
Council Meeting Date: July 6, 2009

Agenda Item: 5(a)

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

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| AGENDA TITLE: | Proposed Amendments to the Development Code, Application #301606, Study Session |
| DEPARTMENT: | Planning and Development Services |
| PRESENTED BY: | 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.
4. The Council could choose to amend the proposed amendments previously considered by the Planning Commission.

FINANCIAL IMPACTS:

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

RECOMMENDATION

No action is required at this meeting. 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 April 15, 2010 followed by a public hearing on May 6. This study session before City Council will address any questions, concerns and clarifications of the Planning Commission recommendations. The amendments are currently scheduled on July 12 for action.

PUBLIC COMMENT

A notice of Public Hearing, request for public comment, and preliminary SEPA threshold determination was published on April 12, 2010. Three comments were received; however they address an issue the Commission deferred for more study so these comments are not included in this packet. Seven people spoke at the Public Hearing. Of the seven, three spoke on the proposed changes to the Home Occupation regulations, two on modifying the setback standards for stairs within a front yard setback, and two on the item that the Commission deferred for additional study and will consider at a later date (the item deferred to a later date is 20.30.680-Appeals).

AMENDMENTS AND ISSUES

Amendments Recommended by the Planning Commission

The following are the amendments that the Planning Commission recommended and a brief explanation of each amendment. Attachment 1 shows the proposed amending language shown in legislative format which uses ~~striketroughs~~ for proposed deletions and underlines for proposed additions. The minutes from this meeting are included as Attachment 2.

20.20.016 D definitions

"Detached" is a new definition to assist in the application of certain criteria for accessory structures and detached dwellings. It corrects an oversight that occurred with the adoption of Ordinance 406.

20.20.046 S Definitions

These new definitions incorporate into the Development Code a previous Administrative Order signed by the Planning and Development Services Director.

Table 20.30.060.

This amendment removes the Street Vacation process from the Development Code and references Chapter 12.17 of the Shoreline Municipal Code; Chapter 12.17 is an existing chapter entitled "Street Vacation" that sets forth all requirements, timelines and approvals required by state law. The process set forth in the Development Code was redundant and did not reflect changes to the Street Vacation process that had been incorporated into Chapter 12.17 over the years.

20.30.070 Legislative Decisions

This amendment removes the words "open record" before public hearing; legislative hearings are public hearings, but they are not considered "open record" public hearings. The term "open record public hearings" is defined by state law and only applies to quasi-judicial hearings, not legislative hearings.

20.30.150 Public notice of decision

This is a cleanup amendment to clarify that a Notice of Decision will be posted for all Type B and C action. All those actions are site specific proposals.

20.30.160 Expiration of vested status of land use permits and approvals

Master Development Plan Permits have different vesting timelines which are addressed in this code section.

20.30.180 Public notice of public hearing

This corrects the public notice time period for open record hearings from 14 days to 15 days. RCW 36.70B.110(3) requires 15 day notice. In practice, Planning and Development Services provides 15 day notice; this is a clean-up amendment to ensure our code reflects state law.

20.30.200 General description of appeals

The Shoreline Municipal Code does not address the appeal process for Type A decisions. The changes here clarify that Type A decisions have no administrative appeal, so appeals are made to the Superior Court.

20.30.353 G. Master Plan Vesting Expiration

There is no mechanism in place to charge a fee for the 10 year review. Since the applicant has expended significant resources for the Master Development Plan development and approval, and since the update will only be triggered by changes the City makes to its vision, goals, strategies, Comprehensive Plan and Development Code, the City should review for consistency and absorb this cost, not the applicant, as it would for any City initiated zoning amendment to reflect these changes.

As worded, this amendment leaves it to the Commission to decide whether the 10 year review will take place ("After ten years, the Planning Commission may review the master development plan for consistency..."). It is intended that staff will track this review and bring it to the Commission's attention. If there are no inconsistencies, staff will propose "no review" to the Planning Commission.

20.30.410 Preliminary subdivision review procedures and criteria

Questions were raised about whether the amendment would remove the ability to require dedications for public purpose in the future.

This amendment does not remove that option; it still exists under the City's SEPA authority and can be invoked if a nexus is established. RCW 58.17.095 identifies all of the items to be considered for dedication including parks and open space. This amendment clarifies who may accept the dedication (i.e. The Director cannot accept park dedications on a short plat).

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final plats/zones

The title of this section has been modified to clarify the intent of the section.

20.30.740 Declaration of public nuisance, enforcement

This amendment adds cross references in the Shoreline Municipal Code.

20.30.760 Notice and orders

This amendment removes restriction on rescinding Notice and Orders.

PDS will rescind Notice and Orders for various reasons, such as discovering a procedural error (such as failure to properly mail the Notice and Order) or substantive violations (failure to accurately state the legal description, failure to include all violations, mistakenly citing a violation). In most cases, the Notice and Order will be reissued after its rescission.

20.30.770 Enforcement provision

Staff experience has shown that that a fine of 1,000 dollars does not change behavior in some offenders, that is to say, even with the existing fine, there are some repeat offenders. Staff believes by doubling the fine, offenders may be more willing to comply with the City's regulations.

20.40.210 Accessory Dwelling Units

This amendment would modify the current requirement of a minimum 10,000 square foot lot for a detached accessory dwelling unit. All development standards such as setbacks, building coverage, hardscape, height and density are unchanged.

20.40.400 Home occupation

This amendment would relax the home occupation rules and allow a home based business to have two employees and a vehicle and a trailer as long as the vehicle and trailer do not exceed the thresholds listed.

20.40.600 Wireless telecommunication facilities/satellite dish and antennas

The intent of the change is to allow a modification to an existing pole and the replacement of a shorter pole with a taller pole (as long as height limits are not exceeded). The existing language would not allow modification to current poles and would result in more telecommunication poles throughout the city

20.50.030 Lot width and lot area – Measurements

The amendment clarifies that all easements, including access easements, need to fit within the required lot width.

20.50.040 Setbacks – Designation and measurement

The intent of the amendment is to allow stairs in the front yard setback as long as the distance between the ground and the surface of the stair is 30 inches or less. Thirty inches in height is a number used in other places in the code; for example, a deck that is less than 30 inches above the ground does not require a building permit.

20.50.110 Fences and walls – Standards

Sections removed from Development Code with revisions to 20.70.

20.50.125, .225, .385, .455, and .535

Deletes the reference to SMC 20.70.030 because Section 20.70 is being revised so reference no longer makes sense.

20.50.310 Exemptions from permit

The purpose of this amendment is to allow the removal of noxious weeds and invasive vegetation, especially blackberries in critical areas without a clearing and grading permit. The main impetus for this amendment is to accommodate ongoing volunteer blackberry removal projects in Shoreline's parks.

Table 20.50.390D – Special Nonresidential Standards (Continued)

Experience has shown that current parking requirements for warehouse and storage uses are too high, creating unnecessary parking stalls that are unused and creating greater areas of impervious surface. This amendment reduces the parking requirement to a realistic standard.

20.50.430 Nonmotorized access and circulation – Pedestrian access and circulation – Standards

This amendment refers to pedestrian access on private property. The 44 inch and 36 inch requirements are required by ADA-accessibility in the City's building codes.

20.50.470 Street frontage landscaping – Standards

This amendment will require landscaping between the building and the sidewalk even if street trees are provided. Currently, the code allows a property owner to eliminate landscaping between the building and the sidewalk if the property owner plants street trees.

20.50.480 Street trees and landscaping within the right-of-way– Standards

The Development Code governs development (including landscape standards) outside of the city's right of way, and the Engineering Development Guide governs development and landscape standards within the right of way. This change removes street tree standards from the Development Code and refers the applicant to the Engineering Development Guide for the most current standards.

20.50.520 General standards for landscape installation and maintenance – Standards

These amendments rewrite the sections to add clarity and to generally read better.

20.60.140 Adequate streets

This amendment is self-explanatory. Any development that generates 20 or more "new" pm peak hour trips must submit a traffic study.

20.80.110 Critical areas reports required

Critical area reports should be required for non-designated critical areas as not all critical areas have been identified within the City limits.

20.80.350 Mitigation performance standards and requirements

When an applicant is required to mitigate a project, the applicant should be required to pay for the cost of monitoring said project.

RECOMMENDATION

No action is required at this meeting. Following discussion, Council will provide further direction to staff.

ATTACHMENTS

1. Proposed Amendments in legislative format
2. Planning Commission minutes for Study Session, Public Hearing and Deliberations

20.20.016 D definitions.

Detached Buildings with exterior walls separated by a distance of 5 feet. To be consistent with this definition projections between buildings must be separated by a minimum of 3 feet.

Director Planning and Development Services Director or designee.
(Ord. 406 § 1, 2006).

20.20.046 S Definitions

1. Secure Community Transitional Facility (SCTF) - A residential facility for persons civilly committed and conditionally released to a less restrictive community-based alternative under Chapter 71.09 RCW operated by or under contract with the Washington State Department of Social and Health Services. A secure community transitional facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. SCTFs shall not be considered Community Residential Facilities.

2. Senior Citizen Affordable Housing

Households with:

- A. Income no greater than 60% of the King County median gross income, adjusted for household size; and
- B. At least one occupant is 55 years of age or older; and
- C. A maximum of 3 occupants per dwelling unit.

3. Senior Citizen Assisted Housing - Housing in a building consisting of two or more dwelling units restricted to occupancy by at least one occupant 55 years of age or older per unit, and must include at least two of the following support services:

- A. Common dining facilities or food preparation service
- B. Group activity areas separate from dining facilities
- C. A vehicle exclusively dedicated to providing transportation services to housing occupants
- D. Have a boarding home (assisting living) license from Washington State Department of Social and Health Services.

Table 20.30.060.

| | | | | | |
|--------------------|-------------------------------------|-------------------------------------|---|---------------------------------------|------------------------------|
| 8. Street Vacation | <u>PC (3) See Chapter 12.17 SMC</u> | <u>PC (3) See Chapter 12.17 SMC</u> | <u>City Council See Chapter 12.17 SMC</u> | <u>120 days See Chapter 12.17 SMC</u> | <u>See Chapter 12.17 SMC</u> |
|--------------------|-------------------------------------|-------------------------------------|---|---------------------------------------|------------------------------|

20.30.070 Legislative Decisions

Table 20.30.070 – Summary of Legislative Decisions

| Decision | Review Authority, Open Record Public Hearing | Decision Making Authority (in accordance with State law) | Section |
|--|--|--|-----------|
| 1. Amendments and Review of the Comprehensive Plan | PC(1) | City Council | 20.30.340 |
| 2. Amendments to the Development Code | PC(1) | City Council | 20.30.350 |

(1) PC = Planning Commission

Legislative decisions usually include a hearing and recommendation by the Planning Commission and the action by the City Council.

The City Council shall take legislative action on the proposal in accordance with State law.

There is no administrative appeal of legislative actions of the City Council but they may be appealed together with any SEPA threshold determination according to State law.

20.30.150 Public notice of decision.

For Type B and C actions, the Director shall issue and mail a notice of decision to the parties of record and to any person who, prior to the rendering of the decision, requested notice of the decision. The notice of decision may be a copy of the final report, and must include the threshold determination, if the project was not categorically exempt from SEPA. The notice of decision will be posted

and published in the newspaper of general circulation for the general area in which the proposal is located and posted for site-specific proposals.

20.30.160 Expiration of vested status of land use permits and approvals.

Except for subdivisions and master development plans or where a different shorter duration of approval is indicated in this Code, vested status of an approved land use permit under Type A, B, and C actions shall expire two years from the date of the City's final decision, unless a complete building permit application is filed before the end of the two-year term. In the event of an administrative or judicial appeal, the two-year term shall not expire. Continuance of the two-year period may be reinstated upon resolution of the appeal.

20.30.180 Public notice of public hearing.

Notice of the time and place of an open record hearing shall be made available to the public by the Department no less than ~~14~~ 15 days prior to the hearing, through use of these methods:

20.30.200 General description of appeals.

A. Administrative decisions (Type B) are appealable to the Hearing Examiner who conducts an open record appeal hearing.

B. Appeals of City Council decisions, ministerial decisions (Type A) without an administrative appeal, and appeals of an appeal authority's decisions shall be made to the Superior Court.

20.30.353 G. Master Development Plan ~~Expiration~~. Vesting.

A master development plan shall vest development identified in the plan for ten years after issuance of the plan or ten years after a major amendment, unless extended vesting for phased development is approved in the master development plan. After ~~Every ten~~ 40 years, the Planning Commission may ~~shall~~ review the master development plan for consistency ~~an update every five years~~. Revisions are required if it has become inconsistent with current City's Vision, Goals, Strategies (such as the Economic Development Strategy, Housing Strategy, Environmental Sustainability Strategy), Comprehensive Plan and other sections of the Development Code. If changes are recommended, staff shall initiate a major amendment under this section to achieve consistency unless the changes are approved by the owner.

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.

Time limit: A final short plat or final long plat meeting all of the requirements of this chapter and RCW 58.17 shall be submitted for approval within the timeframe specified in RCW 58.17.140.

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

C. Dedications and improvements.

1. The City Council may require dedication of land in the proposed subdivision for public use.
2. Only the City Council may approve a dedication of park land. The council may request a review and written recommendation from the Planning Commission.
- ~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~
- ~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

~~D. Improvements.~~

3.2. In addition, the City Council may require dedication of land and improvements in the proposed subdivision for public use under the standards of Chapter 20.60 SMC, Adequacy of Public Facilities and Chapter 20.70 SMC, Engineering and Utilities Development Standards necessary to mitigate project impacts to utilities, right-of-way, stormwater systems.

- a. Required improvements which may include be required, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.

~~2. Improvements shall comply with the development standards of Chapter 20.60 SMC, Adequacy of Public Facilities.~~

~~Time limit: Approval of a preliminary formal subdivision or preliminary short subdivision shall expire and have no further validity at the end of three years of preliminary approval.~~

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final plats.

~~The owner of any lot in a final plat filed for record shall be entitled to use the lot for the purposes allowed under the zoning in effect at the time of filing of a complete application for five years from the date of filing the final plat for record, even if the property zoning designation and/or the Code has been changed. (Ord. 352 § 1, 2004; Ord. 238 Ch. III § 8(k), 2000).~~

All lots in a final short plat or final plat shall be a valid land use notwithstanding any change in zoning laws for the period specified in RCW 58.17.170 from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for the period specified in RCW 58.17.170 after final plat approval unless the Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

20.30.740 Declaration of public nuisance, enforcement.

A. A Code Violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. Any City land use and development ordinances or public health ordinances;
2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the Codes adopted in Chapter 15.05 SMC;
4. Violation of provisions of Chapter 12.15 SMC, Use of Right of Way;

- 54. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Solid Waste Code;
- 65. Nuisance vegetation;
- 76. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property; and
- 87. Violation of any of the provisions of Chapter 13.10 SMC, Surface Water Management Code.

20.30.760 Notice and orders.

F. Service of a notice and order shall be made on any responsible party by one or more of the following methods:

- 1. Personal service may be made on the person identified as being a responsible party.
- 2. Service directed to the landowner and/or occupant of the property may be made by posting the notice and order in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available.
- 3. Service by mail may be made for a notice and order by mailing ~~two copies, postage prepaid, one by ordinary first class mail and the other~~ by certified mail, to the responsible party at his or her last known address, at the address of the violation, or at the address of their place of business. The taxpayer's address as shown on the tax records of the county shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. The City may mail a copy, postage prepaid, by ordinary first class mail. Service by mail shall be presumed effective upon the third business day following the day the notice and order was mailed.

The failure of the Director to make or attempt service on any person named in the notice and order shall not invalidate any proceedings as to any other person duly served.

- G. Whenever a notice and order is served on a responsible party, the Director may file a copy of the same with the King County Office of Records and Elections. When all violations specified in the notice and order have been corrected or abated, the Director shall issue a certificate of compliance to the parties listed on the notice and order. The responsible party is responsible for filing the certificate of compliance with the King County Office of Records and Elections, if the notice and order was recorded. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil penalties, for which liens have been filed, are still outstanding and continue as liens on the property.
- H. The Director may revoke or modify a notice and order issued under this section ~~if the original notice and order was issued in error or if a party to~~

~~an order was incorrectly named.~~ Such revocation or modification shall identify the reasons and underlying facts for revocation. ~~Whenever there is new information or a change in circumstances,~~ The Director may add to, rescind in whole or part or otherwise modify or revoke a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notice and orders contained in this section.

I. Failure to correct a Code Violation in the manner and within the time frame specified by the notice and order subjects the responsible party to civil penalties as set forth in SMC 20.30.770.

1. Civil penalties assessed create a joint and several personal obligation in all responsible parties. The City Attorney may collect the civil penalties assessed by any appropriate legal means.
2. Civil penalties assessed also authorize the City to take a lien for the value of civil penalties imposed against the real property of the responsible party.
3. The payment of penalties does not relieve a responsible party of any obligation to cure, abate or stop a violation.

(Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 466 §§ 2, 3, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(f), 2000. Formerly 20.30.770).

20.30.770 Enforcement provisions.

2. Any responsible party who has committed a violation of the provisions of Chapter 20.80 SMC, Critical Areas, or Chapter 20.50 SMC, General Development Standards (tree conservation, land clearing and site grading standards), will not only be required to restore unlawfully removed trees or damaged critical areas, insofar as that is possible and beneficial, as determined by the Director, but will also be required to pay civil penalties in addition to penalties under subsection (D)(1) of this section, for the redress of ecological, recreation, and economic values lost or damaged due to the violation. Civil penalties will be assessed according to the following factors:

a. An amount determined to be equivalent to the economic benefit that the responsible party derives from the violation measured as the total of:

i. The resulting increase in market value of the property; and

ii. The value received by the responsible party; and

iii. The savings of construction costs realized by the responsible party as a result of performing any act in violation of the chapter; and

~~b. A penalty of \$1,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their~~

~~contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate; and~~

~~b. e.~~ A penalty of \$2,000 if the violation has severe ecological impacts, including temporary or permanent loss of resource values or functions.

3. An additional penalty of \$1,000 \$2,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate; and

4. ~~3.~~ A repeat violation means a violation of the same regulation in any location within the City by the same responsible party, for which voluntary compliance previously has been sought or any enforcement action taken, within the immediate preceding 24-consecutive-month period, and will incur double the civil penalties set forth above.

5. ~~4.~~ Under RCW 59.18.085, if, after 60 days from the date that the City first advanced relocation assistance funds to displaced tenants, the landlord does not repay the amount of relocation assistance advanced by the City, the City shall assess civil penalties in the amount of \$50.00 per day for each tenant to whom the City has advanced a relocation assistance payment.

6. ~~5.~~ The responsible parties have a duty to notify the Director of any actions taken to achieve compliance with the notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the responsible party has come into compliance with the notice and order and has notified the Director of this compliance, and an official inspection has verified compliance.

7. ~~6.~~ Civil penalties may be waived or reimbursed to the payer by the Director, with the concurrence of the Finance Director, under the following circumstances:

- a. The notice and order was issued in error; or
- b. The civil penalties were assessed in error; or
- c. Notice failed to reach the property owner due to unusual circumstances; or
- d. Compelling new information warranting waiver has been presented to the Director since the notice and order was issued and documented with the waiver decision.

