

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

<b>AGENDA TITLE:</b>	Discussion of Ordinance No. 833 - Amendments to Shoreline Municipal Code Chapter 20.50 for MUR-70' Zone Tree Retention		
<b>DEPARTMENT:</b>	Planning & Community Development		
<b>PRESENTED BY:</b>	Rachael Markle, Director P&CD Paul Cohen, Planning Manager P&CD		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

**PROBLEM/ISSUE STATEMENT:**

On January 22, 2018 and February 26, 2018, as part of the 2017 Development Code "Batch" Amendments, the City Council reviewed the Planning Commission's recommendation to not amend the development code and retain the exemption of the MUR-70' zoning district from the City's tree conservation standards in SMC 20.50 Subchapter 5 ("Tree Code"). With the adoption of Ordinance No. 789, the City Council rejected that recommendation and removed the exemption thereby making the MUR-70 zoning district subject to the Tree Code.

However, the City Council also directed staff to prepare code amendments that would encourage feasible tree retention in this zoning district. Staff returned to the Planning Commission between May 17 and June 21, 2018, to explain the Council's intent and to propose alternatives for its consideration. The Planning Commission formulated a recommendation and staff is here tonight to discuss that recommendation.

The Planning Commission's recommendation is to exempt MUR-70' from the Tree Code but allow MUR-70' development to receive bonuses in height, flexible setbacks, and reduced parking standards in exchange for electing to retain and/or replace significant trees. Tonight, Council is scheduled to discuss proposed Ordinance No. 833 (Attachment A), which would implement the Planning Commission's recommendation. Proposed Ordinance No. 833 is currently scheduled for adoption on August 13, 2018.

**RESOURCE/FINANCIAL IMPACT:**

This amendment would have no financial impact on the City.

**RECOMMENDATION**

No action is required at this meeting. Staff recommends that Council review the proposed Development Code amendments. The Planning Commission and staff recommend approval of the Planning Commission's recommendation when this matter

is brought back to Council for adoption. Council is scheduled to adopt proposed Ordinance No. 833 on August 13, 2018.

Approved By:        City Manager **DT**    City Attorney **MK**

## **BACKGROUND**

On January 22, 2018 and February 26, 2018, as part of the 2017 Development Code “Batch” Amendments, the City Council reviewed the Planning Commission’s recommendation for amending the development code regarding the exemption of the MUR-70’ zoning district from the City’s tree conservation standards in SMC 20.50 (the “Tree Code”).

The Planning Commission recommended denial of a privately-initiated amendment seeking to remove this zoning district from exemption of the Tree Code provisions. With the adoption of Ordinance No. 789, the City Council rejected the recommendation and removed the exemption, thereby requiring development activities within the MUR-70’ zone to comply with the Tree Code. At the same time, the City Council also directed staff to develop code amendments that would encourage feasible tree retention so as not to deter the high density development potential intended for this zoning district.

The City Council staff reports and minutes from the January 22 and February 26 Council meetings can be reviewed at the following links:

January 22:

- <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport012218-9a.pdf>
- <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Minutes/2018/012218.htm>

February 26:

- <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport022618-8b.pdf>.
- <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Minutes/2018/022618.htm>.

Pursuant to the direction of the City Council, the Planning Commission held study sessions on May 17, 2018 and June 7, 2018 to address the issue of significant tree retention and replacement in the MUR-70’ zoning district and possible amendments to exemptions to the City’s “Tree Code”. The Planning Commission staff reports can be reviewed at the following links:

May 17:

- <http://www.shorelinewa.gov/home/showdocument?id=38797>.

June 7:

- <http://www.shorelinewa.gov/home/showdocument?id=38955>.

At the June 7, 2018 Planning Commission meeting, the Planning Commission focused on possible incentives that would provide greater development potential in exchange for retaining and replacing significant trees within the MUR-70’ zoning district. Staff offered examples from other jurisdictions and five possible incentives that could be added to the Development Code, including building height increases and setback and parking

reductions. In addition, staff presented a fee-in-lieu of retention or replacement option. At the conclusion of this meeting, the Planning Commission directed that only two options be brought forward for public hearing – (1) exempt the MUR-70 zoning district but allow development to receive height, setback, and parking bonuses for elective significant tree retention and (2) do not exempt the MUR-70' zoning district but allow an in-lieu of fee for significant tree retention and replacement.

