Non-Interim Industrial Land Use Amendments

On October 20, 2020 the City Council approved Amended Ordinance No. 28696, which approved a 6-month extension of the Tideflats Interim Regulations and also directed the Planning Commission and staff to begin a process to develop new recommendations for a non-interim ordinance to replace the interim regulations.

This project will review land use regulations in the Port of Tacoma Manufacturing and Industrial Center and Industrial Zoning Districts City-wide to address the following issues:

- Public notification requirements for permits and land use amendments;
- Conversion of industrial lands to non-industrial uses;
- Encroachment of residential developments on industrial lands;
- Siting of potentially high risk/high impact heavy industrial uses.

The process will result, at a minimum, in proposed amendments to the Tacoma Municipal Code Title 19 Shoreline Master Program and Title 13 Chapters 13.02 Planning Commission, 13.05 Land Use Permits and Procedures 13.06 Zoning, and 13.12 Environmental Code. The process will be conducted in accordance with the procedural requirements of the State Shoreline Management Act, Growth Management Act, SEPA, and Tacoma Municipal Code.

Proposed Planning Commission Schedule (TENTATIVE):

<table>
<thead>
<tr>
<th></th>
<th>Project Initiation and Scoping November –December, 2020</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverable:</td>
<td>Final Scope of Work</td>
<td>Review Council legislative action initiating the Non-interim Industrial Land Use Amendment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Present background and proposed scope of work.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Conduct a public scoping hearing to inform process.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverables:</td>
<td>Staff Report and Exhibits</td>
<td>Draft code exhibits and public review document;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Conduct benchmarking;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Review findings from permit activity, fossil fuel study, and other data.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Public Hearing and Recommendations February - March, 2021</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverables:</td>
<td>Public Review Document</td>
<td>Conduct a public hearing and comment period;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Findings of Fact and Recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>City Council Review April – May, 2021</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverable:</td>
<td>Non-Interim Ordinance</td>
<td>City Council Public Hearing;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>First and Final Reading of Ordinance;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Submittals to Ecology if necessary.</td>
</tr>
</tbody>
</table>
1. Area of Applicability

a. Expanded Notification and Heavy Industrial Use Restrictions
The following map depicts the zoning districts city-wide that allow industrial uses and development and which are subject to this review. These districts include: M-1, M-2, PMI, WR, S-7, S-8, S-9, S-10, and S-1a. This review will evaluate permit notification procedures and the siting of potentially high risk/high impact uses in these areas.

b. Non-industrial Use Restrictions
The following map depicts the Port of Tacoma Manufacturing and Industrial Center where the Interim Regulations apply limitations on new non-industrial uses. This review will consider limitations on non-industrial uses in this area.

c. Residential Encroachment
The following map depicts lands along Marine View Drive and the hillside in North East Tacoma which are subject to a temporary pause on new platting and subdivision for residential development. This review will consider land use strategies to limit residential encroachment within this area.

2. Background

FINAL Scope of Work: Non-Interim Tideflats and Industrial Land Use Code Amendments
Planning Commission – December 2, 2020
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.

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. During the 2017-2018 Comprehensive Plan and Land Use Regulatory Code Amendment Application period, the City received multiple applications/requests for zoning and land use amendments for the Tideflats area, including the Northeast Tacoma Buffer Zone application, the implementation of the Container Port Element of the City’s Comprehensive Plan, and relating to expanded notification for large industrial projects.

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 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 consider the need for interim regulations in the Tideflats subarea while the subarea planning process is under way.

Planning Commission Review

In support of their deliberations, the Planning Commission conducted a public hearing, at which 81 people testified, and reviewed over 200 written comments.

Planning Commission Recommendation

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.

City Council Amended Ordinance Adopted

Following its own public hearing, and substantial community input and deliberation, the City Council, on November 21, 2017, adopted the Tideflats Interim Regulations by Amended Ordinance No. 28470. The ordinance was amended to allow expansion of existing uses per established development regulations and permit procedures.

