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**Council Meeting Date: July 6, 2009**

**Agenda Item: 6(b)**

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**CITY COUNCIL AGENDA ITEM  
CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b>	Proposed Amendments to the Development Code, Application #301543, Study Session
<b>DEPARTMENT:</b>	Planning and Development Services
<b>PRESENTED BY:</b>	Joseph W. Tovar, FAICP, PADS Director; Steven Szafran, AICP, Associate Planner

**PROBLEM/ISSUE STATEMENT:**

Several times a year, the Planning Commission reviews amendments to the Development Code. This group of amendments represents the Commission's latest review. The Council will discuss these at its study session and will place them on the agenda for adoption at a future meeting.

**ALTERNATIVES ANALYZED:** The following options are within Council's discretion and have been analyzed by staff:

1. The Council could choose to adopt the amendments as recommended by the Planning Commission.
2. The Council could choose to not adopt the amendments to the Development Code.
3. The Council could choose to remand some of the amendments to the Planning Commission with direction for additional review and public hearing.

**FINANCIAL IMPACTS:**

There are no direct financial impacts to the City of the amendments proposed by Planning Commission and Staff.

**RECOMMENDATION**

Following discussion, Council will provide further direction to staff.

Approved By:

City Manager 

City Attorney 

## INTRODUCTION AND BACKGROUND

### PROCESS

An amendment to the Development Code may be used to bring the City's land use and development regulations into conformity with the Comprehensive Plan, or to respond to changing conditions or needs of the City.

The Planning Commission held a study session to discuss the amendments on December 18, 2008 and a public hearing on February 26, 2009. This study session before City Council will address any questions, concerns and clarifications discussed at the Planning Commission meetings.

### PUBLIC COMMENT

A notice of Public Hearing, request for public comment, and preliminary SEPA threshold determination was published on February 12, 2009. One comment letters was received from citizens or public agencies receiving the notice. The Public Hearing was held on February 26, 2009. Five people spoke at the public hearing. Four of the commenters were speaking to Amendment #1 and one commenter was speaking on Amendment #4 (amendment #4 was withdrawn by staff). The concerns raised by the public regarding amendment #1 had to do with state subdivision and condominium law and how the City is not meeting those requirements. The comments will be addressed below.

## AMENDMENTS AND ISSUES

Attachment B shows the current proposed amending language shown in legislative format. Legislative format uses strikethroughs for proposed text deletions and underlines for proposed text additions.

For each proposed change, background information is noted in italics. Planning Commission recommendations are in **bold**.

### Proposal 1: Modify sections 20.30.370 and 20.30.380

*Section 20.30.370 and Section 20.30.380 includes condominiums and interests as divisions of land. The City Attorney has determined condos and interests are not divisions of land and should not be subject to subdivision regulations. This code amendment would strike the terms "condominium" and "interest" from these code sections.*

#### **20.30.370 Purpose**

~~Subdivision is a mechanism by which to divide land into lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of sale. The purposes of subdivision regulations are:~~

- A. To regulate division of land into two or more lots or, ~~condominiums~~, tracts or interests;
- B. To protect the public health, safety and general welfare in accordance with the State standards;

- C. To promote effective use of land;
- D. To promote safe and convenient travel by the public on streets and highways;
- E. To provide for adequate light and air;
- F. To facilitate adequate provision for water, sewerage, stormwater drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;
- G. To provide for proper ingress and egress;
- H. To provide for the expeditious review and approval of proposed subdivisions which conform to development standards and the Comprehensive Plan;
- I. To adequately provide for the housing and commercial needs of the community;
- J. To protect environmentally sensitive areas as designated in the critical area overlay districts chapter, Chapter 20.80 SMC, Special Districts;
- K. To require uniform monumenting of land subdivisions and conveyance by accurate legal description. (Ord. 238 Ch. III § 8(b), 2000).

#### **20.30.380 Subdivision categories.**

- A. Lot Line Adjustment: A minor reorientation of a lot line between existing lots to correct an encroachment by a structure or improvement to more logically follow topography or other natural features, or for other good cause, which results in no more lots than existed before the lot line adjustment.
- B. Short S ubdivision: A subdivision of four or fewer lots.
- C. Formal Subdivision: A subdivision of five or more lots.
- D. Binding Site Plan: A land division for commercial and industrial and ~~condominium~~ type of developments.

Note: When reference to "subdivision" is made in this Code, it is intended to refer to both "formal subdivision" and "short subdivision" unless one or the other is specified. (Ord. 238 Ch. III § 8(c), 2000)

*At the Planning Commission study session, public testimony and Commission discussion focused on why condominiums are not treated like subdivisions in the Shoreline Development Code. The City Attorney explained that condos are a form of ownership and not a division of land and does not believe condos should be listed in sections 20.30.370 and 20.30.380, sections that deal with land divisions.*

*In listening to comments from the Highland Terrace neighborhood at the December 18, 2008 Planning Commission meeting, staff concluded that two of the issues that underlay*

*the comments were: 1) the ability to "round up" and place an additional housing unit on the property even though there is not quite enough property area to meet minimum lot size requirements if a site were platted or short platted, and 2) the issue of tree removal that will occur as property is developed. Staff believes that maintaining the existing code language will not affect whether these two issues are addressed. If the Commission would like to address the issue of "rounding up", staff suggests that the Commission review 20.50.020, Exception #7 later this year. As for the issue of tree cutting, staff has begun work on the tree code; Commission review of the tree code regulations will directly impact whether or not more trees will be left standing on a given site after development.*

***The Planning Commission recommended denial of these amendments. The Commission directed staff to bring back amendments that will address some of the concerns of multiple single-family homes on one parcel of land. The Commissioners requested two code amendments be brought to them for consideration: one that would only allow one house per lot and an alternative proposal that would amend the code so that a developer want to build more than one house per lot be processed as a Type B or Type C action.***

#### Proposal 2: Modify Section 20.30.410

##### **20.30.410 Preliminary subdivision review procedures and criteria.**

The preliminary short subdivision may be referred to as a short plat – Type B action.

The preliminary formal subdivision may be referred to as long plat – Type C action.

Review criteria: The following criteria shall be used to review proposed subdivisions:

##### **A. Environmental.**

1. Where environmental resources exist, such as trees, streams, ravines or wildlife habitats, the proposal shall be designed to fully implement the goals, policies, procedures and standards of the critical areas chapter, Chapter 20.80 SMC, Critical Areas, and the tree conservation, land clearing and site grading standards sections.
2. The proposal shall be designed to minimize grading by using shared driveways and by relating street, house site and lot placement to the existing topography.
3. Where conditions exist which could be hazardous to the future residents of the land to be divided, or to nearby residents or property, such as, flood plains, steep slopes or unstable soil or geologic conditions, a subdivision of the hazardous land shall be denied unless the condition can be permanently corrected, consistent with subsections (A) (1) and (2) of this section.
4. ~~The proposal shall be designed to minimize off-site impacts, especially upon drainage and views.~~

*All preliminary subdivisions must demonstrate adequate levels of service. A review of a conceptual stormwater drainage system is performed in conjunction with preliminary plat review to verify adequacy of the existing and proposed drainage system. 20.30.410 (A) (4) is redundant as this regulation is addressed in Section 20.30.410 (D) and Section 20.60.070.*

*In addition to the redundancy regarding drainage review, #4 also makes reference to views. The City of Shoreline does not have any regulations, ordinances, or supporting language in the development code regarding views. It is impossible for staff to regulate offsite impacts concerning views. It is misleading to the general public that comments regarding views can be evaluated. Staff recommends deleting #4 from 20.30.410 to eliminate confusion and redundancy.*

*As staff notes in the comments about 20.30.370, we believe that maintaining the current language in this regulation will have no impact on the issues raised by people in the Highland Terrace neighborhood.*

***The Planning Commission recommended approval of this amendment with no additional language.***

#### Proposal 3: Modify Section 20.50.150

*Section 20.50.150 lists the regulations for storage space of garbage and recyclable materials. The section header is misleading and has been changed to make finding specific regulations easier.*

#### **20.50.150 Storage space for the collection of trash, recyclables, and compost and service area location and screening – Standards.**

Developments shall provide storage space for the collection of garbage, recyclables, and compost consistent with Shoreline's current service provider as follows:

A. The storage space shall be provided at the rate of:

1. One 16' X 10' (10' X 10' for garbage containers and 6' X 10' for recycle and food waste containers) collection area for every 30 dwelling units in a multifamily building and one-half square foot per dwelling unit in multiple-dwelling developments except where the development is participating in a City-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;
2. The storage space for residential developments shall be apportioned and located in collection points as follows:
  - a. The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one building.
  - b. There shall be one collection point for every 30 dwelling units.

