

6a. Staff Report - Dev. Code Amend. - Professional Offices in R8/R12 Zone

Planning Commission Meeting Date: February 6, 2020

Agenda Item: 6a.

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Professional Offices in R-8 and R-12 zones
DEPARTMENT: Planning & Community Development
PRESENTED BY: Steven Szafran, AICP, Senior Planner
Nora Gierloff, Planning Manager

Public Hearing
 Discussion

Study Session
 Update

Recommendation Only
 Other

INTRODUCTION

On December 9, 2019, the City Council adopted Ordinance No. 881 which adopted two Comprehensive Plan Amendments. The amendment in question, amendment #3, added professional offices to Land Use Element Policy LU2 (LU2) which now states:

LU2: The Medium Density Residential land use designation allows single-family dwelling units, duplexes, triplexes, zero lot line houses, townhouses, and cottage housing. Apartments and professional offices may be allowed under certain conditions. The permitted base density for this designation may not exceed 12 dwelling units per acre.

To implement the policy adopted by Council, staff is proposing amendments to the Shoreline Development Code Chapters 20.20 – Definitions, 20.30 – Procedures and Administration, and 20.40 – Uses. Staff prepared revised definitions for Professional Offices and new definitions of Outdoor Storage, Construction Services Office/Yard, and Contractor Construction Services Office to clarify the different types of uses. Staff is recommending that the newly defined uses be added to the SMC 20.40 Uses. Staff is also proposing that the Conditional Use Permit (CUP) process in SMC 20.30.300 be used to determine if a professional office should be permitted, permitted with conditions or denied in the R-8 and R-12 zones on a case by case basis.

While reviewing the (CUP) process to implement LU2, staff noted that the CUP process is silent on such provisions as permit expiration, transferability of permit, and permit revocation. The amendments in this staff report also address those issues.

BACKGROUND

The final 2019 Comprehensive Plan Docket contained three (3) amendments, including a concurrent rezone related to Amendment No. 1:

Approved By:

Project Manager 

Planning Director 

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1. Change the Land Use Designation from Medium Density Residential to Mixed-Use 2 and change the Zoning from Residential, 8 units/acre (R-8) to Community Business (CB) of Two Parcels at 1510 and 1517 NE 170th Street.
2. Update Natural Environment Goal V by limiting greenhouse gas emissions to 1.5° C of global warming above pre-industrial levels.
3. Amend Comprehensive Plan Policy LU2 to allow for professional offices in the R-8 and R-12 zones.

Initially, the applicants for Amendment No. 1 were given options that potentially could allow the existing office and showroom for a remodeling and construction business at their current location, in addition to an option to discontinue the use of their property for that business. One of those options included applying for a General Comprehensive Plan Amendment to change LU2 to allow for professional office uses.

SMC 20.20.040 defines a “Professional Office” as:

An office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodity.

Changes to the Development Code are required to implement the amendment to LU2 as the code currently does not allow professional offices in the R-8 and R-12 zones. These Development Code amendments will address restrictions on siting and conditions under which such uses may be permitted within the R-8 and R-12 zoning districts, including access, proximity to commercial zones, setbacks, lighting, and signs.

ANALYSIS

On December 9, 2019, the City Council approved Comprehensive Plan amendment No. 3 to add “Professional Offices” to Land Use Element Policy LU2. To implement this policy, staff is suggesting the following Development Code amendments which would address the siting of professional offices in the R-8 and R-12 zones through a Conditional Use permit process:

- Clarify and revise the definition of Professional Office.
- Add a definition for Outdoor Storage.
- Add a definition for Contractor Construction Services Office.
- Add a definition for Construction Services Office/Yard.
- Add regulations to SMC 20.30.300 regarding revocation, transferability, expiration, and extension.
- Add Professional Offices, Contractor Construction Services Office, and Construction Services Office/Yard to Table 20.40.130.
- Add indexed criteria to Professional Offices in the R-8 and R-12 zone.
- Add indexed criteria to Contractor Construction Service Office.
- Add indexed criteria to Construction Services Office/Yard.

