Council Meeting Date: March 28, 2022 **Agenda Item**: 8(b)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Ordinance No. 959 - Amending Shoreline Municipal Code Chapters 20.20, 20.30, 20.40, and 20.50 Regarding the Miscellaneous and SEPA Related 2021 Batch Development Code Amendments
DEPARTMENT:	Planning & Community Development
PRESENTED BY:	Steven Szafran, AICP, Senior Planner
ACTION:	_X__ Ordinance ____ Resolution ____ Motion ___ Discussion ____ Public Hearing

PROBLEM/ISSUE STATEMENT:

Amendments to the Development Code (Shoreline Municipal Code Title 20) 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 review authority for these legislative decisions and is responsible for holding a public hearing on proposed Development Code amendments and making a recommendation to the City Council on each amendment.

The Planning Commission held study sessions to discuss the 2021 Batch Development Code Amendments and give staff direction on the amendments on July 15, August 5, October 7, November 18, December 2, 2021, and January 6, 2022. The Commission then held the required Public Hearing on February 3, 2022. The Planning Commission recommended that the City Council adopt certain miscellaneous and SEPA related amendments as set forth Exhibit A to proposed Ordinance No. 959 (**Attachment A**).

The Development Code Batch Amendments consists of three distinct groups of amendments that have been grouped by topic: Miscellaneous amendments proposed by City staff (Group A); amendments to the procedure and administration of the State Environmental Policy Act (SEPA; Group B); and tree-related amendments (Group C). The Group C tree-related amendments were reviewed by Council on March 21st via Ordinance No. 955.

Tonight, the City Council is scheduled to take action on the proposed miscellaneous and SEPA related Development Code Batch Amendments in proposed Ordinance No. 959. The proposed miscellaneous and SEPA related are entirely proposed by staff. The City Council discussed these proposed amendments on March 7, 2022. Council had questions and comments on some of the proposed amendments that will be addressed later in this staff report. Staff has also provided amendatory motions in this staff report for Council's use, if needed.

RESOURCE/FINANCIAL IMPACT:
The proposed Development Code amendments will not have a direct financial impact to the City.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments in Ordinance No. 959.

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

BACKGROUND

The City's Development Code is codified in Title 20 of the Shoreline Municipal Code (SMC). Amendments to Title 20 are used to ensure consistency between the City's development regulations and the City's Comprehensive Plan, to reflect amendments to state rules and regulations, or to respond to changing conditions or needs of the City.

Pursuant to SMC 20.30.070, amendments to the 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 review authority for these types of decisions and is responsible for holding an open record Public Hearing on any proposed amendments and making a recommendation to the City Council on each amendment.

The 2021 Planning Commission-recommended Batch consists of 38 total Development Code amendments. The Group A Miscellaneous Amendments consist of 14 Director-initiated amendments; the Group B SEPA Amendments consist of 16 Director-initiated amendments; and the Group C Tree Amendments consist of 8 amendments (some amendments include multiple code sections); 7 of which were privately-initiated and one is Director-initiated.

The Planning Commission started discussing the Batch Development Code Amendments in July of 2021 on the following schedule:

- The Planning Commission held a meeting on **July 15, 2021** to discuss the Group A Miscellaneous Amendments.
- The Planning Commission held a subsequent meeting on **August 5, 2021** to discuss the Group B SEPA Amendments.
- The Planning Commission held meetings on **October 7, 2021**, **November 18, 2021**, and **December 2, 2021**, to discuss the Group C Tree Amendments.
- The Planning Commission reviewed all three of the Groups of amendments on **January 6, 2022**.

At the conclusion of the Planning Commission Public Hearing on the Batch Development Code Amendments, which was held on **February 3, 2022**, the Planning Commission recommended approval of 41 amendments. A memo to the City Council from the Planning Commission regarding their recommendation is included as **Attachment B**.

Following the Planning Commission's review and recommendation of the Batch Development Code Amendments, the City Council discussed the proposed Code Amendments on February 28 and March 7, 2022. On February 28th, the City Council discussed the proposed tree related amendments (Group C Amendments), and on March 7th, the Council discussed the Miscellaneous and SEPA Amendments (Group A and B Amendments). The staff report for the March 7th Council discussion can be found at the following link: http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2022/staffreport030722-9b.pdf.

Given the complexity of the proposed Batch Development Code Amendments, length of Council discussion and level of public comment on the amendments, staff has split the adoption of the proposed amendments into two actions. Tonight, Council is scheduled to take action on proposed Ordinance No. 959 (**Attachment A**), which would adopt the Group A and B miscellaneous and SEPA related Batch Development Code Amendments. Staff has also provided amendatory motions in this staff report for Council's use, if needed, related to some of these proposed amendments.

DISCUSSION

All the miscellaneous and SEPA Development Code amendments are addressed below. Each amendment includes a description of the amendment, justification for the amendment and Planning Commission recommendations. Staff has also included the Council discussion and amendatory motions for those amendments that Council expressed interest in changing.

