



MINUTES (Approved on 12-17-14)

TIME: Wednesday, December 3, 2014, 4:00 p.m.
PLACE: Council Chambers, Tacoma Municipal Building
747 Market Street, Tacoma, WA 98402
PRESENT: Sean Gaffney (Chair), Scott Winship (Vice-Chair), Chris Beale, Donald Erickson,
Benjamin Fields, Meredith Neal, Anna Peterson, Stephen Wamback
ABSENT: Erle Thompson

A. CALL TO ORDER

Chair Sean Gaffney called the meeting to order at 4:05 p.m.

B. QUORUM CALL

A quorum was declared. Meredith Neal and Anna Peterson were sworn in as new Planning Commission members; they had been appointed by the City Council on December 2, 2014, representing "Public Transportation" and "Environmental Community", respectively.

C. APPROVAL OF MINUTES

The minutes of the regular meeting on November 19, 2014 were reviewed and a number of amendments were made:

- Commissioner Beale indicated that a few Commissioners had said that they were okay with de-emphasizing vertical mixed use and allowing for mixes of uses in a center. He suggested that in the "Mixed-Use Centers Review" section, "very important" in the fourth bullet point be rephrased to "more important than vertical mixed use".
- Commissioner Beale also indicated that several Commissioners had reservations about the 1000 foot buffer between retail marijuana uses and that should be captured in the "Recreational Marijuana Regulations" section.
- Commissioner Erickson suggested that in the "Mixed-Use Centers Review" section the comment about bonus features be modified to also address the new typology that was being created (i.e., Neighborhood, Crossroads, and Employment Center).

The minutes were approved as amended.

D. DISCUSSION ITEMS

1. 2015 GMA Update and Land Use Designations

Stephen Atkinson, Planning Services Division, facilitated the Commission's discussion on designating Educational and Institutional uses, Planned Residential Development, as well as Parks and Open Space. He provided background on the Land Use Designation classification table, noting that the designations have corresponding zonings meant to implement the designations and that past designations had not functioned as intended. The current conversation would be focused on designations with a discussion of zoning changes further on in the process. Mr. Atkinson also stated that while the Council had adopted a new designation table and new categories, he did not want the conversation to be limited to only those designations but also to consider alternatives.

Mr. Atkinson discussed Education Facilities noting the current inconsistencies between zoning and intensities such as single family zoning with a medium intensity designation. These inconsistencies had led to the recommendation to explore the creation of an Institutional Campus designation. The proposed Institutional Campus land use designation would be framed around the following key elements: areas with large institutional campuses greater than 10 acres, centers of employment, and facilities with potential for much greater impact to the surrounding areas. Facilities that would be considered to be included in the proposed designation included Hospitals, Medical Centers, Colleges, Universities and High Schools. Mr. Atkinson also recognized public facilities that have a large impact but lack an appropriate designation like Cheney Stadium, the Tacoma Dome and the landfill. He commented that those sites will need to be looked at in the future.

Mr. Atkinson introduced Elliott Fitzgerald, Planning Services Division, who provided the results of research into what other cities have done with institutional designations. He reported that while many major cities have land use designations for institutions like hospitals, universities and community colleges some cities also included high schools in the designation. He commented on some of the criteria employed by other cities including the presence of large entertainment sites. Smaller cities also included civic space and public institutions or public land. Mr. Fitzgerald stated that there is a wide array of uses to be considered and also a wide array of zoning parameters including trading new base zones, requiring conditional use master plans, or requiring impact mitigation plans. He noted that Portland is currently developing both a new designation and corresponding zones for Institutional Campus facilities.

Mr. Atkinson reiterated that zoning changes were not being recommended at this time and that the priority is to determine how to identify the areas to make sure that they show up on maps. He noted that for the Institutional Campus designation there needed to be a determination to define what the campus footprint is. How to represent the institutions on the map was discussed, Mr. Atkinson recommending showing the institutional campus on the map even when within a MUC. For when Open Space and Institutional Campuses overlap he recommended that it be shown as open space. For other educational facilities like elementary and middle schools Mr. Atkinson recommended a case by case approach where the zoning and the surrounding neighborhood would be considered.

Chair Gaffney suspended the meeting temporarily while staff addressed the acoustic system issues in the Council Chambers. Brian Boudet, Planning Division Manager, addressed the public gathered for the hearing to inform them that the scheduled hearing was to address proposed regulations for recreational marijuana businesses only and that the status of medicinal marijuana would not be considered by the Commission. The meeting resumed at 4:37 p.m.

