

ORDINANCE NO. C \_\_\_\_\_

An ordinance relating to Land Use Application Procedures; and amending SMC sections 17G.060.040; 17G.060.060; and 17G.060.170.

WHEREAS, the City of Spokane is required under RCW 36.70A.040(4)(d) to implement the goals and policies of the City's Comprehensive Plan by adoption of implementing development standards; and

WHEREAS, there is a need to make changes to the land use application and procedures to reflect changes in the design review process and administration; and

WHEREAS, there is a need to make changes to the land use application and procedures to reflect changes in the naming of the downtown zones; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC section 17G.060.040 is amended to read as follows:

**17G.060.040 Predevelopment Meeting**

- A. Predevelopment meetings are intended to:
1. acquaint City staff and other agencies with a proposed development and to generally advise the applicant of applicable regulations, design guidelines and design review processes, and policies impacting the proposal; and
  2. acquaint the applicant with the applicable provisions of these procedures, minimum submission requirements and other plans or regulations, which may impact the proposal. Predevelopment meetings are not intended to be an exhaustive review of all regulations or potential issues for a given application. The City may, when applicable, apply additional relevant laws to the application subsequent to this meeting.
- B. Predevelopment meetings are required for any development proposal in the central business district. The planning director or building official, as appropriate, may waive this requirement.
- C. Predevelopment meetings are recommended for Type II and III applications, and Type I project permit applications in the Centers & Corridors (CC) zones.

Section 2. That SMC section 17G.060.060 is amended to read as follows:

**17G.060.060 Design Review**

- A. Project permit applications that are subject to design review follow the procedures contained within chapter 17G.040 SMC Design Review Board Administration and Procedures.
- B. Project permit applications that are subject to design review are listed in SMC 17G.040.020 Development and Applications Subject to Design Review.
- C. Prior to submitting a project permit application that is subject to design review under this title, a project permit applicant must have begun the design review process and may be required to participate in a Design Review Collaborative Workshop as defined in SMC 17G.040.050 Design Review Process and outlined in the Design Review Application Handbook.
- D. ~~((Type I, II and III))~~ Project permit applications that are subject to design review shall contain the information specified in ((chapter 4.13 SMC)) chapter 17G.040 SMC. The design review ((committee)) process ((conducts its evaluation)) is completed prior to the end of the public comment period initiated by notice of application and a ((makes)) recommendations is made to the hearing examiner, planning director, building official or other official as appropriate. The report of the design review ((committee)) board is made available to the ((decision-making)) action approving authority by the close of the public comment period.

Section.3 That SMC section 17G.060.170 is amended to read as follows:

**17G.060.170 Decision Criteria**

- A. The purpose of the following sections is to establish the decision criteria for all permit types regardless of whether the decision is made by the director, hearing examiner, or city council, as applicable.
- B. The burden is upon the applicant to present sufficient evidence relevant to the appropriate criteria in support of the application. The decision-maker must make affirmative findings of fact relative to each criterion or the application must be denied.
- C. The following decision criteria shall be used for Type II and III permit applications:
  - 1. The proposal is allowed under the provisions of the land use codes.

2. The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property.
  3. The proposal meets the concurrency requirements of chapter 17D.010 SMC.
  4. If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features.
  5. The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.
- D. The following Type II and III applications have decision criteria listed in this subsection that are required to be met in addition to the provisions of subsection (C) of this section:
1. Shoreline Substantial Development Permit.
    - a. Consistency with the map, goals and policies of the shoreline master program; and
    - b. Constancy with chapter 90.58 RCW (Shoreline Management Act) and chapter 173-27 WAC (permits for development on shorelines of the state).
  2. Shoreline Conditional Use Permit.
    - a. The proposed use will not interfere with the normal public use of the public shorelines; and
    - b. The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the shoreline master program.
  3. PUD and Plans-in-lieu.
    - a. All of the following criteria are met:
      - i. Compliance with All Applicable Standards.

The proposed development and uses comply with all applicable standards of the title, except where adjustments are being approved as part of the concept plan application, pursuant to the provisions of SMC 17G.070.200(F)(2).

ii. Architectural and Site Design.

The proposed development has completed the design review process and the design review ~~((committee))~~ board/staff has found that the project demonstrates the use of innovative, aesthetic and energy-efficient architectural and site design.

iii. Transportation System Capacity.

