Council Meeting Date: December 13, 2010 **Agenda Item:** 8(b)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance 591 to amend the Development Code
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joseph W. Tovar, FAICP, Director Jeff Forry, Permit Services Manager Steven Cohn, Senior Planner

PROBLEM/ISSUE STATEMENT:

Last week, the Council reviewed a set of proposed amendments to the Development Code. This set of amendments covers the following three areas:

- Modify Chapter 20.30 regarding certain aspects of SEPA (State Environmental Policy Act
- Rewrite Chapter 20.70 SMC
- Adds a section to the SMC that formalizes the process to create an annual docket of Comprehensive Plan Amendments for Council review.

This week the Council will take action on the proposed amendments. The amendments were reviewed and recommended by the Planning Commission following its November 4 public hearing.

FINANCIAL IMPACT:

Changes to Chapter 20.70 will eliminate the "fee in lieu of" provision. This mainly applies to redevelopment of single family sites. This financial impact would be more than offset by the adoption of impact fees. The decision to adopt impact fees will be a Council decision.

RECOMMENDATION

Motion to adopt Ordinance No. 591 to amend the Development Code.

Approved By: City Manager ____ City Attorney ____

BACKGROUND

Amendments to the Development Code are processed as legislative decisions. The Planning Commission is the review authority for legislative decisions and is responsible for holding a Public Hearing on the proposed Development Code amendments and making a recommendation to the City Council on each amendment.

This group of Development Code amendments includes three components:

- Modify Chapter 20.30 regarding certain aspects of SEPA (State Environmental Policy Act), including:
  - Remove requirement for SEPA review of categorically exempt projects within critical areas;
  - Amend appeal process for Type C quasi-judicial actions.

- Rewrite Chapter 20.70 SMC including:
  - Remove technical standards from Chapter 20.70 SMC;
  - Modify provisions for single family frontage improvements.

- Adds a section to the SMC (Development Code, 20.30.340(c)) that formalizes the process to create an annual docket of Comprehensive Plan Amendments for Council review.

The Planning Commission held public hearings on these amendments on May 6. September 16 and November 4, 2010. The meeting minutes are attached.

The proposed amendments can be found in **Attachments A-E.** Generally, the attachments include a copy of the original and proposed amending language shown in legislative format. Legislative format uses ~~strikethroughs~~ for proposed text deletions and underlines for proposed text additions.

In the case of the Engineering Standards, the amendments are so extensive that, rather than providing them in legislative format (which would be confusing because of the large number of strikeouts and insertions) only the proposed revised language is shown.

ANALYSIS

Issue 1 – Environmental Review Procedures

❖ Critical Areas (Attachment A-1)

Title 20 of the Shoreline Municipal Code contains standards for developing in and around critical areas. Critical areas include natural conditions such as wetlands, steep slopes, and streams.

The proposed change would eliminate environmental review for *categorically exempt proposals* located within a critical area buffer. *Categorically exempt projects* are identified in State Environmental Policy Act (SEPA) as "minor new construction". Many

activities that fall under "minor new construction" (such as construction of 4 or fewer residential units) are not allowed to occur in a critical area buffer without a special permit, but some uses (such as building utility pipes of less than 8 inches) are permitted outright.

There is no net loss of environmental evaluation caused by eliminating SEPA review for categorically exempt projects within critical area buffers.

- The proposed change to the code does not eliminate permit review. Critical area regulations and mitigations would be still applied to these proposals.

- Proposals that are exempt from environmental review under SEPA would not automatically be exempt from any other review. Many of the activities that are listed as being exempt from the critical areas regulations are either required to meet best management practices or the potential impact has been deemed de minimus.

The critical areas regulations were adopted per RCW 36.70A.060, include best available science as required by RCW 36.70A.172. The regulations provide optimum levels of mitigation for projects. The City also employs qualified professionals as necessary in reaching its decisions on development in or adjacent to critical areas and their buffers.

Appeals (Attachment A-2)

The proposed amendment affects SEPA appeals for Type C (quasi-judicial) permit decisions. Typical permits include preliminary subdivisions, rezones, and master development plan permits. The SEPA appeal would focus on whether or not an EIS should be required.

Quasi-judicial decisions are judicial in nature. The term is used to describe the actions of public administrative officers who are required to investigate facts and draw conclusions from them as a basis for their official actions. Type C decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision-maker.

Quasi-judicial decisions involve the use of discretionary judgment in the review of a specific application. In the case where City Council is the decision maker, the Planning Commission or Hearing Examiner often serves as the hearing body.

The proposed amendment addresses a conflict with State law requiring that procedural SEPA appeals be consolidated with the predecision hearing (the open record hearing that establishes the facts) if one is held. In the area of land use, the Shoreline City Council has directed that predecision hearings be held by either the Hearing Examiner or the Planning Commission.

Most pre-decision hearings (most rezones, preliminary subdivisions, street vacations, and others) are conducted by the Hearing Examiner. In these cases, an appeal of the SEPA decision (i.e., whether an EIS should be required) would be consolidated with the

hearing on the underlying permit and heard by the Hearing Examiner. The Examiner would decide whether or not the environmental record needed to be supplemented with an EIS, and it would not go to court unless the EIS, or lack thereof, is appealed.

There are a small number of instances (Master Plan Permits and rezone applications in areas being studied for a Subarea Plan) when pre-decisional hearing are held by the Planning Commission. Under the proposed amendment, an appeal of the SEPA decision for the actions heard by the Planning Commission will not have an administrative appeal. The SEPA appeal for these actions would be made directly to Superior Court.

Comparison with Other Jurisdictions
At the June 17 study session, a Commissioner raised a question about how neighboring jurisdictions handle SEPA appeals. Staff has researched several codes and offers the following information:

Several cities were sampled and it was evident that they employ different methods to meet the statutory requirements for public hearings, decision makers, and SEPA appeals (and none are the same.) This is due to different governmental philosophies.

Each jurisdiction grants different authorities to planning commissions, hearing examiners, planning directors and city councils. These processes and procedures make a direct comparison of such things as SEPA appeals extremely difficult. However, the process being proposed (specifically -- SEPA appeal of certain types quasi-judicial actions) is appropriate given the City's adopted procedures and is consistent with the concepts in SEPA and the GMA.

Options Considered
The City Attorney provided observations and insights into the options that were presented at previous meetings. As part of her research, Ms. Collins conferred with the City's insurance pool, the Washington Cities Insurance Authority. Ms. Collins' full response is in **Attachment B.**

Other amendments to this section
The following parts of this section are also proposed for modification.

1. The provision allowing an extra seven days for a SEPA appeal is clarified to emphasize that the additional requirement of WAC197-11-680(3)(vi)(D) applies only to a permit decision that is filed at the same time as the DNS and not simply all DNS's that receive public comment. The City uses the optional DNS process for most permits which avoids duplicate comment on the DNS and for which additional appeal time is not required.

2. The former subsections B, C and D are combined in new A (1) and (2) to specify when substantive appeals are allowed rather than using the existing "if any" language.

Issue 2 – Engineering Standards – Chapter 20.70 (Attachment C)

Periodic review of adopted standards and regulations is necessary to insure that there is consistency between policies and the regulations. Review of the Engineering and Utility Development Standards (Chapter 20.70 SMC) was required as a result of the adoption of the 2005 Washington State Department of Ecology Stormwater Manual and modifications to technical manuals employed by the City during development review.

Given the number of recommended changes the chapter has been rewritten and reformatted. In reviewing Chapter 20.70 the following issues were identified:

1. Many of the codified standards were excerpts from various technical manuals that are not referenced in the chapter so their origins are unknown. Technical standards are subject to change and some of the information contained in this chapter is inconsistent with technical engineering manuals employed by the City, State and other local agencies.

2. The City requires frontage improvements for a variety of development activities including individual new single family residences and additions or remodels to single family dwellings where the value exceeds 50% of the improved value of the property. Frontage improvements are intended to offset the impact of the development activity.

   Evaluation of this practice indicates that it is inconsistent with the policies in the Comprehensive Plan. Additionally, several court cases at the state and federal levels have caused re-thinking of this requirement.

Standards revisions

Generally, technical manuals are adopted in their entirety by reference. Subsequent to the adoption of Chapter 20.70 in 2000 an Engineering Development Guide (EDG) was published. The EDG is prepared under the authority granted the director in section 20.70.020 SMC and contains specifications, standardized details, and design standards. The current edition of the EDG establishes the technical manuals (including the 2005 DOE Stormwater Manual) and standards employed for public works projects and development. The intent of the EDG is to provide a set of technical and procedural criteria.

During the most recent review cycle the EDG was reviewed against the provisions in Chapter 20.70. Inconsistencies were identified in the technical standards adopted in this chapter and the technical manuals employed in the EDG.

Procedural criteria are also published in Chapter 20.70. Criteria are established for dedications, streets, sidewalks, and the undergrounding of utilities. This criteria was evaluated against other sections of the SMC and revisions are proposed as necessary to maintain consistency.

Frontage improvements
Comprehensive Plan policy T35 provides that development regulations "require all commercial, multi-family and residential short plat and long plat developments to provide for sidewalks or separated all weather trails, or payment in-lieu of sidewalks." This policy provides clear direction relative to the types of projects that must install frontage improvements including sidewalks. The authority for mitigation of the impacts on infrastructure for this level of development is provided in the Revised Code of Washington (RCW) and through the use of the City's substantive authority under SEPA. This policy was developed after the adoption of the Development Code and does not extend to individual single family dwellings.

For determining the level of impact of development, the RCW defines "development activity" as any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities. In reviewing current regulations a nexus cannot be drawn to demonstrate that the level of mitigation required for development or redevelopment of an existing platted single family lot is reasonably related to the development. Nor can it be demonstrated that this level of development "creates additional" demand and need for public facilities.

Issue 3 – Adding a section to SMC 20.30.340 that addresses the Comprehensive Plan Amendment annual docket process

Most cities have regulations that detail the process for developing a Comprehensive Plan docket, which is required by GMA. Shoreline never formalized its process, and while it did not vary a great deal from year to year, there has been some variation. To provide some certainty to the public, staff proposes a process which will be codified. **(See Attachment D.)**

Amendment Criteria
Section 20.30.350 lists the decision criteria for amendments to the Development Code. Amendments are the mechanism used by the City to bring the land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City. The City Council has identified a need to update key development regulations and to make the permit process clear, timely and predictable through appropriate planning tools. The proposed amendments have been reviewed for consistency with this vision and the following criteria:

1. The amendment is in accordance with the Comprehensive Plan.

   One of the thirteen statutory goals of the GMA incorporated into the Comprehensive Plan is to "encourage predictable and timely permit process." Inconsistencies in appeal processes between local ordinances and SEPA is a cause for delay and potential liabilities in the permitting process. Issue 1 strives to resolve this conflict.

   To further support this goal, technical standards for development should support and supplement development regulations. Ad-hoc, piecemeal recital of various

standards intertwined with regulation does not give a clear concise guide for City and private improvement projects. Cities routinely maintain administrative guides or manuals that provide the basis for technical engineering decisions. It is with this in mind and in accordance with the authorities in SMC 20.70 that the amendments to Chapter 20.70 SMC are proposed.

The Citizen Participation section of the Comprehensive Plan includes policies that encourage more active citizen participation. These would be enhanced with a formalized Comprehensive Plan Amendment Process so that, on a yearly basis, citizens will know when and where they can find information about proposed amendments and the schedule for review.

2. The amendment will not adversely affect the public health, safety or general welfare.

   Re: SEPA. Amendments to the appeal provisions provide consistency between the City's environmental regulations and SEPA. Providing consistency does not adversely affect the general public welfare.

   Re: Engineering Standards. The constant of employing technical resources that are consistent with recognized standards provides for a safe-built environment. A safe-built environment protects the public health, safety and general welfare.

   Re: Formalizing the Docket Process. Proposed amendment clarifies and codifies the rules for proposing amendments for the annual review process. This will make the process more predictable, and will not adversely affect the public health, safety or welfare.

3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

   The amendments are consistent with the Community Vision adopted as part of the City Council goals. In establishing these goals Council was acting on behalf of the citizens and property owners. Given the amendments are consistent with the vision they are "not contrary to the best interest" of the citizens.

TIMING & SCHEDULE

The following is a chronology of the amendment process for the proposed amendments:

Application #301606

Public Hearing May 6, 2010

Most of the items in Application #301606 were forwarded earlier this year for action; one item was put on hold and the SEPA appeal item was taken up again on June 17. Comments that are relevant to the SEPA appeal item were included in a packet sent electronically to the Council on Dec. 3 and are available in the Council office.

Application #301642 – Modify Chapter 20.30 re: SEPA and rewrite Chapter 20.70

Notice to Washington State Dept. of Commerce	June 15, 2010
Planning Commission Study Session	June 17, 2010
SEPA determination issued	June 30, 2010
Initial Public Hearing	September 16, 2010
2nd Public Hearing Notice	October 13, 2010
2nd Public Hearing	November 4, 2010

Application #301650 – Adding a section to SMC 20.30.340 that addresses the Comprehensive Plan Amendment annual docket process

Notice to Washington State Dept. of Commerce	July 12, 2010
Planning Commission Study Session	July 15, 2010
SEPA determination	Categorically exempt per WAC 197-11-800
Initial Public Hearing	September 16, 2010
2nd Public Hearing Notice	October 13, 2010
2nd Public Hearing	November 4, 2010

Issue 4 – Recodifying procedures for certain Type C actions.

The procedures for notice of application for certain Type C actions (Master Development Plans and SCTF – Special Use Permit) has been recodified from Table 20.30.060 (Summary of Type C Actions) to SMC 20.30.120, Public Notice of Application, for clearer application. Also, the reference to appeals for SEPA threshold determinations has been added to the review authority for Critical Areas Permits under the Summary Table, to clarify that the Hearing Examiner's review authority includes SEPA threshold determination appeals.

RECOMMENDATION

Motion to adopt Ordinance No. 591 to amend the Development Code.

ATTACHMENTS

Attachment A: Amendments to 20.30, Subchapter 8 – Environmental Procedures
Attachment B: City Attorney analysis of options on the Appeal process
Attachment C: Comments to Amended Chapter 20.70 – Engineering and Utilities Development Standards.
Attachment D: Amendments to Chapter 20.30.340 – Amendment and Review of the Comprehensive Plan
Attachment E: Recodified procedures for certain Type C actions.
Attachment F: Planning Commission Public Hearing minutes and supporting material.

a. Portion of September 16, 2010 hearing dealing with oral and written testimony on Applications 301652 and 301650
b. November 4 public hearings minutes, list of exhibits from the November 4 hearing, and one (1) exhibit (labeled Exhibit 8) from the November 4 hearing that is not included elsewhere as an attachment.

Note: Comments received at the May 6 and Sept 16 public hearings dealing with items in the Commission recommendation were included in the electronic packet sent to the Council on December 3. A hard copy of this packet is available for review in the Council office.

20.30.550 Categorical exemptions and threshold determinations – Adoption by reference.

The City adopts the following sections of the SEPA Rules by reference, as now existing or hereinafter amended, as supplemented in this subchapter:

WAC

197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-355 Optional DNS process.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-800 Categorical exemptions ~~(flexible thresholds)~~.
~~*Note: the lowest exempt level applies unless otherwise indicated.*~~
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

(Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(g), 2000).

20.30.560 Categorical exemptions – Minor new construction.

The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water; 2) the proposal would alter the existing conditions within a critical area ~~or buffer~~; ~~or~~ 2<u>3</u>) a rezone <u>is requested; or 4)</u>~~or~~ any license governing emissions to the air or discharges to water is required.

A. The construction or location of any residential structures of four dwelling units.

B. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles.

C. The construction of a parking lot designed for 20 automobiles.

D. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (Ord. 324 § 1, 2003; Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(h), 2000).

20.30.680 Appeals

A. Any interested person may appeal a threshold determination or ~~and~~ the conditions or denials of a requested action made by a nonelected official pursuant to the procedures set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.

~~B. Appeals of threshold determinations are procedural SEPA appeals which are conducted by the Hearing Examiner pursuant to the provisions of Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals, subject to the following:~~

1. Only one administrative appeal of each threshold determination shall be allowed on a proposal. Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.
2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.
3. An appeal of a DS must be filed within 14 calendar days following issuance of the DS.
4. All SEPA ~~An~~ appeals of a DNS for actions classified in SMC 20.30, Subchapter 2, Types of Actions, as Type A or B, or C actions for which the Hearing Examiner has review authority ~~in Chapter 20.30 SMC, Subchapter 2, Types of Actions,~~ must be filed within 14 calendar days following notice of the threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for Type A~~,~~ or B~~, or C~~ actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.
5. For Type C actions for which the Hearing Examiner does not have review authority or for ~~Type L~~ legislative actions ~~not classified as Type A, B, or C actions in Chapter 20.30 SMC, Subchapter 2, Types of Actions~~, no administrative appeal of a DNS is permitted.
6. The Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner's decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.

~~C. The Hearing Examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~D. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal. See Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearing and Appeals.~~

~~E.~~B. Notwithstanding the provisions of subsections (A) ~~through (D) of this section~~, the Department may adopt procedures under which an administrative appeal shall not be provided if the Director finds that consideration of an appeal would be likely to cause the Department to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The Director's determination shall be included in the notice of the SEPA determination, and the Director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action

ATTACHMENT B

The following will result if the proposed amendments to the SEPA appeals section are adopted:

1. Administrative SEPA appeals of a DNS determination that are associated with the following Type A and Type B appeals will be brought before the Hearing Examiner. This is the code as it exists today; no changes are proposed to appeals for Type A and Type B actions.

    a. SEPA is periodically applied to the following Type A actions:
        i. Building Permit (if not exempt due to size)
        ii. Site Development Permit (if not exempt)
        iii. Clearing and Grading Permit (if not exempt)
        iv. Planned Action Determination

    b. Similarly, SEPA review is periodically applied to the following Type B actions:
        i. Conditional Use Permit (if underlying action is not exempt)
        ii. Shoreline Substantial Development Permit, Shoreline Variance, Shoreline CUP (if underlying action is not exempt)
        iii. Zoning Variance (if underlying action is not exempt)

2. Under the proposed amendments, legislative decisions and a small number of Type C actions will not have an administrative appeal. Type L actions do not currently have an administrative appeal under the SMC, so this change does apply or affect appeals of Type L actions. Type C actions do currently have an administrative appeal. Under the amendments, administrative SEPA appeals for the few Type C actions that are heard by the Planning Commission would be made directly to Superior Court.

3. Other options (not proposed by staff) are to:

    a. Transfer the decision making authority for all Type C actions to the Hearing Examiner and allow the Hearing Examiner to hear SEPA administrative appeals for the Type C actions.
    b. Transfer the decision making authority for all Type C actions to the Planning Commission and allow the Planning Commission to hear SEPA administrative appeals for the Type C actions.
        i. Commissioner Kaje's Query: Divide the SEPA administrative appeal authority, depending on the grounds of review; i.e., the Planning Commission would hear the SEPA appeal for those actions which they have decision-making authority, if the grounds

appealed were (B) – the Director failed to follow applicable procedures in reaching the decision; or (D) – the findings, conclusion or decision prepared by the Director or review authority are not supported by substantial evidence. If grounds (A) – the Director exceeded his or her jurisdiction or authority – or (C) – the Director committed an error of law – are appealed, this appeal would go to Superior Court.

c. Keep the Type C action review authority as-is and transfer the SEPA administrative appeal authority to the City Council.

