



*Planning & Community Development.*

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**ADMINISTRATIVE ORDER #301918 102213**

**SITE – SPECIFIC DETERMINATION**

**CODE SECTION: 20.50.020, 20.50.450, 20.50.490,**

**I. ISSUE:** The applicant, acting on behalf of the Kia automobile dealership, questions whether a setback and landscaping buffer from an abutting residentially zoned property is required, considering the land use of that property. The abutting property is zoned residential (R-12, Residential, 12 units per acre), however, its use as a high school sports field is a Conditional Use. Under Shoreline Municipal Code (SMC) 20.50.020, a 15-foot setback is required for commercial development abutting an R-12 zoning district. Under SMC 20.50.490, Type I landscaping is required within this setback. The applicant argues that since the abutting property has a Conditional Use Permit, the underlying “zoning has been changed to a conditional use zone which is no longer residential.”

**II. FINDINGS:**

**Site Characteristics**

Address: 17001 Aurora Ave N

Zone: MB, Mixed Business

Site size: 88,435 sq. ft.

Surrounding zoning and land uses: To the north is Town Center 1 zoning and a car dealership, currently under the same ownership as the applicant. To the south and across Aurora to the east are commercial zoning and land uses. Directly abutting to the west is the conditionally permitted Shorewood High School, zoned R-12. The new high school is replacing an existing high school, and is currently under construction under Conditional Use Permit (CUP) 201828.

**Project Description:** New construction includes a new car dealership building and associated site improvements. The proposed 17,625 square foot building is well outside the subject setback (approximately 85 feet from the property line); however the proposal is for part of the setback area to be occupied by a detention pond (with some low-growing

grass plantings). The remainder of this setback area to the north of the pond is currently paved. None of the new construction or site development was proposed in this area, and the developer has indicated the intention to use it for parking of vehicle inventory.

The pond is required to be fenced. Under SMC 20.50.250(B)(8), chain link fencing is not allowed; therefore, some form of decorative fencing will be required.

**Improvement Threshold:** Note this project triggers full site improvements under the zoning code as described in SMC 20.50.230 Threshold – Required site improvements as follows:

*The purpose of this section is to determine how and when the provisions for site improvements cited in the General Development Standards apply to development proposals. Full site improvement standards apply to a development application in commercial zones NB, CB, MB, TC-1, 2 and 3. Site improvements standards of signs, parking, lighting, and landscaping shall be required...*

#### **Shoreline Municipal Code (SMC) 20.50.020 Dimensional requirements.**

- Requires zero setback in Mixed Business (MB) zoning districts if abutting commercial zones.
- Requires 15-foot setbacks in commercial zones abutting R-12 zoning districts.

Under the code, (20.50.010), “*the purpose of this subchapter is to establish basic dimensional standards for development at a range of densities consistent with public health and safety and the adopted Comprehensive Plan.*”

#### **SMC 20.50, Subchapter 7, Landscaping**

##### **20.50.450 Purpose**

*The purposes of this subchapter are:*

- To enhance the visual continuity within and between neighborhoods.*
- To establish at least an urban tree canopy through landscaping and street trees.*
- To screen areas of low visual interests and buffer potentially incompatible developments.*
- To compliment the site and building design with landscaping.*

##### **SMC 20.50.490 Landscaping along interior lot line – Standards:**

- Type I landscaping in a width determined by the setback requirement shall be included in all nonresidential development along any portion adjacent to single-family and multifamily residential zones or development.. [emphasis added]*
- Multifamily development of more than four units shall use Type I landscaping when adjacent to single-family residential zones and Type II landscaping when adjacent to multifamily residential and commercial zoning within the required yard setback.*

Note that for residential development in the R-12 zone, the side or rear setback is required to be five feet.

**SMC 20.20.046 S definitions**

*Setback, Side Yard: A space extending across the full width of the lot between the side lot line and the yard setback line which is measured perpendicular from the side lot line to the minimum yard setback line. (Ord. 299 § 1, 2002).*

**Previous Code Interpretation**

Administrative Order #301872 allowed for the subject high school to build an eight-foot fence along the property line abutting the commercial zones on the residential portion of their property, even though the code calls out a maximum fence height of six feet at the property line in residential zones. This was due to the nature of the land use, the fact that a Conditional Use can modify certain zoning requirements, and the fact that the commercial properties are allowed under the code erect an eight-foot fence on their side of the property line.

**Legal:** Consultation with the City Attorney verifies that the underlying zoning does not change with the issuance of a Conditional Use Permit. If the conditional use is abandoned, which in this case is highly unlikely, the zoning would remain residential.

**Director's Authority 20.10.050, 20.30.020**

*20.10.050 The Director shall have the authority to administer the provisions of this Code, to make determinations with regard to the applicability of the regulations, to interpret unclear provisions, to require additional information to determine the level of detail and appropriate methodologies for required analysis, to prepare application and informational materials as required, to promulgate procedures and rules for unique circumstances not anticipated within the standards and procedures contained within this Code, and to enforce requirements.*

*20.30.020 When interpreting and applying the standards of this Code, its provisions shall be the minimum requirements.*

- III. **CONCLUSIONS:** The current abutting Conditional Use is a high school and not residential. It has different development issues than a residential development would. It also has three different zoning districts, but only one land use – the high school. The portion of the high school property to the north of the subject zone is MB, Mixed Business, where zero setback is allowed on abutting commercial properties.


Granting a Conditional Use Permit does not change the zone; it merely allows a conditional use to occupy the property. The underlying zone remains. Although a high school is not a residential use, it is also not a commercial use. The improvements to be

installed adjacent to the subject property line are baseball and softball fields, uses which are not intended to be buffered from a commercial use. In the highly unlikely event that the school district were to abandon its use of the property, the R-12 zoning of the school property would allow more than four units, triggering the requirement of 5-feet of Type II landscaping along the lot line adjacent to the commercial zone (Kia property). This could result in a somewhat redundant or overlapping landscape buffer on both properties if the commercial requirement were completely fulfilled.

Pursuant to SMC 20.50.450, the purpose of the setback and required landscaping abutting residential zones is to enhance visual interest and to buffer impacts from potentially incompatible uses. Also, the purpose of landscaping requirements goes beyond buffers; landscaping improves air quality and creates additional urban tree canopy.

Full site improvements are triggered by the new construction, regardless of whether improvements on the entire site are proposed.

- IV. DECISION:** The 15-foot yard setback required by the code is essentially being met in that the building itself is proposed to be well outside of this area. The pond, especially with its decorative fencing, will provide additional separation and will help to provide visual interest. If a 15-foot strip of landscaping is added in the setback area north of the pond where parking is proposed, the design will meet the intent of the code and may be approved. All design requirements affecting the proposed pond must be met, included the exclusion of chain link as a fencing material. Decorative fencing such as wrought iron is required.

  
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Director's Signature

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Date 10/22/13