Subsequent Extensions

The Interim Regulations were initially adopted for one-year, taking effect on December 2, 2017 and expiring on December 2, 2018. Following this initial period, the Council has taken the following actions to extend the interim regulations:

- November 13, 2018: Ordinance No. 28542 – 6-month Extension
- May 21, 2019: Ordinance No. 28582 – 6-month Extension
- November 12, 2019: Ordinance No. 28619 – 6-month Extension
- May 19, 2020: Ordinance No. 28671– 6-month Extension
- October 20, 2020: Ordinance No. 28696 – 6-month Extension
3. Applicable Policy

This zoning and land use regulatory review will consider the following, at a minimum, to develop a common understanding of the policy framework guiding the zoning and land use regulatory code for the City’s Industrial Zoning Districts and use allowances. The intent of this process is to ensure internal consistency between established policies and the implementing regulations.

GROWTH MANAGEMENT ACT

Adopted in 1990, the Growth Management Act (GMA) requires municipalities to plan for accommodating growth and grants counties, in consultation with cities, the authority to assign growth allocations for population and employment. In general, GMA goals support focused growth in designated urban centers with adequate infrastructure, while preserving the rural area around the urban centers. The GMA identifies specific requirements for comprehensive plans, focused primarily on the required land use, housing, transportation, utilities and capital facilities elements. The City of Tacoma Comprehensive Plan is prepared and adopted in accordance with the requirements of the GMA.

SHORELINE MANAGEMENT ACT

Originally adopted in 1972, the Shoreline Management Act (SMA) provides a statewide framework for managing, accessing and protecting shorelines. The overarching goal of the SMA is “to prevent the inherent harm of uncoordinated and piecemeal development of the state’s shorelines.” The SMA applies to a variety of marine waters, streams and rivers, lakes, wetlands and river deltas, the 100-year floodplain, and upland areas at shoreline edges. Jurisdictions with these types of waters must prepare a shoreline master program for regulation of uses in these shoreline areas, consistent with the SMA.

In Tacoma, Wapato Lake, the Puyallup River and the marine shoreline areas fall under the jurisdiction of the SMA. Consistent with the SMA, the City’s Shoreline Management Program provides goals, policies, and regulations for shoreline use and protection and establishes a permit system for administering the Program. The goals, policies and regulations in the City’s Program are tailored to the specific geographic, economic, and environmental needs of the City of Tacoma.

VISION 2040

The Puget Sound Regional Council VISION 2040 is a regional strategy plan for the central Puget Sound region, including all jurisdictions in Snohomish, King, Pierce and Kitsap counties. Vision 2040 addresses regional goals around the topics of environment, development patterns, housing, economy, transportation and public services. The plan designates Tacoma as one of five Metropolitan Cities in the region and the Tideflats are designated as a regional Manufacturing and Industrial Center.

ONE TACOMA COMPREHENSIVE PLAN

A comprehensive plan guides a community’s development over the long term, addresses the entire community and describes how the community’s vision for the future is to be achieved. In short, it is a blueprint for the future character of the city. It guides decisions on land use, transportation, housing, capital facilities, parks, and the environment. It also sets standards for roads and other infrastructure, identifies how they will be paid for, and establishes the basis for zoning and development regulations. Specifically, policies in the Container Port Element, Economic Development Chapter, and Environment and Watershed Health will be used to inform land use compatibility within heavy industrial areas and transitioning to adjacent areas.
4. Amendment Objectives

Would the proposed project seek to achieve any of the following objectives, per Tacoma Municipal Code 13.05.030?

- Address inconsistencies or errors in the Comprehensive Plan or development regulations;

  **Staff Response:** The review will address inconsistencies between established policies in the One Tacoma Plan and the implementing zoning and land use regulations. For example, current policies call for the retention of the hillside in NE Tacoma as a buffer between industrial and residential uses. However, the zoning and land use regulations allow for ongoing residential platting and housing development in this area.

- Respond to changing circumstances, such as growth and development patterns, needs and desires of the community, and the City’s capacity to provide adequate services;

  **Staff Response:** The review is necessary to respond to changes in growth and development assumptions, market conditions, and to respond to community concerns expressed through prior permit processes and public comments provided to the Planning Commission and City Council. For example, in 2017 the NE Tacoma Neighborhood Council applied for a Comprehensive Plan and Land Use Regulatory Code Amendment to create a commercial transition area along Marine View Drive. Likewise, permit applications and inquiries indicate a growing interest in fossil fuel storage and export at marine terminals throughout the northwest that was not anticipated in the City’s zoning and permit procedures.

- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern; and/or

  **Staff Response:** The review is necessary to ensure compatibility of land uses allowed within the City’s Tideflats Manufacturing and Industrial Center. The area currently allows significant non-industrial uses which could detrimentally impact industrial activity or result in the reduction of available lands for industrial demand.

  Furthermore, comments provided to the City from the Puyallup Tribe of Indians identified a potential land use conflict between certain high-risk uses and the location of Tribal housing and community services.

- Enhance the quality of the neighborhood.

  **Staff Response:** The review will consider the transition between heavy industrial zoning districts and residential areas to both maintain and enhance the quality of life in the City’s adjacent neighborhoods as well as ensure compatibility of uses and the protection of industrial activity within the Heavy Industrial Zoning Districts. In addition, the review will consider the risks to adjacent neighborhoods as a result of the siting of potentially high risk/high impact industrial uses.

5. Issues for Review

The Interim Regulations include four component elements, each responding to areas of concern identified through community input and planning commission deliberations and addressed in the Amended Ordinance approved by the City Council:

a.  **Expanded Notification:** Current Ordinance expands notification of discretionary permits and SEPA Determinations 2500’ from the boundary of the Manufacturing and Industrial Center boundary.
b. **Incompatible Nonindustrial Uses**: Current Ordinance prohibits new non-industrial uses in the Port of Tacoma Manufacturing and Industrial Center, and uses that may be incompatible with port/maritime uses, such as agriculture, residential uses, high intensity park and recreation facilities, airports, hospitals, and educational facilities. **Does not apply to existing uses.**

c. **Residential Encroachment**: Current Ordinance prohibits new platting and subdivision along Marine View Drive and the Northeast Tacoma hillside. A single unit is allowed per existing legal lot. New construction must put notice on title of proximity to a heavy industrial area.

d. **Potentially High Risk/High Impact Industrial Uses**: Current Ordinance prohibits new oil and liquefied fossil fuel industries, coal storage and/or terminals, chemical manufacturing, smelting, and mining and quarrying. **Does not apply to existing uses.**

### 6. Potential Amendments for Evaluation

The initial interim regulations were intended to enact a broad pause on certain uses and activities while the Subarea Plan was underway, rather than a specific recommendation on how and where to accommodate the defined uses. As such, this scope of work, in seeking to develop a long-term recommendation, proposes to shift away from universal “one-size-fits-all” approaches to provide a more context-sensitive framework for use and development activity that protects public health, welfare, and safety, while accommodating continued economic development.

Throughout the development of the Tideflats Interim Regulations as well as subsequent extensions, multiple amendments have been proposed to the City Council for consideration. This review will consider the comments and testimony provided to staff and the City Council, the legislative record, as well as comments provided during an initial scoping period, to identify potential amendments to the Interim Regulations.

Furthermore, the City Council, in enacting the ordinance to initiate this non-interim process, provided direction to the Planning Commission to establish appropriate parameters for review. These include:

- Consider only those issues identified in the initial ordinance, as described in Section 5 of this Scope of Work;
- Consider only those uses already defined in the ordinance, and as described herein;
- Consider approaches that could be applied to the expansion of existing uses;
- Consider amendments that will improve the certainty and predictability of the regulations;
- Consider options reviewed previously in the public record.

Based on these parameters, staff has identified the following potential amendments that may be considered by the Planning Commission:

a. **Expanded Notification - Potential Amendments:**

   - Amend to include occupants as well as taxpayers in the direct mailing.

b. **Incompatible Nonindustrial Uses – Potential Amendments:**

   - Amend to apply limitations on the expansion of existing uses utilizing the existing non-conforming codes and procedures;
• Refine the areas of applicability in the tideflats, such as limiting restrictions to the area defined as the Core Area for container port activities.