4. Analysis of the other options:
   a. Hearing Examiner hears all Type C actions and all related SEPA appeals:
      i. This option would take away the Planning Commission's jurisdiction for the following actions and vest it with the Hearing Examiner: Town Center Subarea site-specific rezones; Special Use Permits; and Master Development Plans.
      ii. If SEPA administrative appeals are allowed, it is the City's risk pool (Washington Cities Insurance Authority) and the City Attorney's Office opinion that these appeal should be held by the Hearing Examiner.
         1. The Hearing Examiner is professionally trained, typically an attorney, who acts like a judge, has land use planning expertise and is familiar with handling procedural and substantive appeals.
         2. The Hearing Examiner is objective and under not political influence or pressure. Also, he/she has experience and works with many different jurisdictions and regulations. More efficient and more streamlined appeal process.
   b. Planning Commission hears all Type C actions and all related SEPA appeals:
      i. Conversely, this option would take away the Hearing Examiner's jurisdiction for the following, and vest the jurisdiction with the Planning Commission: Preliminary Formal Subdivisions, all site-specific Rezones, Critical Areas Special Use Permits and Reasonable Use Permits, and Street Vacations.
      ii. The City's risk pool and the City Attorney's Office *would not support* transfer of SEPA appeals to the Planning Commission.
         1. Planning Commissions are not trained in hearing and deciding administrative appeals. The primary role of a Planning Commission is to act in an "advisory capacity" on

planning matters (RCW 35A.63.020) and do research and act as a fact finding agency of the city and to make recommendations on land use planning matters (RCW 35.63.060). Hearing SEPA appeals, although legally permissible, is outside the role of a Planning Commission. Procedural and substantive errors are more likely to occur.

iii. The risk pool and the City Attorney's Office *would also not support* splitting the appeal authority, depending on the grounds appealed. This option is fraught with flaws and creates greater liability risk. First, it is very confusing and would be difficult to administer. Second, it raises the issue of an individual trying to file a SEPA appeal with the Planning Commission based on one ground but then, at a later point, after a final decision has been made, attempting to appeal to a different decision-maker on a different ground – thus prompting two or more SEPA appeals. This would likely be in violation of the regulatory reform found in RCW chapter 36.70B, and the requirement for only one consolidated SEPA appeal. Finally, this process would favor those who are well skilled in land use permitting and appeal process and disfavor those who are inexperienced and unskilled with land use appeals.

c. City Council hears all administrative SEPA appeals for Type C actions.
   i. The City's risk pool and the City Attorney's Office *would not support* transfer of SEPA appeals to the City Council.
      1. City Councils are not trained in hearing and deciding administrative appeals. Procedural and substantive errors are more likely to occur.

Comments to Amended Chapter 20.70
Engineering and Utilities
Development Standards

Subchapter 1. General Engineering Provisions

20.70.010 Purpose.
Reworded purpose statement. Removed regulatory language.

20.70.020 Engineering Development Guide.
Reworded for clarification and added cite to 20.10.050. A clear link to the authority granted to the director to publish standards and procedures is established.

~~**20.70.030**~~ **Required street improvements.**
Moved to 20.70.310 – Subchapter 4
Clarified when frontage improvements are required to address nexus to impact. Clarification lead to a change in voluntary contributions (fee in-lieu) collected for system improvement. Provides consistency with RCW 82.02 and court decisions regarding voluntary payments.

~~**20.70.035**~~ **Required stormwater drainage facilities.**
Moved to 20.70.220 – Subchapter 4

Subchapter 2. Dedications - *Section Renumbered/reorganized*

20.70.040 Purpose.
Summarized purpose statement and added a new General section to identify when dedications could be required

20.70.050 Dedication of right-of-way.
Clarified wording

20.70.060 Dedication of stormwater facilities – Drainage facilities accepted by the City.

20.70.070 Dedication of stormwater facilities – Drainage facilities not accepted by the City.
Combined .060 and .070 into one section.

20.70.080 Dedication of open space.
Wording modified to include critical areas.

20.70.090 Easements and tracts.
Added language to clarify that tracts do not represent a building site.

Subchapter 3. Streets - *Section Renumbered/reorganized*

20.70.100 Purpose.
Wording changes throughout to incorporate Transportation Master Plan

20.70.110 Street classification.

20.70.120 Street plan.

~~**20.70.130 Street trees.**~~
Deleted to eliminate duplication. Landscaping chapter (20.50.480) providesChapter 12 SMC regulates activities in the right-of-way. Specific criteria for street landscaping/trees are based on the street classification and specific street segment. This will be further clarified by the

Transportation Master Plan. Landscaping provisions requiring street trees has also been modified to permit flexibility.

~~**20.70.140 Truck routes.**~~

Deleted section. Discussion of truck routes is not necessary.

20.70.150 Street naming and numbering.

20.70.160 Private streets.

~~**20.70.170 Sight clearance at intersections – Purpose.**~~

~~**20.70.180 Sight clearance at intersections – Obstruction of intersection.**~~

~~**20.70.190 Sight clearance at intersections – Sightline setbacks for intersection types.**~~

~~**20.70.200 Sight clearance at intersections – Obstructions allowed.**~~

Deleted sections. Conflict with WSDOT Manual and other technical standards and do not provide a comprehensive evaluation of access management. General engineering principles for access management have been added to the Engineering Development Guide.

Subchapter 4. ~~**Sidewalks, Walkways, Paths and Trails**~~

Created new subchapter 4 and incorporated required improvements for frontage, stormwater, pathways. Wording in these sections was changed to meet reformatting.

~~**20.70.210 Purpose.**~~

~~**20.70.220 Required installation.**~~

~~**20.70.230 Location.**~~

Subchapter 5. Utility Standards

Clarified language by adding the term service connection. Title 13 regulates when Utilities must underground their facilities, the Development Code specifies when development triggers for undergrounding of service connections.

Reformatted section

20.70.440 Undergrounding of electric and communication facilities – Purpose.

20.70.470 Undergrounding of electric and communication facilities – When required.

Chapter 20.70
Engineering and Utilities Development Standards

SUBCHAPTER 1. General Engineering Provisions

20.70.010 Purpose.

The purpose of this chapter is to establish engineering regulations and standards to implement the Comprehensive Plan and provide a general framework for relating the standards and other requirements of this Code to development.

20.70.020 Engineering Development Guide.

Pursuant to SMC Section 20.10.050 The Director is authorized to prepare and administer an "Engineering Development Guide". The Engineering Development Guide includes processes, design and construction criteria, inspection requirements, standard plans, and technical standards for engineering design related to development. The specifications shall include, but are not limited to:

A. Street widths, curve radii, alignments, street layout, street grades;
B. Intersection design, sight distance and clearance, driveway location;
C. Block size, sidewalk placement and standards, length of cul-de-sacs, usage of hammerhead turnarounds;
D. Streetscape specifications (trees, landscaping, benches, other amenities);
E. Surface water and stormwater specifications;
F. Traffic control and safety markings, signs, signals, street lights, turn lanes and other devices be installed or funded; and
G. Other improvements within rights-of-way.

SUBCHAPTER 2. Dedications

20.70.110 Purpose.

The purpose of this subchapter is to provide guidance regarding the dedication of facilities to the City.

20.70.120 General

A. Dedication shall occur at the time of recording for subdivisions, and prior to permit issuance for development projects.
B. Dedications may be required in the following situations:
    1. When it can demonstrated that the dedications of land or easements within the proposed development or plat are necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply;
    2. To accommodate motorized and nonmotorized transportation, landscaping, utilities, surface water drainage, street lighting, traffic control devices, and buffer requirements as required in subchapter 4, Required Improvements, and subchapter 5, Utility Standards;
    3. Prior to the acceptance of a private street, private stormwater drainage system or other facility for maintenance;
    4. When the development project abuts an existing substandard public street and additional right-of-way is necessary to incorporate future frontage improvements as set forth in the Transportation Master Plan and the Engineering Development Guide for public safety; or

5. Right-of-way is needed for the extension of existing public street improvements necessary for public safety.

20.70.130 Dedication of Right-of-Way

A. The Director may grant some reduction in the minimum right-of-way requirement where it can be demonstrated that sufficient area has been provided for all frontage improvements.

B. The City may accept dedication and assume maintenance responsibility of a private street only if the following conditions are met:
   1. All necessary upgrades to the street to meet City standards have been completed;
   2. All necessary easements and dedications entitling the City to properly maintain the street have been conveyed to the City;
   3. The Director has determined that maintenance of the facility will contribute to protecting or improving the health, safety, and welfare of the community served by the private road; and
   4. The City has accepted maintenance responsibility in writing.

20.70.140 Dedication of stormwater facilities

A. The City is responsible for the maintenance, including performance and operation, of drainage facilities which the City has accepted for maintenance. The City may require the dedication of these facilities.

B. The City may assume maintenance of privately maintained drainage facilities only if the following conditions have been met:
   1. All necessary upgrades to the facilities to meet current City standards have been completed;
   2. All necessary easements or dedications entitling the City to properly maintain the drainage facility have been conveyed to the City;
   3. The Director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
      a. Flooding;
      b. Downstream erosion;
      c. Property damage due to improper function of the facility;
      d. Safety hazard associated with the facility;
      e. Degradation of water quality or in-stream resources; or
      f. Degradation to the general welfare of the community; and
   4. The City has accepted maintenance responsibility in writing.

C. The Director may terminate the assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
   1. Flooding;
   2. Downstream erosion;
   3. Property damage due to improper function of the facility;

4. Safety hazard associated with the facility;
5. Degradation of water quality or in-stream resources; or
6. Degradation to the general welfare of the community.

D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the persons holding title to the property for which the facility was required.

20.70.150 Dedication of open space.

A. The City may accept dedications of open space and critical areas which have been identified and are required to be protected as a condition of development. Dedication of such areas to the City will be considered when:
   1. The dedicated area would contribute to the City's overall open space and greenway system;
   2. The dedicated area would provide ~~passive~~ recreation opportunities and nonmotorized linkages;
   3. The dedicated area would preserve and protect ecologically sensitive natural areas, wildlife habitat and wildlife corridors;
   4. The dedicated area is of low hazard/liability potential; and
   5. The dedicated area can be adequately managed and maintained.

20.70.160 Easements and tracts

The purpose of this section is to address easements and tracts when facilities on private property will be used by more than one lot or by the public in addition to the property owner(s).

A. **Easements.**
   1. Easements may be used for facilities used by a limited number of parties. Examples of situations where easements may be used include, but are not limited to:
      a Access for ingress and egress or utilities to neighboring property;
      b. Design features of a street necessitate the granting of slope, wall, or drainage easements; or
      c. Nonmotorized easements required to provide pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers even if the facility is not specifically shown on the City's adopted nonmotorized circulation plan maps.
   2. Easements granted for public use shall be designated "City of Shoreline Public Easement." All easements shall specify the maintenance responsibility in the recording documents.

B. **Tracts**
   1. Tracts should be used for facilities that are used by a broader group of individuals, may have some degree of access by the general public, and typically require regular maintenance activities. Examples of facilities that may be located in tracts include private streets, drainage facilities serving more than one lot, or critical areas.

2. Tracts are not subject to minimum lot size specifications for the zone, although they must be large enough to accommodate the facilities located within them.
3. Tracts created under the provisions of this subchapter shall not be considered a lot of record unless all zoning, dimensional, and use provisions of this code can be met.

SUBCHAPTER 3. Streets

20.70.210 Purpose.

The purpose of this subchapter is to classify streets in accordance with designations of the Comprehensive Plan and to ensure the naming of new streets and assignment of new addresses occurs in an orderly manner.

20.70.220 Street classification.

Streets and rights-of-way are classified in the Transportation Master Plan.

20.70.230 Street plan.

Streets shall be designed and located to conform to the adopted plans. Where not part of an adopted plan, new streets shall be designed to provide for the appropriate continuation of existing streets.

The Public Works Department shall maintain a list of public streets maintained by the City.

20.70.240 Private streets.

Local access streets may be private, subject to the approval of the City. If the conditions for approval of a private street cannot be met then a public street will be required. Private streets may be allowed when all of the following conditions are present:

A. The private street is located within a tract or easement; and
B. A covenant, tract, or easement which provides for maintenance and repair of the private street by property owners has been approved by the City and recorded with King County; and
C. The covenant or easement includes a condition that the private street will remain open at all times for emergency and public service vehicles; and
D. The private street would not hinder public street circulation; and
E. The proposed private street would be adequate for transportation and fire access needs; and
F. At least one of the following conditions exists:
    1. The street would ultimately serve four or fewer single-family lots; or
    2. The private street would ultimately serve more than four lots, and the Director determines that no other access is available; or
    3. The private street would serve developments where no circulation continuity is necessary.

20.70.250 Street naming and numbering.

The purpose of this section is to establish standards for designating street names and numbers, and for addressing the principal entrances of all buildings or other developments.

A. All streets shall be named or numbered in the following manner:
   1. Public or private street names and/or numbers shall be consistent with the established grid system as determined by the Department. Named streets can only be assigned when the numbered grid is determined infeasible by the Department. The Department may change the existing public or private street name if it is determined to be inconsistent with the surrounding street naming system.
   2. All streets shall carry a geographic suffix or prefix. Streets designated as "Avenues" shall carry a geographic suffix and be in a north-south direction, and streets designated as "Streets" shall carry a geographic prefix and be in an east-west direction. Diagonal streets are treated as being either north-south or east-west streets. Names such as lane, place, way, court, and drive may be used on streets running either direction.
   3. Only entire street lengths or distinct major portions of street shall be separately designated.
   4. In determining the designation, the Department shall consider consistency with the provisions of this section and emergency services responsiveness including Emergency-911 services.

B. Building addresses shall be assigned as follows:
   1. New Buildings. The assignment of addresses for new buildings shall occur in conjunction with the issuance of a building permit.
   2. New Lots. The assignment of addresses for new lots created by subdividing shall occur during project review and be included in the recording documents.
   3. Previously Unassigned Lots. Lots with no address of record shall be assigned an address and the property owner shall be notified of the address.
   4. The assignment of addresses shall be based on the following criteria:
      a. Even numbers shall be used on the northerly side of streets named as east-west and on the easterly side of streets named as north-south.
      b. Odd numbers shall be used on the southerly side of streets named as east-west and on the westerly side of streets named as north-south. Addresses shall be assigned whole numbers only.
      c. In determining the address assignment, the Department shall consider the consistency with the provisions of this section, consistency with the addressing needs of the area, and emergency services.

C. All buildings must display addresses as follows:
   1. The owner, occupant, or renter of any addressed building or other structure shall maintain the address numbers in a conspicuous place over or near the principal entrance or entrances. If said entrance(s) cannot be easily seen from the nearest adjoining street, the address numbers shall be placed in such other conspicuous place on said building or structure as is necessary for visually locating such address numbers from the nearest adjoining street.
   2. If the addressed building or structure cannot be easily seen or is greater than 50 feet from the nearest adjoining street, the address numbers shall be placed

on a portion of the site that is clearly visible and no greater than 20 feet from the street.

3. The address numbers shall be easily legible figures, not less than three inches high if a residential use or individual multifamily unit, nor less than five inches high if a commercial use. Numbers shall contrast with the color of the structure upon which they are placed, and shall either be illuminated during periods of darkness, or be reflective, so they are easily seen at night.

SUBCHAPTER 4. Required Improvements.

20.70.310 Purpose

The purpose of this subchapter is to provide safe and accessible transportation facilities for all modes of travel as described in the Comprehensive Plan, Transportation Master Plan, and the Parks, Recreation and Open Space Plan.

20.70.320 Frontage improvements.

Frontage improvements required for subdivisions pursuant to RCW 58.17 and SMC 20.30, Subchapter 7, and to mitigate identified impacts, shall be provided pursuant to this section. When required, frontage improvements shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment

A. Standard frontage improvements consist of curb, gutter, sidewalk, amenity zone and landscaping, drainage improvements, and pavement overlay to one-half of each right-of-way abutting a property as defined for the specific street classification. Additional improvements may be required to ensure safe movement of traffic, including pedestrians, bicycles, transit, and nonmotorized vehicles. The improvements can include transit bus shelters, bus pullouts, utility under grounding, street lighting, signage, and channelization.

B. Frontage improvements are required for:
   1. All new multifamily, nonresidential, and mixed-use construction;
   2. Remodeling or additions to multifamily, nonresidential, and mixed-use buildings or conversions to these uses that increase floor area by 20 percent or greater, as long as the original building footprint is a minimum of 4,000 square feet, or any alterations or repairs which exceed 50 percent of the value of the previously existing structure;
   3. Subdivisions;
      Exception:
      i. Subdivisions, short plats, and binding site plans where all of the lots are fully developed.
   ~~4. New development on vacant lots platted before August 31, 1995.~~

C. Exemptions to some or all of these requirements may be allowed if the street will be improved as a whole through a Local Improvement District (LID) or Capital

Improvement Project scheduled to be completed within five years of permit issuance. In such a case, a contribution may be made and calculated based on the improvements that would be required of the development. Contributed funds shall be directed to the City's capital project fund and shall be used for the capital project and offset future assessments on the property resulting from an LID. An LID "no-protest" commitment shall also be recorded. Adequate interim levels of improvements for public safety shall be required.

D. Required improvements shall be installed by the applicant prior to final approval or occupancy.

E. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

20.70.330 Surface water facilities.

A. All development and redevelopment as defined in the Stormwater Manual shall provide stormwater drainage improvements that meet the minimum requirements of 13.10 SMC.
B. Development proposals that do not require City-approved plans or a permit must meet the requirements specified in 13.10 SMC.
C. Required improvements shall be installed by the applicant prior to final approval or occupancy.
D. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

20.70.340 Sidewalks, Walkways, Paths and Trails.

A. Sidewalks required pursuant to SMC 20.70.320 and fronting public streets shall be located within public right-of-way or a public easement as approved by the Director.
B. Walkways, paths or trails provided to mitigate identified impacts should use existing undeveloped right-of-way, or, if located outside the City's planned street system, may be located across private property in a pedestrian easement or tract restricted to that purpose.
C. Required sidewalks on public and private streets shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment.
D. Installation, or a financial security of installation subject to approval by the Director, is required as a condition of development approval.

SUBCHAPTER 5. Utility Standards

20.70.410 Purpose.

The purpose of this subchapter is to establish when new and existing service connections including telephone, cable television, electrical power, natural gas, water, and sewer, are to be installed and/or placed underground.

20.70.420 Utility installation

Required utility improvements shall be installed by the applicant prior to final approval or occupancy. For subdivisions the applicant shall complete the improvements prior to final plat approval or post a bond or other surety with the utility provider.

20.70.430 Undergrounding of electric and communication service connections

A. Undergrounding required under this subchapter shall be limited to the service connection and new facilities located within and directly serving the development from the public right-of-way, excluding existing or relocated street crossings.

B. Undergrounding of service connections and new electrical and telecommunication facilities defined in chapter 13.20 SMC shall be required with new development as follows:
   1. All new nonresidential construction, including remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of service.
   2. All new residential construction and new accessory structures or the creation of new residential lots.
   3. Residential remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of the service connection to the structure.

C. Conversion of a service connection from aboveground to underground shall not be required under this subchapter for:
   1. The upgrade or change of location of electrical panel, service, or meter for existing structures not associated with a development application; and
   2. New or replacement phone lines, cable lines, or any communication lines for existing structures not associated with a development application.

ATTACHMENT D

Amendment to SMC 20.30.340, adding a section to describe the CPA annual docket process *(The following underlined section is new language)*

20.30.340 Amendment and review of the Comprehensive Plan (legislative action)

A. Purpose. A Comprehensive Plan amendment or review is a mechanism by which the City may modify the text or map of the Comprehensive Plan in accordance with the provisions of the Growth Management Act, in order to respond to changing circumstances or needs of the City, and to review the Comprehensive Plan on a regular basis.

B. Preparing Annual Docket. The City of Shoreline's process for accepting and reviewing Comprehensive Plan amendments for the annual docket shall be as follows:

1. Amendment proposals will be accepted throughout the year. The closing date for the current year's docket is the last business day in December.

   a. Anyone can propose an amendment to the Comprehensive Plan. A partially completed application is acceptable prior to the establishment of the final docket, but a completed application must be submitted and applicable fees paid within 6 weeks after the final docket is established.

   b. There is no fee for submitting a General Text Amendment to the Comprehensive Plan.

   c. An amendment to change the land use designation, also referred to as a Site Specific Comprehensive Plan amendment, requires the applicant to apply for a rezone application to be processed in conjunction with the Comprehensive Plan amendment. There are separate fees for a Site Specific CPA request and a rezone application.

