



City of Tacoma
Planning and Development Services

**Agenda Item
D-3**

To: Planning Commission
From: Elliott Fitzgerald, Planning Services Division
Subject: **Plan and Code Cleanup (Annual Amendment #2015-10)**
Meeting Date: April 15, 2015
Memo Date: April 9, 2015

At the next meeting on April 15, 2015, the Planning Commission will continue to review the proposed minor amendments to the Land Use Regulatory Code and the Comprehensive Plan, as part of the 2015 Annual Amendment. These amendments are intended to update information, address inconsistencies, correct minor errors, and improve administrative efficiency of the Code and the Plan.

At a previous meeting on February 18, 2015, staff presented a full list of proposed amendments for the Commission's review. Based on the Commission's feedback, staff has identified the following three items for more discussion with the Commission on April 15th:

- Allowing height variances for structures that are not accessory buildings, as well as those that are outside of the View-Sensitive Overlay District
- Allowing reasonably-sized apartment signs in Residential Districts
- Having a clear "sunset clause" for discontinued Conditional Use Permits

Attached is a discussion outline for these issues to facilitate the Commission's review and discussion. Staff will seek the Commission's feedback and policy guidance, and continue to analyze these issues as directed.

If you have any questions, please contact Elliott Fitzgerald at (253) 591-5379, or at efitzgerald@cityoftacoma.org.

Attachment

c: Peter Huffman, Director

Height Variances

Issue: Should Height Variances be allowed outside of View Sensitive Districts for main houses?

Height variances are a mechanism to provide some relief from zoning height limits, when special circumstances exist. Currently, height variances are only available for main houses within VSD areas, though they are available for accessory structures.

Currently, exceptions to height limitations are permitted through three code mechanisms:

- Variances
- General exceptions
- Conditional Uses

Should height variances be extended beyond VSD's, they could be incorporated within one or more of these frameworks.

Variances:

TMC 13.06.645 categorizes variances into seven specified types. The first three specified variances could serve as models for height variances outside VSD areas. The criteria used in each is included below.

1. Development regulations (bulk, area)
 - Included: building setbacks, building location, lot coverage, lot area, lot width, lot frontage, yard space, and minimum-density requirements
 - Not included: sign development standards, design standards, **height**, parking lot development standards, or off-street parking quantity standards
2. Accessory buildings – height
 - Shall in no instance exceed 25 ft.
3. View-Sensitive Overlay District – height
 - Allows for the construction of a building above the 25-foot height limit
 - Building height cannot exceed the height of the underlying zoning district

Variances are divided into two types: A minor variance is one in which the code relief requested is within 10 percent of the quantified standard contained in the code; a variance is one in which the code relief is beyond the 10 percent threshold.

Code Citation:

1. Variance to development regulations (bulk, area)

- a) *Applicability. These shall include variances to building setbacks, building location, lot coverage, lot area, lot width, lot frontage, yard space, and minimum-density requirements. These shall not include variance to sign development standards, to design standards, height, parking lot development standards, or off-street parking quantity standards.*
- b) *Criteria. The Director may, in specific cases, authorize a variance to the development regulations, subject to the criteria set forth below. In granting a variance, the Director or Hearing Examiner may attach thereto such conditions*

regarding the location, character and other features of the proposed structure as may be deemed necessary to ensure consistency with the intent of the Code and Comprehensive Plan and to ensure that the use of the site will be as compatible as practicable with the existing development on the site and surrounding uses. All of the following facts and circumstances must exist:

- 1) *The restrictive effect of the specific zoning regulation construed literally as to the specific property is unreasonable due to unique conditions relating to the specific property, and which do not result from the actions of the applicant, such as: parcel size; parcel shape; topography; location; documentation of a public action, such as a street widening; proximity to a critical area; location of an easement; or character of surrounding uses.*
- 2) *The requested variance does not go beyond the minimum necessary to afford relief from the specific hardship affecting the site.*
- 3) *The grant of the variance would allow a reasonable use of the property and/or allow a more environmentally sensitive site and structure design to be achieved than would otherwise be permitted by strict application of the regulation, but would not constitute a grant of special privilege not enjoyed by other properties in the area.*
- 4) *The grant of the variance will not be materially detrimental or contrary to the Comprehensive Plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners.*
- 5) *The grant of the variance will not cause a substantial detrimental effect to the public interest.*
- 6) *Standardized corporate design and/or increased development costs are not cause for variance.*

