

Code Interpretation – Town Center Regulations
Commercial Square Footage allocated to TC-B as part of UZDP

The questions:

How should footnotes "3." and "8." of Sammamish Municipal Code (SMC) 21B.20.080 be reconciled in terms of the maximum area of allowed retail uses within the TC-B zone?

Is a TC-A zoned property limited in the number of contiguous TC-B zoned properties that it may transfer commercial development under SMC 21B.95.020(2)(c)?

Context, Findings & Facts:

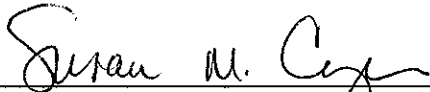
1. The City of Sammamish has periodically been in contact with a variety of "prospective" developers interested in developing within the Town Center. Through the course of conversations regarding possible projects with prospective developers, the City has become aware of an apparent conflict and ambiguity in the Town Center regulations.
2. The Town Center development standards are generally contained within Title 21B of the Sammamish Municipal Code. Administrative and procedural requirements related to the Town Center are generally contained within Titles 20, 21A, and 21B.
3. The "Table of Retail Land Uses" established in SMC 21B.20.080(1) authorizes a variety of retail uses within the Town Center A and B zones (TC-A and TC-B respectively).
4. SMC 21B.10.040 establishes the purpose of the TC-B zone, and reads in part: "*(b) Providing the opportunity for commercial uses for those areas adjacent to TC-A zones provided the subject property is developed as part of a unified zone development plan with contiguous TC-A zoned properties; (SMC 21B.10.040(1)(b)).*"
5. Footnote "3." of 21B.20.080 applies to many of the uses in the TC-B zone. Footnote "3." reads: "*Limited to 4,000 square feet gross floor area for each establishment.*"
6. Footnote "8." of 21B.20.080 applies to all of the uses in the TC-A zone. Footnote "8." reads: "*For all nonresidential uses subject to a size limitation in the TC-A or TC-B zones, the City may allow flexibility to the maximum size of individual businesses provided the director determines that the business is well-integrated with surrounding development and meets the goals and policies of the Town Center Plan. Factors in making this determination include the site design, building design, parking location and design, context, surrounding mix of uses, streetscape design, pedestrian amenities, compatibility with other businesses within the sub-zone and the entire Town Center, traffic impacts, and environmental quality*" (emphasis added).
7. There is an apparent conflict between the footnote "3." limit of 4,000 square feet gross floor area for each establishment in the TC-B zone and the footnote "8." allowance of flexibility in maximum size in the TC-B zones.
8. Footnote "8." of 21B.20.080 was not contained in the Planning Commission's recommended draft Town Center regulations forwarded to the City Council. City records indicate that the footnote was added into the draft City regulations following a March 15, 2010 City Council study session.
9. SMC 21B.95.020 generally establishes the applicability of a Unified Zone Development Plan (UZDP). 21B.95.020(2)(c) reads in part: "*Properties directly adjacent to the applicable TC-A zone may be included in the UZDP area provided they are part of a plan that includes properties in the TC-A zone. A TC-B property may include up to 10 percent of a UZDP's commercial development application for contiguous TC-A zone development. The director may place special constraints and/or increase the percentage of commercial development allowed on an applicable TC-B property to 20 percent in order to meet the intent of the Town Center Plan and this title...*" (emphasis added).

10. There are ambiguities in SMC 21B.95.020 regarding how many TC-B parcels may receive the 10% / 20% of a UZDP's commercial development from a contiguous TC-A zone development.
11. The Town Center Plan adopted June, 2008, by the City Council contains a number of goals and policies that provide guidance in this interpretation, including the following:
 - a. LU-2.1 Mixed-use activities and development should be focused in a core area north of the Sammamish Commons and in neighborhood scale mixed-use nodes in the southwest, northeast, and southeast quadrants.
 - b. Goal LU-5: Develop a regulatory program and other implementation measures that are timely, flexible, predictable, fair to all and that result in superior development.
 - c. LU-5.1 The plan should include an implementation strategy that provides a sense of confidence that the policy goals of the plan will be followed.
 - d. LU-5.2 Recognizing that market dynamics create new development, the implementation strategy, including development regulations, should be written to afford a reasonable degree of flexibility while addressing important public policy issues.

Interpretation & Conclusions:

1. The City Council reviewed proposed amendments to SMC 21B.20.080 on March 15, 2010; these amendments included the addition of footnote "8." to SMC 21B.20.080. The Council adopted the Town Center regulations, Title 21B SMC on October 26, 2010.
2. The purpose of the TC-B zone is, in part, to allow for commercial development where such commercial development is part of a UZDP plan. SMC 21B.10.040(1)(b).
3. Footnotes "3." and "8." regulate the size of a "use" and do not limit the overall amount of development authorized on a site. For example, a TC-B zoned property could accommodate more than one 4,000 square foot retail use.
4. SMC 21B.95.020 regulates the total amount of commercial space that may be authorized on a TC-B zoned property (10%/20% of the adjacent TC-A zoned property).
5. Generally retail uses in TC-B zone are limited to a maximum of 4,000 square feet each, consistent with footnote "3." of SMC 21B.20.080.
6. The plain reading of the text in footnote "8." specifically authorizes the director to modify the maximum amount of retail space in the TC-B zone based upon identified factors. Consequently, to give footnote "8." full meaning, it necessarily modifies not only the TC-A zones but also the TC-B zone. Given that the legislative records shows that footnote "8." was added later in the process than footnote "3." it appears to be a scrivener's error that footnote "8." was not explicitly added for all TC-B zoned property in SMC 21B.20.080.
7. Therefore, in some circumstances, the director may authorize more than 4,000 square feet of retail floor area for each retail use on a TC-B zoned property, consistent with the factors established in footnote "8." of SMC 21B.20.080.
8. Footnote "8." of SMC 21B.20.080 does not limit the maximum amount of retail space in the TC-B zone.
9. Generally, a TC-B zoned property may include up to 10 percent of the adjacent TC-A zoned property commercial square footage.
10. In some circumstances the director may authorize a TC-B zoned property to include up to 20 percent of the adjacent TC-A zoned property commercial square footage, consistent with the SMC 21B.95.020(2)(c). For example, a TC-B zoned property adjacent to a TC-A1 zoned property may include up to 20% of the 200,000 square feet of commercial space allocated to the TC-A1 zone.

11. For the purposes of SMC 21B.05.070(4), the wording within 21B.95.020 specifically references "a property" and "an applicable TC-B property". These words in the singular tense are intentionally singular and allow for a project with several TC-B zoned properties, when associated with a TC-A property in a UZDP application, to allocate each TC-B zoned property commercial square footage consistent with SMC 21B.95.020.
12. The provisions for increasing maximum commercial square footage contained in SMC 21B.20.080 and 21B.95.020 do not prevent an applicant from taking advantage of other provisions of Title 21B of the SMC, including SMC 21B.25.040, Provisions to obtain additional (bonus) residential density or commercial development capacity.



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