

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Proposed Amendment to the Development Code – Tent City and Remanded Items
DEPARTMENT: Planning and Development Services
PRESENTED BY: Tim Stewart, Director
Kim Lehmberg, Planner II

PROBLEM/ISSUE STATEMENT:

The issue before Council is the consideration of amendment to the Development Code as put forth in Ordinance 368, Attachment A. In 2003 the City received an application to amend the Development Code to require public notice for Tent City. The Planning Commission held a public hearing on this issue on October 21, 2004 and recommended that the applicant be required to conduct a neighborhood meeting prior to application for a Temporary Use Permit for Tent City. Council held a workshop on January 3, 2005 to discuss the proposal. Minutes from the workshop are contained in this packet. The question was raised as to whether City departments and other agencies should be notified of the neighborhood meeting as well. Staff clarified that notification of other departments, including the fire department, occurs during the processing of a Tent City Temporary Use Permit once an application is received. Findings, background information and decision criteria may be found in the staff report for the January 3, 2005 workshop, Attachment B.

Note that the Ordinance is in a different format than what was presented in the packet from the January 3rd workshop. The new text (indexed criteria) is within the body of the Ordinance, while the change to the permitted uses table (Exhibit A) shows the entire table.

ALTERNATIVES ANALYZED: The following options are within Council's discretion and have been analyzed by staff:

1. The Council could not adopt the amendment to the Development Code.
2. The Council could adopt the amendment as recommended by the Planning Commission and Staff by adopting Ordinance No. 368 (Attachment A)
3. The Council could propose an alternative amendment.

FINANCIAL IMPACTS:

4. There are no direct financial impacts to the City of the amendment as recommended by Planning Commission and Staff.

RECOMMENDATION

The Planning Commission and Staff recommend that Council adopt Ordinance No. 368, (Attachment A).

Approved By: City Manager  City Attorney 

ATTACHMENTS

ATTACHMENT A: Ordinance 368

ATTACHMENT B: Staff Report from January 3, 2005 Council workshop

ORDINANCE NO. 368

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE DEVELOPMENT CODE CHAPTER 20.40, ADDING TENT CITY TO THE USE TABLES AND REQUIRING THE APPLICANT TO HOLD A NEIGHBORHOOD MEETING PRIOR TO APPLICATION.

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000;

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states “Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code”; and

WHEREAS, the City received a complete application from a citizen to amend the Development Code to require public notice for Temporary Use Permit applications for Tent City homeless camps; and

WHEREAS, the proposed amendment was initiated by the Director; and

WHEREAS, the Planning Commission has developed an alternative recommendation to the proposed amendment that requires the applicant to hold a Neighborhood Meeting prior to application for Temporary Use Permit for Tent City; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A public comment period on the proposed amendment was advertised from January 29, 2004 to February 13, 2004; and
- The Planning Commission held a Public Hearing and formulated its recommendation to Council to deny the proposed amendment on March 4, 2004.
- The Council held a meeting on June 7, 2004, continued to June 14, 2004, where it remanded the issue back to the Planning Commission for further consideration.
- The Planning Commission held an additional Public Hearing and formulated an alternative recommendation on the proposed amendment on October 21, 2004;

WHEREAS, a SEPA Determination of Nonsignificance was issued on February 18, 2004 in reference to proposed amendments to the Development Code; and

WHEREAS, the proposed amendment was submitted to the State Department of Community Development for comment pursuant WAC 365-195-820; and

WHEREAS, the Council finds that the amendment adopted by this ordinance is consistent with and implements the Shoreline Comprehensive Plan and complies with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendment adopted by this ordinance meets the criteria in Title 20 for adoption of amendments to the Development Code;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code Sections 20.40.120 and 20.40.535 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

Section 2. New Section. A new section, 20.40.535 – Tent City, is added to the Shoreline Municipal Code to read as follows:

20.40.535

Tent City

A. Allowed only by temporary use permit.

B. Prior to application submittal, the applicant is required to hold a Neighborhood Meeting as set forth in SMC Section 20.30.090. A Neighborhood Meeting report will be required for submittal.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON February 14, 2005.

