



MINUTES (Approved on 3-2-16)

TIME: Wednesday, February 17, 2016, 4:00 p.m.
PLACE: Council Chambers, Tacoma Municipal Building
747 Market Street, Tacoma, WA 98402
PRESENT: Chris Beale (Chair), Donald Erickson, Jeff McInnis, Meredith Neal, Dorian Waller,
Scott Winship
ABSENT: Stephen Wamback (Vice-Chair), Anna Petersen, Brett Santhuff

A. CALL TO ORDER AND QUORUM CALL

Chair Beale called the meeting to order at 4:06 p.m. A quorum was declared.

B. APPROVAL OF AGENDA AND MINUTES OF FEBRUARY 3, 2016

The agenda was amended to move item D-2 ahead of item D-1. The agenda was approved as amended.
The minutes of the regular meeting on February 3, 2016 were reviewed and approved as submitted.

C. PUBLIC COMMENTS

Chair Beale opened the floor for public comments. The following citizens provided comments:

- 1) **Duane:**
Duane commented that he was the owner of Emerald Leaves which was about 600 feet from Mary Mart, another recreational store. He reported that he has invested hundreds of thousands of dollars in the industry and complied with all rules and regulation. He commented that since the City does not have any rules regarding dispersion between stores, there are currently two stores on 6th Avenue between Fife and Proctor with an additional two proposed. He advocated the City taking steps to not allow more than two stores to cluster on 6th Avenue. He suggested that the City consider that if two stores are already within 600 feet of each other, a third store should be allowed with a 2500 foot buffer from the other two.
- 2) **Brian Caldwell:**
Mr. Caldwell, as the managing member of Triple C Collective on 6th Avenue, suggested the Commission consider adopting an ordinance that drops the buffer to 100 feet for sensitive uses not including schools and daycares. He asked the Commission to share with the public what dispersion would look like if implemented. Mr. Caldwell requested that there be no cap on the total number of stores and that the market should be allowed to decide the number of stores. He asked that they require new stores to be medically endorsed, actively operate their medical endorsement, and only carry pesticide free products. For cooperatives, Mr. Caldwell requested that they follow the State law. He also requested that the City adopt rules to allow production and processing with a 100 or 1000 foot buffer.
- 3) **Anthony Valenzuela:**
Mr. Valenzuela commented on being the owner of a building on 6th Avenue that has a marijuana retailer as a tenant. He reported on a number of associated issues including underage customers, numerous break-ins, vandalism, people smoking marijuana on premises, loitering, and customers with children in strollers. He commented that the tenant had only complied with the law when he had been forced to. Mr. Valenzuela commented that he felt that there should be some buffers; that having 5, 10, or 15 stores on 6th Avenue was a bad idea; and that the vibrancy of 6th Avenue was diversity.

4) **Damien McDivitt:**

Mr. McDivitt commented that he was the owner of Mary Mart, which was within 1000 feet of another store. He commented that he supported the current moratorium because they do not know what the future impact of new regulations could be. He supported limiting the number of additional stores in Tacoma and commented that he did not want 6th Avenue to become clustered with only one type of business. He supported the recommended dispersion of 1000 feet noting that with the current amount of competition, many businesses were struggling to make money.

D. DISCUSSION ITEMS

1. Permitting and Development Activity Report

Lisa Spadoni, Development Services Division, provided a review of information on building and land use permits, projects of interest, and development trends based on year 2015 data. Ms. Spadoni discussed the attachments included with the agenda item, first noting a table that summarized permit activity for the last five years and a chart that illustrated the data in the table. The data included in the table showed a number of trends including that the number of permits had increased, but the overall value of the permits in 2015 was lower. Ms. Spadoni discussed a table that broke down the permit types for 2015, noting that the total number of new residential units was 380 and that 9 permits had been issued for accessory dwelling units.

The Planning and Development Services Monthly Project Update was discussed. Ms. Spadoni reviewed that it forecasted the projects that were coming up including a number of large projects. Projects highlighted included the Goldfish Tavern; the Haub Superblock which would include two high rise office towers; McMenamins which had been permitted for an interior remodel; an adaptive reuse project at the old Titus Will building; the Simpson Lumber Mill site which was looking at developing one million square feet warehouse space; the UW Tacoma Town Center which was hoping to begin construction by the end of the year; the Convention Center Hotel which was hoping to break ground before the end of the year; the Seven Seas Brewery project; a new cold storage facility; and a mixed-use building with 200-300 residential units on MLK Jr. Way. Ms. Spadoni reported that they had also done some permitting for a LNG plant at the Port of Tacoma and had held a number of community meetings regarding a proposed methanol plant. Commissioner Neal requested that the Monthly Project Update be included as a regular communication item.

Chair Beale asked if there had been any issues with the Shoreline Master Program (SMP) since it had been passed. Ms. Spadoni responded that only several Shoreline permits had been submitted since the SMP was approved, adding that applicants had found the buffer restoration requirement challenging. She commented that some tenants of the port might have been surprised by the public access requirement and the fee in lieu option. Chair Beale asked how the in lieu fee was being determined. Ms. Spadoni confirmed that they were using a percentage of the project valuation.

Chair Beale noted that on a lot of their planned action SEPA's they no longer have a project level SEPA review. He asked if there had been things they had wanted to mitigate that were not covered by EIS. Ms. Spadoni responded that so far, few projects had come through with some of those planned action SEPA's.

