

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

<b>AGENDA TITLE:</b>	Discussion of Ordinance No. 934 - Amending Shoreline Municipal Code Chapter 20.30 to Add Procedures for Subdivision Vacations and Resolution No. 481 - Adopting a Fee for Subdivision Vacations
<b>DEPARTMENT:</b>	Planning & Community Development
<b>PRESENTED BY:</b>	Cate Lee, AICP, Senior Planner
<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:**

Although the Revised Code of Washington (RCW) 58.17.212 provides for the vacation of a subdivision, the City currently has no process established in the Shoreline Municipal Code (SMC) for such a vacation. There are subdivisions throughout the City, particularly in the Mixed Use Residential (MUR) zoning districts, that make fully implementing the vision of special area plans, like the Light Rail Station Subarea Plans (145<sup>th</sup> & 185<sup>th</sup>), complicated due to these prior subdivisions, primarily for detached single-family development.

Proposed Ordinance No. 934 (Attachment A) would provide for recorded subdivision vacation procedures by amending Chapter 20.30 of the SMC. As well, proposed Resolution No. 481 (Attachment B) would provide for an amendment to the City's Fee Schedule to establish review fees for subdivision vacation applications. Proposed Ordinance No. 934 and proposed Resolution No. 481 are currently scheduled to be brought back to Council for potential action on August 16, 2021.

**RESOURCE/FINANCIAL IMPACT:**

No resource impacts are anticipated as a result of this discussion. If Council adopts proposed Ordinance No. 934, the new regulations will result in increased fee collection related to staff processing of subdivision vacation applications. These fees are intended to cover the cost of staff time and the Hearing Examiner to review and consider the application, so there likely will be no net impact on City finances. In addition, vacating such subdivisions will allow properties to be redeveloped under current zoning standards, which will likely result in increased construction permit application fee revenue for the City related to multifamily and commercial development.

**RECOMMENDATION**

No formal action is required by Council at this time. The Planning Commission has recommended adoption of the proposed amendments as shown in Exhibit A to proposed Ordinance No. 934. Staff recommends that Council discuss these proposed amendments and the proposed amendment to the City's Fee Schedule in proposed

Resolution No. 481. Proposed Ordinance No. 934 and proposed Resolution No. 481 are currently scheduled to be brought back to Council for potential action on August 16, 2021.

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

## **BACKGROUND**

Since the 1900s, much of the City of Shoreline has been subdivided. These subdivisions are memorialized by a final drawing and depiction of the subdivision (the “Plat”) that is filed in the King County land records office. This statutory procedure related to subdivision and Plats is set out in State law (RCW 58.17). [RCW 58.17.212](#) provides for the vacation of a previously recorded subdivision.

A subdivision vacation is different than a plat alteration, which the City adopted regulations for on April 1, 2019 through [Ordinance No. 857](#), now codified in Shoreline Municipal Code (SMC) Section 20.30.425. Plat alterations generally result in substantial revisions to a recorded subdivision, such as removal of conditions of approval, but do not eliminate the subdivision itself. In contrast, a subdivision vacation results in the abandonment of approved plans, designs and conditions associated with an existing subdivision. In other words, a vacation returns the land to its pre-subdivision state.

As provided for in RCW 58.17.212, a subdivision vacation may be a total vacation or a partial vacation. A total vacation eliminates the entire subdivision, including all lots and public rights-of-way, as well as any restrictions that may have been contained on the plat. A partial vacation eliminates only the designated lots, public rights-of-way, and/or plat restrictions indicated in the vacation document. Land dedicated to the public in the original plat is required to be deeded to the City unless retaining the land does not benefit the City. This vacation process is not used when the applicant only wants to vacate a public street; in those situations the procedures in SMC 12.17 Street Vacation are used.

The City currently does not have regulations for processing subdivision vacations. Staff holds weekly pre-application meetings with applicants to discuss their development proposals and receive feedback from staff, and in one such meeting in 2020, it was discovered that one multifamily redevelopment proposal in the 145<sup>th</sup> Street Light Rail Station Area with MUR-70’ zoning requires a subdivision vacation to develop the property as allowed by the City’s current zoning. Although state law provides for the vacation of a subdivision as noted above, the City currently has no process established in the SMC for such a vacation. Proposed Ordinance No. 934 (Attachment A) would provide for recorded subdivision vacation procedures by amending Chapter 20.30 of the SMC.

### **Development Code Amendments Review Process**

Amendments to SMC Title 20 (Development Code) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the reviewing authority for legislative decisions and is responsible for holding an open record Public Hearing on the proposed Development Code amendments and making a recommendation to the City Council on each amendment.

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.” The

proposed amendments would establish provisions for subdivision vacations and would be consistent with provisions in RCW 58.17.212.