Commissioners had the following comments and questions:

- How will this work considering the range of campuses from PLU, which is a closed in campus surrounded by a residential neighborhood, to UWT which is designed to be expansive and open to the community with a mix of residential, commercial, and educational? Why aren't we just considering these different flavors of mixed use? (Mr. Atkinson: An institutional campus designation would acknowledge that there are some similarities in terms of the needs, the layout, and the types of impacts between the facilities while at the same time recognizing that we aren't proposing a uniform zoning and development permit procedure. The approach to use as a starting point would be to consider locations like UWT an Institutional Use within a MUC to differentiate it from PLU which would be an Institutional Use within a residential neighborhood.)
- Instead of the designation process, which seems a little bifurcated by excluding some of the smaller school uses, why not use the master plan process? (Mr. Atkinson: The master plan process is an approach we could look at, but there will still be questions on what the appropriate zoning and processes would be for those types of institutions.)
- I have concern that we're not making any zoning changes but we are recognizing the larger campuses. If another larger campus or institutional type of use came into the city they could still be permitted under the Single Family designation and later we would need to change the designation to Institutional just to recognize it on the map.

- The Land Use designations in the Comprehensive Plan should be as explanatory for the public as possible. In Seattle, hospitals embraced institutional zones because they had to do master plans and it provided predictability for what the boundaries were going to be. It serves the public interest, but there aren't any incentives built in for master planning. (Mr. Atkinson: Some institutions are looking at their zoning and acknowledge that the zoning doesn't reflect what they are. While this doesn't yet entail zoning changes, it would provide some recognition of the unique quality of these large institutions that are spread throughout the city.)

Chair Gaffney asked Mr. Atkinson if there was any addition direction needed at this time to refine the proposal. Mr. Atkinson showed a list of the institutions currently proposed and asked for the Commission to consider if those seem like the right institutions to start with in terms of exploring this further with those organizations. The Commission concurred. The Commission will continue the discussion on the issues relating to Planned Residential Development and Parks and Open Space at a future meeting.

Chair Gaffney recessed the meeting at 4:55 p.m.

2. Public Hearing – Recreational Marijuana Regulations

At 5:00 p.m., Chair Gaffney called the public hearing to order and reviewed the procedures, noting that they would not be taking testimony on medical marijuana. Elliott Barnett, Planning Services Division, provided an overview of Initiative 502 noting how it decriminalized possession of marijuana, and allowed recreational production, processing, and retail sales. The interim regulations were briefly reviewed and a map was shown that demonstrated the available locations for production, processing, and retail facilities. Mr. Barnett provided a summary of the four additions to the interim regulations currently under consideration, noting that the input received from the public thus far showed no clear consensus for or against any of them. Chair Gaffney asked to clarify that the changes would only affect new businesses and not any of the 3 recreational retailers that are pending. Mr. Barnett confirmed that only new businesses would be affected according to the current draft proposal. Chair Gaffney called for testimony. The following citizens testified:

(1) **Dan Barnes:**

Mr. Barnes said that the Planning Commission has a responsibility to the citizens of Tacoma to make recommendations based on input from residents of Tacoma and not state laws. He specifically disagreed with limiting the hours of operation as it characterized use of marijuana as bad. He expressed concern that changes would affect medical patients, and that negating the necessities of medical would show lack of consideration for the residents of Tacoma.

(2) **Patrick Seifert, Veterans for Medical Cannabis Access and Americans for Safe Access:**

Mr. Seifert spoke on behalf of Tacoma veterans and wanted to express how important access is for veterans. He voiced concern that the number of total locations would be reduced from 56 medical collectives down to 8 recreational shops which would make it difficult for veterans to obtain their medicine. He commented that collective owners had been referred to as "bootleggers" in a news article. He said that there was a major difference between recreational shops and medicinal collectives: one is about money while the other is about compassion. He noted 22 veterans a day commit suicide and that suicide rates for veterans are lower in states with medicinal collectives.

(3) **Christine Emineth:**

Ms. Emineth introduced her daughter Tristin and commented that she could not imagine taking her daughter to a recreational store to obtain her medicine. She felt that medicinal collectives were safe and secure and that the medicine had been tested. She stated that she did not feel comfortable taking her daughter to an I-502 store for the medicine that was saving her life.

