



Planning & Community Development.

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ADMINISTRATIVE ORDER #000119 080812
CODE INTERPRETATION

CODE SECTIONS: 20.50.021 20.50.280, 12.15.030

ISSUE: Whether a right-of-way site permit and accompanying fees are required for a canopy structure that protrudes into the public right-of-way in a commercial zone.

The applicant is revising and relocating the front façade of the building in order to make room for the City's Aurora Corridor improvements. The design of the canopy topper is located at a height of approx. 21'-6" and variably overhangs the new right-of-way line by approximately two square feet over all.

FINDINGS:

Site 19533 Aurora Ave. N., Zoned MUZ – Mixed Use Zone

Shoreline Municipal Code (SMC)

SMC Section 20.50.280:

Building design – Features – Standards.

- A. Building design shall reinforce the building's location adjacent to street edge and public space.*
- B. All new buildings and additions increasing the square footage by 50 percent, except residential structures, must have a minimum of 50 percent of the first floor facing the street treated with transparent windows or doors.*
- C. All buildings shall employ at least three of the following features on or along the street facade:*

1. At least 100 square feet of outdoor, sheltered building entry which is adjacent or connected to and faces the public sidewalk.
2. Awning, marquee, or arcade at least four feet and six inches deep, over the full length of sidewalk or walkway adjacent to the building, and minimum eight feet above the walkway level.

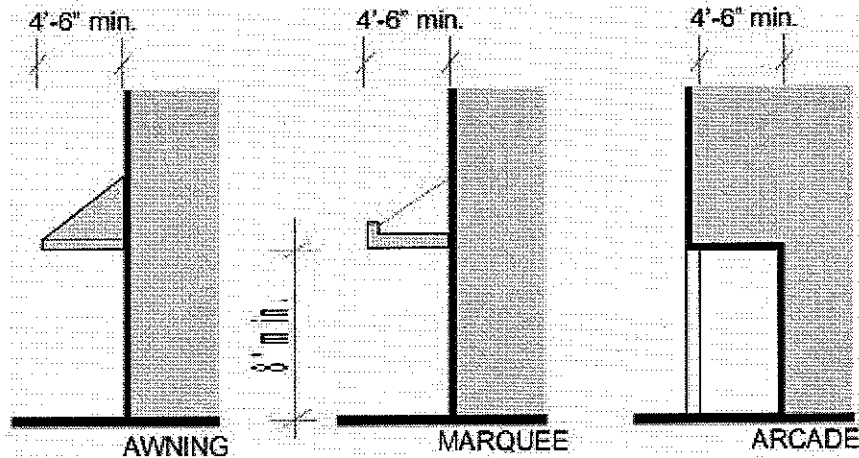


Figure 20.50.280(C)(2): Examples of awning, marquee, and arcade.

Note: end of section left out for sake of brevity

SMC Section 12.15.030

C. Right-of-Way Site Permit. Right-of-way site permits is a specific class of right-of-way permit that may be available for utilities or other parties who do not hold a valid city franchise in accordance with Chapter 12.25 SMC for activities of extended duration which will not further physically disturb the existing or planned public use of the right-of-way once in place. This may include structures, facilities, and uses that involve capital expenditures.

1. Right-of-way site permits, if allowed in the nearest classified land use zone, may be issued for:
 - a. Accessory uses permitted to the adjacent property such as parking, displays, and signage, provided the proposed use is not required to meet city development standards for any private property development;
 - b. Air rights;
 - c. Bus shelters/stops;