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.

### **Planning Commission Review**

The Planning Commission held a study session on this topic on May 20, 2021, and a Public Hearing on June 17, 2021. Staff reports for these Planning Commission agenda items, along with the meeting minutes and public comments, can be found at the following links:

- May 20<sup>th</sup>:  
<https://www.shorelinewa.gov/Home/Components/Calendar/Event/16155/182?toggle=allpast>.
- June 17<sup>th</sup>:  
<https://www.shorelinewa.gov/Home/Components/Calendar/Event/16159/182?toggle=allpast>.

One written public comment was received in advance of the June 17<sup>th</sup> Public Hearing. That person requested a more layperson explanation of the proposed amendments. City staff responded with an explanation and details on how a subdivision vacation is different from a plat alteration, with which the inquirer was familiar.

On June 17<sup>th</sup>, following the Public Hearing, the Planning Commission voted 5-0 to recommend the proposed Subdivision Vacation Development Code amendments as proposed in Ordinance No. 934, be adopted (see Attachment C).

### **DISCUSSION**

Proposed Ordinance No. 934 would amend Table 20.30.060 in the Development Code and add a new section to the Code (Section 20.30.427 SMC) regarding recorded subdivision vacations (Exhibit A to Attachment A).

### **Proposed Amendments**

RCW 58.17.212 requires a Public Hearing to be conducted for subdivision vacations. The proposed amendments categorize a subdivision vacation as a Type C land use action, which is a quasi-judicial decision. This means a pre-application meeting with staff and a neighborhood meeting are both required prior to application. To make an application, all property owners within the subdivision, or portion of the subdivision requested to be vacated, must give their permission.

Once a complete application is received by staff, the proposal is noticed in accordance with SMC 20.30.120, which requires a mailing to owners of real property located within 500 feet of the subject property; the notice to be posted on the subject property; and the notice to be published in the *Seattle Times*.

Staff makes a recommendation to the Hearing Examiner, who holds a Public Hearing on the vacation. A notice of the Public Hearing is made in accordance with SMC 20.30.180 which requires the same three (3) notification methods as the notice of application. The Hearing Examiner makes a decision based on whether the public use and interest will be served by the vacation. That decision is noticed in accordance with SMC 20.30.150, which requires the notice be mailed to parties of record and to any person who, prior to the rendering of the decision, requested notice. The notice is also posted on the subject property and published in the newspaper. Additionally, the City posts the notice of application, notice of Public Hearing, and notice of decision on the City's land use notices [webpage](#). The decision may be appealed to the superior court pursuant to Chapter 36.70C RCW, Land Use Petition Act.

In addition to the amendments establishing a process, a companion Resolution, proposed Resolution No. 481 (Attachment B), will establish a fee for the processing of subdivision vacation applications consistent with other fees established for the Planning and Community Development Department. The proposed fees are outlined below:

- Subdivision Vacation - \$2,060 (\$206.00 hourly rate, 10-hour minimum)
- Public Hearing - \$3,914.00

### **PUBLIC OUTREACH**

The Planning Commission held a study session on this topic on May 20, 2021, and a Public Hearing on June 17, 2021. The Planning Commission had a number of questions at the May 20<sup>th</sup> study session, which are detailed in the staff report for the June 17<sup>th</sup> Public Hearing. The notice of the Planning Commission Public Hearing appeared in the *Seattle Times* on May 28, 2021, was posted on the City's land use action and planning notices [webpage](#), and it was also sent via email to neighborhood association chairs.

A State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) was issued on May 28, 2021. No comments were received, and no appeal was filed during the specified comment and appeal periods. Additionally, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed amendments was sent to the Washington State Department of Commerce on June 29, 2021.

### **RESOURCE/FINANCIAL IMPACT**

No resource impacts are anticipated as a result of this discussion. If Council adopts proposed Ordinance No. 934, the new regulations will result in increased fee collection related to staff processing of subdivision vacation applications. These fees are intended to cover the cost of staff time and the Hearing Examiner to review and consider the application, so there likely will be no net impact on City finances. In addition, vacating such subdivisions will allow properties to be redeveloped under current zoning

standards, which will likely result in increased construction permit application fee revenue for the City related to multifamily and commercial development.

### **RECOMMENDATION**

No formal action is required by Council at this time. The Planning Commission has recommended adoption of the proposed amendments as shown in Exhibit A to proposed Ordinance No. 934. Staff recommends that Council discuss these proposed amendments and the proposed amendment to the City's Fee Schedule in proposed Resolution No. 481. Proposed Ordinance No. 934 and proposed Resolution No. 481 are currently scheduled to be brought back to Council for potential action on August 16, 2021.

