

6.a - Staff Report - Code Amendments for Encampments

Planning Commission Meeting Date: December 15, 2016

Agenda Item # 6a

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Staff Report: Code Amendments for Transitional Encampments
DEPARTMENT: Planning & Community Development
PRESENTED BY: Paul Cohen, Planning Manager
Kim Lehmborg, Associate Planner
Rachael Markle, AICP, Director

Public Hearing
 Discussion

Study Session
 Update

Recommendation Only
 Other

INTRODUCTION

On September 15 2016, staff presented proposed regulations related to transitional encampments. On October 20th, the Commission opened a public hearing on the proposed regulations and agreed to continue the public hearing, but did not select a date for continuance. Tonight's meeting is the continuance of the public hearing. Based on both Planning Commission and public comment, staff has revised the proposed transitional encampment regulations. The new proposal would:

- Continue to regulate transitional encampments under Temporary Use Permit (TUP) Criteria.
- Add a section under the TUP criteria that includes criteria specifically for transitional encampments, including health and safety standards.
- Waive the fees for a TUP for transitional encampment.
- Remove transitional encampments from the use tables. Move existing indexed criteria to new section under the TUP criteria.
- Refine definition of Managing Agency to include only City-recognized non-profit or religious organizations.

Problem/Issue Statement

Council Resolution No. 379, passed December 14, 2015, directs staff to review city policies and codes that may create barriers for those experiencing homelessness, and continue to support the City's human service partner agencies. These amendments have been initiated to facilitate churches and other human service non-profit organizations to provide the homeless with temporary and safe shelter without more process or expense, and to add protection for surrounding neighborhoods.

Planning Commission held a public hearing October 20, 2016 and listened to public comment regarding amendments proposed by staff. Much of the public comment at this time expressed concern that the proposed changes to the code, which included changing the permit type from a TUP to a Transitional Encampment Permit, would allow for encampments in back yards of

Approved By: Project Manager _____

Planning Director _____

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single-family properties. Other public comment was concerned that the code would deter encampments from Shoreline. While these were not the intent of the proposed changes, Planning Commission continued the public hearing and asked staff to respond to a number of concerns.

Based on these concerns, staff is now proposing to revise the original amendments so that transitional encampment applications will continue to be processed under a Temporary Use Permit, with specific added criteria that staff believes will preclude incompatible siting of such encampments, for example, on single-family properties. All previously permitted encampments in Shoreline were approved with TUPs only for church sites with adequate space and facilities. Applications will need to meet not only the criteria for TUP's, but also the specific additional criteria for transitional encampments, including a requirement that they be located on property owned or leased by a managing agency. In this way, the City will administer transitional encampments in the same manner that it has since 2005 but with more criteria to increase health, safety, and the neighborhood's welfare.

BACKGROUND

Shoreline Municipal Code (SMC) Section 20.30.070 describes the process and procedures for Type L, Legislative decisions. Amendments to the Development Code are Type L decisions that include a public hearing, recommendation by the Planning Commission, and action by the City Council.

Council Resolution No. 379 supported King County's declaration of emergency due to homelessness, and expressed the City's commitment to work with King County and Partner agencies on plans to address homelessness. The original amendments were an attempt to address some of the barriers agencies face when providing emergency shelter for the homeless. Stakeholders for encampments have presented to Council and met with staff to discuss how to incorporate some of these ideas into the Development Code.

At the public hearing and through the submission of written public comments, it was clear that the Planning Commission, and the public, had concerns about the proposed amendments. Below is a summary of the Planning Commission questions and staff responses. Also herein is the explanation of the proposed revised amendments (Attachment A) that are designed to address some of the concerns of the public and the Planning Commission.

Planning Commission Concerns

- **Clarify Managing Agency:** Staff reviewed other jurisdiction's codes and definitions. Based on this research the Managing Agency definition has been modified to make it clear that the Managing Agency must be a religious or City-recognized, non-profit organization.
- **Provide more information on the "public meeting":** A neighborhood meeting has been a requirement of transitional encampments since the City first added code language regarding the use in 2005. These public meetings are informational. The requirements of the neighborhood meeting are set forth under SMC 20.30.090 (link below).

<http://www.codepublishing.com/WA/Shoreline/#!/Shoreline20/Shoreline2030.html#20.30.090>

- **Should the criteria include a separating distance between encampments or a limit on the number allowed in the City at any one time?:** A separating distance or number of encampments would not add to the neighborhood protections under a Temporary Use Permit especially when there is no evidence of what distance or number would be

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effective. TUP criteria include that the temporary use will not be materially detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use; and is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use.