Ronald B. Hansen
Mayor

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, MMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: February 17, 2005
Effective Date: February 22, 2005

EXHIBIT A

20.40.120

Residential type uses

| NAICS # | SPECIFIC LAND USE | R4-R6 | R8-R12 | R18-R48 | NB & O | CB & NCBD | RB & I |
|---|--|-------|--------|---------|--------|-----------|--------|
| RESIDENTIAL GENERAL | | | | | | | |
| | Accessory Dwelling Unit | P-i | P-i | P-i | P-i | P-i | P-i |
| | Affordable Housing | P-i | P-i | P-i | P-i | P-i | P-i |
| | Apartment | | C | P | P | P | P |
| | Cottage Housing | C-i | P-i | P-i | | | |
| | Duplex | P-i | P-i | P-i | P-i | | |
| | Home Occupation | P-i | P-i | P-i | P-i | P-i | P-i |
| | Manufactured Home | P-i | P-i | P-i | | | |
| | Mobile Home Park | P-i | P-i | P-i | | | |
| | Single-Family Attached | P-i | P | P | P | | |
| | Single-Family Detached | P | P | C | C | | |
| GROUP RESIDENCES | | | | | | | |
| | Boarding House | C-i | C-i | P-i | P-i | P-i | P-i |
| | Community Residential Facility-I (Less than 11 residents and staff) | C | C | P | P | P | P |
| | Community Residential Facility-II | | | P-i | P-i | P-i | P-i |
| 721310 | Dormitory | | C-i | P-i | P-i | P-i | P-i |
| TEMPORARY LODGING | | | | | | | |
| 721191 | Bed and Breakfasts | P-i | P-i | P-i | P-i | P-i | P-i |
| 72111 | Hotel/Motel | | | | | P | P |
| | Recreational Vehicle | P-i | P-i | P-I | P-I | P-i | P-i |
| | Tent City | P-i | P-i | P-i | P-i | P-i | P-i |
| MISCELLANEOUS | | | | | | | |
| | Animals, Small, Keeping and Raising | P-i | P-i | P-i | P-i | P-i | P-i |
| | | | | | | | |
| P = Permitted Use S = Special Use C = Conditional Use -i = Indexed Supplemental Criteria | | | | | | | |

ATTACHMENT B

Council Meeting Date: January 3, 2004

Agenda Item:

CITY COUNCIL AGENDA ITEM CITY OF SHORELINE, WASHINGTON

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| AGENDA TITLE: | Proposed Amendment to the Development Code – Tent City and Remanded Items |
| DEPARTMENT: | Planning and Development Services |
| PRESENTED BY: | Tim Stewart, Director Kim Lehmberg, Planner II |

PROBLEM/ISSUE STATEMENT:

The issue before Council is the consideration of amendment to the Development Code. In 2003 the City received an application to amend the Development Code to require public notice for Tent City. The Planning Commission previously held public hearing and deliberated on this amendment (March 4, 2004), and had recommended that the City Council not adopt it. Council followed this recommendation and did not adopt the amendment, however the Council also concurred with a later Planning Commission request to remand the issue back to the Commission for further deliberation.

The Planning Commission held an additional Public Hearing and has recommended to alter the original proposal that would have required the City to provide public notice and process a Temporary Use Permit as though it were a "Type B", or Administrative, action. The Planning Commission's alternative amendment (Attachment A, Ordinance 368) is to require the applicant to hold a Neighborhood Meeting as set forth in Shoreline Municipal Code Section 20.30.090, (Attachment B). The City would then process the application for a Temporary Use Permit as usual, as a "Type A", or Ministerial, action.

ALTERNATIVES ANALYZED: The following options are within Council's discretion and have been analyzed by staff:

1. The Council could not adopt the amendment to the Development Code.
2. The Council could adopt the amendment as recommended by the Planning Commission and Staff by adopting Ordinance No. 368 (Attachment A)
3. The Council could propose an alternative amendment.