### **ATTACHMENTS**

Attachment A – Proposed Ordinance No. 934  
Attachment A, Exhibit A – Planning Commission Recommended Code Amendments  
Attachment B – Proposed Resolution No. 481  
Attachment C – Planning Commission Recommendation

**ORDINANCE NO. 934**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON  
AMENDING CHAPTER 20.30 OF THE SHORELINE MUNICIPAL CODE  
TO ADD A NEW SECTION PROVIDING PROCEDURES FOR THE  
VACATION OF RECORDED SUBDIVISIONS PURSUANT TO RCW  
58.17.212.**

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, RCW 58.17.212 authorizes the vacation of previously recorded subdivisions, however, the Shoreline Municipal Code (SMC) does not set forth procedures for processing of applications for such vacations; and

WHEREAS, on May 20, 2021, the City of Shoreline Planning Commission reviewed proposed amendments and on June 17, 2021, held a public hearing on the proposed amendments so as to receive public testimony; and

WHEREAS, at the conclusion of the June 17 public hearing, the Planning Commission voted to recommend the proposed amendments, as presented by staff, to the City Council for approval; and

WHEREAS, on July 19, 2021, the City Council held a study session on the proposed amendments establishing procedures for the vacation of previously recorded subdivisions as recommended by the Planning Commission; 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 proposed amendments and the public hearing as provided in SMC 20.30.070; 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(3)(b), on June 29, 2021, the City has provided the Washington State Department of Commerce with a notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, pursuant the State Environmental Policy Act, chapter 43.21C RCW (SEPA), the City issued a Determination of Non-Significance on May 28, 2021; and

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

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

**Section 1. Amendment of Chapter 20.30 SMC.**

A. Shoreline Municipal Code, Title 20, Table 20.30.060 is amended as set forth in Exhibit A to this Ordinance.

B. A new section, Section 20.30.427, Vacation of Recorded Subdivisions, is added to Title 20, Chapter 20.30, of the Shoreline Municipal Code as set forth in Exhibit A to this Ordinance.

**Section 2. Transmittal to Department of Commerce.** As required by RCW 36.70A.106, the Director of Planning and Community Development shall transmit a complete and accurate copy of this Ordinance and Exhibit A to the Washington State Department of Commerce within ten (10) calendar days of adoption by the City Council.

**Section 3. 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 4. 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 5. 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 16, 2021.**

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik-Smith

\_\_\_\_\_  
Julie Ainsworth-Taylor



City Clerk

Assistant City Attorney  
On behalf of Margaret King, City Attorney

Date of Publication: , 2021

Effective Date: , 2021

**20.30.060 Quasi-judicial decisions – Type C.**

These decisions are made by the City Council or the Hearing Examiner, as shown in Table 20.30.060, and involve the use of discretionary judgment in the review of each specific application.

Prior to submittal of an application for any Type C permit, the applicant shall conduct a neighborhood meeting to discuss the proposal and to receive neighborhood input as specified in SMC 20.30.090.

Type C decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision made by the City Council or Hearing Examiner. Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a determination of significance, which is appealable under SMC 20.30.050.

There is no administrative appeal of Type C actions.

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

<b>Action</b>	<b>Notice Requirements for Application and Decision <sup>(3)</sup>, <sup>(4)</sup></b>	<b>Review Authority, Open Record Public Hearing</b>	<b>Decision Making Authority (Public Meeting)</b>	<b>Target Time Limits for Decisions</b>	<b>Section</b>
<b>Type C:</b>					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>	City Council	120 days	20.30.410
2. Rezone of Property and Zoning Map Change	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>	City Council	120 days	20.30.320
3. Site-Specific Comprehensive Plan Map Amendment	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>	City Council		20.30.345

<b>Action</b>	<b>Notice Requirements for Application and Decision <sup>(3)</sup>, (4)</b>	<b>Review Authority, Open Record Public Hearing</b>	<b>Decision Making Authority (Public Meeting)</b>	<b>Target Time Limits for Decisions</b>	<b>Section</b>
4. Special Use Permit (SUP)	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.30.330
5. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.30.333
6. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.30.336
-7. Secure Community Transitional Facility – Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.40.502
8. Essential Public Facility – Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.30.330
9. Master Development Plan	Mail, Post Site, Newspaper	HE <sup>(1), (2)</sup>		120 days	20.30.353
10. Plat Alteration with Public Hearing <sup>(5)</sup>	Mail	HE <sup>(1), (2)</sup>		120 days	20.30.425
<u>11. Subdivision Vacation</u>	<u>Mail, Post Site, Newspaper</u>	<u>HE <sup>(1), (2)</sup></u>		<u>120 days</u>	<u>20.30.427</u>

(1) Including consolidated SEPA threshold determination appeal.

(2) HE = Hearing Examiner.

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

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

(5) A plat alteration does not require a neighborhood meeting.