- c. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.
  - d. Collection points located in separate buildings/structures or outdoors shall be no more than 200 feet from a common entrance of a residential building.
  - e. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.
- B. The collection points shall be designed as follows:
- 1. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.
  - 2. Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site.
  - 3. Collection points shall be identified by signs not exceeding two square feet.
  - 4. A six-foot wall or fence shall enclose any outdoor collection point.
  - 5. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 42 10 feet wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12 feet.
  - 6. Weather protection of garbage, recyclables, and compost shall be ensured by using weatherproof containers or by providing a roof over the storage area.

*The Planning Commission requested that "food waste" be added into this section. Staff has contacted CleanScapes and made the necessary additions to accommodate the added requirements.*

***The Planning Commission recommended approval of this amendment with "food waste" changing to "compost" in the regulations.***

**Proposal 4: Adding a code section to require electric vehicle recharging facilities in new multifamily and commercial developments**

*Following Council direction, staff developed a proposal to add electric vehicle parking standards to the development code:*

Table 20.50.390E – Electric Vehicle Parking Standards

RESIDENTIAL USE	MINIMUM SPACES REQUIRED
Developments with 100 units or	1 parking space per

more:	development
COMMERCIAL USE	
New commercial building:	1 parking space per building

In addition to required parking spaces, EV parking facilities shall include:

- EV parking spaces are required to be ADA accessible.
- EV parking shall be in a conspicuous location, close to a main building entrance and the EV charging station electrical panel.
- Prepare for future installation of EV charging stations by providing sufficient panel space, installing conduit, ventilation, and lighting.
- Charger and lighting electric panels should be located as close as possible to anticipated charging stations.

*Following Commission discussion, staff concluded that there is not enough information available at this time to develop a proposal that would be applicable citywide and has rescinded its proposal. Staff expects that the Planning Commission will review the issue of electronic vehicle recharging facilities later in the year when it reviews the Regional Business permanent regulations.*

***The Planning Commission was not comfortable in making a recommendation at this time but wants to look at this idea in the future.***

#### Proposal 5: Modifications to bicycle parking standards

*Staff was asked to look at other jurisdictions for bicycle parking standards and determine if Shoreline's regulations are sufficient. Staff concluded Shoreline's bicycle parking standards are more stringent than those in nearby suburban cities and even more stringent than the cities of Seattle and Portland. The major revision in this section is concerning the first exception (Exception 20.50.440 (A) (1)) now listed as letter "B". Staff believes the new letter "B" should be a regulation and not an exception.*

#### **20.50.440 Bicycle facilities – Standards.**

A. In any developments required to provide six or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type parking facilities unless otherwise specified. Off-street parking areas shall contain at least one bicycle parking space for every 12 spaces required for motor vehicles.

Exception 20.50.440(A) (1): One indoor bicycle storage space shall be provided for every two dwelling units in townhouse and apartment residential uses, unless individual garages are provided for every unit. The Director may reduce the number of bike rack parking spaces if indoor **bicycle** storage facilities are available to all residents.

Exception 20.50.440(A)(2): The Director may reduce bike rack parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location provided bike rack parking is not completely eliminated.

Exception 20.50.440(A) (3): The Director may require additional spaces when it is determined that the use or its location will generate a high volume of bicycle activity. Such a determination will include, but not be limited to,

1. Park/playfield;
2. Marina;
3. Library/museum/arboretum;
4. Elementary/secondary school;
5. Sports club; or
6. Retail business (when located along a developed bicycle trail or designated bicycle route).

B. Bicycle facilities for patrons shall be designed to allow either a bicycle frame or wheels to be locked to a structure attached to the pavement.

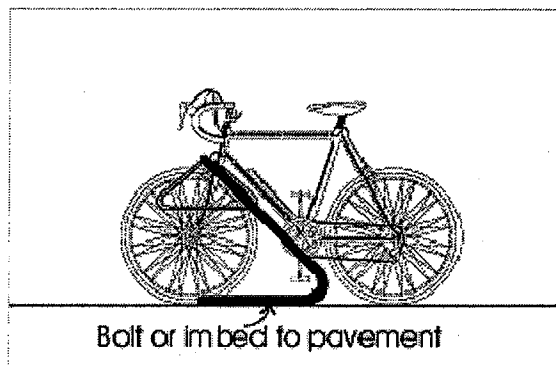


Figure 20.50.440(B): Illustration of bicycle facility suitable for locking a bike to the structure.

C. All bicycle parking and storage facilities shall be located within 100 feet of the building entrance and shall be located in safe, visible areas that do not impede pedestrian or vehicle traffic flow, and shall be well lit for nighttime use.



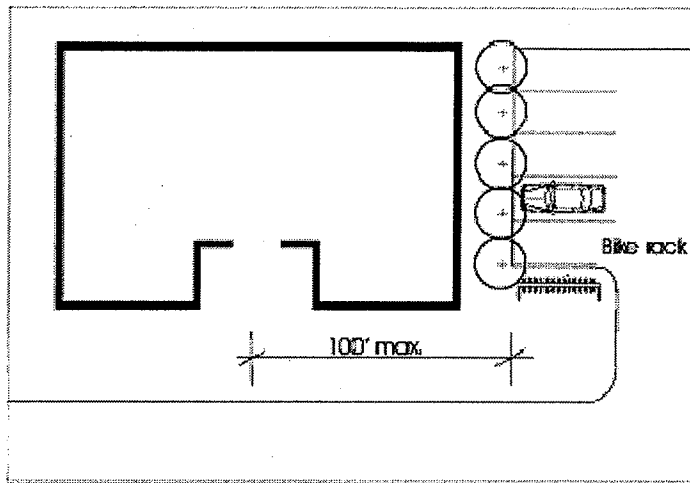


Figure 20.50.440(C): Illustration of desired bicycle facility location.

D. When more than 10 people are employed on-site, enclosed locker-type parking facilities for employees shall be provided. The Director shall allocate the required number of parking spaces between bike rack parking and enclosed locker-type parking facilities. (Ord. 238 Ch. V § 6(C-2), 2000).

***The Planning Commission recommended adding the word "bicycle" in between the words indoor and storage in 20.50.440 (B).***

#### Proposal 6: Modify Section 20.60.050

*This amendment was requested by the City Attorney. The City Attorney believes that section 20.60.050 should be consistent with the provisions of Chapter 15.05 of the SMC.*

#### **20.60.050 Adequate fire protection.**

All new development shall be served by adequate fire protection as set forth below:

- A. The site of the development proposal is served by a water supply system that provides at 1,000 gallons per minute at a fire hydrant located no farther than 350 feet from the site is consistent with the provisions of Chapter 15.05 of the SMC;
- B. The development proposal has adequate access to a street system or fire lane system that provides life safety/rescue access, and other adopted fire protection requirements for buildings;
- C. The timing of installation of required fire protection improvements for development proposals shall be stated in the project approval or approving ordinance and installed prior to occupancy. The improvements may be secured with a bond or similar security upon approval from the Director and the Fire Marshal. (Ord. 238 Ch. VI § 2(C), 2000).

***The Planning Commission recommended approval of this amendment.***

**Proposal 7: Modify parking ratios in the North City Business District**

*This amendment changes the parking ratios in the North City Business District. It has been determined that the ratio of 1 parking stall per residential unit is too low and is causing parking problems the City did not anticipate when the North City Business District plan was adopted. The proposed parking regulations mirror the regulation adopted for Planned Area 2 (Ridgecrest Commercial District).*

**20.90.080 Parking, access, and circulation.**

- A. Alleys. A system of alleys and access lanes should provide easy access to buildings and parking lots located in the rear of the properties behind the buildings facing 15th Avenue N.E. This alley system is a secondary circulation system that helps avoid too many curb cuts on 15th Avenue N.E. Curb cuts would disrupt the desired pedestrian main street character.

In Figure 20.90.080 only a portion of the alley system is specifically located to allow for maximum flexibility for an alley system within the alley zone.

This system prohibits alleys or access lanes within 100 ft. from an intersection and 50 ft. from a pedestrian crosswalk.

Also this alley system should provide pedestrian linkages through mid-blocks and between properties. Lighting shall be provided for pedestrian safety.

- B. Parking Location. All surface parking lots shall be located behind buildings.

- C. Required Parking Spaces.

Residential: Minimum 1 space/dwelling unit (regardless of number of bedrooms) 1 space for studio unit, 1.3 spaces for 1 bedroom unit, and 1.6 spaces for 2 or more bedroom unit.

Commercial: Minimum 1 space/500 sq. ft. gross floor area.

- D. Parking Access. The number of parking lot entrances, driveways, and curb cuts shall be minimized.