- d. Construction site/haul roads;*
 - e. Fences, retaining walls, terracing, and similar structures;*
 - f. Litter and recycle receptacles placed by private parties;*
 - g. Special and unique structures such as benches, fountains, clocks, flagpoles, kiosks, banners, street furniture, decorations, bicycle racks, private planters, or any other obstruction to be placed in the right-of-way by an entity other than the city;*
 - h. Sales structures, including sidewalk cafes, telephone booths or the usage of the right-of-way for the sale of flowers, food or beverages, newspapers, or other items;*
 - i. Underground rights;*
 - j. Utility facilities;*
 - k. Planting, pruning or removing street trees.*
- 2. Utility facilities placed in the right-of-way under the authority of a franchised utility as defined in this chapter are exempt from the requirement to obtain a site permit.*
- 3. Site permits may be granted up to five years; provided, however, uses of the right-of-way that are expressly permitted by the zoning district of the adjacent property may be approved for an indefinite duration and are exempt from compensation.*
- 4. In addition to the right-of-way site permit application fee established in the city's fee schedule, the uses listed under subsection (C)(1)(a), (b), (h), and (i) of this section or fences and vegetative screens which exclude the public shall pay a periodic use fee for the right-of-way equivalent to the rental value of the right-of-way used.*
- 5. Upon termination of a site permit, for which the permittee does not obtain a new permit, any improvements constructed in the right-of-way must be improved by the permittee and the area restored to its original condition or better.*

SMC Section 20.90.060, North City

E. Encroachments into Sidewalk.

- 1. Special features may project up to six feet into the sidewalk, providing that they are a minimum seven feet above the sidewalk and providing that they do not interfere with trees, utilities, transit shelters or other street furnishings. Examples include blade signs and awnings.*

SMC Section 20.50.021 Mixed Use District (MUZ)

A. All developments in the MUZ zone are subject to Administrative Design Review as approved by the Director. The Director is authorized to adopt and amend design guidelines by administrative order.

As of this writing, design review standards have not been drafted.

Prior Code Interpretations: March 26, 2003, Reference. #000057 032603:

An interpretation by a previous Director allowed overhangs no more than 36" in commercial zones.

A commercial building is sited right on the front property line (encouraged). Four stories up they have a roof overhang (good facade variation) that enters the R-o-W (over the sidewalk and landscaping but not the street). If the overhang does not interfere with clearance requirements for the R-o-W can we consider this an awning and allow it?

Yes - but no more than 36". However, we still want to encourage awnings that protect pedestrian sidewalk traffic.

Code Interpretation #AO 301613 102909 for Aurora Rents came to the following conclusion and decision:

It is clear from Code Sections 20.50.080 and 20.90.060, and a previous code interpretation, that awnings or similar projections over public sidewalks are an amenity that the City encourages, both for the design element and the pedestrian-friendly weather protection that they provide. It is expected that design review guidelines for the MUZ will include provisions that encourage such projections, such as those in the North City district. Section 12.15 SMC makes provisions for this type of encroachment. Since design guidelines have yet to be drafted, the Director will be reviewing applications in the MUZ district on a case-by-case basis.

As part of the administrative design review required under the MUZ district, the Director finds that the proposed canopy provides a public amenity and is an appropriate use of air space over the right-of-way. Accordingly, the canopy is "expressly permitted by the zoning district" under SMC 12.15.030(C)(3) and could be authorized under a right-of-way site permit for an indefinite period of time and be exempt from compensation.

Aurora Corridor Project

The proposed projection will not interfere with either the construction or the use of the Aurora Corridor.

CONCLUSIONS: In this situation, the façade relocation is being required by the City and this is a remodel and not new construction. There are constraints with the location and layout of the existing building, making the slight overhang necessary to fit in with the architecture of the building. Given these constraints, and the conclusions from previous code interpretations, the projection should be allowed.

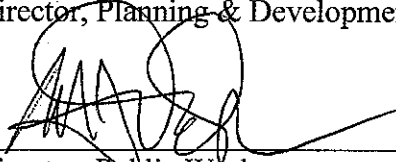
DECISION: The Director finds that the proposed canopy provides a public amenity and is an appropriate use of air space over the right-of-way as specifically called out in 20.50.280(C)(2). Accordingly, the canopy is “expressly permitted by the zoning district” under SMC 12.15.030(C)(3) and could be authorized under a right-of-way site permit for an indefinite period of time and be exempt from compensation.



Director, Planning & Development Services

8/2/12

Date



Director, Public Works

8/2/2012

Date