Amendment #A1
20.20.020 – F Definitions

Family An individual; two or more persons related by blood or marriage~~, a group of up to eight persons who may or may not be related,~~ living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. ~~For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.~~

Justification – Three recent laws made changes to how cities may regulate the location and occupancy of specific types of housing. Passed this year and going into effect July 25, Senate Bill (SB) 5235 restricts occupancy requirements of unrelated persons:

> "Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 18 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or county ordinance, a city may not limit the number of unrelated persons that may occupy a household or dwelling unit."

The definition of family in the Development Code refers to eight persons who may or may not be related. Based on direction of State Law, this restriction is proposed to be removed from the definition.

Recommendation – The Planning Commission recommends approval of this amendment to comply with State Law.

March 7th Council Discussion – During this Council discussion, Councilmembers questioned the reasoning of having a definition of family especially after the State removed the occupancy requirements of unrelated persons living together. Council also questioned why a family should be defined by blood or marriage because many people live as families without being related by blood or marriage.

Staff agrees that the definition of "family" in the Development Code should be amended. Staff is hesitant however about completely removing the definition of "family" from the Code as there may be uses in the Code that refer to "family" as a criterion for approval. For example, Accessory Dwelling Units require that "either the primary residence or the accessory dwelling unit shall be occupied by an owner of the property or an immediate family member of the property owner. Immediate family includes "parents, grandparents, brothers and sisters, children, and grandchildren". Removing the definition of family may cause confusion in the Code when trying to approve future ADU applications.

Staff recommends that Council amend the Planning Commission's recommendation to remove any reference to numbers of people in a family to make the definition more inclusive but still provides guidance for existing Development Code criterion for other types of land uses. Staff also recommends removing the language referring to the family as two or more persons related by blood or marriage. A family needn't be defined as by blood and marriage and adding "two or more persons living together as a single housekeeping unit" will be inclusive of all families that choose to live together.

Amendatory Motion - If Council would like to amend the Planning Commission's recommendation to amend SMC 20.20.020 – Family definition, so that the definition still complies with State law restricting occupancy requirements of unrelated persons but does not define families by blood or marriage, a Councilmember could move to modify the Planning Commission's recommendation as follows:

I move to amend the Planning Commission's recommendation for Batch Amendment No. A1 and revise the definition for "Family" as follows:

Family An individual; ~~two or more persons related by blood or marriage, a group of up to eight persons who may or may not be related,~~ two or more persons living together as a single housekeeping unit; or a group living arrangement where ~~eight or fewer~~ residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. ~~For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.~~

Amendment #A2
20.20.024 – H Definitions

Host Agency	A public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; or a religious organization as defined in RCW 35A.21.360, religious or not for profit organization that invites a transitional encampment to reside on the land that they own or lease.

Justification – SMC 20.40.355 was amended on May 10, 2021, which added Enhanced Shelters to the Development Code. Part of that package of amendments reflected Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the definition of Host Agency. A Host Agency is an organization that operates a transitional encampment.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A3
20.20.024 – H definitions

Hardscape – Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt. Retaining walls, gravel, or paver paths less than four feet wide with open spacing are not considered hardscape. Artificial turf with subsurface drain fields and decks that drain to soil underneath have a 50 percent hardscape and 50 percent pervious value. Coverings that allow growth of vegetation between components with the ability to drain to soil underneath have a hardscape percent pervious value as determined by the Director based on the manufacturer's specifications, which shall be provided by the applicant.

Justification – Even though the definition of hardscape includes pervious concrete and asphalt, for newer products like Grasscrete, the Director has determined that staff can consider these newer technologies to be only a percentage of hardscape, based on the manufacturer's specifications. This reduction in the hardscape calculation is only applicable if grass or soil is underneath rather than gravel (which is defined as hardscape per code). The applicant will be required to provide the manufacturer's specifications for the Director to make a final determination on the actual reduction of Hardscape during the building permit review of the proposed project.

Recommendation – The Planning Commission recommends approval of this amendment to provide flexibility and to rely on newer technology to treat and manage surface water.

Amendment A3.1
20.20.024 – H definitions

Housing Expenses, Rental Housing	Includes rent~~, parking~~ and appropriate utility allowance.

Justification – This amendment was inadvertently omitted from the batch of amendments considered by the Planning Commission but within the scope of the amendment to SMC 20.50.410 to remove the requirement of bundling parking with the rent of the dwelling unit. This amendment is needed to ensure the amendment to SMC 20.40 is effectuated.

Recommendation – The Planning Commission recommends approval of this amendment in order to further the City's affordable housing goals by removing the cost of parking from the living expenses of the residents of affordable housing units.

Amendment #A4
20.20.034 – M Definitions

Managing Agency	An organization that has the capacity to organize and manage a transitional encampment. A managing agency must be a public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; a religious organization as defined in RCW 35A.21.360; or a self-managed homeless community. A managing agency may be the same organization as the host agency.

Justification – SMC 20.40.355 was amended on May 10, 2021, which added Enhanced Shelters to the Development Code. Part of that package of amendments reflected Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the definition of Managing Agency. A Managing Agency is an organization that operates a transitional encampment.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A5
20.30.300 Conditional use permit-CUP (Type B action).

A. **Purpose.** The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. **Threshold.** The purpose of this section is to determine when a conditional use permit is required. A conditional use permit is required if either of the following occurs:

1. The use area is expanded by twenty percent (20%) or more of the current use area (measured in square feet). For example, the use area is currently 2,000 sq. ft. and a 400 sq. ft. addition that expands the use area is proposed, so a conditional use permit is required.

