

ORDINANCE NO. C - 33085

SECURE COMMUNITY TRANSITION FACILITY

An ordinance regulating the process and special permit decision criteria for siting a secure community transition facility; adding two new sections to Chapter 11.19 SMC and amending SMC 11.19.310 and 11.02.0452.

WHEREAS, the Washington State Growth Management Act was recently amended to include a September 1, 2002 deadline for all jurisdictions to establish a process for identifying and siting essential public facilities, and adopt or amend development regulations as necessary to provide for the siting of secure community transition facilities, and

WHEREAS, the City Plan Commission has formulated recommendations to address these statutory requirements, and adopted findings and conclusions which are hereby adopted by the City Council,

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF SPOKANE DOES ORDAIN:

Section 1. That there be created a new section in Chapter 11.19 designated as SMC 11.19.0349 to read as follows:

11.19.0349 Risk Potential Activity or Facility

“Risk potential activity” or “risk potential facility” means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the Special Commitment Center. Risk potential activities and facilities include:

1. public and private schools and their grounds;
2. school bus stops;
3. licensed child daycare and licensed preschool facilities;
4. public parks;
5. publicly dedicated trails;
6. sports fields;
7. playgrounds;
8. recreational and community centers;
9. places of worship such as churches, synagogues, temples, mosques;
10. public libraries;
11. any other risk potential activity or facility identified in siting criteria by the Department of Social and Health Services with respect to siting a secure community transition facility.

Section 2. That there be created a new section in Chapter 11.19. designated as SMC 11.19.03495 to read as follows:

“Secure community transition facility” means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under Chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to RCW 71.09.250 and any community-based facilities established under Chapter 71.09 RCW and operated by the secretary of the state Department of Social and Health Services or under contract with the secretary.

Section 3. That SMC 11.19.310 be amended as follows:

11.19.310 Uses by Special Permit in Any Zone.

Because they have peculiar characteristics and varying impacts depending on design, operation and location, the following listed uses, and such other uses as may be found by the hearing examiner to be similar to these listed uses, may be allowed by special permit from the hearing examiner in any zone subject to such conditions and standards as the examiner may deem necessary:

- A. Airport;
- B. Boarding home (cf. R4 zone);
- C. Broadcasting station and transmitting tower for radio or television (cf. B2-1 zone);
- D. Cemetery or funeral home;
- E. Commercial dish antennae, as used by radio and television broadcasting stations or other installations determined by the planning director to be similar in nature, require a special permit only in the R4 and more restrictive zones;
- F. Electric power plant (cf. M1-1 zone);
- G. Temporary fair, circus, carnival, convention, or similar assembly (cf. B2-1 zone);
- H. Group home;
- I. Art gallery or museum (cf. R0-1 zone);
- J. Hospital, nursing home, or similar facility (cf. R4);
- K. Institution for charitable, educational, or philanthropic purposes, such as a mission or orphanage (cf. B3 zone);
- L. Railroad right-of-way, not including loading, storage, or switching in an R zone (cf. B3 zone);
- M. Private recreational development (cf. R1 and R0 zones);
- N. Retirement home;
- O. Stadium or coliseum (cf. B2 zone);
- P. University or college (cf. R4 zone);

- Q. Utility facilities, including crematory, sanitary landfill or refuse dump and sewage treatment plant.
- R. Essential public facility.
- S. Secure Community Transition Facilities.

Section 4. That SMC 11.02.0452 be amended as follows:

11.02.0452 Decision Criteria - - Zoning Special Permit and Shoreline Conditional Use Permit.

- A. Criteria. The intent of the special permit and conditional use permit criteria procedure is to determine the conditions under which a use may be permitted. These permits are subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses permitted in the surrounding area. A special permit or conditional use permit may be granted only if the following facts and conditions are found to exist:
 - 1. The use is listed as requiring a zoning special permit or a shoreline conditional use permit in those respective regulations;
 - 2. Except for PUDs the proposed use complies with all applicable use and development standards;
 - 3. The proposed use complies with the goals, policies and map designation of the comprehensive plan that apply to it and to the area in which it is proposed to be located;
 - 4. The proposed use is timely considering the capacity of the transportation system, public facilities and services existing in the area, including such improvements that are funded in the City's capital improvement programs;
 - 5. Conditions can be placed on the proposed use to avoid significant adverse affects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use with uses existing in the area;
 - 6. For special permits to construct a wireless communication support tower the following additional criteria apply:
 - a. The need for the proposed wireless communication support tower shall be demonstrated if it is to be located in a residential one or within three hundred feet of an existing residential lot. An evaluation of the operational needs of the wireless communications provider, alternative sites, alternative existing facilities upon which the proposed antenna array might be located, and co-location opportunities on existing support towers within one mile of the proposed site shall be provided. Evidence shall demonstrate that no practical alternative is reasonably available to the applicant.

- b. The proposed tower satisfies all of the provisions and requirements of Section 11.19.4456 and 11.19.4458.
- 7. For shoreline conditional use permits the following additional criteria apply:
 - a. The proposed use will not interfere with the normal public use of public shorelines;
 - 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.
- 8. For special permits to site an essential public facility, the following additional criteria apply:
 - a. Before issuance of a special use permit, the applicant shall have complied with all applicable requirements for the siting of an essential public facility in accordance with state, regional and local mandates.
 - b. Facilities of a similar nature must be equitably dispersed throughout the city.
- 9. A special permit to site a secure community transition facility must comply with the following additional criteria:
 - a. Before issuance of a special use permit, the applicant shall have complied with all applicable requirements for the siting of an essential public facility.
 - b. The siting of a secure community transition facility must comply with all provisions of state law, including requirements for public safety, staffing, security, and training, and those standards must be maintained for the duration of the use.
 - c. A secure community transition facility should be located on property of sufficient size and frontage to allow the residents an opportunity for secure on-site recreational activities typically associated with daily needs and residential routines.
 - d. If state funds are available, the Department of Social and Health Services should enter into a mitigation agreement with the City of Spokane for training and the costs of that training with local law enforcement and administrative staff, and local government staff, including training in coordination, emergency procedures, program and facility information, legal requirements, and resident profiles.
 - e. The applicant must show that the property meets all of the above requirements and, further, if more than one site is being considered, preference must be given to the site furthest removed from risk potential activities or facilities.

B. Time Limitation. A zoning special permit or shoreline conditional use permit automatically expires and becomes void if the applicant fails to

apply for a building permit within three years of the effective date of the special or conditional use permit unless the applicant has received an extension for the special permit or conditional use permit as provided in Section 11.02.0280.

C. Modification. In issuing building permits for construction under a zoning special permit or shoreline conditional use permit the building official may, with concurrence of the planning director, permit minor adjustments of the location and/or dimensions of buildings, parking areas and roadways as long as such adjustments do not change any points of ingress or egress to the site unless approved by the traffic engineer, change any perimeter setbacks, or exceed the density authorized in the permit. No modification of an approved application may be considered approved unless specifically provided in writing.

1. The planning director may, without public notice, modify a special permit or conditional use permit, if all of the following criteria are met:

- a. The use will remain the same;
- b. The total site coverage and the total area covered by buildings will not increase;
- c. The site plan was not part of an original decision reached through mediation as provided in subsection 11.02.0740.I;
- d. The use will continue to comply with all conditions of approval imposed by the decision allowing the use;
- e. The use will comply with all of the requirements of the land use codes applicable to it and to the property upon which it is or will be located; and
- f. Protected view points or corridors are not impacted by the proposed change.
- g. Any modification of a zoning special permit or shoreline conditional use permit not consistent with the criteria above may be approved only pursuant to the procedures for granting the original permit.

Passed by the City Council _____, 2002.

Rob Higgins, Council President

Attest: _____
City Clerk

John Powers, Mayor

Dated: _____

Approved as to form:

Assistant City Attorney