

6a. - Staff Report - 2017 Development Code Amendments

Planning Commission Meeting Date: November 2, 2017

Agenda Item: 6a

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: 2017 Development Code Amendments Public Hearing
DEPARTMENT: Planning & Community Development
PRESENTED BY: Steven Szafran, AICP, Senior Planner
Paul Cohen, Planning Manager

Public Hearing Study Session Recommendation Or
 Discussion Update Other

Introduction

Every year, miscellaneous Development Code amendments are collected and presented to the Planning Commission and City Council for study and possible adoption. There are 41 proposed Development Code amendments for 2017.

The purpose of this public hearing is to:

- Review proposed Development Code amendments;
- Respond to the Commission's questions regarding the proposed development regulations;
- Gather public comment; and
- Develop the Planning Commission's recommendation to forward to City Council.

Amendments to Shoreline Municipal Code (SMC) Title 20 (Development Code) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the reviewing authority for legislative decisions and is responsible for holding an open record Public Hearing on the proposed Development Code amendments and making a recommendation to the City Council on each amendment.

Background

SMC 20.30.350 states, "An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City". Development Code amendments may also be necessary to reduce confusion and clarify existing language, respond to regional and local policy changes, update references to other codes, eliminate redundant and inconsistent language, and codify Administrative Orders previously approved by the Director. Regardless of their purpose, all amendments are to implement and be consistent with the Comprehensive Plan.

Approved By:

Project Manager 

Planning Director 

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The decision criteria for a Development Code amendment in SMC 20.30.350 (B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code when all of the following are satisfied:

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.

The 2017 batch of Development Code amendments (Batch) consist of 39 Director-initiated amendments and two privately-initiated amendments. The first proposed private amendment would allow for the creation of an accessory dwelling unit (ADU) without the requirement that the property owner live in one of the units and will also remove the requirement for an additional parking space for the ADU. The second proposed privately-initiated amendment would apply tree retention and replacement provisions to properties zoned Mixed-Use Residential 70'.

The 2017 Batch amendments are organized by the Development Code chapter: 20.20 – Definitions, 20.30 – Procedures and Administration, 20.40 – Zoning and Use Provisions, 20.50 – General Development Standards, 20.70 – Engineering and Utilities Development Standards, and 20.80 – Critical Areas.

Attachment 1 includes all of the proposed 2017 Batch amendments. Each amendment includes a justification for the amendment, a description of the amendment in legislative format, and staff's recommendation.

The proposed 2017 Batch amendments include administrative changes (re-organization and minor corrections), clarifications, and policy amendments that have the potential to substantively change development patterns throughout the city. The last column of the Table of Contents on **Attachment 1** indicates if the proposed amendment is either an Administrative update, Clarification, or Policy change.

The Planning Commission reviewed the proposed Development Code amendments at study sessions on September 7th, October 5, and on October 19th.

The staff report for September 7th can be found here:
<http://www.cityofshoreline.com/home/showdocument?id=32073>.

The staff report for October 5th can be found here:
<http://www.cityofshoreline.com/home/showdocument?id=32576>.

The staff report for October 19th can be found here:
<http://www.shorelinewa.gov/home/showdocument?id=32736>.

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Amendments Needing Further Analysis

The Planning Commission reviewed the Batch at the October 5 and October 19 meeting and requested more information regarding Amendment #1, Amendment #4, Amendment #5, Amendment #11, Amendment#12, Amendment #22, Amendment #23, Amendment #24, and Amendment #38.

Amendment #4

SMC 20.20.024 – Hardscape Definitions

On October 19, Commission discussed this amendment and had concerns that, potentially, a site could be covered with hard surfaces including a deck over the entire yard. Staff agrees with Commission that parameters should be established to guard against a homeowner building a deck that covers the entire yard. Staff proposes that following amendment:

Hardscape – Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt. Retaining walls, gravel or paver paths with open spacing that are less than 4 feet wide, ~~and decks that drain to soil underneath are not included.~~ Artificial turf with subsurface drain fields and decks that drain to soil underneath have a 50% hardscape and 50% pervious value.

Amendments #1, #5, #11, and #12

SMC 20.20.012 - Brewpubs

SMC 20.20.034 – M Definitions – Microbrewery and Microdistillery

SMC 20.40.130 – Nonresidential uses

SMC 20.40.160 – Station Area Uses

The City has seen an increased interest in locating brewpubs, microdistilleries and microbreweries in various neighborhoods. The Shoreline Development Code does not include these uses. This amendment will add a definition of brewpubs, microbrewery and microdistillery. They will also be listed in the use tables, Table 20.40.130 and Table 20.40.160 (See Amendments #11 and #12).