- E. All applicable standards of Chapter 20.50, ~~Subsection~~ Subchapter 6 (Sections 20.50.380 through 20.50.520) shall apply. (Ord. 281 § 7, 2001).

*City staff believes that Shoreline's parking standards should be uniform throughout the City. Shoreline's parking code (in all other parts of Shoreline) is based on bedrooms and not per unit like the North City Business District.*

*Also, when the North City Business District plan was adopted, it was anticipated that different uses would share parking. Since most of the district has not been*

developed, shared parking is not possible which is forcing overflow parking onto the street.

***The Planning Commission recommended denial of this amendment to raise the parking requirements in the North City Business District. The Commission wants to encourage public transportation in this area and believes the City's vision of a multi-model, mixed-use living environment is the best solution. Also, the City has spent great amounts of time and money to achieve the above-mentioned goals in the North City Business District. The Commission believes that adding more requirements for parking will reverse the City's progress in these areas.***

## **ALTERNATIVE AMENDMENTS**

The Council under its authority in 20.30.100 to initiate Development Code amendments could direct staff to consider an alternative amendment. Minor modifications could be considered by the Council when adopting the Ordinance. If Council wants to make major modifications, it would be appropriate to provide direction to the Planning Commission to consider the change, to hold a public hearing, and make a recommendation to the Council.

## **RECOMMENDATION**

Following discussion, Council will provide further direction to staff.

## **ATTACHMENTS**

1. Planning Commission minutes for Study Session, Public Hearing and Deliberations
2. Written Public Comment

## CITY OF SHORELINE

### SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

February 26, 2009  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

#### Commissioners Present

Chair Kuboi  
Vice Chair Hall  
Commissioner Behrens  
Commissioner Kaje  
Commissioner Perkowski  
Commissioner Piro  
Commissioner Pyle  
Commissioner Wagner

#### Staff Present

Steve Cohn, Senior Planner, Planning & Development Services  
Paul Cohen, Senior Planner, Planning & Development Services  
Steve Szafran, Associate Planner, Planning & Development Services  
Flannery Collins, Assistant City Attorney  
Jessica Simulcik Smith, Planning Commission Clerk

#### Commissioners Absent

Commissioner Broili

#### CALL TO ORDER

Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:07 p.m.

#### ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuboi, Vice Chair Hall, and Commissioners Behrens, Kaje, Perkowski, Piro, Pyle and Wagner. Commissioner Broili was excused.

#### APPROVAL OF AGENDA

The agenda was accepted as proposed.

#### DIRECTOR'S COMMENTS

Mr. Cohn explained that because several of the other amendments are more time sensitive, staff requests that Amendment 1 (related to the division of land into two or more lots or tracts) be withdrawn from the

code amendment package. However, he suggested it would be appropriate to invite the public to comment and express their specific concerns about the proposed amendment. It would also be helpful for the Commission to provide specific direction to staff for preparation of an updated amendment as part of the next package of code amendments that would be presented to the Commission in May or June.

Because Amendment 1 would not be part of the public hearing, Commissioner Pyle suggested the Commission conduct a public hearing on the remainder of the amendments and move them forward to the City Council and then have a separate process for Amendment 1. Commissioner Behrens suggested they include Amendment 1 as part of the public hearing. If the Commission feels they need more information or they are unable to make a decision based on the available information, they could continue their deliberations to a future date. Vice Chair Hall agreed that since citizens came to the meeting to comment on Amendment 1, the Commission should at least grant them this opportunity, even if they don't take action on the item at this time.

Because Amendment was withdrawn by staff, Mr. Cohn clarified that if the Commission wants it to remain as part of the public hearing package, they must take formal action to add it back in once the public hearing has been opened. Commissioner Behrens disagreed and pointed out that Amendment 1 was included in Appendix A of the Staff Report. Therefore, he suggested the Commission must move forward with the item unless formal action is taken to remove it from the agenda. Ms. Flannery reviewed that Amendment 1 was proposed by staff. However, there has been so much controversy over the proposal that staff felt it would be better to pull it from the public hearing, which would allow staff to solicit feedback from the public and the Commission and amend the language to address the concerns. She summarized that while there are citizens present who want to discuss the issue, the intent of staff's withdrawal was to give them more time to address the concerns. The Commission must decide whether or not they want to proceed with Amendment 1 as part of the public hearing.

Commissioner Wagner expressed her belief that if it is absolutely critical to obtain public input regarding Amendment 1 at this point, but it would be very difficult to resolve the issue tonight. She suggested the audience be invited to provide comments during the "General Public Comment" portion of the agenda; the Commission could then make a decision about whether they want to move forward with Amendment 1 as part of the public hearing. Mr. Cohn pointed out that comments that are provided during the "General Public Comment" period would not be included as part of the public record for Amendment 1.

Commissioner Piro suggested the Commission remove Amendment 1 from the hearing package. The agenda could be adjusted to allow a workshop discussion on proposed Amendment 1 as Item 7a, and the citizens could be invited to deliver testimony through a workshop format. The Commission could give further direction to staff, and a separate hearing on the final draft of Amendment 1 could be conducted at a later date. The package of Development Code Amendments would become Item 7b on the agenda.

Chair Kuboi questioned how this would be different than going through the public hearing as originally scheduled. If the Commission decides they cannot resolve the issue and take action, Amendment 1 could be pulled from the package. They could act on the remainder of the items and consider

Amendment 1 at a future date. Ms. Collins agreed that would be the best approach. She noted that, throughout the hearing and deliberations, the Commission would have the ability to pull any of the proposed amendments from the package. The Commission agreed to proceed with the agenda as it was advertised.

### **APPROVAL OF MINUTES**

There were no minutes available for Commission approval.

### **GENERAL PUBLIC COMMENT**

**David Fosmire, Shoreline**, expressed his frustration and confusion of the Planning Commission process. He recalled that on December 31, 2007 the Innis Arden community submitted proposed amendments to the Shoreline Development Code. Although they were assured the Commission would consider them in 2008, they were only recently notified that their amendments were being considered. He explained that one amendment, in particular, would allow for the adoption of critical area stewardship plans. The concept was presented to the City Council, along with nine other amendment proposals. However, the City Council accepted staff's recommendation that this option be removed from the Planning Commission's 2009 work schedule. He noted that for the past four years, the City has been promising the Innis Arden Community that they would consider the concept, and he questioned what process they should use to get their proposal on the agenda.

Commissioner Piro asked more information about the City Council's decision to pull the proposal from the Commission's work session. Mr. Fosmire said this decision took place on February 6<sup>th</sup> at the recommendation of the Planning and Development Services Director. He noted that staff was already prepared to advance the proposal to the Planning Commission, but the Director suggested the proposal would be too time consuming for the Planning Commission to handle in 2009.

Mr. Cohn explained that staff presented the City Council with a list of 10 Decision Modules, which identified elements that might be included in the tree regulation amendments. The City Council directed the staff and Commission to work on nine of the modules, but they pulled the tenth module from the project scope. He noted that staff is scheduled to discuss the tree regulations in greater detail later on the agenda.

**John Hollinrake, Shoreline**, suggested that certain members of the Innis Arden Community are getting special privileges. He noted a special meeting was conducted on February 5<sup>th</sup>, which was not widely advertised. Nancy Russ was invited to present her tree ordinance amendment proposals to three City Council Members, three Planning Commission Members and staff. However, it is important to note that Ms. Russ' proposed amendments are contrary to the desires of the vast majority of the residents of Innis Arden. He emphasized that Ms. Russ was found to be in violation of the Innis Arden view covenants, and now she is getting special privileges at the City level to present proposals that would give her a permanent exemption from the covenants. He summarized that this is extraordinarily galling because Ms. and Mrs. Russ have insisted that downhill neighbors cut their trees so they can have a view, but they have refused to cut their trees so their uphill neighbors can enjoy a view. Innis Arden is a very

environmentally-friendly neighborhood, with 50 acres of common grounds and thousands of trees. Their average lot size is over ½ acre, and they have tremendous open space, trees, vegetation, etc. They want a fair opportunity to participate in the process, protect their environment, and also protect their views. The neighbors are frustrated that the proposals they submitted well over a year ago have never been presented to the Planning Commission.

Commissioner Piro noted that the Commission's extended agenda includes a discussion regarding the tree regulations in March and May. He questioned how this discussion would relate to the issue raised by Mr. Hollinrake and Mr. Fosmire. Mr. Cohen said that at the March and May meetings, staff would present information related to the nine decision modules identified by the City Council. He noted that, on their own volition, the City Council decided to set the tenth decision module (critical area stewardship plans) aside until a future date because they felt it was more related the Critical Areas Ordinance, which is a separate section of the Development Code.