- What do other cities allow? For example, Seattle only allows non-religious-associated encampments in commercial and industrial zones, not residential: Few jurisdictions that have codes for encampments list Transitional Encampments in their use tables. All require a permit - either a TUP or a Transitional Encampment Permit. Most have size and setback requirements for camps. Some enforce the setback of the zoning district, while some allow Director's discretion in determining the setback. In addition, some have restrictions as to who can apply for the permits and how often. Seattle is an exception in that they have provisions for government-sponsored encampments that are not under consideration in Shoreline. Further, Shoreline does not contain industrial zones and has much less commercial area than Seattle. Since the recent rezones around the light rail station areas, many existing single-family land uses are now in mixed use zones that allow commercial development.
- Potential for public partnership with Fircrest: The proposed amendments would not preclude Fircrest from applying for a TUP for a transitional encampment. Establishing a partnership with Fircrest is something the Council could pursue if the property owner, the State of Washington, expressed interest.
- It would be helpful to have an understanding of the different types of homelessness. For some, homelessness is a temporary situation. This issue is before the City Council to address the larger issue of homelessness.
- How do inspections ensure that regulations are followed?: There have been 17 Transitional Encampments hosted in Shoreline since 2003. Staff always notifies the Fire and Police departments when transitional encampment applications are received. The Fire Department inspects to ensure that the fire safety requirements are met. Staff inspects to ensure that proper screening is in place and that the layout is what was approved. Staff recently contacted the Fire and Police departments to inquire about resource impacts when transitional encampments are located in the City. The Fire Department responded that their inspections are done free of charge and are a part of their routine duties. Shoreline's Police Chief stated the following:

"My general impression is we have very few problems, police calls for service related to a managed transitional encampment. Occasionally we may get a police call, or a resident caught for shoplifting at a nearby store. The number doesn't raise a concern with us and is significantly – significantly less than a couple motels we have in Shoreline and some apartments."

PROPOSAL & ANALYSIS

The proposed code amendments are shown in Attachment A. The explanation for each amendment is discussed below.

1. Definitions: SMC 20.20.034 & 20.20.048
Add definitions for "Managing Agency" and "Transitional Encampments." The definition clarifies that a Managing Agency must be a religious or City-recognized non-profit organization. This definition is inclusive of religious organizations and secular non-profit agencies such as human service agencies, housing advocacy groups, or a

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governmental organization. This helps to ensure that there is an entity with responsibility for compliance with the requirements of the encampment. (Note that additional criteria under SMC 20.30.295 proposes that a Managing Agency must either lease or own the land where the encampment is located). A definition of “Transitional Encampments” is added to differentiate it from a back yard camp-out for family members.

2. Neighborhood Meeting 20.30.045

Add under this section that a neighborhood meeting is required for a TUP for a transitional encampment. This is not a new requirement and has been in the indexed criteria since 2005. However, this amendment clarifies the requirement by including it with the other neighborhood meeting requirements for certain Type A proposals. This section (20.30.045) was added to the code after the original transitional encampment (Tent City) indexed criteria were enacted.

3. Temporary Use Permit 20.30.295: Add Section D for Transitional Encampments Criteria under the Temporary Use Permit criteria. Move current indexed criteria from SMC 20.40.535 here and add additional criteria. This will further ensure that an application for a transitional encampment will have to meet all of the criteria for a Temporary Use Permit, plus the additional criteria specific to a Transitional Encampment. See Attachment A for new and relocated Temporary Use Permit criteria. Most of the additional criteria are standard health and safety conditions that have been required for Transitional Encampment TUP’s in the past. The additional criteria include:

- a. Requirement for the site to be owned or leased by a Managing Agency (religious or non-profit organization).
- b. Clarify standard timeline for the Temporary Use as 90 days with an opportunity for a 90-day extension, for a total maximum stay of 180 days. Currently, under a Temporary Use Permit, time limits can be extended for up to a year. The practice has been to allow them for 90 days, granting extensions in cases of hardship. Past practice has been to allow extensions only if there have been no reported safety or nuisance issues with the encampment; or if there have been issues, requiring they are dealt with by imposing additional conditions. Sometimes encampments have difficulty lining up a new place to move after just three months. Also, some campers have jobs or children in school which can make moving a difficulty.
- c. Managing Agencies must allow 180 days to elapse (from the final date of permit validity) prior to hosting another transitional encampment on the same site.
- d. The application fee for a TUP for a transitional encampment will be waived. If a fire permit is required, the fee for it will be waived.
- e. Staff is recommending a 20-foot setback from neighboring property lines be established for tents, with the Director’s discretion to modify based upon site conditions and ability to meet the established criteria.

4. Use Tables (20.40.140, 20.40.150 and 20.40.160): Remove Transitional Encampments as a land use from the use tables so that they will be processed only under the Temporary Use Permit provisions, which are used for “*transitional uses not otherwise allowed in the zone.*” See Attachment A for the full purpose of a Temporary Use Permit (SMC 20.30.295.A).

