

6. Master Development Plan and Special Use Permit Decision Criteria Amendments

Planning Commission Meeting Date: December 5, 2019

Agenda Item: 6a

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Amendments to Master Development Plan and Special Use Permit Decision Criteria

DEPARTMENT: Planning & Community Development

PRESENTED BY: Andrew Bauer, AICP, Senior Planner
Nora Gierloff, Planning Manager

Public Hearing
 Discussion

Study Session
 Update

Recommendation Only
 Other

INTRODUCTION

On October 7, 2019, the City Council adopted Ordinance No. 868 (Attachment A) imposing a six-month moratorium on the filing, acceptance, and approval of applications for Master Development Plans (MDPs) and for Special Use Permits (SUPs) of Essential Public Facilities (EPFs). The moratorium, unless extended by the City Council, will expire on April 7, 2020.

The moratorium was enacted in response to renewed activity by the Department of Social and Health Services (DSHS) to submit an MDP for the Fircrest School Campus that includes the expansion of existing uses on the campus, new uses that would support persons with developmental disabilities, and the potential siting of an EPF. The moratorium allowed staff time to study the current decision criteria for both permit types in relationship to the City's goals and policies and to determine and recommend adequate and relevant processes to best evaluate an MDP that includes the siting of an EPF.

The existing decision criteria for MDPs set forth in SMC 20.30.353 are not adequate or designed to evaluate the siting of EPFs. The SUP process, which is designed for the siting of EPFs, does not consider long range, multi-year campus planning. Additionally, since the Development Code states that the purpose of both MDPs and SUPs are to permit EPFs, it is unclear which process or processes would be required to review an MDP that also includes the siting of an EPF.

Staff has prepared for the Planning Commission's consideration proposed amendments to the decision criteria for MDPs and SUPs, to further the City's long-term vision and goals, and to ensure the process is compliant with the Comprehensive Plan.

Staff has also prepared new definitions of Evaluation and Treatment Facility (ETFs) and Enhanced Services Facility (ESFs); revised definitions for Nursing Facility, Residential Care Facility, and Residential Treatment Facility; revisions adding ETFs and ESFs to

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the use table; and modifying the review process and public notification requirements in SMC 20.30.060, 20.30.090, 20.30.120, and 20.30.180.

BACKGROUND

In December 2008, the City Council amended the Comprehensive Plan to create the Campus Zone. In conjunction with this action, the Council rezoned Shoreline Community College, CRISTA, the State Public Health Lab, and the Fircrest School to the Campus zone and amended the Development Code to create the MDP process. SMC 20.40.045.C requires that all development within Campus zones shall be governed by a MDP reviewed pursuant to SMC 20.30.060 and 20.30.353. SMC 20.30.353 further states that the purpose of a MDP is to define development of not only property zoned Campus but also for EPFs.

Pursuant to SMC 20.20.034.M Master Development Plan is defined as:

A plan that establishes site-specific development standards for an area designated campus zone or essential public facility as defined in the Comprehensive Plan. Master Development Plans incorporate proposed development, redevelopment and/or expansion of uses as authorized in this Code.

The supporting analysis of the Comprehensive Plan Land Use Element cites to the GMA's definition of an Essential Public Facility contained in RCW 36.70A.200:

[Facilities] that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities; and in-patient facilities, including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

SMC 20.30.330 Special Use Permit states the purpose of this permit is to:

...allow a permit granted by the City to locate a regional land use including essential public facilities on unclassified lands, unzoned lands, or when not specifically allowed by the zoning of the location...

SMC 20.30.330.B sets forth nine criteria that need to be satisfied before a SUP can be granted. These criteria include such things as the use providing a public benefit, it is compatible with and does not materially endanger the community, and that it is supported by adequate public facilities or services.

In contrast, SMC 20.30.353 Master Development Plans states that its purpose is to:

.. define the development of property zoned campus or essential public facilities in order to serve its users, promote compatibility with neighboring areas and benefit the community with flexibility and innovation ...

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Like a SUP, SMC 20.30.353.B sets forth eight criteria for the granting of a MDP. These criteria include phasing, environmental sustainability, and architectural design.

Comparing these two types of permits, it becomes clear that the decision criteria for approving a SUP is more applicable to the siting of an EPF and that same SUP criteria would not be adequate to review and approve a MDP. An EPF proposed within a Campus Zone would be required to obtain both a MDP and SUP.