2. Accessory buildings – height.

- a) *Applicability. The construction of an accessory building which exceeds the height limit may be authorized upon a lot in the following instances; provided, in no instance shall the height of an accessory building be allowed to exceed 25 feet.*
 1. *Additional height is necessary to accommodate building door clearance to allow for the storage of a recreational vehicle or tailored boat.*
 2. *The subject property is affected by steep topography, which precludes development of detached garages for personal vehicles.*
 3. *The subject property is affected by a hardship situation where the rear yard area of a site abuts an alley and the topography of such area is affected by a slope of such severity as to preclude development under this subsection. In this instance, the height of the structure shall be measured from the grade of the abutting alley right-of-way to the highest point of the roofline.*
 4. *The additional height is necessary to provide architectural compatibility between the accessory buildings and the main building, for features such as roof pitch and style.*
- b) *Criteria. The Director may, in specific cases, authorize a variance to the height of accessory buildings, subject to the criteria set forth below. All of the following facts and circumstances must exist:*
 1. *Additional height shall be the minimum necessary to afford relief.*
 2. *The variance is in the interest of the general public.*
 3. *The variance is in the general interest of the particular neighborhood.*
 4. *For purposes of this variance, the interest of the general public and the general interest of the particular neighborhood are indicated, in part, by the Comprehensive Plan.*

3. View-Sensitive Overlay District – height.

- a) *Applicability. In the View-Sensitive Overlay District, the construction of a building above the 25-foot height limit will be allowed if approved by the Land Use Administrator; provided, however, the height of a building cannot exceed the height of the underlying zoning district from the existing grade or, when applicable, the grade approved by the Director.*
- b) *It is intended that the Director balance the interests of the applicant who wishes to build or remodel and the interests of the surrounding property owners who wish to preserve their view. There should be an awareness by all parties*

involved that every property owner does have the right to build on their property and that the proposed construction will have an impact on neighboring parties. Any negative impact should be minimized.

- c) *For purposes of this variance, the interest of the general public and the general of the particular neighborhood are indicated, in part, by the Comprehensive Plan.*
- d) *Criteria. In reviewing requests for this variance, the Director shall consider, but shall not be limited to, the following:*
 - 1. *The extent of the view;*
 - 2. *The impact of the proposed construction on the view from adjacent properties;*
 - 3. *The effect of any possible restrictions on the proposed construction, the character of the area;*
 - 4. *The topography of the site and surrounding properties;*
 - 5. *The variance is in the interest of the general public;*
 - 6. *The variance is in the general interest of the particular neighborhood.*
- e) *Mitigation. The following factors shall be considered as mitigating circumstances which may make approval of this variance more appropriate:*
 - 1. *Orientation of the ridgeline to minimize view impairment;*
 - 2. *Style of roof;*
 - 3. *Increased setback from the street and/or the side lot line;*
 - 4. *The placement of the structure(s) on the site.*

General exceptions (TMC 13.06.602):

Exceptions to building height limits are also permitted for specified land uses (e.g., schools, libraries, churches), and for non-occupied architectural features.

Code citation:

3. Height. Any building, structure, or portion thereof, hereafter erected, shall not exceed the height limits established for the district wherein such building or structure is located except:

c. Schools, libraries, structures for religious assembly, colleges. In districts with a height limit of 35 feet, these facilities, where permitted a use, are allowed at a maximum 45 feet in height.

d. Structures, above height limits. Chimneys, tanks, towers, cupolas, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, open railings, and/or similar necessary building appurtenances may exceed the district height limit provided all structural or other requirements of the City of Tacoma are met and no usable floor space above the district height limit is added.

e. Shipping cranes or other freight moving equipment are exempt from height limits.

f. Solar panels/collectors are allowed to exceed the maximum height limit provided they do not extend more than 12-inches above the surface of the roof, as measured to the upper side of the solar panel, and on pitched roof do not extend above the ridgeline.

g. For the purpose of adding insulation to the exterior of the existing building structural frame, the maximum allowable roof height may be increased by 8 inches, only. Existing buildings not conforming to development standards shall not exceed the maximum allowable height limit by more than 8 inches. This exception is not applicable within view-sensitive districts.

Conditional Uses (TMC 13.06.640):

The Conditional Use Permit (CUP) process is also linked to building height variances. The height of buildings with conditional uses (i.e., airports, religious assembly, schools, public safety and public

services facilities, hospitals, wireless communication towers or wireless facilities, utilities, parks and recreation, and surface mining) may be authorized to exceed the height limit set forth in the zoning district in which such uses are located; provided, such height is consistent with CUP criteria.

