



City Council Study Session

AGENDA REVISED

April 14, 2015

6:30 pm – 10:00 pm

Call to Order

Public Comment

Note: *This is an opportunity for the public to address the Council. Three-minutes limit per person or five-minutes if representing the official position of a recognized community organization. If you would like to show a video or PowerPoint, it must be submitted or emailed by 5 pm, the end of the business day, to the City Clerk, Melonie Anderson at manderson@sammamish.us*

Topics

- Comprehensive Plan Update
 - Introduction
 - Housing
 - Land Use

- Uses in the R-Zone

- Discussion: Community Services Coordinator Position

Executive Session – Personnel Pursuant to RCW42.30.110(1)(g)

Adjournment

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance. Assisted Listening Devices are also available upon request.



Memorandum

Date: April 10, 2015

To: Ben Yazici, City Manager

From: Jeff Thomas, Community Development Director

Re: Non-residential uses in residential zones

At the March 10, 2015 study session, the City Council heard a presentation providing background information on regulation of group homes, day cares, religious uses, and schools located in residential zones.

The presentation covered Sammamish's code provisions and a comparison with the provisions of neighboring jurisdictions. A brief summary of the limitations on local regulation by state and federal law was also covered.

The City Council requested that staff return with a summary of topical areas that could be subject to further regulation given the limitations of state and federal law. The following table is a summary of the areas that have received council or public comment or concern, followed by possible regulatory provisions and associated comment in italics regarding feasibility.

Please note that many municipal codes also contain provisions related to "reasonable accommodation" to allow modifications of standards to accommodate the needs of persons with disabilities. Reasonable accommodation is required under the federal Fair Housing Act and Washington Housing Policy Act. The Sammamish Municipal Code does not currently include provisions for reasonable accommodation, which should be incorporated into any proposed amendment.

After review of the following information, the City Council would be in a position to provide direction as to whether the Planning Commission should consider amendments to the municipal code in any of these areas.

Regulatory Options for Non-Residential Uses in Residential Zones

	CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<i>Group Homes</i>	<ul style="list-style-type: none"> ▪ 6 or fewer residents + staff: Building Inspection, no special requirements ▪ 7-10 residents + staff: Conditional Use Permit in single family residential zones ▪ 11 or more residents: Not permitted in single family residential zones 	<p>Traffic:</p> <p>Smaller facilities - SFR (6 or fewer): Regulated as single family, no known options.</p> <p>Larger facilities – CRF I/II (7 or more): Limit proximity of facilities to each other (i.e. dispersed/sited certain distance from one another). Alternatively, adopt additional traffic review criteria. <i>The regulation cannot discriminate based on handicap or other protected class. The reasons for the regulation must be legitimate and nondiscriminatory.</i> <i>Feasible if having a cluster of group homes would alter the character of the neighborhood or not be in the best interest of group home residents.</i></p>	<p>PRO</p> <ul style="list-style-type: none"> • Dispersion of group homes may ease traffic if a large cluster of homes exists, and is generating more traffic than other residential uses would. 	<p>CON</p> <ul style="list-style-type: none"> • Distinguishing larger group homes from residential homes with a large number of occupants may raise discrimination concerns.
		<ul style="list-style-type: none"> ▪ Two off-street parking spaces required for single family residences ▪ Community Residential Facilities (CRF) 1 or 2: one 	<p>Parking:</p> <p>Smaller facilities – SFR (6 or fewer): Revise code to require more off-street parking for all single family homes with more than a specified number of bedrooms.</p> <p>Larger facilities – CRF I/II (7 or more): Increase</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Increased parking requirements may help divert cars that would otherwise park in the ROW.

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<ul style="list-style-type: none"> per two bedrooms, reduction of 50% possible 	<p>parking requirements.</p>		<ul style="list-style-type: none"> Increased parking requirements may create a burden for single family homes with more than the specified number of bedrooms. Impervious surfaces would be increased.
<ul style="list-style-type: none"> No current requirements 	<p>Light Trespass: Require the use of Dark Sky Initiative standards/cut-off lighting.</p>	<p>PRO</p> <ul style="list-style-type: none"> Lighting that shines only downward will prevent light trespassing on to neighboring areas. 	<p>CON</p> <ul style="list-style-type: none"> Lighting standards may create nonconforming situations for existing facilities
<ul style="list-style-type: none"> Public disturbance noise provisions are applicable, Chapter 8.15 SMC 	<p>Noise: Revise code to further define noise and establish allowable noise limits differently.</p>	<p>PRO</p> <ul style="list-style-type: none"> Less incompatible circumstances resulting from noise. 	<p>CON</p> <ul style="list-style-type: none"> Noise standards may create nonconforming situations for existing facilities
<ul style="list-style-type: none"> Centralized collection points for trash and recycling are 	<p>Poor sanitation/inadequate garbage service: Larger facilities CRF I/II (7 or more): No code amendment identified</p>		

	CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
			PRO	CON
	required.	<p>Zoning limitations on location:</p> <p>Smaller facilities – SFR (6 or fewer): Regulated as single family, no known options.</p> <p>Larger facilities CRF I/II (7 or more): Larger group homes can be subject to zoning limitations if there is a legitimate, nondiscriminatory reason.</p>	<ul style="list-style-type: none"> Improved compatibility in location. 	
Day Cares	<ul style="list-style-type: none"> 12 or fewer adults + children- Daycare I: Permitted More than 12 adults + children- Daycare II: Permitted if reuse of public school facility or accessory use to certain primary uses, otherwise Conditional Use Permit 	<p>Traffic:</p> <p>Smaller facilities – Daycare I (12 or fewer). Require that a Daycare I for children is certified by the department of early learning licensor and require the provision of a safe passenger loading area.</p> <p>Change the definition of Daycare I to exclude adult care facilities with more than 6 adults being cared for.</p> <p><i>In general, state statute requires zoning regulations on Daycare I for children (12 or fewer) and adults (6 or fewer) to be no more restrictive than conditions imposed on other residential dwellings in the same zone. Limited regulation specific to Daycare I for children is allowed by state statute and is described in "Other" below.</i></p> <p>Larger facilities – Daycare II (13 or more). Limit proximity of facilities to each other (i.e. dispersed/sited certain distance from one another). Alternatively, adopt additional traffic review criteria.</p>	<p>PRO</p> <ul style="list-style-type: none"> Reduces potential conflicts with passenger loading and other traffic. Excludes some adult daycare facilities from allowances associated with child daycares. Dispersion may help decrease traffic impacts Reduction in the number of trips 	<p>CON</p> <ul style="list-style-type: none"> Drop-off standards may create nonconforming situations for existing facilities Proposed drop-off areas will increase impervious surfaces May be perceived to have a discriminatory effect

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<ul style="list-style-type: none"> ▪ Two parking spaces per single family residence ▪ Daycare I – 2 per facility ▪ Daycare II- 2 per facility plus 1 per 20 children ▪ No current requirements 	<p>Regulate as home businesses.</p>	<p>associated with the use</p>	
	<p>Parking:</p> <p>Smaller facilities - Daycare I (12 or fewer).</p> <p>Revise code to require more off-street parking for all single family residences with more than a specified number of bedrooms.</p> <p>Alternatively, adopt additional parking requirements consistent with home business regulations.</p> <p><i>Regulation as a home business may be seen as a violation of state statute. The argument being the City is treating them differently than other single family homes. The City could argue that all single family homes operating a business are subject to the home business regulations.</i></p> <p>Larger facilities – Daycare II (13 or more).</p> <p>Increase parking requirements.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Reduction in on-street parking. ▪ Reduction in on-street parking. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Appearance may be less compatible with surrounding neighborhood. ▪ Increased parking requirements may create a burden for single family homes with more than the specified number of bedrooms. ▪ Impervious surface would be increased. ▪ Impervious surface would be increased.
	<p>Light Trespass:</p> <p>Require the use of Dark Sky Initiative standards/cut-off lighting.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Lighting that shines only downward will prevent light trespassing on to neighboring areas. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Light standards may create nonconforming situations for existing facilities

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<ul style="list-style-type: none"> ▪ Public disturbance noise provisions are applicable, Chapter 8.15 SMC ▪ Code already requires sanitary disposal of garbage ▪ Centralized collection points for trash and recycling are required. 	<p>Noise:</p> <p>Revise code to define noise and establish allowable noise limits differently.</p> <p>Daycare I and 2 can be regulated to limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.</p> <p>Revise design standards for outdoor play areas</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Noise standards for this use may address the concern. ▪ Revised standards for play area locations and design may reduce noise. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Will likely reduce the allowable location of larger facilities ▪ Noise / design standards may create nonconforming situations for existing facilities
	<p>Poor sanitation/inadequate garbage service:</p> <p>No code amendment option identified.</p>		
	<p>Zoning limitations on location:</p> <p>Smaller facilities – Daycare I (12 or fewer). Family Day Cares are to be regulated other single family homes.</p> <p>Larger facilities – Daycare II (13 or more). Limit proximity of facilities to each other (i.e. dispersed/sited certain distance from one another).</p> <p>Other:</p> <p>Daycare I for children may be regulated to (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c)</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Dispersion may help decrease traffic impacts, especially during peak pick-up and drop-off times. ▪ Conformance with lot size, building size, and setbacks may limit the placement of new Daycare 1 for children in existing residential 	<p>CON</p> <ul style="list-style-type: none"> ▪ Dispersion may limit the availability of day cares in locations where they are needed. ▪ New standards may create nonconforming situations for existing facilities