20.40.210 Accessory dwelling units.

- B. Accessory dwelling unit may be located in the principal residence, or in a detached structure. ~~on a lot that is at least 10,000 square feet in area.~~

20.40.400 Home occupation.

Residents of a dwelling unit may conduct one or more home occupations as an accessory use(s), provided:

- A. The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit. Areas with garages and storage buildings shall not be considered in these calculations, but may be used for storage of goods associated with the home occupation.
- B. In residential zones, all the activities of the home occupation(s) (including storage of goods associated with the home occupation) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s).
- C. No more than ~~one~~ two nonresident FTEs working on-site shall be employed by the home occupation(s).
- D. The following activities shall be prohibited in residential zones:
 - 1. Automobile, truck and heavy equipment repair;
 - 2. Auto body work or painting; and
 - 3. Parking and storage of heavy equipment.
- E. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:
 - 1. One stall for a each nonresident FTE employed by the home occupation(s); and
 - 2. One stall for patrons when services are rendered on-site.
- F. Sales shall be limited to:
 - 1. Mail order sales; and

2. Telephone or electronic sales with off-site delivery.
- G. Services to patrons shall be arranged by appointment or provided off-site.
- H. The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:
1. No more than ~~one~~ two such vehicles shall be allowed;
 - ~~2. Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and~~
 2. 3. Such vehicles shall not exceed ~~a weight capacity of one ton gross weight of 14,000 pounds, a height of nine feet and a length of 22 feet.~~
- I. The home occupation(s) shall not use electrical or mechanical equipment that results in:
1. A change to the fire rating of the structure(s) used for the home occupation(s), unless appropriate changes are made under a valid building permit; or
 2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
 3. Fluctuations in line voltage off-premises; or
 4. Emissions such as dust, odor, fumes, bright lighting or noises greater than what is typically found in a neighborhood setting.
- J. Home occupations that are entirely internal to the home; have no employees in addition to the resident(s); have no deliveries associated with the occupation; have no on-site clients; create no noise or odors; do not have a sign, and meet all other requirements as outlined in this section may not require a home occupation permit.

Note: Daycares, community residential facilities such as group homes, bed and breakfasts and boarding houses are regulated elsewhere in the Code. (Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. IV § 3(B), 2000).

20.40.600 Wireless telecommunication facilities/satellite dish and antennas.

- F. Structure-Mounted Wireless Telecommunication Facilities Standards.

1. Wireless telecommunication facilities located on structures other than buildings, such as light poles, flag poles, transformers, existing monopoles, towers and/or tanks shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. (Figures 9 and 10.)
2. The maximum height of structure-mounted facilities shall not exceed the base height limits specified for each zoning designation in this title regardless of exceptions for the particular mounting structure; provided the facility may extend up to 15 feet above the top of the structure on which the facility is installed, including those built at or above the maximum height allowed in a specific zone. ~~, so long as the diameter of any portion of a facility in excess of the allowed zoning height does not exceed the shortest widest diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless facilities shall be utilized to determine compliance with this subsection. Only one extension is permitted per structure.~~
3. Wireless telecommunication facilities located on structures other than buildings shall be painted with nonreflective colors in a color scheme that blends with the background against which the facility will be viewed.
4. Wireless telecommunication facilities located on structures within the City of Shoreline rights-of-way shall satisfy the following requirements and procedures:
 - a. Only wireless telecommunication providers holding a valid franchise in accordance with SMC 12.25.030 shall be eligible to apply for a right-of-way permit, which shall be required prior to installation in addition to other permits specified in this chapter. Obtaining a right-of-way site permit in accordance with this title may be an alternative to obtaining both a franchise and a right-of-way permit for a single facility at a specific location.
 - b. All supporting ground equipment locating within a public right-of-way shall be placed underground, or if located on private property shall comply with all development standards of the applicable zone.
 - c. ~~Right-of-way permit applications are subject to public notice by mailing to property owners and occupants within 500 feet of the proposed facility, posting the site and publication of a notice of application, except permits for those facilities that operate at one watt or less and are less than 1.5 cubic feet in size proposed by a holder of a franchise that includes the installation of such wireless facilities as part of providing the services authorized thereby.~~

c.-d. To determine allowed height under subsection (F)(2) of this section, the zoning height of the zone adjacent to the right-of-way shall extend to the centerline except where the right-of-way is classified by the zoning map. An applicant shall have no right to appeal an administrative decision denying a variance from height limitations for wireless facilities to be located within the right-of-way.

d. e. A notice of decision issued for a right-of-way permit shall be distributed using procedures for an application. Parties of record may appeal the approval to the Hearing Examiner but not the denial of a permit.

20.50.030 Lot width and lot area – Measurements.

- A. Lot width shall be measured by scaling a circle within the boundaries of the lot; provided, that any access easement shall not be included within the circle.

20.50.040 Setbacks – Designation and measurement.

I. Projections into Setback.

- ~~6.~~ ~~Building stairs less than three feet and six inches in height, Entrances and covered but unenclosed porches that are at least 60 square feet in footprint area may project up to five feet into the front yard setback.~~

7. Uncovered building stairs or ramps no more less than 30 inches from grade to stair tread and 44 inches wide may project to the property line subject to sight distance requirements.

- ~~8.~~ 7. Arbors are allowed in required yard setbacks if they meet the following provisions:

~~In any required yard setback, an arbor may be erected:~~

- a. No more than a 40-square-foot footprint, including eaves;
- b. A maximum height of eight feet;
- c. Both sides and roof shall be at least 50 percent open, or, if latticework is used, there shall be a minimum opening of two inches between crosspieces.

9. ~~8.~~ No projections are allowed into a regional utility corridor.

10. ~~9.~~ No projections are allowed into an access easement. (Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 1(B-3), 2000).

20.50.110 Fences and walls – Standards.

- A. The maximum height of fences located along a property line shall be six feet, subject to the sight clearance provisions of in the Engineering Development Guide SMC 20.70.170 20.70.180, and 20.70.190(C). (Note: The recommended maximum height of fences and walls located between the front yard building setback line and the front property line is three feet, six inches high).
- B. All electric, razor wire, and barbed wire fences are prohibited.
- C. The height of a fence located on a retaining wall shall be measured from the finished grade at the top of the wall to the top of the fence. The overall height of the fence located on the wall shall be a maximum of six feet. (Ord. 406 § 1, 2006; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 2(B-5), 2000).

20.50.125 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.225 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.385 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.455 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.535 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.310 Exemptions from permit.

Complete Exemptions. The following activities are exempt from the provisions of this subchapter and do not require a permit:

6. Within City owned property, removal of noxious weeds or invasive vegetation as identified by the King County Noxious Weed Control Board in a wetland buffer, stream buffer or the area within a three foot radius of a tree on a steep slope is allowed when:
 - a. undertaken with hand labor, including hand-held mechanical tools, unless the King County Noxious Weed Control Board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment, herbicides or biological control methods; and
 - b. performed in accordance with SMC 20.80.085 Pesticides, herbicides and fertilizers on City-owned property and King County Best Management Practices for Noxious Weed and Invasive Vegetation ; and
 - c. the cleared area is revegetated with native vegetation and stabilized against erosion in accordance with the Department of Ecology 2005 Stormwater Management Manual for Western Washington; and
 - d. all work is performed above the ordinary high water mark and above the top of a stream bank; and
 - e. no more than a 3,000 sq. ft. of soil may be exposed at any one time.

Table 20.50.390D – Special Nonresidential Standards (Continued)

Warehousing and storage: 1 per 300 square feet of office, plus 0.5 0.9 per 1,000 square feet of storage area

20.50.430 Nonmotorized access and circulation – Pedestrian access and circulation – Standards.

- C. The pedestrian path from the street front sidewalk to the building entry shall be at least 44 60 inches (~~or five feet~~) wide for commercial and multifamily residential structures, and at least 36 inches (~~or three feet~~) for single-family and duplex developments.

20.50.470 Street frontage landscaping – Standards.

- A. A 10-foot width of Type II landscaping located on site along the front property line is required for all development including parking structures, surface parking areas, service areas, gas station islands, and similar paved surfaces. See 20.50.470(DE) for street frontage screening landscaping standards in the MUZ zone.
- B. A 20-foot width of Type II landscaping located on site along the property line is required for nonresidential development including institutional and public facilities in residential zones areas.
- C. For buildings located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1) the width of frontage landscaping between the building and the property line may can be substituted reduced in multifamily, commercial, office, and industrial zones if with two-inch caliper street trees are provided. The maximum spacing shall be 40 feet on center if they are placed in tree pits with iron grates or in planting strips along the backside of curbs. Institutional and public facilities may substitute 10 feet of the required 20 feet with street trees. if the building is located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1).
- D. ~~Trees spacing may be adjusted to accommodate sight distance requirements for driveways and intersections. See SMC 20.50.520(O) for landscaping standards. (Ord. 238 Ch. V § 7(B-2), 2000).~~
- DE. Any new development in the MUZ shall require All surface parking areas, outdoor storage areas, and equipment storage areas serving new development in the MUZ to shall be screened from the public right-of-way and adjacent residential land uses. These uses shall be located behind buildings, within underground or structured parking, or behind a 4-foot masonry wall with a 10-foot Type II landscape buffer between the wall and the property line. Street frontage screening shall consist of locating the above areas behind buildings, in underground or structured parking, or behind a 4 foot masonry wall with a 10 foot width of Type II landscaping between the wall and property line, behind buildings, within underground or structured parking back of sidewalk. When adjacent to single family residential, a 20-foot width of Type I landscaping is required.

20.50.480 Street trees and landscaping within the right-of-way– Standards.

- A. ~~Street trees must be two-inch caliper and planted no more than 40 feet on center and selected from the City approved street tree list. Placement of~~

~~street trees can be adjusted to avoid conflict with driveways, utilities, and other functional needs while including the required number of trees. When frontage improvements are required by SMC 20.70 S~~street trees are required ~~for~~in all commercial, office, industrial, multifamily zones, and ~~for~~ on all arterial streets.

B. Frontage Street landscaping may be placed within City street rights-of-way subject to review and approval by the Director. Adequate space should be maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way.

C. ~~Trees must be:~~

- ~~1. Planted in a minimum four foot wide continuous planting strip along the curb; or~~
- ~~2. Planted in tree pits minimally four feet by four feet where sidewalk is no less than eight feet wide. If the sidewalk is less than eight feet wide, a tree grate may be used if approved by the Director; or~~
- ~~3. Where an existing or planned sidewalk abuts the curb, trees may be planted four feet behind that sidewalk on the side opposite the curb~~

D. ~~Street trees will require five foot staking and root barriers between the tree and the sidewalk and curb.~~

E. ~~Tree pits require an ADA compliant iron grate flush with the sidewalk surface.~~

CF. Street trees and landscaping must meet the standards for the specific street classification abutting the property as depicted requirements in the Engineering Development Guide including but not limited to size, spacing, and site distance. All street trees must be selected from the City approved street tree list.

20.50.520 General standards for landscape installation and maintenance – Standards.

O. Landscape plans and utility plans shall be coordinated. ~~In general~~ The placement of trees and large shrubs shall ~~should adjust to~~ accommodate the location of required utilities ~~utility routes~~ both above and below ground. Location of plants and trees shall be based on the plant's mature canopy and root zone ~~mat width~~. Root zone shall be determined using the

International Society of Arboriculture's recommended calculation for identifying tree protection area. ~~mat width is assumed to be the same width as the canopy, unless otherwise documented in a credible print source.~~ Mature tree and shrub canopies may not reach an above ground utility such as street lights and power-lines. Mature tree and shrub root zones ~~mats~~ may overlap utility trenches as long as approximately 80 percent of the root zone ~~mat~~ area is unaffected.

- P. Adjustment of plant location does not reduce the number of plants required for landscaping.
- Q. ~~Sight distance triangle shall be established for~~ and visual clearances consistent with ~~SMC 20.70.170~~ the Engineering Development Guide ~~driveway exits and entrances and street corners~~ shall be maintained.

20.60.140 Adequate streets.

A. Development Proposal Requirements. All new proposals for development that would generate 20 or more new trips during the p.m. peak hour must submit a traffic study at the time of application. The estimate of the number of trips a development shall be consistent with the most recent edition of the Trip Generation Manual, published by the Institute of Traffic Engineers. The traffic study shall include at a minimum...

20.80.110 Critical areas reports required.

If uses, activities or developments are proposed within designated critical areas or their buffers, an applicant shall provide site-specific information and analysis as determined by the City. The site-specific information must be obtained by expert investigation and analysis. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100. Such site-specific reviews shall be performed by qualified professionals, as defined by SMC 20.20.042, who are approved by the City or under contract to the City. (Ord. 515 § 1, 2008; Ord. 406 § 1, 2006; Ord. 398 § 1, 2006).

20.80.350 Mitigation performance standards and requirements.

Monitoring Program and Contingency Plan.

1. A monitoring program shall be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.
2. A contingency plan shall be established for indemnity in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable financial guarantee is required to ensure the applicant's

compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project in addition to ~~and include~~ the cost for monitoring for a minimum of five years. The bond may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

These Minutes Approved
May 6th, 2010

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

April 15, 2010
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Wagner
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Moss
Commissioner Kaje

Staff Present

Steve Szafran, Associate Planner, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman, Moss and Kaje.

APPROVAL OF AGENDA

Commissioner Broili asked that an additional item be added to the agenda: The procedural protocol for handling quasi-judicial hearings. The discussion was added as Item C under New Business. He said he would also like an opportunity to discuss the Commission's work schedule, and the possibility of adding an addition item. This discussion was added as Item D under New Business. The remainder of the agenda was approved as presented.

DIRECTOR'S COMMENTS

Mr. Cohn thanked the Commissioners who replied back to staff regarding the Point Wells tours. Staff is still waiting to hear back from the City Council, so there will be no tour on April 16th. Staff would contact Commissioners when a date for the tour has been arranged.

Mr. Cohn announced that the City's Volunteer Breakfast will be April 16th at 7:30 a.m. in the Shoreline Room of the Shoreline Community Center.

APPROVAL OF MINUTES

The minutes of March 4, 2010 were approved as amended.

Commissioner Kaje referred to the third paragraph on Page 18 of the March 18, 2010 minutes and suggested additional language be added to read, "Staff presented a new memorandum to the Commission, dated March 18, 2010, in which Ms. Mosqueda reversed her previous opinion." Chair Wagner questioned if the Commission actually verbalized the contents of the new memorandum that was presented. She suggested the minutes could mention that a new memorandum was introduced, but perhaps it would not be appropriate to provide details about the contents of the memorandum. The memorandum has been included as part of the record. Commissioner Kaje expressed his belief that it would be relevant to add the additional statement, and Commissioner Broilli concurred. The Commission agreed to make the change as put forth by Commissioner Kaje.

The March 18, 2010 minutes were approved as amended.

Commissioner Kaje referred to the first paragraph on Page 2 of the special meeting minutes of April 1, 2010 and requested an additional sentence be added to read: "Mr. Tovar thought that a memorandum had been prepared on this topic, and that it would be shared with Commissioners." The remainder of the Commissioners concurred with the change.

The April 1, 2010 minutes were approved as amended.

GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, said he was present on behalf of People with Disabilities to invite the Commissioners and the public to come and cheer on the Special Olympics on Saturday, April 24th, at the Shoreline Stadium.

STAFF REPORTS

Development Code Amendments

Mr. Cohn said the purpose of this study session is to prepare the Commission for a public hearing on the next set of Development Code amendments at their May 6th meeting.

The staff and Commission reviewed the proposed amendments as follows: *(Note: This section does not represent a chronological record of the Commission's discussion. Instead, the discussion was grouped under each of the section categories.)*

- **Category 1 – Amendments based on the need to codify an issued Administrative Order**

Section 20.30.680 – Appeals. Mr. Szafran referred the Commission to new information staff just received from the City Attorney. He explained that the proposed amendment would correct a conflict with the State Law requiring that SEPA appeals be consolidated with the pre-decisional hearing if one is held and also be heard by the same hearing body or officer. At this time, SEPA appeals are heard by the Hearing Examiner in all cases, but the pre-decisional hearings are held by the Planning Commission for most Type C Actions. In addition, the proposed language would remove the administrative appeal for the Determination of Non-Significance (DNS) for Type C Actions where the Planning Commission makes the recommendation after the hearing. The amendment also includes a change in policy to allow substantive appeals for only those Type C Actions when the Hearing Examiner hears the pre-decisional hearing.

Chair Wagner clarified that the proposed amendments are intended to adopt what is already State Law; not something the City is trying to augment with their own policy. Mr. Szafran agreed that most of the amendments in this section are intended to be consistent with State Law. However, the amendment that would allow substantive appeals for only those Type C Action when the Hearing Examiner hears the pre-decision hearing is actually discretionary.

Commissioner Behrens suggested it would be helpful for staff to provide information to illustrate how an appeal to a SEPA determination would be processed based on the proposed language. Mr. Cohn agreed to provide written illustrations of the appeal process for Type A, Type B and Type C Actions. Commissioner Kaje expressed his belief that the proposed language is very confusing to understand. A diagram that goes through the different types of actions and a few different scenarios of appeals would be helpful for both the Commissioners and the public.

Chair Wagner summarized that the Commission would continue their discussion regarding this amendment after staff has provided examples and other clarifying information. Mr. Cohn invited Commissioners to forward their additional questions to staff so a response could be provided prior to the public hearing. He said staff would request a representative from the City Attorney's Office attend the public hearing, as well. Commissioner Kaje summarized the Commission's expectation that staff would provide flow-chart diagrams to walk the Commission through the different types of decisions and the appeal processes that could come up. This information would be provided to the Commissioners as soon as possible so they can review the information and forward their questions to staff prior to the hearing.

- **Category 2 – Minor amendments that clarify existing language.**

Section 20.20.016.D – Definitions. Mr. Szafran said this amendment would add a new definition for "detached." and would alter the definition of "director" by adding "or designee."

Section 20.20.046.S – Definition. Mr. Szafran said this amendment would provide new definitions for the terms "secure community transitional facility," "senior citizen affordable housing," and "senior citizen assisted living."

Table 20.30.060. Mr. Szafran explained that this proposed amendment would remove the street vacation process from the Development Code since the City's current process conflicts with State Law. The actual procedures are identified in Chapter 12 of the Shoreline Municipal Code (SMC).

Section 20.30.070 – Legislative Decisions. Mr. Szafran advised that this amendment would remove the words "open record" before public hearing. He explained that every public hearing is open record, so the phrase is repetitive. Chair Wagner noted that the term "open record" makes a distinction between legislative and quasi-judicial hearings. Presuming the two types of hearings are clearly defined, all quasi-judicial hearings should be referred to as open record public hearings.

Section 20.30.150 – Public Notice of Decision. Mr. Szafran said this amendment is intended to make it clear that notice of decision will be posted and published for all Type B and C Actions, and not just site-specific proposals.

Section 20.30.160 – Expiration of Vested Status of Land Use Permits and Approval. Mr. Szafran explained that the proposed amendment would add "master development plans" to the "subdivisions" section because master development plan permits have different vesting timelines.

Vice Chair Perkowski referred to the first sentence and questioned the use of the word "shorter." He observed that shoreline permits, under the Washington Administrative Code (WAC) are for a five-year duration. Mr. Cohn agreed to research this issue further. He said he suspects there are some permit durations that are longer, and the term "shorter" may have been intended to reference "different."

Section 20.30.460 – Effect of Changes in Statutes, Ordinances, and Regulations Rezones. Mr. Szafran said this amendment would change the title from "Effect of Rezones" to "Effect of Changes."