**Guy Olivera, Shoreline**, expressed concern about the staff's recommendation to pull Amendment 1 from the public hearing. He expressed frustration that it appears staff is not working for the community. If a developer of a project is the sole beneficiary of streamlining a given process and the new property owner and surrounding property owners do not benefit, then the process must not be streamlined. If the state provides that a particular type of development cannot be held to higher standards, then by no means should it be held to a lower standard.

#### **LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS #301543**

Chair Kuboi reviewed the rules and procedures for a legislative public hearing and opened the hearing.

#### **Staff overview and Presentation of Preliminary Staff Recommendation**

Mr. Szafran provided a brief overview of each of the proposed Development Code Amendments, which were presented at the Commission's study session on December 4, 2008.

- **Amendment 1** – Amendment 1 was proposed by staff as a cleanup amendment. The proposed amendment would change the purpose statement in Section 20.30.370 so it no longer talks about subdivisions. As per state law, subdivisions have to do with divisions of land, and condominiums are not considered divisions of land.
- **Amendment 2** – This proposed amendment would delete #4 from Section 20.30.410 to eliminate confusion and redundancy. Item 4 has to do with view regulations, which the City does not have at this time.
- **Amendment 3** – This amendment would add additional explanation to the title of Section 20.50.150. It would also add a requirement about the size of storage areas for waste and recycling in multifamily buildings of a specific size. At the study session it was also recommended they add food waste recycling, as well. The space requirements for garbage and recycling areas were increased as per Cleanscape's recommendation.

- **Amendment 4** – Staff is recommending Amendment 4 be withdrawn. They would like to address this issue when the City considers permanent Regional Business (RB) zoning regulations as part of the Town Center Subarea Plan.
- **Amendment 5** – This amendment would make Exception 20.50.440.A.1 a requirement and not an exception. The language was not changed from the study session.
- **Amendment 6** – This amendment would make Section 20.60.050 consistent with Chapter 15.05 of the Shoreline Municipal Code, which is the International Fire Code.
- **Amendment 7** – This amendment has to do with revising the parking standards for the North City Business District. Staff is recommending a change to Section 20.90.080 to be consistent with how they deal with parking in other parts of the City. Originally, the parking requirement in North City was one space per unit, and everywhere else in the City parking is based on the number of bedrooms.

### **Questions by the Commission to Staff and Applicant**

Although Amendment 4 was withdrawn, Commissioner Behrens suggested the public be invited to provide testimony regarding the concept of accommodating electric car facilities. Commissioner Kaje recalled that Commissioners were hesitant about moving Amendment 4 forward because of their lack of understanding. They were unclear about whether the Commission could develop code language that was understandable, consistent and fair. He agreed with Commissioner Behrens that the Commission should accept public testimony on Amendment 4 so they could become educated for future discussions. The remainder of the Commission concurred.

Commissioner Kaje referred to Amendment 7, regarding parking requirements for the North City Business District. He noted that, if approved, only future development in the district would be required to comply with the new code language. Mr. Cohn agreed that any development that is currently under review would be considered based on the existing code language.

### **Public Testimony or Comment**

**Art Maronek, Shoreline**, submitted written comments that were identified in the record as Exhibit 3. He explained that he presented his comments to the Planning and Development Services staff on February 23<sup>rd</sup> and was told the Commissioners would each receive a copy prior to the meeting. Chair Kuboi indicated the Commission had a copy of his comments. Mr. Maronek advised that his written comments include three attachments that identify violations of state law that would result from proposed Amendment 1. These documents directly contradict information provided by staff on December 4<sup>th</sup>. He noted that he found Attachments 4 and 5 through the public disclosure process, and he has others to share with the Commission in the future. He cautioned that sometimes the Commission doesn't get all the information available to staff, and that is what he has tried to correct. The remainder of the attachments are related to what the condominium act requires the City to do in terms of documents to be prepared by the developer before any units can be sold. He noted this process was not followed for the current air condominium that was developed in the City. The developer has denied any intent to follow this law. He summarized his belief that information that is crucial to making the right decision has not been shared with the decision makers (Planning Commission and City Council). He asked that they please read through his written testimony.



**Helen Drummin Maronek, Shoreline**, referred to an email from Flannery Collins to Steve Cohn regarding the Ray Subdivision Tables, which the public has not been allowed to see. Ms. Collins explained that this email contained the same information that was provided in her memorandum dated December 23, 2008. The table was difficult to read, so she converted the information into the memorandum format. She noted the table was never finalized and would have been misleading. She advised that the Public Records Law allows the City to withhold city/client privileges. She recognized that the memorandum was unintentionally left out of the meeting packet, but she provided additional copies for the Commissioners.

**Linda George, Shoreline**, voiced objection to the verbiage that would be removed from Section 20.30.370 if Amendment 1 were approved as presented. As proposed, the requirements applicable to air condominiums or single-family condominiums would be removed, allowing developers to build houses only five feet apart. She felt this change would result in overdevelopment of the City, and she urged the Commission recommend denial. She also noted associated off-site impacts such as increased risk of large trees falling onto adjacent homes if numerous trees are removed on a project of this size. In addition, the overflow parking that would result from so many residents in a small space would impact surrounding property owners. She said she understands that development will occur on Greenwood Avenue, but a balance must be maintained and the impacts to existing property owners must be considered. She said she supports the Mayor's proposal to update the Comprehensive Plan before considering additional amendments to the Development Code.

Commissioner Behrens asked if Ms. George would feel more comfortable about potential redevelopment on Greenwood Avenue if there was a system in place to address the impacts. Ms. George answered affirmatively. Commissioner Behrens asked if Ms. George could see a set of circumstances where moving units closer together could provide an opportunity to create more shared open space rather than smaller individual open spaces. Ms. George said she could support this concept, but she felt it would take a much larger project than the one proposed on Greenwood Avenue to provide this large amount of open space. Commissioner Behrens cautioned against throwing a good idea out the window as a result of one bad application of the process.

**Steven S. Lough, Seattle, President of the Seattle Electric Vehicle Association**, said he was recently awarded a life-long achievement award by the National Electric Auto Association. He said Commissioner Broili invited him to come to the hearing and help educate the Commission regarding Amendment 4. He expressed his belief that electric vehicles of one type or another are going to come. He reported that for every one dollar of energy, an electric car can go four to five times further than any gasoline, diesel or biodiesel vehicle. He noted that Amendment 4 is related to amending the building codes in Shoreline to provide the wherewithal for electrical vehicles. He suggested that, at a minimum, new construction should be required to provide the conduit and appropriate wires for the future. While there are probably not enough electric vehicles in the area to fill a parking lot at this time, they are becoming more popular. He explained that the most common electric cars are called neighborhood electric vehicles, which are limited by the State and Federal Government to 25 to 30 miles per an hour because they do not have air bags and they have not been crash tested. All of these vehicles can be charged from any 20 amp circuit. Freeway capable electric vehicles will go much faster and have a 200

mile range on just one charge, but these require a 220 plug. He summarized that it would be prudent to require builders of multifamily development to provide one electric vehicle charging stall for every 20 units.

Commissioner Pyle asked how much a premade RV box would cost. Mr. Lough answered they cost \$150, which includes everything from the main breaker box to the plug. The box would be similar to those provided at RV parks. He advised that municipalities can now modify the rules as long as they can meet the standard electrical code. Commissioner Piro asked Mr. Lough to identify existing developments that provide car charging facilities. Mr. Lough noted the new Seattle library has a public charging station, as does the municipal garage. There are also several charging stations at the park and rides. He noted that the Seattle Electric Vehicle Association's website provides a list of charging facilities.

**Dale Simonson, Shoreline**, commented that he is not against condominiums and he agreed they can provide more open space. However, developers often place the homes closer together so they can be larger, and they actually reduce the amount of open space. He suggested they could require a certain percentage of open space per area rather than allowing developers to make larger units that only provide a benefit to the developer.

#### **Final Questions by the Commission**

Commissioner Behrens referred to Attachment 4 of the packet of information submitted by Mr. Maronek, which is staff's proposed amendment to Section 20.30.315 (Site Development Permit). He asked staff to explain why this proposed amendment, with a few minor tweaks, would not resolve the problems and concerns. Commissioner Piro summarized the primary issues appear to be vegetation, tree cutting, open space and rounding up when calculating density, which are not addressed by proposed Amendment 1. These concerns would have to be addressed via amendments to other sections of the Development Code. Mr. Cohn agreed. Commissioner Piro expressed his belief that if the Commission is interested in addressing the concerns raised by the public regarding condominium development, they should focus their efforts on more applicable sections of the code. Amendment 1 was intended to provide clarification only.