2. The parking area (measured in the number of parking spaces) is expanded by twenty percent (20%) or more of the current parking area (measured in the number of parking spaces). For example, twenty (20) parking spaces are currently associated with the use and four (4) additional parking spaces for the use are proposed, so a conditional use permit is required.

Thresholds are cumulative ~~during a 10-year period~~ for any given parcel. This shall include all structures on other parcels if the use area and/or parking area under permit review extends into other parcels.

C~~B~~. **Decision Criteria.** A conditional use permit may be granted by the City, only if the applicant demonstrates that:

1. The conditional use is compatible with the Comprehensive Plan and designed in a manner which is compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property;

2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

5. The conditional use is not in conflict with the health and safety of the community;

6. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;

7. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

8. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

D~~C~~. **Suspension or Revocation of Permit.**

1. The Director may suspend or revoke any conditional use permit whenever:

   a. The permit holder has failed to substantially comply with any terms or conditions of the permit's approval;

   b. The permit holder has committed a violation of any applicable state or local law in the course of performing activities subject to the permit;

   c. The use for which the permit was granted is being exercised as to be detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance;

   d. The permit was issued in error or on the basis of materially incorrect information supplied to the City; or

   e. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled.

2. The Director shall issue a notice and order in the same manner as provided in SMC 20.30.760.

   a. The notice and order shall clearly set forth the date that the conditional use permit shall be suspended or revoked.

   b. The permit holder may appeal the notice and order to the Hearing Examiner as provided in SMC 20.30.790. The filing of such appeal shall stay the suspension or revocation date during the pendency of the appeal.

   c. The Hearing Examiner shall issue a written decision to affirm, modify, or overrule the suspension or revocation, with or without additional conditions, such as allowing the permit holder a reasonable period to cure the violation(s).

3. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order.

4. If a conditional use permit has been suspended or revoked, continuation of the use shall be considered an illegal occupancy and subject to every legal remedy available to the City, including civil penalties as provided for in SMC 20.30.770(D).

E~~D~~. **Transferability.** Unless otherwise restricted by the terms and conditions at issuance of the conditional use permit, the conditional use permit shall be assigned to the applicant and to a specific parcel. A new CUP shall be required if a permit holder desires to relocate the use permitted under a CUP to a new parcel. If a CUP is determined to run with the land and the Director finds it in the public interest, the Director may require that it be recorded in the form of a covenant with the King County Recorder's Office. Compliance with the terms and conditions of the conditional use permit is the responsibility of the current property owner, whether the applicant or a successor.

F~~E~~. **Expiration.**

1. Any conditional use permit which is issued and not utilized within the time specified in the permit or, if no time is specified, within two years from the date of the City's final decision shall expire and become null and void.

2. A conditional use permit shall be considered utilized for the purpose of this section upon submittal of:

a. A complete application for all building permits required in the case of a conditional use permit for a use which would require new construction;

b. An application for a certificate of occupancy and business license in the case of a conditional use permit which does not involve new construction; or

c. In the case of an outdoor use, evidence that the subject parcel has been and is being utilized in accordance with the terms and conditions of the conditional use permit.

3. If after a conditional use has been established and maintained in accordance with the terms of the conditional use permit, the conditional use is discontinued for a period of 12 consecutive months, the permit shall expire and become null and void.

G~~F~~. **Extension.** Upon written request by a property owner or their authorized representative prior to the date of conditional use permit expiration, the Director may grant an extension of time up to but not exceeding 180 days. Such extension of time shall be based upon findings that the proposed project is in substantial conformance, as to use, size, and site layout, to the issued permit; and there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety, and general welfare.

Justification – This amendment will set a threshold for when a conditional use permit (CUP) is required. The current Code is silent on this, which means a CUP is required for any expansion of the use area, even if it is negligible and has a de minimis impact. For example, a house of worship is a conditional use in the R-6 zoning district and if that house of worship wants to add an entry vestibule for greeting parishioners, a CUP is currently required even though this is not an added assembly area and does not intensify the use. The threshold for expansion could be any percentage of use area. The Planning Commission recommends 20% based on recently approved CUPs for expansion of an existing use. Staff would also like to point out that a new CUP could include a condition that prohibits or further limits expansion without a new CUP as defined under SMC 20.30.300 as proposed for amendment. This added condition ensures that the potential impacts from an expanded CUP will not unduly burden adjacent neighbors.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A6
20.40.405 Homeless shelter.

The intent of a homeless shelter is to provide temporary relief for those in need of housing. Homeless shelters are allowed in the mixed business, community business and town center 1, 2, and 3 zones subject to the below criteria.

A. The homeless shelter must be operated by a public agency; a State of Washington registered nonprofit corporation; or a Federally recognized tax exempt 501(C)(3) organization that has the capacity to organize and manage a homeless shelter.

B. The homeless shelter shall permit inspections by City, Health and Fire Department inspectors at reasonable times for compliance with the City's requirements. An inspection by the Shoreline Fire Department is required prior to occupancy.

