



Agenda Sheet for City Council Meeting of:
05/02/2022

Date Rec'd	4/15/2022
Clerk's File #	ORD C36206
Renews #	
Cross Ref #	ORD C36204 ORD C36205
Project #	
Bid #	
Requisition #	

Submitting Dept	PLANNING & ECONOMIC DEVELOPMENT
Contact Name/Phone	DEAN GUNDERSON EXT 6082
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Agenda Item Type	First Reading Ordinance
Agenda Item Name	0650- NEW DESIGN GUIDELINES

Agenda Wording

New Design Guidelines for Public Projects and Structures, Skywalks over Public Right-of-Way, and City-Wide projects supported by amendments to the Spokane Municipal Code (SMC).

Summary (Background)

The adoption of these provisions will be undertaken via three ordinances. The first ordinance adopts the new design guidelines into the SMC. The second ordinance amends a portion of Title 12 and adopts a new chapter for Skywalks in Title 17C. The third ordinance amends portions of the SMC to clarify the formal design review process.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact	Budget Account	PASSED BY
Neutral \$	#	SPOKANE CITY COUNCIL:
Select \$	#	5/9/2022
Select \$	#	Len Hjorte
Select \$	#	CITY CLERK

Approvals	Council Notifications
Dept Head BLACK, TIRRELL FIRST READING OF THE ABOVE ORDINANCE HELD ON 5/2/2022 AND FURTHER ACTION WAS DEFERRED Len Hjorte CITY CLERK	Study Session\Other Urban Experience: August 2019, Urban Experience: September 2021, Urban Experience: April 13, 2022, City Council Advance Agenda: April 25, 2022
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ORDINANCE NO. C36206

AN ORDINANCE RELATING TO THE DESIGN REVIEW PROCESS; AMENDING SMC SECTIONS 08.02.0665, 17G.030.020, 17G.060.070, AND 17G.060.170.

WHEREAS, through Chapter 04.13 of the Spokane Municipal Code, the City has established a Design Review Board to ensure that development projects subject to design review are consistent with adopted design guidelines and help to implement the City's Comprehensive Plan; and

WHEREAS, the City of Spokane has adopted three types of development review criteria that guide development of the built environment – (i) Development Standards, (ii) Design Standards, and (iii) Design Guidelines; and

WHEREAS, the focus of the Design Review Board is on ensuring the projects are consistent with Design Guidelines, whereas Development Standards and Design Standards are generally administered by development services staff, department directors, or the hearing examiner, depending on the permit application type; and

WHEREAS, the City has yet to adopt Design Guidelines for a number of project types that trigger the Design Review Process, including skywalks located above public ways, public projects or structures, and any other project subject to design review as required by code; and

WHEREAS, the City finds that it necessary to update its design review regulations to provide the Design Review Board with the necessary tools to (i) improve communication and participation among developers, neighbors, and the City early in the design and siting of new development projects subject to design review, (ii) ensure that projects subject to design review under the Spokane Municipal Code are consistent with adopted design guidelines and help implement the City's comprehensive plan, (iii) advocate for the aesthetic quality of Spokane's public realm, (iv) encourage design and site planning that responds to context, enhances pedestrian characteristics, considers sustainable design practices, and helps make Spokane a desirable place to live, work, and visit, and (v) provide flexibility in the application of development standards as allowed through development standard departures; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying its adoption of this ordinance; therefore

THE CITY OF SPOKANE DOES ORDAIN:

Draft for PC Hearing, 4/13/2022

Section 1. That SMC section 08.02.0665 is amended as follows:

Section 08.02.0665 Design Review

When design review is required or conducted under the provisions of chapter 4.13 SMC or ~~((chapter 11.19 SMC))~~ chapter 17G.040 SMC, fees shall be as follows:

- A. ~~((Review))~~ Design review conducted by the urban design staff: Six hundred dollars.
- B. ~~((Review))~~ Design review conducted by the design review ~~((committee))~~ board: One thousand two hundred seventy-five dollars.