(4) **Kari Boiter, Americans for Safe Access:**

Ms. Boiter said the recreational marijuana system will not work for patients because the recreational stores would have prices 4-5 times higher and that non-intoxicating products like topical ointments and tinctures would be unavailable. Also unavailable would be high CBD concentrates that people like Tristin and Christine need. Donations would be unavailable because state law prohibits

recreational stores from selling anything for less than what they paid. Caregiver advice about how to use those products is also prohibited at recreational stores. She suggested that if they were going to be moved into I-502 stores that they should make sure that those stores are going to provide the service that they have available now. She shared that health insurance does not help her pay for her medicine and that it is the reason that she is healthy and productive enough to testify.

(5) **Chris Horyn, Patient Cannabis Exchange:**

Mr. Horyn expressed concern about the proposed regulations for recreational marijuana, specifically the complications for the city with the possibility of litigation resulting from the authority to deny for compliance to code. He believed that the rules for code compliance and hours of operation set forth by the state should be enough. He also expressed concern about distance requirements making access difficult for people with limited mobility and that there are no such requirements for liquor stores.

(6) **Byron Kelley:**

Mr. Kelley stated that patients need their medication at an affordable price. There are cancer patients who are unable to afford Phoenix Tears Oil and many medicinal businesses have provided it to them at little to no cost. He added that recreational rules would deny children medication until they are 21. He stated that there is a legitimate practice and care that goes into the medicinal facilities and that many of them are more like doctors' offices. He raised the point that there were not enough I-502 shops to employ all of the people who would be out of work if the dispensaries are closed. He expressed concern that many patients cannot cultivate their own cannabis.

(7) **Andrea Sulusi, Elements of Sunshine:**

Ms. Sulusi, a stage 4 cancer survivor, commented on using cannabis and being cancer free for ten years. She was concerned that recreational would not be able to fulfill her needs and would take her medicine away from her. Being the owner of the Elements of Sunshine dispensary, she commented that replacing medicinal with recreational was taking away the highest use of the plant. She added that she wasn't looking to get rich but only to spread healing and love. She asked the Commission, when considering zoning, to also consider what they are looking to annihilate: the entire Tacoma community.

(8) **Pastor Bobby Lemmon, House of Prayer:**

Mr. Lemmon stated that he does not use marijuana but is concerned about where the shops are located, specifically a dispensary near his church. He said that he didn't want to spend his life trying to keep young people off of drugs only to have it right in front of them when they go outside. He also expressed frustration over having to explain to children the odor near his church. He stated that marijuana should not be so accessible for children, since it makes it difficult to influence them to make the right decisions when it is so readily available. He added that the marijuana retailer near him was supposed to have closed a year ago, but is thriving.

(9) **Micah Anderson, Cannabis Action Coalition:**

Mr. Anderson sought clarity on the City's legal intentions and had questions about medical marijuana. He had the following questions: How will the City's codes, public policy and the application for the business license process affect the private sector? Understanding Washington State Constitution forbids the combining of two subjects into one bill such as recreational and medical, what are your plans to protect medical cannabis? Where can I find the RCW permitting the distribution of recreational cannabis? Where can I find the RCW regulating cannabis distribution? Are you aware that I-502 violates both State and Federal statutes and your actions would support criminal enterprises? Do you regularly support unlawful behavior?

(10) **Steve Sarich, Cannabis Action Coalition:**

Mr. Sarich commented that he was involved in a legal action, giving oral argument to the Supreme Court on February 14th (*CAC vs. City of Kent*), that if successful, would make the proceedings irrelevant. He stated that they did not have the right to do this at the local level and that such decisions should be made by the state, going into some detail on failed efforts in the house to create bills against medical marijuana. He added that there are 14 bills that create solutions like eliminating illegitimate clinics and establishing regulation and licensing through the Department of Agriculture. He

voiced concern that if the state blocks efforts at good legislation and if they win in Kent there will be chaos. He added that the collective garden law, as written, gives the city no power over collective gardens. He concluded by stating that none of the medicinal marijuana patients would be able to afford to go to a recreational store and that ending collective gardens would only increase the size of the black market.

(11) Anthony Valenzuela, Equity Capital Funding:

Mr. Valenzuela discussed his background, having purchased his first commercial building on 6th Avenue in 1992, owning 13 other buildings, and building 7 projects using the multifamily tax abatement. He felt the distance buffer of 1000 feet between recreational businesses was too restrictive and that the 500 foot buffer seemed more appropriate. He added that the city should work with the private business and property owners to make sure that the negative impacts are not allowed in their neighborhood.

