City of Tacoma **City Council Action Memorandum**

TO: **Elizabeth Pauli, City Manager**
FROM: **Shirley Schultz, Interim Division Manager, Planning and Development Services**
Peter Huffman, Director, Planning and Development Services
COPY: **City Council and City Clerk**
SUBJECT: **Ordinance – Amendments to Land Use Code – December 10, 2024**
DATE: **November 19, 2024**

SUMMARY AND PURPOSE:

An ordinance amending Chapter 13.05 of the Municipal Code, relating to Land Use Permits and Procedures, to revise levels of service timelines and public noticing procedures for land use permits, to implement Washington State Substitute Senate Bill 5290 and Substitute House Bill 1105, effective January 1, 2025.

BACKGROUND:

This department's recommendation is based on the findings and recommendations of the City of Tacoma Planning Commission, dated June 26, 2024, and follows the City Council public hearing of December 3, 2024.

The State of Washington, in Substitute Senate Bill 5290 and Substitute House Bill 1105, changed how much time local jurisdictions have to process land use permits, how fees are charged for the permits, and how public notices are worded. The City establishes these timelines, fees, and notices in Tacoma Municipal Code (TMC) 13.05, Land Use Permits and Procedures. The proposed amendments are intended to comply with the State mandates. These mandates go into effect January 1, 2025.

The proposal is to alter the levels of service for land use permits (in general, reducing the time from complete application to a decision), clarify what constitutes a complete or inactive application, and modify the contents of land use public notices to note a comment start date.

The matter was taken to the City of Tacoma Planning Commission in May 2024, with a public hearing held June 5, 2024. Following a June 26, 2024 debrief, the Planning Commission prepared a letter of recommendation and proposed code amendments for City Council consideration. The City Council held a public hearing on the matter on December 3, 2024, and now considers the code amendments for adoption.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

In addition to the Planning Commission and the stakeholder outreach via the Commission process, staff also presented the proposed code changes to the most-affected parties through the City's Permit Advisory Group and conducted additional community outreach in advance of the Commission's public hearing. The proposal is expected to result in enhanced levels of service and potentially in reduced fees for some permits when the timeline is not met.

2025 STRATEGIC PRIORITIES:

Equity and Accessibility:

This proposal is expected to increase levels of service across all types of land use permits and, to the extent that any permit applicant is experiencing inequities or disparities, they would benefit equally.

ALTERNATIVES:
Presumably, your recommendation is not the only potential course of action; please discuss other alternatives or actions that City Council or staff could take. Please use table below.

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Delay first reading of ordinance.	More time for discussion and/or amendments.	Risk not meeting State mandated timeline for adoption and implementation.
2. Decline to act on ordinance.	N/A	The Tacoma Municipal Code would not be compliant with the applicable WAC and RCW.

EVALUATION AND FOLLOW UP:
Performance under the new level of service standards will be monitored and reported annually, as required by State law.

STAFF/SPONSOR RECOMMENDATION:
Staff recommend the City Council conduct the first reading of the ordinance on December 10, 2024, followed by final reading on December 17, 2024.

FISCAL IMPACT:
There is no fiscal impact associated with the proposed ordinance.

ATTACHMENTS:
- Planning Commission Recommendation Letter
- Planning Commission Findings and Recommendation

City of Tacoma
Planning Commission

Christopher Karnes, Chair
Anthony Steele, Vice-Chair
Morgan Dorner
Robb Krehbiel
Brett Marlo
Matthew Martenson
Jordan Rash
Sandesh Sadalge
Brett Santhuff

June 26, 2024

The Honorable Mayor and City Council
City of Tacoma
747 Market Street, Suite 1200
Tacoma, WA 98402

RE: Permitting Level of Service and Public Notice Code Amendments

Honorable Mayor Woodards and Members of the City Council,

On behalf of the Tacoma Planning Commission, I am forwarding our recommendations on the Permitting Level of Service and Public Notice Code Amendments.

Enclosed, please find the "Planning Commission's Findings of Fact and Recommendations Report for the Permitting Level of Service and Public Notice Code Amendments, June 26, 2024," which summarizes the proposed amendments, the public review and community engagement process, and the Planning Commission's deliberations.

Permitting Level of Service and Public Notice Code Amendment

The intent of this proposal is to bring the Tacoma Municipal Code into compliance with recent state legislation adopted under Substitute Senate Bill 5290 and Substitute House Bill 1105. Both Bills mandate that local jurisdictions change their codes to be consistent with the adopted state regulations.

Substitute Senate Bill 5290 requires the City to amend the level of service requirements specific to processing land use permits.

Substitute House Bill 1105 requires that the City's public notice be amended to include the start date of the public notice period.

The attached draft code reflects the required changes.

- Therefore, the Planning Commission recommends that the City Council APPROVE the application as proposed in Exhibit 1.