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Attachment A lists each proposed Development Code amendment with staff's justification for the amendment, proposed Development Code language, and recommendation.

Development Code Amendment Decision Criteria

In accordance with SMC 20.30.350.A, 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.

The Planning Commission may recommend to the City Council to approve or approve with modifications an amendment to the Development Code if all of the following are satisfied:

1. *The amendment is in accordance with the Comprehensive Plan*

The following Comprehensive Plan Goals and Policies are consistent with the proposed amendment:

Goal Land Use (LU)1 - Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods.

Policy LU 2 - The Medium Density Residential land use designation allows single-family dwelling units, duplexes, triplexes, zero lot line houses, townhouses, and cottage housing. Apartments and professional offices may be allowed under certain conditions. The permitted base density for this designation may not exceed 12 dwelling units per acre.

Policy LU 7 - promote small-scale commercial activity areas within neighborhoods that encourage walkability, provide opportunities for employment and "third places"; and

The proposed amendments will encourage a variety of lower-intensity commercial uses in medium-density neighborhoods. In addition, offices in the R-8 and R-12 zoning districts promote small-scale commercial activity that provide for opportunities for employment.

Goal Economic Development (ED) VI: Support employers and new businesses that create more and better jobs.

Goal ED VIII: Promote and support vibrant activities and businesses that grow the local economy.

Policy ED13: Support and retain small businesses and create an environment where new businesses can flourish.

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The proposed amendments will support existing and future employers by allowing businesses to grow in place and by allowing new businesses to locate within more neighborhoods throughout the City of Shoreline.

Policy Community Development Policy (CD) 4 – Buffer the visual impact on residential areas of commercial, office, industrial, and institutional development.

The proposed amendment will allow office uses throughout residential neighborhoods potentially increasing conflicts between single-family homes and commercial uses. The Development Code addresses transitional setbacks and landscape buffers when commercial development locates adjacent to single-family uses. These requirements will lessen the impact of new offices adjacent to single-family uses.

Policy LU 15: Reduce impacts to single-family neighborhoods adjacent to mixed-use and commercial land uses regarding traffic, noise, and glare through design standards and other development criteria.

Allowing offices in the R-8 and R-12 zones will increase commercial traffic, parking, noise, lighting, and general activity in single-family neighborhoods. Proposed indexed criteria for professional offices and Contractor Construction Service Office will reduce impacts to single-family neighborhoods by limiting hours of operation; requiring specific proximity to other commercial zones and arterial streets; prohibiting outdoor storage; regulating outdoor lighting; and regulating signage.

2. The amendment will not adversely affect the public health, safety or general welfare

The proposed amendment will not adversely affect the public health, safety, or general welfare of the residents of Shoreline. The proposed amendments will allow professional offices and contractor construction services offices in a very limited area of the city. The total area of parcels zoned R-8 and R-12 is 103 acres (483 parcels) which is just over 1% of the city's total area. In addition, staff has recommended indexed criteria, or conditions, that will further limit the impact of professional offices in the R-8 and R-12 zones.

The amendments to the Conditional Use Permit procedures and administration will give the Director greater discretion and authority in approving, revoking, and transferring conditional uses. That is to say, if a permittee has not met the conditions of approval or indexed criteria associated with a professional office or construction services office, the Director may revoke the permit and start code enforcement procedures outlined in SMC 20.30.760.

3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

The proposed amendment is not contrary to the best interest of the residents and property owners of the City of Shoreline. Currently, the city allows home-

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based businesses in all residential zones and allowing professional offices in the R-8 and R-12 zones may add a negligible impact over a home-based business. Allowing Professional Offices may cause additional traffic, parking, and general activity throughout a neighborhood, but those factors can be mitigated through the proposed indexed criteria for professional offices and contractor construction services offices.

TIMING AND SCHEDULE

A public hearing is scheduled on this topic at the March 5, 2020 Planning Commission meeting.

RECOMMENDATION

This meeting is for study and discussion purposes only. Staff will bring back a formal recommendation at the public hearing on March 5th.