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
	<p>is certified by the department of early learning licenser as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.</p> <p>Require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licenser may provide a forum to resolve the dispute. The City may also offer the use of mediation services to resolve land use disputes.</p>	<p>neighborhoods.</p> <ul style="list-style-type: none"> ▪ Creates an additional opportunity for dispute resolution after the daycare facility is created. 	
<p>Religious Uses</p>	<ul style="list-style-type: none"> ▪ Conditional Use Permit <p>Traffic: Require religious institutional uses to be on a street of a sufficiently high classification (e.g. Minor Arterial) to address concern.</p> <p><i>Compelling community interest as the basis for the regulation is required. Must not substantially burden the exercise of religion</i></p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Would put use on a street that is designed to handle heavy traffic. 	<p>CON</p> <ul style="list-style-type: none"> ▪ May limit opportunities to establish religious facilities
	<ul style="list-style-type: none"> ▪ 1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed <p>Parking: Increase parking requirement.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Increased parking requirement could reduce demand for 	<p>CON</p> <ul style="list-style-type: none"> ▪ Increased parking would create more impervious surfaces

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
seats used for assembly purposes		parking in ROW and neighboring sites.	and pollution-generating surfaces.
<ul style="list-style-type: none"> No current requirements 	<p>Light Trespass:</p> <p>Require the use of Dark Sky Initiative standards/cut-off lighting.</p>	<p>PRO</p> <ul style="list-style-type: none"> Lighting that shines only downward will prevent light trespassing on to neighboring areas. 	<p>CON</p> <ul style="list-style-type: none"> Implementing new lighting standards may create nonconforming situations for existing facilities.
<ul style="list-style-type: none"> Public disturbance noise provisions are applicable, Chapter 8.15 SMC 	<p>Noise:</p> <p>Revise code to define noise and establish allowable noise limits differently.</p>	<p>PRO</p> <ul style="list-style-type: none"> A standard for allowable noise may increase compatibility. 	<p>CON</p> <ul style="list-style-type: none"> Noise standards may create nonconforming situations for existing facilities
<ul style="list-style-type: none"> Code already requires sanitary disposal of garbage Centralized collection points for trash and recycling are required. 	<p>Poor sanitation/inadequate garbage service:</p> <p>No code amendment option identified.</p>		
	<p>Zoning limitations on location:</p> <p>Adopt zoning standards limiting the location of religious facilities (e.g. to arterial roads)</p>	<p>PRO</p> <ul style="list-style-type: none"> Dispersion may help decrease traffic impacts Reduces chance of changing neighborhood character 	<p>CON</p> <ul style="list-style-type: none"> Limiting locations must be carefully reasoned and a community need identified.

	CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<p><i>Schools</i></p>	<ul style="list-style-type: none"> ▪ Elementary, Middle, and High Schools: Permitted ▪ Vocational schools: Permitted if re-use of a surplus non-residential facility, otherwise CUP ▪ Specialized Instruction Schools: Permitted as accessory use to residence if fewer than 12 students per one-hour session, otherwise Conditional Use Permit 	<p>Traffic:</p> <p>Require all schools (or private or public schools individually) to be on a street of a sufficiently high classification (e.g. Minor Arterial) to address concern.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Would put use on a street that is designed to handle heavy traffic. 	<p>CON</p> <ul style="list-style-type: none"> ▪ May limit the availability of schools where they are needed. ▪ May make it more difficult for students to use non-motorized transportation to get to school.
	<ul style="list-style-type: none"> ▪ Parking: <ul style="list-style-type: none"> ○ Elementary - 1 per classroom, plus 1 per 50 students ○ Middle/Jr. High - 1 per classroom, plus 1 per 50 students ○ High school - Greater of 1 per classroom plus 1 per 10 students, or 1 per 3 fixed seats in stadium 	<p>Parking:</p> <p>Revise parking requirements for schools.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Reduction in on-street parking. 	<p>CON</p> <ul style="list-style-type: none"> ▪ May increase pollution generating impervious surfaces ▪ Allows for increased driving to schools, which may exacerbate traffic concerns.