We respectfully request that the City Council accept our recommendations and adopt the Amendment package as presented.

Sincerely,

Christopher Karnes, Chair
Tacoma Planning Commission

Anthony Steele, Vice-Chair
Tacoma Planning Commission

Enclosure

Christopher Karnes, Chair
Anthony Steele, Vice-Chair
Morgan Dorner
Robb Krehbiel
Brett Marlo
Matthew Martenson
Jordan Rash
Sandesh Sadalge
Brett Santhuff

TACOMA PLANNING COMMISSION
FINDINGS OF FACT AND RECOMMENDATIONS REPORT
Permitting Level of Service and Public Notice

June 26, 2024

A. SUBJECT:

Permitting Level of Service and Public Notice Code Amendment ("Permit LOS/Public Notice").

B. SUMMARY OF PROPOSED AMENDMENTS:

The Permit LOS/Public Notice Code Amendment consists of the following:

APPLICATION	AMENDMENT TYPE	COMMISSION'S RECOMMENDATION
1. PERMITTING LEVEL OF SERVICE AND PUBLIC NOTICE CODE AMENDMENT		
This proposal is to bring the Tacoma Municipal Code into compliance with State mandate specific to Land Use Permit level of service and public notice requirements.	Code	**Exhibit 1 Recommended for Adoption**

C. FINDINGS OF FACT: BACKGROUND AND PLANNING MANDATES

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. Amendment Process

Pursuant to TMC 13.02.070 – Adoption and Amendment Procedures, applications are submitted to the Planning and Development Services Department, and subsequently forwarded to the Planning Commission for their assessment. The Planning Commission decides which applications should move forward as part of that Amendment package. Those applications then receive detailed review and analysis by staff and the Planning Commission and input is solicited from stakeholders and the community.

3. Planning Mandates

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 2050* Multicounty Planning Policies;
- The Puget Sound Regional Council's *Transportation 2040*;
- The Puget Sound Regional Council's Subarea Planning requirements;
- The Countywide Planning Policies for Pierce County; and
- TMC 13.02.070 – Adoption and Amendment Procedures.

D. FINDINGS OF FACT: POLICY REVIEW

1. Permitting Level of Service and Public Notice Code Amendment:

As documented in the Staff Analysis Report reviewed by the Planning Commission on May 1, 2024, the Commission reviewed the application for consistency with policies from the Economic Development element of the Comprehensive Plan. The proposal is supported by policies in the Economic Development chapters of the One Tacoma Comprehensive Plan.

E. FINDINGS OF FACT: STAFF ANALYSIS

1. Permitting Level of Service and Public Notice Code Amendment:

Staff conducted analysis to understand potential impacts of proposed process changes. The Public Review Document contains the full record of analysis and was provided to the Commission on May 1, 2024. Key components of this staff analysis include:

The proposed amendments are in response to State mandates. The proposed amendments do not affect the City's standards for development, only the timelines and procedures for issuing permit decisions. The permit level of service standards would apply city-wide depending on the type of application.

Specific to the new levels of service, the code does put the burden on the City to issue decisions quicker and may result in budget impacts if the City has to hire additional staff and/or refund fees. In theory, by issuing decisions faster, development will get built faster and the developer will incur less cost.

Specific to the new public notice requirement, this is intended to provide clarity to the community when they can comment on a project. Clear communication during the permit process is key to building trust with the community.

F. FINDINGS OF FACT: PLANNING COMMISSION REVIEW

The Planning Commission conducted reviews of the Permitting Level of Service and Public Notice Code Amendment at the following meetings, listed in reverse chronological order, with key decision points and milestones boldfaced:

- **06/26/24 – Debriefing of Public Hearing; Made recommendations to the City Council**
- 06/07/24 – Public Hearing Record closed; deadline for submittal of written comments

- **06/05/24 – Public Hearing on Permit LOS/Public Notice Code Amendment Package**
- 05/01/24 – Assessment of Permit LOS/Public Notice Code Amendment and release for public review

G. FINDINGS OF FACT: ENVIRONMENTAL REVIEW

Pursuant to Washington Administrative Code (WAC) 197-11-800, this proposal is categorically exempt from the requirement to issue threshold determination under the State's Environmental Policy Act.

H. FINDINGS OF FACT: CONSULTATION WITH THE PUYALLUP TRIBE OF INDIANS

There are no known proposals included in the Permit LOS/Public Notice Code Amendment Package that would impact the Puyallup Land Claims Settlement of 1990. A letter of consultation was sent to directors of planning and natural resources for the Puyallup Tribe of Indians, on May 22, 2024, seeking their feedback on the Permit LOS/Public Notice Code Amendment Package. No comments were received.