C. The homeless shelter shall have a code of conduct that articulates the rules and regulations of the shelter. These rules shall include, at a minimum, prohibitions against alcohol and/or drug use and violence; and exclusion of sex offenders. The homeless shelter shall keep a cumulative list of all residents who stay overnight in the shelter, including names and dates.

D. The homeless shelter shall check that adult residents have government-issued identification such as a state or tribal issued identification card, driver's license, military identification card, or passport from prospective shelter residents for the purpose of obtaining sex offender and warrant checks. Prospective residents will not be allowed residency until identification can be presented. If adult residents do not have identification, the operator of the shelter shall assist them in obtaining such. No documentation is required to be submitted to the City for the purpose of compliance with this condition.

Justification –SMC 20.40.355 was amended on **May 10, 2021**, which added Enhanced Shelters to the Development Code. Part of that package of amendments reflected Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the indexed criteria for Homeless Shelters.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A7
20.40.570 – Unlisted Use

A. Recognizing that there may be uses not specifically listed in this title, either because of advancing technology or any other reason, the Director may permit, ~~or~~ condition or prohibit such use upon review of an application for Code interpretation for

an unlisted use (SMC 20.30.040, Type A action) and by considering the following factors:

1. The physical characteristics of the unlisted use and its supporting structures, including but not limited to scale, traffic, hours of operation, and other impacts; and

2. Whether the unlisted use complements or is compatible in intensity and appearance with the other uses permitted in the zone in which it is to be located.

B. A record shall be kept of all unlisted use interpretations made by the Director; such decisions shall be used for future administration purposes.

Justification – As written, it is not clear if the Director has the authority to deny/prohibit/not allow an unlisted use. The Development Code is set up to list permitted uses and to not list unpermitted uses. The Director should have clear authority to not permit an unlisted use that is inconsistent with the policies set for each zoning category.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A8
20.50.040 – Setbacks – Designation and Measurement

A. The front yard setback is a required distance between the front property line to a building line (line parallel to the front line), measured across the full width of the lot.

Front yard setback on irregular lots or on interior lots fronting on a dead-end private access road shall be designated by the Director.

B. Each lot must contain only one front yard setback and one rear yard setback except lots abutting two or more streets, as illustrated in the Shoreline Development Code Figure 20.50.040(C). <u>Lots with two front yards may reduce one of the front yard setbacks by half the setback specified in Table 20.50.020(1). The Director will determine the reduced front yard setback based on the development pattern of adjacent houses and location of lot access.</u>

C. The rear and side yard setbacks shall be defined in relation to the designated front yard setback.

One front yard setback may be reduced by 50% with lots with two front yards.

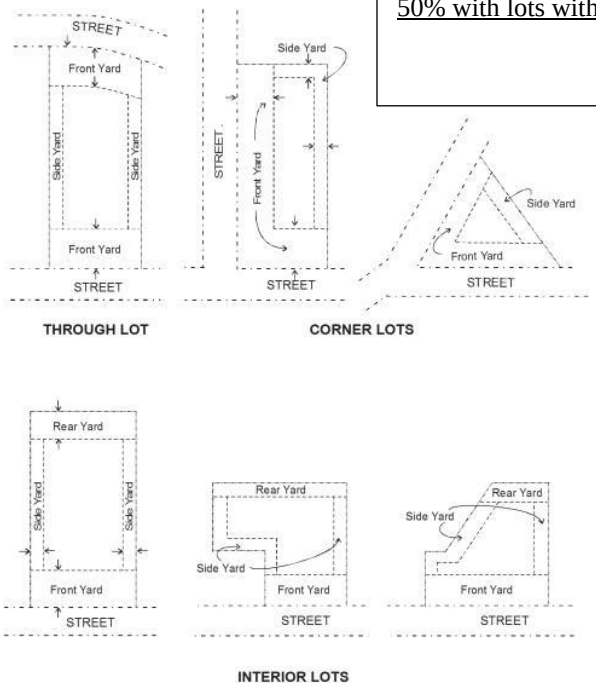


Figure 20.50.040(C): Examples of lots and required yards.

Justification – Setting aside the lot area for parcels with two front yards can make it challenging to develop, expand an existing house, or add an ADU to corner lots. Allowing one of the front yards for these parcels increases flexibility and development options and allows the homeowner to use the space in the second front yard like other properties not on a corner lot.

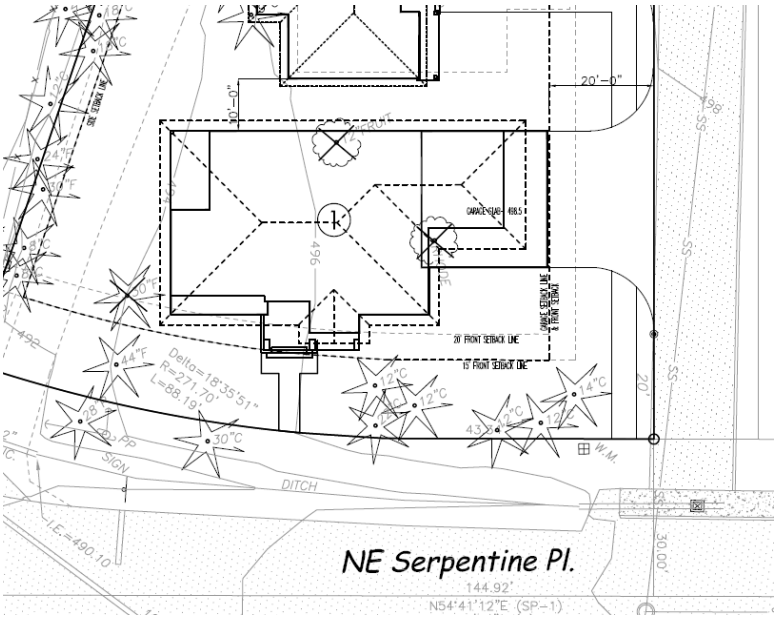
Recommendation – The Planning Commission recommends approval of this amendment.