(12) Charles Farnsworth:

Mr. Farnsworth stated that his concern was with the industry as a whole. He explained that he had worked as a consultant and had looked at the space for venture capital groups so he sees the space from many stakeholders' perspectives. His primary concern was with the zoning and the 1000 foot barrier which neglected to take into consideration the future locations for medical dispensaries. He also recommended that they take a better look at the federal implications, specifically that it is very difficult for him to find space at a location that has a federal mortgage on it. He suggested that if they looked into which properties have a federal mortgage, they would find that they aren't as many spaces available as it may appear.

(13) Susan Cruise:

Ms. Cruise noted that retail marijuana shops are allowed in most mixed-use neighborhoods and only in some industrial and light industrial zoned areas. She felt it should be the other way around because mixed-use neighborhoods are surrounded by residential neighborhoods. She stated that the approach was not consistent with the Federal Government's guidelines that were issued to cities that permit marijuana. She shared concern about possible exposure to children. She also felt the distance requirement was too small and could lead to an inappropriate density. She suggested that the requirement for notification of new stores should be increased from 400 feet to 600 feet.

(14) Katlyne Smith, Advocate from Youth Leading Change:

Ms. Smith asked how the City of Tacoma is going to limit the access to marijuana for students, adding that marijuana is a problem at her school and seems to be everywhere. She also felt that the current distance requirement from schools was not enough. Ms. Smith shared a personal experience of seeing a man clearly smoking in his car in a store parking lot. She asked how they would discourage people from driving under the influence.

(15) Jim Sedivy:

Mr. Sedivy had concerns with the authority to deny an application based on a history of non-compliance and what it will mean in the future for people who were affiliated with medicinal collectives prior to the city ordering them to close. He stated that the people who are being unfairly shut down by the action of the city should have an avenue to get back into business.

(16) Bea Christophersen:

Ms. Christophersen highlighted several things that she felt made the law a problem: The medical marijuana industry is not regulated at all and is rife for abuse, creating issues for people with legitimate needs. Medical marijuana is easier to get and also cheaper. Lastly she commented that regulations are needed on medical marijuana to protect the people who legitimately need it. She suggested laws similar to the federal laws that limit how many prescriptions a doctor can write for codeine. She hoped that whatever regulations that are made are clear and enforceable so that there's action to protect those who don't smoke and don't want to be around it.

(17) Cam Lehouillier:

Mr. Lehouillier commented on owning a currently unrented building surrounded by light industrial that is zoned mixed-use commercial. He felt it would be perfect for processing and was hoping the

Planning Commission could help him with getting the zoning changed. He added that there is an opportunity that by locating businesses in the correct areas it will encourage creation of enterprises to service those industries. He suggested that the location of production facilities should be done on a case by case basis or the zoning considerations should be more flexible.

(18) Joseph Taliento:

Mr. Taliento expressed support for the other speakers but felt deceived by the City Council and members of the Planning Commission for interpreting the medical businesses as illegal. He felt that was wrong and that they were legal in every way. He asked the Commissioners for their personal opinion on whether medical marijuana should be illegal. He added that he sought to see medical remain as-is and didn't support the new regulations.

(19) Elder Mark Hutchenson:

Mr. Hutchenson voiced concern over the locations of recreational retailers. He noted that the current list of sensitive uses requiring a buffer included playgrounds and detox centers, but churches were absent. He felt that churches served a variety of functions, including being detox centers and playgrounds for children and that marijuana retailers should not be nearby. With the smell in the air, kids have to be taken away from their place for play.

(20) Duane Dunn:

Mr. Dunn stated that he was the owner of a pending retail location and was concerned about limiting the hours of operation and how it would impact employees. He commented that the reduction in available hours for work could result in a significant loss of income for the people who work there.

(21) Dianna Davis-King:

Ms. Davis-King commented that church is very important in the community. She added that they do good work for their community and only ask the marijuana be moved to another location.

(22) Louise Lee:

Ms. Lee spoke on behalf of the church and expressed concern about the difficulty of setting a positive example for children when marijuana is readily accessible. She also agreed that it should be moved outside of the community.

