

Madeline Sutherland

From: Marie Tabata-Callerame <aikotabcal@hotmail.com>
Sent: Tuesday, April 26, 2022 2:07 PM
To: Steve Hogan; Greg Anderson; Marilyn Boerke; Bonnie Carter; Don Chaney; Leslie Lewallen; Tim Hein; Shannon Roberts
Cc: Jeff Swanson; Robert Maul; Madeline Sutherland
Subject: Fw: Code Amendments to CMC 18.55.355 - Please Expand, instead of limiting, Code Interpretation Requests
Attachments: CMC Changes to Any Person.png; CMC 18 55 355 Any person.png

City Councilors,

Since you will be deciding about whether to limit Code Interpretation Requests ("CIR") at the next Council meeting, I thought I would add an important point that I missed. The State requires a CIR process, but why? I have a few ideas:

- CIR process allows a citizen to get a straight-forward answer to a straight-forward question. "Does this code apply to this property?" "Yes, it does," or "No, it does not, and here is why" This is important for a busy city government that has hundreds of other priorities.
- Specific process: It provides a system for answering code questions - no more answer via emails to or from various people. Having a set process that ends with the Director avoids the "he said/she said" emails like what happened in the Dorothy Fox case.
- Accountability: The City's answer to a CIR would likely have detailed legal explanation about the code's applicability to the property in question. The citizen can be assured that their question will be addressed specifically.
- **To avoid a law suit!**
 - Having this process means that citizens do not have to go to court to get an official answer to their code questions. They pay a fee to the City and submit a specific code question. It is a very narrow request.
 - This can help avoid future and larger court-related attorney's fees. This will save money.

FYI - Why did a CIR end up in court recently re: the Biofilter? What was litigated was not the CIR itself, but the City staff's decision to NOT answer a CIR. The way I see it, the way to avoid that in the future is not to limit who can use the CIR process, but instead open it up while still making sure property owners are protected.

Also, while I did not address it before, the City's additions to the next paragraph limiting the ability of a non property owner to apply for a CIR seems to me unfair. 1) When is Camas law NOT supposed to apply to any Camas property? and 2) How is a neighbor to know about a CIR application or decision if no notice has been published? Word of mouth? Therefore I think the following proposed language should be deleted: ". . . a code interpretation under this subsection that is requested by a person other than the project applicant or property owner shall not be considered unless it is requested within 60-days after an application has been determined to be complete or prior to the conclusion of the public comment period, if any, whichever is later."

Summary: The CIR process is a good process that has been under-utilized by staff and citizens. While a CIR might take more staff time in the short-term to answer than an email, the CIR process provides a record of the decision, a clear process, accountability, and likely \$ savings. These are all things the Citizens of Camas have been saying they want and that our newly elected leaders have been saying they will give us. I think expanding access to that process, or at a minimum, not restricting access is a win-win.

Thanks for reading and serving our community!

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From: Madeline Sutherland <MSutherland@cityofcamas.us>
Sent: Tuesday, April 19, 2022 8:51 AM
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Subject: FW: Code Amendments to CMC 18.55.355

Commissioners,

Below is a public comment we received yesterday. The hearing for the code updates tonight will only include residential treatment facilities. However, a public hearing before Council on May 2nd will discuss all code updates. I have copied Marie, who provided the public comment.

See you all at 7 pm tonight.

Regards,



Madeline Sutherland, AICP

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From: Marie Tabata-Callerame <aikotabcal@hotmail.com>
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Cc: Jeff Swanson <JSwanson@cityofcamas.us>; Steve Wall <SWall@cityofcamas.us>; Robert Maul <RMaul@cityofcamas.us>; Madeline Sutherland <MSutherland@cityofcamas.us>
Subject: Code Amendments to CMC 18.55.355

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Hello Mayor, Council Members, and Planning Commissioners!