Commissioner Behrens recalled that at the December work session, Commissioner Pyle explained that the major problem with Amendment 1 was related to the way condominium style development would be evaluated. Rather than ownership, the real issue is how development is done. The City should provide a good, thorough process that results in good development. The proposed amendment to Section 20.30.315, which was written by Mr. Szafran, would put condominium development through the same process that is used for any other type of development. A quasi-judicial hearing process would be required for developments of more than four units. He summarized that condominium development is not a bad form of development; the problem is the current code does not provide a way to evaluate and regulate the projects. If that is the purpose of Amendment 1, then the proposed amendment to Section 20.30.315 would be a significant and easy way to accomplish this goal.

Commissioner Piro pointed out that because the amendment to Section 20.30.315 was not advertised as part of the Development Code Amendment Packet, the Commission would not be able to take action at this time. Ms. Collins noted that this proposed amendment has not been reviewed by the City Attorney, so she would be uncomfortable if the Commission were to take action on it tonight. Commissioner Piro agreed that the concerns are not addressed by Amendment 1, which is the only amendment the Commission can consider at this time. He agreed with staff's original recommendation that the Commission provide direction for them to prepare additional code amendment language to address the concerns at a later date.

Commissioner Kaje asked if staff discussed their desire to strike Amendment 4 with the City Council, particularly Council Member Egan. Mr. Cohn said they did not. He recalled that at their December work session, the Commission asked staff to find examples of other jurisdictions that provide electric car charging facilities for private use. They were not able to find these examples. Because there is such limited information, staff did not feel comfortable making a recommendation at this point.

Commissioner Pyle referred to Amendment 7. He noted that the proposed parking requirement would match the requirements identified for Planned Area 2. He asked staff to share how these two areas are similar. Mr. Cohn explained that both of these areas have some but limited bus service. Staff believes it is important to tie the parking requirement to the number of bedrooms, which is what is called out in Planned Area 2.

Ms. Collins recalled that at their December work session, Commissioner Kaje asked staff to provide feedback regarding the legislative history of interests and condominiums. She said she spent a day and a half trying to locate this information, and much of it is in hard copy form going all the way back to the Planning Academy that was formed to help create the Shoreline Development Code. She said she couldn't find why this language was recommended by the Planning Academy.

Ms. Collins recalled Mr. Maronek's asked staff to survey other jurisdictions to find out which only allow one single-family residence per lot and which allow multiple. She noted that her December 23<sup>rd</sup> memorandum identifies jurisdictions that do not allow more than one single-family residence on a lot. It also identifies ways other jurisdictions control single-family development. Mr. Szafran said he contacted surrounding jurisdictions and found they only allow one house per single-family lot.

Mr. Szafran said a question was also raised at the December 4<sup>th</sup> meeting about how the City currently processes single-family residential development through the platting process. He said he prepared an outline to illustrate this process, which would not change as a result of Amendment 1. Ms. Collins explained that the subdivision code is intended to apply to the division of land, and a condominium is a form of ownership rather than a division of land. She agreed that Amendment 1 would not change the City's current process for reviewing condominium development.

#### **Deliberations and Vote by Commission to Recommend Approval or Denial or Modification**

Commissioner Behrens asked staff to explain the process that is currently used to review single-family condominium development proposals. Mr. Szafran summarized that these projects would go through the site development permit process and perhaps SEPA, depending on the size. Commissioner Behrens suggested that Mr. Szafran's proposed amendment to Section 20.30.315 would resolve the problem by requiring projects of more than four units to go through a quasi-judicial review process. Ms. Collins agreed that staff should research this proposal and provide a response to Commission at a later date. The amendment to Section 20.30.315 is not part of the amendment package currently before the Commission for review. Commissioner Behrens asked how the City justifies doing a site development permit review, when it is not a code requirement. Mr. Szafran answered that a site development permit review is required for developments with two or more single-family units on one lot. He clarified that Amendment 1 would strike "condominiums" from the subdivision section of the code, but it would remain in the site development section.

Commissioner Wagner clarified that none of the other surrounding jurisdictions allow more than one single-family detached home on a single lot. Mr. Szafran referred to the City's use table, which outlines what is permitted in certain zones. He noted that condominiums are not listed. The table identifies either single-family attached or single-family detached. He explained that if the term condominium is taken out of the discussion, then the existing code language would make more sense. People are struggling with the issue of whether condominiums can result in a different, less desirable type of development, but it is important to keep in mind that the City doesn't regulate condominiums. There would be a difference in the ownership pattern, but no difference in the physical development that would be allowed on the site.

Commissioner Wagner clarified that, as currently written, the code would allow a property owner to construct either four single-family houses or a single structure with four doors on a one-acre lot in an R-4 zone. Mr. Szafran explained that in an R-4 zone, a property owner would be allowed to construct up to four units, but duplexes are the only type of attached units allowed. In theory, two duplexes would be allowed on the property. The units could be sold to four different property owners and the owners would hold the property surrounding the buildings in common. However, the site development requirements would be the same as to how it is zoned and divided. Mr. Cohn summarized that the real question is how a property is actually developed.

**VICE CHAIR HALL MOVED THAT THE PLANNING COMMISSION RECOMMEND DENIAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENT 1 AND REQUEST THAT STAFF BRING FORWARD A SUBSTITUTE AMENDMENT THAT WOULD LIMIT THE NUMBER OF SINGLE-FAMILY STRUCTURES OR DUPLEXES TO ONE PER LOT ALONG WITH ANY APPROPRIATE DEFINITIONS AS NECESSARY. COMMISSIONER PYLE SECONDED THE MOTION.**

Vice Chair Hall said materials submitted by members of the community suggest they would like to see the same standards applied, regardless of the form of ownership. Other cities have done this by not allowing more than one single-family detached structure on a single lot. He agreed there are other solutions, as well. While the proposed amendment to Section 20.30.315 may solve the problem, it would be appropriate for staff to review the issue and present a recommendation as part of the next

round of Development Code amendments. The Commission could then discuss the merits of requiring a developer to go through the subdivision process in order to build anything that looks like multiple single-family houses on a single lot. Commissioner Pyle agreed and pointed out that all the subdivision process involves is a review to make sure a proposal meets the City standards. The community has expressed a desire to have single-family homes built on single-family lots. If the project would still have to meet the same standards, there should be no hardship felt by the developer aside from going through the process. He said he doesn't see this as a burden.

Commissioner Piro said he supports the motion to not go forward with Amendment 1 at this time. However, he said he is not comfortable with the single solution that has been proposed for staff to work on. Rather than just following what other jurisdictions have in place, he would like staff to explore other solutions, as well. They are in a period where they are seeing significant changes in demographics, and the City must explore a variety of housing options.

Commissioner Behrens said he can support the idea of allowing only one unit per lot. He said that in his work in Snohomish County he has had extensive experience with condominium development, and he has seen both good and bad projects. The good projects offer a lot of benefit because they allow for excess tree retention and engineering of spaces to provide a lot of benefits to the people in the neighborhood. However, he agreed that bad projects allow developers to jam units on top of each other and create eyesores in the middle of neighborhoods. He summarized that he supports Mr. Szafran's original amendment because it would allow for an open public review without limiting the City to hard and fast rules.

**COMMISSIONER PIRO MOVED TO AMEND THE MAIN MOTION TO DIRECT STAFF TO LOOK AT A VARIETY OF SOLUTIONS TO ADDRESS THE VARIOUS ISSUES THAT HAVE COME UP. COMMISSIONER WAGNER SECONDED THE MOTION.**

Commissioner Wagner agreed with Commissioner Piro that it would be appropriate to explore various opportunities for addressing the concerns. She felt the solution would become more clear as staff starts to review the options.

Vice Chair Hall agreed that demographics are shifting and something like small houses clustered close together is a great idea. However, the amount of time it takes to do this type of development well could be a problem for the community. He summarized there are a small number of examples that have raised citizen concerns. Rather than ending up with the City Council adopting a moratorium, redrafting Amendment 1 as per the main motion would stop this particular form of development. He felt it would be worthwhile to move in that direction and direct staff to redraft Amendment 1 as soon as possible. The Commission could have a more lengthy discussion regarding the concept as part of their effort to implement the Comprehensive Housing Strategy.

Commissioner Piro expressed his belief that the amendment to the main motion would allow more flexibility for the Commission and staff to consider a variety of options and would avoid the chance of getting boxed in around the ownership issue. Commissioner Wagner agreed. She suggested that if the

Commission provides enough direction, staff would be able to learn from Snohomish County's process and present some viable options for the Commission to consider.

