



TO: Elizabeth Pauli, Interim City Manager
FROM: Peter Huffman, Director, Planning and Development Services
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COPY: City Council and City Clerk
SUBJECT: Ordinance – Retaining and Modifying the Interim Regulations on Public and Private Correctional Facilities
DATE: April 27, 2017

SUMMARY:

Retaining and modifying the Interim Regulations regarding public and private correctional facilities, which were adopted as an emergency measure by the City Council on March 7, 2017 (Ordinance No. 28417). The modifications would amend the Interim Regulations as follows:

- Revise the regulations so they regulate public and private correctional facilities in the same manner
- Revise the permit modification standards to indicate that any modifications that would increase the inmate capacity of an existing facility shall be processed as a major modification
- Modify the Conditional Use Permit process standards to ensure significant community engagement as part of any permit for significant modification of an existing correctional facility
- Extend the duration of the Interim Regulations from 6-months to 1-year

COUNCIL SPONSORS:

Mayor Strickland

STRATEGIC POLICY PRIORITY:

Retaining and modifying the Interim Regulations would support the City’s Council’s strategic policy priorities related to Livability, Economy & Workforce, Civic Engagement, and Equity & Accessibility.

BACKGROUND:

On March 7, 2017 the City Council adopted Ordinance No. 28417, which enacted emergency interim zoning regulations pertaining to public and private correctional facilities. As adopted, the interim regulations are effective for six months (through September 6, 2017) or until the City’s zoning regulations for correctional facilities are permanently updated. The interim regulations amended the Tacoma Municipal Code, Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 13.06.700, as follows:

- Modify the use definition of “correctional facility” to clearly differentiate between public and private correctional facilities;
- Prohibit the siting of private correctional facilities in all zoning districts;
- Remove public correctional facilities as a permitted use in multi-family and light-industrial zoning districts (i.e., R-4-L, R-4, R-5, and M-1); and
- Modify how public correctional facilities are permitted by requiring approval of a Conditional Use Permit in all districts in which they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime & Industrial).

As requested by Council, the Planning Commission reviewed the interim regulations and explored both regulatory and non-regulatory issues surrounding them. The Commission had robust discussions that



highlighted numerous concerns and diverse opinions about the interim regulations and these uses in general. These issues included:

- The relationship between the City's local land use regulatory authority and this politically-charged and largely national-level issue;
- The impact of the State's Growth Management Act and the provisions relative to Essential Public Facilities, particularly in light of the recent guidance from the Legal Department;
- Broader land use concerns about allowing non-typical "residential" uses in the Tideflats industrial area;
- The relationship and potential impact of this project on other high-priority projects in the Commissions' work program; and,
- The scope and limited time potentially available to consider permanent regulations.

While the Commission was able to spend considerable time during two meetings on this issue, the Commission was unable to reach consensus on a final recommendation relative to the interim regulations. Nonetheless, the Commission forwarded its work to date to keep the Council abreast of its observations, concerns, deliberations, and preliminary thoughts on the path forward.

The City Council held a public hearing on April 25, 2017 on this issue. The hearing was very well attended and the Council received a significant amount of testimony – testimony that reflected the strong and diverse opinions regarding this complicated issue.

ISSUE:

The interim regulations were intended to provide time for the City to conduct appropriate research and community outreach, to analyze potential impacts and applicable local, state and regional policies, and determine the appropriate permanent regulatory framework for correctional facilities in Tacoma. Requiring conditional use permits for new or expanded facilities, in the interim, will better ensure that the review of any proposal includes significant community outreach and the opportunity for local discretionary review addressing applicable policies and standards, as well as potential impacts and compatibility issues. Extending the duration of the interim regulations from 6-months to 1-year will better ensure there is adequate time for the City Council, Planning Commission, staff and community to appropriately explore and address this issue, which is complicated and controversial and will likely garner widespread interest.

ALTERNATIVES:

After holding its public hearing regarding emergency interim regulations, the City Council is required to reevaluate the interim regulations and decide whether they should be retained (as-is), repealed, or modified.

RECOMMENDATION:

The City's Interim Regulations regarding public and private correctional facilities, which were adopted as an emergency measure by the City Council on March 7, 2017 (Ordinance No. 28417), should be retained and modified, as outlined above.

FISCAL IMPACT:

There is no fiscal impact.