

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Ordinance No. 934 – Amending Shoreline Municipal Code Chapter 20.30 to Add Procedures for Subdivision Vacations
DEPARTMENT:	Planning & Community Development
PRESENTED BY:	Cate Lee, AICP, Senior Planner
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:

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 (145th & 185th), complicated due to these prior subdivisions, primarily for detached single-family development.

Tonight, Council is scheduled to take action on proposed Ordinance No. 934 (Attachment A), which would provide for recorded subdivision vacation procedures by amending Chapter 20.30 of the SMC.

RESOURCE/FINANCIAL IMPACT:

The new regulations will result in increased fee collection related to staff processing of subdivision vacation applications. These fees are intended to cover the costs 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

Staff recommends that the City Council adopt Ordinance No. 934 as set forth in Attachment A to this staff report.

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

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 believe regulations to process subdivision vacations are necessary to develop properties as allowed by the City’s current zoning. The Planning Commission held a study session on this topic on May 20, 2021, and more information on this study session can be found here: [Subdivision Vacation Development Code Amendments](#). The Planning Commission later held a Public Hearing on the issue on June 17, 2021, and more information from this Hearing can be found here: [Public Hearing on the Subdivision Vacation Development Code Amendments](#).

During the June 17th Planning Commission meeting and 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.

The City Council discussed the proposed Development Code amendments on July 19, 2021. More information on this discussion can be found here: [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](#).

DISCUSSION

During the July 19, 2021, City Council discussion on the Subdivision Vacation Development Code Amendments, two questions were raised that are answered below:

1. **Councilmember Roberts:** Under what conditions is someone eligible to apply for a subdivision vacation?

Staff Response: All property owners within the subdivision, or portion of subdivision requested to be vacated, must agree to the application. This is a requirement of [RCW 58.17.212](#), therefore the City's proposed regulations are consistent with state law.

2. **Councilmember Roberts:** What is the expected outcome of a neighborhood meeting?

Staff Response: Neighborhood meetings are required for all [Type C](#) land use actions. City Council could choose to exempt subdivision vacations from this requirement, but staff recommends keeping the requirement. Neighborhood meetings are an early opportunity to make the surrounding community aware of development that likely will take place in their area, and it is also an opportunity to receive feedback from the community regarding if the public interest will be served by the vacation. The neighborhood meeting may bring up issues early in the process, such as an easement that would be extinguished as part of the subdivision vacation that could have implications beyond just the properties subject to the easement. One such example would be a pedestrian access easement through a subdivision that connects the public sidewalk to a school property. It is not likely staff would miss such an obvious example, but this is to illustrate the potential benefit of retaining the neighborhood meeting requirement.

RESOURCE/FINANCIAL IMPACT

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

Staff recommends that the City Council adopt Ordinance No. 934 as set forth in Attachment A to this staff report.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 934

Attachment A, Exhibit A – Planning Commission Recommended Code Amendments

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

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

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