Section 2. That section 17G.030.020 is amended as follows:

Section 17G.030.020 Applicable Standards

A. Design Departures.

Design departures may be sought for design standards that are identified as Requirements (R) or Presumptions (P). Design departures are not for development standards (i.e., floor area ratio, building height, setbacks and sidewalks, etc.). The sections that allow for design departures include:

~~((1. site and building design standards (i.e., ground floor windows, base/middle/top, articulation, etc.) contained in chapter 17C.120 SMC.))~~

~~((2. the design standards found in chapter 17C.160 SMC, North River Overlay.))~~

1. Those applicable design standards found in chapter 17C.110 Residential Zones.

2. Those applicable design standards found in chapter 17C.120 Commercial Zones.

3. Those applicable design standards found in Attachment "A" of chapter 17C.122, section 17C.122.060 Center and Corridor Zones.

4. Those applicable design standards found in chapter 17C.124 Downtown Zones.

5. Those applicable design standards found in chapter 17C.130 Industrial Zones.

6. Those applicable design standards found in chapter 17C.160 North River Overlay.

7. Those applicable design standards found in chapter 17C.250 Tall Building Standards.

8. Those applicable design standards found in chapter 17G.070 Planned Unit Developments.

9. Any other design standards found in title 17 written as Requirements (R) or Presumptions (P).

Section 3. That section 17G.060.070 is amended as follows:

SMC 17G.060.070 Application Requirements

A. Application requirements for Type I, II, and III project permit applications shall contain the following:

1. Predevelopment meeting summary as provided in SMC 17G.060.050(B), if required in Table 17G.060-3.
2. Application documents provided by the department specifically including:
 - a. General application;
 - b. Supplemental application;
 - c. Environmental checklist, if required under chapter 17E.050 SMC;
 - d. Filing fees as required under chapter 8.02 SMC;
 - e. A site plan drawn to scale showing:
 - i. property dimensions;
 - ii. location and dimensions of all existing and proposed physical improvements;
 - iii. location and type of landscaping;
 - iv. walkways and pedestrian areas;
 - v. off-street parking areas and access drives;
 - vi. refuse facilities; and

- vii. significant natural features, such as slopes, trees, rock outcrops including critical areas.
- f. Required number of documents, plans, or maps (as set forth in the application checklist);
- g. Written narrative identifying consistency with the applicable policies, regulations, and criteria for approval of the permit requested;
- h. Other plans, such as building elevations, landscaping plans, or sign plans, which are determined by the permitting department to be necessary to support the application; and
- i. Additional application information may be requested by the permitting department and may include, but is not limited to, the following:
 - i. geotechnical studies,
 - ii. hydrologic studies,
 - iii. critical area studies,
 - iv. noise studies,
 - v. air quality studies,
 - vi. visual analysis, and
 - vii. transportation impact studies.

B. The following Type II and III applications shall meet the requirements in this subsection in addition to the provisions of subsection (A) of this section:

- 1. Shoreline – Substantial Development Permit, Conditional Use Permit and Variance.
 - a. Name, address, and phone number of the applicant.
The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
 - b. Name, address, and phone number of the applicant's representative if other than the applicant.
 - c. Name, address, and phone number of the property owner, if other than the applicant.

- d. Location of the property.
This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute.
- e. Identification of the name of the shoreline (water body) with which the site of the proposal is associated.
- f. General description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
- g. General description of the property as it now exists, including its physical characteristics and improvements and structures.
- h. General description of the vicinity of the proposed project, including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
- i. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - i. the boundary of the parcels(s) of land upon which the development is proposed;
 - ii. the ordinary high-water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high-water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high-water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high-water mark of a shoreline;
 - iii. existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will

not be altered by the development may be indicated as such and contours approximated for that area;

- iv. a delineation of all wetland areas that will be altered or used as a part of the development;
- v. the dimensions and locations of all existing and proposed structures and improvements, including but not limited to: buildings, paved or graveled areas, roads, utilities, material stockpiles or surcharge, and stormwater management facilities;
- vi. an inventory of the existing vegetation on the proposed project site, including the location, type, size, and condition, pursuant to SMC 17E.060.240, Shoreline Vegetation Inventory;
- vii. a landscape plan prepared and stamped by a licensed landscape architect, registered in the state of Washington;
- viii. where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included;
- ix. quality, source and composition of any fill material that is placed on the site, whether temporary or permanent;
- x. quantity, composition and destination of any excavated or dredged material;
- xi. vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties;
- xii. where applicable, a depiction of the impacts to views from existing residential uses;
- xiii. on all variance applications, the plans shall clearly indicate where development could occur without the approval of a variance, the physical features and circumstances of the property that provide a basis for the request, and the location of adjacent structures and uses.