The MDP permit decision criteria adopted in 2008 are not fully reflective of Shoreline's current goals and policies. The City adopted "Vision 2029" in 2009. Then in 2012, the City's Comprehensive Plan went through the State mandated major update process. In 2015 and 2016, the City Council adopted two subarea plans and rezoned approximately 500 acres around the two future Sound Transit light rail stations to create two transit-oriented communities. These changes and the coming of light rail to Shoreline have dramatically advanced the City's vision for the future. The MDP permit process and decision criteria, however, were created before these major updates to Shoreline's long-range vision and plans. Council priorities have certainly shifted since 2008 when the MDP process and decision criteria were adopted, with many of these changes being reflected in the City's Comprehensive Plan.

Furthermore, when the MDP and SUP processes were codified, the Planning Commission was designated as the review authority and the City Council was the approving authority. In December 2011, the review and decision authorities were amended to be the Hearing Examiner. The decision criteria have not been reevaluated to ensure sufficient direction will be provided to the Hearing Examiner to make these decisions on behalf of the City Council.

All of the areas in the City that are zoned Campus and require MDPs have completed this planning work with the exception of the Fircrest School Campus. While the State/DSHS has started multiple planning efforts, the latest in 2018, none have progressed to the point of submittal of an application to the City. DSHS has recently restarted work on the Fircrest School Campus MDP with the goal of submitting an application to the City once the moratorium is no longer in effect. Staff has been attending Fircrest stakeholder meetings as well as public open houses on the subject. Staff has also met separately with DSHS staff to try to fully understand the nature and possible impacts of proposed changes to the site.

ANALYSIS

Staff has reviewed applicable Development Code sections related to MDPs, EPFs, and SUPs and is proposing amendments which:

- Clarify the review process and relationship between MDPs, EPFs, and SUPs
- Address MDPs with multiple property owners
- Address the need for MDPs to incorporate efficient site planning
- Provide for community benefits to be incorporated into MDPs
- Address the potential for concentrations of institutional and EPF uses
- Align with state regulations for EPFs

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- Reflect the City's current goals and vision
- Expand public notification for EPFs

The proposed Development Code amendments include the following:

- Revisions to SMC 20.30.330 Special Use Permit (Attachment B)
- Revisions to SMC 20.30.353, Master Development Plan (Attachment C)
- A new definition in SMC 20.20 for Evaluation and Treatment Facility (Attachment D)
- Revisions to SMC 20.20, clarifying definitions for Master Development Plan, Nursing Facility, Residential Care Facility, and Residential Treatment Facility (Attachment D)
- Adding Evaluation and Treatment Facilities to SMC Table 20.40.140 Other Uses under the Mixed Business zone (Attachment D)
- Revisions to SMC Sections 20.30.060, 20.30.090, 20.30.120, and 20.30.180 to clarify the review process and increase the notification requirements for EPFs (Attachment E)

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 proposed amendments are consistent with the following goals and policies of the Comprehensive Plan:

- *Goal LU XI: Maintain regulations and procedures that allow for siting of essential public facilities.*

The amendments continue to allow for siting of EPFs within the City and further clarify the review process, align with state regulations, and add decision criteria which specifically address EPFs. The amendments clarify the SUP as the appropriate permit and review process for an EPF. In instances where an EPF is proposed within a Campus zone, both a MDP and SUP would be required and could be reviewed concurrently.

- *LU62: Consider social equity and health issues in siting uses, such as manufacturing and essential public facilities, to provide protection from exposure to harmful substances and environments.*

The amendments include provisions for the City to place mitigation measures on an EPF use. The amendments also include provisions for an agency

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proposing an EPF to provide a detailed explanation of the methodology used to site the EPF within Shoreline.

- *LU63: Require land use decisions on essential public facilities meeting the following criteria to be made consistent with the process and additional criteria set forth in LU65:*
 - a. *The facility meets the Growth Management Act definition of an essential public facility, ref. RCW 36.70A.200(1) now and as amended; or*
 - b. *The facility is on the statewide list maintained by the Office of Financial Management, ref. RCW 36.70A.200(4) or on the countywide list of essential public facilities; and*
 - c. *The facility is not otherwise regulated by the Shoreline Municipal Code (SMC).*

The criteria noted in policy LU63 have been included into the SUP criteria required for EPFs.