There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed.

iv. Availability of Public Services.

There is either sufficient capacity within public services such as water supply, police and fire services, and sanitary waste and stormwater disposal, to adequately serve the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

v. Protection of Designated Resources.

City-designated resources such as historic landmarks, view sheds, street trees, urban forests, critical areas or agricultural lands are protected in compliance with the standards in this and other titles of the Spokane Municipal Code.

vi. Compatibility with Adjacent Uses.

The concept plan contains design, landscaping, parking/traffic management and multi-modal transportation elements that limit conflicts between the planned unit development and adjacent uses. There shall be a demonstration that the reconfiguration of uses is compatible

with surrounding uses by means of appropriate setbacks, design features or other techniques.

vii. Mitigation of Off-site Impacts.

All potential off-site impacts including litter, noise, shading, glare and traffic will be identified and mitigated to the extent practicable.

~~((b. For CBD-1 through CBD-6 zones, the additional criteria of SMC 11.19.198(C)(1) through (C)(8).))~~

4. Plat, Short Plat and Binding Site Plan.

The proposed subdivision makes appropriate (in terms of capacity and concurrence) provisions for:

- a. public health, safety and welfare;
- b. open spaces;
- c. drainage ways;
- d. streets, roads, alleys and other public ways;
- e. transit stops;
- f. potable water supplies;
- g. sanitary wastes;
- h. parks, recreation and playgrounds;
- i. schools and school grounds; and
- j. sidewalks, pathways and other features that assure safe walking conditions.

E. The following Type II and III applications are not subject to subsections (C) and (D) of this section; they shall comply with the following decision criteria:

1. Variance.

- a. A variance or modification of the standard or requirement is not prohibited by the land use codes.

- b. No other procedure is provided in this chapter to vary or modify the standard or requirement, or compliance with such other procedure would be unduly burdensome.
- c. Strict application of the standard or requirement would create an unnecessary hardship due to one or more of the reasons listed below. Mere economic hardship or self-created hardship are not considered for the purposes of this section.
  - i. The property cannot be developed to the extent similarly zoned property in the area can be developed because the physical characteristics of the land, the improvements or uses located on the land do not allow such development; or
  - ii. Compliance with the requirement or standard would eliminate or substantially impair a natural, historic or cultural feature of area-wide significance.
- d. In addition, the following objectives shall be reasonably satisfied:
  - i. Surrounding properties will not suffer significant adverse effects.
  - ii. The appearance of the property or use will not be inconsistent with the development patterns of the surrounding property; and
  - iii. The ability to develop the property in compliance with other standards will not be adversely affected.
- e. No variance may be granted to allow or establish a use that is not allowed in the underlying districts as a permitted use; or to modify or vary a standard or requirement of an overlay zone, unless specific provision allow a variance.
- f. Shoreline variance is subject to the following additional criteria:
  - i. The cumulative impact of several variances on the shoreline in the area will not preclude achieving the goals of the shoreline master program; and
  - ii. Floodplain variance is subject the additional criteria of SMC 17E.030.090 and SMC 17E.030.100.

2. Certificate of Compliance.

- a. Written documentation establishes that all necessary permits were issued and inspections conducted, or the current owner of the property is not the same party responsible for the creation of the violation, but is an innocent purchaser for value.
  - b. Approval of the certificate of compliance is necessary to relieve the applicant of a substantial practical or economic hardship; and
  - c. Approval of the certificate of compliance will not adversely affect the neighboring property or the area.
3. Skywalk Permit and Air Rights Use Permit.
- a. The proposed skywalk or air rights use is consistent with the comprehensive plan.
  - b. The proposed skywalk or air rights use conforms to the standards contained in SMC 12.02.0430 through SMC 12.02.0474, unless the design review (~~(committee)~~ board) has approved design deviations.
  - c. The proposed skywalk or air rights use conforms to the standards contained in the development codes.
  - d. The City is compensated for the fair market value of public air space used for any activity other than public pedestrian circulation.
  - e. An agreement, satisfactory to the city attorney, indemnifies and holds the City harmless against all loss or liability, and the applicant obtained approved public liability insurance, naming the City as an additional named insured, with combined limits of five hundred thousand dollars.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date