Commissioner Kaje said he is confused by the choice of the proposed new title. He suggested that since this section is about vesting of final plats, it should be called such. He emphasized that the language is specific to the platting process. Therefore, the title of the section should not imply a broader applicability of changes in statutes that could potentially be applied to something else. This section pertains to a narrower set of issues than what the new title suggests. Mr. Cohn agreed to talk with the person who proposed the amendment to see if a different name would be appropriate.

Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria. Mr. Szafran said this amendment is intended to reduce wordiness and provide consistency with other code language regarding dedications (specifically to Chapters 20.60 and 20.70 of the SMC).

Commissioner Broilli referred to Section 20.30.410.D.2 and asked if the language allows for the insertion of low-impact development protocol and site development requirements. Mr. Szafran clarified that the language focuses the requirements located in 20.70 SMC (Engineering and Utilities Development Standards) and would allow for the insertion of low-impact development protocol and site development standards.

Commissioner Kaje said it appears that striking Item 1 in this section would eliminate the City's ability to require dedication of land for parks and open space. He observed that Item 2 speaks to adequacy of public facilities (utilities, stormwater, etc.) and says nothing about parks and open space. The new Item 1 says the City Council may approve a dedication of park land, which generally applies to cases related to critical areas or the preservation of park land. He summarized that the proposed amendment would lead to elimination of the City's ability to require dedication of land in a development for parks and open space. If that is the case, he would not support the amendment. He recalled that in recent months, the Commission has talked a great deal about having open space as requirements or incentives for development.

Mr. Cohn explained that there was concern that the City should only require dedication of certain land if there are impacts and the City can show requirement. Item 1 would be deleted and replaced with Item 2 so the City could work with an applicant who wants to dedicate park land.

Commissioner Kaje said that if the intent is to remove the ability for the City to require dedicated land for parks and open space, the amendment should not be considered a clarifying amendment. It would be a more substantive change, and the Commission must have a more substantive discussion about the amendment before it is moved forward.

Commissioner Behrens suggested the Commission review Snohomish County's language to see what they require from their developers to create parks as a function of the number of units built. Mr. Cohn said staff's concern is related to nexus and impacts. If a developer is doing a subdivision for less than 15 units, it would be hard for the City to come up with a reason to dedicate a significant amount of park land. The issue would be different if there were large tracts of land in the City to accommodate significant subdivisions. Commissioner Behrens said that if the language is deleted as proposed and a large parcel of land (maybe Fircrest) came open to residential redevelopment, the City would not have the ability to require the developer to provide open space or park land. Mr. Cohn said he believes the City could use the existing substantive SEPA authority to require the developer to provide open space.

Section 20.30.200 – General Description of Appeals. Mr. Szafran said the code is currently silent on how Type A decisions are appealed. The proposed amendments would clarify how these appeals happen.

Section 20.30.740 – Declaration of Public Nuisance and Enforcement. Mr. Szafran explained that this amendment would complete cross references to the SMC.

Section 20.50.030 – Lot Width and Lot Area Measurements. Mr. Szafran said this amendment includes all easements within the minimum lot width and lot area measurements.

Section 20.50.110 – Fences and Walls Standards. Mr. Szafran said this amendment makes reference to the Engineering Development Guide (SMC 20.70).

Chair Wagner inquired if this proposed amendment would relate to all zones, or to residential zones only. Mr. Szafran answered that the language is found in the single-family residential section of the code.

Vice Chair Perkowski referred to the note in Item A and questioned the purpose of recommending a maximum height for fences or walls. Mr. Szafran replied that the City currently allows six-foot fences in front yards in residential zones, but they would prefer that these fences be shorter in height. Mr. Cohn agreed to seek additional clarification and provide feedback at the Commission's next meeting.

Section 20.50 – Thresholds. Mr. Szafran advised that because there is a proposal to change all of SMC 20.70, all references to 20.70.030 would be changed to 20.70 in all sections that related to thresholds.

Section 20.50.470 – Street Frontage Landscaping Standards. Mr. Szafran explained that the current language in Sections A and B are ambiguous and fragmented, and changes have been proposed to make them read better. Section C would be amended to eliminate the technical standards. It would also point to the Engineering Development Guide (SMC 20.70) to find out how treatments for street trees and landscaping are handled. Section D would be replaced since the sight-distance criteria are part of the technical standards in the Engineering Development Guide (SMC 20.70). A new Section D would be added to clarify the intent.

Commissioner Kaje said he is confused about the proposed language in Section 20.50.470, and he is a little worried about eliminating the technical standards in Item C so they can be dealt with by the Engineering Development Guide in SMC 20.70. He said it seems that the issue of street trees and trade offs between the various options would be an important element of the Development Code and something the Planning Commission should have a voice in because the Engineering Development Guide can be changed quickly and without any public input. Mr. Szafran said the intent behind Item C was to put the landscaping that is required within the City's right-of-way into the Engineering Development Guide (SMC 20.70), which addresses everything within the City's right-of-way. Commissioner Kaje noted that the proposed language is not phrased to apply to rights-of-way. Instead, it is phrased as frontage landscaping between the building and the property line. He suggested it would be helpful for staff to provide a picture to illustrate how this particular code change would be implemented. Mr. Szafran agreed to provide a graphic illustration, as well as more clarification about the proposed amendment. Chair Wagner agreed with Commissioner Kaje's concern that the Engineering Development Guide could be amended through a process that is not visible to the Planning Commission. She recalled that the Commission has heard a lot about trees and frontage improvements over the past several months.

Staff displayed the current language found in Section 20.30.410. Commissioner Kaje said the changes appear to be substantive and alter the intent of the section. The original version says that landscaping can be substituted with trees under certain conditions, and the new version says that landscaping can be reduced in certain types of areas. It eliminates reference to trees, per say. He suggested the Commission needs more discussion and visual information to clarify the proposed changes.

Commissioner Behrens recalled that Mr. Logan came before the Commission to speak about a lot that was established in a residential neighborhood that was used for storing equipment. He specifically talked about compatibility. He referred to Item B, which requires a 20-foot width of Type II Landscaping along the property line for non-residential development, including institutional and public facilities in residential zones. He requested clarification about how this requirement would be applied. Mr. Szafran clarified that the 20-foot width of landscaping would only be required on the street front and would not apply to any of the other property lines. Commissioner Kaje noted that other aspects of the property boundary are dealt with elsewhere in the code. Mr. Cohn emphasized that the proposed amendment is intended to clarify, not change, the existing requirement.

Commissioner Broili expressed concern that, as proposed, Item C would allow for a reduction in landscaping rather than just substituting types of landscaping. He suggested this would be counterintuitive to good stormwater management, aesthetics, etc. He said he does not see the value in reducing the landscaping requirement.

Commissioner Kaje reiterated that he is concerned that the proposed amendment represents a significant policy change. Instead of allowing developers to exchange trees for landscaping, it would allow for an actual reduction in the amount of landscaping. He said he is also concerned about moving the requirements to the Engineering Development Guide because it would take the issue out of the Commission's purview. He suggested the Commission flag this item for additional information and discussion. The Commission and staff agreed that would be appropriate.

Mr. Cohn said using the word "reduction" instead of "substitution" was intended to result in more landscaping. Using the word "substitution" appears to require no frontage landscaping as long as a developer does certain things. The proposed language would allow the landscaping to be reduced, but not eliminated. Commissioner Kaje reminded the Commission that the City has goals related to trees and tree canopy, etc. It appears the existing language is stronger in support of trees.

Chair Wagner pointed out that if there is a discrepancy between the Engineering Development Guide (SMC 20.70) and the Development Code, the Development Code would be applied. Mr. Cohn clarified that the Engineering Development Guide is applicable to things within the right-of-way only, so there would be no conflict. However, questions raised regarding tradeoffs, etc. are legitimate. Commissioner Kaje said it would be helpful to have a clear explanation about the roles of the Engineering Development Guide and the Development Code.

Commissioner Kaje referred to the proposed new language for Item D, which appears to say that one way to provide frontage screening is to have storage areas located within underground or structured parking. He suggested the paragraph needs to be rewritten for clarification. Mr. Cohn agreed to reconsider the language to make it clearer.

Chair Wagner also referred to the new language for Item D and recalled there is a site in Shoreline with two commercial developments with a 4-foot wall between them. This requires people on one site to walk all the way around the wall to reach the other site. As they consider this language, they should think about whether this type of requirement is appropriate or not. Commissioner Broili agreed it is

important to provide free-flow access between commercial businesses. Mr. Szafran said the 4-foot wall was intended for the street frontage rather than between the businesses. Chair Wagner said this would still block a pedestrian from being able to walk on the sidewalk to access both businesses.

Commissioner Esselman questioned why Item A only requires a 10-foot width of landscaping rather than a percentage of the lot. Mr. Szafran clarified that the 10-foot width of landscaping would be 10 feet back from the sidewalk along the entire length of the street frontage. Mr. Cohn said an applicant could always provide a greater depth of landscaping.

Commissioner Moss referred to Item C, which deletes multi-family, office and industrial zones. She asked if these zones are addressed in other areas of the code. Commissioner Kaje clarified that the reduction provision would only apply to commercial zones, except in the MUZ Zone. Mr. Cohn agreed that no reduction would be allowed in the other zones.

Section 20.50.480 – Street Trees Landscaping within the Right-of-Way. Mr. Szafran explained that technical specifications for tree replacement Best Management Practices are part of the standards contained in SMC 20.70, and the provisions in this section conflict. In addition, the term “trees” would be replaced with “landscaping” to allow for alternative forms of amenity treatments based on road design.”

Commissioner Kaje said he understands that in some cases and in some places, the City might want flexibility around the type of landscaping, but it appears the proposed amendment would set the stage for having less trees rather than more trees. He reminded the Commission that the City is trying to obtain goals around urban canopy, etc., and the proposed language would be counterproductive.

Chair Wagner suggested it would be helpful for the Commission to have a copy of the Engineering Development Guide as they review the amendment in the future. Commissioner Kaje said he understands the need for flexibility, and the justification provided is that replacing the word “trees” with “landscaping” would allow for alternatives of amenity treatments based on road design. He said it appears the proposed language is geared towards eliminating requirements for street trees. While he can understand the Public Works Department’s concerns about street trees and their interference with utilities, etc., he does not believe the proposed language is the right approach for addressing the issue. He said he would like more information about where and how this provision would be applied. Mr. Cohn agreed to provide additional information.

Commissioner Behrens expressed concern about adopting development code amendments that would limit what can be done with the tree code. They could actually create a conflict. Mr. Szafran explained that the tree code would not address trees within the rights-of-way. Commissioner Kaje agreed that is the scope of the current discussion draft of the tree code. Commissioner Behrens referred to discussion within the City about allowing people to choose other places to plant replacement trees. If this is something that could possibly be done within the right-of-way, the proposed language could be counter to the tree code. Commissioner Kaje cautioned against the City taking on a more flexible approach for tree requirements within the public rights-of-way while placing

stricter codes on private properties. He expressed his belief that the Development Code should reflect the goals laid out in the Comprehensive Plan.

Commissioner Broili said that if Item C is adopted, he would want the language to replace "alternative forms" with "alternative permeable forms." He reminded the Commission that part of the City's goal is to keep landscapes as permeable as possible. "Alternative forms" can mean almost anything.

Commissioner Behrens said there might be places within the right-of-way where it might not be possible to plant trees, and alternatives forms of landscaping could be more appropriate. He said his concern is aimed at not allowing people to avoid planting trees. However, if there is a situation where they can't plant a tree, he felt it would be appropriate to use an alternate form of landscaping. Again, he suggested the Commission postpone their recommendation on this amendment until the tree code has been adopted.

Mr. Cohn agreed there may be places where trees cannot be planted within the rights-of-way, and the proposed amendment is intended to address these situations. He agreed to provide pictures to illustrate the intent. Commissioner Broili agreed there are probably places where trees are not appropriate, but the City should require an applicant to maintain, as much as possible, the functional qualities that a tree might bring to the site.

Commissioner Behrens said it would be helpful to provide some type of explanation in the proposed language to make it clear why a street tree might not be appropriate. There should also be a standard for making these decisions.

Vice Chair Perkowski expressed his belief that the changes proposed for Item A appear to be substantive. Mr. Cohn agreed to research the change and provide clarification at a future meeting.

Section 20.50.520 – General Standards for Landscape Installation and Maintenance. Mr. Szafran said this section was rewritten to add clarity and generally read better.

Commissioner Esselman questioned the use of the words "site" and "sight" throughout the document. She specifically referred to Sections 20.50.110, 20.50.470, and 20.50.520. Mr. Cohn replied that Sections 20.50.110 and 20.50.470 are correct, but the term is used incorrectly in Section 20.50.520.

Commissioner Broili referred to Item O, and suggested that from an arboreal perspective, the term "root mat" should be changed to "root zone." He pointed out that while the third sentence states that the root mat zone is assumed to be the same as the canopy, that is not the case. He suggested this sentence be replaced with the following: "Root zone width shall be determined using the International Society of Arboriculture's (ISA) recommended calculation for identifying tree protection area as spelled out in Chapters 6, Subsection: Identification of Tree Protection Zones (Pages 72 to 74) of a book entitled, Trees and Development: A Technical Guide to the Preservation of Trees During Development by Nelda Matheny and James R. Clark. He summarized that root zones are generally larger than tree canopies and are measured by tree caliper, the health of the tree, and the age of the tree. The book spells out a formula for calculating the root zone.

Commissioner Kaje referred to the second to the last sentence. He noted that the current language states that mature tree and shrub canopies may reach an above ground utility, and the proposed language states that they may not. He asked if the proposed amendment would result in a massive project of topping trees so they no longer reach above ground utilities. He understands the desire to avoid situations where trees touch the utilities, but there are already many situations of this type in the City. He questioned the implication of the change. Mr. Cohn said he is guessing the intent of the proposed amendment is to say that new trees that are installed should be of a variety that do not grow very tall. However, he agreed the language does not make the intent clear.

Section 20.60.140 – Adequate Streets. Mr. Szafran advised that this proposed amendment would add the word “new.”

Commissioner Behrens referred to a scenario where five developments go into a certain area, and each one produces 19 trips. This would result in 95 additional trips in this one area. As proposed, none of the developments would be required to submit a traffic study. He said he would prefer to use level of service at an intersection rather the number of trips to identify when a traffic study would be required. While 20 trips may not seem like a lot of additional trips, the multiple affect of each of the developments could eventually impact the intersection.

Mr. Cohn said it would be difficult and unrealistic to require all developments to do this level of analysis regardless of the size. While the Traffic Engineer has indicated that 20 is a good number, the Commission may want to consider a different number. However, using level of service could place too great a burden on the small developments.

Commissioner Broili agreed with Commissioner Behrens that the proposed language allows for “the death of a thousand cuts.” As long as a development stays under 20 trips, no traffic study would be required. However, there could be numerous developments in the area that all stay under that limit, and traffic problems could result. He questioned what a more equitable solution might be. Perhaps the City could track level of service on an individual basis so that when new development is proposed that exceeds the current situation in terms of potential traffic flow, the City would have some idea of what the overall impacts on neighboring intersections would be.

Mr. Cohn agreed that the question of how to deal with concurrency is good and is going to be discussed as part of the Traffic Master Plan Update. He suggested this would be the most appropriate way to address the concerns raised by Commissioners Behrens and Broili. Chair Wagner said that while the concept of requiring each single-family home to do a full traffic study might not be the right solution, perhaps the City could charge each development a fee that is sufficient to deal with systemic problems that result from cumulative development. She agreed that this issue should be addressed within the context of the Transportation Master Plan update. The proposed amendment is specifically related to large remediation of a significant impact.

Commissioner Behrens expressed concern that using a specific number implies that as long as developers stay below the number, nothing would be required. It could become a game for developers to figure out how to stay below the number for one development, and then apply for another

development that is just under the number six months later. Mr. Cohn said SEPA would no longer allow this to occur. He summarized that 20 trips equates to an approximately 5,000 square foot building, and is actually a very low threshold.

Commissioner Moss requested clarification of the terminology "during the p.m. peak hour." Mr. Cohn said this would refer to one hour within the range of time between 3:30 to 7:00 p.m. Commissioner Moss questioned how the City would determine when the p.m. peak hour is. Mr. Cohn said the City would use data from the Institute of Traffic Engineers (ITE) Manual to make this determination, unless the developer has reliable information showing how his/her development would be different.

Commissioner Moss said it appears there is a word missing from the second sentence in the section. Mr. Cohn said the sentence should read, "The estimate of the number of trips a development generates. . ."

Section 20.80.110 – Critical Areas Reports Required. Mr. Szafran said this amendment would make it clear that critical area reports are required within all critical areas, even if they are not designated. Most of the critical areas in Shoreline are not designated.

Section 20.80.350 – Mitigation Performance Standards and Requirements. Mr. Szafran said the purpose of this amendment is to include the cost for monitoring when a contingency plan is established.

Commissioner Kaje referred to the third sentence in Item 2 and asked if the required monitoring would be performed by the City. If so, he asked if it would be appropriate to specify what the level of monitoring would be. He suggested an additional sentence be added that states that monitoring would include entry and inspections three times a year. Mr. Szafran pointed out that Item 1 states that the monitoring program would be implemented by the applicant. He agreed to research the proposed language further and provide additional guidance to the Commission. Commissioner Kaje expressed concern that if the applicant is responsible for monitoring the mitigation, perhaps another clause should be added to the language regarding some level of inspection by the City.

- **Category 3 – Amendments that are in direct conflict with State Law and must be changed.**

Section 20.30.180 – Public Notice of Public Hearing. Mr. Szafran said this amendment corrects the public notice time period for open record hearings from 14 days to 15 days.

Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria. Mr. Szafran said the changes to this section are intended to establish time limits for the expiration of preliminary and final approval of subdivisions. He explained that a recent bill signed by the governor establishes new time limits for the expiration of plats.

Commissioner Kaje asked staff to explain the relationship between Sections 20.30.410 and 20.30.460. He suggested that perhaps there is some duplication, and the amendments might add to it. He said he

is having trouble understanding the need for Section 20.30.460 in light of Section 20.30.410. Mr. Cohn agreed to research the question and report back to the Commission.

Chair Wagner referred to the last sentence in the section, and pointed out that the City has consistently used the term "public health, safety or welfare." Mr. Cohn agreed to check to see if this change could be made, but he cautioned that the language may be consistent with what was adopted as State Law.

Section 20.30.353.G – Master Plan Vesting Expiration. Mr. Szafran referred to the explanation drafted by the City Attorney to describe the proposed amendment.

Chair Wagner recalled the Commission previously had a significant discussion about vesting and how it would apply to the City's master plan scenarios. She said she would particularly like to know how the proposed amendment would impact plans that are already in place. Would they become grandfathered? She recalled that the Commission discussed that master plans should require Planning Commission review after 10 years. However, the proposed language would allow, but not require, this to occur. Chair Wagner asked staff to clarify whether State Law allows the City the discretion to require Planning Commission review. If so, the Commission could discuss this as a policy issue. If review is not required, the Commission should discuss how it would be initiated. Mr. Cohn said his understanding is that the City could initiate a review. He said the City Attorney expressed concern that a review may not be appropriate or necessary if the master plan has not been changed. He felt that perhaps the word "shall" was a little too constraining, recognizing that the City would have the ability to initiate a review. In addition, a review would be required if the applicant requests an amendment to the plan.