FINANCIAL IMPACTS:

4. There are no direct financial impacts to the City of the amendment as recommended by Planning Commission and Staff.

RECOMMENDATION

The Planning Commission and Staff recommend that Council consider adoption of Ordinance No. 368, (Attachment A), but defer the decision to adopt the Ordinance until the Council meeting of January 24th.

Approved By: City Manager  City Attorney 

INTRODUCTION

An amendment to the Development Code is a Legislative process that may be used to bring the City's land use and development regulations into conformity with the Comprehensive Plan, or to respond to changing conditions or needs of the City. The Development Code section 20.30.100 states that any person may request that a Development Code amendment be initiated by the Director, Planning Commission, or City Council.

Remanded Items: On March 4, 2004, the Planning Commission held a public hearing and considered numerous proposed amendments to the Development Code. Recommendations for each of the amendments were passed along to the City Council.

The City Council held an additional public hearing and heard public testimony public on a number of the items. On June 14, 2004, the Council adopted Ordinance 352, as recommended by Staff and Planning Commission, and also moved to remand certain of the proposals back to the Planning Commission for further deliberation. The following proposals were chosen to be remanded:

- Notice requirements for commercial footprint additions
- Changing zoning variance criteria
- Notice requirements for Tent City
- High security fencing

At the September 16th Planning Commission meeting, staff introduced a memo recommending that the Commission go forward with consideration of Tent City amendment at this time, and to place the notice requirements for commercial footprint additions and high security fencing issues on the 2005 development code amendment work plan (see memo, Attachment C.)

Staff also recommended pulling the proposed changes to the zoning variance criteria from consideration at this time. Staff had originally proposed these changes to SMC 20.30.310. Many comments in opposition to these changes were heard at the Council public hearing and received during the Council-initiated second public comment period. Therefore staff's recommendation was to not go forward with the changes until the comments could be more thoroughly analyzed.

PUBLIC COMMENT

For the initial processing of this amendment, the City advertised the availability of the official docket of proposed amendments for review and comment. The written comment period began on January 29, 2004 and ended on February 13, 2004. One comment letter, written by the applicant for the amendment under consideration here, was received during the comment period (Attachment D). On February 17th, 2004, the City issued a SEPA Determination of Non-significance for the proposed amendments.

The Planning Commission held an additional Public Hearing on October 21, 2004 on the issue of Tent City. Notice for this hearing was published October 8th. No comment letters were received during the comment period. One member of the public commented at the Hearing that the Neighborhood Meeting process is helpful. The Minutes from the Hearing are included here as Attachment E.

ANALYSIS/ISSUES

Attachment F includes the original amendment application submitted by the applicant shown in legislative format. Attachment A, Ordinance #368, contains the amendment as recommended by Planning Commission and Staff. Legislative format uses ~~strikethroughs~~ for proposed text deletions and underlines for proposed text additions.

Background/Discussion:

Since the original processing of this proposed amendment, the cities of Bothell and Woodinville have grappled with the issue of Tent City. There was a great deal of public controversy at the time, with many members of the public requesting that they be notified when a jurisdiction is considering whether to allow Tent City. Bothell requires a Conditional Use Permit (CUP), which includes public notice.

In the wake of the controversy, King County Council commissioned a Citizen's Advisory Commission of Homeless Encampments (CACHE) to study the problem and provide recommendations for the County and other jurisdictions regarding the regulation of Tent Cities. This report is included here as Attachment G. The consensus of the Commission is that for now, Tent Cities are needed, they should be allowed on public and private land, and the community should be notified if there is to be a Tent City in their neighborhood.