• Consider permit types and criteria for new and/or expansion of existing uses.

c. Residential Encroachment - Potential Amendments:

• Amend the applicability of the development restrictions based on the area of likely impacts due to industrial-residential adjacency;

• Consider other approaches to limit overall development capacity while avoiding an unconstitutional taking of private property, including amendments to minimum lot size standards to reduce allowed density of development.

d. Siting of Potentially High Risk/High Impact Industrial Uses Potential Amendments:

• For all use categories, amend to apply limitations on the expansion of existing uses.
  o Consider expansion limits based on throughput and bulk storage capacity, or other appropriate measures depending on the type of use;
  o Consider utilizing a cap on the amount of overall expansion allowed over time.

• For all use categories, amend use classifications and definitions to provide for improved clarity and predictability.

• Chemical manufacturing:
  o Consider refinements to the use category based on established risk classifications;
  o Consider the use of a conditional use permit and permit criteria to allow for more context sensitive review of new uses and expansion of existing uses;
  o Consider buffering standards to avoid potential sensitive areas such as critical areas and residential areas;
  o Consider specific allowances that encourage a transition to cleaner fuels and energy for industrial and manufacturing processes.

• Oil and other liquefied fossil fuel industries:
  o This category could be refined to distinguish between uses that are serving local/regional markets and those that are primarily bulk storage and export facilities;
  o Consider the use of a conditional use permit and permit criteria for project level review;
  o Consider specific allowances that encourage a transition to cleaner fuels;
  o Consider allowances to avoid any potential impact to Joint-Base Lewis-McChord.

7. Outreach and Engagement

Public engagement and notification will be conducted in accordance with the procedural requirements of the Growth Management Act, Shoreline Management Act, SEPA, and the City of Tacoma Municipal Code. These procedures include:
a. Notification methods.

- Direct mailings to taxpayers and occupants within 2500’ of heavy industrial zoning districts and/or the boundary of the MICs.
- Email notifications to the Tideflats Listserv and Planning Commission mailing lists.
- Project webpage
- News Tribune Ad
- Social media posts and event pages
- Legal Notice in the Daily Index
- 60-day Notice to the State
- Notice to Joint-Base Lewis-McChord
- Distribution to SEPA Notice recipients
- Distribution to Shoreline Management interested parties and State mailing lists

b. Direct Engagement

Project Staff will conduct outreach to the following boards, commissions, and civic organizations:

- Planning Commission
- Sustainable Tacoma Commission
- Manufacturing and Industrial Council
- Neighborhood Councils
- Other Civic Groups
- Potentially affected businesses, including known fossil fuel industries, such as U.S. Oil, Seaport Sound Terminal, NuStar, Conoco-Phillips, Puget Sound Energy and Pacific Functional Fluids.

c. Legislative Engagement Opportunities

- Scoping Comment Period and Public Hearing
- Informational Meeting on Proposed Amendments
- Planning Commission Public Comment Period
- Joint Planning Commission/Department of Ecology Public Hearing
- City Council Public Hearing

d. Other Engagement Methods

In order to facilitate broad stakeholder engagement and sharing of perspectives on the potential amendments, staff will explore the efficacy and feasibility of the following engagement methods:

- Community Listening Sessions
- Community Survey
- Online Map-based Comment Tool

8. Impact Review

- The City will conduct a Non-project Action SEPA Review of the proposed amendments.
- The City will conduct a Health, Equity, and Sustainability Review of the proposed amendments.
- The City will consider impacts to adjacent jurisdictions and seek input from affected jurisdictions, including the Port of Tacoma, Pierce County, and the City of Fife and broader land use compatibility between the City’s
industrial zoning districts and the zoning districts of adjacent jurisdictions, including the City of Fife and Pierce County.

- The City will consult with the Puyallup Tribe of Indians to identify potential impacts to the Puyallup Reservation and Tribal Trust Lands in accordance with the procedures in the Land Claims Settlement.
- The City will conduct an “Unconstitutional Takings Review” per the guidance established by the Washington State Attorney General’s Office.
- Review the HUD Acceptable Separation Distance for housing and potential impacts from the siting of new high risk/high impact industrial uses.

9. Supplemental Information

- Policy Framework
  - The policy framework will identify the policies in the One Tacoma Plan most pertinent to the review process, to guide the assessment of potential code amendments.

- Summary of Public Scoping Comments and Staff Responses
  - This report will summarize comments on the current ordinance as well as document comments provided as part of this scoping process.
  - Summary of public comments provided during the City Council extension processes.

