

5a. Staff Report - Outdoor Seating Development Code Amendments

Planning Commission Meeting Date: July 21, 2022

Agenda Item: 5a.

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing on Outdoor Seating for Eating and Drinking Establishments Development Code Amendments		
DEPARTMENT:	Planning & Community Development		
PRESENTED BY:	Cate Lee, AICP, Senior Planner		
<input checked="" type="checkbox"/> Public Hearing	<input type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Or	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

INTRODUCTION

Tonight, the Planning Commission is holding a public hearing on the proposed Development Code amendments related to Outdoor Seating for eating and drinking establishments.

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.

The proposed Development Code amendments create a new subsection that contains provisions related to purpose, applicability, compliance with other standards, permit application, use, parking, and design standards for Outdoor Seating at eating and drinking establishments (**Attachment A**).

BACKGROUND

Eating and drinking establishments have been severely impacted by the COVID-19 pandemic. To provide relief for these businesses, the City took action to ease regulations on outdoor seating so that lost capacity due to indoor seating restrictions could be partially offset while still adhering to the Governor's Safe Start Washington Plan. Shoreline's interim regulations for outdoor seating areas went into effect on July 27, 2020 and have been extended on four (4) occasions by the City Council. The interim regulations address outdoor seating areas on both private property (e.g. parking lots) and on City right-of-way (ROW). Five (5) businesses used the interim regulations to register outdoor seating areas on private property, while none registered outdoor seating in the ROW. The proposed Development Code amendments only address outdoor seating areas on private property.

Approved By:

Project Manager AB

Planning Director RM

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December 16, 2021, Planning Commission Discussion

Staff introduced this topic to the Commission on December 16, 2021. The staff report and attachments for that meeting can be found here:

<https://www.shorelinewa.gov/home/showpublisheddocument/53613/637745719082400000>.

The video recording of the meeting can be found here:

https://shoreline.granicus.com/MediaPlayer.php?view_id=9&clip_id=1266.

May 19, 2022, Planning Commission Study Session

Staff presented the proposed Development Code amendments to the Commission and provided the Commission with additional research and analysis based on the December 16 meeting discussion. The staff report and attachments for that meeting can be found here: <https://www.shorelinewa.gov/home/showdocument?id=55357>.

The video recording of the meeting can be found here:

https://shoreline.granicus.com/MediaPlayer.php?view_id=9&clip_id=1351.

PUBLIC COMMENT

In January 2022 staff received a comment from a local developer supporting outdoor seating, but requesting the City consider allowing private parking lots to charge for parking if on-street parking would be taken up by the outdoor seating use. In April 2022 staff received a comment from a community member expressing support, stating they only dine at establishments with outdoor seating due to ongoing safety concerns related to COVID-19.

The City determined that the proposed Development Code amendments will not have a probable significant adverse impact on the environment and, on June 8, 2022, issued a SEPA Determination of Non-Significance. On June 21, 2022, the City received a comment from staff at Public Health, Seattle/King County. The comment was a suggested addition to the proposed Development Code amendments relating to proper ventilation of these spaces. City staff has incorporated part of the suggested language into the updated proposed Development Code amendments.

The notice of this public hearing appeared in the *Seattle Times* on July 6, 2022, was posted on the City's land use action and planning notices [webpage](#), and it was also sent via email to neighborhood association chairs. As of the date this report was finalized, City staff received no public comment.

DRAFT DEVELOPMENT CODE AMENDMENTS

One change was made to the Outdoor Seating Development Code amendments presented at the May 19, 2022, Commission meeting. The change is the addition of language related to proper ventilation.

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The new language adds one more design criteria under (G) Design Standards:

(5) Ventilation. Barriers, tents, fabric screens, and other vertical materials erected as part of the outdoor seating area shall allow adequate ventilation. This does not apply to exterior building walls used for interior eating or drinking areas.

City staff recommends this change be accepted by the Commission. See the Outdoor Seating Development Code amendments (**Attachment A**).

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 makes a recommendation to the City Council, which is the final decision-maker on whether to approve or deny an amendment to the Development Code. The following are the Decision Criteria used to analyze a proposed amendment:

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

Staff has determined that the proposed amendments are consistent with the following Comprehensive Plan Goals and Policies:

Goal LU I: Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods;

Goal LU VII: Plan for commercial areas that serve the community, are attractive, and have long-term economic vitality;

Policy LU7: Promote small-scale commercial activity areas within neighborhoods that encourage walkability, and provide opportunities for employment and “third places”;

Goal CD III: Expand on the concept that people using places and facilities draw more people.

Goal ED I: Maintain and improve the quality of life in the community by: Supporting businesses that provide goods and services to local and regional populations;

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

Policy ED7: Enhance existing neighborhood shopping and community nodes to support increased commercial activity, neighborhood identity, and walkability.

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Policy ED17: Provide fast, predictable, and customer service-oriented permitting processes for commercial improvements, expansions, and developments.

Policy ED22: Provide incentives for land uses that enhance the city's vitality through a variety of regulatory and financial strategies.

Staff Analysis: The proposed amendments create a process that will allow eating and drinking establishments to take advantage of additional seating by creating outdoor areas on private property. Outdoor seating will increase opportunities for gathering spaces; promote the conversion of vehicle storage areas into active, pedestrian-oriented areas; and increase the economic vitality of local businesses.