This proposal seeks to attach public notice requirements for Tent City. Under the current Code, temporary sheltering of the homeless is not listed as a permitted use in the Use Tables (Development Code Section 20.40), and is not included within the Code definition of church use. Anyone proposing to host Tent City must apply for a Temporary Use Permit (TUP). A Temporary Use Permit is a mechanism by which the City may permit a use not otherwise allowed on an interim basis. The proposal would have to meet the criteria for Temporary Use. The decision criteria for Temporary Use Permit are found in Code Section 20.40.540 (Attachment H). A TUP is a ministerial, or "Type A" decision; no public notice is required.

The originally proposed amendment adds Tent City to use tables and adds criteria; the originally proposed criteria included requiring a TUP for Tent City to be processed and noticed as a "Type B" permit, such as a Conditional Use Permit. Under this proposal, the City would have to provide notice pursuant to Development Code Section 20.30.050, and there would be a 90-day maximum turnaround time for decision. This option would add to the City's processing expenses and add time to the permit process. The Planning Commission's alternate amendment allows the permit to be processed as a "Type A" permit (Code Section 20.30.040), but requires the applicant to hold a Neighborhood Meeting prior to application pursuant to Code Section 20.30.090 (Attachment B). See Attachment I for code sections 20.30.040 and 20.30.050 governing "Type A" and "Type B" actions.

Staff agrees with the Planning Commission recommendation. Note that Staff had considered the option of requiring a Conditional Use Permit (CUP) for Tent City, but did not pursue it because a CUP typically runs with the land and is tied to permanent development - the CUP criteria relate more to structure, site planning and development than to a temporary encampment.

In deliberating on the proposed amendment, the Planning Commission discussed issues related to City resources, permit turn-around time and public notice process and the expectation that comes with it. The Commission came to the conclusion that the main issue was to provide public notification and a forum for the neighbors to meet with the applicant to discuss their concerns. They concluded that this type of interaction would best be accomplished by the Neighborhood

Meeting, conducted by the applicant. The Neighborhood Meeting Report would then become part of the application package, and comments and issued presented in the report would be considered by the Director in rendering the decision on whether to issue the Temporary Use Permit. (Minutes of the Planning Commission meeting are found in Attachment E.)

Decision Criteria for Code Amendment. The City Council may approve or approve with modifications a proposal for amending the text of the Development 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. (Ord. 238 Ch. III § 7(g), 2000).

Conformance with Shoreline Comprehensive Plan

- Housing Goal H III: *"Maintain and enhance single family and multi-family residential neighborhoods, so that they provide attractive living environments, with housing that is compatible in quality, design and scale within neighborhoods and that provides effective transitions between different uses and scales".*
- Housing Policy #H28: *"Encourage, assist and support social and health service organizations that offer housing programs for people with special needs."*
- Housing Policy #H29: *"Support the development of emergency, transitional, and permanent supportive housing with appropriate services for persons with special needs throughout the City and region."*
- Housing Policy #H34: *"Cooperate with private and not-for-profit developers and social and health service agencies to address regional housing needs."*

Requiring a neighborhood meeting for a land use such as Tent City does not appear to be in conflict with any of the Comprehensive Plan policies, and the proposed amendment seeks to address public concerns.

RECOMMENDATION

The Planning Commission and Staff recommend that Council consider adoption of Ordinance No.368, (Attachment A), but defer the decision to adopt the Ordinance until the Council meeting of January 24th.

ATTACHMENTS

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| Attachment A | Ordinance #368 |
| Attachment B | Shoreline Municipal Code Section 20.30.090 (Neighborhood Meetings) |
| Attachment C | Memo from Planning Commission meeting of September 16, 2004 |
| Attachment D | Public comment letter received during original comment period |
| Attachment E | Minutes from October 21, 2004 Planning Commission Meeting |
| Attachment F | Originally proposed amendment language |
| Attachment G | CACHE Commission Final Report |
| Attachment H | Shoreline Municipal Code (SMC) Section 20.40.540 (TUP Criteria) |
| Attachment I | Shoreline Municipal Code (SMC) Sections 20.30.040 and 20.30.050 (Type A and B actions) |