Chair Wagner suggested it still might be appropriate to require a review after 10 years even if nothing in the master plan has changed because certain elements of the City's code may have changed during that time period. She said it is important to have the right triggers in place to initiate reviews when necessary and appropriate. Mr. Cohn suggested the City might not want to be tied to a specific requirement as to what would trigger a review.

Commissioner Kaje said it seems that after 10 years there should at least be an opportunity for the Commission to decide whether or not it would be appropriate to review the master plan again. He suggested the Commission have a role at the ten-year point. The first level could be an evaluation (staff driven but required) that looks at potential issues the Commission may want to consider. At that point, the Commission could determine the master plan is consistent enough that no additional review is necessary. Mr. Cohn agreed to seek additional feedback from the City Attorney.

Commissioner Broili noted that building codes and technologies are rapidly changing because of numerous environmental issues. He agreed that 10 years is not too short a period of time for the Commission to review a master plan again to make sure it is consistent with current code requirements and available technology.

Commissioner Behrens questioned what would be required and who would pay for the review. Would this cost be covered as part of the original permit fee? If there would be an additional fee for the

applicant in the future, this should be made clear up front. In addition, the code should be clear as to what would be reviewed after 10 years. For example, determining compliance with environmental sustainability could require an extensive review. Chair Wagner agreed that it would be contrary to the City's goal of making the codes requirements predictable for developers to require an evaluation that holds developers accountable for addressing all of the changes that have occurred in code, technology, etc. Mr. Cohn agreed these are important questions to consider.

Vice Chair Perkowski referred to the last sentence of the section, which states that if changes are recommended, staff shall initiate a major amendment to achieve consistency unless the revision is approved by the owner. If changes are recommended and the owner agrees, it appears the changes would be incorporated into the master plan without an opportunity for public comment. He summarized that the section needs to clarify how the changes would become part of the master plan. Guidance must also be provided to distinguish between minor and major changes. Mr. Cohn agreed that some public process should be required, and he agreed to provide information about what that might look like.

- **Category 4 – Policy changes that require greater analysis by the Planning Commission.**

Section 20.40.210 – Accessory Dwelling Units. Mr. Szafran said the proposed amendment would allow detached Accessory Dwelling Units (ADU) on any lot, regardless of size. Currently, detached ADU's must be on lots that are at least 10,000 square feet in area. The recommendation comes from various discussions throughout the City (Vision Statement and Housing Strategy) and most recently the Southeast Neighborhood Subarea Plan, which allows detached ADU's on lots smaller than 10,000 square feet. He explained that, currently, the City allows attached ADU's on any property, regardless of lot size.

Commissioner Broili said he is in favor of the proposed amendment. However, he is concerned about how the City would control the size and visual impacts associated with ADU's. He asked if this would be managed by requirements that are located elsewhere in the code. Mr. Szafran answered affirmatively and explained that the floor area of an ADU can be no larger than 50% of the living area of the primary residence. Mr. Cohn explained that with a relatively large main structure, the ADU could be as large as half of that. If the main structure is small (as an example, 800 square feet), this change would allow a detached ADU of up to 1,600 square feet, assuming all the setbacks, lot coverage, parking, etc. could still be met. However, a 1,500 square foot ADU in a neighborhood of small homes on small lots would not likely fit. Mr. Szafran noted that a 1,500 square foot addition would be allowed for a single-family home to provide additional living space. He questioned the difference between this space being detached or attached.

Commissioner Kaje said he also supports the intent of the proposed amendment because it adds another option for housing choice. However, he asked if the proposed language would allow an older garage that is non-conforming with the setback requirements to be converted to an ADU. He suggested the code should stipulate that only structures that conform to the setback requirements could be converted to ADU's. He suggested staff propose language to address this issue if it is not covered by the current code language. Mr. Cohn agreed.

Commissioner Behrens asked how addresses would be established for separate residences on the same lot. Mr. Cohn said the City has a policy for assigning appropriate addresses. He noted that condominiums are developed on a single lot, and they have separate addresses. Commissioner Behrens noted that someone on the property calls for emergency services, there must be some way for the driver of the emergency vehicle to know which residence to go to. Chair Wagner noted that this process is clearly outlined in Section 20.70 of the Code, which includes language to address safety issues.

Section 20.30.350 – Amendment to the Development Code (legislative action). Mr. Cohn explained that the City Attorney pointed out that Criteria 2 and Criteria 3 are identical and duplicative. If a proposal is not adverse to the public health, safety and welfare, it would be in the best interest of the citizens and property owners. As proposed, Criteria 3 would be eliminated. He noted that Criteria 3 is judgmental in nature and difficult to address.

Commissioner Kaje agreed that it is difficult to implement Criteria 3, but he expressed his belief that “public health, safety and welfare” is not at all the same as “best interest of the citizens.” “Best interest” speaks to broader goals for the community and the broader interest of individual residents. “Public health, safety and general welfare” is a threshold term that is often used to trigger things like the ability to pass emergency ordinances or take emergency actions. If the City Attorney wants to move forward with the change, Commissioner Kaje requested that staff develop a more convincing justification.

Section 20.30.760 – Notice and Orders. Mr. Cohn explained that the existing language for dealing with notice and orders is archaic. He referred to Item 3 and explained that if the City sends something out by certified mail and the person does not accept it, there can be no notice that they accepted it. To address this issue, the proposed amendment would allow the City to also mail a copy of the letter, postage paid, by ordinary first class mail. Chair Wagner suggested the language is unclear that the first class letter would be sent out subsequent to the City receiving notice that the certified letter was not accepted. Mr. Cohn said the word “may” was used to make it clear that this is an optional approach if the first letter is not accepted. Mr. Szafran said the word “may” is also used because the code enforcement officer has the option of going on site to hand deliver the letter or post the notice.

Mr. Cohn said the Planning Director felt the City should not be limited by the specific things outlined in Item H in order to revoke or modify a Notice and Order. The proposed language would provide more flexibility. Commissioner Kaje said he would not be in favor of eliminating the last two sentences, because it is the only language that tells the City they can actually modify or rescind an order. He said that while he understands the argument of flexibility, it is also appropriate to have a certain expectation of how the City would notify someone about a change to the Notice and Order. He said he is not comfortable with allowing the Director to rescind or change a Notice and Order without going through a specific process. He asked staff to provide an explanation of why the last two sentences should be deleted, as well as a better explanation of how the Director would rescind or change an order if it is not defined anywhere.

Section 20.30.770 – Enforcement Provisions. Mr. Szafran said this proposed amendment would increase the penalties for severe ecological impacts from \$1,000 to \$2,000. The new Item 3 would be an additional penalty of \$2,000 for any code violations not specifically related to ecological impacts. Commissioner Broili asked if the two penalties could be cumulatively assessed. Chair Wagner said that was her understanding.

Chair Wagner requested clarification of the relocation assistance fund referenced in Item 5. She noted that much of the language in this section is related to ecological impacts, and she questioned whether the relocation assistance fund fits within the context of this section. Mr. Cohn said the relocation assistance fund is an enforcement provision. Commissioner Kaje referred to the language in Section 20.30.770 that comes before the proposed amendments, which clarifies that the language applies to certain types of infractions, misdemeanors, etc. He suggested the packet is missing sufficient context to make the changes clear.

Section 20.40.400 – Home Occupations. Mr. Szafran said the proposed amendment is based on a discussion between the Assistant Director of Planning and Development Services and the City Council. At this time, the City recognizes the desire and/or need of some citizens to use their residences for business activities, as well as the need to protect the surrounding areas from adverse impacts generated by business activities. The proposed amendment would change the number of employees allowed in a home occupation from one to two. It would allow no more than two vehicles, and the size of vehicle allowed for a home occupation would be changed from a 1-ton vehicle to a vehicle that is no more than 14,000 pounds, 9 feet high, and 23-feet long.

Commissioner Kaje suggested that rather than using a weight, length and height measurement, a class system would be a better approach. Truck manufacturers have classes of truck vehicles. He provided information illustrating the various classes and the gross weights allowed in each class. He also provided a website address for staff to obtain additional information.

Mr. Szafran referred to Item H.1, which would allow no more than two vehicles for the home occupation. He noted that most of the code enforcement complaints associated with home occupations are related to the number of vehicles. The proposed amendment would make the code more permissive, but it might raise concerns amongst some citizens. Commissioner Kaje said citizen concerns could be directly related to the size of vehicles allowed, and it appears that the proposed language would rule out large delivery trucks.

Commissioner Behrens pointed out that Item H.1 also prohibits vehicles from parking within the required setback areas or on adjacent streets. He said he lives on a busy street where cars and large trucks park, but it does not really impact him if someone parks a truck legally on their own lot. The problems occur when people park the vehicles on the street. This results in less visibility and more congestion and traffic accidents. He summarized that while limiting the size of a vehicle is important, the most important thing is to restrict the vehicles from parking on the street. If the number of people and vehicles can be accommodated on site without imposing on the neighbors, he questioned why the City should limit the use. He suggested the City should encourage people to have businesses in the neighborhoods. He summarized that he would like the language to be structured in such a way that it

looks at a balance between the imposition on the neighborhood and encouraging the idea of stimulating employment and jobs in the City.

Commissioner Esselman referred to Items A, which limits all activities of a home occupation to the indoors, except for those related to growing or storing plants used by the home occupation. She questioned if the Commission should consider limiting the size of the exterior use. Mr. Cohn said that would be possible, but he noted that some people may find the plants attractive. Commissioner Esselman agreed but said that boxes and tubs of plants might not be as desirable to surrounding property owners.

Section 20.40.600 – Wireless Telecommunication Facilities/Satellite Dish and Antennas. Mr. Szafran advised that the proposed amendment would delete Item 4.c., which requires the City to provide notice for the facilities when located within the public rights-of-way. He explained that these facilities require a Type A Permit, which is an administrative review. Either an application meets the code criteria or not, and public comments would have no impact on the decision. In addition, Item 2 would also be changed because it is structurally impossible to extend a pole without increasing its diameter.

Commissioner Kaje said he does not believe it would be structurally impossible to extend a pole without increasing its diameter. Mr. Cohn explained that the pole extension must be wider since it must fit on top of the existing pole. Commissioner Kaje suggested that the proposed language appears to have been written for a particular type of installation that may be common at the current time. Mr. Cohn agreed to provide a diagram to illustrate the intent of the proposed language.

Section 20.50.040 – Setbacks – Designation and Measurement. Mr. Szafran explained that the proposed amendment would allow uncovered stairs or ramps less than 3.5 feet in height and 44 inches wide to project to the property line subject to the site distance requirements. Mr. Cohn referred to the diagram provided by the Commission to illustrate a situation where a house is right at the setback line, and the bottom of the slope is at the bottom of the property line. As currently written, the code would not allow stairs from the house to the sidewalk because the area is part of the setback. Commissioner Broili questioned why the height of the stairs in the diagram appears to be measured from below the grade. Mr. Cohn agreed to provide more information about why the proposed height was set at 3.5 feet and how the height would be measured.

Chair Wagner asked if this has been an issue with building permits in the past. Mr. Cohn said there has been an issue on at least one property. Chair Wagner asked if there are other tools to deal with these situations, such as a variance. Mr. Cohn said the only other tool would require the stairs to leave from another entrance and come down another way. Commissioner Moss said all the houses across the street from her are located on a hill. They must use stairs to get from the sidewalk to the entrance of their homes, and there is no other way to provide the access.

Commissioner Esselman suggested the language is intended to allow for a steeper set of stairs within the setback, if necessary. Mr. Cohn agreed to provide additional information.

Section 20.50.310 – Exemptions from Permits. Mr. Szafran said the purpose of this amendment is to allow for the removal of up to 3,000 square feet of noxious weeds and invasive vegetation from City property without a permit. Chair Wagner referred to Item 6.c and suggested that rather than specifying the 2005 Department of Ecology Stormwater Management Manual, it may be more appropriate to change the language to read, “the most current version adopted by the City.” The remainder of the Commission concurred.

Commissioner Behrens referred to Item 6.d, which references work performed above the ordinary high water mark and above the top of a stream bank. He said he actually worked on group project in a creek to remove vegetation. He noted that many invasive weeds at Bruggers Bog are located in such a way that removing them requires people to go inside the creek bed. Mr. Szafran reminded the Commission that the list identifies exemptions from the permit requirement. Work within a creek bed would require a permit.

Commissioner Kaje requested further clarification of the first paragraph. As written, it appears that that a permit would only be required if the vegetation is not located on a steep slope. Mr. Cohn agreed that is not likely the intent, and said he would provide clarification.

Table 20.50.390D – Special Residential Standards (continued). Mr. Szafran explained that this amendment addresses parking standards for warehouse and storage uses. As currently written, staff believes these uses are over parked, creating unnecessary parking stalls that are unused and greater areas of impervious surface. The proposed amendment would change the parking requirement from .9 to .5 per 1,000 square feet of storage area. Chair Wagner inquired how staff identified the proposed new requirement. Mr. Szafran said the proposal is based on what staff has observed on properties in the City.

Commissioner Behrens expressed his belief that the proposed requirements should focus on the number of parking spaces needed to accommodate the office spaces associated with the warehouse and storage uses. Commissioner Kaje said the parking would not just be limited to the office use. Parking must also be provided for the warehouse use, as well. Mr. Cohn said 3 or 4 spaces per 1,000 square feet of office space is a typical requirement.

Section 20.50.430 – Non-motorized access and Circulation –Pedestrian Access and Circulation – Standards. Commissioner Moss asked for clarification about why staff is proposing to reduce the requirement for pedestrian paths from the street front sidewalk to the building entry from 60 inches to 44 inches wide for commercial and multi-family residential structures. Mr. Szafran explained that the proposed language would be consistent with the current ADA requirements. Mr. Cohn added that the width does not refer to the sidewalk, itself, but the path from the sidewalk to the building entry. Commissioner Kaje summarized that the ADA requirements are 44 inches, and the current code requires more than that.

Commissioner Broili asked how ADA standards would be implemented on private property. Mr. Cohn noted that this language would only apply to commercial and multi-family development. Commissioner Broili noted that the language, as proposed would require at least three-foot wide

sidewalks for single-family and duplex developments. Mr. Szafran noted this is already a code requirement, and the proposed amendment would just replace "36 inches" with "three feet. Mr. Cohn agreed to provide further clarification about ADA requirements for single-family and duplex developments.

Chapter 20.70 – Engineering and Utility Development Standards. Commissioner Kaje said that, without knowing exactly how the language is being changed, he is not sure going through the entire section as a whole would be the best approach. Chair Wagner agreed that this approach could result in the Commission questioning language that was not intended to be changed. Mr. Cohn felt it would also be appropriate to postpone the discussion of Chapter 20.70 until staff members who worked on the proposed amendments are present to answer the Commission's questions. Commissioner Kaje observed that the proposed language relates to items discussed in other amendments such as dedication of open space, street trees, etc. Absent more information about what is being changed, he did not feel a Commission discussion would be productive at this time.

Mr. Cohn announced that the amendments to Chapter 20.70 have been advertised for a public hearing on May 6th. However, at the beginning of the May 6th meeting, the Commission could announce that while they would discuss the proposed changes and accept public comments, they would not take action on Chapter 20.70. Chair Wagner summarized that the Commission could take action on the other code amendments on May 6th and then continue their study session on Chapter 20.70. The Commission agreed that would be appropriate.

Commissioner Kaje observed that the Commission spent considerable time just trying to understand the context of some of the proposed code amendments. He suggested that when the next batch of Development Code amendments are presented to the Commission for review, it would be helpful to provide a better idea of how the proposed amendments fits within the overall context of the Development Code.

With the exception of Chapter 20.70, the Commission agreed they were ready to move the proposed amendments forward to a public hearing. Commissioner Kaje reminded staff that the Commission identified several amendments for which a diagram would be helpful to clarify its intent.

PUBLIC COMMENT

Wendy DiPeso, Shoreline, referred to the proposed amendments to Section 20.40.400 (Home Occupations) and agreed with Commissioner Behrens' comments about encouraging businesses to develop in neighborhoods, but structuring the code to minimize the impact. She suggested the City code allow for an administrative exception when a property owner is meeting the spirit of the code, but perhaps not the letter of the code. She referred to the situation that triggered the proposed code amendment. A gentleman converted a drug house into a very clean operation, and there have been no complaints from surrounding property owners. Someone from the City came out to the area in response to a complaint about a neighbor who had junk cars. The staff person noted a delivery truck that had come to the home occupation to load and registered a complaint as a citizen of Shoreline. Ms. DiPeso expressed her belief that the gentleman operating the home occupation is fulfilling the spirit of the law in

that the neighbors love him and his business. However, he was outside of the letter of the law because he had two vehicles parked on site. The proposed code amendment would correct this situation and allow the gentleman to be code compliant.

Ms. DiPeso summarized that she is looking for equitability, especially in today's economy. The last thing the City needs is for this business to head north to Snohomish County, which is what the owner is contemplating doing. Relocating would require him to lay off part-time seasonal employees from the Shoreline area. She noted that the owner does have the potential of eventually moving into a larger commercial space, and in another county he did just that and ended up with 40 employees. She would like to see 40 more employees from Shoreline hired.

DIRECTOR'S REPORT

Mr. Cohn did not have any additional items to report.

UNFINISHED BUSINESS

Follow Up Discussion of Joint Meeting with City Council

Mr. Cohn recalled that Mr. Tovar met briefly with the Commission after the joint meeting. He invited the Commissioners to share their additional comments with staff.

Commissioner Kaje said he believes there has been good conversation at the joint meetings, and he likes their fairly casual tenor. However, he felt the meetings were too short given how infrequently the two groups meet. He suggested the two groups either meet more often or hold longer meetings. Commissioner Broili concurred.

NEW BUSINESS

Election of Chair and Vice Chair

Chair Wagner advised that, generally, officers are elected and take office annually at the first regular public meeting of the Commission in April. She invited Ms. Simulcik Smith, Commission Clerk, to conduct the election of officers.

Ms. Simulcik Smith opened the floor for nominations for Chair of the Planning Commission.

COMMISSIONER KAJE NOMINATED COMMISSIONER WAGNER AS CHAIR OF THE PLANNING COMMISSION. THERE WERE NO OTHER NOMINATIONS SO NOMINATIONS WERE CLOSED. THE VOTE WAS UNANIMOUS IN SUPPORT OF COMMISSIONER WAGNER AS CHAIR OF THE COMMISSION.

Chair Wagner opened the floor of nominations for Vice Chair of the Planning Commission.

COMMISSIONER BEHRENS NOMINATED COMMISSIONER PERKOWSKI AS VICE CHAIR OF THE PLANNING COMMISSION. THERE WERE NO OTHER NOMINATIONS, SO NOMINATIONS WERE CLOSED. THE VOTE WAS UNANIMOUS IN SUPPORT OF COMMISSIONER PERKOWSKI AS VICE CHAIR OF THE COMMISSION.

Discussion of Possible Planning Commission Retreat

Mr. Cohn said staff's original thought was to schedule the retreat for May 10th, which would be an extra Commission meeting. However, because the Commission has already held a number of extra meetings over the past few months, staff recommends the retreat be scheduled as a special meeting in June or at the regular meeting of June 17th. He suggested the Commission consider the topics they would like to discuss at the retreat. For example, they could talk about their rules for allowing public comment at their meetings. In addition, they could consider some changes to the Commission Bylaws and discuss general ideas for how to make the meetings work better. He invited the Commissioners to share their ideas with staff via email.