2. Marijuana Code Amendments

Molly Harris, Planning Services Division, facilitated a discussion to consider releasing potential code amendments concerning marijuana uses and setting March 2, 2016 as the date for a hearing to receive public comment. The key options for potential code amendments included buffers for retail marijuana stores, dispersion of retail marijuana stores, a cap on the total number of retail marijuana stores, whether to require a medical endorsement for new retail marijuana stores, and whether to allow cooperatives. Ms. Harris reviewed questions from the previous meeting, reporting that the State enforces State Laws, unless permission is given to the City to enforce that law and that most of the State sensitive use buffers could be reduced to 100 feet.

Buffer options were discussed. Ms. Harris noted that buffers of 1000 feet for elementary schools, secondary schools, and playgrounds were required by State Law and could not be reduced. Buffers for

correctional facilities, court houses, drug rehabilitation centers, and detoxification centers could be reduced or eliminated. Buffers established by the State for child care centers, game arcades, libraries, public parks, public transit centers, and recreational facilities could be reduced to as little as 100 feet. Chair Beale asked if the Washington State Liquor and Cannabis Board buffered any kinds of uses for liquor stores. It was noted that the liquor stores were buffered from schools. Discussion ensued. Commissioners concurred with requiring, for retail stores, a buffer of 100 feet from sensitive uses and 300 feet from the City's added sensitive uses for public review.

Dispersion was discussed. Ms. Harris reviewed the options including no dispersion, 500 feet, and 1000 feet. A map showing existing and proposed stores was reviewed. It was noted that currently only two stores were within 1000 feet of each other. Chair Beale commented that he could not support dispersion as a final recommendation because the City does not disperse other uses like alcohol, but that he would support putting it out for public review. Commissioners concurred with requiring a dispersion, for retail stores, of 300 feet within the downtown area and 500 feet everywhere else for public review.

The cap on the total number of stores was discussed. Ms. Harris reviewed the options including no cap, matching the State cap of 16 stores, or capping at another number. Commissioners concurred with not setting a cap on the total number of stores for public review.

Requiring medical endorsements for retail marijuana stores was discussed. Commissioner McInnis asked how difficult the process of getting a medical endorsement was. Ms. Harris responded that it was not a difficult process and between 70% and 80% of existing stores had applied for medical endorsements. Commissioners agreed to require that new stores obtain a medical endorsement.

Cooperatives were discussed. Ms. Harris reviewed that options included allowing Cooperatives as per State Law, not allowing Cooperatives, and allowing with reduced buffers. Ms. Harris noted that the City's added sensitive use buffers only apply to retail uses. Commissioners concurred with allowing Cooperatives and reducing buffers to 100 feet. Chair Beale reported that Vice-Chair Wambach had suggested adding language for Cooperatives that would take into consideration crimes or public nuisances attributed to a residential address with a possible waiting period requirement before a cooperative would be allowed. Ms. Harris responded that she would investigate if that was possible.

Lihuang Wung, Planning Services Division, reviewed that the Commission had agreed to the following:

- For buffers for retail marijuana stores, a citywide buffer of 100 feet, with an exception for City's added sensitive use buffers which would be reduced to 300 feet. State required buffers for elementary schools, secondary schools, and playgrounds would remain at 1000 feet.
- For retail store dispersion, 300 feet in the Downtown area and 500 feet everywhere else.
- No cap on the total number of retail marijuana stores.
- New stores would be required to obtain a medical endorsement.
- Cooperatives would be allowed with sensitive use buffers reduced to 100 feet.
- The Commission entrusted staff with additional modifications to reflect conformance with recent State laws, to draft language for public review, to set the public hearing for March 2nd, and allow the record to be open through March 7th.

Commissioner Neal motioned to release the review for public comment and set the public hearing date for March 2nd. Commissioner Erickson seconded. The motion was approved unanimously.

3. Wireless Communication Facilities (an application for the 2016 Annual Amendment)

Mr. Wung provided a review of background information, key issues, and the proposed approach for code amendments concerning wireless communication facilities. He reviewed that Federal legislation had included language stating that State or local governments may not deny any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. In response, the Federal Communications Commission had created rules to implement the language with Report and Order FCC 14-153 which had also included definitions and guidelines for the review of applications. The FCC definition for "substantial changes" had included, in general, tower height increases of greater than 10% or 20 feet; appurtenance protruding 20 feet or the width of the tower; more than 4 cabinets; and excavation outside of the site. Anything within

those parameters would be considered “not substantial” and must be approved by local government. Commissioner Erickson asked if the law would allow incremental increases over time. Commissioner McInnis asked if there was a definition for what constituted excavation. Mr. Wung reported that the new FCC rules stated that there was a 60 day shot clock that began when the application was filed and allowed the local jurisdiction 30 days to notify the applicant if the application was incomplete, which would stop the clock. Once the applicant submitted supplemental information the clock would continue. After 60 days, failure to act would be considered approval of the application.

Mr. Wung reviewed the current Tacoma Municipal Code TMC 13.06.545 concerning Wireless Communications Facilities. He commented that if no changes were made, they would not likely be in violation of Federal law, but they wanted to take the opportunity to incorporate the rules where appropriate. Substantial changes to the code would include incorporation of FCC rules, specifically the section on minor modifications. For the 60 day shot clock, the recommended options were to either formally incorporate the FCC rules or to establish an administrative policy recognizing the Federal 60 day requirements and the current 42 day level of service. Mr. Wung commented that staff also wanted to take the opportunity to consider enhancing the code to address visual impacts of transmission equipment by establishing requirements for location or camouflage. Mr. Wung indicated that staff will present the text for the proposed code amendments based on the discussion today at a future meeting tentatively set for March 16, 2016.

E. COMMUNICATION ITEMS & OTHER BUSINESS

None.

F. ADJOURNMENT

At 6:06 p.m., the meeting of the Planning Commission was concluded.