I would like to ask some questions about CMC 18.55.355 (up for amendment) which creates the ability for a citizen to make a Code Interpretation Request pursuant to state law. I was thinking beforehand of suggesting a change and didn't realize that the City does annual changes or that they were this month. 😊 I am unclear about the next step in the amendment process so I am sending this email to the Council and the Planning Commissioners in hopes that it can be considered. Please forward to anyone I may have missed - I could not find a current list of Commissioners.

I thought the Council had some very good questions for the staff at the last meeting. I would like to share my thoughts as well. Before I do, the redlining had an error that confused me until I re-read the original. The original language being deleted is:

"Any person may request in writing the director's interpretation of a code provision of Title 16, 17 or 18 when it pertains to a specific property or project by means of a Type I application pursuant to Section 18.55.030."

One council member asked why this change was being requested and the answer had to do with changing it to a Type II process since other processes where the the Director has more discretion to interpret are Type II. I was confused by the answer - while a Type I process "does not *require*" an interpretation, that doesn't mean the City cannot provide one for it. Should a CIR really go through a public hearing to apply Camas law to a property? I was also surprised that the City's answer did not mention that this code was pivotal in the recent Code Interpretation Request lawsuit against the City, but I imagine it was mentioned in the Executive Session. Quick summary: the court decided that the phrase "any person" did not include anyone other than the property owner or those he/she authorized.

My main question is: Is there a desire or value to limiting the application of Code Interpretation Requests instead of expanding it? My thoughts are that it could be expanded in a restrictive manner to achieve better benefit for the citizens (and therefore Camas) while still avoiding creating any further burden on the city or negatively affecting anyone's property rights.

Why would it be helpful to have people other than just those "authorized by the property owner" to be able to have code interpretations done? These are the situations I could think of:

- Someone thinking about placing an offer to buy a property.
 - This would have been a great way to have avoided the Dorothy Fox Detox Facility situation by directing the potential buyer to go through a formal process instead of relying on emails.
- A property owner believes their neighbor is creating a nuisance by non-compliance with a code.
 - This could be a neighbor that is growing marijuana, blackberries, or breeding illegal animals in their yard behind a fence. Or polluting stormwater or creek water.
 - A neighbor's home value could be affected or less sell-able.
- Someone who knows a property is not yet on the market but will be soon and wants to determine whether it would be worth buying to start a specific business on it.
 - Like a foreclosure (i.e., a disgruntled property owner). Proper planning can make or break a business.
- Someone who has a small percentage ownership of a property and believes that the property decisionmakers are not complying with the Camas code.
 - Could be a member of an HOA or joint venture.
 - Could be a mortgagor worried about damage

I imagine there are more.

I think the amendment also limits Code Interpretation Requests to properties with permits applications already on them and ONLY for Type II (big projects). Currently, I believe you could request a CIR for any property, regardless of whether there was a permit applied for it. Since Type I permits are for projects that have "no recognizable impacts", why would you want to disallow requests to apply Camas law to them?

Therefore, my suggestion is the following additions instead of the proposed amendment:

Any person may request in writing the director's interpretation of a code provision of Title 16, 17 or 18 when it pertains to a specific property or project, **regardless of whether a permit application has been submitted** by means of a Type I application pursuant to Section 18.55.030. **The phrase "any person" may include any one who has a legitimate current or future interest in the specific property or in a neighboring property, regardless of whether or not a proposed project or permit is pending. Any request must be accompanied by proof that the property owner has been given notice of the code interpretation request. Such property owner may join the request or submit a separate request.** The Director may independently initiate an interpretation of any conflicting or unclear provisions of this Title.

Note that currently, and/or with the City's proposed amendment, any owner can get away with not have various Camas laws applied to his/her property as long as both he/she and the City staff do not choose to. The way I see it, this takes the power away from the laws passed by the Council and also directly from the citizens of Camas.

Thanks for your consideration and thanks as always for your willingness to serve the Citizens of Camas!

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