2. At least three weeks prior to the closing date, there will be general public dissemination of the deadline for proposals for the current year's docket. Information will include a staff contact, a re-statement of the deadline for accepting proposed amendments, and a general description of the amendment process. At a minimum, this information will be advertised in the newspaper and available on the City's website.
3. Amendment proposals will be posted on the City's website and available at the Department of Planning and Development Services.
4. The DRAFT Docket will be comprised of all complete Comprehensive Plan amendment applications received prior to the deadline.
5. The Planning Commission will review the DRAFT docket in a study session and forward recommendations to the City Council. The revised draft docket may include Commission recommendations that reflect modification or deletion of elements of the originally submitted proposal.
6. A summary of the amendment proposals will be published in the City's newspaper of record.
7. The City Council will establish the FINAL docket at a public meeting.

8. The City will be responsible for developing an environmental review of combined impacts of the proposals on the FINAL docket. Applicants for site specific Comprehensive Plan Amendments will be responsible for providing current accurate analysis of the impacts from their proposal.

9. After the FINAL docket is adopted, staff will analyze each proposal and schedule public hearings before the Planning Commission. The amendments will be reviewed by the Planning Commission in publicly noticed meetings and recommendations made using adopted criteria. The proposed amendments may be altered through the review process.

10. The Commission's recommendations will be forwarded to the City Council for adoption.

~~B.~~**C. Decision Criteria.** The Planning Commission may recommend and the City Council may approve, or approve with modifications an amendment to the Comprehensive Plan if:

1. The amendment is consistent with the Growth Management Act and not inconsistent with the Countywide Planning Policies, and the other provisions of the Comprehensive Plan and City policies; or

2. The amendment addresses changing circumstances, changing community values, incorporates a sub area plan consistent with the Comprehensive Plan vision or corrects information contained in the Comprehensive Plan; or

3. The amendment will benefit the community as a whole, will not adversely affect community facilities, the public health, safety or general welfare.

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time limits for Decisions

Action	Notice Requirements for Application and Decision (5),(6)	Review Authority, Open Record Public Hearing (1)	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
Type C:					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.410
2. Rezone of Property (2) and Zoning Map Change	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.320
3. Special Use Permit (SUP)	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.330
4. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE (1)(4)		120 days	20.30.333
5. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE (1)(4)		120 days	20.30.336
6. Final Formal Plat	None	Review by the Director – no hearing	City Council	30 days	20.30.450
7. SCTF – Special Use Permit	Mail, Post Site, Newspaper ~~(7)~~	PC (3)	City Council	120 days	20.40.505
8. Street Vacation	PC (3)	PC (3)	City Council	120 days	Chapter 12.17 SMC
9. Master Development Plan ~~(8)~~	Mail, Post Site, Newspaper ~~(7)~~	PC (3)	City Council	120 days	20

(1) Including consolidated SEPA threshold determination appeal.

(2) The rezone must be consistent with the adopted Comprehensive Plan.

(3) PC = Planning Commission

(4) HE = Hearing Examiner

(5) Notice of application requirements are specified in SMC 20.30.120.

(6) Notice of decision requirements are specified in SMC 20.30.150.

~~(7) a. Notice of application shall be mailed to residents and property owners within 1,000 feet of the proposed site. b. Enlarged notice of application signs (a minimum of four feet by four feet) as approved by the City of Shoreline shall be posted on all sides of the parcel(s) that front on a street. The Director may require additional signage on large or unusually shaped parcels.~~

~~c. Applicants shall place a display (nonlegal) advertisement approved by the City of Shoreline in the Enterprise announcing the notice of application and notice of public hearing.~~

~~(8) Information regarding master development plans will be posted on the City's website and cable access channel regarding the notice of application and public hearing.~~

20.30.120 Public notices of application.

A. Within 14 days of the determination of completeness, the City shall issue a notice of complete application for all Type B and C applications.

B. The notice of complete application shall include the following information:

1. The dates of application, determination of completeness, and the date of the notice of application;
2. The name of the applicant;
3. The location and description of the project;
4. The requested actions and/or required studies;
5. The date, time, and place of an open record hearing, if one has been scheduled;
6. Identification of environmental documents, if any;
7. A statement of the public comment period (if any), not less than 14 days nor more than 30 days; and a statement of the rights of individuals to comment on the application, receive notice and participate in any hearings, request a copy of the decision (once made) and any appeal rights;
8. The City staff Project Manager and phone number;
9. Identification of the development regulations used in determining consistency of the project with the City's Comprehensive Plan; and
10. Any other information that the City determines to be appropriate.

C. The notice of complete application shall be made available to the public by the Department, through any or all of the following methods (as specified in Tables 20.30.050 and 20.30.060):

1. **Mail.** Mailing to owners of real property located within 500 feet of the subject property. Notice of application for SCTF and Master Development Plan permits shall be mailed to residents and property owners within 1,000 feet of the proposed site;
2. **Post Site.** Posting the property (for site-specific proposals). For SCTF and Master Development Plan permits enlarged notice of application signs (a minimum of four feet by four feet) as approved by the City of Shoreline shall be posted on all sides of the parcel(s) that front on a street. The Director may require additional signage on large or unusually shaped parcels;
3. **Newspaper.** The Department shall publish a notice of the application in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comments period dates, and the location where the complete application may be reviewed;
4. Information regarding Master Development Plan notice of applications will be posted on the City's website and cable access channel.

D. The Department must receive all comments received on the notice of application by 5:00 p.m. on the last day of the comment period. (Ord. 238 Ch. III § 4(e), 2000).

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 days prior to the hearing, through use of these methods:

- **Mail.** Mailing to owners of real property located within 500 feet of the subject property;
- **Newspaper.** The Department shall publish a notice of the open record public hearing in the newspaper of general circulation for the general area in which the proposal is located;
- **Post Site.** Posting the property (for site-specific proposals).
- Information regarding Master Development Plan public hearings will be posted on the City's website and cable access channel.

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 should adjust to the location of required utility routes both above and below ground. Location of plants shall be based on the plant's mature canopy and root mat width. Root 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 reach an above ground utility such as street lights and power-lines. Mature tree and shrub root mats may overlap utility trenches as long as approximately 80 percent of the root mat area is unaffected. Adjustment of plant location does not reduce the number of plants required for landscaping.
~~Site~~Sight distance triangle shall be established for visual clearance consistent with the Engineering Development Guide ~~SMC 20.70.170~~ for all driveway exits and entrances and street corners.

ATTACHMENT F

PUBLIC HEARING RECORD

Development Code Amendments
#301642 & #301650

November 4, 2010 | List of Exhibits

Exhibit 1 November 4, 2010 Staff Report "Public Hearing on Proposed Amendments to the Development Code"

Exhibit 2 Amendments to 20.30, Subchapter 8 – Environmental Procedures

Exhibit 3 Amendments to Chapter 20.70 – Engineering and Utilities Development Standards

Exhibit 4 Amendments to Chapter 20.30.340 – Amendment and Review of the Comprehensive Plan

Exhibit 5 Administrative amendments supporting issues 1 & 2

Exhibit 6 City Attorney analysis of options on the Appeal process

Exhibit 7 Minutes from September 16, 2010 public hearing

Exhibit 8 Public Comment letter from Debbie Kellogg, dated 11/2/10

MINUTES OF HEARING

Minutes from November 4, 2010 public hearing (includes testimony and recommended amendments)

Exhibit 8

PO Box 55252
Shoreline, WA 98155

November 2, 2010

Planning Commission
City of Shoreline
17500 Midvale Ave. N.
Shoreline, WA 98133

RE: Public Hearing November 4, 2010 - Appeals

I had suggested at the last public hearing the Planning Commission and PDS consider evaluating how to split Type C quasi-judicial actions into sub-types in order to resolve the debate that has centered upon the central issue: that the same body cannot simultaneously in one hearing hold an appeal, implying that the Planning Commission will find it too difficult to resolve the legal issues involved in appeals.

But I carefully looked at the Type C actions table and the Planning Commission is not the only body that acts upon these actions, to wit:

The table in SMC 20.30.060 entered into the record is attached.

The review authority for open record hearings by the Planning Commission is:

- Preliminary Formal Subdivision
- Rezone of Property and Zoning Map Change
- Special Use Permit (SUP)
- SCTF – Special Use Permit
- Street Vacation
- Master Development Plan

The review authority for open record hearings for the Hearing Examiner is:

- Critical Areas Special Use Permit
- Critical Areas Reasonable Use Permit

And finally, the PDS Director has sole authority over Final Formal Plat.

There is a mix, in other words, of review authority by administration, the Hearing Examiner, and the Planning Commission that has not been captured in previous hearings without any consistency in how the review authority has been selected.

Additionally, the city attorney has stated that street vacations are processed as a quasi-judicial Type C application even

I would like to make note of the above: Critical Area Use Permits, Street Vacations, and perhaps Final Formal Plats are categorically exempt from SEPA; all of these could be assigned to the Hearing Examiner. As the Hearing Examiners are attorneys, they have the training, expertise, and experience to hear an appeal.

I would suggest that Type C actions be sub-divided into two categories, based on the application of an optional or mandatory SEPA, which would constitute review authority by the following:

Hearing Examiner:

- Critical Areas Special Use Permit
- Critical Areas Reasonable Use Permit
- Street Vacations
- Special Use Permit
- SCTF – Special Use Permit
- Final Formal Plat

Planning Commission:

- Preliminary Formal Subdivision
- Rezone of Property and Zoning Map Change
- Master Development Plan

The two sub-types, based upon SEPA application, would make the Type C action process consistent and allow for appeals at the Hearing Examiner level. I will defer to the PDS staff and the Planning Commission discussion on how to handle appeals for Planning Commission.

In 2005-6 Street Vacations were moved from a Type L to a Type C action at the recommendation of the city staff. Uniformly, in my review of how other municipalities process street vacations, are heard by a Hearing Examiner. The Hearing Examiner was responsible for handling the Ronald Place North Street Vacation in 2009, I was in attendance and I thought it went very well, I would hope in the future that the staff transcribes her hearing minutes and enters it into the City Council record prior the City Council meeting (something they did not do).

The projects that the Planning Commission would most likely review in the future would be the Shoreline Community College and Fircrest Master Plans (and possibly a rehearing of the Crista Master Plan, pending the outcome of the judicial appeal), the preliminary formal subdivision, if ever, of Cedarbrook, Aldercrest, and Fircrest (the only large tracts of land in Shoreline). I would hope that during the process of updating the

Comprehensive Plan during the upcoming year and the Sub-Area Plan adoption process will reduce the demand for rezone applications.

The staff has claimed for the second meeting in a row they looked at a few other jurisdictions whereas I reviewed more than two dozen jurisdictions. They have dismissed these jurisdictions as unworthy of consideration as they don't have the same philosophy as Shoreline. I have previously entered into the record that Shoreline in the Visioning Statement and Comprehensive Plan values citizen participation in many of its goals, which I would interpret as inclusion of appeals at the local level. The mere fact that the city has had an appeal process during its entire history is direct evidence that the philosophy of the city is to entertain appeals at the local level whenever possible, the discussion of appeals began to clarify the issue of one body hearing appeals and the conflict between the Planning Commission holding the open record hearing but the Hearing Examiner handling the appeal, nothing has changed that would affect the original foundational philosophy of the city and its philosophy on appeals.

Mr. Forry additionally has stated that citizen comments are oftentimes "emotional" and not useful, even though I have gone back and found that comments made on SEPA are actually material and on point for a variety of project actions (which are never heard by the Planning Commission under SEPA). When I offered the idea to break up Type C actions into sub-groups at the last hearing, Mr. Forry stated there is nothing wrong with the system, yet the PDS staff is proposing amendments to the system, so clearly the staff believes something is wrong with the system, he disagrees with my proposal for resolving the impasse.

So, since this hearing is considering categorical exemptions and appeals, I would like to see the Planning Commission break the Type C actions into two groups based upon SEPA exempt or non-exempt.

For those actions not exempt from SEPA, appeals are further broken into two different types: procedural and substantive. Procedural appeals are usually procedural, such as: was the site posted properly, was the action posted timely in the newspaper, was a neighborhood meeting, were the proper agencies noticed, was a checklist submitted, etc. Many jurisdictions allow procedural SEPA administrative appeals and no substantive SEPA appeals. By delineating procedural from substantive SEPA appeals and allowing administrative appeals for the former rather than the latter, a great many issues subject to appeal are dispensed with quickly and actually benefits both the applicant and the community. I agree with the city staff, substantive issues are complex and should be taken up at the judicial level.

Legislative decisions have come up in this discussion somehow, I fail to understand how eliminating the use of the Hearing Examiner to hear appeals on these decisions, which are few, will cause problems in the future. Allowing procedural SEPA issues to be dispensed with as administrative appeals resolves issues quickly at the time of the open record hearing and in actual fact achieves the goal of expediting the process. I agree that

substantive SEPA appeals are beyond the scope of either the Planning Commission or the City Council as review authorities.

However, I would like the city attorney to clarify a statement made at the last public hearing whereby it was stated that rezones could not have conditions placed upon them. My question is this: if these rezones are subject to SEPA, where conditions may be placed upon them, then why can't the Planning Commission or City Council place conditions upon the rezone?

Thank you very much for allowing me the opportunity to present my thoughts and suggestions on how to approach this problem. I hope you consider them as you weigh the options.

Sincerely,

Debbie Kellogg

Enclosures

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time limits for Decisions

Action	Notice Requirements for Application and Decision [5],[6]	Review Authority, Open Record Public Hearing [1],[4]	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
Type C:					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	PC [3]	City Council	120 days	20.30.410
2. Rezone of Property [2] and Zoning Map Change	Mail, Post Site, Newspaper	PC [3]	City Council	120 days	20.30.320
3. Special Use Permit (SUP)	Mail, Post Site, Newspaper	PC [3]	City Council	120 days	20.30.330
4. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE [1],[4]		120 days	20.30.333
5. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE [1],[4]		120 days	20.30.336
6. Final Formal Plat	None	Review by the Director – no hearing	City Council	30 days	20.30.450
7. SCTF – Special Use Permit	Mail, Post Site, Newspaper [7]	PC [3]	City Council	120 days	20.40.505
8. Street Vacation	PC [3]	PC [3]	City Council	120 days	Chapter 12.17 SMC
9. Master Development Plan [8]	Mail, Post Site, Newspaper [7]	PC [3]	City Council	120 days	20

Including consolidated SEPA threshold determination appeal.

~~[1] Including consolidated SEPA threshold determination appeal.~~

[2] The rezone must be consistent with the adopted Comprehensive Plan.

[3] PC = Planning Commission

[4] HE = Hearing Examiner

[5] Notice of application requirements are specified in SMC 20.30.120.

[6] Notice of decision requirements are specified in SMC 20.30.150.

[7] a. Notice of application shall be mailed to residents and property owners within 1,000 feet of the proposed site.

Mr. Cohn announced that the Town Center Open House that was originally planned for November has been rescheduled for January 12, 2011. More information will be provided as the meeting gets closer.

APPROVAL OF MINUTES

There were no minutes to approve.

GENERAL PUBLIC COMMENT

No one signed up to provide comments to the Commission during this portion of the meeting.

LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (FILE NUMBERS 301642 AND 301650)

Chair Wagner reviewed the rules and procedures for the public hearing and then opened the public hearing.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Forry provided a short staff presentation. He reviewed that the Commission conducted a public hearing on September 16th on the proposed development code amendments. At the end of the hearing, there was no definitive date for which the hearing would be continued. Also, additional items were brought up that may have affected the way the amendments were drafted. Instead of continuing the hearing, the Commission opted to reschedule. Mr. Forry reviewed the three components of the proposed amendments as follows:

1. Modify Chapter 20.30 regarding certain aspects of the State Environmental Policy Act (SEPA). The amendments include removing the automatic requirement for environmental review of otherwise categorically exempt items when the activity is within a critical area or a critical area buffer and modifying the appeal section to correct an inconsistency in the Development Code versus the Washington Administrative Code (WAC) regarding SEPA rules. This would eliminate administrative appeals of Type C permits. As proposed, Type C permits would be appealed to Superior Court.

2. Rewrite Chapter 20.70, which includes removing technical standards and modifying provisions for single-family residential frontage improvements.

3. Add a new section 20.30.340(c), which would formalize the process to create an annual docket of Comprehensive Plan amendments for City Council review.

Mr. Forry recalled that at their last hearing, Commissioner Moss suggested the reference to the "Enterprise" newspaper should be deleted from the 8th footnote below Table 20.30.060 since it is no longer being published. He explained that when staff reviewed this change, they found numerous

noticing provisions appended to the table, and it would make more sense to move them to the notice of application provisions (Sections 20.30.120.C and 20.30.180). No standards were changed.

Mr. Forry advised that in response to Commissioner Kaje's comments, the City Attorney prepared a summary of the results of her investigation into the question of separating the different types of SEPA appeals *(See Attachment 5 of the Staff Report).*

Mr. Forry said he and Vice Chair Perkowski had a discussion regarding critical areas and exemptions. However, this discussion took place after the hearing was closed. He suggested the issue was a result of confusion that was caused by some of the public testimony versus what staff was trying to convey. He felt the issue was clarified at the last meeting.

Mr. Forry advised that Commissioner Behrens submitted two emails to the Commission and staff related to the public review of SEPA processes and bringing environmental issues forward and making them very evident in the public hearing process before the Commission. As was discussed at the last meeting, part of the review process should include the evaluation of environmental issues, and staff must make a concerted effort to discuss and outline the environmental procedures that were employed and the outcomes of their analysis. This information should be available to the Commission at the hearing.

Mr. Cohn entered the following items into the record:

- Exhibit 1 November 4, 2010 Staff Report "Public Hearing on Proposed Amendments to the Development Code."
- Exhibit 2 Amendments to 20.30, Subchapter 8 – Environmental Procedures *(Attachment 1 to Staff Report)*
- Exhibit 3 Amendments to Chapter 20.70 – Engineering and Utilities Development Standards *(Attachment 2 of the Staff Report)*
- Exhibit 4 Amendments to Chapter 20.30.340 – Amendments and Review of the Comprehensive Plan *(Attachment 3 of the Staff Report)*
- Exhibit 5 Administrative amendments support issues 1 and 2 *(Attachment 4 of the Staff Report)*
- Exhibit 6 City Attorney Analysis of options on the appeal process *(Attachment 5 of the Staff Report)*
- Exhibit 7 Minutes from September 16, 2010 public hearing *(Attachment 6 of the Staff Report)*
- Exhibit 8 Public comment letter from Debbie Kellogg dated November 2, 2010. *(Included in the Commission's desk packet.)*

Questions by Commission to Staff

Commissioner Behrens observed that the proposed amendments are intended to create a permit process that is clear, timely and predictable. He said he finds it troubling that it could take a long time for the municipal court to resolve a SEPA appeal, which seems to run contrary to what they are trying to accomplish. He feels uncomfortable about removing the public's right to appeal. In his email to staff he suggested that if there is a SEPA appeal on an issue that would normally come before the Commission for a public hearing, the application could be sent to the Hearing Examiner for a hearing on both the

SEPA appeal and the land use action. He felt this approach would offer a good compromise and allow for the public to file appeals and have the process go quickly. Commissioner Behrens pointed out that when the Hearing Examiner makes a decision on the SEPA appeal, a person would still have a right to take the appeal to Superior Court. However, the issues would be clearly defined based on the facts collected during the open hearing before the Hearing Examiner.

Commissioner Behrens said staff reminded him that the City Council has decided the Planning Commission is to hear specific types of land use actions rather than sending them to the Hearing Examiner. They concluded that his proposal would undermine the direction the City Council previously gave the Commission. He suggested the Planning Commission discuss this option further. Perhaps they could ask the City Council to reconsider their previous decision. Chair Wagner recalled that the Planning Commission's work load was so busy with other projects that hearing regular quasi-judicial matters was not deemed the best use of their time. They agreed to also focus their efforts in reviewing quasi-judicial applications related to the more significant long-term vision of the City (subarea plans and master development plans). She emphasized this change was intended to be temporary.