March 7th Council Discussion – Councilmember Roberts was concerned how this would apply to the typical single-family home in Shoreline. Council was interested in seeing examples of how this would be applied.

The intent behind this amendment is to provide greater flexibility for those homeowners that have two or more front yard setbacks. Parcels with two front yards have a greater area of setbacks compared to parcels that only have one front yard. The main reason for a front setback is to provide the necessary room to park a vehicle onsite without the vehicle encroaching into the public right-of-way. In the case where one of the front yards is not accessed by a driveway or vehicular access, staff is proposing that front yard may be reduced by half (typically 10-feet). This reduced setback will allow comparable development as other parcels with only one front yard setback.

Staff has included an example of a project in development that would benefit from this proposed Development Code amendment. The east side of the home has driveway access from a new access road and the setback is shown at 20-feet to accommodate the necessary space for a driveway. The south side of the home does not have vehicular access and includes a covered porch and pedestrian access. The 10-foot

reduction of the front setback on the south side will allow greater flexibility in the home design, building placement, and/or will place the home closer to the sidewalk to provide a friendlier pedestrian environment.



Amendatory Motion - If Council would like to reject the Planning Commission's recommendation and recommend denial of this amendment and Amendment A9 (which is a separate but related amendment that also allows a 50% reduction in one of the front setbacks), a Councilmember could move to modify the Planning Commission's recommendation as follows:

> ***I move to amend the Planning Commission's recommendation for approval for Batch Amendments Nos. A8 and A9 and deny the amendments.***

Amendment #A9
20.50.070 Site planning – Front yard setback – Standards.

The front yard setback requirements are specified in Subchapter 1 of this chapter, Dimensions and Density for Development, except as provided for below.
For individual garage or carport units, at least 20 linear feet of driveway shall be provided between any garage, carport entrance and the property line abutting the street, measured along the centerline of the driveway. See SMC 20.50.040(B) for exceptions to lots with two front yards.

Exception 20.50.070(1): The front yard setback may be reduced to the average front setback of the two adjacent lots, provided the applicant demonstrates by survey that the average setback of adjacent houses is less than 20 feet. However, in no case shall an averaged setback of less than 15 feet be allowed.

If the subject lot is a corner lot, the setback may be reduced to the average setback of the lot abutting the proposed house on the same street ~~and the 20 feet required setback~~. The second front yard setback may be reduced by half of the front yard setback established through this provision. ~~(This provision shall not be construed as requiring a greater front yard setback than 20 feet.)~~

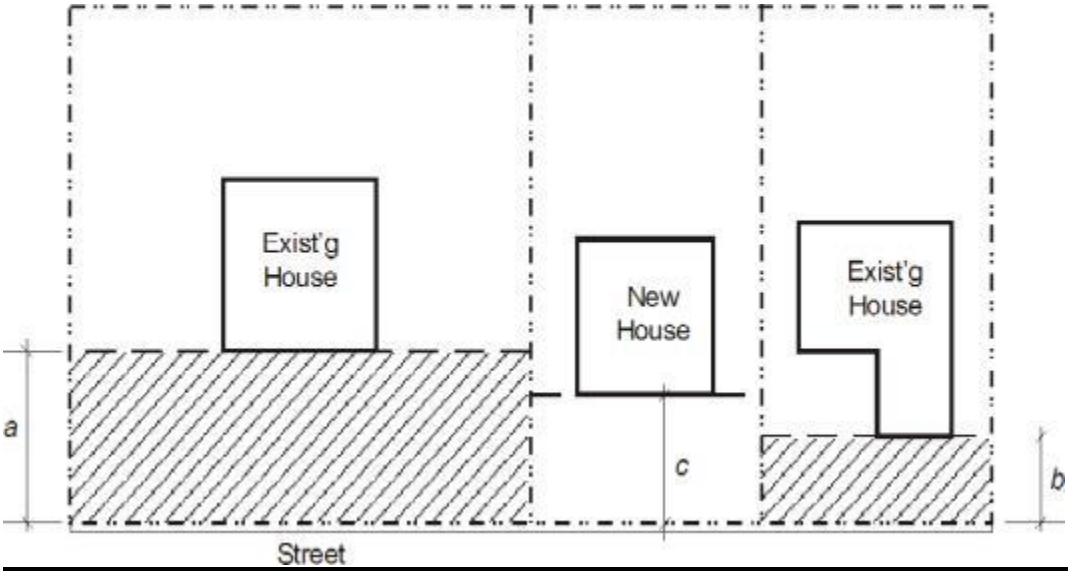
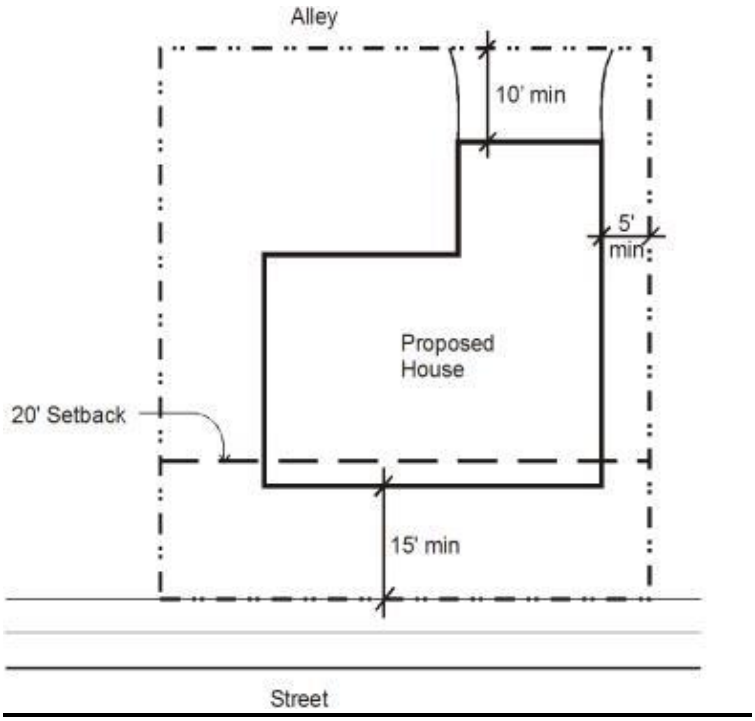