Commissioner Pyle said that the whole issue should come down to the level of control the community has over a development that occurs on a piece of property. If the Commission were to pursue Amendment 1 as currently proposed, it would become an administrative action, which is binary by nature, instead of an administrative action that has an appeal mechanism and a requirement for a staff report. You either meet it or you don't. There would be nothing to debate, and no staff report would be prepared. Appeals would go directly to Superior Court. For developments of more than four units, the current code allows the City substantive authority, and there are sound policies in the Comprehensive Plan that allow the City to place conditions on the project. This requirement would no longer apply if fewer than four units are proposed. He summarized that they are really talking about developments of between one and four units on a single property, which is where the City is losing control. He said he does not foresee the Commission would recommend an amendment that would allow projects to go through as administrative actions that are left to the staff's discretion.

Chair Kuboi asked how long it would take staff to provide an updated draft of Amendment 1 for the Commission to consider. Mr. Cohn answered that staff could present updated language by May or June.

Commissioner Kaje said he supports the main motion because it would not prevent staff from working on a broader range of options. In addition, the City Council would not be forced to follow that action. However, the main motion would address the main concerns of the community and give staff more time to work through the issues. He suggested the Commission make a clear statement about what think is needed at this time, and encourage staff to still explore other options. Commissioner Piro once again voiced concern that the original proposal is too restrictive, and he would hate to lose opportunities elsewhere while trying to do a needed fix in one particular neighborhood.

**THE MOTION TO AMEND THE MAIN MOTION FAILED 4-4, WITH COMMISSIONERS KUBOI, PERKOWSKI, PIRO AND WAGNER VOTING IN FAVOR AND COMMISSIONERS HALL, BEHRENS, KAJE AND PYLE VOTING IN OPPOSITION.**

Commissioner Wagner recalled that earlier in the meeting, citizens raised concerns about the tree regulations. She suggested that staff provide clear information about how citizens can submit recommendations and suggestions for the Commission's consideration. Mr. Cohn replied that citizens can sign up to receive notices via email every other week when the Commission agendas are published. Commissioner Wagner said she is more concerned about citizens being able to give input into the process so their concerns are adequately recognized by staff when the Commission begins their work on the tree regulations. Mr. Cohn advised that citizens should contact Paul Cohen regarding the tree regulations.

Commissioner Pyle asked staff to share the current problems with the preliminary and final short plat processes, which necessitated Amendment 1. Mr. Szafran explained that the short plat process is fairly cut and dried, but it has expanded over time to include everything that must be considered when developing a property so the end result is effective. An applicant must meet these clear requirements,

and the process IS easy to apply. He said he is not sure the community would gain much from expanding the process to include other types of development. Staff understands the concerns, but they are not convinced the change would result in the anticipated gain. Mr. Cohn added that, if directed by the Commission, staff could provide an analysis of the pros and cons of the proposal.

**THE MAIN MOTION WAS APPROVED 7-1, WITH COMMISSIONER PERKOWSKI VOTING IN OPPOSITION.**

**COMMISSIONER WAGNER MOVED THE COMMISSION RECOMMEND TO CITY COUNCIL APPROVAL OF AMENDMENTS 2, 3, 5, 6 AND 7 WITH ONE VERBIAGE CHANGE IN AMENDMENT 3 (20.50.150.B.6) CHANGING THE WORD "FOOD WASTE" TO "COMPOSTABLE ITEMS." COMMISSIONER PYLE SECONDED THE MOTION.**

Commissioner Wagner said the proposed amendments appear reasonable, with the exception that she wanted food waste to be broader and in line with how City residents are actually composting. For example, leaves are not considered food waste, yet they are a compostable item. Commissioner Pyle concurred with Commissioner Wagner and noted there was no public testimony regarding Amendments 2, 3, 5, 6 and 7. He commended staff for doing a good job of addressing the issues.

**COMMISSIONER KAJE MADE A FRIENDLY AMENDMENT TO INSERT THE WORD "BICYCLE" IN AMENDMENT 5 (20.50.440.b) IN BETWEEN THE WORD "INDOOR" AND "STORAGE." COMMISSIONERS WAGNER AND PYLE ACCEPTED THE FRIENDLY AMENDMENT.**

Commissioner Kaje said he hopes staff would present new language related to electric vehicle parking standards as soon as possible. He noted the Commission previously indicated support for this concept.

Commissioner Piro said he would support Amendments 2, 3, 5 and 6. However, he has concerns about Amendment 7. While at first glance it seems reasonable and logical, they must keep in mind that cars contribute to half of the greenhouse gas emissions in the region and half of the pollution in Puget Sound. If the Commission is serious about pursuing a healthy environment and sustainability, they must understand the parking component of this form of transportation continues to enable the City to carry forward the status quo. He noted that research and study shows that making parking less accommodating helps to promote alternative modes of transportation, and the North City Business District has been identified as transit friendly. He recalled that he previously proposed the option of creating a sub-district parking management plan for North City to deal with on-street parking in adjacent areas. He said he was disappointed to see that staff is willing to embrace accommodating single-occupancy vehicle travel once again.

**COMMISSIONER PIRO MOVED TO REMOVE AMENDMENT 7 FROM THE MOTION. COMMISSIONER HALL SECONDED THE MOTION.**

Vice Chair Hall agreed it would be appropriate to remove Amendment 7 from the bundle of approved amendments since substantive concerns have been raised.

## **THE MOTION TO REMOVE AMENDMENT 7 CARRIED UNANIMOUSLY.**

Vice Chair Hall referred to Amendment 6 and explained that the benefit of having international codes is that they are standard in most places and they are updated on a regular basis. Referencing the Shoreline Municipal Code that deals with fire safety would make more sense that including the standard in Section 20.60.050. He noted that no one objected to Amendments 2, 3, 5 and 6 during the hearing, and the findings in the Staff Report would support the Commission's recommendation of approval.

## **THE MAIN MOTION WAS UNANIMOUSLY APPROVED AS AMENDED.**

**COMMISSIONER PIRO MOVED TO RECOMMEND DENIAL OF PROPOSED DEVELOPMENT CODE AMENDMENT 7 AND DIRECT STAFF TO COME BACK WITH SOME OTHER SOLUTIONS FOR DEALING WITH THE PARKING SITUATION IN NORTH CITY, EITHER BY DEVELOPING A SUB-DISTRICT PARKING PLAN OR LOOKING AT SOME OTHER REMEDIES. COMMISSIONER PYLE SECONDED THE MOTION.**

Vice Chair Hall said he supports the motion for two reasons. First, it is the Commission's job to build a record for the City Council so they have a clear understanding of their thoughts. Second, it is possible that staff may disagree. By taking action on the motion, even if it is denial, staff would have an opportunity to bring the amendment forward to the City Council notwithstanding the Commission's recommendation. He recalled that North City received a lot of attention for a period of time, and a lot of compromises were brokered in packaging the plan. The City invested a lot of money in capital improvements to make the district more pedestrian and transit friendly. Before they roll back the parking standards, they should carefully review how North City is working as a whole.

Commissioner Pyle said he walks and drives through North City on a daily basis, and he has not noticed a parking problem. However, he doesn't live next to a building that has a lot of parking demand. He agreed with Commissioner Piro that there would be merit in the Commission taking a look at producing subarea or node type parking plans where these issues could be addressed. The community could be directly involved in this effort. He suggested the City should be able to manage parking without relying on a standard that might not make sense neighborhood to neighborhood. He would rather see parking addressed through a parking management program.

Commissioner Behrens pointed out that staff has recommended the City have uniform parking standards throughout the City, and the Growth Management Act obligates the City to have consistency in the code. He said he cannot understand why the City would allow one section of the City to have different parking standards than another. He said that while he looks forward to the day when he can leave his car at home and take a bus, that day is not here yet. He summarized that until the City has the infrastructure available, they can't tell people to use something that doesn't exist. The current traffic statistics show that the City of Seattle is the only place in the United States that did not suffer a significant loss of traffic due to the economic decline, and this makes it clear there is a significant problem with the transit system. Until there is an adequate transit system in place, the City must provide places for people to park. He strongly recommended the Commission adopt Amendment 7 as proposed.



Commissioner Kaje pointed out that Amendment 7 would do nothing to address the current parking problems in North City. It would add more parking capacity to future developments, which may alleviate future problems to some degree. However, a parking management plan or other approach would be a better alternative to deal with the current parking problems.

Commissioner Piro said that while he can appreciate Commissioner Behrens' concerns about parking, advancing this old solution would not address any of the existing problems. On the other hand, a parking management plan could deal with the whole North City Business District in a more direct fashion. He pointed out that the Growth Management Act does not necessarily require uniformity in a standard across an entire jurisdiction. Cities are allowed to have subarea variations, but they need to be compatible and consistent. North City is a transit-oriented community that is unlike other areas of the City. Statistics in the region also show a decrease in the vehicle miles traveled per capita over the last few years, which illustrates a growing proportion of people using transit. While he would love increased transit opportunities in North City, it is already one of the City's best served transit nodes. Therefore, it is inaccurate to paint North City as an area that is deprived of transit opportunities.