Chair Wagner said she is in favor of having a retreat, but she also appreciates that the Commissioners have been required to attend a lot of meetings over the last several months. She reminded the Commission of their earlier discussion about the concept of creating subcommittees for various items. She suggested the retreat also include a discussion about the Commission's future time commitments.

Commission's Work Schedule

Commissioner Broili requested the Commission consider putting forward a Low-Impact Development (LID) work program agenda item to the City Council. To support his request, he emphasized the following points:

- Phase II Cities are required by March 2011 to identify and remove all impediments to LID, yet there is nothing on the City's calendar to address the issue.
- Nationally, LID is becoming recognized as best management practice for stormwater management.
- The LID Phase II Permit is expected to be issued in 2012. Implementation of the new permit would be required within two to three years after issuance. Therefore, LID would be required at some yet unknown level by 2015 for all Phase II Cities.
- Implementation of LID practices shifts costs of stormwater facilities management from city and ultimately the taxpayer to the developer.
- The City should be taking advantage of the economic benefits of these environmental services and over time, reduce Cities operation operational and maintenance costs.
- Requiring LID would protect the City's remaining stream courses while reducing stormwater impacts on Puget Sound.
- The Puget Sound Partnership offers free technical assistance to help cities revise their regulations and development standards to encourage or require LID.

Commissioner Broili suggested the Commission forward a recommendation to the City Council, asking that they make the identification and removal of all impediments to LID one of the City's goals for 2010 – 2011 and direct staff and the Planning Commission to make this a high priority in their work calendar.

Commissioner Kaje expressed his belief that there should be a nexus between many of the items the Commission is currently working on and LID. For example, there are a number of Comprehensive Plan updates in progress, and some master plan developments have been proposed. He said he is often discouraged that the City's current codes do not allow the Commission to adequately address LID. He said he supports the proposal put forth by Commissioner Broili and expressed his belief that the City should get out in front with new LID requirements that are forthcoming. The City should set an example of trying to move forward faster than required by State Law.

Commissioner Behrens agreed with Commissioner Broili's proposal. He summarized that the City would eventually be required to address the issue of LID. He agreed it would be appropriate to identify a plan and approach now, rather than waiting until they are forced to do so.

Mr. Cohn pointed out that the City Council just recently adopted their goals, so it would not be possible to add an additional goal at this point. Rather than asking that the proposal be identified as an additional goal, the Commission could forward a recommendation to the City Council, asking that LID become a City priority and that the issue be added to the Commission and City Council's work programs. Commissioner Broili agreed that the proposal does not necessarily have to be added as an official 2010 City Council Goal, but the work program should outline a schedule for addressing the issue as soon as possible. He noted that numerous other cities in the state are already ahead of Shoreline, and he would like the City to take an aggressive leadership role.

Commissioner Kaje asked for direction about the best process for forwarding the recommendation to the City Council. Mr. Cohn said a formal letter from the Commission to the City Council would be the best approach. Chair Wagner suggested the Commission review their work program at the next meeting to figure out where the LID discussion could fit in. She suggested that Commissioner Broili provide direction about the timeline he anticipates for the project and if it would be appropriate to form a subcommittee to help facilitate the Commission's review and recommendation.

Commissioner Kaje said he sees City staff playing a significant role in this process. He suggested the Commission specifically identify what they want the City Council to do. For example, would it be appropriate to ask the City Council to instruct the staff of the various departments to inventory potential barriers to LID. The Commission should provide clear information about the type of response they would like the City Council to provide. He said he does not see this as primarily the work of the Commission. Instead, the Commission would provide guidance and then hear back from various City departments over time. He cautioned against creating a large work task on a short time frame. However, he agreed with Commissioner Broili that it is time for the City to make a commitment to start tackling the issue throughout City operations.

Commissioner Broili said it is his understanding, in talking to the Department of Ecology and others, that presently, Phase II Cities are required to identify and take action to remove the barriers by March of

2011. While the City would be required to comply with this requirement, there does not appear to be a program in place for addressing the issue at this time. Mr. Cohn asked Commissioner Broili to email a copy of his proposal to staff so it could be forwarded to the Commissioners. He agreed to discuss the proposal with Mr. Tovar, as well as staff from the engineering and surface water groups, and report back to the Commission at their next meeting.

Procedural Protocol for Quasi-Judicial Hearings

Commissioner Broili said he was very disappointed in the way the CRISTA Master Plan approval process occurred. He was particularly concerned about the discussion surrounding the daylighting of potential creeks or piped watercourses. He observed that the Commission received two emails in their packet for that hearing. One was from Jill Mosqueda to Mr. Szafran dated April 23, 2009 in response to an email from a citizen asking a series of questions about the CRISTA Master Plan. In the email response, Ms. Mosqueda expressed her belief that CRISTA should be required to daylight streams that exist on their campus. He expressed concern that a number of the points in the memorandum sat for a year until the issue was raised again by a citizen. At that point, staff presented a last minute email response from Ms. Mosqueda disavowing her earlier comments. He felt this was an extremely inappropriate approach that did not give the Commission an adequate opportunity to respond to the information.

Commissioner Broili referred to the later email from Ms. Mosqueda, which stated that the pipe drainage on the CRISTA site was most likely created before 1953 and that the pipe was fairly deep. He noted these statements are not facts, but suppositions. He reminded the Commission that they must deal only with factual information that can be confirmed and documented. Not only did Ms. Mosqueda's change come at the very last moment of the proceedings, it was not backed up with factual information. He summarized that the issue of daylighting did not get a fair hearing, and the decision was made based on questionable information.

Chair Wagner noted that the initial email from Ms. Mosqueda was not part of the Commission's record until the hearing, when it was submitted by a member of the public. Both of the emails were new evidence introduced at the hearing. She suggested it would be appropriate for the Commission to discuss the best way to respond to new information that is presented at hearings. She recalled that the Commission's recommendation regarding the CRISTA Master Plan represented a compromise, recognizing that not all Commissioners supported every element of the proposal. She recalled that Commissioner Broili indicated at the hearing that he did not feel the issue of daylighting the stream had been adequately resolved, and these comments were included as part of the record.

Commissioner Kaje agreed with Commissioner Broili's sense of discomfort and disappointment with how the information was presented to the Commission. He said he was embarrassed for the process, as well. However, he is just as concerned that the administrative interpretation actually created the strange and difficult issue. He explained that administrative interpretations are issued when there is a gap in the code that cannot be resolved with the existing language. He expressed his belief that the code, as written, seemed clear. He suggested that apart from encouraging staff to avoid these situations in the

future, the Commission should encourage the City Council, via letter, to become aware of how the issue played out.

Chair Wagner noted that the CRISTA Master Plan has not been presented to the City Council yet. She said the amendments made to the March 18th Minutes will help accurately reflect the record that goes before the City Council, and both emails from Ms. Mosqueda would be included as part of the record. She cautioned that because this is a quasi-judicial matter, the Commission does not have the ability to augment the record subsequent to the event. The record, as it has been created, contains information that would lead the City Council to recognize the Commission's concerns. If the City Council asks questions, the Commission could clarify and enhance their understanding. However, they should not attempt to augment the record with subsequent discussions and concerns.

Commissioner Behrens recalled he was the sole person voting against the motion to approve the CRISTA Master Plan, but he never had a chance to explain his reasons. Chair Wagner cautioned that because the minutes from this meeting would be made public and could be reviewed by the City Council prior to their hearing on the matter, it would be inappropriate to comment further until the City Council has had an opportunity to act. Mr. Cohn agreed that caution is in order.

Commissioner Behrens expressed concern that it was deemed appropriate for those who voted in favor of the proposal to discuss the problems and flaws with the process, but it would not be appropriate for him, the sole person voting in opposition, to express his reasoning. Mr. Cohn clarified that the intent of tonight's discussion was to talk about what could be done differently next time to avoid problems. Commissioner Behrens said he needs to do a better job of explaining why he comes to certain conclusions. He should have explained the reasons why he voted no at the end of the hearing, and he regrets not having taken this opportunity.

Commissioner Behrens observed that the Commission often gets involved in heated issues and members of the public come to the hearings with strong feelings. Many times, they end up with the impression that the City is against them. The way the process and procedure works, the developer and the Planning Department tend to work together to make a presentation. While the Commission understands this process, the public does not. It is important for the overall civility of the way the City operates for the Commission to do whatever they can to minimize this oppositional approach. The public should see that the Commission and City Council make decisions based on facts. A citizen should not leave a hearing with the feeling that his/her perspective is any less important than another. It is important for the citizens and public to feel that the process is fair.

Commissioner Broili said he understands Chair Wagner's concern about tainting the public record, but he felt there must be some vehicle to make it clear that the Commission, as a body, was not pleased with the way the daylighting issue was handled. That aside, he said he has a problem with the City's current method of identifying stream courses, which is left solely at the discretion of the Planning Director. He said he does not feel comfortable leaving these decisions to the Planning Director, recognizing that the Director would change over time. He recommended this process be amended to provide a better way to appropriately identify and define stream courses. Chair Wagner observed that the Commission spent a considerable amount of time trying to understand this issue, and their discussion has been reflected in the

record that will be forwarded to the City Council. However, she suggested it would also be appropriate for the Commission to consider the best approach for adding this item to their future work program. Commissioner Broili agreed the item should be added to the Commission's work program. The Commission should also request feedback from staff about how to avoid negative situations in the future when new information is entered into the record at the tail end.

Chair Wagner referred to the concept of speaking only to new evidence and trying to move forth a hearing. Unfortunately, multiple Commissioners had to listen to recordings of previous hearings in preparation of the final hearing, which resulted in situations where information had to be rehashed. This gave people from the public an additional opportunity to comment, and the Commission erred on the side of allowing more lenient public comment. The flip side is that if they don't allow the public to speak, they feel like the Commission is not listening to their concerns. She suggested the Commission have a retreat discussion about how to handle public comment at study sessions versus public hearings.

Commissioner Kaje agreed it would be appropriate for the Commission to spend a portion of the retreat talking about not only the public comment issue, but how they can make the master plan permit process work better. He suggested that a communication from the City to a citizen that bears so heavily on a proceeding should have been brought forward much earlier rather than waiting until it was discovered during the process. Letters that refer to obvious controversial issues should be put before the Commission early in the process, and City documents should not be bundled with the public comment documents.

Commissioner Behrens expressed his opinion that the Commission's charge is to weigh and determine the value of the information placed before them. He cautioned that if the Commission attempts to figure out what information should and should not be allowed, they may end up treading in dangerous waters. As long as a public comment has a bearing on the hearing, he felt the Commission should let them speak, and the Commissioners could give the comment the appropriate weight. He said he has confidence that the more information before the Commission, the better decision they can make. Chair Wagner agreed. However, she observed that some members of the public had spoken on multiple occasions, introducing different things each time. While she is not suggesting the Commission deny new information that is presented late in the process, it places the Commission in the position of having to make a decision without having an opportunity to carefully weight the information.

Commissioner Broili said this is the second decision he has made as part of the Planning Commission that he felt rushed in making; the Echo Lake Proposal was the other. He expressed his belief that with larger projects, the Commission needs to be able to slow the process down. Chair Wagner reminded the Commission that they had the opportunity to continue the CRISTA Master Plan proposal to a special meeting later in the month, but they decided not to do so. Commissioner Broili agreed but said the Commission should be mindful that many of the proposals will have long-lasting effects, and it would behoove them to slow the process down rather than making decisions prematurely without full thought. Chair Wagner observed that it would not be wise to schedule very large proposals back-to-back the next time the Commissioners are up for reappointment.

Commissioner Behrens observed that when he reviewed the packet of information for the CRISTA Master Plan proposal, there were some obvious concerns that could have been lumped into a few

categories. He suggested that perhaps this would be a good organizational approach when presenting information to the Planning Commission in the future. This would enable staff to center in on the major concerns being expressed and to present information and evidence to address the specific issues.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Ms. Simulcik Smith announced that she would take a group photograph of the Commission at the conclusion of their meeting.

AGENDA FOR NEXT MEETING

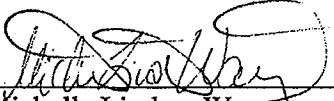
Mr. Cohn reminded the Commission of their joint meeting with the Parks Board on April 22nd from 7:00 to 9:00 p.m. He further reminded the Commission that they would meet prior to the joint meeting starting at 6:00 p.m. Staff would notify the Commissioners of the location of the 6:00 meeting.

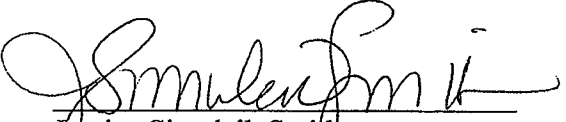
Mr. Cohn announced that the Point Wells Subarea Plan is scheduled to come before the City Council for action on April 19th. The City Council would conduct a study session on the CRISTA Master Plan on April 26th, followed by a study session on the Southeast Neighborhoods Subarea Plan on May 3rd.

Commissioner Broili asked for more information about the Point Wells Tour. Mr. Cohn said staff would try and arrange the tour around the City Council's schedule and notify the Planning Commissioners of the dates.

ADJOURNMENT

The meeting was adjourned at 10:30 P.M.


Michelle Linders Wagner
Chair, Planning Commission


Jessica Simulcik Smith
Clerk, Planning Commission

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CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

May 6, 2010
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Wagner
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Kaje
Commissioner Moss

Staff Present

Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:02 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman, Kaje and Moss.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Mr. Cohn advised that his comments would be postponed until after the public hearing.

APPROVAL OF MINUTES

Commissioner Moss referred to the second paragraph from the bottom on Page 13 of the April 15, 2010 minutes, which says the floor area of an Accessory Dwelling Unit (ADU) could be no larger than 50% of the living area. It goes on to give an example of how the proposed amendment would allow a property with an existing 800 square foot structure to have an attached ADU of up to 1,600 square feet. She suggested the math is backwards. Mr. Cohn explained that this provision would work both ways.

If a property is occupied by a small living unit, an owner could build a larger ADU, assuming it could fit on the property with all the setbacks. However, if you have a living unit of average size, it is not likely you could be a large ADU and still fit in all the setbacks. The ADU would have to be smaller. Commissioner Moss asked if this would result in the creation of a new primary residence, and the old structure would become the ADU. Mr. Cohn said that is true, and the owner could live in either the ADU or the primary residence.

Commissioner Moss suggested the minutes be clarified. Chair Wagner observed that the minutes reflect how the discussion was articulated. Rather than changing the minutes, she suggested the Commission provide further clarification as part of their continued discussion. The remainder of the Commission concurred.

The minutes of April 15, 2010 were approved as amended.

GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, reminded everyone that today is the National Day of Prayer.

LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (FILE NUMBER 301606)

Chair Wagner reviewed the rules and procedures for the legislative public hearing.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran recalled that at the Commission's April 15th study session, they requested further clarification on some of the proposed amendments. He referred to the staff report, which addresses the issues and concerns raised by the Commission as follows:

- **Section 20.30.160 – Expiration of Vested Status of Land Use Permits and Approvals.** Mr. Szafran recalled the Commission recommended changing the word “shorter” to “different.” He explained that with the exception of subdivisions and master development plans, approved land use permits expire after two years from the time of the City's final decision unless a building permit application is filed before the end of the two-year term. He reviewed that master development plans vest for 10 years, subdivisions for 7 years, and building permits for 1 year except for site development and clearing and grading permits, which vest for six years. Staff agrees that using the word “different” would reflect the intent of this provision.
- **Section 20.30.350 – Amendment to the Development Code (legislative action).** Mr. Szafran recalled the Commission requested additional clarification about the rationale for eliminating Criteria 3, and the City Attorney is now recommending that this code amendment be withdrawn. He added that the City Attorney would likely recommend that the word “criteria” is be replaced with “consideration. He explained that it is very difficult to decide if Development Code and Comprehensive Plan amendments meet the criteria. However, it is important to consider certain things when reviewing amendment proposals.

- **Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria.** Mr. Szafran advised that the Commission raised questions about the ability to require dedications for public parks and open space. He clarified that the proposed amendment would not restrict the City from requiring dedications for public use. Through the City's SEPA authority, they can require park and open space dedications. In addition, the proposed amendment also clarifies who may accept dedications (the City Council through a Planning Commission recommendation).
- **Section 20.30.353.G – Master Plan Vesting Expiration.** Mr. Szafran recalled the Commission raised a number of questions about how the master development plan review process would work. He explained that, as proposed, every ten years City staff would initiate the review process. If no changes have occurred, staff would issue a determination of no change and the master development plan would not be brought back to the Planning Commission for review. He noted the City Attorney also noted another alternative that would enable the Commission to make that determination.

In response to Commissioner Behrens' question about who is responsible for covering the cost of the review, Mr. Szafran explained that the cost would be included in the initial application fee, and it is staff's expectation that a review would be largely based on changes to City policy that occurred since the master plan was adopted. If an owner wants to amend the plan based on changes, the cost would be born by the applicant. Chair Wagner asked if a city-initiated review would fall into the category of being a quasi-judicial action. Mr. Cohn said that, generally speaking, when changing something that was a quasi-judicial action, any follow up amendments and reviews would also be quasi-judicial.

- **Section 20.30.460 – Effect of Changes in Statutes, Ordinances, and Regulations on Vesting of Final Plats and Rezones.** Mr. Szafran explained that the purpose of changing the title of the amendment is to clarify that the vesting of plats not only applies to zones and rezoning, it also applies to applicable statutes innumarated in the Revised Code of Washington (RCW). These statutes include sewage, water supply, drainage, roads, and sidewalk standards.
- **Section 20.30.680 – Appeals.** Mr. Szafran referred to the table staff prepared to outline how certain appeal actions would work. The table is intended to clarify the appeal process. Chair Wagner suggested that additional clarification will likely be needed for this amendment. Mr. Cohn explained that the matrix shows that no administrative appeal would be allowed for Type A Actions, and appeals must be made to Superior Court. If a SEPA review is required, appeals of the threshold determination or SEPA conditions would become a Type B Action, and the Hearing Examiner is the hearing body for all appeals to Type B Actions. Most Type C Actions go to the Hearing Examiner, including SEPA appeals. He summarized that the Washington Administrative Code (WAC) provision that requires that SEPA administrative appeals must be consolidated with the open record hearing for the underlying action and must be heard by the same body or officer. In Shoreline, all SEPA appeals are heard by the Hearing Examiner. He recalled that, at one time, the City held a combined SEPA and substantive hearing before two bodies (the Planning Commission and the Hearing Examiner). However, the City Attorney later determined that a simultaneous hearing before one hearing officer or body means one person or one body. As per the amendment, all Type C Actions, with the exception of master development plans and rezones in areas where a subarea study

is underway, would go before the Hearing Examiner. In these instances, any SEPA appeal would also go to the Hearing Examiner.

Mr. Cohn advised that the City Council made a very specific decision that certain permits (rezones and master plan developments) should not go before the Hearing Examiner. Instead, the Planning Commission would be the appropriate body to hear rezone and master plan development proposals. The Commission would make a recommendation to the City Council, who would make the final decision. Given the City Council's decision and state law that mandates only one body can hear an appeal, the City Attorney has determined that the Supreme Court is the appropriate hearing body for these appeals.

Mr. Cohn advised that one email received from the public noted a wrong citation to the Shoreline Municipal Code (SMC) on Page 36. The correct citation should be 20.30.060 instead of 20.60.060.