Figure Exception to 20.50.070(1): Minimum front yard setback (c) may be reduced to the average setback of houses located on adjacent lots (a and b).
Calculation: c (min) = (a +b) / 2.

Exception 20.50.070(2): The required front yard setback may be reduced to 15 feet provided there is no curb cut or driveway on the street and vehicle access is from another street or an alley.



Justification – This amendment is related to amendment #A8 which reduced one of the front yard setbacks on parcels that have two front yards. Parcels with two front yards have less flexibility in site planning since the front yard setback in the R-6 zones is 20 feet. This is overly restrictive since homes with two front yards do not usually have two driveways that are accessed by car, especially since most of these cases apply to homes that have a private driveway on one side and the other side acts a side-setback.

Recommendation – The Planning Commission recommends approval of this amendment.

March 7th Council Discussion – See discussion and amendatory language under Amendment #A8.

Amendment #A10
20.50.220 – Purpose

The purpose of this subchapter is to establish design standards for all commercial zones – neighborhood business (NB), community business (CB), mixed business (MB) and town center (TC-1, 2 and 3). This subchapter also applies to the MUR-35' and the MUR-45' zones for all uses except single-family attached and mixed single-family developments,; and the MUR-70' zone, and the R-8, R-12, R-18, R-24, R-48, PA 3 and TC-4 zones for commercial and multifamily uses all uses except single-family detached, attached and mixed single-family developments. Refer to SMC 20.50.120 when developing single-family attached and detached dwellings in the MUR-35' and MUR-45' zones. Some standards within this subchapter apply only to specific types of development and zones as noted. Standards that are not addressed in this subchapter will be supplemented by the standards in the remainder of this chapter. In the event of a conflict, the standards of this subchapter shall prevail.

Justification – The intent with passing Ordinance No. 871, Townhouse Design Standards, was for the Commercial and Multifamily design standards to apply to commercial and multifamily development in MUR-35' and MUR-45' and for the Townhouse Design Standards to apply to single-family attached and mixed single-family developments in MUR-35' and MUR-45'. The intent was not to require compliance with the Commercial and Multifamily Design Standards for all uses other than single-family attached and mixed single-family developments in the R-8, R-12, R-18, R-24, R-48, PA 3 and TC-4 zones (e.g., institutional uses). This amendment clarifies that the Commercial and Multifamily design standards only apply to commercial and multifamily uses in the R-8, R-12, R-18, R-24, R-48, PA 3, and TC-4 zones.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A11
20.50.230 Threshold – Required site improvements.

The purpose of this section is to determine how and when the provisions for site improvements cited in the General Development Standards apply to development proposals. Full site improvement standards apply to a development application in commercial zones NB, CB, MB, TC-1, 2 and 3, and the MUR-70' zone. This subsection also applies in the following zoning districts except for the single-family attached use: MUR-35', MUR-45', PA 3, and R-8 through R-48. Full site improvement standards for signs, parking, lighting, and landscaping shall be required:

A. When building construction valuation for a permit exceeds 50 percent of the current county assessed or an appraised valuation of all existing land and structure(s) on the parcel. This shall include all structures on other parcels if the building under permit review extends into other parcels; or

B. When aggregate building construction valuations for issued permits, within any cumulative five-year period, exceed 50 percent of the county assessed or an appraised value of the existing land and structure(s) at the time of the first issued permit.