CURRENT REGULATIONS	REGULATORY OPTIONS	PRO/CON FOR COMPATIBILITY	
<ul style="list-style-type: none"> ○ Vocational - 1 per classroom, plus 1 per 5 students ○ Specialized instruction - 1 per classroom, plus 1 per 2 students 			
<p>Light: No special requirements</p>	<p>Light Trespass: Require the use of Dark Sky Initiative standards/cut-off lighting.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Lighting that shines only downward will prevent light trespassing on to neighboring areas. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Implementing new lighting standards may create nonconforming situations for existing facilities.
<p>Noise: No special requirements</p>	<p>Noise: Revise code to define noise and establish allowable noise limits differently.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ A standard for allowable noise may increase compatibility. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Implementing new noise standards may create nonconforming situations for existing facilities.
<p>Sanitation: Centralized collection points for trash and recycling are required.</p>	<p>Poor sanitation/inadequate garbage service: No additional options identified</p>		
	<p>Zoning limitations on location: Schools, public and private can be subject to zoning limitations.</p>	<p>PRO</p> <ul style="list-style-type: none"> ▪ Limiting locations could disperse traffic impacts. 	<p>CON</p> <ul style="list-style-type: none"> ▪ Limiting locations may decrease opportunities to have location-efficient

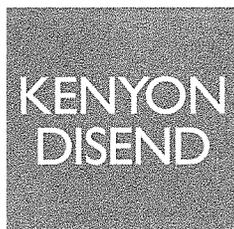
CURRENT REGULATIONS

REGULATORY OPTIONS

PRO/CON FOR COMPATIBILITY

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1967 - 2014

TO: Ben Yazici, City Manager
City Councilmembers

FROM: Kim Adams Pratt, Assistant City Attorney

DATE: April 9, 2015

RE: Uses in Residential Zones

Please find attached the general legal framework for regulating group homes, daycares, religious uses and schools in residential zones.

Group Homes/Community Residential Facilities. Group Homes or Community Residential Facilities (CRF) generally include individuals with disabilities. Federal law¹ prohibits local regulations that have the effect of limiting a disabled person's ability to live in a dwelling of their choice. The prohibition applies to intentional discrimination as well as to regulations that have a disparate impact on persons with disabilities. Washington has a similar statute.² A city would be required by a Court to show that it had a "legitimate, nondiscriminatory reason" for regulation of a CRF. Federal and State statutes do allow cities, however, to regulate so long as the regulation is uniformly applied to all dwellings in the zone. Federal law also requires local regulations to provide for reasonable accommodation of disabilities to allow a disabled person an equal opportunity to use and enjoy a dwelling.³

Legitimate, nondiscriminatory reasons for local regulations may include **special safety standards** for protecting disabled persons, but must be warranted by the unique and special needs of the individuals covered by the regulation. **Maximum occupancy limitations** are allowed relative to available floor space or number of rooms and that apply uniformly to all dwellings. A city is not, however, allowed to define the maximum number of occupants in terms of the number of "family" members, whether related or unrelated. A **special permit, such as a conditional use permit**, may not be required of CRFs unless it is clearly health and safety related and is applied uniformly to all group living arrangements. A city may prevent **clustering or disburse** CRFs if clustering will alter the character of a neighborhood, but in the absence of a significant concentration of CRFs this would likely not be upheld by a Court. A city can regulate the **aesthetic character** of residential neighborhoods, but must uniformly apply the regulations to all dwellings. Some variation may be needed to reasonably accommodate a disability.

Daycares. In general, state statute requires zoning regulations on daycares for children (12 or fewer) and adults (6 or fewer) to be **no more restrictive than conditions imposed on other residential dwellings** in the same zone. Limited regulation specific to child daycares (12 or fewer) is allowed regarding building, fire, safety, health code, and business licensing; as well as conformance to lot size, building size, setbacks, lot coverage, and sign code applicable to other residential dwellings; safe passenger loading areas; limitation on hours of operations; and notice to neighbors.

Religious Uses. A city must demonstrate that a zoning regulation applied to a religious use is the least intrusive means by which to satisfy a compelling government interest. A city may regulate a religious use with "reasonable time, place, and manner" regulations, but only as long as those regulations satisfy the least intrusive means/compelling government interest test. The City Council's legislative record must contain evidence to prove satisfaction of this test.

Schools. A city may regulate schools with "reasonable time, place, and manner" regulations. Schools may, however, also involve individuals with disabilities or a religious use, which could invoke prohibitions discussed above.

¹ Federal Fair Housing Act

² Washington Housing Protection Act

³ American with Disabilities Act