**THE MOTION WAS APPROVED 7-1 WITH COMMISSIONER BEHRENS VOTING IN OPPOSITION.**

In regard to looking at other alternatives, Commissioner Pyle suggested the new language require that parking spaces be assigned to the unit and painted as assigned to the unit. Developers should not be allowed to rent the spaces separately from the unit or require additional rent for a parking spaces.

**Close Public Hearing**

Chair Kuboi closed the public hearing.

**DIRECTOR'S REPORT**

Mr. Cohn did not provide any additional reports during this portion of the meeting.

**UNFINISHED BUSINESS**

Vice Chair Hall reminded staff that the Commission requested a report regarding Bus Rapid Transit on Highway 99. Ms. Simulcik Smith announced that this report would be provided on March 5<sup>th</sup>.

**NEW BUSINESS**

**Report on Council Scoping Session on Tree Regulations**

Mr. Cohen recalled that on January 5<sup>th</sup> the City Council reviewed a draft Planning Commission Work Program to amend the tree regulations. On February 9<sup>th</sup> staff presented 10 "Decision Modules" to the City Council and asked which ones they wanted to include in the scope for the Planning Commission to

consider. The purpose of this briefing is to share the Council's direction on tree code amendments and its review process.

Mr. Cohen said that as he has implemented the current regulations, reviewed the Comprehensive Plan, and attended community meetings to discuss the topic, it has become apparent that the citizens of the community value trees. However, everyone seems to have a different idea for what that means. In addition trees are a difficult resource to regulate because they grow, die and cross property lines. Staff believes the real question is how to fairly regulate trees to enhance the overall canopy of the community but allow property to be developed, and the Comprehensive Plan Policies and Environmental Sustainability Strategies that were adopted in 2008 clearly support the tree canopy in the community. The two documents provide a range of goals such as: protecting the natural environment, preserving significant trees, ensuring development is compatible with the natural environment, and balancing property rights with the protection of natural environments.

Mr. Cohen referred to the 10 Decision Modules (choices) that were offered to the City Council and reported that they wholeheartedly agreed with the first 9. However, they chose not to include the 10<sup>th</sup> option as part of this review. Decision Module 10 would have allowed the Critical Areas Ordinance to consider vegetation management or stewardship plans to deal with trees and vegetation in neighborhoods. He explained that while vegetation management plans involve the issue of trees, the Critical Areas Ordinance is separate from the tree regulations. The City Council gave clear direction that the Commission's review should involve the tree regulations, only. Mr. Cohen briefly reviewed the 9 decision modules as follows:

- **Decision Module 1 – Establish a baseline urban forest canopy citywide.** Mr. Cohen said the basic assumption is that as the City has grown there has been no net gain in the number of trees, but it is difficult to make this determination because they do not have a baseline measurement. There are a variety of methods for establishing a baseline. With such a baseline in place, the City would have the ability to monitor the overall City canopy every five years to assess its health and identify any further programs or code amendments as needed.
- **Decision Module 2 – Reorganize SMC 20.50.290 to separate clearing and grading provisions into a different subsection.** Mr. Cohen explained that the current tree ordinance provides regulations for clearing and grading, but they are muddled together. Staff has recommended that this section be bifurcated to make the different intents, purposes, exemptions and regulations clear. In addition, it is important to modify the clearing and grading regulations so they are consistent with the newly adopted Storm and Surface Water Manual.
- **Decision Module 3 – Change the provision in SMC k20.50.310.B.1 that allows the removal of 6 significant trees every 36 months without a permit.** Mr. Cohen explained that the current code allows the removal of up to 6 significant trees per property every 36 months. This could potentially result in a huge hole in the citywide canopy because the City does not regulate or monitor the provision. Staff is recommending they eliminate this loophole and consider other ways to allow people flexibility in developing sites. Because no permit is required, people sometimes cut trees in critical areas without notifying the City.

- **Decision Module 4 – Amend SMC 20.50.310.A to establish clear criteria and thresholds for identifying when a tree is hazardous that is reviewed by a City third party arborist. Add requirements for replacement trees when hazardous trees are removed.** Mr. Cohen explained that, currently, property owners use their own arborists to determine a hazardous tree. If the City doesn't agree with the assessment they can require a third party assessment, but this ends up costing the property owner twice and prolongs a basic decision. Requiring property owners to use a City arborist would make the assessment more objective and less costly for everyone.
- **Decision Module 5 – Amend SMC 20.50.360 to allow for reasonable tree replacement ratios and the possibility to replace trees on other land within the City.** Mr. Cohen explained that the City currently has a replacement ratio requirement for trees that are removed, but they are finding the ratios are quite high. Most development sites do not have the room to plant all the replacement trees, and the replacement trees are easily cut down without a permit after the 3-year protection period because they are not defined as significant trees.
- **Decision Module 6 – Amend SMC 20.50.350.B.2 to remove code provisions for 30% preservation of significant trees if a critical area is on site because trees in critical areas are already protected under Critical Areas Ordinance (SMC 20.80).** Mr. Cohen explained that a very small critical area could trigger 30% preservation on the entire site when the intent is to preserve all trees in the critical area, which is already a requirement of the Critical Areas Ordinance. The change would continue to preserve the base significant trees, as well as trees in critical areas.
- **Decision Module 7 – Amend SMC 20.50.350.B.1 to remove and replace the flat code provision for 20% preservation of significant trees.** Mr. Cohen advised that the existing rule is inequitable. For example, a site that is covered with 100 trees would have to retain 20 trees, while a small site with only 5 trees would only have to save 1. Staff recommends the City could devise a more equitable system that requires tree preservation based partially on lot size.
- **Decision Module 8 – Reorganize and clarify code provisions SMC 20.50.350.B-D that give the Director flexible criteria to require less or more trees be preserved so site design can be more compatible with the trees.** Mr. Cohen explained that, as currently written, there is an opportunity for the Director to have flexibility to require either less or more significant trees to be preserved on the site. The idea is that because trees are not always located where a developer wants them to be, the Development Code has standards for identifying buildable lots. If flexibility is allowed, it might be possible to preserve more trees in many situations.
- **Decision Module 9 – Amend SMC 20.30.770.D to provide greater clarity and specificity for violations of the tree code.** Mr. Cohen pointed out that because it is difficult to prove violation intent, it is hard to exact fines.

Mr. Cohen reviewed that a little more than a year ago, a group of citizens submitted an amendment proposal recommending that vegetation management plans be allowed within critical areas. The intent

of the proposal was to allow the removal of invasive trees, pruning and removal of trees, and replacing plants. He explained that the Critical Areas Ordinance already allows for the removal of invasive trees and some light pruning. The proposal was presented to the City Council on February 9 as Decision Module 10. After review, the City Council opted to not include the proposal as part of the tree regulation project.

While it was previously stated that the proposal was specifically related to vegetation management plans, Commissioner Pyle noted that the Innis Arden Club's proposal actually included proposed amendments to Section 20.50, which are related to hazardous trees. In an effort to ensure that everyone's concerns are considered, he suggested they add back the proposed amendments related to hazardous trees as presented by the Innis Arden Club. He noted these were not specifically dropped off the list by the City Council. Mr. Cohen agreed the other proposals put forth by the Innis Arden Club could be considered as part of the Commission's review of the 9 Decision Modules.

Commissioner Pyle recommended the Commission also consider adding a statement into the tree regulations stating that trees may be managed as allowed through the Critical Areas Ordinance or Section 20.80, and then leave in a potential insert at a later date for discussing a vegetation management plan. Mr. Cohen agreed it would be possible to consider this option. Commissioner Pyle said that as a result of staff's explanation about how the vegetation management plan proposal is related to the Critical Areas Ordinance, which is different than the tree regulations, he understands why the decision was made not to include Decision Module 10 as part of the tree regulation discussion.

Commissioner Wagner asked if the City Council gave direction as to when potential amendments to the Critical Areas Ordinance would show up on the Commission's work program. Mr. Cohen said the City Council did not give any indication of if or when they wanted the Commission to reconsider the Critical Areas Ordinance. Commissioner Wagner asked how the Commission should forward their comments to staff regarding the 9 Decision modules. Mr. Cohen said he anticipates it would take staff until at least May to prepare draft code language for the Commission to consider. He agreed it would be appropriate for Commissioners to email their questions and concerns to him as they come up. Vice Chair Hall pointed out that, as is the normal process, the Commission would conduct a workshop discussion regarding the proposed amendments prior to a public hearing, and that would be the appropriate time for the Commission to discuss their concerns and questions.