C. When a single-family land use is being converted to a commercial land use then full site improvements shall be required.

D. Commercial Adaptive Reuse. When an existing building was previously used as a legally established commercial use and is proposed to be reused as a commercial use, then site improvements may be waived based on the following conditions:

1. The following list of uses may qualify to be exempt from the required site improvement thresholds in Section 20.50.230(A) and (B) above:
   - Theater
   - Health/Fitness Club
   - Daycare
   - Professional Office
   - Medical Office
   - Veterinary Clinics
   - General Retail Trade and Services
   - Market
   - Eating and Drinking Establishments
   - Brewpub/Microbrewery/Microdistillery

2. The proposed use will not cause significant noise to adjacent neighbors.

3. No expansion of the building is allowed.

4. No new signs facing abutting residential uses.

5. Landscape buffers will be installed between parking spaces and/or drive aisles and abutting residential uses. If no room exists to provide a landscape buffer, then an opaque fence or wall can be provided as a buffer.

6. No building or site lighting shall shine on adjacent properties.

7. Administrative Design Review. Administrative design review approval under SMC 20.30.297 is required for all development applications that propose departures from the parking standards in Chapter 20.50 SMC, Subchapter 6, landscaping standards in Chapter 20.50 SMC, Subchapter 7, or sign standards in Chapter 20.50 SMC, Subchapter 8.

Justification – The City has several vacant commercial buildings that are shown to be difficult to sell or lease based on existing development regulations such as parking, landscaping, vehicular and pedestrian circulation, and setbacks. In many cases, these building are difficult to sell or lease because any new use proposed in these buildings will be unable to comply with current development standards.

The City wants to encourage the reuse of these structures to activate dormant parcels and provide a more affordable rent for small businesses such as restaurants, retail, and services. The reuse of these buildings will also provide the neighborhood services instead of vacant buildings.

If the City cannot be flexible with these existing buildings and encourage reuse, the existing structures will be demolished and replaced by newer likely residential buildings with higher rents that will be unaffordable to small, local businesses.

Recommendation – The Planning Commission recommends approval of this amendment.

March 7th Council Discussion – Mayor Scully and Councilmember Roberts both had concerns about the proposed commercial adaptive reuse amendments. The Mayor expressed concern with allowing new uses in existing nonconforming structures. The Mayor's preference is to have existing, nonconforming structures either come into conformance with the current Development Code requirements or have those structures removed and redeveloped with new conforming structures.

Councilmember Roberts was concerned about new and existing signage. The intent of the sign amendment is to allow existing signs structures to remain. This could include existing pole signs, monument signs, or building mounted signs. Changing the sign face to advertise the new tenant would be allowed. The proposed amendment would not allow new pole, monument, or building mounted sign structures if those structures were facing residential uses.

Amendatory Motion – If Council would like to reject the Planning Commission's recommendation and recommend denial of this amendment, a Councilmember could move to modify the Planning Commission's recommendation as follows:

I move to amend the Planning Commission's recommendation for approval for Batch Amendment No. A11 and deny the amendment.

Amendment #A12
20.50.330(B) - Project review and approval.

A. Review Criteria. The Director shall review the application and approve the permit, or approve the permit with conditions; provided, that the application demonstrates compliance with the criteria below.

1. The proposal complies with SMC 20.50.340 through 20.50.370 or has been granted a deviation from the Engineering Development Manual.

2. The proposal complies with all standards and requirements for the underlying permit.

3. If the project is located in a critical area or buffer, or has the potential to impact a critical area, the project must comply with the critical areas standards.

4. The project complies with all requirements of the City's Stormwater Management Manual as set forth in SMC 13.10.200 and applicable provisions in Chapter 13.10 SMC, Engineering Development Manual and Chapter 13.10 SMC, Surface Water Management Code and adopted standards.

5. All required financial guarantees or other assurance devices are posted with the City.

B. Professional Evaluation. In determining whether a tree removal and/or clearing is to be approved or conditioned, the Director may require the submittal of a professional evaluation and/or a tree protection plan prepared by a certified arborist at the applicant's expense, where the Director deems such services necessary to demonstrate compliance with the standards and guidelines of this subchapter. Third party review of plans, if required, shall also be at the applicant's expense. The Director shall have the sole authority to determine whether the professional evaluation submitted by the applicant is adequate, the evaluator is qualified and acceptable to the City, and whether third party review of plans is necessary. <u>The Director shall have the sole authority to require third party review.</u> Required professional evaluation(s) and services may include:

1. Providing a written evaluation of the anticipated effects of any development within five feet of a tree's critical root zone that may impact the viability of trees on and off site.

2. Providing a hazardous tree assessment.

3. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or

4. Conducting a post-construction site inspection and evaluation.

Justification – This amendment adds the ability for the Director to require third-party review of a qualified profession's report at any time during the development process. This provision applies when tree removal is proposed, and a clearing and grading permit is required to remove non-exempt significant trees from a parcel. The amendment is needed because, in some circumstances, the City will receive more than one arborist report for a tree removal proposal with conflicting recommendations and mitigations. In these cases, the Director should have the authority to send the conflicting reports to the City's contracted arborist for review.

Recommendation – The Planning Commission recommends approval of this amendment.