Commissioner Behrens pointed out that he is not so concerned about the SEPA review of the Town Center Subarea Plan and other subarea plans because there are numerous opportunities for public comments throughout the process and any future changes within the subarea would be subject to the SEPA decision issued as part of the subarea planning process. However, master development plans are more challenging because they involve a 20-year projection and quite a lot of speculation. The master development plan process should include a very thorough SEPA review.

Chair Wagner suggested the Commission make their decision based on what is best for right now. Their recommendation could include a request that the City Council reevaluate the issue at some point in the future. However, they should leave the path open so the change could be implemented at some point in the future without causing the adopted language to be inconsistent.

Chair Wagner recalled that she previously asked staff to provide information regarding the numbers and types of appeals that have been filed in the recent past. She also asked that staff share how the proposed amendments would have impacted these appeals. Mr. Forry said staff previously identified nine appeals that have been filed in the past 15 years. The majority were ultimately appealed to the Superior Court level. None of the decisions were overturned, but several were remanded back for additional analysis or completion of the permit process before a final decision was made. He emphasized that the majority of permits and actions taken by the City allow for an administrative appeal, and this process would not be changed by the proposed amendments. Mr. Cohn reiterated the proposed amendments would only impact a very small number of actions. Under the current situation, which is an interim ordinance, the Hearing Examiner hears almost every Type C action. The only quasi-judicial applications the Planning Commission hears are related to master development plans and rezones associated with subarea plans. He said he anticipates that SEPA appeals for rezone proposals associated with subarea plans will be very rare because rezones must be consistent with the comprehensive plan. That leaves only applications associated with master development plans. He reminded the Commission that when reviewing master development plan proposals, the Commission will have an opportunity to look at the environmental record and discuss appropriate conditions.

Chair Wagner asked if additional conditions were placed on those applications that the Superior Court remanded back to the City. Mr. Forry answered that additional conditions were placed on the applications, but there were no changes to the underlying environmental determination.

Commissioner Kaje reminded the Commission that while the City Council made the decision to have the Planning Commission review just a few types of quasi-judicial actions, at a future date they could decide to place more Type C actions back on the Commission's plate. Therefore, all Type C actions could potentially be impacted by the proposed amendments, which means there would be no administrative appeal. Mr. Cohn agreed that could be the case.

Commissioner Kaje pointed out that the current draft proposal would remove administrative appeals for all Type C and Type L (legislative) actions. However, the previous iterations of the proposed amendments did not include Type L actions. Mr. Cohn clarified that, as per the current code, there is no administrative appeal for Type L actions. Commissioner Kaje emphasized that the Commission has not discussed the implications of the proposed amendments on Type L actions. While staff has stated that there would be no administrative appeal on Type L actions, the language actually states that for decisions of the City Council there are no appeals of legislative actions. It is silent on appeals to SEPA determinations. Mr. Cohn pointed out that, currently, Section 20.30.680.A.5 states that for actions not classified as Type A, B, or C, no administrative appeal is permitted. The current language defaults to Type L actions being the only ones that have no administrative appeal. He said the City Attorney reworded the language to make it clearer. Mr. Forry agreed with Commissioner Kaje that for clarity and to maintain continuity, it would be appropriate to change "Type L" to "legislative."

Commissioner Kaje emphasized that the Commission does not make the final decision on Type C actions that come before them. Hence, what they are really talking about is the public's ability to appeal SEPA determinations related to Type C actions that come before the Commission. He expressed concern that the proposed amendments appear to set up two very different processes. For Type C applications that are heard by the Hearing Examiner, Determinations of Non-Significance (DNS) and substantive decisions can be appealed administratively. However, there would be no administrative appeal for actions heard by the Planning Commission and City Council. He summarized that while the Planning Commission will be asked to review and make recommendations on actions where it is important to get a lot of community input and to have citizens weigh the merits carefully, they do not have the ability to determine that staff did not carry out their duties when issuing the DNS. Mr. Forry explained that as a project comes forward for Commission review, they have an obligation to consider the environmental decisions made by staff. They can pose questions as to how mitigations were arrived at, how the environmental decision was made, what criteria were used, etc. If during their evaluation and hearing process, the Commission determines there is insufficient environmental information for them to make a recommendation, they can request additional information and/or defer action until the information is made available.

Commissioner Kaje agreed that the Commission would have the ability to request additional information regarding the SEPA determination, but they would not actually have the ability to remand the determination back to staff or require an applicant prepare a full Environmental Impact Statement (EIS).

He summarized that having the ability to request more environmental information is not the same as being able to determine that staff erred in their reasoning. That leaves the Commission having to compel an applicant to provide the level of information they need to make a recommendation. The Commission agreed to continue their discussion regarding this issue after the public portion of the hearing.

Commissioner Kaje requested clarification of the statement on Page 5 of the Staff Report that reads, "The regulations provide optimum levels of mitigation for categorically exempt projects." He suggested the Commission and public are somewhat confused about the difference between categorical exemptions under SEPA and exemptions under the critical areas ordinance. Mr. Forry explained that categorical exempt actions are defined under SEPA. A project is required to be evaluated under SEPA if it exceeds the thresholds for categorical exemptions (i.e. more than 4,000 square feet in size, more than 4 dwelling units, more than 500 cubic yards of fill, etc.). In addition to the categorical exemptions under SEPA, the City's Critical Areas Ordinance provides a list of items that are exempt from complying with the Critical Areas Ordinance.

Mr. Forry explained that the proposed language is intended to say that there are adequate and acceptable mitigations already in place in the Critical Areas Ordinance for those activities that are required to obtain a permit [that are below the categorically exempt threshold of SEPA]. For example, the Critical Areas Ordinance requires a professional evaluation and professional recommendations for mitigation for any development that is proposed within a critical area, even if it falls below the SEPA thresholds. He summarized that the Critical Areas Ordinance provides all the tools the City needs to evaluate projects in critical areas that would otherwise be categorically exempt from SEPA. Therefore, staff believes that SEPA is redundant because it would only consider the impacts on the critical areas and determine if there is sufficient mitigation in place to address them. Staff believes the necessary tools are already in place. He noted that the existing language was written before the Development Code was amended in 2005 to beef up the Critical Areas Ordinance, and it is no longer necessary.

Commissioner Kaje pointed out that the Staff Report is supposed to inform the public of what is being proposed. He suggested this issue should have been clearer, which would have eliminated some of the public and Commission confusion about the possibility of some projects "going through both doughnut holes at once."

Public Testimony

Debbie Kellogg, Shoreline, mentioned that the City Clerk has posted all of the historical Hearing Examiner decisions and appeals. She noted that most of them were related to disputes over conditional use permits or Type B actions. One of the appeals went to the Washington State Division I Appeals Court, which set a precedent on critical areas in Washington State. This decision was applied in Shoreline, and a King County Superior Court Justice put an injunction on the continued construction of the Aegis development. Nevertheless, the developer continued to build and they received a certificate of occupancy in spite of being in contempt of court. She noted that the City Clerk's summary is inaccurate regarding this one case. She agreed to email the location of where this information could be found.

Ms. Kellogg referred to Table 20.30.060 and noted there is not a lot of consistency in how the Type C actions were assigned. She suggested they use the criteria of being SEPA exempt or not. She referred the Commission to her written comments, which were submitted prior to the hearing.

Chair Wagner asked if Ms. Kellogg is concerned about Type B actions, as well. She noted that they are only talking about changing a small subset of Type C actions, and Type B actions would not be impacted. Ms. Kellogg said in her comment letter she suggested that the approach is two-pronged, in that procedural SEPA would be tossed with substantive SEPA. She explained that substantive SEPA is really hard because it involves questions related to the law. However, procedural SEPA involves yes and no questions such as did they send out the notice, post the site, etc.

Chair Wagner referred to concerns previously raised that judicial appeals are costly. While Ms. Kellogg may disagree with some of the facts about how a particularly case ultimately was decided, staff has commented that many of the cases that caused significant public concern ended up at Superior Court anyway and were not solved by having an administrative level appeal. She asked if Ms. Kellogg could identify a large subset of appeals that were resolved within the City based on an administrative appeal.

Ms. Kellogg said staff has made two arguments. First, they want to solve a problem in the code, which she agrees is appropriate. Second, they have expressed a concern that administrative appeals hold up the application process. She said she researched and found it takes about eight extra weeks to file an administrative appeal, and appeals to Superior Court took much longer. Most of the administrative appeals were related to procedural concerns, particularly those in which the City prevailed. Chair Wagner noted that appeals that ended up in court went through the administrative appeal process first. If they only have an administrative appeal process, the projects the public has been most concerned with would have ultimately gone through an administrative appeal and ended up in court anyway. Chair Wagner noted that administrative reviews have not been able to resolve problems quickly in these cases.

Ms. Kellogg said that some of the issues that went to court were related to code enforcement violations rather than SEPA. Again, Chair Wagner asked Ms. Kellogg to provide a sample of how many problems would have been solved by retaining the administrative appeal process. Ms. Kellogg said there have only been about 24 appeals. Many people feel they had a fair shot at the administrative level and do not pursue the issue through the courts. She agreed that substantive appeals should go to Superior Court, but the Planning Commission and staff have the capability to make decisions regarding procedural appeals.

David Pyle, Shoreline, agreed with staff that the critical area buffer should not require SEPA. However, critical areas are sensitive enough that when there's an impact to the actual resource, itself, there should be an additional layer of scrutiny applied. He said he respects the work of staff, and it is evident through the passing of Proposition 1 that the community feels the same. He expressed his belief that the proposed amendment to eliminate administrative appeals for Type C actions would alienate and isolate the community from the process. The proposed amendment would eliminate the local appeal route for the community under a community planning action. He said he does not believe this change would serve anyone. What ends up happening is the people who are writing the plans and doing the

planning are actually telling people they have to file an appeal in Superior Court. He suggested that this is not really responsive to the people who are voting in favor of supporting the City.

Mr. Pyle said Shoreline is not complicated. Very few SEPA actions actually happen in the City. Therefore, he questioned why staff is so afraid of actually being under the scrutiny of an appeal. He said where he works they have two or three appeals every few months, and it's not a big deal. Instead of being schizophrenic about how SEPA is applied across the board, he suggested assigning SEPA as a Type B action so a process could be uniformly applied in all cases when SEPA is required.

Final Questions by the Commission

Commissioner Broili requested clarification on Commissioner Kaje's earlier statement regarding the Commission's ability to alter a SEPA determination that is made by the Planning Director. Commissioner Kaje explained that if the Planning Director issues a DNS, an applicant would not be required to do an EIS and there would be no administrative appeal process. The Commission does not have the ability to determine that a DNS is incorrect and compel an applicant to prepare an EIS. They only have the ability to ask for additional environmental information. Mr. Forry agreed that the Planning Director is assigned as the responsible official under SEPA and is responsible for issuing SEPA Threshold Determinations. A hearing body cannot change a threshold determination, but they can indicate they do not have enough information to make a recommendation on a project.

Commissioner Behrens observed that a DNS has typically been issued months before a proposal comes before the Commission for a public hearing. Granting the Commission the authority to question or challenge a DNS could put the City in a legal bind if they have to retract the Planning Director's decision. He referred back to his previous recommendation that appeals should be filed within 7 to 15 days after a SEPA determination has been issued. At that point, the application could be sent to the Hearing Examiner to issue a determination on both the SEPA appeal and the land use action. Using this approach, there would be no reason for the Commission to second guess what has already happened.

Deliberations

Commissioner Esselman summarized that the City is in the position of needing to make a change to be compliant with the Washington Administrative Code (WAC). However, philosophically, they are also changing the original intent of the appeal process. She said she is in favor of maintaining a certain level of public involvement. She questioned if it is possible to identify a process that is consistent with the WAC yet still maintains the public's ability to participate in the process. Chair Wagner suggested that a perfect solution may not exist. The Commission must balance the desire to have as much public input as possible with addressing inconsistencies in the code. In addition, there is a need to clarify and streamline the code language.

Chair Wagner summarized that the most significant issue on the table is which body should hear SEPA appeals for Type C actions that come before the Planning Commission. The Commission should also provide direction about whether or not the set of Type C actions that currently comes before the Commission for review is appropriate for the future. She reminded the Commission that, at this time,

they are only talking about a very small number of action items (master development plans and rezones associated with subarea plans). Unless the City Council reverses their previous decision to send most Type C actions to the Hearing Examiner, it is unlikely there would be an issue related to appeals in the future except those related to master development plans. In her opinion, an administrative appeal would not likely be the best route for these situations. She suggested they keep in mind that only a small number of people would be impacted by the proposed amendments.

Commissioner Behrens underscored that the Commission is currently operating under a temporary order from the City Council. Under their current operating procedures, the proposed amendments would impact only a very small number of applications. However, if the City Council decides to send all Type C actions back to the Commission for public hearing, the proposed amendments could effectively waive the appeal rights for all Type C actions. Chair Wagner noted that the SEPA appeal rights would not be waived, but would be transferred to Superior Court. Commissioner Behrens summarized that all Type C appeals would be sent to Superior Court. He agreed with Mr. Pyle that this would send a message to the public that could be construed as saying, "Sue the City if they don't like what happens." He concluded that perceptions are important. Chair Wagner suggested that if the Commission forwards a recommendation of approval to the City Council, it should be accompanied by a recommendation that they consider making the current assignments for Type C actions permanent.

Commissioner Moss asked staff to clarify how supporting Commissioner Kaje's suggestion for dividing the SEPA appeal authority would favor those who are well skilled in land use permitting and appeal processes and disfavor those who are inexperienced and unskilled with land use appeals. Mr. Forry said this information was provided by the City's risk pool attorneys who reviewed the proposal at the City Attorney's request. Usually cases that reach the level of an appeal are presented by people with a high level of experience.

Commissioner Moss referred to Page 42 of the Staff Report, where staff suggests a better approach is to reevaluate weaknesses and discrepancies in the Critical Areas Ordinance if appropriate as a separate issue. She questioned if this reevaluation should take place before the Commission makes a recommendation on the proposed amendments. She expressed concern about what could happen if there is a gap between the time the amendments are adopted and the Critical Areas Ordinance is reevaluated. Mr. Forry recalled that this comment was intended to convey that evaluating the Critical Areas Ordinance exemptions should be done in a different forum. The exemptions were created in 2005 through a public process, and the Commission could choose to revisit them at some point in the future. However, the exemptions in the Critical Areas Ordinance would not be impacted by whether or not the Commission chooses to act on the proposed amendment that eliminates review of categorical exempt actions within a critical area. He noted that some elements of the Critical Areas Ordinance are already on staff's radar screen to look at.

Commissioner Kaje referred to the opening paragraph of Section 20.30.560 (Page 13 of the Staff Report), and suggested the language should be changed to read, "The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water, 2) a rezone, or 3) any license governing emissions to the air or discharges to water is required." Mr. Forry advised that the language was taken directly from the WAC, but he agreed it could be cleaned up.

COMMISSIONER KAJE MOVED TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.550, 20.30.560 AND 20.30.680 – ENVIRONMENTAL PROCEDURES (EXHIBIT 2). COMMISSIONER BEHRENS SECONDED THE MOTION.

Chair Wagner offered a friendly amendment to update the wording to Section 20.30.560 as previously discussed. The remainder of the Commission concurred. Commissioner Esselman also offered a friendly amendment to Section 20.30.680.A.5 to change "Type L" to "Legislative." Commissioners Kaje and Behrens accepted the friendly amendment.

Chair Wagner expressed her belief that staff has done a lot of work to consider the different concerns that have been raised by the public and the Commissioners. They have responded with appropriate language, given the scenario that the amendments primarily relate to risk management. The appeal process is not something to take lightly. She very much agreed that there might be more cause for concern if they were talking about other types of quasi-judicial actions the Commission has historical done. On the other hand, they have heard from a variety of staff and some members of the public that the appeal process is being utilized and that people are taking appeals to Superior Court. She said she has not yet heard that they would be hindering a large number of people from being able to appropriately appeal something given the narrow scope of the amendment's application.

Chair Wagner said she believes that public involvement is very important. She reviewed that the Comprehensive Plan was required to go through a SEPA evaluation process, which in theory, sets the stage for rezones and quasi-judicial hearings. Any rezone or quasi-judicial application would require a second SEPA review, and one criterion is that it must be consistent with the Comprehensive Plan. If the process is done right, there should not be any problems because the City has already gone through two separate SEPA processes that include opportunities for the public to comment prior to a decision being made and to appeal a decision. She said she is troubled that the Commission's discussion appears to be predicated on the assumption that staff is going to make mistakes each and every single time and that appellants will have to go to court to battle out every decision the Planning Director makes. There is evidence to the contrary. They have hired competent people to complete these reviews, and evidence suggests that mistakes are few and far between. Even when a mistake occurs, it gets resolved typically without a significant deviation from the initial review process. She said there is not a lot of evidence to support the idea of establishing a process that allows the Commission to more directly remediate incompetent staff actions. She said she also doesn't support the argument that perhaps future staff might not be as competent. She does not think they should plan that the City will hire incompetent staff in the future. She summarized that there is no evidence that the City has had a significant number of problems where an issue hasn't ultimately gone to Superior Court anyway. Requiring two full appeal processes can end up doing a disservice to the appellant, the applicant, the City and the taxpayers.

Commissioner Kaje said he supports the concept of amending the code to be consistent with State law, and there is a reason for having some laws that are consistent community to community. However, he is also concerned about protecting the public's ability to have a say in the decisions that shape their community. He said he also appreciates staff's attempt to vet the idea he put forth at the last hearing, and he will just have to take their word for it since he is not knowledgably enough to say whether or not

it is fraught with risk. He summarized they are trying to balance some very important issues. If the Commission recommends approval of the proposed amendments to Section 20.30, he cautioned that it will be incumbent upon the current and future Planning Commissions to take the environmental evaluation very seriously and determine whether sufficient information was provided and considered properly by staff. If staff has not requested the pertinent information, the Commission must do so. In addition, they should encourage citizens to attend hearings and point out deficiencies in the environmental process.

Commissioner Kaje said he does not particularly like the proposed amendments to Section 20.30, but he appreciates the procedural pickle the City is currently in. If the Commission chooses to support this set of amendments, he asked that they consider the following two recommendations to the City Council:

1. That the City Council direct the Planning Commission to take a very close look at the information that has been provided by staff and the information used by the Planning Director to make a SEPA determination. The Commission should actively seek to fill gaps in information, even if it means sending an application back and delaying a decision by months. They should not consider it an inappropriate burden to place on the applicant.
2. That the City Council direct the Planning Director to go through a process of defining or reviewing performance standards for what goes into making a determination so that staff does their work and gets the applicant to do their work in a timely fashion so there is a better product in the end.

   While he agreed with Chair Wagner that staff does a good job a lot of the time, he has found that staff has made decisions in the past based on SEPA checklists that were inadequate.

Commissioner Behrens said he does not see this issue as an opportunity to pass judgment on the work of the Planning staff. He said he understands the current legal requirements and the need for the code to be consistent with the WAC. He said he also wholeheartedly agrees with the need to have a very thorough process for reviewing environmental issues as part of the permit process. However, it is important to understand that once a SEPA determination has been made, it is not possible for the City to revoke the determination based on concerns raised by the Planning Commission. The only choice left to the Commission in these cases is to choose not to take action, which he believes would be a failure. Again, he suggested the best approach is to send applications for which an appeal has been filed directly to the Hearing Examiner. Although the Hearing Examiner currently hears most Type C actions, the City Council could decide at some point in the future to send all Type C actions to the Planning Commission. If this happens, the proposed amendment would basically eliminate the opportunity for administrative appeals for all Type C actions, leaving the only appeal opportunity to Superior Court.

Chair Wagner said that, in her mind, she suggested the Commission should be most concerned about situations where the Planning Director actually makes an error in judgment. She is not as concerned about appeals where staff has come to the right conclusion. Commissioner Behrens questioned who would be responsible to for deciding if an error has been made. He said he would like the City Council to provide clear direction as to exactly which Type C actions will fall within the Commission's purview and thus be impacted by the proposed amendments. If most Type C actions are heard by the Hearing

Examiner, the impacts of the proposed amendments would be limited. But he is not comfortable with eliminating the ability for administrative appeal for all Type C actions.