I. FINDINGS OF FACT: PUBLIC NOTIFICATION AND INVOLVEMENT

1. Planning Commission Public Hearing:

The Planning Commission conducted a public hearing on June 5, 2024 to receive oral testimony, and left the hearing record open through June 7, 2024 to accept additional written comments, concerning the Permit LOS/Public Notice Code Amendment Package.

The complete text of the proposed amendments and the associated staff analysis were compiled in a Public Review Document. The document was posted on the project's website at www.cityoftacoma.org/CodeAmendments.

Notification for the public hearing was conducted to reach a broad-based audience, through the following efforts:

(a) **Public Notices** – The notice for the public hearing was emailed during the week of May 20, 2024, to the Permit Advisory Board, the Pierce County Master Builders Association, and individuals on the Planning Commission's interested parties list that includes the City Council, Neighborhood Councils, Neighborhood Business Districts, the Puyallup Tribal Nation, adjacent jurisdictions, City and State departments, and others.
(b) **News/Social Media** – A legal notice concerning the public hearing was placed in the Tacoma Daily Index on May 22, 2024. Notice of the public hearing was posted on the Code Amendments and City's Permitting websites starting the week of May 6, and on the City's social media accounts starting the week of May 27.
(c) **60-Day Notices** – A "Notice of Intent to Adopt Amendment 60 Days Prior to Adoption" was filed with the State Department of Commerce (per RCW 36.70A.106) on May 23, 2024. A similar notice was sent to the Joint Base Lewis-McChord (per RCW 36.70A.530(4) on May 23, 2024, asking for comments within 60 days of receipt of the notice.
(d) **Tribal Consultation** – A letter was sent to Planning staff of the Puyallup Tribe of Indians on May 23, 2024 to formally invite the Tribe's consultation on the Permit LOS/Public Notice Code Amendment.

2. Other Community Engagement:

- 5/14/2024 – Meeting with the Pierce County Master Builders Association Legislative Committee
- 4/17/2024 – Briefed the Tacoma Permit Advisory Committee

J. FINDINGS OF FACT: COMMENTS AND RESPONSES

Shown in the table below are the numbers of comments the Planning Commission received on the Permit LOS/Public Notice Code Amendment during the public hearing process:

Application	Comments Received	
	Oral	Written
Permit LOS/Public Notice Code Amendment	1	0
TOTAL	**1**	**0**

Provided below is a summary of the comment received and, where applicable, the Commission's responses and amendments. More detailed information is documented in the "Public Comments and Staff Responses and Suggestions" exhibits reviewed by the Commission on June 26, 2024.

Permitting Level of Service and Public Notices Summary of Comment:

(a) More responsibility should be put on developers in submitting good documents for review and adhering to timelines.
(b) Written notice from local government to the applicant for additional information that is further required to process the application must include a notice that non-responsiveness for 60 consecutive days may result in 30 days of delay in the application, This should be reversed and onus on applicant that any delay of 30 days will result in 60 days of additional time.
- Staff will consult with Legal and will be prepared to respond at the June 26 meeting. It is expected that this proposed amendment would result in a code that is out of compliance with state mandate.

(c) Encourage City staff to provide presentation to Planning Commission on land use permit process using Bridge Industrial as an example.

K. CONCLUSIONS:

In drawing its conclusions on the Permit LOS/Public Notice Code Amendment, the Planning Commission considered the criteria as set forth in TMC 13.02.070.H:

(a) Whether the proposed amendment will benefit the City as a whole, will not adversely affect the City's public facilities and services, and bears a reasonable relationship to the public health, safety, and welfare; and
(b) Whether the proposed amendment conforms to applicable provisions of State statutes, case law, regional policies, and the Comprehensive Plan.

This amendment is in response to a state mandate. Therefore, the Planning Commission concludes that, generally, the proposed amendment is not detrimental to the City as a whole and is consistent with the health, welfare, and safety of the community.

L. RECOMMENDATIONS:

1. Permit LOS/Public Notice Code Amendment:

Recommended for Adoption as proposed in Exhibit 1.

The Planning Commission recommends approval of the amendment changing level of service specific to processing land use permits and information provided with public notice.

M. RECORD OF DECISIONS:

The voting records of the Planning Commission associated with the above-mentioned recommendations are displayed below:

Amendment Application	Commissioners									Vote Counts	Recommendation
	Morgan Dorner	Christopher Karnes	Robb Krehbiel	Brett Marlo	Matthew Martenson	Jordan Rash	Sandesh Sadalge	Brett Santhuff	Anthony Steele		
Permit LOS/Public Notice Code Amendment	Yes	Absent	Absent	Yes	Yes	Yes	Absent	Yes	Yes	**6-0**	**ADOPT Exhibit 1**

N. EXHIBITS:

- Exhibit 1: Permitting Level of Service and Public Notice Code Amendment

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