Vice Chair Hall referred to Decision Module 5 and said that while one alternative is to change the replacement ratios, another alternative would be to find some way to make sure the replacement trees grow to maturity. He suggested staff consider both alternatives in their report to the Commission.

Vice Chair Hall referred to Decision Module 6, which appears to be reasonable. However, he said he can also imagine a forested site that has a steep slope on 20% and the remaining portion of the property is flat. If the City only requires 30% retention of significant trees, a developer could retain all of the trees in the critical area and none on the remainder of the site. The current code language has value in that it imposes some greater burden. He suggested an alternative would be to require a developer to retain 20% of the significant trees that are outside of the critical areas and all the trees within the critical areas.

Vice Chair Hall referenced Decision Module 7 and said he understands the concern that larger sites have to retain more trees than smaller sites. However, larger sites also have greater development potential. Larger sites also have the potential to preserve intact stands of trees. Mr. Cohen clarified that Decision Module 7 is intended to deal with sites of the same size, one that is covered with trees and another that has only a few. They both should have the same development potential. The intent is to require owners of property with fewer trees to preserve a greater percentage than an owner of property with numerous trees.

Vice Chair Hall referred to Decision Module 8, which suggests that the result of the current code requirements can excessively preclude development on many lots. He suggested that people have different views on this issue. He encouraged staff to present both the pros and cons of the proposed change. He agreed that the current code language limits development relative to some other alternative, but the question of whether it is excessive or not would take a lot of effort to decide.

Commissioner Piro reminded the Commission and staff that it is important to look at the proposed changes in terms of maintaining the overall ecological function. He said he got the impression that the Commission was more concerned about preserving features rather than function. He reminded the Commission that the efforts of the Puget Sound Partnership and the City to preserve critical areas are interconnected. It is incumbent upon the Commission to do what they can with their urban forests to ultimately help the entire ecosystem in the area.

Commissioner Behrens said he would like the staff to draft the proposed code from the point of view of tree preservation rather than tree removal. He noted most of the language is related to allowing people to cut down trees. The City's effort should be focused on creating code language that allows for and encourages preservation of existing trees.

Chair Kuboi referred to Decision Module 4, which would require a developer to use a City designated arborist to identify hazardous trees. He asked if this change would create a liability for the City if the designated arborist makes a decision that a tree is not hazardous and then it falls over and damages property or injures a person. He requested the City Attorney provide feedback regarding this concern.

### **Point Wells Draft Environmental Impact Statement (EIS)**

Mr. Cohn reported that the Point Wells Draft EIS was issued a few weeks ago, and the comment period ends on March 23<sup>rd</sup>. The EIS is available via the City's website. He advised that he attended the Snohomish County Planning Commission's hearing on the EIS on February 26<sup>th</sup>. He explained that the proposal would change the designation of the site from "industrial" to "urban center." The draft EIS defines an "urban center" as allowing up to 3,500 units and/or 6,000 people, which is about five times the population of the Town of Woodway and about the same population size as all of Richmond Beach. It calls out another 85,000 square feet of commercial/retail space. Because there is only one road in and out of the property, the transportation impacts to the City of Shoreline would be significant. The City's Transportation Engineers are carefully reviewing the EIS. At the hearing, staff made the point that the City of Shoreline does not believe the site should be designated urban commercial because one of the

main criteria for that designation is that it be served by rapid transit or a rail line. Merely having a rail line next to it doesn't really count if there is no stop. The County Commission did not conduct any deliberation on the EIS, so staff does not yet know what their final recommendation to the Snohomish County Council will be. Although Shoreline has recommended they wait until the comment period has ended before making a recommendation, it is likely they would proceed before that date.

Mr. Cohn summarized that staff recommends the City of Shoreline handle the Point Wells site via an amendment to their Comprehensive Plan. At this time, the Comprehensive Plans merely identifies Point Wells as a mixed-use area. Staff believes they can provide more direction, and they anticipate drafting a Comprehensive Plan amendment related to Point Wells for the Commission's consideration in April.

Commissioner Piro asked about the possibility of either Shoreline or Woodway annexing the Point Wells area. Mr. Cohn answered that potential annexation would require the support of the property owner. If the property owner wants to annex into the City of Shoreline, the City would likely be very supportive. However, preliminary indications are that Snohomish County would not be supportive because they do not approve of cross county annexation.

#### **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

Commissioner Pyle referred to a public records request that was provided to a member of the community. While the document is five pages long, most of the information was blacked out. Ms. Collins explained that the City currently has a case at the Supreme Court related to public records. One of the issues was that the City was not releasing records. Instead, they were saying what the record and exemptions were. The public indicated they wanted to physically have the piece of paper. She agreed that it appears very unfriendly, but it is the best way the City has found to address these situations.

Chair Kuboi reported that he and Vice Chair Hall met with the City Council to discuss feedback on the draft Vision and Framework Goals. Generally speaking, the City Council was very complimentary about the Commission's efforts, and they thought the narrative was well crafted. The comments they had were to thank the Commission for their work on a product they were very happy with. Vice Chair Hall agreed that the City Council was complimentary. The City Council pointed out a few items that did not come out clearly enough (i.e. employment, job-based growth, and long-term financial stability). They decided to release the document to the public on March 2<sup>nd</sup>, and staff was directed to write a cover letter emphasizing that the document is not a finished product.

Vice Chair Hall reported on his attendance at the final Shoreline Long-Range Financial Planning Committee Public Outreach Meeting. The Committee had been looking at data that shows the City's expenses are going up at roughly the rate of inflation, and the revenues are going up at about half that rate. While the City is okay through this year, serious actions will have to be taken for the City to continue their financial health in 2010. He reminded the Commission that the City has prided itself in being very fiscally conservative and having a very small number of employees compared to the population, and yet providing a high level of service. He suggested the Commissioners review a copy of the final report, which will be presented to the City Council in the near future.

## **AGENDA FOR NEXT MEETING**

Ms. Simulcik referred the Commission to the packets that were provided to the Commissioners in preparation of their March 5<sup>th</sup> meeting.

A member of the audience inquired if there would be an opportunity for the public to provide comment regarding future proposed tree regulation amendments. Chair Kuboi noted that the draft amendments would not be ready for Commission review until April or May. Mr. Cohn added that all written public comments would be forwarded to the Commissioners prior to their discussion of the draft amendments. The public would likely have an opportunity to provide comments to the Commission as part of their review session, and a formal public hearing would be conducted prior to the Commission making a recommendation to the City Council. He invited members of the public to forward their written comments to the Planning and Development Services staff, and they would forward them to the Commission.

## **ADJOURNMENT**

**COMMISSIONER PYLE MOVED THE COMMISSION ADJOURN THE MEETING AT 10:05 P.M. COMMISSIONER WAGNER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

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Sid Kuboi  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

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Mr. Maronek's Comment for Feb. 26 Public Hearing on Development Code Amendments

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**From:** Artmaronek@comcast.net[SMTP:ARTMARONEK@COMCAST.NET]

**Sent:** Monday, February 23, 2009 5:23:20 PM

**To:** Plancom; John Behrens; Will Hall; Janne Kaje; Sid Kuboi;  
Michael Broili; Ben Perkowski; Rocky Piro; David Pyle;  
Michelle Linders Wagner

**Subject:** Public Hearing on February 26

**Auto forwarded by a Rule**

Members of the Planning Commission:

This email is submitted as written testimony for the public hearing scheduled for the Planning Commission's Special Meeting on February 26, 2009 regarding proposed Development Code amendments (Application #301543), to help inform the Planning Commission, and to ensure that all the information the Commission needs to fully evaluate the proposed code amendments is made available.

First, during the Planning Commission's study session on December 4, 2008, questions and directions to staff were made by the Commissioners and recorded in the minutes for followup. The staff's submission for the February 26<sup>th</sup> Special Meeting does not answer those questions or respond to those directions; specifically:

- Outline what the required process would be for developing a condominium based on the proposed changes to the Development Code.
- Survey other jurisdictions that are similar to Shoreline to find out whether or not they allow for the development of one single-family residential parcel with more than one single-family unit.
- Research the records and explain why the terms "interests" and "condominiums" were added to the language in the Development Code, so that the Commission can have a better understanding of the impacts associated with the proposed amendments.
- Establish a fuller context for the proposed amendments to ensure that the proposed new language would be consistent.
- Detail what the required review process would be if the proposed amendments were adopted.
- Before the proposed amendments come back before the Commission, reassess and explain how a developer could develop the number of units allowed by the current zoning without going through the subdivision process, would there be no discretionary approval, would the decision be administrative as to whether the application conforms to the standards or not, and would the City Council and Planning Commission be involved in the review process.
- How would taxes be assessed on condominium properties?

Second, no explanation has been provided by staff as to how the proposed amendments meet the criteria