Commissioner Esselman recognized that the proposed amendments are not perfect, and they do not fit neatly within the City's current processes. However, they must make changes to comply with State law. She expressed her support for the proposed amendments, with the inclusion of Commissioner Kaje's additional recommendations to the City Council.

Commissioner Kaje noted the Commission is not suggesting that only actions that are conditioned or denied can be appealed. **He offered a friendly amendment that the second sentence of Section 20.30.680.A.1. be amended to read, "Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 . . ." Commissioner Behrens accepted the friendly amendment as proposed.**

Chair Wagner suggested that rather than including the two recommendations to City Council as outlined earlier by Commissioner Kaje as part of the proposed amendments, they could be forwarded to the City Council as a separate recommendation. She suggested they discuss which Type C actions the City Council would like the Commission to hear in the future at the joint meeting on November 8th.

COMMISSIONER KAJE MOVED TO AMEND THE MAIN MOTION TO UNSTRIKE THE FOLLOWING TEXT IN SECTION 20.30.560. THE LANGUAGE WOULD READ, "THE FOLLOWING TYPES OF CONSTRUCTION SHALL BE EXEMPT, EXCEPT: 1) WHEN UNDERTAKEN WHOLLY OR PARTLY ON LANDS COVERED BY WATER; 2) THE PROPOSAL WOULD ALTER THE EXISTING CONDITIONS WITHIN A CRITICAL AREA; 3) A REZONE IS REQUESTED; OR 4) ANY LICENSE GOVERNING EMISSIONS TO THE AIR OR DISCHARGE TO WATER IS REQUIRED." COMMISSIONER BEHRENS SECONDED THE AMENDMENT.

Commissioner Kaje said he understands the desire to avoid duplication. However, critical areas are places with tremendous ecological value, and they are becoming few. He said he does not believe it would be too burdensome to not have the exemptions apply to critical areas, but he could support an exemption for the buffer areas. He suggested this change would certainly compel an action to be rerouted through a buffer whenever possible instead of a critical area. Mr. Cohn explained that this change would require a SEPA checklist for actions within a critical area. It would not necessarily require an EIS.

THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED UNANIMOUSLY.

Commissioner Kaje asked staff to clarify the first sentence in Section 20.30.680.A.1, which states that only one administrative appeal of each threshold determination shall be allowed on a proposal. Mr. Forry said there cannot be numerous separate administrative appeals on a single proposal. If there are multiple appeals on varying issues, the hearing body would combine the appeals into a single hearing. As proposed, subsequent administrative appeals would not be allowed.

COMMISSIONER BEHRENS MOVED TO AMEND THE MAIN MOTION TO ADD A NEW SECTION 20.30.680.A.6 TO READ, "IN THE EVENT OF A DNS APPEAL ON A TYPE C ACTION HEARD BY THE PLANNING COMMISSION, THE APPEAL AND UNDERLYING ACTION WOULD BE HEARD BY THE HEARING EXAMINER." COMMISSIONER KAJE SECONDED THE MOTION.

Mr. Forry explained that, as proposed by Commissioner Behrens, the SEPA appeal would have to be heard at the same time as the action. Therefore, the Planning Commission would not be involved in the hearing process at all.

Commissioner Kaje suggested this is an option to keep in mind, depending on how things go over time. He reminded the Commission that things can be changed in the future if they recognize a problem. He said they must weigh the tradeoff between assuring the ability to appeal a DNS and the ability for a committee of citizens to weigh an action. Instead, appeals would go to a Hearing Examiner. While he is confident the Hearing Examiner would do a good job, it is a very different body.

Chair Wagner reminded the Commission that they have been asked to hear master development plan proposals. However, the current motion would eliminate the Commission's ability to review a master development plan proposal if an appeal is filed. That means that one of the recent master development plans would not have come before the Commission at all. Instead, these issues would be resolved by just one person. While the current proposal would satisfy one component very nicely, it would detract specifically from the more complex items that would benefit from a larger body having the ability to weigh in.

Commissioner Behrens pointed out that this would only apply to hearings where a SEPA appeal is filed. He also pointed out that the Commission has been charged with identifying a system that is speedy and organized and results in a product with certainty. He suggested these things are contraindicated by sending appeals to Superior Court. He agreed there is a tradeoff and potentially the Commission could lose the ability to hear some Type C actions, but only when an appeal is filed. The benefit is that the developer would not have to go through a period of uncertainty while waiting for the case to be heard in Superior Court. He emphasized that the Hearing Examiner would hold a public hearing, so the public would have the ability to become involved in the process.

Commissioner Broili said he understands what Commissioner Behrens is trying to accomplish, but he is concerned that some master development plan proposals would not come before the Commission for review if a SEPA appeal is filed. Master development plans impact a much greater area and have the potential of a much greater impact on the environment and neighborhoods. Because of that, they are probably the most likely to garner an appeal action over the SEPA determination. He does not want these actions taken out of the Commission's hands, since they are the most important for the Commission to hear and weigh in on.

THE MOTION TO AMEND THE MAIN MOTION FAILED 1-5, WITH COMMISSIONER BEHRENS VOTING IN FAVOR.

THE MAIN MOTION WAS APPROVED BY A VOTE OF 5-0-1 (COMMISSIONER BROILI ABSTAINED) TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.550, 20.30.560 AND 20.30.680 – ENVIRONMENTAL PROCEDURES (EXHIBIT 2), WITH TWO ADDITIONAL COMMISSION AMENDMENTS AND TWO FRIENDLY AMENDMENTS.

Commissioner Kaje reviewed his earlier suggestion that the Commission recommend the City Council direct the Planning Director and staff to review current SEPA determination processes and ensure there are appropriate standards in place. He explained that while the Commission recognizes and agrees that in most cases the SEPA determination is done quite well, it is good management practice to define standards for the level of information required of the applicant to support a determination. He also suggested that when reviewing Type C actions, the Commission should pay particular attention to whether or not there is substantial evidence presented to support the determination, which is one of the criteria used for challenging a DNS. While he understands that they cannot actually reverse a determination, they should give careful thought to make sure there is substantial evidence to support their ability to make a decision. While he has confidence that the current Commissioners will take this responsibility very seriously, he would like some assurance that future Commissioners will do the same. The Commission agreed to recommend the City Council:

1. Direct the Planning Director and staff to review current SEPA determination processes and ensure there are appropriate standards in place.
2. Encourage the Planning Commission to make sure they evaluate the adequacy of the environmental information and request additional information as needed.

The Commission agreed that at the joint meeting with the City Council on November 8th, they could invite the City Council to share their thoughts on the moratorium on Type C actions and what changes they anticipate in the future. Chair Wagner recommended the Commission ask the City Council to move forward with memorializing the current split of responsibility for Type C actions. Commissioner Behrens expressed concern that the Commission voted to recommend approval of the proposed amendments to Sections 20.30.550, 20.30.560 and 20.30.680 without having clarity of its impacts Mr. Cohn said the forwarding remarks that accompany the Commission's recommendation will point out the Commission's issues of concern.

Chair Wagner reviewed that the Commission has had an opportunity to ask questions, and they have heard no specific public comments on the proposed amendments to Section 20.70.

COMMISSIONER KAJE MOVED THE COMMISSION RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO SECTION 20.70 – ENGINEERING UTILITIES DEVELOPMENT STANDARDS (EXHIBIT 3) AS DRAFTED BY STAFF. COMMISSIONER ESSELMAN SECONDED THE MOTION.

Commissioner Kaje said he supports the proposed amendment to modify the provisions for single-family frontage improvements because there is currently a lack of nexus related to new or additional

impacts. The remaining amendments represent a clearly articulated reformulation of the code, which is an improvement to the existing language.

Commissioner Moss noted that the original language included a number of specific site references, which were removed in the new proposed language. She requested more information to support this change. Mr. Forry explained that as sections of the code were amended over the years, the amendments were noted at the end of each section. Since this chapter is being rewritten in its entirety, these notes are no longer necessary.

Commissioner Moss agreed that the proposed language is appropriate. However, she asked why "truck routes" were deleted. Mr. Forry answered that these are actually considered standard technical right-of-way issues, which are reviewed under a different set of standards than those found in the Development Code. Typically, the Development Code applies to activity within private property and not within the right-of-way. The truck routes are managed through a manual on traffic movements. They are also controlled under traffic studies. Commissioner Moss said this explanation also addresses her question about why site clearance at intersections was removed.

Chair Wagner requested clarification of Section 20.70.120.B.3. Mr. Forry explained that before the City would accept maintenance of those facilities listed, they would have to be dedicated to the public as opposed to being private facilities.

Chair Wagner suggested Section 20.70.150.A.2 be changed to read, "The dedicated area would provide passive and active recreation opportunities and nonmotorized linkages." Another option would be to remove the word "passive." Commissioner Kaje pointed out that this section refers to dedications of open space and critical areas that have been identified and are required to be protected as a condition of development (See Section 20.70.150.A). While some passive recreation may be appropriate in a critical area active recreation uses are not. Commissioner Broili questioned why the language should define either passive or active recreation spaces. Mr. Forry agreed that the word "passive" could be eliminated because the Critical Areas Ordinance defines what types of recreation areas are appropriate within critical areas.

The Commission accepted a friendly amendment to eliminate the word "passive" from Section 20.70.150.A.2)

Chair Wagner asked if Section 20.70.150.A is intended to be an exclusive list of conditions in which a dedication of open space and critical areas could occur. Mr. Forry answered affirmatively. Chair Wagner referenced Section 20.70.160.A, which uses the words "may," "shall" and "should." Mr. Forry explained that the intent is to review the level of importance.

Chair Wagner referenced Section 20.70.430.B.2, which makes the assumption that a new accessory structure would involve the siting or location of a new service connection. She asked if it would be possible to construct an accessory unit by building out an interior remodel. Mr. Forry noted that the qualifier in this section is "new." The language would not be applicable to an addition or remodel of an existing structure.

Commissioner Moss said she found the new language particularly complex to follow because it used the same numbers as those that were used before. She noted that some information remains in cyberspace for perpetuity, so using the same numbers could result in problems when people try to google certain code sections. She emphasized that she is not asking staff to change the numbering at this time, but they should keep this in mind for future changes.

Commissioner Moss suggested a friendly amendment to change Section 20.70.250.B by replacing all references to "streets" with "roads." She noted that using the term "streets" is inconsistent with the prior section, which indicates that north/south roadways are actually called avenues. Mr. Forry explained that in this section, the word "street" is used generically to include streets, avenues, places, boulevards, etc. However, he agreed that the language could be changed to provide consistency. Commissioner Kaje observed that streets are labeled by staff and not private property owners. Therefore, he is less concerned about changing the language to make it clearer for the general public to understand. Commissioner Moss withdrew her recommended change.

Commissioner Moss noted that the language was updated to indicate that basis for establishing a home's value would be "assessed value." She suggested this same change also be made in Section 20.70.320.B.2. Mr. Forry explained that the City tries to stay away from assessed value in this particular case because it's strictly talking about the structure. Using the generic term "value" allows the City the option of using the assessed value or appraised value to determine a building's value. Commissioner Moss withdrew her request.

THE COMMISSION UNANIMOUSLY APPROVED THE MOTION TO RECOMMEND APPROVAL OF PROPOSED AMENDMENTS TO CHAPTER 20.70 – ENGINEERING AND UTILITIES DEVELOPMENT STANDARDS (EXHIBIT 3), INCLUDING ONE FRIENDLY AMENDMENT.

COMMISSIONER BEHRENS MOVED TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.340 – AMENDMENT AND REVIEW OF THE COMPREHENSIVE PLAN (EXHIBIT 4). COMMISSIONER MOSS SECONDED THE MOTION.

Commissioner Behrens noted that the Commission has discussed this proposed amendment on numerous occasions, and he is comfortable with the intent of the proposed new language.

Commissioner Kaje referred to Section 20.30.340.E and asked if the Commission would actually send a revised draft docket to the City Council after their review. Mr. Cohn answered affirmatively. Commissioner Kaje recalled a previous Commission discussion and asked if the Commission would have the option of deciding not to move certain proposals forward to the City Council. **He suggested a friendly amendment to change Section 20.30.340.E to read, "The revised draft docket may include commission recommendations that reflect modifications or deletion of elements of the originally-submitted proposal."**

Commissioner Behrens noted that the Commission could also decide to forward a proposal to the City Council that was not included on the original docket. Commissioner Kaje questioned if it would be possible for them to add an additional amendment that was not part of the docket as of December 31st of the previous year. Mr. Cohn said that, in the past, there have been situations where the Commission has expanded a proposal to include additional properties. However, he felt they should only consider proposals that are submitted before the December 31st deadline rather than adding new amendments.

Commissioner Kaje said the point of his proposed amendment is to be more transparent with the public about the discretion the Commission might exercise in formulating their recommendation. He summarized that, as proposed, items that are deleted from the docket by the Planning Board, would no longer be included in the draft docket that is forwarded to the City Council. He recognized that the City Council would still have access to all of the original proposals.

The Commission agreed to accept the friendly amended.

Chair Wagner expressed her belief that the proposed amendments indicate that the Commission has listened to the public and attempted to address their concerns about bringing some predictability to the process. Staff has done a great job of setting up an appropriate, reasonable and concise process for moving Comprehensive Plan amendment proposals forward.

THE COMMISSION UNANIMOUSLY APPROVED THE MOTION TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.340 – AMENDMENT AND REVIEW OF THE COMPREHENSIVE PLAN (EXHIBIT 4), INCLUDING A FRIENDLY AMEMNDMENT.

Mr. Cohn recalled that, in the past, the Commission has discussed the option of using *CURRENTS* to provide information about upcoming Commission topics. However, since it is not always possible to publish information in *CURRENTS,* staff deliberately decided not to include the concept as part of the draft amendment. He suggested the Commission remind the City Council of their desire to publish information in *CURRENTS* when they meet jointly on November 8th.

COMMISSIONER MOSS MOVED THE COMMISSION RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO EXHIBIT 5 (ATTACHMENT 4 IN STAFF REPORT). COMMISSIONER KAJE SECONDED THE MOTION.

Commissioner Moss recalled the Commission had a previous discussions about the definition of "root mat width" (See Section 20.50.520), which is assumed to be the same width as the canopy unless otherwise documented in a credible print source. She requested feedback from her fellow Commissioners regarding the appropriateness of this definition. Commissioner Broili recalled that rather than using canopy, there is an actual arboreal method for defining the outer perimeter of a root mat. While he can't remember the exact formula, he did forward this information to staff previously.
Mr. Forry pointed out that the only amendment proposed for this section is editorial. The reference to Section 20.70.170 would be deleted and replaced with a reference to the Engineering Development Guide. Mr. Cohn said he suspects that this issue was addressed in another section, but was not carried

over to Section 20.50.520. Mr. Forry said that if the Commission desires, staff could bring back an additional amendment to clarify the term "root mat width." Commissioner Broili observed that the term "root mat width" is used correctly in all cases except the third sentence of Section 20.50.520. He agreed to forward his information to staff again. The Commission agreed it would be appropriate to recommend approval of the staff's proposed amendments, with the understanding that Section 20.50.520 would be brought back to the Commission at some point in the future to address the issue of "root mat width."

Commissioner Esselman pointed out that in the last sentence in Section 20.50.520, the word "site" should be replaced with "sight."

THE MOTION TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO EXHIBIT 5 (ATTACHMENT 4 IN STAFF REPORT) WAS APPROVED UNANIMOUSLY.

Closure of Public Hearing

The public hearing was closed.

LEGISLATIVE PUBLIC HEARING ON COMPREHENSIVE PLAN AMENDMENTS

Chair Wagner referred to the rules and procedures for the public hearing and noted that there was no one in the audience to participate. The hearing was opened and staff was invited to present the Staff Report.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Cohn referred the Commission to the five proposed Comprehensive Plan amendments. He noted that staff agrees with the Commission's recommendation that they not propose any changes to the appropriate zoning designations. However, they would like to discuss the concept again as part of the overall Comprehensive Plan update. He reminded the Commission that the proposed amendments are considered minor. Mr. Szafran noted that the word "may" was added to each of the proposed zoning designations to make it clear that just because a zoning designation is included on the list does not mean a rezone to one of the designations on the list would be automatically approved. This decision would be based on the individual circumstances of a property.

Questions by Commission to Staff

For clarification, Mr. Cohn advised that Mixed-Use (MUZ) is a zoning designation, and Regional Business (RB) is a Comprehensive Plan designation. He noted that this would be made clearer when the Comprehensive Plan is updated in the near future. Commissioner Moss noted that Regional Business is identified as a potential appropriate zone in Land Use (LU) Policies LU-17, LU-18 and LU-19. Mr. Cohn agreed it would be appropriate to replace RB with MUZ.

Public Testimony

There was no one in the audience to participate in the public portion of the hearing.

These Minutes Approved October 21st, 2010

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

September 16, 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
Paul Cohen, Senior Planner, Planning & Development Services
Jeff Forry, Permit Services Manager
Flannary Collins, Assistant City Attorney
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:03 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 approved as submitted.

DIRECTOR'S COMMENTS

Mr. Cohn did not provide comments during this portion of the meeting.

APPROVAL OF MINUTES

The dinner meeting minutes of August 19, 2010 were approved as submitted, and the regular meeting minutes of August 19, 2010 were approved as amended.

GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, said he is on the Board of Director's for Northwest Center, and they want to build a facility for people with disabilities in the City of Shoreline. They would like a letter in writing from the City regarding the process.

Chair Wagner recognized Mayor McGlashan, who was present in the audience.

LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (#301650 AND #301642)

Chair Wagner reviewed the rules and procedures for legislative public hearings. She announced that the Commission received a number of items via email, and a desk packet was provided at the meeting. Because some Commissioners did not have an opportunity to read all of the items, they agreed to take a break after the staff presentation.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Forry reviewed that the Commission has held several study sessions on the proposed amendments, and notice of the hearing was provided in *THE SEATTLE TIMES,* the Planning Commission's webpage, and the Development Code webpage. In addition, notices were submitted to the Department of Ecology (DOE) through the Department of Commerce as required. Staff reviewed the proposed amendments as follows:

- **Modify Chapter 20.30, which deals with the State Environmental Policy Act (SEPA), to remove the requirement for SEPA review of categorically exempt projects that are located within critical areas.**

  Mr. Forry referred to the proposed amendment that would eliminate the review of otherwise exempt action in critical areas. He explained that, currently, the code provides that environmental review is required for any proposal that is conducted within a critical area or critical area buffer. This provision came from SEPA and originally referred to "critical areas" as "environmentally sensitive areas." He explained that, since that time, the City adopted a Critical Areas Ordinance under the provisions of the Growth Management Act (GMA) that requires the use of best available science. Staff now believes that the City's Critical Areas Ordinance has matured to the point where the SEPA tool no longer provides additional protection. Therefore, they are recommending removing the requirement for SEPA review of categorically exempt projects that are located within critical areas. He emphasized that the proposed amendment would not eliminate the review of items that rise above the current thresholds (more than 4 single-family dwelling units, more than 4,000 square feet of new commercial space, clearing and grading over 500 cubic yards). Nor would it eliminate permit provisions for those activities that are conducted in or around critical areas, which would still be subject to review under the City's current standards.

Mr. Forry explained that the environmental review (SEPA) is very narrow and only addresses a proposed structure's impact to a critical area. It does not address the proposed development itself. Therefore, there is a tendency to look at deficiencies in the Critical Areas Ordinance during SEPA review. Staff suggests a better approach is to reevaluate weaknesses and discrepancies in the Critical Areas Ordinance, if appropriate, as a separate issue.