The Planning Commission held a public hearing June 21, 2018 pertaining to the two options. At the conclusion of the public hearing, the Planning Commission recommended Option 1, exempting the MUR-70' zoning district but providing incentive bonuses. The Planning Commission staff report for the public hearing can be reviewed at the following link: <http://www.shorelinewa.gov/home/showdocument?id=39085>.

## **DISCUSSION**

SMC 20.30.350 states, “An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City”. Development Code amendments may also be necessary to reduce confusion and clarify existing language, respond to regional and local policy changes, update references to other codes, eliminate redundant and inconsistent language, and codify Administrative Orders previously approved by the Director. Regardless of their purpose, all amendments are to implement and be consistent with the Comprehensive Plan.

The decision criteria for a Development Code amendment in SMC 20.30.350 (B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code when all of the following are satisfied:

1. The amendment is in accordance with the Comprehensive Plan; and
2. The amendment will not adversely affect the public health, safety or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

As noted above, the Planning Commission considered two options at the June 21<sup>st</sup> Public Hearing. These options were:

**Option 1** - Exempt MUR-70' from the Tree Code but allow MUR-70' development to receive bonuses in height, flexible setbacks, and reduced parking standards in exchange for electing to retain and/or replace significant trees.

**Option 2** - Do not exempt MUR-70' from the Tree Code but allow projects to pay fee-in-lieu in exchange for significant tree retention and replacement requirements with those funds going towards future City tree projects.

The Planning Commission also discussed creation of a hybrid option to combine Options 1 and 2 to both incentivize tree retention and require tree replacement or fee in lieu of replacement.

### **Planning Commission Recommendation - Option 1**

Option 1 has the proposed amendments shown below:

#### **SMC 20.50.310 Exemptions from permit.**

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

5. Removal of trees from property zoned NB, CB, MB and TC-1, 2 and 3, and MUR-70' unless within a critical area or critical area buffer.

#### **SMC Table 20.50.020(2) – Densities and Dimensions in Mixed Use Residential Zones**

STANDARDS	MUR-35'	MUR-45'	MUR-70' (10)
Base Density: Dwelling Units/Acre	N/A	N/A	N/A
Min. Density	12 du/ac ( <del>17</del> 16)	18 du/ac	48 du/ac
Min. Lot Width (2)	N/A	N/A	N/A
Min. Lot Area (2)	N/A	N/A	N/A
Min. Front Yard Setback (2) (3)	0 ft if located on an arterial street 10 ft on nonarterial street 22 ft if located on 145th Street ( <del>15</del> 14)	15 ft if located on 185th Street ( <del>15</del> 14) 0 ft if located on an arterial street 10 ft on nonarterial street 22 ft if located on 145th Street ( <del>15</del> 14)	15 ft if located on 185th Street ( <del>15</del> 14) 22 ft if located on 145th Street ( <del>15</del> 14) 0 ft if located on an arterial street 10 ft on nonarterial street ( <del>18</del> )
Min. Rear Yard Setback (2) (4) (5)	5 ft	5 ft	5 ft
Min. Side Yard Setback (2) (4) (5)	5 ft	5 ft	5 ft
Base Height (9)	35 ft ( <del>45</del> 16)	45 ft ( <del>45</del> 16)	70 ft (11) ( <del>12</del> )( <del>12</del> 13) ( <del>45</del> 16)
Max. Building Coverage (2) (6)	N/A	N/A	N/A
Max. Hardscape (2) (6)	85%	90%	90%

Note: Exceptions to the numerical standards in this table are noted in parentheses and described below.

Exceptions to Table 20.50.020(1) and Table 20.50.020(2):

(12) Base height in the MUR-70' zone may be increased up to 80 feet when at least 10 percent of the significant trees on site are retained and up to 90 feet when at least 20 percent of the significant trees on site are retained.