- *LU64: Participate in efforts to create an interjurisdictional approach to the siting of countywide or statewide essential public facilities with neighboring jurisdictions. Through participation in this process, seek agreements among jurisdictions to mitigate against the disproportionate financial burden, which may fall on the jurisdiction that becomes the site of a facility of a state-wide, regional, or countywide nature.*

The SUP and MDP processes provide an avenue for the City of Shoreline and its residents to engage with outside agencies about EPF siting decisions. The proposed amended criteria address the issues of mitigating disproportionate impacts and concentrations of uses. An appropriate level of participation and collaboration between agencies would be anticipated on any potential future EPFs within the City of Shoreline.

- *LU 65: Use this Siting Process to site the essential public facilities described in LU63 in Shoreline. Implement this process through appropriate procedures incorporated into the SMC.*

EPF Siting Process

1. *Use policies LU63 and LU64 to determine if a proposed essential public facility serves local, countywide, or statewide public needs.*
2. *Site EPF through a separate multi-jurisdictional process, if one is available, when the City determines that a proposed essential public facility serves a countywide or statewide need.*
3. *Require an agency, special district, or organization proposing an essential public facility to provide information about the difficulty of siting the essential public facility, and about the alternative sites considered for location of the proposed essential public facility.*
4. *Process applications for siting essential public facilities through SMC Section 20.30.330 — Special Use Permit.*

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5. *Address the following criteria in addition to the Special Use Permit decision criteria:*
 - a. *Consistency with the plan under which the proposing agency, special district or organization operates, if any such plan exists;*
 - b. *Include conditions or mitigation measures on approval that may be imposed within the scope of the City's authority to mitigate against any environmental, compatibility, public safety or other impacts of the EPF, its location, design, use or operation; and*
 - c. *The EPF and its location, design, use, and operation must be in compliance with any guidelines, regulations, rules, or statutes governing the EPF as adopted by state law, or by any other agency or jurisdiction with authority over the EPF.*

The EPF siting process noted above is already partially integrated into the City's Development Code and will be more fully integrated with the proposed amendments. The SUP criteria for EPFs will include the provisions above to require consistency with agency plans, the ability for the City to include conditions and/or mitigation measures, and the requirement for the EPF to be in compliance with applicable regulations governing the EPF.

- *LU66: After a final siting decision has been made on an essential public facility according to the process described in LU65, pursue any amenities or incentives offered by the operating agency, or by state law, other rule, or regulation to jurisdictions within which such EPF is located.*

The amendments to the SUP criteria for EPFs include provisions for conditions and mitigation measures to mitigate against potential impacts of siting an EPF within the community and the MDP criteria include requirements for community benefits to be provided as part of any future MDP permit.

- *LU67: For EPF having public safety impacts that cannot be mitigated through the process described in LU64, the City should participate in any process available to provide comments and suggested conditions to mitigate those public safety impacts to the agency, special district or organization proposing the EPF. If no such process exists, the City should encourage consideration of such comments and conditions through coordination with the agency, special district, or organization proposing the EPF. A mediation process may be the appropriate means of resolving any disagreement about the appropriateness of any mitigating condition requested by the City as a result of the public safety impacts of a proposal.*

The proposed amendments to the decision criteria will provide opportunity for the City to place mitigation measures, within the scope of its authority, on new EPFs. The SUP and MDP processes also provide an avenue for the City and its residents to engage with outside agencies about EPF siting decisions and other potential impacts such as public safety.

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- *LU68: Locate essential public facilities equitably throughout the city, county, and state. No jurisdiction or area of the city should have a disproportionate share of essential public facilities. This policy shall not be interpreted to require the preclusion of an essential public facility from any specific locations in the city.*

The amendments to the SUP criteria for EPFs include provisions for the proposing agency to provide a detailed explanation of the site selection methodology in order to demonstrate alternative sites have been reasonably investigated and factors relating to equity and social justice have been taken into consideration.

- *CD2: Refine design standards so new projects enhance the livability and the aesthetic appeal of the community.*

The amendments to the MDP decision criteria will require future MDPs to consolidate development in a compact, logical layout to make efficient use of the finite resource of undeveloped and underdeveloped land within the City and enhancing livability and aesthetics for the community by maximizing the use of other land for other uses such as open space and other land uses or services which provide benefit to the community.