- **Modify Chapter 20.30, which deals with the State Environmental Policy Act (SEPA), to change the appeal process for Type C quasi-judicial actions.**

Ms. Collins explained that the current language allows for the underlying open record public hearing on a permit application to be heard by the Planning Commission for most Type C actions. However, the Hearing Examiner is supposed to hear administrative appeals to SEPA. This results in a split of authority and is inconsistent with the Revised Code of Washington (RCW), which requires that the issues be consolidated into a single hearing and heard by one body. The proposed amendment is intended to address this discrepancy. She reminded the Commission that State law does not require the City to have an administrative SEPA appeal. They can choose to offer it or not. As per the proposed amendment, administrative SEPA appeals would still be provided for Type A and B actions, but they would be eliminated for Type C actions. She acknowledged there are other options to address the issue. For example, the City could transfer all Type C review authority for the underlying permit (master plans, rezones, etc.) to the Hearing Examiner, including the SEPA appeal. Another option is for the Planning Commission to retain all Type C permit review and hear all SEPA appeals or for the Commission to hear Type C permits and the City Council hear SEPA appeals.

Ms. Collins said that neither the City Attorney's Office nor the City's insurance authority recommends the Planning Commission or City Council hear SEPA appeals because they are very litigious in nature. She explained that, typically, SEPA decisions are appealed based on procedural issues, and Hearing Examiners are very familiar with how to hold appeals and limit the issues. Other bodies are not as familiar with the process.

Mr. Forry said that as requested earlier by Commissioner Kaje, staff researched comparisons from other jurisdictions in the area. They found that each jurisdiction is different in the way their structure their permits and assign them to a hearing body. In addition, the authority of the various hearing bodies differs greatly. Therefore, it was difficult for staff to draw a straight-line comparison. Staff believes the City's current process fits their permit structure. He explained that, at this time, the Hearing Examiner and Planning Commission conduct an open record hearing, and any SEPA evaluation issued by the Planning Director is still brought before the Planning Commission in its entirety for consideration as part of the record. Testimony can be taken at the hearing on all of the issues. A complete record can be formed during the Commission or Hearing Examiner hearing, but it would not be considered complete until the City Council has issued a decision or approved a permit. The conditions would be very clear and well-established at that point, and appeals would go to the Superior Court.

Mr. Forry explained that, even though the Planning Director might issue a SEPA decision on an application, the conditions are based on the information received up to that point. Through public

testimony, the Hearing Examiner may identify additional mitigations. These could be added without having to go through an appeal process. Staff believes the City's current process is a bit redundant, depending on what they are trying to accomplish with the public hearing and appeal processes. He suggested the Commission ask themselves if an appeal is intended to be a mechanism to look at a failure in the procedure or decision making process, or is it a mechanism to delay a project. If it is truly a mechanism to look at failures in the process, the Commission and the Hearing Examiner should have an opportunity to create a full record for the City Council to make a final decision. That is why staff recommends that appeals on Type C actions be judicial and not administrative. This would not eliminate any of the administrative processes for Type A and B actions.

- **Rewrite of Chapter 20.70, which deals with engineering guidelines, by moving the technical standards from Chapter 20.70 to the Engineering Development Guide.**

Mr. Forry explained that, from time to time, staff evaluates how the City is doing business and what technical standards are used during plan review. There are technical standards in place in the Engineering Chapter of the Development Code, primarily with regard to access management, that had no relationship or point in time; and they did not point to a particular engineering manual that staff could identify. Staff is recommending these technical standards be removed from the Development Code and placed in the Engineering Development Guide, which includes all of the various technical engineering manuals adopted by the City. However, when the technical standards were removed, Chapter 20.70 became very fragmented and staff decided to restructure and re-write the provisions in the chapter.

- **Rewrite of Chapter 20.70, which deals with engineering guidelines, by modifying the provisions for single-family frontage improvements.**

Mr. Forry said staff is recommending an amendment that would remove the frontage requirements for individual single-family dwelling units and additions and alterations to single-family dwelling units. He explained that, currently, the Development Code requires frontage improvements for additions and alterations to single-family dwelling units that exceed 50% of the assessed value of the property and structure. In their review of the provision, staff found the City was asking property owners to do system improvements under a permit that was not generating an impact. The need for frontage improvements is not caused by a remodel, replacement or construction of a single dwelling unit.

Mr. Forry said staff also found that the City is asking property owners to dedicate right-of-way to implement the frontage improvements. However, by law, the City is required to pay for this right-of-way, and the City is not in a position where they need or want to acquire additional right-of-way. In light of the transportation impact fee proposal that will be coming forward for City Council consideration in the future and because the City cannot draw a nexus to the requirement, staff is recommending the requirement be eliminated for individual single-family dwelling units. However, the proposed amendment would not eliminate frontage improvements for other types of development such as commercial, multi-family, subdivisions, short plats, etc. The City will continue to ask for frontage improvements on any project that would have an impact on the road system. In addition, the amendment would not eliminate the City's ability to ask for improvements to the right-of-way to

correct a safety issue that may exists when a new house is constructed or an existing house is remodeled.

- **Add a new section (20.33.040) to the Development Code to formalize the process for creating an annual Comprehensive Plan Amendment docket for City Council review.**

  Mr. Cohn said the City has never had a formalized process for their Comprehensive Plan docket, which means it changes somewhat from year to year. Staff believes it is appropriate to formalize the process at this time. The proposed amendment states that proposals would be accepted throughout the year, but the deadline would be the last business day in December. It further states that the public would be notified of the deadline three weeks prior to the closing date. At a minimum, the deadline would be advertised in the local newspaper and available on the City's website. After the deadline, all proposals would be posted on the City's website, and a draft docket would be presented to the Planning Commission for review. The docket recommended by the Planning Commission would be posted on the City's website and forwarded to the City Council, who would establish the final docket. Once the final docket has been established, staff would analyze each amendment and provide a recommendation to the Commission. The Commission would review each of the amendments throughout the year and forward a recommendation to the City Council for final approval.

Mr. Forry noted that some of the public comments in the Staff Report were brought forward from previous study sessions and public hearings. They also received additional comments today. One issue was regarding the permitting process, which is not really germane to tonight's discussion, but is germane to the Commission's discussion on process and how they implement the regulations. There was a question about the process used by the church on 155th and 15th for their major expansion project. He noted that City records indicate that the owners of the church property went through a conditional use process in 1999 and 2000, which was a public process and comments were taken. A SEPA review was conducted and a Mitigated Determination of Significance (MDNS) was issued that allowed the project to go forward.

Mr. Cohn entered the following items from the Desk Packet into the record:

- **Exhibit 5:** Minutes from the May 6, 2010 Planning Commission Meeting.
- **Exhibit 6:** Minutes from the June 17, 2010 Planning Commission Meeting.
- **Exhibit 7:** Minutes from July 15, 2010 Planning Commission Meeting.
- **Exhibit 8:** Comment letter from Ms. DiPeso submitted at the June 17, 2010 Planning Commission Meeting.
- **Exhibit 9:** Comment letters from the May 6, 2010 public hearing desk packet.
- **Exhibit 10:** An email chain between Ms. Phelps and Joe Tovar dated July 12, 2010.
- **Exhibit 11:** An email from Mr. Marinac dated July 12, 2010.
- **Exhibit 12:** A comment letter from Mr. Scully dated July 12, 2010.
- **Exhibit 13:** An email from Ms. Roth dated July 13, 2010.
- **Exhibit 14:** An email from Ms. Kellogg dated September 14, 2010.
- **Exhibit 15:** An email from Ms. Kellogg dated September 14, 2010.

- **Exhibit 16:** A letter transmitted by email from Ms. Kellogg dated September 14, 2010.
- **Exhibit 17:** An email from Ms. Kellogg dated September 16, 2010.
- **Exhibit 18:** An email from Ms. Kellogg dated September 16, 2010.
- **Exhibit 19:** A comment letter from Mr. Scully dated September 16, 2010.

Mr. Cohn noted that staff received a number of suggestions about improving public outreach, particularly dealing with advertising public hearings. He expressed his belief that staff has met the letter and spirit of the law in this case, as they do in most cases. They advertised the hearing in *THE SEATTLE TIMES,* sent information to the state, posted information on the Planning Commission webpage, and email links were sent to a list of more than 200 individuals. However, staff is currently researching the suggestion that the City's home page include an announcement of upcoming Planning Commission and City Council public hearings. Staff believes this is a very good idea, and they will try to make it a reality.

Questions by Commission to Staff and Applicant

Commissioner Behrens observed that the majority of the public comment letters and emails address the proposed amendment related to categorical exemptions for SEPA that has apparently been dropped. Mr. Cohn agreed that this amendment is not a subject of tonight's hearing. Commissioner Behrens questioned how necessary it is for the Commission to review public comments on an amendment that is no longer before the Commission for consideration. Mr. Cohn agreed that the bulk of the comments received to date talk about items that are not currently before the Commission for review. He suggested it would be appropriate for the Commission to have a retreat discussion about what information would be appropriate to include in the Commission packets for legislative public hearings.

The Commission recessed the regular meeting at 7:40 p.m. to review Exhibits 10 through 19, which were part of their desk packet. The meeting reconvened at 7:54 p.m.

Vice Chair Perkowski referred to the proposed amendments to Chapter 20.30 and asked if other jurisdictions are having the same issue with State law as it relates to SEPA appeals. Mr. Forry answered that the City is one of the few that has a split hearing process. Most jurisdictions have one hearing body that hears both the open record hearing and the SEPA appeal.

Ms. Collins clarified her earlier comment that there is an option for appeals to go to the City Council. She explained that State law includes an exemption that allows the City Council to hear SEPA appeals that are not consolidated with the underlying permit hearing. Mr. Forry added that if the Council were to hear SEPA appeals they would be closed record hearings, and the focus would be on the environmental process. They would not be allowed to hear other issues regarding the proposal, and they must rule only on the evidence of record and the findings imposed by the hearing body. He summarized that this would be a very complicated and narrow appeal process.

Vice Chair Perkowski asked what the risk would be if the City does not amend the current process. Ms. Collins said they must take action one way or another because they are currently out of compliance with the RCW.

Commissioner Behrens said he was somewhat encouraged by Mr. Forry's comment that SEPA issues could be raised as part of an open record hearing before the Planning Commission for Type C actions. He asked how staff foresees this happening. Mr. Forry responded that if, in their review of an application, the Commission finds that an environmental document and its associated mitigation are weak, they can use their conditioning authority to clarify mitigations and to look at the adequacy of the mitigations based on the testimony and the information at hand. However, any additional conditions they recommend must be based on ordinances, rules and policies.

Commissioner Behrens said he feels better about the proposed change that would eliminate appeals for Type C Actions because the Commission and City Council would have the ability to carefully consider environmental issues as part of their decision-making process. He suggested the process be formalized to provide clear direction to the public about when they should raise environmental issues. Mr. Cohn agreed that would be a good idea for master plan applications because the Commission has the right to condition their approval. However, it would be more difficult to implement this concept for rezone applications because the Commission does not have the right to condition them. If people raise issues during a rezone hearing that have not been addressed, the Commission can use this information to decide whether or not to recommend approval of the rezone.

Commissioner Behrens expressed concern that the Commission would be forced to make decisions on whether to approve or disapprove a rezone even if they feel that serious environmental issues need to be addressed. They would not have the ability to hold up the rezone until the impacts have been mitigated. Mr. Forry said that, typically, impacts associated with rezones are most likely related to subsequent development projects. Most projects that would rise to the level of having a significant impact would be evaluated under SEPA anyway, and impacts could be addressed at that time. The purpose of a rezone process is to validate whether or not the zoning is in conformance with the underlying Comprehensive Plan policies. While a public hearing is required and SEPA is involved, the necessary impacts are not large because, in theory, most of the environmental analysis has been done through the Comprehensive Planning process and the specific environmental impacts of a project would be reviewed at the project level.

Commissioner Kaje observed that, as proposed, if the Planning Director issues a DNS for a Type C action, there would be no way for the Commission to compel the level of analysis that would happen through an Environmental Impact Statement (EIS). Mr. Forry agreed. Commissioner Kaje said he can foresee situations where the Commission refuses to make a decision, sending staff and/or the applicant back to the drawing board to address environmental impacts that should have been considered as part of an EIS. Mr. Forry explained that when a proposal comes forward, the Commission has the option to recommend approval, denial or approval with conditions. If they feel the information is inadequate, they could choose not to act and remand the issue back to staff for further consideration or recommend that the City Council not act on a proposal, and the applicant would be required to refine the application if they want it to move forward. Other options would be to condition it sufficiently to move it forward or to request that staff reconsider their environmental determination, which requires an official process. He said that as more information becomes available, it would be incumbent upon staff to reevaluate their SEPA determination.

Commissioner Behrens said he understands that the City's current appeal process for Type C actions conflicts with the WAC. However, he believes it is appropriate to have another body other than the Commission make decisions related to SEPA since they would be able to isolate their decisions to just the environmental portion of a proposal. He expressed concern that requiring the Commission to request a re-evaluation of a SEPA determination would place them in a difficult position. He would prefer to avoid this possibility entirely. Mr. Forry said that is exactly what the proposed language is intended to accomplish. If the Commission were the formal appeal body, they would be required to function under a very structured environment with very stringent rules. The Commission would craft a very strict record that could go to a judicial appeal. They have much more flexibility during a quasi-judicial hearing before the Planning Commission than they would have if they were conducting the hearing in tandem with an appeal under SEPA. That is why staff recommends they not eliminate appeals, but that the appeals happen after the record is formed and all the conditions have been applied. Courts have recognized in their analysis of SEPA appeals that this type of process could extend the review period, but they also recognized that additional time is already built into the legislation. While it is an option, he said staff does not believe the City's current system lends itself to administrative appeals of Type C actions. The Commission should feel comfortable raising their concerns to staff and requesting additional information to help them make an informed decision, and it is totally appropriate for the Commission to determine they do not have enough information to make a recommendation.

Public Testimony

Debbie Kellogg, Shoreline, said it was useful to finally hear the truth come out about why staff wants to dispense with administrative appeals. Previously, staff stated that the purpose was to promote business development and make the process more predictable. Staff has now indicated they believe people file appeals just to hold up the process, and not to make a better project or to see that the process is fair, just and complete. She noted that over the past 25 years, less than 25 appeals were filed for Type C projects. Of those appeals, only about four were Type III appeals. She summarized that staff is proposing to not even allow an avenue for appeals on Type C projects, which are the most intensive land use actions. She said she finds the proposed amendment mind boggling, and she cannot understand how staff could advocate for the change. She suggested it would be prudent for the City to develop a more granular approach for separating the types of land use actions and how to treat them, instead of cramming them into three types. They should redo the entire process instead of trying to make the current process work.

Commissioner Behrens asked how Ms. Kellogg would address the current conflict with the WAC. Ms. Kellogg suggested they study what other jurisdictions do. For example, Bothell and Issaquah separate land use actions into much more detailed and multi-tiered levels. They base their process on the type of project and how intense it will be. They have established different types of review boards, and assign projects to different types of review authorities. This allows them to get around the conflicts with the WAC because the review bodies also hear the appeals. Again, she suggested that they redo the entire program instead of looking at the problem the same way over and over again.

Elaine Phelps, Shoreline, expressed her belief that a democracy is messy, and tyranny is very efficient. She suggested that when the City removes the citizens' opportunity to provide input and their accessibility to information and participation in very important local decision, they are removing one of

the most important aspects of democracy. It is important for people to know what is going on so they can have a say before action is taken. Anything that diminishes the public's ability to participate is that much less democracy and that much less successful. These types of changes create antagonism and dissention between City staff and the citizens. She urged the Commission to think about how democracy works best. Land use decisions should be made in the local neighborhoods.

Wendy DiPeso, Shoreline, expressed her belief that eliminating administrative appeals would mean citizens would have no recourse except Superior Court. Someone recently said that, "anytime a citizen has to sue the City, that represents a failure." She suggested that, in this case, it also represents an avoidable expense. She observed the irony of tax dollars being spent to defend the City in court against taxpayers who are just watching out for the best interest of their community. In a perfect world, all the codes and land use regulations would be supportive of a healthy community and enforced consistently. In a perfect world, developers would use best-use practices that improve the environment and provide value to the neighborhood. In a perfect world, we would not need a court system, and there would not be contempt of court assessments against the City staff or reason for any appeals. However, they do not have a perfect world, so they are doing the best they can with what they have to work with. She suggested that an appeals process that is outside the court system is a valuable tool that any community needs to stay healthy. She summarized that allowing the City Council to handle administrative appeals would meet the requirements of the Revised Code of Washington (RCW) and retain the right of the public to have a say in issues that affect them.

David Pyle, Shoreline, submitted written comments for the record. He said he was present to talk specifically about the proposed amendment to Chapter 20.30, which would remove the requirement for SEPA review of categorically exempt projects that are located within critical areas. While he fully appreciates staff's reasoning, he suggested they have gone one step too far by exempting projects in all critical areas and not just the critical area buffers. He noted that a whole host of exemptions apply to critical areas under WAC, unless the City specifically states they do not. They have heard from staff that the proposed amendment is generally recommended, but they did not indicate who is making this recommendation. He observed that there is a series of exemptions that do not apply to critical areas, which are sensitive resources in the City. That means that certain actions require SEPA review, which gives the community an opportunity to comment on a proposal. He referred to Chapter 20.80.030 (Exemptions) and said that while it may appear that if SEPA is not required, another permit would be required to address environmental issues. However, this alternate permit may not have an appeal mechanism or a notice requirement. He suggested that Item L in Section 20.80.030. could be interpreted to mean the City could exempt anything and there would be no appeal period or permit requirements except for a basic clearing and grading or building permits. A developer could potentially fill a wetland.

Commissioner Behrens asked Mr. Pyle how he would change the proposed language. Mr. Pyle referred to his written comments, and recommended the language be changed to read, "The following types of construction shall be exempt, except: 1) When undertaken wholly or partly on lands covered by water; and 2) the proposal would alter the conditions of a critical area or stream critical area buffer defined by SMC 20.80."

He explained that right now, the City requires SEPA when work is done within the buffer area, which is ridiculous in most cases. The City is losing out on competitiveness. No one wants to do work in the City because they have to do SEPA every time they get near the buffer. He suggested that the core of SEPA and the Growth Management Act (GMA) is the protection of critical areas resources, which is the actual critical area (wetland, steep slope, etc.) and not the buffer. Anytime someone is proposing to alter or modify a critical area, SEPA should be done. He summarized that the community wants critical areas to be protected, and that is the purpose of the ordinance.

Vice Chair Perkowski observed that work within a wetland would not be exempt under the Critical Areas Ordinance. Therefore, SEPA would be required. Mr. Pyle answered that as per the proposed amendment, any work done within a wetland that meets one of the exemptions would not require SEPA review. That means you could remove up to 500 cubic yards of fill within a wetland without doing SEPA review because it would be exempt. While a permit may be required, the exemptions would determine the type, and the proposed language opens the door to political abuse.

Boni Biery, Shoreline, provided an example of a recent situation that occurred in the City and asked the Commission to consider what doing away with administrative appeal would mean for the citizens. She said she lives a few blocks from the CRISTA Campus, and they recently went through the master development plan process. Almost everyone in the neighborhood was upset with some of the decisions that were made, but no one could afford to take their concerns to judicial review. One person did so only because a brother was a land-use attorney who paid for it. The proposed amendment would put appeals out of the price range of the regular tax-paying citizens and place them into the favor of developers who can afford the process. If that's the intent, getting rid of the administrative appeal is a good idea.

Chair Wagner cautioned the Commission from commenting on the CRISTA Master Plan since there is a pending appeal.

Vice Chair Perkowski asked Ms. Biery what hearing body she would recommend for appeals to Type C actions. Ms. Biery said she cannot give them a recommendation at this time. She can only tell the Commission how it feels to think that she has to have a very large sum of money to even consider an appeal. This eliminates the citizens' ability to participate in the process.

Commissioner Behrens observed that the Commission is faced with a dilemma. The WAC says they can only have one hearing before a single hearing body. It appears from the public comments, that citizens are asking a voluntary organization to act in a very complicated legal process that they are probably not qualified for. He said he would be very uncomfortable trying to wade through a SEPA hearing, and the City Council would likely feel the same way. Ms. Biery said she appreciates this concern. While she does not have an answer, the one thing she has heard tonight that makes sense is to look at the problem in a new way.