ATTACHMENTS

Attachment A – Proposed Development Code Amendments

20.20. – Definitions

Justification – Since professional offices will be allowed in the R-8 and R-12 zones, staff analyzed the existing definitions for professional office to ensure that other, more intense uses, could not be considered professional offices. For example, a contractor’s office may not be compatible in residential zones since a contractor’s office typically has commercial equipment and vehicles that must be stored outdoors.

Staff is proposing amendments to the definition of professional office that clarify the type of uses that may occur as a part of the office and add a provision that professional offices shall not include outdoor storage or onsite transfer of commodities. Per the definition, a professional office is a place of business for licensed professionals such as attorneys and accountants and not professions that need a simple registration.

In order to accommodate certain businesses that do not qualify as a Professional Office but operate similarly, staff is proposing new definitions and uses for Construction Services Office/Yard and Contractor Construction Services Office.

A Contractor Construction Services Office is generally an office for the operation of a small contractor and construction services business that may, with certain conditions, be able to locate in residential neighborhoods with little impact. The definition includes provisions for no outdoor storage, no storage of building materials, and provisions for an onsite showroom.

A Construction Services Office/Yard is generally a more intense construction business where building materials, heavy equipment, tools, machinery, and vehicles are stored outdoors.

Lastly, in order to protect existing residential neighborhoods, staff is proposing a definition for outdoor storage. Outdoor storage includes equipment, materials, machinery, or other goods associated with a business stored outside of a building.

<u>Construction Services Office/Yard</u>	<u>An office primarily engaged in the provision of general contracting or subcontracting services in the building construction trade. Construction yards include administrative offices, workshops, and the indoor or outdoor storage of tools, equipment, machinery, materials, and vehicles.</u>
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<u>Contractor Construction Services Office</u>	<u>A type of professional office used for the general administrative and accounting functions of a licensed contractor including new construction, additions, and remodels. The office may include a showroom to display sample merchandise connected to their services to view and select for subsequent delivery to the customer’s residence, business or project location. Offices may</u>
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include fully-enclosed storage facilities but no outdoor storage is allowed.

Outdoor Storage The storage of any products, materials, equipment, machinery, or scrap outside the confines of a fully enclosed building.

Professional Office ~~An office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodity.~~

An office used as a place of business by licensed professionals, such as attorneys, accountants, architects, and engineers, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills. Professional offices shall not involve outside storage, fabrication or transfer of commodity.

20.30 – Procedures and Administration

Justification – At the December 2, 2019 City Council meeting, Council raised several questions about the administration of existing and proposed Conditional Use Permits. Those questions included:

- 1. Can a CUP be revoked?*
- 2. If yes, what criteria would be used for revocation?*
- 3. Does a CUP run with the land or is it personal to the permittee?*
- 4. Can a CUP be abandoned?*

In addition to addressing Council concerns, staff has also proposed adding a provision for extending an approved CUP.

The first amendment to SMC 20.30.300 adds provisions for suspension, revocation or limitation of a CUP. This section allows the Director to revoke a CUP if the permit holder has failed to comply with any terms or conditions of approval, the permit holder has committed a code violation or created a public nuisance in the course of performing activities subject to that permit, the permit holder has interfered with the Director in the

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performance of their duties relating to that permit, the permit was issued in error or on the basis of materially incorrect information supplied to the City, or permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or cancelled. Revocation is proposed to be carried out through the notice and order provisions of SMC 20.30.760.

Second, staff is proposing a transferability section that states a CUP shall run with the land unless the Director states in the conditions of approval of the CUP that the CUP is issued to the permittee. This provision allows the Director the flexibility to approve a CUP based on unique attributes of a business that may not transfer well to subsequent owners of a parcel.

Third, the city's CUP provisions did not include a section for expiration. The SMC currently has a two-year expiration for permits when there has been no initial activity to effectuate the permitted use based on the filing of a building permit. There is no SMC provision related to the expiration of a permit once the permitted activity has commenced. Once a CUP is granted, it will last so long as the conditions that were agreed upon continue to be followed. Within the City's nonconforming use provisions in SMC 20.30.280, a legal nonconforming use is considered abandoned when its use has been discontinued for 12 consecutive months. As other cities have done (Lynnwood & Puyallup), this same time period will be used for CUPs.