Indexed Criteria 20.40.535. Move indexed criteria under 20.40 (Permitted Uses) to new section under 20.30.295 (Temporary Use Permits for Transitional Encampments).

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Development Code Amendment Criteria (SMC 20.30.350)

The following criteria are to be met for approval of an amendment to the Development Code:

1. The amendment is in accordance with the Comprehensive Plan; and
2. The amendment will not adversely affect the public health, safety or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

Relevant Comprehensive Plan policies that support the amendments are as follows:

- Housing Goal H VII: *“Collaborate with other jurisdictions and organizations to meet housing needs and address solutions that cross jurisdictional boundaries.”*
- Housing Policy #H19: *“Encourage, assist, and support non-profit agencies that construct, manage, and provide services for affordable housing and homelessness programs within the city.”*
- Housing Policy #H25: *“Encourage, assist, and support social and health service organizations that offer housing programs for targeted populations.”*
- Housing Policy #H29: *“Support the development of public and private, short-term and long-term housing and services for Shoreline’s population of people who are homeless.”*
- Housing Policy H31: *“Partner with private and not-for-profit developers, social and health service agencies, funding institutions, and all levels of government to identify and address regional housing needs.”*

Note: State law prohibits jurisdictions from banning such camps at churches under RCW 36.01.290.

RECOMMENDATION

Staff recommends that the Planning Commission recommend approval to the City Council on the proposed Transitional Encampment amendments.

ATTACHMENT

Attachment A - Proposed Amendments

Amendment #1 - Definitions.

20.20.034 M definitions.

[Managing agency: Managing agency means a religious or City-recognized non-profit organization that manages a transitional homeless encampment.](#)

20.20.048 T definitions.

[Transitional Encampments: Temporary campsites for the homeless, organized by a managing agency or religious organization.](#)

Amendment #2 Neighborhood meeting

20.30.045 Neighborhood meeting for certain Type A proposals. 

[1. A neighborhood meeting is required for Temporary Use Permits for Transitional Encampment proposals.](#)

[2.](#) A neighborhood meeting shall be conducted by the applicant for developments consisting of more than one single-family detached dwelling unit on a single parcel in the R-4 or R-6 zones. This requirement does not apply to accessory dwelling units (ADUs). This neighborhood meeting will satisfy the neighborhood meeting requirements when and if an applicant applies for a subdivision (refer to SMC [20.30.090](#) for meeting requirements). (Ord. 695 § 1 (Exh. A), 2014).

Amendment #3 Additional TUP Criteria for Transitional Encampments

20.30.295 Temporary use. 

A. A temporary use permit is a mechanism by which the City may permit a use to locate within the City (on private property or on the public rights-of-way) on an interim basis, without requiring full compliance with the Development Code standards or by which the City may permit seasonal or transient uses not otherwise permitted.

B. The Director may approve or modify and approve an application for a temporary use permit if:

1. The temporary use will not be materially detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use;
2. The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use;
3. Adequate parking is provided for the temporary use and, if applicable, the temporary use does not create a parking shortage for the existing uses on the site;
4. Hours of operation of the temporary use are specified;
5. The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties; and

6a - Attachment A - Dev. Code Amendments

ATTACHMENT A

6. The temporary use is not in conflict with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, and is located outside the shoreline jurisdiction regulated by the Shoreline Master Program, SMC Title 20, Division II.
- C. A temporary use permit is valid for up to 60 calendar days from the effective date of the permit, except that the Director may establish a shorter time frame or extend a temporary use permit for up to one year. (Ord. 724 § 1 (Exh. A), 2015; Ord. 425 § 1, 2006).

D. Additional Criteria for Transitional Encampment.

1. The site must be owned or leased by a City-approved Managing Agency.
2. The application fee for a Temporary Use Permit (TUP) for a transitional encampment is waived.
3. Prior to application submittal, the applicant is required to hold a neighborhood meeting and provide a written summary as set forth in SMC 20.30.045 and 20.30.090.
4. The applicant shall utilize only government-issued identification such as a State or tribal issued identification card, driver's license, military identification card, or passport from prospective encampment residents to develop a list for the purpose of obtaining sex offender and warrant checks. The applicant shall submit the identification list to the King County Sheriff's Office Communications Center.
5. The applicant shall have a code of conduct that articulates the rules and regulation of the encampment. These rules shall include, at a minimum, prohibitions against alcohol and/or drug use and violence; and exclusion of sex offenders. The applicant shall keep a cumulative list of all residents who stay overnight in the encampment, including names and dates. The list shall be kept on site for the duration of the encampment. The applicant shall provide an affidavit of assurance with the permit submittal package that this procedure is being met and will continue to be updated during the duration of the encampment.
6. Site requirements:
 - a. Tents within encampments must meet 20-foot setbacks from neighboring property lines. Setbacks may be modified by the Director based on site conditions or in order to bring the site into compliance with the criteria.
 - b. Screening is required for mitigation of visual appearance to the street and neighboring properties. There shall be screening fence installed wherever the camp is visible from streets or residential properties. The color of the screening shall not be black.
 - c. A fire permit is required for all tents over 400 square feet. Fire permit fees are waived.
 - d. All tents must be made of fire resistant materials and labeled as such.
 - e. Provide adequate number of 2A-10BC rated fire extinguishers so that they are not more than 75 feet travel distance from any portion of the complex. Recommend additional extinguishers in cooking area & approved smoking area.