Final Questions by the Commission

In response to Commissioner Behren's previous question, Mr. Forry said staff looked at how the proposed amendment would apply to what staff believes is a very streamlined and appropriate permitting

system given the level of permits and types of actions the City deals with. Part of his task is to review the City's current process to see how they reflect the community's needs and what the City is trying to accomplish with goals, visioning, etc. He also considers input from the City Council and the community. Dismantling a system that seems to be working fairly well most of the time to address a structural flaw to be compliant with State law seems almost over the top. The choices are very narrow. It is a matter of deciding what path the Commission and City Council want to take. Staff still recommends going with a judicial appeal.

Mr. Forry explained that the proposed amendment would not eliminate public participation in a very public process. The intent is to change the method of appeal. He observed that an individual could go through the process of formulating an appeal in an open record public hearing, with the Commission acting as the hearing body. If the Commission reaches the same conclusion as before the appeal, the individual's next course of action would be to appeal the decision to Superior Court. He said he would not recommend going through a wholesale change of the City's regulations at this point

Ms. Collins pointed out that the criteria for Type C actions include a lot of environmental consideration. Therefore, requiring an additional SEPA review for these applications would be a duplication of process. She emphasized that, as per the proposed amendment, the public would not lose their ability to comment regarding environmental issues, and the City's ability to condition a project based on the Critical Areas Ordinance is more excessive than with SEPA, particularly in regard to a master development plans.

Chair Wagner asked what the appeal process would be if someone did not like a condition that is imposed on an applicant to address an environmental impact. Ms. Collins answered that these appeals would go to Superior Court, as well.

Commissioner Kaje summarized that previous conversation has implied that it would be too difficult for the Commission to take on an appeal role, and he respects the staff's recommendation that neither the Commission nor the City Council should do so. He observed that, currently with Type C decisions, the Planning Commission conducts the hearing and forwards a recommendation, but the City Council makes the final decision. Appeals to City Council decisions must go to Superior Court as per Section 20.30.200 of the Development Code. He summarized that they are not talking about the Commission hearing an appeal on the permit decision. As per the WAC, only two things can be appealed procedurally: the final threshold determination and the final EIS.

Commissioner Kaje referred to Section 20.30.210 (Grounds for an Administrative Appeal) of the Development Code, which states that the "grounds for filing an appeal shall be limited to the following: A) the director exceed his/her jurisdiction or authority; B) the director failed to follow applicable procedures in reaching the decision; C) the director committed an error of law; or D) the findings, conclusions or decision prepared by the director or review authority are not supported by substantial evidence." He agreed the Commission should not have appeal authority for appeals related to Reasons A and C, but they could possibly serve as the hearings body for appeals related to Items B and D. He reminded the Commission that their purpose is to consider substantial evidence. He suggested they separate the appeal types into separate categories. The Planning Commission could hear appeals related to Reasons B and D, and appeals related to Reasons A and C could go before another hearings body. He

noted that State law does not even require SEPA appeals. Therefore, it appears they can be somewhat choosy in how they are done. He noted that implementing this approach would require a change in Section 20.30.200.A, which is a general statement about appeals.

Ms. Collins asked what would happen in the case of an appeal that is not limited to Reasons B and D or Reasons A and C. Commissioner Kaje replied that if they choose to cite either A or C as the reason for their appeal, they would have to go to a higher hearings body. Only appeals related to Reasons B and D could go before the Commission for review. Ms. Collins said this approach would be unique and complicated to implement but could comply with State law. Staff agreed to consider this option further.

Vice Chair Perkowski asked for an example of how Commissioner Kaje's recommendation would play out. Commissioner Kaje reminded the Commission that the appeal would have to be related to a threshold determination or the final EIS. The proposed concept would not be applicable to appeals related to the final permit, which is a City Council decision. As per his proposal, appeals to the threshold determination or the EIS would come before the Commission in conjunction with the public hearing on the permit application. If the Commission decides the SEPA determination is appropriate, they would move onto the open hearing for the permit application. If they decide the SEPA determination is inappropriate, the application would be remanded back to staff for further review.

Vice Chair Perkowski asked staff to describe the City's current process for reviewing appeals to a SEPA determination before an application is presented to the Commission or City Council. Ms. Collins answered that the SEPA determination cannot be challenged before the matter comes before the Commission for review. The proposed amendment would create the ability for someone to challenge a SEPA determination before an application is presented to the Commission for review. That means that before the Commission even talks about the criteria and conditions they want to place on a permit, they will consider whether the environmental review adequately addresses the impacts. Mr. Forry added that any SEPA appeal would be heard at the same hearing as the permit application. The Commission would conduct two separate public hearings on the same evening: one for SEPA and another for the project, itself.

Commissioner Behrens asked if an applicant would be able to appeal for Reasons A and C at a later date if the Commission denies their appeal for Reasons B and D. This could result in a legal quandary of having two SEPA appeals. Commissioner Kaje noted that there is a deadline for appealing SEPA determinations. However, Mr. Forry said that as long as there is an appeal action in process, the timeline would not be limited.

Vice Chair Perkowski referred to Mr. Pyle's comments regarding the proposed amendment to Chapter 20.30, which would remove the requirement for SEPA review of categorically exempt projects that are located within critical areas. Mr. Forry said that Mr. Pyle was referring to the list of over 40 categorical exemptions under SEPA, and not the exemptions listed in the Critical Areas Ordinance. He recalled that the Commission and City Council went through a process to evaluate the criteria in the Critical Areas Ordinance and identify those activities that are not significant and could be allowed within a critical area or a buffer with no additional environmental evaluation. He explained that if the City is not comfortable allowing an open-ended exemption at the discretion of the Planning Director, they need to reevaluate and

possibly amend the Critical Areas Ordinance. They cannot use SEPA to evaluate the inadequacy of the Critical Areas Ordinance. Staff recommends that the level of review provided under the normal stormwater regulations, land-development regulations, and permit criteria give adequate protection. Therefore, SEPA seems a bit redundant in this particular case.

Vice Chair Perkowski asked why the City could not eliminate some of the exemptions from the Critical Areas Ordinance. Mr. Forry said it is possible to eliminate some of the exemptions identified in the Critical Areas Ordinance, but State law is very specific on how the SEPA evaluation is enacted. The City must choose a level of categorical exemption, and then decide whether or not it would apply to critical areas. For instance, citing of a cell tower that is under a certain height and size is categorically exempt under SEPA. To have it affected by the critical area SEPA component, the City would have to say whether or not it is exempt as it pertains to SEPA. This would not be written into the Critical Areas Ordinance, since the items in the Critical Areas Ordinance are intended to identify certain activities that are allowed without additional evaluation.

Commissioner Kaje referred to Section 20.80.030.B.4 (exemptions) of the Critical Areas Ordinance, and said it is very common to have exemptions for utilities. However, the proposed change for SEPA may result in a double loophole for projects that are of a scale that should have triggered closer review. For example, if they remove the language from Section 20.30.560 as proposed, there would be no review based on either SEPA or the Critical Areas Ordinance if a 499-yard fill is done for a utility project. Mr. Forry emphasized that the proposed change would only apply to those activities that fall below an exempt threshold. The relocation of a sewer line may be exempt from strict compliance with the Critical Areas Ordinance criteria if it is mandated by the City. However, most sewer lines are over 8 inches in size and would still require environmental review. The proposed amendment merely takes away the SEPA review on those proposals that would otherwise be categorically exempt. A cut and fill of 100 cubic yards is categorically exempt under the SEPA rules, but if it occurs in or around a critical area, SEPA would be required by the Critical Areas Ordinance. He summarized that staff believes the existing regulations in the Critical Areas Ordinance are adequate to address these situations. In addition, an applicant would need approval from the Department of Ecology and from the Corps of Engineers if a wetland is involved.

Commissioner Behrens referred to Item I of Section 20.33.040, and asked if all of the required analysis must be done by the applicant at the time a site-specific Comprehensive Plan amendment is submitted. Mr. Cohn said staff would likely allow applicants to submit site-specific Comprehensive Plan amendments without the required analysis for the draft docket. However, after an item has been placed on the final document a few months later, a complete application would be required. Commissioner Behrens suggested that the time frame and application process should be made very clear in the language. Mr. Cohn concurred and agreed to make the appropriate changes.

Mr. Cohn explained that when site-specific Comprehensive Plan amendments are submitted in conjunction with a rezone application, the two items would be bundled into one public hearing before the Planning Commission and the more stringent quasi-judicial process would be applied. He noted that a Comprehensive Plan change is a policy question, and the City Council tends not to give the Hearing Examiner policy questions to deliberate on.

Vice Chair Perkowski referenced Items F and J of the proposed new Section 20.33.040 and voiced his opinion that the language is vague as to the Planning Commission's role in the docketing process. Mr. Cohn explained that the Commission would review the proposed amendments on the final docket based on criteria found in the Comprehensive Plan. However, their review of the draft docket would be a general decision that is not based on any particular criteria. The Commission agreed that this information should be clearly spelled out in Items F and J. Vice Chair Perkowski also recommended that the language in Item J should make it clear that the proposed amendment may be altered and revised by the Commission as part of their review and recommendation to the City Council.

Commissioner Esselman asked if the Fire Department has provided comments about the process for identifying addresses for accessory dwelling units that are developed on single-family lots. Mr. Forry answered that the City utilizes the criteria in the International Fire Code for establishing building identification (addresses) for secondary dwelling units, and staff works with the Fire Department to assign separate addresses.

Commissioner Moss referenced Footnote 7.c at the top of Page 2 of Attachment 4 (Page 55 of the Staff Report) and noted that *THE ENTERPRISE* is no longer published. Therefore, the footnote needs to be updated.

Closure of Public Hearing

The public hearing was closed at 9:22 p.m. A new hearing would be re-noticed for another date in the future.

DIRECTOR'S REPORT

Mr. Cohn did not provide a report.

UNFINISHED BUSINESS

Study Session: Town Center Guidelines

Mr. Cohen explained that the purpose of tonight's discussion is to review the proposed organizational and fundamental changes to further refine the design standards. He noted that technical changes would be forthcoming. He specifically reviewed the following proposed design standards:

1. **Thresholds for Review (20.92.010)** – Mr. Cohen recalled the Commission's previous discussion that if property owners do small changes incrementally, there will never be full design review. He explained that besides having to track what happens on a property over the previous three years, the thresholds are somewhat arbitrary and difficult to apply. For example, a change of more than 50% can be quite different, depending on the type and size of the structure. Staff would like to repeat the threshold used in other parts of the Development Code for when the full site or just the areas proposed for change must meet code requirements. Anytime the threshold is met, administrative design review would be triggered. He clarified that developments that fall below the threshold

would still have to meet the design standards, but administrative design review would not be triggered. Staff is also recommending that administrative design review be required when anyone proposes a departure from the design standards.

2. **Northeast 180th Street and Aurora Avenue North Intersection** – Mr. Cohen recalled that there has been some discussion in house about providing a connection across Town Center at about Northeast 180th Street. Staff is recommending the inclusion of a policy that the City pursue the development of a signalized intersection at Aurora Avenue North and Northeast 180th Street to facilitate vehicular and pedestrian access to and across Aurora Avenue. The 182nd Street connection between Midvale Avenue and Linden Avenue could be eliminated.
3. **Zoning Map** – Mr. Cohen referred to a new version of the Zoning Map, which reduces the number of districts from five to four. The Linden Avenue District (TC-4) was converted into a transition overlay zone because all of the requirements are related to transition. They also looked at other areas with this same situation: the very northwest corner of TC-3 (Firlands), behind City Hall right off of 175th, and along the southeast corner of Town Center (Seattle City Light right-of-way). In addition, he advised that the overlay width has been narrowed slightly to match a proposed change in the stepback requirements for building bulk.
4. **Building Height.1** – Mr. Cohen explained that the original proposal was a 40-foot stepback for every 10 feet of height. Staff would like to change that to require the first 45 feet of the building to remain at 35 feet in height or less, and then a 20-foot stepback for each 10 feet of height. That means the initial portion of the buildings facing the residential areas would have quite a bit of stepback before a greater height is allowed. He advised that requiring stepbacks greatly reduces the development potential on the northwest and southeast corner where the Town Center Subarea connects to single-family areas. However, they are allowing more development potential towards the center of the subarea, with heights of up to 70 feet after the stepbacks are done.
5. **Building Height.2** – Mr. Cohen said staff is recommending the initially proposed height bonuses be removed because they are not incentives when "green" building standards will be part of the building code. The real incentive would be to offer full development potential, especially if they are suppressing it around the edges next to single family development. Staff would provide a diagram of how a development could step up in overall bulk based on the proposed design standards. He said staff believes that if people can develop based on the proposed design standards, that would be incentive enough to allow a potential height of 70 feet towards the interior of Town Center. He noted that this could be altered at some point in the future if necessary. He said his focus has been to protect the single-family areas along the perimeter and then emphasize the design standards. The City should be demanding at the ground level where the pedestrian interaction occurs, and then look for opportunities to pare back the standards for upper levels. He noted that a maximum height of 70 feet allows a developer to provide a 15-foot ground floor (commercial standard) and five additional stories at a height of 10 feet each, as well as an additional five feet to accommodate roof design. Mr. Cohn asked if the TC-3 District would allow a maximum height of 70 feet, as well. Mr. Cohen answered affirmatively. However, all of the stepback requirements would have to be met.

Commissioner Kaje said he likes the transition overlay approach, but he encouraged staff to think about how transition zone might be affected if several single-family properties are rezoned to higher densities through site-specific actions. Mr. Cohen agreed that if the zoning of numerous single-family properties changed, then the transition overlay would have to be adjusted. The purpose of the overlay is to build

some assurance that the City is looking out for the needs of the residential neighborhoods. The code language could state that the transition zone only applies to the existing situation. He observed that the overlay zones should extend beyond the areas shown on the map because the impacts pivot around the zone.

Commissioner Moss noted that the values of properties and structures have gone down substantially. She asked what baseline number would be used to determine whether or not a proposed project would exceed 50% of a property's existing value.

Commissioner Esselman said she supports the proposed crossing at Northeast 180th Street, but she also believes it is important to provide as many access points as possible to bring additional life to the center. She suggested that perhaps the current access on Northeast 182nd Street between Midvale and Linden Avenues should be maintained in some form.

Mr. Cohen suggested that the section related to neighborhood protection should include a stepback chart related to the transition area. It should also include recommendations or actual requirements regarding traffic diversion, parking, and vehicular access. These issues are very much on the minds of people who live in the area. Chair Wagner suggested that shared parking, pedestrian safety and curb cuts should also be addressed.

Mr. Cohen summarized that staff would come back in November with a more polished and streamlined proposal, as well as illustrations of how the proposed design standards would be applied to sample test sites. In addition, staff would provide a Sketch-up model to illustrate how the entire subarea could be assembled based on the proposed design standards. Once the Commission is comfortable with the proposal, a public hearing would be scheduled.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

None of the Commissioners provided reports during this portion of the meeting.

AGENDA FOR NEXT MEETING

Mr. Cohn said the Commission would have a study session on miscellaneous Comprehensive Plan amendments on October 7th in preparation for a public hearing in November. Ms. Simulcik Smith reminded the Commission of their upcoming retreat and invited the Commissioners to share their comments about the draft agenda. Mr. Cohn suggested the Commission hold a discussion about the types of information they want staff to provide as part of their packet for legislative public hearings.

ADJOURNMENT

The meeting was adjourned at 9:48 P.M.

Michelle Linders Wagner
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

ORDINANCE NO. 591

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE MUNICIPAL CODE TITLE 20, INCLUDING CHAPTERS 20.30 PROCEDURES AND ADMINISTRATION; 20.50 GENERAL DEVELOPMENT STANDARDS; AND 20.70 ENGINEERIND AND UTILITIES DEVELOPMENT STANDARDS

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000; and

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states "Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code"; and

WHEREAS, City staff drafted amendments to the Development Code; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A study session before the Planning Commission on June 17, 2010;
- The Planning Commission held a Public Hearing on September 16, 2010;
- The Planning Commission held a second Public Hearing and formulated its recommendation to Council on the proposed amendments on November 4, 2010;

WHEREAS, a SEPA Determination of Nonsignificance was issued on June 30, 2010 in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development on June 15, 2010 for comment pursuant WAC 365-195-820; and

WHEREAS, no comments were received from the State Department of Community Development; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code Chapters 20.30 and 20.50 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

Section 2. Repeal; New Chapter. Shoreline Municipal Code Chapter 20.70 is repealed and a new Chapter 20.70, Engineering and Utility Development Standards, is adopted as set forth in Exhibit B, which is attached hereto and incorporated herein.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON DECEMBER 13, 2010.

_____
Keith McGlashan, Mayor

ATTEST:

_____
Scott Passey
City Clerk

APPROVED AS TO FORM:

_____
Ian Sievers
City Attorney

Date of Publication:
Effective Date:

EXHIBIT A

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time limits for Decisions

Action	Notice Requirements for Application and Decision (5), (6)	Review Authority, Open Record Public Hearing (1)	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
Type C:					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.410
2. Rezone of Property (2) and Zoning Map Change	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.320
3. Special Use Permit (SUP)	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.330
4. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE (1)(4)		120 days	20.30.333
5. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE (1)(4)		120 days	20.30.336
6. Final Formal Plat	None	Review by the Director – no hearing	City Council	30 days	20.30.450
7. SCTF – Special Use Permit	Mail, Post Site, Newspaper (7)	PC (3)	City Council	120 days	20.40.505
8. Street Vacation	PC (3)	PC (3)	City Council	120 days	Chapter 12.17 SMC
9. Master Development Plan (8)	Mail, Post Site, Newspaper (7)	PC (3)	City Council	120 days	20

(1) Including consolidated SEPA threshold determination appeal.

(2) The rezone must be consistent with the adopted Comprehensive Plan.

(3) PC = Planning Commission

(4) HE = Hearing Examiner

(5) Notice of application requirements are specified in SMC 20.30.120.

(6) Notice of decision requirements are specified in SMC 20.30.150.

~~(7) a. Notice of application shall be mailed to residents and property owners within 1,000 feet of the proposed site.~~

~~b. Enlarged notice of application signs (a minimum of four feet by four feet) as approved by the City of Shoreline shall be posted on all sides of the parcel(s) that front on a street. The Director may require additional signage on large or unusually shaped parcels.~~

~~c. Applicants shall place a display (nonlegal) advertisement approved by the City of Shoreline in the Enterprise announcing the notice of application and notice of public hearing.~~

~~(8) Information regarding master development plans will be posted on the City's website and cable access channel regarding the notice of application and public hearing.~~

20.30.120 Public notices of application.

A. Within 14 days of the determination of completeness, the City shall issue a notice of complete application for all Type B and C applications.

B. The notice of complete application shall include the following information:

1. The dates of application, determination of completeness, and the date of the notice of application;
2. The name of the applicant;
3. The location and description of the project;
4. The requested actions and/or required studies;
5. The date, time, and place of an open record hearing, if one has been scheduled;
6. Identification of environmental documents, if any;
7. A statement of the public comment period (if any), not less than 14 days nor more than 30 days; and a statement of the rights of individuals to comment on the application, receive notice and participate in any hearings, request a copy of the decision (once made) and any appeal rights;
8. The City staff Project Manager and phone number;
9. Identification of the development regulations used in determining consistency of the project with the City's Comprehensive Plan; and
10. Any other information that the City determines to be appropriate.

C. The notice of complete application shall be made available to the public by the Department, through any or all of the following methods (as specified in Tables 20.30.050 and 20.30.060):

1. **Mail.** Mailing to owners of real property located within 500 feet of the subject property. Notice of application for SCTF and Master Development Plan permits shall be mailed to residents and property owners within 1,000 feet of the proposed site;
2. **Post Site.** Posting the property (for site-specific proposals). For SCTF and Master Development Plan permits enlarged notice of application signs (a minimum of four feet by four feet) as approved by the City of Shoreline shall be posted on all sides of the parcel(s) that front on a street. The Director may require additional signage on large or unusually shaped parcels;
3. **Newspaper.** The Department shall publish a notice of the application in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comments period dates, and the location where the complete application may be reviewed;

4. Information regarding Master Development Plan notice of applications will be posted on the City's website and cable access channel.

