

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

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

PROBLEM/ISSUE STATEMENT:

Included in the 2017 Development Code "Batch" Amendment was a citizen-initiated amendment to not exempt development within the MUR-70 zoning district from SMC 20.50 Subchapter 5, Shoreline's "Tree Code." On January 22, 2018 and February 26, 2018, the City Council reviewed the Planning Commission's recommendation to not amend the development code and retain the exemption. With the adoption of Ordinance No. 789, the City Council rejected the Planning Commission's recommendation and removed the exemption thereby making the MUR-70 zoning district subject to the Tree Code.

While removing the exemption, City Council directed staff to further research the issue of tree conservation in the MUR-70 zoning district. And, on July 30, 2018, staff returned to the City Council with the Planning Commission's recommendation to exempt the MUR-70 zoning district but provide several incentives to promote tree conservation in this zoning district.

Tonight, Council is scheduled to adopt proposed Ordinance No. 833 (Attachment A), which would implement the Planning Commission's recommendation, a recommendation supported by staff.

RESOURCE/FINANCIAL IMPACT:

Proposed Ordinance No. 833, as recommended by the Planning Commission, would have no financial impact on the City.

RECOMMENDATION

Staff recommends that the Council approve the Planning Commission's recommendation and adopt Ordinance No. 833, amending SMC 20.50 Subchapter 5 to exempt the MUR-70 zoning district and provide incentives to promote tree conservation in this zoning district.

Approved By: City Manager **DT** City Attorney **JA-T**

BACKGROUND

Included in the 2017 Development Code “Batch” Amendment was a citizen-initiated amendment to not exempt development within the MUR-70 zoning district from SMC 20.50 Subchapter 5, Shoreline’s “Tree Code.” On January 22, 2018 and February 26, 2018, the City Council reviewed the Planning Commission’s recommendation to not amend the development code and retain the exemption. With the adoption of Ordinance No. 789, the City Council rejected the Planning Commission’s recommendation and removed the exemption thereby making the MUR-70 zoning district subject to the Tree Code.

While removing the exemption, the City Council directed staff to further research the issue of tree conservation in the MUR-70 zoning district. On July 30, 2018, staff returned to the City Council with the Planning Commission’s recommendation to exempt the MUR-70 zoning district but provide several incentives to promote tree conservation in this zoning district. The staff report for the July 30 Council discussion can be reviewed here:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport073018-9a.pdf>.

DISCUSSION

At the July 30, 2018 Council meeting, the Council discussed the best ways to both support trees in the City and to achieve the intent of the station subarea plans - particularly redevelopment in MUR-70’ zones. The discussion contained the following issues:

- Exemption of MUR-70’ and MUR-45’ zone districts from the Tree Code along with other commercial zones.
- Exempt commercial zones would be required to have redevelopment applications before allowing trees to be removed.
- Development incentives to allow greater height, reduced front-yard setbacks, and reduced parking with compliance with the City’s current tree retention standards.
- No development incentives but require fee-in-lieu payments to the City for future replanting of trees elsewhere in the City.
- The appropriate rate for fee-in-lieu in consideration of other impact fees that the City currently requires.
- A combination of development incentives and fee-in-lieu requirements.
- Value of existing perimeter trees to be retained.

The Mayor requested that Councilmembers notify staff of any desired amendments to the Planning Commission recommendation. At the July 30 meeting, Councilmember Roberts indicated that he would like to have the amendment he submitted that night be included. Since that time Councilmember Roberts submitted a “second option” amendment and Councilmember Scully has submitted an amendment. Those amendments are listed below along with staff recommendations.

Councilmember Proposed Amendments

Councilmember Roberts - OPTION 1:

- Exempt the MUR-70' zoning district from the Tree Code when tree removal is associated with a site development or building permit;
- Add the associated permit requirement to all commercial zones that are currently exempt from the Tree Code (NB, CB, MB, TC 1, TC 2, and TC 3); and
- Include the Planning Commission's recommended incentives – bonus height, front yard setback reduction, parking standard reductions

The amendatory language for the Councilmember Roberts Option 1 Amendment would be:

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, when removal is associated with a current site development or building permit application. This exemption does not apply to lots maintaining or expanding non-conforming uses.