(13) All building facades in the MUR-70' zone fronting on any street shall be stepped back a minimum of 10 feet for that portion of the building above 45 feet in height. Alternatively, a building in the MUR-70' zone may be set back 10 feet at ground level instead of providing a 10-foot step-back at 45 feet in height. MUR-70' fronting on 185th Street shall be set back an additional 10 feet to use this alternative because the current 15-foot setback is planned for street dedication and widening of 185th Street.

(14) The minimum lot area may be reduced proportional to the amount of land needed for dedication of facilities to the City as defined in Chapter 20.70 SMC.

(4415) The exact setback along 145th Street (Lake City Way to Fremont Avenue) and 185th Street (Fremont Avenue to 10th Avenue NE), up to the maximum described in Table 20.50.020(2), will be determined by the Public Works Department through a development application.

(4516) Base height may be exceeded by 15 feet for rooftop structures such as arbors, shelters, barbeque enclosures and other structures that provide open space amenities.

(4617) Single-family detached dwellings that do not meet the minimum density are permitted in the MUR-35' zone subject to the R-6 development standards.

(18) The minimum front yard setback in the MUR-70' zone may be reduced to five (5) feet on a nonarterial street if 20 percent of the significant trees on site are retained.

**SMC 20.50.400 Reductions to minimum parking requirements.**

A. Reductions of up to 25 percent may be approved by the Director using a combination of the following criteria:

8. Retention of at least 20 percent of the significant trees on a site zoned MUR-70'.

9. Replacement of all significant trees removed on a site zoned MUR-70' as follows:

a. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.

b. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.

c. Minimum size requirements for replacement trees under this provision: Deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

The Planning Commission recommended Option 1 because they believed that direct development incentives and retaining significant trees on site are more effective than administering a fee-in-lieu program to plant trees elsewhere in the city at some future date. Staff concurred with this recommendation and stated:

- It maintains the development potential of the MUR-70' zone as adopted to implement the 185<sup>th</sup> and 145<sup>th</sup> Street Station Subarea Plans while using incentives to create the potential for greater tree retention and replacement;
- The Comprehensive Plan policies strongly support the full development of the Station Areas as urban, transportation-oriented development with people, jobs, and activities;
- Developers have provided staff with feedback that not permitting Tree Code exemption within the MUR-70' zone will thwart the planned redevelopment; and
- Required landscaping standards will fill the remaining open space with trees that can adapt to the new environment and help succeed and replenish the existing, aging tree canopy. Depending on the compatibility of the adjacent land use, Type I or Type II landscaping is required for multifamily and commercial development. In addition to shrubs and ground cover, Type I landscaping requires 10 foot trees, 80% evergreen, and one (1) tree per 10 linear feet of landscape. Type II landscaping requires 1.5 inch caliper trees and one (1) tree per 25 linear feet of landscape.

### **Planning Commission Rejection - Option 2**

For the City Council's reference, Option 2 proposed a fee in-lieu of retaining and replacing significant trees. In lieu of retaining 20% of the significant trees on a site, staff had proposed a fee of \$266 per diameter inch based on the current tree violation fine converted to a per diameter inch. In lieu of replacing significant trees, staff had proposed a fee of \$2,472.00 based on the current cost of replacing a public street tree.

### **RESOURCE/FINANCIAL IMPACT**

This amendment would have no financial impact on the City.

### **RECOMMENDATION**

No action is required at this meeting. Staff recommends that Council review the proposed Development Code amendments. The Planning Commission and staff recommend approval of the Planning Commission's recommendation when this matter is brought back to Council for adoption. Council is scheduled to adopt proposed Ordinance No. 833 on August 13, 2018.