D. The Department must receive all comments received on the notice of application by 5:00 p.m. on the last day of the comment period. (Ord. 238 Ch. III § 4(e), 2000).

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 days prior to the hearing, through use of these methods:

- **Mail.** Mailing to owners of real property located within 500 feet of the subject property;
- **Newspaper.** The Department shall publish a notice of the open record public hearing in the newspaper of general circulation for the general area in which the proposal is located;
- **Post Site.** Posting the property (for site-specific proposals).
- Information regarding Master Development Plan public hearings will be posted on the City's website and cable access channel.

20.30.340 Amendment and review of the Comprehensive Plan (legislative action)

A. Purpose. A Comprehensive Plan amendment or review is a mechanism by which the City may modify the text or map of the Comprehensive Plan in accordance with the provisions of the Growth Management Act, in order to respond to changing circumstances or needs of the City, and to review the Comprehensive Plan on a regular basis.

B. Preparing Annual Docket. The City of Shoreline's process for accepting and reviewing Comprehensive Plan amendments for the annual docket shall be as follows:

1. Amendment proposals will be accepted throughout the year. The closing date for the current year's docket is the last business day in December.

   a. Anyone can propose an amendment to the Comprehensive Plan. A partially completed application is acceptable prior to the establishment of the final docket, but a completed application must be submitted and applicable fees paid within 6 weeks after the final docket is established.

   b. There is no fee for submitting a General Text Amendment to the Comprehensive Plan.

   c. An amendment to change the land use designation, also referred to as a Site Specific Comprehensive Plan amendment, requires the applicant to apply for a rezone application to be processed in conjunction with the Comprehensive Plan amendment. There are separate fees for a Site Specific CPA request and a rezone application.

2. At least three weeks prior to the closing date, there will be general public dissemination of the deadline for proposals for the current year's docket. Information will include a staff contact, a re-statement of the deadline for accepting proposed amendments, and a general description of the amendment process. At a minimum, this information will be advertised in the newspaper and available on the City's website.
3. Amendment proposals will be posted on the City's website and available at the Department of Planning and Development Services.
4. The DRAFT Docket will be comprised of all complete Comprehensive Plan amendment applications received prior to the deadline.
5. The Planning Commission will review the DRAFT docket in a study session and forward recommendations to the City Council. The revised draft docket may include Commission recommendations that reflect modification or deletion of elements of the originally submitted proposal.
6. A summary of the amendment proposals will be published in the City's newspaper of record.
7. The City Council will establish the FINAL docket at a public meeting.
8. The City will be responsible for developing an environmental review of combined impacts of the proposals on the FINAL docket. Applicants for site specific Comprehensive Plan Amendments will be responsible for providing current accurate analysis of the impacts from their proposal.
9. After the FINAL docket is adopted, staff will analyze each proposal and schedule public hearings before the Planning Commission. The amendments will be reviewed by the Planning Commission in publicly noticed meetings and recommendations made using adopted criteria. The proposed amendments may be altered through the review process.
10. The Commission's recommendations will be forwarded to the City Council for adoption.

~~B.~~**C. Decision Criteria.** The Planning Commission may recommend and the City Council may approve, or approve with modifications an amendment to the Comprehensive Plan if:

1. The amendment is consistent with the Growth Management Act and not inconsistent with the Countywide Planning Policies, and the other provisions of the Comprehensive Plan and City policies; or

2. The amendment addresses changing circumstances, changing community values, incorporates a sub area plan consistent with the Comprehensive Plan vision or corrects information contained in the Comprehensive Plan; or

3. The amendment will benefit the community as a whole, will not adversely affect community facilities, the public health, safety or general welfare.

20.30.550 Categorical exemptions and threshold determinations – Adoption by reference.

The City adopts the following sections of the SEPA Rules by reference, as now existing or hereinafter amended, as supplemented in this subchapter:

WAC

197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-355 Optional DNS process.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-800 Categorical exemptions ~~(flexible thresholds)~~.
~~*Note: the lowest exempt level applies unless otherwise indicated.*~~
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

(Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(g), 2000).

20.30.560 Categorical exemptions – Minor new construction.

The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water; 2) the proposal would alter the existing conditions within a critical area ~~or buffer~~; ~~or~~ 23) a rezone is requested; or 4)~~or~~ any license governing emissions to the air or discharges to water is required.

A. The construction or location of any residential structures of four dwelling units.

B. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles.

C. The construction of a parking lot designed for 20 automobiles.

D. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (Ord. 324 § 1, 2003; Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(h), 2000).

20.30.680 Appeals

A. Any interested person may appeal a threshold determination or ~~and~~ the conditions or denials of a requested action made by a nonelected official pursuant to the procedures set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.

~~B. Appeals of threshold determinations are procedural SEPA appeals which are conducted by the Hearing Examiner pursuant to the provisions of Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals, subject to the following:~~

1. Only one administrative appeal of each threshold determination shall be allowed on a proposal. Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.
2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.
3. An appeal of a DS must be filed within 14 calendar days following issuance of the DS.
4. All SEPA ~~An~~ appeals of a DNS for actions classified in SMC 20.30, Subchapter 2, Types of Actions, as Type A or B, or C actions for which the Hearing Examiner has review authority ~~in Chapter 20.30 SMC, Subchapter 2, Types of Actions,~~ must be filed within 14 calendar days following notice of the threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for Type A~~,~~ or B~~, or C~~ actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.
5. For Type C actions for which the Hearing Examiner does not have review authority or for ~~Type L~~ legislative actions ~~not classified as Type A, B, or C actions in Chapter 20.30 SMC, Subchapter 2, Types of Actions~~, no administrative appeal of a DNS is permitted.
6. The Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner's decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.

~~C. The Hearing Examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~D. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal. See Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearing and Appeals.~~

~~E.~~B. Notwithstanding the provisions of subsections (A) ~~through (D) of this section~~, the Department may adopt procedures under which an administrative appeal shall not be provided if the Director finds that consideration of an appeal would be likely to cause the Department to violate a compliance, enforcement or other specific mandatory order or

specific legal obligation. The Director's determination shall be included in the notice of the SEPA determination, and the Director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action

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 should adjust to the location of required utility routes both above and below ground. Location of plants shall be based on the plant's mature canopy and root mat width. Root 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 reach an above ground utility such as street lights and power-lines. Mature tree and shrub root mats may overlap utility trenches as long as approximately 80 percent of the root mat area is unaffected. Adjustment of plant location does not reduce the number of plants required for landscaping.
~~Site~~Sight distance triangle shall be established for visual clearance consistent with the Engineering Development Guide ~~SMC 20.70.170~~ for all driveway exits and entrances and street corners.

EXHIBIT B

Chapter 20.70 Engineering and Utilities Development Standards

SUBCHAPTER 1. General Engineering Provisions

20.70.010 Purpose.
The purpose of this chapter is to establish engineering regulations and standards to implement the Comprehensive Plan and provide a general framework for relating the standards and other requirements of this Code to development.

20.70.020 Engineering Development Guide.
Pursuant to SMC Section 20.10.050 The Director is authorized to prepare and administer an "Engineering Development Guide". The Engineering Development Guide includes processes, design and construction criteria, inspection requirements, standard plans, and technical standards for engineering design related to development. The specifications shall include, but are not limited to:

A. Street widths, curve radii, alignments, street layout, street grades;
B. Intersection design, sight distance and clearance, driveway location;
C. Block size, sidewalk placement and standards, length of cul-de-sacs, usage of hammerhead turnarounds;
D. Streetscape specifications (trees, landscaping, benches, other amenities);
E. Surface water and stormwater specifications;
F. Traffic control and safety markings, signs, signals, street lights, turn lanes and other devices be installed or funded; and
G. Other improvements within rights-of-way.

SUBCHAPTER 2. Dedications

20.70.110 Purpose.
The purpose of this subchapter is to provide guidance regarding the dedication of facilities to the City.

20.70.120 General
A. Dedication shall occur at the time of recording for subdivisions, and prior to permit issuance for development projects.
B. Dedications may be required in the following situations:
    1. When it can demonstrated that the dedications of land or easements within the proposed development or plat are necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply;
    2. To accommodate motorized and nonmotorized transportation, landscaping, utilities, surface water drainage, street lighting, traffic control devices, and buffer requirements as required in subchapter 4, Required Improvements, and subchapter 5, Utility Standards;

3. Prior to the acceptance of a private street, private stormwater drainage system or other facility for maintenance;
4. When the development project abuts an existing substandard public street and additional right-of-way is necessary to incorporate future frontage improvements as set forth in the Transportation Master Plan and the Engineering Development Guide for public safety; or

5. Right-of-way is needed for the extension of existing public street improvements necessary for public safety.

20.70.130 Dedication of Right-of-Way

A. The Director may grant some reduction in the minimum right-of-way requirement where it can be demonstrated that sufficient area has been provided for all frontage improvements.

B. The City may accept dedication and assume maintenance responsibility of a private street only if the following conditions are met:
   1. All necessary upgrades to the street to meet City standards have been completed;
   2. All necessary easements and dedications entitling the City to properly maintain the street have been conveyed to the City;
   3. The Director has determined that maintenance of the facility will contribute to protecting or improving the health, safety, and welfare of the community served by the private road; and
   4. The City has accepted maintenance responsibility in writing.

20.70.140 Dedication of stormwater facilities

A. The City is responsible for the maintenance, including performance and operation, of drainage facilities which the City has accepted for maintenance. The City may require the dedication of these facilities.

B. The City may assume maintenance of privately maintained drainage facilities only if the following conditions have been met:
   1. All necessary upgrades to the facilities to meet current City standards have been completed;
   2. All necessary easements or dedications entitling the City to properly maintain the drainage facility have been conveyed to the City;
   3. The Director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
      a. Flooding;
      b. Downstream erosion;
      c. Property damage due to improper function of the facility;
      d. Safety hazard associated with the facility;
      e. Degradation of water quality or in-stream resources; or
      f. Degradation to the general welfare of the community; and
   4. The City has accepted maintenance responsibility in writing.

C. The Director may terminate the assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or

improving the health, safety and welfare of the community based upon review of the existence of or potential for:

1. Flooding;
2. Downstream erosion;
3. Property damage due to improper function of the facility;
4. Safety hazard associated with the facility;
5. Degradation of water quality or in-stream resources; or
6. Degradation to the general welfare of the community.

D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the persons holding title to the property for which the facility was required.

20.70.150 Dedication of open space.

A. The City may accept dedications of open space and critical areas which have been identified and are required to be protected as a condition of development. Dedication of such areas to the City will be considered when:

1. The dedicated area would contribute to the City's overall open space and greenway system;
2. The dedicated area would provide ~~passive~~ recreation opportunities and nonmotorized linkages;
3. The dedicated area would preserve and protect ecologically sensitive natural areas, wildlife habitat and wildlife corridors;
4. The dedicated area is of low hazard/liability potential; and
5. The dedicated area can be adequately managed and maintained.

20.70.160 Easements and tracts

The purpose of this section is to address easements and tracts when facilities on private property will be used by more than one lot or by the public in addition to the property owner(s).

A. **Easements.**

1. Easements may be used for facilities used by a limited number of parties. Examples of situations where easements may be used include, but are not limited to:
   a Access for ingress and egress or utilities to neighboring property;
   b. Design features of a street necessitate the granting of slope, wall, or drainage easements; or
   c. Nonmotorized easements required to provide pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers even if the facility is not specifically shown on the City's adopted nonmotorized circulation plan maps.
2. Easements granted for public use shall be designated "City of Shoreline Public Easement." All easements shall specify the maintenance responsibility in the recording documents.

B. **Tracts**

1. Tracts should be used for facilities that are used by a broader group of individuals, may have some degree of access by the general public, and typically require regular

maintenance activities. Examples of facilities that may be located in tracts include private streets, drainage facilities serving more than one lot, or critical areas.

2. Tracts are not subject to minimum lot size specifications for the zone, although they must be large enough to accommodate the facilities located within them.
3. Tracts created under the provisions of this subchapter shall not be considered a lot of record unless all zoning, dimensional, and use provisions of this code can be met.

SUBCHAPTER 3. Streets

20.70.210 Purpose.

The purpose of this subchapter is to classify streets in accordance with designations of the Comprehensive Plan and to ensure the naming of new streets and assignment of new addresses occurs in an orderly manner.

20.70.220 Street classification.

Streets and rights-of-way are classified in the Transportation Master Plan.

20.70.230 Street plan.

Streets shall be designed and located to conform to the adopted plans. Where not part of an adopted plan, new streets shall be designed to provide for the appropriate continuation of existing streets.

The Public Works Department shall maintain a list of public streets maintained by the City.

20.70.240 Private streets.

Local access streets may be private, subject to the approval of the City. If the conditions for approval of a private street cannot be met then a public street will be required. Private streets may be allowed when all of the following conditions are present:

A. The private street is located within a tract or easement; and
B. A covenant, tract, or easement which provides for maintenance and repair of the private street by property owners has been approved by the City and recorded with King County; and
C. The covenant or easement includes a condition that the private street will remain open at all times for emergency and public service vehicles; and
D. The private street would not hinder public street circulation; and
E. The proposed private street would be adequate for transportation and fire access needs; and
F. At least one of the following conditions exists:
    1. The street would ultimately serve four or fewer single-family lots; or
    2. The private street would ultimately serve more than four lots, and the Director determines that no other access is available; or
    3. The private street would serve developments where no circulation continuity is necessary.

20.70.250 Street naming and numbering.

The purpose of this section is to establish standards for designating street names and numbers, and for addressing the principal entrances of all buildings or other developments.

A. All streets shall be named or numbered in the following manner:
   1. Public or private street names and/or numbers shall be consistent with the established grid system as determined by the Department. Named streets can only be assigned when the numbered grid is determined infeasible by the Department. The Department may change the existing public or private street name if it is determined to be inconsistent with the surrounding street naming system.
   2. All streets shall carry a geographic suffix or prefix. Streets designated as "Avenues" shall carry a geographic suffix and be in a north-south direction, and streets designated as "Streets" shall carry a geographic prefix and be in an east-west direction. Diagonal streets are treated as being either north-south or east-west streets. Names such as lane, place, way, court, and drive may be used on streets running either direction.
   3. Only entire street lengths or distinct major portions of street shall be separately designated.
   4. In determining the designation, the Department shall consider consistency with the provisions of this section and emergency services responsiveness including Emergency-911 services.

B. Building addresses shall be assigned as follows:
   1. New Buildings. The assignment of addresses for new buildings shall occur in conjunction with the issuance of a building permit.
   2. New Lots. The assignment of addresses for new lots created by subdividing shall occur during project review and be included in the recording documents.
   3. Previously Unassigned Lots. Lots with no address of record shall be assigned an address and the property owner shall be notified of the address.
   4. The assignment of addresses shall be based on the following criteria:
      a. Even numbers shall be used on the northerly side of streets named as east-west and on the easterly side of streets named as north-south.
      b. Odd numbers shall be used on the southerly side of streets named as east-west and on the westerly side of streets named as north-south. Addresses shall be assigned whole numbers only.
      c. In determining the address assignment, the Department shall consider the consistency with the provisions of this section, consistency with the addressing needs of the area, and emergency services.

C. All buildings must display addresses as follows:
   1. The owner, occupant, or renter of any addressed building or other structure shall maintain the address numbers in a conspicuous place over or near the principal entrance or entrances. If said entrance(s) cannot be easily seen from the nearest adjoining street, the address numbers shall be placed in such other conspicuous place on said building or structure as is necessary for visually locating such address numbers from the nearest adjoining street.
   2. If the addressed building or structure cannot be easily seen or is greater than 50 feet from the nearest adjoining street, the address numbers shall be placed on a portion of the site that is clearly visible and no greater than 20 feet from the street.
   3. The address numbers shall be easily legible figures, not less than three inches high if a residential use or individual multifamily unit, nor less than five inches high if a commercial use. Numbers shall contrast with the color of the structure upon which

they are placed, and shall either be illuminated during periods of darkness, or be reflective, so they are easily seen at night.

SUBCHAPTER 4. Required Improvements.

20.70.310 Purpose

The purpose of this subchapter is to provide safe and accessible transportation facilities for all modes of travel as described in the Comprehensive Plan, Transportation Master Plan, and the Parks, Recreation and Open Space Plan.

20.70.320 Frontage improvements.

Frontage improvements required for subdivisions pursuant to RCW 58.17 and SMC 20.30, Subchapter 7, and to mitigate identified impacts, shall be provided pursuant to this section. When required, frontage improvements shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment

A. Standard frontage improvements consist of curb, gutter, sidewalk, amenity zone and landscaping, drainage improvements, and pavement overlay to one-half of each right-of-way abutting a property as defined for the specific street classification. Additional improvements may be required to ensure safe movement of traffic, including pedestrians, bicycles, transit, and nonmotorized vehicles. The improvements can include transit bus shelters, bus pullouts, utility under grounding, street lighting, signage, and channelization.

B. Frontage improvements are required for:
   1. All new multifamily, nonresidential, and mixed-use construction;
   2. Remodeling or additions to multifamily, nonresidential, and mixed-use buildings or conversions to these uses that increase floor area by 20 percent or greater, as long as the original building footprint is a minimum of 4,000 square feet, or any alterations or repairs which exceed 50 percent of the value of the previously existing structure;
   3. Subdivisions;
      Exception:
      i. Subdivisions, short plats, and binding site plans where all of the lots are fully developed.

C. Exemptions to some or all of these requirements may be allowed if the street will be improved as a whole through a Local Improvement District (LID) or Capital Improvement Project scheduled to be completed within five years of permit issuance. In such a case, a contribution may be made and calculated based on the improvements that would be required of the development. Contributed funds shall be directed to the City's capital project fund and shall be used for the capital project and offset future assessments on the property resulting from an LID. An LID "no-protest" commitment shall also be recorded. Adequate interim levels of improvements for public safety shall be required.

D. Required improvements shall be installed by the applicant prior to final approval or occupancy.

E. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

20.70.330 Surface water facilities.

A. All development and redevelopment as defined in the Stormwater Manual shall provide stormwater drainage improvements that meet the minimum requirements of 13.10 SMC.
B. Development proposals that do not require City-approved plans or a permit must meet the requirements specified in 13.10 SMC.
C. Required improvements shall be installed by the applicant prior to final approval or occupancy.
D. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

20.70.340 Sidewalks, Walkways, Paths and Trails.

A. Sidewalks required pursuant to SMC 20.70.320 and fronting public streets shall be located within public right-of-way or a public easement as approved by the Director.
B. Walkways, paths or trails provided to mitigate identified impacts should use existing undeveloped right-of-way, or, if located outside the City's planned street system, may be located across private property in a pedestrian easement or tract restricted to that purpose.
C. Required sidewalks on public and private streets shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment.
D. Installation, or a financial security of installation subject to approval by the Director, is required as a condition of development approval.

SUBCHAPTER 5. Utility Standards

20.70.410 Purpose.

The purpose of this subchapter is to establish when new and existing service connections including telephone, cable television, electrical power, natural gas, water, and sewer, are to be installed and/or placed underground.

20.70.420 Utility installation

Required utility improvements shall be installed by the applicant prior to final approval or occupancy. For subdivisions the applicant shall complete the improvements prior to final plat approval or post a bond or other surety with the utility provider.

20.70.430 Undergrounding of electric and communication service connections

A. Undergrounding required under this subchapter shall be limited to the service connection and new facilities located within and directly serving the development from the public right-of-way, excluding existing or relocated street crossings.
B. Undergrounding of service connections and new electrical and telecommunication facilities defined in chapter 13.20 SMC shall be required with new development as follows:

1. All new nonresidential construction, including remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of service.
2. All new residential construction and new accessory structures or the creation of new residential lots.
3. Residential remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of the service connection to the structure.

C. Conversion of a service connection from aboveground to underground shall not be required under this subchapter for:
1. The upgrade or change of location of electrical panel, service, or meter for existing structures not associated with a development application; and
2. New or replacement phone lines, cable lines, or any communication lines for existing structures not associated with a development application.