Lastly, the City's CUP provisions do not include a section for extension. Staff is proposing a provision to allow the Director to grant an extension of an approved CUP that has not commenced not to exceed 180 days. Such extension of time shall be based upon findings that the proposed project is in substantial conformance, as to use, size, and site layout, to the issued permit; and there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety and general welfare.

20.30.300 Conditional use permit-CUP (Type B action).

A. Purpose. The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. Decision Criteria. A conditional use permit may be granted by the City, only if the applicant demonstrates that:

1. The conditional use is compatible with the Comprehensive Plan and designed in a manner which is compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property;
2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood

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circulation or discourage the permitted development or use of neighboring properties;

3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
5. The conditional use is not in conflict with the health and safety of the community;
6. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;
7. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
8. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

C. Suspension or Revocation of Permit.

1. The Director may suspend or revoke any conditional use permit whenever:
 - a. The permit holder has failed to substantially comply with any terms or conditions of the permit's approval;
 - b. The permit holder has committed a violation of any applicable state or local law in the course of performing activities subject to the permit;
 - c. The use for which the permit was granted is being exercised as to be detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance;
 - d. The permit was issued in error or on the basis of materially incorrect information supplied to the City; or
 - e. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or cancelled.
2. The Director shall issue a notice and order in the same manner as provided in SMC 20.30.760.
 - a. The notice and order shall clearly set forth the date that the conditional use permit shall be suspended or revoked.

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b. The permit holder may appeal the notice and order to the Hearing Examiner as provided in SMC 20.30.790. The filing of such appeal shall stay the suspension or revocation date during the pendency of the appeal.

c. The Hearing Examiner shall issue a written decision to affirm, modify, or overrule the suspension or revocation, with or without additional conditions, such as allowing the permit holder a reasonable period to cure the violation(s).

3. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order.

4. If a conditional use permit has been suspended or revoked, continuation of the use shall be considered an illegal occupancy and subject to every legal remedy available to the City, including civil penalties as provided for in SMC 20.30.770(D).

D. Transferability

Unless otherwise restricted by the terms and conditions at issuance of the conditional use permit, the conditional use permit shall run with the land. If it runs with the land and the Director finds it in the public interest, the Director may require that it be recorded in the form of a covenant with the King County Recorder's Office. Compliance with the terms and conditions of the conditional use permit are the responsibility of the current property owner, whether the applicant or a successor.

E. Expiration

1. Any conditional use permit which is issued and not utilized within the time specified in the permit or, if no time is specified, within two (2) years from the date of the City's final decision shall expire and become null and void.

2. A conditional use permit shall be considered utilized for the purpose of this section upon submittal of:

a. a complete application for all building permits required in the case of a conditional use permit for a use which would require new construction;

b. an application for a certificate of occupancy and business license in the case of a conditional use permit which does not involve new construction;
or

c. in the case of an outdoor use, evidence that the subject parcel has been and is being utilized in accordance with the terms and conditions of the conditional use permit.

3. If after a conditional use has been established and maintained in accordance with the terms of the conditional use permit, the conditional use is discontinued

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for a period of 12 consecutive months, the permit shall expire and become null and void.

F. Extension

Upon written request by a property owner or their authorized representative prior to the date of conditional use permit expiration, the director may grant an extension of time up to but not exceeding 180 days. Such extension of time shall be based upon findings that the proposed project is in substantial conformance, as to use, size, and site layout, to the issued permit; and there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety and general welfare.

20.40 – Uses

Justification – The following amendments add uses to the nonresidential use table defined in the definitions section in SMC 20.20. The first amendment adds professional offices as a conditional use with indexed criteria in the R-8 and R-12 zones. This amendment implements the policy adopted by Council on December 9, 2019 that added professional offices to the Medium-Density Residential land use category in Policy LU2.