### **20.30.427 Vacation of recorded subdivisions.**

**A. Applicability.** A subdivision vacation provides a process to vacate a previously recorded subdivision, short subdivision, binding site plan, or any portion thereof, or any area designated or dedicated for public use. The subdivision vacation results in the nullification of the recorded subdivision or portion thereof.

1. Any person seeking a subdivision vacation shall comply with the applicable requirements set forth in Chapter 58.17 RCW and this section in effect at the time a complete application is submitted to the City.
2. If the application is for the vacation of a subdivision together with the public rights-of-way, the procedures of this section shall apply except as prohibited by RCW 35.79.035, as amended, or other applicable law.
3. This section shall not apply to the:
  - a. Vacation of any plat of State-granted tide- or shorelands.
  - b. Vacation specifically of public rights-of-way which shall adhere to SMC 12.17.

**B. Application.** A request to vacate a recorded subdivision shall be submitted on official forms prescribed and provided by the Department along with the applicable fees.

1. The application shall contain the signatures of all persons having an ownership interest in the subject subdivision or portion to be vacated.
2. If the subdivision is subject to restrictive covenants which were recorded at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

### **C. Review Procedure and Criteria.**

1. The City will provide notice of the application for subdivision vacation and public hearing as provided in SMC 20.30.120 and 20.30.180.
2. The City shall hold a public hearing, review the submittal materials, and may approve or deny after a determination is made whether the public use and interest will be served by the vacation. Such determination shall be in writing and supported by findings of fact.
  - a. If any portion of the land contained in the subdivision to be vacated was dedicated to the public for public use or benefit, such land, if not

deeded to the City, shall be deeded to the City unless the decision-making authority sets forth findings that the public use would not be served in retaining title to those lands.

- b. Title to the vacated property shall vest as provided in RCW 58.17.212, as amended.

D. **Recording.** No later than 30 calendar days after approval of the subdivision vacation, the applicant shall file, at their sole cost and expense, the approval of the vacated subdivision with the King County Recorder.

E. **Appeal.** The decision of the Hearing Examiner on the subdivision vacation shall be the final decision of the City; no administrative appeal is provided. Appeals of the final decision may be appealed to superior court pursuant to Chapter 36.70C RCW, Land Use Petition Act.

**RESOLUTION NO. 481**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AMENDING RESOLUTION NO. 471 TO ESTABLISH A FEE FOR THE PROCESSING OF APPLICATIONS FOR THE VACATION OF PREVIOUSLY RECORDED SUBDIVISIONS.**

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 is authorized by state law to impose fees to recoup the costs of processing of land use applications, including but not limited to RCW 35A.11.020 and 82.02.020; and

WHEREAS, SMC Section 3.01.010 provides that the City Council is to establish fees for services provided by the City from time to time by Resolution; the 2021 Fee Schedule was adopted by Resolution No. 471; and

WHEREAS, with the adoption of Ordinance No. 934, the City Council established procedures for the vacation of previously recorded subdivisions as authorized by RCW 58.17.212 and a fee needs to be adopted for the processing of applications for a vacation; and

WHEREAS, the proposed fee does not exceed the actual cost of providing the services for which the fee is charged, as required by state law; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:**

**Section 1. Adoption of Fee.** The Fee Schedule, as adopted by Resolution No. 471, for Planning and Community Development, Section M Subdivisions, is amended to include a new fee for Subdivision Vacations as follows:

- 9. Vacation of subdivision \$206.00 hourly rate, 10-hour minimum plus public hearing (\$3,914.00).

**Section 2. Effective Date.** This Resolution shall take effect and be in full force on the same date as the effective date of Ordinance 934.

**ADOPTED BY THE CITY COUNCIL ON AUGUST 16, 2021.**

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

**ATTEST:**

\_\_\_\_\_  
Jessica Simulcik Smith, City Clerk



TO: Honorable Members of the Shoreline City Council

FROM: Pam Sager, Vice Chair  
Shoreline Planning Commission

DATE: June 30, 2021

RE: Amendments for Vacation of Previously Recorded Subdivision

The Shoreline Planning Commission has completed its review of the proposed amendments to the Shoreline Municipal Code that establish procedures for the processing of applications seeking vacation of a recorded subdivision.

The Planning Commission discussed the proposed amendments on May 20, 2021 and held a public hearing on June 17, 2021. With a vote of 5-0, the Planning Commission recommended approval of the amendments as presented by Planning Staff. By adding these procedures to the Shoreline Municipal Code, both staff and applicants will have a process to ensure the effective and efficient processing of these types of applications.

In consideration of the Planning Staff's recommendations, written and oral public testimony, the Planning Commission respectfully recommends that the City Council adopt the proposed amendments as attached to this recommendation.