### **ATTACHMENTS**

Attachment A: Proposed Ordinance. No. 833

**ORDINANCE NO. 833**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON  
AMENDING CERTAIN SECTIONS OF THE SHORELINE MUNICIPAL  
CODE TITLE 20, THE UNIFIED DEVELOPMENT CODE, RELATING TO  
TREE RETENTION STANDARDS FOR THE MUR-70 ZONING  
DISTRICT.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, in 2015, the City adopted new mixed-use residential (MUR) zoning districts to be used within the light rail station areas; and

WHEREAS, because of the intense level of development the MUR-70 zoning district was to allow, via the adoption of Ordinance No. 706, this zoning district was exempt from the tree retention and replacement standards of Chapter 20.50, Subchapter 5 of the Shoreline Municipal Code (SMC), the City's Tree Conservation regulations; and

WHEREAS, in 2017 a privately-initiated amendment was submitted to the City seeking to delete the MUR-70 zoning district exemption and, after considering the Planning Commission's recommendation, the City Council adopted Ordinance No. 789 approving this amendment; and

WHEREAS, as part of the adoption of Ordinance No. 789, the City Council requested that the Planning and Community Development Department Staff investigate ways to encourage tree retention in the MUR-70 zoning district; and

WHEREAS, on May 17, 2018 and June 7, 2018, the City of Shoreline Planning Commission reviewed the proposed Development Code amendments prepared by City Staff in response to the City Council's requests; and

WHEREAS, on June 21, 2018, the City of Shoreline Planning Commission held a public hearing on the proposed Development Code amendments so as to receive public testimony; and

WHEREAS, at the conclusion of public hearing, the City of Shoreline Planning Commission voted that the proposed Development Code, as presented by City Staff, be approved by the City Council; and

WHEREAS, on July 30, 2018, the City Council held a study session on the proposed Development Code amendments; and



WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, the City provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, the environmental impacts of the amendments to the Unified Development Code resulted in the issuance of a Determination of Non-Significance (DNS) on July 19, 2018; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on May 22, 2018, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the City Council has determined that the amendments are consistent with and implement the Shoreline Comprehensive Plan and serves the purpose of the Unified Development Code as set forth in SMC 20.10.020;

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

**Section 1. Amendment.** Title 20 of the Shoreline Municipal Code, Unified Development Code, is amended as set forth in Exhibit A to this Ordinance.

**Section 2. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

**Section 3. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

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

**PASSED BY THE CITY COUNCIL ON AUGUST 13, 2018.**

\_\_\_\_\_  
Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik-Smith  
City Clerk

\_\_\_\_\_  
Margaret King  
City Attorney

Date of Publication: , 2018

Effective Date: , 2018

**Exhibit A – Ordinance No. 833 Code Amendments**

**SMC 20.50.310 Exemptions from permit.**

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

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(18) The minimum front yard setback in the MUR-70' zone may be reduced to five (5) feet on a nonarterial street if 20 percent of the significant trees on site are retained.

#### **SMC 20.50.400 Reductions to minimum parking requirements.**

- A. Reductions of up to 25 percent may be approved by the Director using a combination of the following criteria:
1. On-street parking along the parcel's street frontage.
  2. Shared parking agreement with nearby parcels within reasonable proximity where land uses do not have conflicting parking demands. The number of on-site parking stalls requested to be reduced must match the number provided in the agreement. A record on title with King County is required.
  3. Parking management plan according to criteria established by the Director.
  4. A City approved residential parking zone (RPZ) for the surrounding neighborhood within one-quarter mile radius of the subject development. The RPZ must be paid by the developer on an annual basis.

5. A high-capacity transit service stop within one-quarter mile of the development property line with complete City approved curbs, sidewalks, and street crossings.
6. A pedestrian public access easement that is eight feet wide, safely lit and connects through a parcel between minimally two different rights-of-way. This easement may include other pedestrian facilities such as walkways and plazas.
7. City approved traffic calming or traffic diverting facilities to protect the surrounding single-family neighborhoods within one-quarter mile of the development.
8. Retention of at least 20 percent of the significant trees on a site zoned MUR-70'.
9. Replacement of all significant trees removed on a site zoned MUR-70' as follows:
  - a. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
  - b. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
  - c. Minimum size requirements for replacement trees under this provision:  
Deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.