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

The proposed amendments will not adversely affect the public health, safety, or general welfare of the residents of Shoreline. The amendments provide a process by which business owners can safely operate additional seating areas outside of the primary structure while meeting other applicable regulations (e.g., Fire, Noise). Providing outdoor seating is a way to activate more area on a property in the form of standing, sitting, and talking of patrons. This will contribute to neighborhood safety due to the presence of this activity.

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

The proposed amendments are not contrary to the best interest of the residents and property owners of the City of Shoreline. The amendments allow business owners additional opportunities and sets forth design and maintenance standards so as to not adversely impact the surrounding community. In addition, by adding more seating space, eating and drinking establishments will be able to grow their businesses which will result in a stronger economic environment for Shoreline.

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the proposed Outdoor Seating Development Code Amendments (**Attachment A**) to the City Council.

Next Steps

August 15, 2022 City Council Meeting – City Council will discuss the Planning Commission's recommendation on the Outdoor Seating Development Code amendments.

September 12, 2022 City Council Meeting – City Council is scheduled to consider adoption of the Outdoor Seating Development Code amendments.

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Attachments

Attachment A – Proposed Outdoor Seating Code Amendments

SMC 20.50.260 Outdoor seating design.

- A. Purpose. To allow outdoor seating on private property that creates an active and inviting space for people and promote economic development consistent with the vision for commercial development articulated in the Comprehensive Plan.
- B. Applicability. This section applies to outdoor seating associated with a Brewpub, Eating and Drinking Establishment, Microbrewery, or Microdistillery that is located on the same lot, or part of an interdependent site plan consisting of multiple lots.
- C. Compliance with Other Codes and Standards. All outdoor seating areas shall be operated in a safe and sanitary manner and shall comply with the following:
 - 1. All applicable provisions of Chapter 15.05 SMC Construction and Building Codes, including but not limited to, the International Building Code, the International Fire Code, and the National Electrical Code;
 - 2. SMC 9.05 Noise Control;
 - 3. All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - 4. Accessibility requirements of the Americans with Disabilities Act (ADA); and
 - 5. All applicable provisions of the Code of the King County Board of Health, including but not limited to, Title 5 and Title 5R Food-Service Establishments.
- D. Permit Requirements. Outdoor seating areas shall obtain a permit. If a building permit is required for any structure(s) used for the outdoor area, then review and approval shall occur concurrent with the building permit.
- E. Use. The outdoor seating area shall comply with the following:
 - 1. It shall be accessory to a Brewpub, Eating and Drinking Establishment, Microbrewery, or Microdistillery; and
 - 2. It shall not be used exclusively for storage or accessory uses that do not meet the purpose of this section.
- F. Parking Standards.
 - 1. Outdoor seating areas permitted under this section are not subject to the minimum off-street parking requirements in SMC 20.50.390.
 - 2. On single-tenant sites, up to four required off-street parking spaces, or thirty percent (30%) of required off-street parking spaces, whichever is greater, may be converted to outdoor seating, even if the conversion causes the site to become nonconforming in regard to required off-street vehicle parking. On multi-tenant sites, up to four required off-street parking spaces per tenant, or thirty percent (30%) of required off-street parking spaces, whichever is lesser, may be converted to outdoor seating, even if

the conversion causes the site to become nonconforming in regard to required off-street vehicle parking.

G. Design Standards. Outdoor seating areas shall comply with the following:

1. If the outdoor seating area is within a building, as defined by the Development Code, then compliance with the minimum setbacks set forth in SMC 20.50.020 is required.
2. Required Barriers.
 - i. Any edge of the outdoor seating area that is within 20 feet of a right-of-way vehicle travel lane shall be enclosed with a permanent or movable barrier(s).
 - ii. Barrier(s) shall be between 30 and 42 inches in height and consist of fencing, railing, planters, or other approved elements. If alcohol is served the barrier(s) shall comply with WAC 314-03-200, as amended, which shall satisfy this code provision.
 - iii. Barrier(s) shall be constructed of finish quality materials such as steel, safety glass or finished wood, or other approved materials as determined by the Director.
 - iv. Barriers(s) shall comply with the clear sight triangle standards required by The Engineering Development Manual.
3. Tables and Seating.
 - i. Tables and seating shall not obstruct doors or exits.
 - ii. Tables and seating shall be made of durable, quality materials, including molded plastic, resin wicker, decorative metal or finish grade wood, or other approved materials as determined by the Director.
4. Weather Protection.
 - i. All tents, canopies, fabric screens, and umbrellas are subject to approval by the building official for any structural requirements and by the fire marshal for flame-retardance.
 - ii. Tents, canopies, awnings, fabric screens, and umbrellas shall be made of durable, quality materials.
5. Ventilation. Barriers, tents, fabric screens, and other vertical materials erected as part of the outdoor seating area shall allow adequate ventilation. This does not apply to exterior building walls used for interior eating or drinking areas.
6. Operation and Maintenance. Any of the elements of the outdoor seating areas are not permitted and shall be removed if they are not securely attached, create a traffic hazard, or are not maintained in good condition and free of damage, including but not limited to holes, rips, dents, or mold.