(23) Amelia Carlton:

Ms. Carlton spoke as a member of the House of Prayer Church. She didn't believe that the state took everything into consideration before making marijuana legal. She noted that there is a double standard where selling drugs is illegal in school zones for dealers, but retail locations are allowed there.

(24) Sarah Fassett:

Ms. Fassett commented on benefitting from medical cannabis and that taking it away would be personally detrimental and contradictory to the concept of medical marijuana as a whole. Only having recreational shops would make her a criminal since she is under age. Noting the concerns voiced about the proximity of medicinal collectives to children, she suggested that children should be educated about the medical uses. She shared that she had recently finished 15 months chemotherapy, has the right to access medicinal cannabis and that at 18 years old she would not have access to recreational retailers.

(25) Holly Bukoski:

Ms. Bukoski stated that she was also a medical marijuana patient and was concerned about zoning distances and noted that other things like bars do not have to comply with such regulations. She was also concerned that by eliminating medicinal safe access points, damage would be done to the community and the black market would be encouraged. She noted that there would be issues with lack of supply if all of the medicinal patients were forced to rely on the available recreational retailers. Lastly, she also spoke for veterans who would be having their medicine taken away.

(26) Beth Wortinger:

Ms. Wortinger commented that there is a taboo attached to marijuana that is affecting the decisions made regarding it. We need to compare the number of people killed by alcohol and prescription drugs

against marijuana. She asked the Commission to take into consideration of how many people are homeless because of alcohol while marijuana bears the stigma of being considered a drug. She emphasized that marijuana is not a drug anymore and that she uses it while functioning fully.

(27) Ryan Strand:

Mr. Strand, a medical marijuana patient and a licensed I-502 processor, asked for clarity on people who are getting licenses in the city, adding that the process had been a long difficult struggle with a lack of clear guidance. He added that it would help people in his situation if there was more clarity in code.

(28) Justin Meyer:

Mr. Meyer spoke on being a consultant for I-502 and having been on a steering committee for Proposition No. 1. He commented that there is not a lot of zoning and what is there is ridiculously expensive and that it is essentially shutting out money for the city. He added the main point he had heard was that people don't want to get their medical marijuana at recreational stores.

(29) Dayn Addington:

Mr. Addinton stated he was on a neutral side, agreeing with both the church and the medical sides, and was concerned about the presence of the black market. He commented that we need to be fair and do what we can to please both sides.

Seeing no more citizens coming forward, Chair Gaffney reiterated that the public hearing record will remain open until December 5, 2014 to accept written comments, and closed the public hearing at 6:25 p.m.

Mr. Boudet and Mr. Barnett facilitated the Commission's discussion on the next steps. The Commission acknowledged that it may be necessary to push the schedule for a recommendation past the next meeting and allow a debriefing for the public comments.

Commissioners also made the following requests for information:

- There was a request for the location of the House of Prayer church and additional information on the marijuana dispensary nearby.
- There was a request for research into the issue of the federal mortgages affecting the availability of locations. (Mr. Boudet: We would need to consult with the city attorney to really answer that.)
- There was a request for information on handling each business on a case by case basis possibly through a conditional use approach. (Mr. Boudet: There could be but it would create additional legal concerns.)
- There was a request for a map that includes a buffering requirement for Churches.
- The request for staff to investigate the zones in which marijuana production or retail is allowed and if there are areas of similar characteristic where it has been ruled out.
- There was a request for more information why production was not allowed in light industrial areas.

E. COMMUNICATION ITEMS & OTHER BUSINESS

Mr. Barnett updated the Commission on the tour of the Spinning Heads production facility on the 4th of December, reminding Commissioner's that they would be meeting outside of the facility at 11:20. a.m.

Lihuang Wung, Planning Services Division reported that the Transportation Master Plan item scheduled for the Commission's meeting on December 17th has been rescheduled to a later date.

Chair Gaffney welcomed the two new commissioners and asked them to give some information on their background. Commissioner Peterson shared that she had a background both in Environmental Sciences and Services and also a background in Planning. Commissioner Neal mentioned that she was currently working for a construction company that remodels homes and that her background was in Planning.

Mr. Boudet commented that Mr. Wung will send out invitations for the annual lunch meetings with those Commissioners who have not responded.

Commissioner Wamback provided a brief update to the Commission on the Billboard Community Working Group. He reported that the city has published a website for the Working Group and that he had been elected to one of the two Co-Chair positions.

F. ADJOURNMENT:

At 6:49 p.m., the meeting of the Planning Commission was concluded.