- Regulatory Code Benchmarking Report
  - This report will identify other jurisdictions’ regulatory approach to the issues identified in this scope of work to inform potential options for regulatory code amendments.

- Summary of Permit Activity during the Interim Period

- Fossil Fuel Baseline Study
  - This study will provide information regarding the current storage and processing capacity of uses in the Tideflats, as well as summarize current trends in oil transport, market and regulatory factors driving oil and liquefied fossil fuel supply, as well as data on the current economic impacts and markets served by existing uses.

- Summary and findings from related efforts, including sea level rise and climate vulnerability assessments, and opportunity and equity mapping.

10. Schedule for Review and Decision-making

Planning Commission review: November – March

The Tacoma Planning Commission is a nine member citizens’ advisory body responsible for advising the City Council on all land use matters. The Commission’s meetings are open to the public and advertised on the City’s website. The Planning Commission will make a formal recommendation to the City Council.
Community members will have an opportunity to provide comments and testimony directly to the Planning Commission and City Council during the legislative process. The Commission will make a formal recommendation on the draft subarea plan to the City Council. Add in role from Work Plan

**City Council review: March – May**

Final decisions regarding outcomes of the process will be made by the City Council. The City Council will review and discuss any recommended revisions at a study session. The study session meetings are open to the public. In addition, the full Council will hold at least one public hearing to receive further public comment before adopting any revisions to policies and regulations. Public testimony will also be accepted at first and second reading of adopting ordinances.

**Puget Sound Regional Council review: Following adoption**

The Puget Sound Regional Council reviews proposed amendments to the Comprehensive Plan for consistency with Multicounty Planning Policies (VISION 2040). Certification of any Comprehensive Plan Amendments are critical to ensure that the Tideflats remain eligible for transportation funding. Land Use Regulatory Code Amendments are not subject to the review and certification of the Puget Sound Regional Council. Puget Sound Regional Council staff will be invited to provide comments on the Planning Commission’s draft amendments.

**Department of Ecology review: Concurrent with Planning Commission and City Council.**

As the City’s Shoreline Master Program, which contains both policies and land use regulations, is a joint program managed by the City and the State, amendments proposed to the Shoreline Program must be in conformance with the Shoreline Management Act and approved by the Department of Ecology in order to take effect. Ecology staff will be invited to participate in the process from the outset and the Planning Commission will conduct a joint Tacoma-Ecology public hearing on proposed amendments. Ecology staff will provide a preliminary review and determination of consistency prior to the City Council’s review.

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Review Body</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 2, 2020</td>
<td>Public Scoping Hearing and Debrief</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>January 6, 2021</td>
<td>Discussion</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>January 13, 2021</td>
<td>Listening Session</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>January 20, 2021</td>
<td>Discussion</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>February 3, 2021</td>
<td>Discussion and Set Public Hearing</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>February 9, 2021</td>
<td>Study Session</td>
<td>City Council</td>
</tr>
<tr>
<td>March 3, 2021</td>
<td>Public Hearing</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>March 17, 2021</td>
<td>Recommendation</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>March 31, 2021</td>
<td>Placeholder for additional meeting if necessary</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>April 13, 2021</td>
<td>Study Session</td>
<td>City Council</td>
</tr>
<tr>
<td>April 20, 2021</td>
<td>Public Hearing</td>
<td>City Council</td>
</tr>
<tr>
<td>April 27, 2021</td>
<td>Study Session</td>
<td>City Council</td>
</tr>
<tr>
<td>May 4, 2021</td>
<td>First Reading of Ordinance</td>
<td>City Council</td>
</tr>
<tr>
<td>May 11, 2021</td>
<td>Final Reading of Ordinance</td>
<td>City Council</td>
</tr>
<tr>
<td>May 18</td>
<td>Placeholder for additional meeting if necessary</td>
<td>City Council</td>
</tr>
<tr>
<td>May/June, 2021</td>
<td>State review</td>
<td>Ecology</td>
</tr>
<tr>
<td></td>
<td>Certification if applicable</td>
<td>Puget Sound Regional Council</td>
</tr>
</tbody>
</table>