The Commission commented that Brewpubs, Microbreweries and Microdistilleries should be added to the City's use tables but Microbreweries and Microdistilleries are more intense and should not be allowed in some of the less intense zoning districts. The Commission also wanted to include a clear definition of Brewpubs.

The *Glossary of Zoning, Development, and Planning Terms* defines Brewpubs as an eating place that includes the brewing of beer as an accessory use. The area used for brewing shall not exceed 25 percent of the floor area of the commercial space. The brewery shall not produce more than 1,500 barrels of beer or ale per year. Staff is proposing the following definition of Brewpub:

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Brewpub – An eating place that includes the brewing of beer as an accessory use. The brewery shall not produce more than 1,500 barrels of beer or ale per year.

Microbrewery – A facility for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, consumption on or off premise. Production is limited to no more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

Microdistillery – A small operation that produces distilled spirits of no more than 4,800 barrels per year. In addition to production, tastings and sales of products for off premises use are allowed. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

The Commission was supportive of adding Brewpubs to the Neighborhood Business, Community Business, Mixed-Business, and Town Center 1, 2, and 3 zones. The Commission was also supportive of adding Brewpubs to the MUR-35', MUR-45', and MUR-70' zones. However, the Commission believes Microbreweries and Microdistilleries are more intense than a Brewpub and should be excluded from the MUR-35' zone. There was not consensus if Microbreweries and Microdistilleries should be excluded from the MUR-45' zone.

Staff has proposed to delete Microbreweries and Microdistilleries in the MUR-35' zone from the table below.

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
COMMERCIAL				
	<u>Brewpub</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P</u>
	Eating and Drinking Establishment (excluding Gambling Uses)	P-i (Adjacent to Arterial Street)	P-i (Adjacent to Arterial Street)	P-i
	<u>Microbrewery</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P</u>
	<u>Microdistillery</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P (Adjacent to Arterial Street)</u>	<u>P</u>

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Amendment #22 and #23 20.50.100 and 20.50.150

Shipping containers were previously an allowed land use in the Development Code. At that time they were allowed only in commercial areas with a Conditional Use Permit. Currently, shipping containers are not a listed land use but are allowed if they can comply with design standards in the Commercial Design Standards Chapter and the Building Code which apply to all commercial zones.

In discussing this issue, the Commission raised concerns about whether a shipping container is a land use to be permitted or restricted, how can we distinguish it from other portable storage containers such as moving PODS, and how do we address shipping containers converted into habitable space for businesses or housing.

Staff agrees with Commission that shipping containers are not a use and should not be located in the use tables. Shipping Containers are currently defined in SMC 20.20.046,

Shipping Containers – Steel or wooden containers used for shipping and storage of goods or materials. The typical dimensions for these containers are eight feet, six inches high, 20 to 40 feet long with a width of seven feet.

More appropriately, shipping containers should be addressed in the design standards section of the code. Staff has proposed to add the following language to address shipping containers:

Under Single-Family Design Standards – 20.50.100 Location of accessory structures within required yard setbacks – Standards.

- A. No accessory structure shall be located within any required setback.
- B. Prohibited Structures. Shipping containers are prohibited within any parcel.

Under Single-family Attached and Multifamily Design Standards – 20.50.150 Storage space for the collection of trash, recyclables, and compost – Standards.

Developments shall provide storage space for the collection of garbage, recyclables, and compost consistent with Shoreline's current service provider as follows:

- A. The storage space shall be provided at the rate of:
 - 1. One 16-foot by 10-foot (10 feet by 10 feet for garbage containers and six feet by 10 feet for recycle and food waste containers) collection area for every 30 dwelling units in a multifamily building except where the development is participating in a City-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;

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2. The storage space for residential developments shall be apportioned and located in collection points as follows:
 - a. The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one building.
 - b. There shall be one collection point for every 30 dwelling units.
 - c. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.
 - d. Collection points located in separate buildings/structures or outdoors shall be no more than 200 feet from a common entrance of a residential building.
 - e. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on site, or project into any public right-of-way.
- B. The collection points shall be designed as follows:
 1. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.
 2. Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site.
 3. Collection points shall be identified by signs not exceeding two square feet.
 4. A six-foot wall or fence shall enclose any outdoor collection point.
 5. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 10 feet wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12 feet.
 6. Weather protection of garbage, recyclables, and compost shall be ensured by using weatherproof containers or by providing a roof over the storage area.
- C. Site service areas, such as garbage enclosures, away from street fronts and pedestrian access.