6a - Attachment A - Dev. Code Amendments
ATTACHMENT A

- f. Smoking in designated areas only; these areas must be a minimum of 25 feet from any neighboring residential property. Provide ash trays in areas approved for smoking.
- g. Emergency vehicle access to the site must be maintained at all times.
- h. Security personnel shall monitor entry points at all times. A working telephone shall be available to security personnel at all times.
- i. Provide adequate sanitary facilities.

7. The encampment shall permit inspections by City, King County Health Department, and Fire Department inspectors at reasonable times during the permit period without prior notice to ensure compliance with the conditions of the permit.

8. The encampment shall allow for an inspection by the Shoreline Fire Department during the initial week of the encampment's occupancy

9. Encampments may be allowed to stay under the Temporary Use Permit for up to 90 days. A TUP extension may be granted for a total of 180 days, on sites where agencies in good standing have shown to be compliant with all regulations and requirements of the TUP process, with no record of rules violations. The extension request must be made to the City, but does not require an additional neighborhood meeting or additional application materials or fees.

10. Managing Agencies may not host a transitional encampment on the same site within 180 days of the expiration date of the TUP for a transitional encampment.

Amendment #4 – Use Tables.

Note: not all rows in tables are shown here in the interest of brevity and clarity.

20.40.120 Residential uses. 

Table 20.40.120 Residential Uses

NAICS #	SPECIFIC LAND USE	R4- R6	R8- R12	R18- R48	TC-4	NB	CB	MB	TC-1, 2 & 3
TEMPORARY LODGING									
721191	Bed and Breakfasts	P-i	P-i	P-i	P-i	P-i	P-i	P-i	P-i
72111	Hotel/Motel						P	P	P

**6a - Attachment A - Dev. Code Amendments
ATTACHMENT A**

Table 20.40.120 Residential Uses

NAICS #	SPECIFIC LAND USE	R4- R6	R8- R12	R18- R48	TC-4	NB	CB	MB	TC-1, 2 & 3
	Recreational Vehicle	P-i	P-i	P-i	P-i	P-i	P-i	P-i	
	Transitional Encampment	P-i	P-i	P-i	P-i	P-i	P-i	P-i	-

20.40.150 Campus uses. 

NAICS #	SPECIFIC LAND USE	CCZ	FCZ	PHZ	SCZ
	Tent City	P-i	-	-	-
	Wireless Telecommunication Facility	P-i			P-i
P = Permitted Use P-i = Permitted Use with Indexed Supplemental Criteria P-m = Permitted Use with approved Master Development Plan					

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
RESIDENTIAL				
	Tent City	P-i	P-i	P-i

Amendment #5. Move existing Indexed Criteria from the Use Provisions to the new section under 20.30.295, Temporary Use Permit, Section D, Additional Transitional Encampment Criteria.

~~20.40.535 Transitional encampment.~~ 

~~A. Allowed only by temporary use permit.~~

6a - Attachment A - Dev. Code Amendments
ATTACHMENT A

~~B.— Prior to application submittal, the applicant is required to hold a neighborhood meeting as set forth in SMC 20.30.090. A neighborhood meeting report will be required for submittal.~~

~~C.— The applicant shall utilize only government-issued identification such as a State or tribal issued identification card, driver's license, military identification card, or passport from prospective encampment residents to develop a list for the purpose of obtaining sex offender and warrant checks. The applicant shall submit the identification list to the King County Sheriff's Office Communications Center.~~

~~D.— The applicant shall have a code of conduct that articulates the rules and regulation of the encampment.~~

~~E.— The applicant shall keep a cumulative list of all residents who stay overnight in the encampment, including names and dates. The list shall be kept on site for the duration of the encampment. The applicant shall provide an affidavit of assurance with the permit submittal package that this procedure is being met and will continue to be updated during the duration of the encampment. (Ord. 731 § 1 (Exh. A), 2015; Ord. 368 § 2, 2005).~~