SMC 20.50.020 Dimensional requirements

Table 20.50.020(2) Densities and Dimensions in Mixed Use Residential Zones *Exceptions to Table –*

(12) Development in the MUR-70' zone shall receive a height bonus when retaining on-site significant trees. A maximum height bonus of up to 10 feet when 10 percent of significant trees are retained or a maximum height bonus of up to 20 feet when 20 percent of significant trees are retained.

(18) The minimum front yard setback in the MUR-70' zone may be reduced by five (5) feet on a non-arterial street when 20 percent of on-site significant trees 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.

If Council would like to enact Roberts Option 1, a councilmember would need to move to modify the Planning Commission's Recommendation as follows:

I move to modify the Planning Commission's recommendation to:

Add language to SMC 20.50.310(A)(5) that the listed commercial zoning districts are only exempt from SMC 20.50 Subchapter 5 when removal is associated with a current site development or building permit application and that this exemption does not apply to lots maintaining or expanding non-conforming uses.

Strike the tree retention incentive language recommended by the Planning Commission for the Exceptions applied to SMC Table 20.50.020(2) permitting a height bonus in the MUR-70 zoning district when up to 20 percent of significant trees are retained and provide clearer language as to the height bonus that may be achieved based on the percentage of retained trees.

Councilmember Roberts - OPTION 2:

- Exempt the MUR-70' zoning district from the *retention* requirements of the Tree Code but require adherence to the *replacement* requirements of the Tree Code;
- Allow for reduction in the number of required replacement trees based on the number of trees that will be required by SMC 20.50 Subchapter 7 Landscaping;
- Require on-site planting and, with City's discretionary approval, off-site planting or fee-in-lieu; and
- Establish a fee-in-lieu for requirement replacement trees; fee would be the same as for Street Tree Replacement; funds could be utilized for tree management on City property throughout the City or for open space/parks land acquisition

The amendatory language for the Councilmember Roberts Option 2 Amendment would be:

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, when removal is associated with a current site development or building permit application. This exemption does not apply to lots maintaining or expanding non-conforming uses.

SMC 20.50.350(B) Minimum retention requirements. Except within the MUR-70 zoning district, all proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:

SMC 20.50.360 Tree Replacement and site restoration.

SMC 20.50.360(C) Replacement required. Trees removed under the partial exemption in SMC 20.50.310(B)(1) may be removed per parcel with no replacement trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:

7. Tree replacement is required in the MUR-70 zone at the quantities set forth in this section. The number of required replacement trees will be off-set by the number of new trees planted pursuant to SMC 20.50 Subchapter 7's landscape standards. Tree replacement requirements may also be satisfied as follows:

- a. Off-site planting of replacement trees on City property may be approved by the Director if there is insufficient area on the property; or
- b. Payment of a fee-in-lieu for each required replacement tree. The fee shall be as set forth in SMC 3.01.300. Fees collected shall be used for public tree management or open space/park land acquisition.

If Council would like to enact Roberts Option 2, a councilmember would need to move to modify the Planning Commission's Recommendation as follows:

I move to modify the Planning Commission's recommendation to:

Add language to SMC 20.50.310(A)(5) that the listed commercial zoning districts are only exempt from SMC 20.50 Subchapter 5 when removal is associated with a current site development or building permit application and that this exemption does not apply to lots maintaining or expanding non-conforming uses.

Add language to SMC 20.50.350(B) Minimum retention requirements, exempting development within the MUR-70 zoning district from tree retention standards.

Add language to SMC 20.50.350(C) Tree Replacement and site restoration, requiring tree replacement in the MUR-70 zoning district. But, the number of replacement trees required can be reduced by the number of trees already required by SMC 20.50 Subchapter 7's landscaping standard. An applicant also has the option of requesting off-site planting of replacement trees on city-property but this is subject to approval of the city or payment of a fee-in-lieu that is the same as the City's current street tree replacement fee in SMC 3.01 Fee Table. Fees collected could be used for public tree management or open/space park land acquisition.

Councilmember Scully

- Require up to 20% significant tree retention in the MUR-70 zoning district
- Provide relief from the retention requirement to permit maximum hardscape coverage of this zone (90%)
- Permit the square footage of front yard setbacks on 145th Street and 185th Street to be subtracted before calculating hardscape coverage
- Allow structures to encroach into setbacks (except front yard on 145th and 185th) to provide for tree retention
- MUR-70' zone would be exempt from tree replacement.