D. Prohibited Structures. Shipping containers are prohibited within any parcel.

Amendment #24

20.50.240 (C) – Site Frontage

This amendment deletes the requirement for minimum space dimensions on the ground floor in commercial and mixed-use zones. The original Code that requires 12-foot ceilings was adopted because staff believed that all commercial space per International Building Code is required to have that height. The intent was to set up the potential of commercial uses with the flexibility, in the meantime, to allow apartments in these spaces. However, the IBC does not require 12 feet for a commercial use. For the minimum habitable commercial or residential space, the Building Official suggests a minimum 10 foot ceiling to allow space for ceiling mechanical equipment, though not required, to ease conversion to commercial uses. Most every developer since the code change 5 years ago has requested to depart from the Commercial Design Standards to lower the ceiling height to use those spaces for apartments. From an aesthetic concern, first floor frontages require 50% window area and awnings over sidewalks. The flexibility to use these first floor frontage spaces would remain.

The Commission commented that if the provision for 12-foot ceilings is deleted from the Code, developers will not build commercial spaces with enough ceiling room to provide attractive commercial spaces that retailers and restaurants need and want. The Commission mentioned that Amendment #19 will increase the maximum height in the Mixed-Business (MB) zone from 65 to 70 feet. The Commission further stated that increasing the height in the MB zone is an appropriate trade-off of leaving the requirement for higher ceiling heights in commercial zones.

This portion of Amendment #24 is no longer supported by staff.

The second amendment in this section relates to access to new development in the MUR zones. The proposed language is unclear in that if a parcels does not have access to an existing, adjoining public side-street or alley then the developer could not develop the property. This is not the intent of the amendment. Staff has revised the language to make it clear that if a parcel has access to a side-street or alley, the City will require access from those streets. If a parcel does not have access to a side-street or alley, then a parcel may take access from the adjacent right-of-way.

Amendment #38

20.80.090 – Buffer Areas

The purpose of buffer areas are to provide protection of critical areas in an undisturbed area of native vegetation. However, critical areas and their buffers have been modified over the years. The intent is that if there has been a previous buffer code violation where an ideal buffer existed then it should be restored. If a previously legally established use or activity has been in the buffer area, the City does not require restoration. In many cases, buffers are people's yard with gardens and lawn, sheds, and

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driveways. Limited additional development in these buffers or mitigating damage or alteration to the native vegetation in order to not impact the critical area makes sense. However, to require that people remove all non-native vegetation and yard uses does not. Per SMC 20.80.050, the existing condition of critical areas, if legally established, should be allowed to remain or mitigated if impacted by the proposed development.

The Commission is concerned that the proposed language does not communicate the City's preference is to keep critical area buffers as undisturbed areas of native vegetation. Based on the Commission's direction, staff proposes the following amendment which adds on to the previous purpose statement rather than having two separate purpose statements:

The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to critical areas. In all cases the standard buffer shall apply unless the Director determines that additional buffer width is necessary or reduced buffer is sufficient to protect the functions and values consistent with the provisions of this chapter and the recommendations of a qualified professional. The purpose of the buffer shall be to protect the integrity, function, value and resource of the subject critical area, and/or to protect life, property and resources from risks associated with development on unstable or critical lands and consists of ~~Buffers shall consist of~~ an undisturbed area of native vegetation ~~established to achieve the purpose of the buffer. If the buffer area has previously been disturbed, it shall be revegetated pursuant to an approved mitigation or restoration plan.~~ Buffers shall be protected during construction by placement of a temporary barricade if determined necessary by the City, on-site notice for construction crews of the presence of the critical area, and implementation of appropriate erosion and sedimentation controls. Restrictive covenants or conservation easements may be required to preserve and protect buffer areas.

In conclusion, the decision criteria for a Development Code amendment in SMC 20.30.350 (B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code if:

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.

The proposed amendments to the Development Code are included in **Attachment 1**. Each amendment includes a description of the amendment, justification for the amendment and staff recommendations for the amendment.

Recommendation

Staff recommends approval of the proposed Development Code amendments to SMC Title 20 and Title 13 as described in **Attachment 1**.

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Next Steps

The 2017 batch of Development Code amendments schedule is as follows:

January 22	City Council Discussion of Development Code amendments
February 2018	Adoption of Development Code amendments

Attachments

Attachment 1 – Proposed 2017 Development Code Amendments