2. Certificate of Compliance.

- a. Site plan is to be prepared by a licensed surveyor; and

- b. Copies of building permits or other data necessary to demonstrate the building was erected in good faith and all reasonable efforts comply with the code.
- 3. Plans-in-lieu of Compliance.
 - a. Alternative development plan designed in conformance with the applicable development regulations; and
 - b. A written narrative of how the proposed development plan is superior, or more innovative, or provides greater public benefit.
- 4. Preliminary Plat, Short Plat, and Binding Site Plan.
As provided in chapter 17G.080 SMC.
- 5. PUD.
 - a. Profiles of any structures more than one story, shown in relation to finished grade.
 - b. Location, dimension, and boundary of proposed open space.
 - c. Site plan demonstrating compliance with (~~chapter 11.19 SMC~~) title 17C SMC including signs, off-street parking, structure height, building coverage, yards, density, screening, buffering, and lighting.
- 6. Skywalk.
 - a. A legal description of airspace to be occupied.
 - b. Architectural and engineering plans.
 - c. Artist's rendering of the proposed skywalk; and
 - d. Written narrative of the access for the public from the street, other buildings, and other skywalks.
 - e. Acceptance of the final design review recommendations.
 - f. Location and design of all wayfinding signage to be placed to ensure public access.

7. Floodplain – Floodplain Development Permit and Variance.
As provided in chapter 17E.030 SMC.

Section 4. That section 17G.060.170 is amended as follows:

Section 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. Consistency 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.

The purpose of a shoreline conditional use permit is to provide a system within the shoreline master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the shoreline master program.

- a. Uses classified or set forth in these shoreline regulations in Table 17E.060-4 as conditional uses, as well as unlisted uses, may be authorized provided the applicant can demonstrate all of the following:
 - i. The proposed use is consistent with the policies of RCW 90.58.020 and the shoreline master program.
 - ii. The proposed use will not unreasonably interfere with the normal public use of public shorelines.
 - iii. 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.
 - iv. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and the shoreline master program.
 - v. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located, and the public interest in enjoying physical and visual access suffers no substantial detrimental effect.
- b. Consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were to be granted for other developments in the area where

similar circumstances exist, the total of the conditional and shall not produce substantial adverse effects to the shoreline environment.

- c. Other uses which are not classified or set forth in the shoreline master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the shoreline master program.
- d. Uses which are specifically prohibited by the shoreline master program shall not be authorized by conditional use.

3. Shoreline Variance Permit.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in shoreline master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the shoreline master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

- a. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and demonstrate that the public interest in enjoying physical and visual access to the shorelines shall suffer no substantial detrimental effect.
- b. Variance permits for development and/or uses that will be located landward of the ordinary high-water mark, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - i. That the strict application of the bulk, dimensional, or performance standards set forth in the shoreline master program regulations precludes, or significantly interferes with, reasonable use of the property.
 - ii. That the hardship described in (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the shoreline master program regulations, and not, for example, from deed restrictions or the applicant's own actions.
 - iii. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the

comprehensive plan and SMP regulations and will not cause adverse impacts to the shoreline environment.

- iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
 - v. That the variance requested is the minimum necessary to afford relief.
 - vi. That the public interest in enjoying physical and visual access to the shorelines will suffer no substantial detrimental effect.
- c. Variance permits for development and/or uses that will be located waterward of the ordinary high-water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
- i. That the strict application of the bulk, dimensional, or performance standards set forth in the shoreline master program precludes all reasonable use of the property.
 - ii. That the proposal is consistent with the criteria established under WAC 173-27-170(2)(b) through (f); and
 - iii. That the public rights of navigation and use of the shorelines will not be adversely affected.
- d. In the granting of variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were to be granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- e. Variances from the use regulations of the shoreline master program are prohibited.
4. PUD and Plans-in-lieu.

All of the following criteria are met:

a. 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).

b. Architectural and Site Design.

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

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

5. 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. 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)) SMC 12.02 Article III and the skywalk conforms to the standards contained in SMC 17C.255.500 through SMC 17C.255.530, unless the design review 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.

Section 5. Severability Clause. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, the decision shall not affect the validity of the remaining portions of this ordinance.

Passed by the City Council on May 9, 2022.

Jon Kerner *Two Term*
Council President

Attest:

Lem Hyslop
City Clerk

Marie Hudward
Mayor



Approved as to form:

David
Assistant City Attorney

5/20/22
Date

June 19, 2022
Effective Date