The amendatory language for the Councilmember Scully Amendment would be:

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 and TC-1, 2 and 3 and MUR-70.

SMC 20.50.020 Dimensional requirements

Table 20.50.020(2) Densities and Dimensions in Mixed Use Residential Zones Exceptions to Table –

~~(12) Development in the MUR-70' zone shall receive a height bonus when retaining on-site significant trees. A maximum height bonus of up to 10 feet when 10 percent of significant trees are retained or a maximum height bonus of up to 20 feet when 20 percent of significant trees are retained.~~

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

SMC 20.50.400 Reductions to minimum parking requirements.

- B. 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.~~

SMC 20.50.360 Tree replacement and site restoration.

C. Replacement required.

...

Exception 20.50.360(C):

- a. No tree replacement is required when the tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.*
- b. No tree replacement is required in the MUR-70' zone.*
- h. c. The Director may allow a reduction in the minimum replacement trees required or off-site planting of replacement trees if all of the following criteria are satisfied:*
 - i. There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.*
 - ii. Strict compliance with the provisions of this Code may jeopardize reasonable use of property.*
 - iii. Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.*
 - iv. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.*
- e. d. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.*

G. In the MUR-70' zoning district, up to 20 percent of significant trees shall be retained.

- 1. If retaining significant trees results in hardscape coverage less than the maximum set forth in SMC Table 20.50.020(2), then the Director may reduce the percentage of retained trees until the maximum permitted hardscape coverage is achieved.
- 2. When calculating hardscape coverage, the front yard setback area of property abutting 145th Street or 185th Street shall not be included in the lot area square footage.
- 3. Except for the front yard setbacks on 145th Street or 185th Street, structures may encroach into required yard setbacks set forth in SMC Table 20.50.020(2) if encroachment would permit the retention of significant trees on the property. The Director may allow for a reduction in the percentage of trees required to be retained but only after setback encroachment has been utilized to the maximum extent possible.

If Council would like to further consider Councilmember Scully's amendment, then staff recommends delaying adoption of Ordinance No. 833 and utilize August 13 for additional discussion on this issue. The use of additional discussion is because this

amendment contains elements that have not yet been discussed and broadly available for public comment such as allowing encroachments into required setbacks. Adoption of Ordinance No. 833 could be scheduled for September 2018.

A point to consider if Council were to move Councilmember Scully's amendment forward would be that there may be some cases, if structures were allowed to encroach into the required yard setbacks, that the City's landscaping requirements would not apply (SMC 20.50.490(a)).

If Council would like to enact the Scully amendment, a councilmember would need to move to modify the Planning Commission's Recommendation as follows:

I move to modify the Planning Commission's recommendation to:

Strike the addition of "and MUR-70" from SMC 20.50.310(A)(5)

Strike the incentives denoted in SMC Table 20.50.020(2) as (12) – Bonus Height and (18) Front yard setback reduction.

Strike new criteria proposed in SMC 20.50.400(A)(8) and .400(A)(9) – parking reductions.

Add new SMC 20.50.350 Development standards for clearing activities to require retention but allow for reduction as necessary to achieve maximum hardscape, clarify calculation of hardscape, and permit encroachment into setbacks if facilitates tree retention.

RESOURCE/FINANCIAL IMPACT

Proposed Ordinance No. 833, as recommended by the Planning Commission, would have no financial impact on the City.

RECOMMENDATION

Staff recommends that the Council approve the Planning Commission's recommendation and adopt Ordinance No. 833, amending SMC 20.50 Subchapter 5 to exempt the MUR-70 zoning district and provide incentives to promote tree conservation in this zoning district.

ATTACHMENT

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:

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 (17 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 (15 14)	15 ft if located on 185th Street (15 14) 0 ft if located on an arterial street 10 ft on nonarterial street 22 ft if located on 145th Street (15 14)	15 ft if located on 185th Street (15 14) 22 ft if located on 145th Street (15 14) 0 ft if located on an arterial street 10 ft on nonarterial street (18)
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 (45 16)	45 ft (45 16)	70 ft (11) (12)(12 13) (45 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:
 - 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.