Mr. Cohn said staff also received a public comment expressing concern that appeals would cost \$30,000, but staff is not sure what information it was based on. The filing fee for a court appeal is \$230. The cost of an attorney would be the same whether the attorney is hired to represent an appellant in court or before the Hearing Examiner. The same is true for expert witnesses. He acknowledged there could be additional court fees and it would undoubtedly cost somewhat more to take an appeal to court as opposed to the Hearing Examiner, but staff does not believe \$30,000 is a fair figure.

Commissioner Kaje clarified that the Commission's role in reviewing master development plan proposals is to conduct a public hearing and make a recommendation on conditions to the City Council. The City Council makes the final decision, and they could change the conditions that were recommended by the Planning Commission. Mr. Cohn noted that any change would have to be based on the record. Commissioner Kaje noted that a member of the public would have to go to court to appeal the City Council's decision. Mr. Cohn agreed that appeals regarding SEPA and/or the substance of a master development plan proposal would be to Superior Court.

Commissioner Behrens said it is important that people have a clear understanding of their appeal rights. It should be easy for them to learn what process they must go through to file an appeal. He suggested that it would be helpful for staff to provide a presentation about the SEPA process as part of site specific rezone and master development plan hearings. He recalled that at a recent public hearing for a master development plan, numerous members of the public expressed a desire to file a SEPA appeal. If there had been a separate part of the hearing to clearly explain the SEPA process, there would have at least been a public process the audience could identify with. Mr. Cohn agreed that would have been helpful.

- **Section 20.30.760 – Notice and Orders.** Mr. Szafran said the Commission requested more information about the rationale for deleting Item H. He explained that the City should have the option to rescind a notice if it contains incorrect information. As per the Commission's concern, the revised wording in Item F clarifies that affected parties would be notified of any change to the order.

- **Section 20.40.400 – Home Occupation.** Mr. Szafran recalled that Commissioner Kaje suggested the language be changed to refer to classes of trucks. He said staff believes the proposed amendment was intended to apply to vehicles in general, including trailers. That is why specific dimensions for height and length were included in the amendment.
- **Section 20.40.600 – Wireless Telecommunication Facilities/Satellite Dish and Antennas.** Mr. Szafran reviewed that the Commission requested an illustration of what the amendment would do. He referred to Attachment 3, which provides an example of when a tower is built higher and why the diameter must be wider. He explained that when a company wants to extend a wireless tower, they usually replace the existing pole with a new pole. Because the new pole would be taller, it would generally be wider at the base, and correspondingly wider at the height for which it is equivalent of the top of the existing pole.
- **Section 20.50.040 – Setbacks – Designation and Measurement.** Mr. Szafran explained that the intent of this amendment was to allow stairs within the front yard setback as long as the distance between the ground and the surface of the stair is 30 inches or less. He referred to Attachment 2, which provides an example of stairs in the front yard. He said staff is recommending that the stair tread should be no more than 30 inches above the ground if the stairs are located in the front yard setback. Vice Chair Perkowski referred to Section 20.50.040.I.6 and suggested the word “setback” is missing from the last sentence. Mr. Szafran agreed.
- **Section 20.50.310 – Exemptions from Permit.** Mr. Szafran explained that prior to this section, the code discusses when a permit for clearing activity in a critical area would be needed. He noted that Item 6 was changed to make it clear that removal of noxious weeds or invasive vegetation from a stream buffer or within a three-foot radius of a tree on a steep slope located in a city park would be allowed without a permit. He also referred to Item B and explained that the City’s Critical Areas Ordinance has specific standards regarding pesticides, herbicides and fertilizers. Rather than referring to the King County Best Management Practices, staff felt it would be more appropriate to refer to the noxious weed and invasive vegetation section of the City’s Critical Areas Ordinance.
- **Section 20.50.470 – Street Frontage Landscaping – Standards.** Mr. Szafran recalled that the Commission focused on Item C at their last discussion. Currently, the code allows a property owner to eliminate landscaping between the building and the sidewalk if street trees are planted. The proposed amendment would require landscaping between the building and sidewalk even if street trees are provided. He noted that Item D was rewritten so its intent is easier to understand. He referred to Attachment 5, which is an example of street frontage screening in the Mixed Use Zone (MUZ).
- **Section 20.50.480 – Street Trees and Landscaping within the Right-of-Way – Standards.** Mr. Szafran said the Commission was uncomfortable with removing the word “trees” from the right-of-way landscaping section. He noted the amended language refers to both trees and landscaping to make it clear that the section applies to both. In addition, staff included the tree and landscaping requirements from the Engineering Development Guide to provide details.

- **Section 20.50.520 – General Standards for Landscape Installation and Maintenance – Standards.** Mr. Szafran recalled the Commission recommended that “zone” was a better word than “mat” to describe a plant’s root structure. The revised language reflects this modification.

Commissioner Broili recalled the Commission also expressed concern that the root zone is assumed to be the same as the canopy, which is not the case. Although he suggested some potential resources to correct the concern, they were not incorporated into the proposed language. Mr. Cohn agreed that at their last discussion, the intent was that this issue would be addressed, but not with the specific reference provided by Commissioner Broili. Chair Wagner recalled that Commissioner Kaje also voiced concern about the feasibility of prohibiting the trees from reaching above ground utilities. Mr. Cohn explained that in Item O, the word “not” was added to make the intent more clear.

- **Section 20.80.350 – Mitigation Performance Standards and Requirements.** Mr. Szafran explained that in response to questions from the Commission about the monitoring process, staff did some research. He advised that monitoring is explained in Item G.3, which states that the applicant’s work would be monitored and inspected by a qualified professional approved by the City. It further states that the applicant’s work would be inspected nine times over the five-year period. In addition, the applicant would be responsible for all costs associated with monitoring.

Questions by Commission to Staff

Chair Wagner referred to the emails contained in the desk packet, which some Commissioners might not have had a chance to read. She noted that the emails all relate specifically to the SEPA appeal amendment (**Section 20.30.680**). Mr. Cohn suggested the Commission adjourn for a short period of time to allow the Commissioners to read through the new material. Commissioner Broili pointed out that the majority of the new material relates to amendments to **Section 20.30.680**, and it would take the Commission a substantial amount of time to review the documents. He suggested they remove this one amendment from the docket and address it at a later time, after the Commission has had a chance to more thoroughly review the information.

Mr. Cohn said he believes staff adequately responded to the questions raised in the emails. He noted that Pages 11 through 34 contain administrative codes from other cities. He agreed that the rules vary by City. He summarized that the majority of the emails recommend that all Type C Land Use Actions go to the Hearing Examiner, meaning the Hearing Examiner would also hear the SEPA appeal. However, it is important to keep in mind that the City Council has made the decision that two Type C Land Use Actions should come to the Commission for review.

Commissioner Behrens said staff framed the issue very clearly, which is whether or not all Type C Land Use Actions should be sent to the Hearing Examiner or if two specific ones (site-specific rezones and master development plans) should go to the Commission as previously decided by the City Council. He suggested the Commission have a brief discussion about the merits and detriments of having the Planning Commission continue to hear these two types of land use actions. If they determine they do not want to continue to hear these items, they must approach the City Council with a request to change the process. If they want to continue to hear these items, the WAC requires that they operate as the proposed amendment suggests.

Commissioner Kaje agreed with Commissioner Broili that even if he reads through the packet and asks questions, he would still not be ready to make a recommendation to the City Council. He advised that the few pages he was able to read of the emailed comments framed the issue better than the staff reports have to date. They contain some good and well-structured information that he wishes they would have received earlier. He said he wants to hear from the public regarding this issue, but he does not believe he has had the time to study the issue enough to make a recommendation now. He suggested the final disposition of the proposed amendments **Section 20.30.680** should be handled at a later date. The majority of the Commission concurred.

Public Testimony

Dan Pidduck, Shoreline, commented on the proposed amendment to **Section 20.50.040** regarding setbacks. He submitted some photographs, which were entered into the record. He explained that a year ago, he and his wife received a permit from the City to construct some stairs in front of their house to address a safety issue. They were in constant contact with the Planning Department staff, who came to their property a number of times because they were trying to save as much of the existing landscaping as possible. The City approved the design and a permit was issued. However, after a number of months, they received a statement in the mail notifying them that they were going to be fined \$14,000 for being in violation of a setback issue. They learned that the stairs were actually located a few more inches into the setback than they should have been. He asked that the Commission approved the proposed amendment, which would put them back into compliance with the City's code. He summarized that with a single-income household in this economy, it would be a significant cost to restructure the stairs.

Michelle Pidduck, Shoreline, said her comments were also related to the proposed amendment to **Section 20.50.040**. She referred to the pictures submitted earlier by her husband, which provide a good example of the actual few inches of the stairs that protruded into the setback. The rest of the stairs are code compliant. She observed that relocating the stairs to be code compliant would require them to remove a tree. They are also worried about the soil in this area because of the existing rockery. She noted that a city inspector visited the site before and after the construction.

Jim Baker, Shoreline, said he was present to support the proposed amendment to **Section 20.40.400**, regarding home occupations, which would create a less restrictive environment for home-based businesses. He said he supports Item H.1, which states that no more than two vehicles that are used for pickup of materials or distribution of products would be allowed on the site. However, Item H.2, which prohibits the vehicles from parking within any required setback areas of the lot or on adjacent streets, seems too restrictive. He suggested that when the language was drafted the intent was to avoid situations where commercial vehicles backed up to the neighboring property lot line, which makes sense. However, he pointed out that most driveways run through the setback. As proposed, cars would not be allowed to park on the street or within the first 20 feet of the driveway. He suggested this requirement is a bit absurd. He further suggested the language could be changed to prohibit commercial vehicles from parking within the side yard setbacks, but not within the setbacks where the driveways are already located.

Chair Wagner asked if Mr. Baker would be opposed to language that prohibits long-term, on-street parking of large commercial vehicles. Mr. Baker observed that it would be perfectly legal for a commercial plumber to bring a company vehicle home for the night and park it on street. However, a home-based business would not be allowed to do the same. He said he understands the concern about long-term parking on the street, but prohibiting parking within the setback seems too restrictive.

Wendy DiPeso, Shoreline, questioned why the City should prohibit a home-based business owner (**Section 20.40.400**) from using his/her driveway for parking. She also referred to the proposed amendment to **Section 20.30.680**, regarding the appeal process. She noted that WAC 197-11-680(2) reads as follows:

"Appeal to local legislative body. RCW.43.21.C.060 allows an appeal to a local legislative body of any decision by a local non-elected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal or may eliminate such appeals altogether by rule, ordinance or resolution."

Ms. DiPeso suggested the City follow this rule and allow the Planning Commission to be the hearing body to hear appeals rather than requiring the public to spend possibly a large sum of money to go to court. She pointed out that State Law requires that any SEPA appeal must happen at the same time as the regular hearing, and the Planning Commission could hear both items.

Bill Bear, Shoreline, referred to the proposed amendment to **Section 20.30.680**. He recalled that many years ago, Tim and Patty Crawford ended up having to mortgage their home to confirm that their statements concerning Aegis building on the buffer zone of Thornton Creek was illegal. Even though they theoretically won, they had to pay court costs, and his understanding is that the costs were in the range of \$30,000. He suggested the proposed amendment is setting a pretty high bar for a citizen to try and defend fish who can't go to court for themselves, which is a problem.

Mr. Bear supported the comments made by Mr. Baker regarding home occupations (**Section 20.40.400**). He said he supports the need of home businesses in the City to park their vehicles in the setback areas. He suggested that, at this time, they need to do whatever they can to help their local businesses. The City is seeing a tremendous hit in sales tax and employment. The City should do whatever they can to ensure the code protects and encourages businesses.

Debbie Kellogg, Shoreline, referred to the proposed amendment to **Section 20.30.680**, regarding who hears Type C quasi-judicial matters. She suggested that whether it is the Planning Commission or the Hearing Examiner, the issue needs to be settled once and for all. She suggested that to characterize that the City Council is making the decision is somewhat disingenuous. They heard the proposal as an interim ordinance. While they are supposed to have three readings of the rule, they waived the second and third one at the desire of the City staff. Little discussion went into their decision. She found it odd that the issue has been dragging on for more than a year, but staff is just now realizing there is a problem. To merely say that Shoreline has rules that are different than other communities is unacceptable. She reminded the Commission that staff previously researched other municipalities and found they have only seven planning commissioners. Based on this information, they recommended the Shoreline Planning Commission reduce their number of members to seven, as well. She summarized

that it does help to look at how other municipalities do things when they try to solve a problem. This helps them get to the solution faster instead of reinventing the wheel.

Ms. Kellogg said she met with an attorney and learned that the price for filing an appeal is more than \$30,000. The cost of filing the case is now \$450, not \$230. She noted that the appeal for the Children's Hospital proposal cost the appellants \$60,000.

Janet Way, Shoreline, said she is interested in the appeal issue, as well (**Section 20.30.680**). She observed that she has filed more appeals than anyone else in the room. While she wouldn't call herself an expert, she does have some experience. She suggested the appeal process should not be made more difficult for citizens. She recalled that when her group filed their first appeal with the City, they tried to charge them \$1,200. The group threatened to take the City to court, and the fee was reduced to \$375.

Ms. Way agreed with Commissioner Kaje's concern about the CRISTA Master Development Plan proposal going to the City Council and the public not being able to make further comment since the Council's hearing would be closed record. As a member of the Council at the time, she believes that the Planning Commission is an important people's body that should be hearing these important appeals. She said she received notice of two Determinations of Non-Significance from the Shoreline School District regarding the Shorewood and Shorecrest High School development proposals. She noted that these proposals would not come before the Planning Commission, the Hearing Examiner, or the City Council unless someone files an appeal on the SEPA determination. If someone were to file an appeal to the SEPA determination, the project would come to the City for a conditional use permit. She questioned what the choice would be for a citizen or a group to appeal the conditional use permit.

Ms. Way advised that there are members of the public who would like to plant vegetable gardens in their parking strips, and they do not want to pay the \$400 permit fee.

Mr. Szafran referred to existing code language, which states that required parking space shall be located outside of any setbacks, provided driveways located in setbacks may be used for parking. Using a private driveway for parking would be acceptable. He suggested this should be made clearer in **Section 20.40.400**. Commissioner Broili said he understood the proposed language to mean the setbacks from the property lines adjacent to either side of the driveway. However, he agreed the language could be clarified. Commissioner Behrens summarized there would be no prohibition for someone parking a car across the part of their driveway that is within the setback, as long as the sidewalk is not blocked. Mr. Szafran agreed.

Final Questions by the Commission

Commissioner Broili referred to **Section 20.50.470.C**, which states that “landscaping between the building and the property line may be reduced in commercial zones if 2-inch caliper street trees are provided.” He said he is totally amenable to flexibility, and he agreed there will be situations where street trees are not going to be adequate. He expressed concern that, one way or the other, these areas should remain permeable. Mr. Szafran said the amendment, as currently proposed, would accomplish this goal. Commissioner Broili said his interpretation of the proposal is that the landscaping can be reduced if trees are planted, but that would not allow a great deal of flexibility. It might not be possible to put trees in these areas for numerous reasons. He suggested the code allow a little more flexibility so a developer can achieve the ultimate goal of maintaining permeability of whatever the surface is.

Mr. Cohn said the proposed language represents staff’s attempt to address whether or not the Commission wants to allow a reduction in the amount of frontage landscaping that is required. The language suggests that if an applicant does not put in trees, they cannot reduce the frontage landscaping. Commissioner Broili said he would support a provision that allows the applicant to reduce the frontage landscaping, as long as the permeability of the surfaces is maintained. It may not be appropriate to plant trees or low-growing vegetation in certain circumstances, and he wants to maintain a certain level of flexibility for the developer to do what is necessary to make a project work, as long as the permeability of the surface is maintained for stormwater mitigation purposes.

Mr. Szafran referred to an example of a gas station canopy project in which the City required street trees. He explained that the current code would not require an applicant to install the 10-foot landscape section if they place street trees within the right-of-way. The proposed amendment would still require frontage landscaping even if street trees are provided, but the landscaped area could be reduced because the setback in the commercial zones can actually go to the property line.

Commissioner Broili suggested the proposed language implies that the City’s goal is no net loss, which means the City would be just treading water. Chair Wagner pointed out that the proposed language is actually more restrictive than the existing code requirement, and the City would end up with more landscaping. Commissioner Broili said that the proposed language would still allow an applicant to reduce the amount of pervious area within the 10-foot landscaped area. Mr. Cohn said the current code allows street trees to be substituted for the landscaping, and the proposed language would allow an applicant to reduce, but not eliminate, the landscaped area if street trees are planted.

Mr. Cohn said that while he can understand Commissioner Broili’s point, they must have some standard. Requiring permeable surface does not provide enough direction for staff to determine whether or not a proposal meets the standard. Commissioner Broili agreed but said he is not comfortable in the potential reduction in permeable surface. He emphasized that his goal is to increase permeable surfaces. Mr. Cohn suggested the proposed language would accomplish this goal because it would allow for a reduction of landscaping rather than elimination, which would be an increase over the current code requirement.

Commissioner Broili questioned why the City must allow an applicant to reduce the amount of landscaping. He suggested that if an applicant is allowed to reduce the amount of landscaping, they

should be required to put in some type of other pervious surface to make up for the loss. For example, if an applicant is allowed to reduce the landscape area to five feet, the City should still require that the other five feet be pervious concrete, etc. Mr. Szafran pointed out that, per the current code, if the landscape area is reduced to five feet, the applicant would not be required to landscape the area if street trees are provided.

Chair Wagner pointed out that if the code requires an applicant to keep the entire 10-foot landscape area, there would be no incentive for them to plant street trees. The proposed language offers an incentive to encourage applicants to provide street trees. Mr. Szafran pointed out that commercial zones allow development to the property line. However, the code states that if a development is setback, the setback area must be landscaped.

Commissioner Moss agreed there is merit to Commissioner Broili's recommendation. She recalled the joint meeting with the Parks Board, where there was a significant discussion about vegetation management programs. She questioned if it would be appropriate to move forward with the proposed amendment to **Section 20.50.470.C** now, or if it be better to wait until the entire Tree Ordinance is revised in the near future. She asked if it is more important to get the change in place now and then address the issue from a broader standpoint as part of their review of the Tree Ordinance. Mr. Cohn explained that the proposed amendment to **Section 20.50.470.C** was meant to clean up the language to make it more understandable. However, staff would support a Commission decision to postpone their recommendation on this amendment.

Commissioner Behrens summarized that if the proposed amendment to **Section 20.50.470** is approved, it would basically mean that while a commercial development would not be required to have a setback, if they choose to do so, it must be landscaped as per the code. He suggested that if the City is going to require a 10-foot landscape area in commercial zones, they should first establish that a setback is required. If the City tells a developer they have to spend money to landscape a setback that is not required, they will likely choose not to have a setback. If they want to obtain a certain effect, they must provide incentives to encourage developers to participate. Mr. Cohn said the issue of whether or not commercial development should be allowed to extend into the setback is a different question that must be addressed in a different venue. Commissioner Behrens agreed. As Commissioner Broili pointed out earlier, the best way to fix the issue is to address the setback requirements for commercial development, and perhaps it would be appropriate to withdraw the amendment until the setback issue has been addressed.

Deliberations

COMMISSIONER BROILI MOVED TO RECOMMEND APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS (#3016060) AS SHOWN IN ATTACHMENT 1 OF THE MAY 6, 2010 STAFF REPORT, WITH ADDITIONAL COMMISSION AMENDMENTS. COMMISSIONER KAJE SECONDED THE MOTION.