The second amendment adds Construction Services Office/Yard as a use. Since this use is more intense than a typical office use, staff is proposing to add this use in the Mixed-Business zone.

The third amendment adds Contractor Construction Services Office as a use. The proposed use, like professional offices, is a conditional use with indexed criteria in the R-8 and R-12 zones, a conditional use in the R-18 through TC-4 zones and permitted in the commercial zones.

Table 20.40.130 Nonresidential Uses

NAICS #	SPECIFIC LAND USE	R4-R6	R8-R12	R18-R48	TC-4	NB	CB	MB	TC-1, 2 & 3
	RETAIL/SERVICE								
	<u>Construction Services Office/Yard</u>							<u>P</u>	
	<u>Contractor Construction Services Office</u>		<u>C-i</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

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Table 20.40.130 Nonresidential Uses

NAICS #	SPECIFIC LAND USE	R4-R6	R8-R12	R18-R48	TC-4	NB	CB	MB	TC-1, 2 & 3
	Professional Office		<u>C-i</u>	C	C	P	P	P	P

Justification – The following amendments add criteria, or conditions, to the uses described in the nonresidential use table above. The purpose of adding decision criteria is to ensure the proposed uses do not cause a negative effect to surrounding neighbors and cause the least disruption throughout the city’s neighborhoods. The first addition is the indexed criteria for a contractor construction services office. The indexed criteria address location of a potential business, hours and days of operation, no outdoor storage, signs, and outdoor lighting.

20.40.295 – Contractor Construction Services Office

A Contractor Construction Services Office is allowed in the R-8 and R-12 zones with the approval of a Conditional Use Permit subject to the following conditions:

1. Located on an arterial street or within 400 feet of an arterial street.
2. Hours of operation are limited to 7am to 6pm Monday through Friday and 10am to 5pm Saturday and Sunday.
3. Subject parcel is abutting a R-18 through R-48 zone or abutting a Neighborhood Business, Community Business, Mixed Business, or TC 1,2, or 3 zone.
4. No outdoor storage.
5. Parking shall be on a paved surface, pervious concrete, or pavers. No commercial parking is allowed in required side or rear setbacks abutting single family residential uses.
6. Compliance with all dimensional requirements set forth in Table SMC 20.50.020(1), except minimum density.
7. One sign complying with Table 20.50.540(G) is allowed but may not be internally illuminated.
8. Outdoor lighting shall comply with SMC 20.50.240(H).
9. No onsite transfer of merchandise.

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10. Showrooms shall be limited to 50 percent of the net floor area of the building.

11. Parking areas shall be screened from adjacent single-family residential uses by either a 6-foot opaque fence or Type-1 landscape buffer.

The second addition is the indexed criteria for a professional office. Like the indexed criteria for Contractor Construction Services Office, the indexed criteria address location of a potential business, hours and days of operation, no outdoor storage, signs, and outdoor lighting. Since professional offices will most likely mirror the intensity of a Contractor Construction Services Office, the indexed criteria is the same.

20.40.475 – Professional Offices

A Professional Office is allowed in the R-8 and R-12 zones with the approval of a Conditional Use Permit and subject to the following conditions:

1. Located on an arterial street or within 400 feet of an arterial street.

2. Hours of operation are limited to 7am to 6pm Monday through Friday and 10am to 5pm Saturday and Sunday.

3. Subject parcel is abutting a R-18 through R-48 zone or abutting a Neighborhood Business, Community Business, Mixed Business, or TC 1,2, or 3 zone.

4. No outdoor storage.

5. Parking shall be on a paved surface, pervious concrete, or pavers. No commercial parking is allowed in required side or rear setbacks.

6. No onsite transfer of merchandise.

7. Compliance with all dimensional requirements set forth in Table SMC 20.50.020(1), except density.

8. One sign complying with Table 20.50.540(G) is allowed but may not be internally illuminated.

9. Outdoor lighting shall comply with SMC 20.50.240(H).

10. Parking areas shall be screened from adjacent single-family residential uses by either a 6-foot opaque fence or Type-1 landscape buffer.