensively address land use issues associated with the future of the Port/Tideflats area, and given the multiple planning mandates and policy objectives for the area, the diverse stakeholder interests, and new scientific information relevant to the area, maintaining the status quo in the Port/Tideflats during the subarea planning process would serve to protect the integrity of that process until such time as these issues may be resolved through an adopted Subarea Plan.
3. The Commission concludes that the Interim Regulations have been developed consistent with the procedural requirements of the Growth Management Act and Tacoma Municipal Code 13.02.055.
4. The Commission concludes that these Interim Regulations constitute a broad pause while the Tideflats Subarea Plan is under development and that these proposed regulations do not pre-determine or constrain the outcomes or the scope of work for the Tideflats Subarea Planning process.
5. The Commission concludes that the Tideflats Subarea Plan and environmental review are the appropriate work plan to address the issues raised through the public testimony and ultimately to replace these interim regulations.

E. RECOMMENDATIONS:

1. The Planning Commission recommends that the City Council adopt the proposed interim regulations as described below:
 - Expand notification for heavy industrial uses city-wide that require a SEPA determination or discretionary permit;
 - Pause certain new non-industrial uses within the Port of Tacoma MIC and place temporary limitations on expansion of existing uses during the interim period;
 - Pause new residential platting and subdivision of land along Marine View Drive and pause new residential development in the S-11 Shoreline District and C-1 and C-2 Commercial districts along Marine View Drive during the interim period;
 - Pause certain new heavy industrial uses city-wide and place temporary limitations on expansion of existing uses during the interim period. These uses include:
 - a. Coal terminals or bulk storage facilities;
 - b. Oil, or other liquefied or gaseous fossil fuel terminals, bulk storage, manufacturing, production, processing or refining;
 - c. Chemical production, processing, or bulk storage;
 - d. Mining and quarrying.
2. The Commission recommends that the Tideflats Interim Regulations be approved for an initial 6 month period with subsequent re-authorization every 6 months until the Tideflats Subarea Plan is complete. The subarea plan is the best course of action to comprehensively address land use issues associated with the future of the Port/Tideflats, with interim regulations a necessary first step. The Commission stands ready to assist the City Council and the Planning and Development Services Department in this project that has the potential to significantly reshape Tacoma's economic and environmental destiny.
3. Furthermore, the Commission recommends that staff provide a tracking, mapping and reporting mechanism for permit applications subject to these proposed interim regulations to inform the public, the Commission, and the City Council as to the costs and impacts associated with these regulations such that modifications may be evaluated and considered during the re-authorization process.
4. Finally, the Commission recommends that the City Council prioritize the resources (both budget and staffing) to conduct the subarea planning process in the most effective and expeditious way possible, commensurate with the degree of concern expressed over the future of the Port Tideflats by this community as evidenced by the volume and breadth of comment provided to the Commission.