The Commission specifically discussed the following amendments:

- **Section 20.20.046.S – Definitions.** Commissioner Moss referred to Item 3 and asked if there is another area in the code that talks about affordable housing that is not age related. Mr. Cohn explained that, at one time, senior assisted housing had a different parking standard, and he is not sure if it still does. Commissioner Moss questioned if there would need to be an age restriction if the affordable housing can meet all of the criteria in this section. Again, Mr. Cohn said this definition was specifically tied to age, and was based on studies that indicated that senior citizen housing generates less traffic and requires less parking.

Commissioner Kaje clarified that the only reason for the definition is to address a specific senior housing issue. The term is not used outside of the context of the parking provisions. Mr. Cohn agreed and said the term is not used to reference a type of land use.

- **Section 20.30.350 – Amendment to the Development Code (legislative action).** Commissioner Kaje recalled he had some serious concerns about the amendment to begin with, and he was pleased to hear that it is being withdrawn, even if the reasons are different than the ones he would have.

COMMISSIONER KAJE MOVED THE COMMISSION WITHDRAW THE PROPOSED AMENDMENT TO SECTION 20.30.350 (AMENDMENT TO DEVELOPMENT CODE). COMMISSIONER BEHRENS SECONDED THE MOTION.

Commissioner Kaje said he still feels strongly that Criterion 2 and 3 are simply not at all equivalent in addressing the same thing.

THE MOTION CARRIED UNANIMOUSLY.

- **Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria.** Commissioner Kaje recalled the Commission raised a concern at their last meeting that the proposed amendment appears to remove the City's ability to require dedication of land for public use and open space. His understanding of the staff's response was that public open space can be required through the use of SMC 20.60 (Adequacy of Public Facilities) and SMC 20.70 (Engineering and Utilities Development Standards). However, these sections speak to stormwater and other public facilities. They do not address open space and park space. Therefore, the proposed language still reads as if the City cannot require a dedication of park land. He requested staff provide further clarification. Mr. Szafran clarified that SMC 20.70.080 specifically addresses dedication of open space.

Chair Wagner said it is her understanding that it is within the City's SEPA authority to require dedication of land for public use. Mr. Cohn agreed the City has this ability under SEPA authority, but it requires them to point to other code language, as well, such as SMC 20.70.080.

Commissioner Kaje said the dedication of open space relates to open space that must be protected because of the way the regulations are written, and SMC 20.70.080 allows the City Council to accept such dedications of sensitive of areas. However, it does not provide for the ability to require open space otherwise. It simply says that if a developer is required to set a certain area aside because it is in a sensitive area, etc. the City could accept that dedication. Mr. Cohn agreed, but explained that if the City can prove there is an impact, their SEPA authority allows the City to require various things,

including dedication of land for parks. He recalled at the last meeting the Commission discussed that in order to get a dedication of a reasonable amount of park land, the development would have to be quite large because SEPA requires there be a nexus between the impact and the requirement.

Commissioner Behrens said he recognizes that large developments will not likely occur in Shoreline, but infill development occurs on a pretty continuous basis. However, there still does not seem to be a way to measure this in-fill development, and require developers to address the cumulative impacts of development in an area. The City is not getting any additional open space when this type of development occurs. He said he would like to see someone come up with a way to address this problem.

Commissioner Kaje said the proposed amendment would strike language in the current code (Item C.1) that reads, "The City Council may require dedication of land in the proposed subdivision for public use." He asked staff to explain the purpose of the amendment. Mr. Szafran said this was a clarifying amendment proposed by staff. The goal was to make the section easier to read. Chair Wagner asked if staff would support retaining Item C.1 to address the Commission's concerns. She expressed her belief that this would not be a threshold that would be tripped at an unreasonably low level. Instead, it would clarify for developers that, depending on the size of the project, the City may require dedicated land for public use.

Commissioner Broili said he doesn't see how striking Items C.1, C.2, C.3 and C.4 would actually contribute to clarity. The language seems clear enough as it is. Mr. Cohn recalled that the proposed amendment may have been intended to address State Law. He suggested the Commission could leave C.1 in the code, and staff could provide direction to the City Council regarding what the State Law requires.

COMMISSIONER KAJE MOVED THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.410 (PRELIMINARY SUBDIVISION REVIEW PROCEDURES AND CRITERIA) BY UN-STRIKING ITEM C.1. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Kaje said he did not address Items C.3 and C.4 because he believes issues related to streets and stormwater are covered adequately by the language that would become Item C.2.

Commissioner Perkowski suggested that a common phrase should be used in each of the sentences, such as "dedication of land for park use" or "parkland." Using two different terms gives the appearance that the language is trying to make a distinction between the two, which he does not believe to be the case. Commissioner Kaje said he would prefer not to change the terms. The majority of the Commission concurred.

THE MOTION CARRIED UNANIMOUSLY.

- **Section 20.30.680 -- Appeals.** Chair Wagner reminded the Commission of their earlier discussion to defer a decision on this amendment until a later date.

COMMISSIONER BROILI MOVED TO WITHDRAW THE PROPOSED AMENDMENT TO SECTION 20.30.680 (APPEALS). COMMISSIONER ESSELMAN SECONDED THE MOTION.

Commissioner Behrens asked if there are any Type C Land Use Actions on the horizon. Mr. Cohn said another master development plan will come before the Commission in the near future, but there is an administrative order currently in place that accomplishes what the proposed amendment is intended to do. Staff would follow the administrative order until an amendment has been adopted.

THE MOTION CARRIED UNANIMOUSLY.

- **Section 20.30.760 Notice and Orders.** Commissioner Kaje said he strongly disagrees with the proposal to strike Item H.

COMMISSIONER KAJE MOVED THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.760 (NOTICE AND ORDERS) BY UN-STRIKING ITEM H. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Kaje expressed his belief that the Commission would be setting a bad precedent by suggesting that when the City rescinds or otherwise changes an order, they have no obligation to spell out the reason for the change. He is not so concerned about the issue of how the notice and orders are mailed. He referred to the example given in the Staff Report about complications associated with rescinding orders, and he felt that revising Item H would address these complications. He summarized that it is absolutely reasonable to require the City to articulate in writing the reason for changing or modifying an order, even if it means a little more work.

Commissioner Broili asked staff to share their reasons for recommending that Item H be removed from the code language. Mr. Cohn said he does not believe the City Attorney has an issue with requiring the City to identify the reason for the modification or change. He said he thought the Commission's concern was making sure a person is notified if a notice and order is rescinded, and this change was made.

Chair Wagner agreed that it is important for the City to notify the person if something is rescinded, but she would not support maintaining the current language, either. She suggested they adjust the language to make its intent more clear.

Commissioner Kaje suggested that reordering the sentences in Item H would take care of the perceived problem. The Commissioners discussed various ideas for changing the language. Mr. Cohn explained that the City Attorney was concerned about any language that would limit the circumstances under which the City could rescind or modify a notice and order. That is why staff recommended striking the entire paragraph. Chair Wagner reminded the Commission that this issue was raised when the recipient of the change notice and order decided the reasons for revocation were not appropriately detailed. She agreed that the language should give leniency to allow the City to revoke an order to fix something. Commissioner Kaje agreed that it is not necessary for the code

language to itemize the reasons why the City might need to change or revoke a notice and order. But it is extremely important that the City is obligated to provide reasons to the recipient of the notice.

COMMISSIONER KAJE REVISED HIS MOTION TO MOVE THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.760 (NOTICE AND ORDERS) BY UN-STRIKING ITEM H AND REWORDING IT TO READ:

H. THE DIRECTOR MAY REVOKE OR MODIFY A NOTICE AND ORDER ISSUED UNDER THIS SECTION. SUCH REVOCATION OR MODIFICATION SHALL IDENTIFY THE REASONS AND UNDERLYING FACTS FOR REVOCATION. THE DIRECTOR MAY ADD TO, RESCIND IN WHOLE OR PART AND OTHERWISE MODIFY OR REVOKE A NOTICE AND ORDER BY ISSUING A SUPPLEMENTAL NOTICE AND ORDER. THE SUPPLEMENTAL NOTICE AND ORDER SHALL BE GOVERNED BY THE SAME PROCEDURES APPLICABLE TO ALL NOTICE AND ORDERS CONTAINED IN THIS SECTION.

COMMISSIONER BROILI ACCEPTED THE MODIFICATION TO THE MOTION.

Chair Wagner said she does not disagree with the spirit of requiring the City to notify a recipient of the reasons why a change and order is being modified or revoked. However, she cautioned that the proposed language still includes the details that staff and the City Attorney have identified as problematic. She recalled staff provided an example of a situation where the City did not explicitly set forth the reasons and underlying facts for the revocation, which caused problems. While she agreed that notice needs to be provided, she questioned the level of detail the City must provide as part of the notice.

Commissioner Kaje said he does not necessarily support the reasoning provided by City staff. If he had a notice and order on his property, he would expect the City to articulate why something had to be changed or rescinded. The issue raised in the example provided might not have happened if the language had been written more clearly, and the proposed language would make this clearer.

THE MOTION WAS UNANIMOUSLY APPROVED AS AMENDED.

- **Section 20.30.770 – Enforcement Provisions.** Commissioner Moss suggested that the words “an additional” be inserted in Item 3.

COMMISSIONER MOSS MOVED THE COMMISSION ADD THE WORDS “AN ADDITIONAL” AT THE BEGINNING OF ITEM D.3 IN SECTION 20.30.700 (ENFORCEMENT PROVISIONS). THE NEW WORDING WOULD READ AS FOLLOWS:

D.3. AN ADDITIONAL PENALTY OF \$2,000 IF THE VIOLATION WAS DELIBERATE, THE RESULT OF KNOWINGLY FALSE INFORMATION SUBMITTED BY THE PROPERTY OWNER, AGENT OR CONTRACTOR, OR THE RESULT OF RECKLESS DISREGARD ON THE PART OF THE PROPERTY OWNER, AGENT OR THEIR CONTRACTOR. THE

PROPERTY OWNER SHALL ASSUME THE BURDEN OF PROOF FOR DEMONSTRATING THAT THE VIOLATION WAS DELIBERATE; AND

COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Section 20.40.400 – Home Occupation. Chair Wagner reminded the Commission that members of the audience provided comments regarding this proposed amendment. Commissioner Broili observed that staff adequately addressed the public's concern by pointing out that vehicles associated with home occupations would be allowed to park on the portion of the driveway that lies within the setback area. In addition, staff has provided language that clarifies the term "one-ton gross weight." Commissioner Esselman asked if additional language should be added to this section to address the parking issue, or if the concern is addressed by other sections of the code. Commissioner Moss recalled previous discussion that vehicles should be allowed to park within the front setbacks, but not within the side setbacks. At their last meeting they discussed the potential of allowing a home occupation to use part of the front setback to park vehicles rather parking on the street, as long as the vehicles do not infringe on the neighbors to each side and their ability for sight lines and access to their property is maintained. She suggested the language be amended to allow a home occupation to use part of the front setback for parking, as long as the vehicles do not encroach into the side setback areas. Commissioner Broili recalled that the current code allows home occupations to park vehicles within the front setback area. He agreed with Commissioner Moss that it would be appropriate to allow vehicles to park within the front setback areas, as long as they do not encroach into the side setback areas since this could result in sight distance concerns for adjacent property owners.

COMMISSIONER MOSS MOVED THE COMMISSION MODIFY ITEM H.2 IN SECTION 20.40.400 TO READ:

H.2 SUCH VEHICLES SHALL NOT PARK WITHIN ANY REQUIRED SIDE SETBACK AREAS OF THE LOT OR ON ADJACENT STREETS, EXCEPT AS ALLOWED BY 20.50.410.H.

Mr. Szafran asked if the Commission would be in favor of prohibiting vehicles from parking in driveways that run along the side setback. Commissioner Moss noted that Section 20.50.410.H addresses issues of when driveways are located within side setbacks.

COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Behrens observed that vehicles that are not associated with home occupations would be allowed to park in the front and side setbacks, so the proposed language would place restrictions only on vehicles that are used for home occupations. He suggested the impediment a vehicle places on an adjacent property should be the issue; not whether or not it is used for a business. He summarized that he is opposed to placing exclusions on the use of property for home occupations. They do not exclude the use of property for non-commercial business, even though some of these activities can be very intrusive to a neighborhood. Mr. Szafran said the code does restrict the

number of vehicles that can be parked on a property, and the vehicles must be licensed and operable. However, they do not limit the size and shape of vehicles that can park on single-family properties, nor do they limit the locations in which they can park. Mr. Cohn said that home occupations are more likely to have large trucks parked in front of their homes.

Commissioner Broili agreed with the point raised by Commissioner Behrens. He said he often sees large motor homes parked within side yard setbacks right up against the property line. Commissioner Moss concurred. She recalled Mr. Baker's point that someone who works for an off-site company could legally park a large vehicle in front of his home, but the proposed language would prevent a home occupation from doing the same. She summarized that the proposed language appears to penalize the small business owners who are trying to work from home and provide revenue for the City.

COMMISSIONER MOSS MOVED TO AMEND HER MOTION TO STRIKE ITEM H.2. COMMISSIONER BROILI SECONDED THE MOTION TO AMEND.

Chair Wagner recalled that at the last meeting, Mr. Szafran mentioned that another section of the code talks about the size of vehicles that can legally park in the street. She asked staff if there are general restrictions that would be applicable in all situations. The Commission agreed to table the discussion until staff could provide a code reference for their consideration.

COMMISSIONER MOSS WITHDREW HER MOTION.

- **Section 20.50.040 – Setbacks – Designation and Measurement.** Vice Chair Perkowski pointed out that the language in this section is intended to apply only to setbacks.

VICE CHAIR PERKOWSKI MOVED TO ADD THE WORD "SETBACK" TO THE END OF ITEM 1.6 IN SECTION 20.50.040 (SETBACKS – DESIGNATION AND MEASUREMENT). THE NEW WORDING WOULD READ AS FOLLOWS:

1.6. ENTRANCES AND COVERED BUT UNENCLOSED PORCHES THAT ARE AT LEAST 60 SQUARE FEET IN FOOTPRINT AREA MAY PROJECT UP TO FIVE FEET INTO THE FRONT YARD SETBACK.

COMMISSIONER ESSELMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Commissioner Esselman referred to Item I.7 and pointed out that "site" should be changed to "sight." She also suggested that the language in Item I.8 seems redundant. The Commission agreed that these grammatical errors should be corrected.

Commissioner Moss cautioned that if the Commission agrees to the proposed change, they should make sure the proposed limits are not too restrictive. She said the picture provided in the Staff Report is unclear. Mr. Cohn pointed out that the stairs do not follow grade and are built on their own structure. The intent is that there be no more than 30-inches of separation between the actual grade and the stair tread. Staff recommends 30 inches because it correlates with the requirement that decks

over 30-inches in height must obtain a permit. The Commission recommended that a graphic illustration would help to clarify the intent of this section, and the staff concurred.

COMMISSIONER ESSELMAN MOVED TO ADD A GRAPHIC TO ILLUSTRATE THE INTENT OF ITEM I.7 AND TO REVISE THE WORDING IN ITEMS I.7 AND 1.8 OF SECTION 20.50.040 (SETBACKS – DESIGNATION AND MEASUREMENT) TO READ AS FOLLOWS:

7. UNCOVERED BUILDING STAIRS OR RAMPS NO MORE THAN 30 INCHES FROM GRADE TO STAIR TREAD AND 44 INCHES WIDE MAY PROJECT TO THE PROPERTY LINE SUBJECT TO SIGHT DISTANCE REQUIREMENTS.

8. ARBORS ARE ALLOWED IN REQUIRED YARD SETBACKS IF THEY MEET THE FOLLOWING PROVISIONS:

- a. NO MORE THAN A 40-SQUARE-FOOT FOOTPRINT, INCLUDING EAVES;**
- b. A MAXIMUM HEIGHT OF EIGHT FEET;**
- c. BOTH SIDES AND ROOF SHALL BE AT LEAST 50 PERCENT OPEN, OR, IF LATTICEWORK IS USED, THERE SHALL BE A MINIMUM OPENING OF TWO INCHES BETWEEN CROSSPIECES.**

COMMISSIONER MOSS SECONDED THE MOTION.

- **Section 20.50.110 – Fences and Walls -- Standards.** Commissioner Esselman pointed out that the word “site” should be changed to “sight” in Item A. However, upon further discussion, it was noted that the term “site clearance provisions” should be changed to “sight distance provisions.” Staff agreed to research the term and make the appropriate correction.
- **Section 20.50.310 – Exemptions from Permit.** Mr. Cohn reminded the Commission that additional changes were made to this amendment to address their previously stated concerns. Commissioner Kaje referred to Item A.6, and asked if the “city park” qualifier is intended to apply to wetland and stream buffers, as well as trees on a steep slope. Mr. Szafran answered that it is intended to apply to all three. Mr. Cohn added that the language is intended to apply to the removal of noxious weeds and invasive vegetation in city parks.

Vice Chair Perkowski questioned the need for the term “steep slope.” Mr. Cohn answered that a tree has to be on a steep slope, but the wetland and stream buffers do not.

Commissioner Kaje asked why the language in this section would only apply to City parks. He questioned why a private property owner would need a permit to remove noxious weeds or invasive species from a steep slope. Mr. Cohn said the distinction is that removal of noxious weeds within City parks would be done by volunteers under supervision. Again, Commissioner Kaje questioned why the applicability of this exemption would be limited to actions on public park land. He suggested this would discourage people from doing the right thing and getting rid of invasive species.

Commissioner Kaje referred to the Staff Report, which states that the purpose of the amendment is to allow the removal of noxious weeds and invasive vegetation, especially blackberries, in the critical areas without a clearing and grading permit. The main impetus for the amendment is to accommodate ongoing volunteer blackberry removal projects in Shoreline's parks. However, the amendment could allow the removal of up to 3,000 square feet of noxious weeds and invasive vegetation from any property in the City without a permit or the proposal could limit the exemption to work in parks only. Staff indicated they chose 3,000 square feet as the limit since the City's threshold for requiring a clearing and grading permit outside of critical areas is 3,000 square feet. The Staff Report further states that the amendment is modeled on the King County Blackberry Clearing Regulations, and in 2005 King County refined its regulations to eliminate the need for a clearing and grading permit to remove large patches of blackberries. King County currently allows removal of up to 7,000 square feet of noxious weeds and invasive vegetation without a permit in a critical area. Also, if a property owner wishes to remove more than 7,000 square feet of weeds, a permit is required, but it is free of charge.

Chair Wagner said the Commission must make a policy decision about whether or not the language in this section should be limited to parks.

COMMISSIONER KAJE MOVED TO REVISE THE WORDING IN PROPOSED AMENDMENTS A.6 AND A.6.b IN SECTION 20.50.310 (EXEMPTIONS FROM PERMIT) TO READ AS FOLLOWS:

A.6. REMOVAL OF NOXIOUS WEEDS OR INVASIVE VEGETATION AS IDENTIFIED BY THE KING COUNTY NOXIOUS WEED CONTROL BOARD IN A WETLAND BUFFER, STREAM BUFFER OR THE AREA WITHIN A THREE-FOOT RADIUS OF A TREE ON A STEEP SLOPE LOCATED IN A CITY PARK IS ALLOWED WHEN:

A.6.b. PERFORMED IN ACCORDANCE WITH SMC 20.80.085 PESTICIDES, HERBICIDES AND FERTILIZERS ON CITY-OWNED PROPERTY AND KING COUNTY BEST MANAGEMENT PRACTICES FOR NOXIOUS WEED AND INVASIVE VEGETATION; AND

COMMISSIONER ESSELMAN SECONDED THE MOTION.