The amendments also support the implementation of King County Countywide Planning Policy (CPP) DP-3 by requiring MDPs to consolidate development in a compact manner. CPP DP-3 states:

... Promote the efficient use of land within the Urban Growth Area by using methods such as:

- Directing concentrations of housing and employment growth to designated centers;
 - Encouraging compact development with a mix of compatible residential, commercial, and community activities;
 - Maximizing the use of the existing capacity for housing and employment; and
 - Coordinating plans for land use, transportation, capital facilities and services.
- *CD18: Preserve, encourage, and enhance open space as a key element of the community's character through parks, trails, water features, and other significant properties that provide public benefit.*

The amendments to the MDP decision criteria will require future MDPs to incorporate direct community benefits to the adjacent neighborhood. Community benefits could include active or passive open space.

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

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The amendments align EPF regulations with state requirements, requires a SUP for all EPFs, and reinforces the decision criteria to take into consideration and require mitigation for potential impacts which could affect surrounding properties and community. The revisions to the SUP decision criteria are intended to protect the health, safety, and welfare of the public.

The amendments to the MDP decision criteria include provisions for direct community benefits intended to serve the adjacent neighborhood in which the MDP is located and are intended to protect the health, safety, and welfare of the public.

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

The amendments will provide needed regulations and criteria for decision makers to protect the interests of the City of Shoreline and its residents. Provisions are included in the SUP decision criteria to better address EPFs and require additional public outreach, review of siting methodology, ensure consistency with the Comprehensive Plan, and require specific conditions and/or mitigation measures necessary to preserve community interests and mitigate potential impacts.

Amendments to the MDP decision criteria will improve clarity for sites with multiple owners and require that MDPs incorporate community benefits such as active or passive open space and indoor or outdoor meeting space.

Public notification requirements for EPFs will be expanded to require neighborhood meeting and public notification to all property owners within 1,000 feet of the site (increased from 500 feet). The expanded notification is consistent with the requirement for MDPs and is intended to inform and seek input from nearby residents and stakeholders.

Staff researched EPF decision criteria for several other jurisdictions throughout the Central Puget Sound region, as well as state regulations in WAC 365-196-500 relating to EPFs. The recommended amendments to the decision criteria are consistent with state regulations and are generally in line with the criteria adopted by other jurisdictions.

Pros to Approval of Amendments

If approved, the proposed amendments would address the issues identified in the moratorium, as well as clarify the review process and relationship between MDPs, EPFs, and SUPs; address MDPs with multiple property owners; require MDPs to efficiently plan their site development and growth; provide for MDPs to incorporate public benefits; address the potential for concentrations of institutional and EPF uses; align the City's regulations with state regulations relating to EPFs; expand public notification requirements for EPFs; and reflect the City's current goals and visions.

The proposed amendments would also provide clarity for both applicants and residents by adding definitions for ETFs and ESFs and identifying them as a special use within

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the MB zone. Amendments to other land use definitions which might be construed as similar to ETFs and ESFs would be clarified.

Cons to Approval of Amendments

The proposed amendments would give the City additional opportunity to place conditions and mitigation measures, within the scope of its authority, onto new MDPs, and EPFs processed through a SUP. New MDPs may be impacted by new criteria for compact site layout, avoidance of nuisances and provision of community benefits. EPFs would be subject to new SUP criteria which could make them subject to conditions such as location on the site, review of operation procedures, and other mitigating measures. Public notification for EPFs would also be expanded to be consistent with MDPs. While the state governs several standards related to EPFs, the proposed amendments to the SUP decision criteria could require additional analysis by the applicant than would have otherwise been provided. This could increase the time and cost for applicants to prepare applications.

Properties zoned MB and those adjacent could be impacted by the addition of ETFs and ESFs as a special use. However, the SUP decision criteria are intended to minimize and mitigate potential impacts to adjacent properties and the community.

Public/Stakeholder Outreach

Staff shared the draft amendments to the owners of the campus zoned properties and provided an opportunity for questions and comments. Two comment letters were received and staff incorporated the comments where appropriate. Additional outreach is anticipated prior to the public hearing for property owners within the MB zone to inform and seek feedback on the proposed changes related to adding ETFs and ESFs as an allowable use.

TIMING AND SCHEDULE

A study session and public hearing is scheduled on this topic at the January 16, 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 January 16th.

ATTACHMENTS

Attachment A – MDP, SUP, EPF Moratorium (Ordinance No. 868)
Attachment B – SUP Decision Criteria Amendments (SMC 20.30.330)
Attachment C – MDP Decision Criteria Amendments (SMC 20.30.353)
Attachment D – Definitions Amendments (SMC 20.20) and Amendments to Use Tables (SMC 20.40.140)
Attachment E – SUP Notification Amendments (SMC 20.30.060, 20.30.090, 20.30.120 & 20.30.180)