However, for uses that are permitted outright, there is absolutely no outlet to achieve project-specific height bonuses (e.g., hotels in C-2 districts can never exceed 45 ft.; a gymnasium or auditorium for a school or church can never exceed 45 ft. in any zoning district; transportation/freight terminals in M-1 districts can never exceed 75 ft.).

Code citation:

B. Conditional Use and Height... the Director or Hearing Examiner may authorize the height of buildings with conditional uses to exceed the height limit set forth in the zoning district in which such uses are located; provided, such height is consistent with the criteria contained in subsection C of this section.

Most projects will use the criteria under TMC 13.06.640.C.

1. *There shall be a demonstrated need for the use within the community at large which shall not be contrary to the public interest.*
2. *The use shall be consistent with the goals and policies of the Comprehensive Plan, any adopted neighborhood or community plan, and applicable ordinances of the City of Tacoma.*
3. *The use shall be located, planned, and developed in such a manner that it is not inconsistent with the health, safety, convenience, or general welfare or persons residing or working in the community. The following shall be considered in making a decision on a conditional property use:*
 - a) *The generation of noise, noxious or offensive emissions, or other nuisances that may be injurious or to the detriment of a significant portion of the community.*
 - b) *Availability of public services that may be necessary or desirable for the support of the use. These may include, but shall not be limited to availability of utilities, transportation systems (including vehicular, pedestrian, and public transportation systems), educational, police and fire facilities, and social and health services.*
 - c) *The adequacy of landscaping, screening, yard setbacks, open spaces, or other development characteristics necessary to mitigate the impacts of the use upon neighboring properties.*

Benchmarking:

Many municipalities provide relief from height limitations in one or more of these manners. Many include a broad statement about the general provisions and applicability of all variances. Some reference all instances of potential variances, with or without building height included; others only explicitly state which variances shall not be granted, with building height listed here in some cases.

Policy questions/considerations:

1. Under what circumstances should buildings and structures be allowed to exceed height limits?
2. Which process(es) are most appropriate?
3. How should additions to pre-existing structures that are legally non-conforming to height be viewed?

Apartment signs size limitations

Issue: Should the current limitations on apartment signs be eased to allow for reasonable sized signs?

The residential districts don't have any allowance for signs other than real estate signs, home occupation signs, and signs for parks, recreation and open space uses.

Current TMC sign size regulations (13.06.522):

R-1, R-2, R-2SRD, R-3, NRX, HMR-SRD

- 1 ½ sq. ft. – Nameplates (non-illuminated)
 - Must be placed flat against the building
 - Allowed for: adult family homes, staffed residential homes, group homes, residential care facilities, family day care homes, boarding homes, lodging houses
- 12 sq. ft. – Real Estate Signs (non-illuminated)
 - Must pertain to the lease, rental, or sale of a building or premises on which it is located
- 30 sq. ft. – Ground signs for subdivision identification
 - Must be approved by the Director

R-4, R-4-L, R-5, PRD

- 30 sq. ft. – free standing or building face sign
 - No more than six ft. high
 - Indirect illumination, floodlighting, or internal illumination only
 - Only identifying name of development/business & may contain info related to rental or sale of units
 - Permanent materials only (no cardboard, cloth, paper, etc.)
 - Not permitted in right-of-way

Some conditional uses in residential districts allow free standing signs and/or building face signs (i.e., public park facilities, public and private schools, religious assembly facilities).

Home Occupation Standards

- 1 ½ sq. ft. – Nameplate (non-illuminated)
 - Must be placed flat against the building

Policy questions/considerations:

- 1) Density Thresholds – should signs be allowed on single-family homes and duplexes?
- 2) Should provisions be in place regarding sign design/aesthetics?
 - What material will be allowed for signs and supporting structures?
 - What will be the maximum illumination allowed?
- 3) Number, Size, and Setbacks
 - One sign per street frontage?
 - How close can signs be to adjacent property lines?

Conditional Use Permits “sunset clause”

Issue: Should Conditional Use Permits (CUPs) for uses/sites which have remained vacant expire?

Currently the TMC appears to allow conditional uses indefinitely. Allowing the reestablishment of conditionally-permitted uses after a long period of vacancy may cause impacts that were not originally foreseen and addressed when the use was originally permitted. TMC 13.06.630 addresses the continuation of nonconforming uses.

Policy questions/considerations:

1. After a Conditional Use has been vacant for a certain amount of time, should there be a new conditional use permit to reestablish the use?
2. What is the maximum amount of time a property can remain vacant before its conditionally permitted use status expires?
3. Should the “sunset clause” for discontinued CUPs be different, depending on the type of use (i.e., nursing homes, fraternity and sorority housing, surface mining)?