Vice Chair Perkowski expressed concern about allowing pesticides and herbicides to be used within wetland buffers without a permit. Mr. Cohn referred to SMC 20.80.085, which specifically applies to city-owned property. It says that pesticides, herbicides and fertilizers that have been identified by State or Federal Agencies as harmful to humans, fish or wildlife shall not be used in a city-owned riparian corridor, shoreline habitat or its buffer, or a wetland or its buffer, except as allowed by the Director for the following circumstances:

1. If an emergency situation exists.
2. Compost or fertilizer may be used for native plant re-vegetation projects in any location.

Commissioner Broili agreed with Vice Chair Perkowski's concern. He does not want to allow anyone to use pesticides in wetland buffers without a permit. Vice Chair Perkowski suggested that this section should apply to any wetland or stream buffer, and not just to those on City-owned property.

Chair Wagner suggested that Vice Chair Perkowski's concern must be addressed via changes to SMC 20.80.085 rather than changes to Section 20.50.310. Limiting the language so it is applicable only to city-owned land would not address the problem since SMC 20.80.085 would not prohibit a private property owner from using herbicides and pesticides within the wetland or stream buffers on their own property. Commissioner Esselman suggested the Commission make a policy decision about whether the City should allow an exemption from a permit if any type of chemical would be used in the sensitive areas.

COMMISSIONER KAJE WITHDREW HIS ORIGINAL MOTION AND MADE A NEW MOTION TO REVISE THE WORDING IN PROPOSED AMENDMENTS A.6 AND A.6.b IN SECTION 20.50.310 (EXEMPTIONS FROM PERMIT) TO READ AS FOLLOWS:

A.6. WITHIN CITY-OWNED PROPERTY, REMOVAL OF NOXIOUS WEEDS OR INVASIVE VEGETATION AS IDENTIFIED BY THE KING COUNTY NOXIOUS WEED CONTROL BOARD IN A WETLAND BUFFER, STREAM BUFFER OR THE AREA WITHIN A THREE-FOOT RADIUS OF A TREE ON A STEEP SLOPE IS ALLOWED WHEN:

A.6.b. PERFORMED IN ACCORDANCE WITH SMC 20.80.085 PESTICIDES, HERBICIDES AND FERTILIZERS ON CITY-OWNED PROPERTY AND KING COUNTY BEST MANAGEMENT PRACTICES FOR NOXIOUS WEED AND INVASIVE VEGETATION; AND

COMMISSIONER ESSELMAN SECONDED THE MOTION.

Commissioner Kaje agreed that, at this time, the exemption should only apply to city-owned property. However, he would like the Commission to consider extending the provisions to private properties. He said he does not want to discourage this type of clearing from private properties, but he completely agrees with the concern highlighted by Vice Chair Perkowski. The Commission agreed it would be appropriate to consider applying this provision to private properties at some point in the future.

- **Section 20.50.470 – Street Frontage Landscaping – Standards.** Chair Wagner recalled that changes were made to this language to build in flexibility, but also encourage more landscaping than what is currently required. Commissioner Broili recognized that the proposed language is better than the current code language, but it still does not go as far as he would like. He suggested this issue should be addressed in another location in the code. Mr. Szafran referred to Section 20.50.230 (Site Planning for Commercial Zones), which allows commercial buildings to have a zero setback. Commissioner Broili suggested that the next round of code amendments should include potential amendments to the setback requirements for commercial development found in Section 20.50.230. The remainder of the Commission agreed that would be appropriate.

- **Section 20.50.480 – Street Trees and Landscaping Within the Right-of-Way – Standards.** Mr. Szafran reviewed that staff provided an attachment showing the specific standards in the Engineering Development Guide for street trees and landscaping within the right-of-way. Chair Wagner recalled there was some confusion when the Commission previously discussed this amendment because some street improvements are governed by the engineering code as part of the street tree provisions and others are governed by the development code as part of the frontage landscaping provisions. Mr. Szafran pointed out that the word “trees” was replaced with “landscaping.” Commissioner Broili recalled that Commissioner Behrens previously reminded the Commission that they are in the process of addressing the Tree Ordinance throughout the City, and the City should set an example. Questions were asked about whether the proposed amendment would be consistent with whatever comes out of the Tree Ordinance Update or if the Commission should wait until after the Tree Ordinance has been updated to address the proposed amendment to Section 20.50.480. Recognizing that the code is evolutionary, he would be comfortable recommending approval of the proposed amendment. They can revisit the language after the Tree Ordinance has been updated. The remainder of the Commission concurred.
- **Section 20.50.520 – General Standards for Landscape Installation and Maintenance Standards.** Chair Wagner said she shares Commissioner Kaje’s concern with the provision that prohibits the canopy of mature trees and shrubs from reaching an above-ground utility. She suggested this implies that the tree would be punished if it touches the power line. Perhaps a better way to phrase the language is that trees should be selected that will not likely interfere with above-ground utilities. Commissioner Broili said the City of Seattle provides a list of recommended or approved trees. Mr. Szafran noted that the City has a similar list in Section 20.50.480.

Commissioner Kaje referred to Section 19.1.C.1 of the proposed Engineering Development Guide, which states that the topping of street trees would be prohibited. He asked if this proposed provision is currently found in any other code language. Mr. Cohn said he could not answer that question. However, he noted that 19.3.C states that “mature tree and shrub canopies may not reach an above ground utility such as street lights and power lines.” He explained that the obvious intent is that street trees should be of a variety that does not grow high. However, the question is what happens if they do. Again, Commissioner Broili suggested the City provide a list of approved street trees for areas around utilities. Mr. Cohn concluded that this issue is intended to be dealt with in the Engineering Development Guide, and staff can find out how the Engineering Department intends to deal with the issue.

Commissioner Broili said he stills has a problem with the assumption that the tree canopy is the same width as the root zone, which is wrong. He recalled he previously provided information to staff to help address the issue, and he had hoped staff would have come back with some recommended language based on their reading of the document (International Society of Arboriculture’s recommended calculation for identifying tree protection area as spelled out in Chapters 6, Subsection: Identification of Tree Protection Zones (Pages 72 to 74) of a book entitled, *Trees and Development: A Technical Guide to the Preservation of Trees During Development* by Nelda Matheny and James R. Clark). As per this document, Commissioner Broili summarized that the root zone is based on caliper at breast height, age of the tree, and health of the tree.

Mr. Cohn suggested the Commission could add language to this section, which states: "Root zone width shall be determined by using the International Society of Arboriculture's (ISA) recommended calculation for identifying tree protection area.

COMMISSIONER BROILI MOVED TO REVISE THE WORDING IN PROPOSED AMENDMENT O OF SECTION 20.50.520 (GENERAL STANDARDS FOR LANDSCAPE INSTALLATION AND MAINTENANCE) TO ADD REFERENCE TO INTERNATIONAL SOCIETY OF ARBORICULTURE CALCULATIONS. THE NEW WORDING WOULD READ AS FOLLOWS:

O. LANDSCAPE PLANS AND UTILITY PLANS SHALL BE COORDINATED. THE PLACEMENT OF TREES AND LARGE SHRUBS SHALL ACCOMMODATE THE LOCATION OF REQUIRED UTILITIES BOTH ABOVE AND BELOW GROUND. LOCATION OF PLANTS AND TREES SHALL BE BASED ON THE MATURE CANOPY AND ROOT ZONE. ROOT ZONE SHALL BE DETERMINED USING THE INTERNATIONAL SOCIETY OF ARBORICULTURE'S RECOMMENDED CALCULATION FOR IDENTIFYING TREE PROTECTION AREA. MATURE TREE AND SHRUB CANOPIES MAY NOT REACH AN ABOVE GROUND UTILITY SUCH AS STREET LIGHTS AND POWER LINES. MATURE TREE AND SHRUB ROOT ZONES MAY OVERLAP UTILITY TRENCHES AS LONG AS 80 PERCENT OF THE ROOT ZONE IS UNAFFECTED.

COMMISSIONER MOSS SECONDED THE MOTION.

Commissioner Kaje said it is his understanding that, based on the IAS guidelines, in many cases a root zone would be recognized to be larger than the canopy. He asked if the affect of the proposed language would be fewer trees in areas where there are utilities because they would be required to allow more space for them based on their larger root zones. Commissioner Broili this would not necessarily the case. There are techniques for clearing around the roots, installing the utilities, and then reburying the roots. These techniques could be used if less than a certain percentage of the roots would be impacted and an arborist determines the health of the tree would not be impacted. He summarized that the purpose of the proposed amendment is to define the root zone, but management of the root zone must be addressed elsewhere in the code. Commissioner Kaje suggested this issue should also be addressed as part of the next set of code amendments. The remainder of the Commission concurred.

Commissioner Broili referred to the last sentence of the proposed new language for Item O and suggested that, if properly managed, the amount of overlap could be a flexible number. Arborists have become very sophisticated in the way they can lay in utilities with minimum disturbance to root zones. He said he is not sure that 80% is appropriate. Chair Wagner suggested that language could be added at the end of Item O to read, "as long as impact to root zone is appropriately managed to minimize damage according to the IAS Guidelines. Mr. Cohn said this change would go beyond his comfort level, and he would need more information before he could provide direction to the Commission. The Commission agreed to leave the language as currently proposed, and address the issue further as part of a future code amendment.

THE MOTION CARRIED UNANIMOUSLY.

Commissioner Esselman pointed out that “site?” should be changed to “sight” in Item Q. The remainder of the Commission concurred.

- **Section 20.80.350 – Mitigation Performance Standards and Requirements.** Commissioner Kaje said the proposed amendment is to insert and include the cost for monitoring. He asked if the intent of the proposed language is to say that 125% of the cost of the project is sufficient bond to do the monitoring and fix whatever is wrong. If not, then the language needs to be clarified.

COMMISSIONER KAJE MOVED TO ADD THE WORDS “IN ADDITION” AND STRIKE “AND INCLUDE” IN THE PROPOSED AMENDMENT TO SECTION 20.80.350.G.2 (MITIGATION PERFORMANCE STANDARDS AND REQUIREMENTS). THE NEW WORDING WOULD READ AS FOLLOWS:

G.2. A CONTINGENCY PLAN SHALL BE ESTABLISHED FOR INDEMNITY IN THE EVENT THAT THE MITIGATION PROJECT IS INADEQUATE OR FAILS. A PERFORMANCE AND MAINTENANCE BOND OR OTHER ACCEPTABLE FINANCIAL GUARANTEE IS REQUIRED TO ENSURE THE APPLICANT’S COMPLIANCE WITH THE TERMS OF THE MITIGATION AGREEMENT. THE AMOUNT OF THE PERFORMANCE AND MAINTENANCE BOND SHALL EQUAL 125 PERCENT OF THE COST OF THE MITIGATION PROJECT IN ADDITION TO THE COST FOR MONITORING FOR A MINIMUM OF FIVE YEARS. THE BOND MAY BE REDUCED IN PROPORTION TO WORK SUCCESSFULLY COMPLETED OVER THE PERIOD OF THE BOND. THE BONDING PERIOD SHALL COINCIDE WITH THE MONITORING PERIOD.

COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **Section 20.40.400 – Home Occupation (continued).** Mr. Cohn advised that staff was unable to find other sections in the code that talk about the size of vehicles that can legally park in the street. He explained that the purpose of the proposed language is to limit the impacts of home occupations on the residential neighborhoods because they are not the usual single-family uses. Chair Wagner recalled the comment was rightly raised that a large recreational vehicle or boat could have just as much impact as a vehicle associated with a home occupation. Commissioner Moss said there is also the example of a person being allowed to park a vehicle they use for work that is owned by an employer outside their home. Commissioner Behrens pointed out that there is a tow truck parked at about 180th Street and Midvale Avenue that is absolutely stuffed with junk. This is the most inappropriate vehicle he has seen anywhere in the City, but it is not regulated because it is not used as a business. He cautioned that the City should not have arbitrary rules and regulations that punish someone because they happen to use a vehicle for business. A vehicle either imposes on a neighborhood or it does not.

COMMISSIONER BROILI MOVED TO STRIKE ITEM H.2 IN SECTION 20.40.400 (HOME OCCUPATIONS). COMMISSIONER MOSS SECONDED THE MOTION.

Commissioner Kaje said he agrees with the sentiments expressed, especially as they relate to the setback areas. However, he has a question about adjacent streets. He said it his understanding that the City does have some rules about parking vehicles for indeterminate periods of time on public streets. Mr. Cohn said he believed that vehicles are only allowed to park on the street for three days without moving. Commissioner Kaje questioned if they should strike all of Item 2, except for the portion that relates to adjacent streets. He said he is interested in the equity issue of what they allow people to do with private vehicles of whatever size. Chair Wagner referred to SMC 12.15.200 (Nuisance in the Right of Way), which is related to any activity, object or thing which occupies any right-of-way without legal authorization.

Commissioner Broili recalled from the Commission's past work that there is some language in the code that prohibits vehicles from being on public property unmoved for more than a certain period of time. Commissioner Moss agreed and said it is not a very long period of time.

Commissioner Kaje asked if he would have any recourse if his neighbor were to park a commercial type truck that is owned by his employer in front of his house. Commissioner Behrens said this type of situation occurred in front of his house, and the answer was no. If that is the case, Commissioner Kaje questioned the need to place a limitation on home-based businesses to prohibit them from being able to park in the street.

Chair Wagner recalled that people spoke to the Commission previously about a particular street that was impacted by large trucks that were parking on the street continuously. The trucks had significant enough of an impact that the issue went before the City Council, who initiated a street closure to help prevent large trucks from accessing the street. While she does not disagree with the comments of her fellow Commissioners, she questioned if the Commission has the right set of information to make an informed recommendation. There could very well be existing City codes to address this issue.

Commissioner Broili suggested the Commission move forward with the motion to strike Item H.2. He reminded the Commission that the code amendment process is evolutionary, and the proposed amendment has a number of changes that will be helpful to home occupation businesses. If there is a problem, they can reexamine this section at a future date and better define what the solution might be.

Commissioner Moss agreed that this is a bigger issue, and she would like for it to be addressed. The underlying point is that they do not want to be more restrictive to a home-based business than a regular citizen who may be driving a work vehicle. She agreed with Commissioner Broili that the issue needs to be studied in a different and more comprehensive context in the future. She said she would continue to support the motion to strike Item H.2.

THE MOTION CARRIED UNANIMOUSLY.

Commissioner Kaje recalled that at their last meeting he suggested using a class of vehicle in Item H.3. He said he would hate the City to prohibit a vehicle associated with a home occupation business that is doing everything else right just because they slightly exceed the size limit and a neighbor complains. Using a class of vehicle system would describe the type of vehicles allowed.

He felt this would be a much more business friendly and workable option. He said staff mentioned a situation of a vehicle with a trailer. He noted that if the trailer is unhitched, it cannot be measured as one vehicle any more. He said he is disappointed with the proposed language. While he supports the intent, he does not like the solution that has been presented by staff. Mr. Cohn recalled that if a trailer is unhitched, it would also be limited to no more than 22 feet in length. He suggested it would be helpful if there was some way to use the class criteria to talk about more than trucks. People have trucks and trailers, which count for two vehicles. If they are just looking at truck classes, the trailer would not have any standing. He reminded the Commission that the intent of Item H.3 is to limit impacts. Mr. Kaje suggested that perhaps they could have a class for the vehicle, but a size for an accessory trailer.

Commissioner Kaje suggested that the way Item H.3 is currently written, it will come across as nit picky. He said he would prefer to defer their recommendation on Item H.3 until staff can provide alternative language to better address the issue. Mr. Cohn said the current language states that vehicles shall not exceed a weight capacity of one ton. Commissioner Kaje said he is not suggesting that the current language be retained. He said he would support the proposed language for the time being, but he suggested the Commission revisit it at a future point. He expressed concern that that proposed language could provide a tool for a neighbor with a grudge to measure a vehicle to the nearest inch and then issue a complaint. Mr. Cohn agreed to work with the Code Enforcement staff to develop a way to talk about two different classes of vehicles. Chair Wagner advised that any new language should be made part of the record that is forwarded to the City Council, so the City Council could act upon the new proposal.

Commissioner Behrens recalled that Georgetown, near the Port of Seattle, had a big problem with tractor trailers parking in the area. They imposed a parking ban for particular types of trucks. He suggested staff research what they did to resolve the issue.

Vice Chair Perkowski pointed out that, as written, Item H.3 does not really address the issue of trailers. Commissioner Moss pointed out that a licensed trailer is considered a vehicle, even if it is unhitched.

Vote by Commission to Recommend Approval or Denial or Modification

THE MAIN MOTION TO RECOMMEND APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS (#301606) SHOWN IN ATTACHMENT 1 OF THE MAY 6, 2010 STAFF REPORT, WAS APPROVED UNANIMOUSLY, WITH THE AMENDMENTS OUTLINED ABOVE.

Closure of Public Hearing

The public hearing was closed.

DIRECTOR'S REPORT

Mr. Cohn reported that staff presented the Planning Commission's recommendation for the Southeast Subarea Plan to the City Council on May 3rd. Vice Chair Perkowski was present to represent the Commission. The City Council had very few questions. Staff plans on going back in two weeks; but at this time, they are not sure what the Council's issues might be.

Mr. Cohn announced that the City Council would discuss the CRISTA Master Development Plan on May 10th, and it is possible they could approve the document that evening. Chair Wagner suggested that, in the event that an amendment to the CRISTA Master Development Plan comes before the Board, it would be helpful for staff to provide direction to the Commission about how to handle community interactions so they do not end up biasing themselves.

Mr. Cohn reported that the Snohomish County Council is continuing its discussion on Urban Centers, their zoning that would apply to Point Wells. They have had a continued public going on for several meetings, and they think they will reach a decision next Wednesday.

Mr. Cohn announced that the Comprehensive Plan Amendment Docket would be presented to the City Council on May 24th. Staff expects the City Council to approve the docket that evening.

UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Moss reported on her attendance at the "Green Tools Conference" on May 5th, which was very interesting. There were good speakers. It was brought up that Shoreline might think about becoming a leaf of the Cascadia Regional Green Building Coalition. This is food for thought to put out the public to see if others are interested. She said she attended a session on low-impact development where they discussed how rain gardens could absorb moisture from stormwater runoff, in particular. She also attended another session about how a community in Canada was developed via a master plan that addressed the issue of pervious versus impervious roads. The conference was helpful and interesting, and she noted that Councilmember Eggen was in attendance, along with members of the City staff.

Commissioner Moss said she sent out an email link a week ago to an Easter Seals Project Action Distance Learning Session talking about accessibility and walkability. She said she plans to listen, and would bring back information for the Commission. She noted their website provide PDF files about a number of things related to accessibility that may be of interest to the Commissioners.

AGENDA FOR NEXT MEETING

Mr. Cohn reviewed that the May 20th agenda would include a study session on design review. He reported that staff has been working with a consultant from MAKERS to come up with some interesting presentations and discussions for the Commission.

ADJOURNMENT

The meeting was adjourned at 10:42 P.M.

Michelle Linders Wagner
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

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