Amendment #A13
20.50.410 Parking design standards

A. All vehicle parking and storage for single-family detached dwellings and duplexes must be in a garage, carport or on an approved impervious surface or pervious concrete or pavers. Any surface used for vehicle parking or storage must have direct and unobstructed driveway access.

B. All vehicle parking and storage for multifamily and commercial uses must be on a paved surface, pervious concrete, or pavers. All vehicle parking shall be located on the same parcel or same development area that parking is required to serve.

~~C. Parking for residential units must be included in the rental or sale price of the unit. Parking spaces cannot be rented, leased, sold, or otherwise be separate from the rental or sales price of a residential unit.~~

Justification – This proposed amendment will strike 20.50.410(C) from the Code, which states that the cost of a parking space for residential units must be included in the rental or sales price of the residential unit. The parking space cannot be sold or leased separately. Staff believes subsection C should be removed for the following reasons:

1. The Planning Commission and Council considered an amendment in Ordinance No. 930 that removed the requirement that every residential unit in a new multifamily building shall be assigned a parking space. The City's requirements for parking do not require a 1:1 ratio for parking spaces so the provision did not make sense. The removal of subsection C follows the same logic that every residential dwelling unit will not be assigned a parking space and every new resident moving into these units will not have a car.

2. Affordability and equity. Requiring the cost of a parking space in the monthly rent for a residential unit will increase the cost of rent for that unit. This is especially unfair if a resident does not own a car and must pay the additional cost of a parking space when the space will go unused.

3. Sustainability. It is the City's goal to encourage less single-occupancy vehicles, and this is especially true for new multifamily projects near bus-rapid transit and the City's two light-rail stations.

4. Enforcement. It is very difficult for staff to enforce this provision. When a building permit is issued for a new residential project, staff places a condition on the permit that parking cannot be separated from the rental rate of the multifamily unit. After issuance of the permit, the leasing company may or may not comply with the condition without staff's knowledge.

The City does not have dedicated parking enforcement, and parking enforcement is generally a low priority for Police. As such, it is hard to keep street parking organized and legal. Another concern is many areas of the City lack defined curbs/driveways which leads to more illegal parking, as it is less clear to drivers where they should be parking. Redevelopment builds sidewalks which mitigate its own problem, however, parking impacts do tend to sprawl beyond the directly adjacent property.

The City's Public Works Department will be asking Council for parking enforcement resources for effective management of parking to track and mitigate potential issues, but from recent studies of available parking within the station areas, the City has a surplus of on-street parking. These on-street parking spaces are a valuable public resource, and it is not being leveraged as much as it could be.

Recommendation – The Planning Commission recommends approval of this amendment to support actions steps in the Public Works Station Area Parking Report. As stated by the City's Traffic Engineer, unbundling the cost of the parking spaces from the rent of the unit may have the effect of spill over parking. However, there is more than enough capacity for on street parking availability in nearly every area of the city based on the most recent update to the Light Rail Station Subareas Parking Study. Residents are likely to park for free on the street rather than pay for onsite parking if they have the choice. This will continue to happen until growth and associated street parking rises to a level to make it uncomfortable enough to pay for.

While staff supports the amendment to unbundle parking, there may be challenges to nearby homeowners that are used to using street parking as their personal parking and can no longer park directly in front of their homes. The City does not currently have a parking enforcement resource to manage on street parking well, which results in frustration due to blocked driveways, mailboxes, and other possible disruptions. Staff is seeking solutions by advocating for parking enforcement. Staff believes it is needed now and will be especially needed as growth continues and as light rail stations open. Staff's suggestion is to bring parking enforcement on board by 2024.

March 7th Council Discussion – The Mayor expressed concern with this amendment and pointed to an example of a building that did not include the cost of parking into the rent of the unit, because housing vouchers did not cover the cost of parking, and those residents parked their vehicles throughout the surrounding neighborhood causing various parking issues such as blocked mailboxes and driveways.

Another concern cited by the Mayor was the issue of building operators taking the housing vouchers provided by HUD for the rent of the unit and also charging for the parking space for that unit which the renter could not afford. This may lead to more cars being parked in the neighborhood while also creating inequalities for renters who can and cannot afford the cost of a parking space.

Amendatory Motion – If Council would like to reject the Planning Commission's recommendation and recommend denial of this amendment, a Councilmember could move to modify the Planning Commission's recommendation as follows:

> ***I move to amend the Planning Commission's recommendation for approval for Batch Amendment No. A13 and deny the amendment.***

SEPA Amendments

March 7th Council Discussion – During the March 7th Council discussion, Council did not have any comments related to the Planning Commission recommended proposed SEPA Development Code Amendments (Group B Amendments). The Council acknowledged that the proposed SEPA amendments are clarifications of SEPA procedural requirements and will not change the City's authority to review, evaluate, and mitigate potential environmental impacts throughout the city. Because the Council supports the Planning Commission recommendation of approval of the SEPA related amendments, those amendments are not listed in this report but may be viewed in Exhibit A of Ordinance No. 959.

RESOURCE/FINANCIAL IMPACT

The proposed Development Code amendments will not have a direct financial impact to the City.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments in Ordinance No. 959.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 959
Attachment A, Exhibit A – Proposed Miscellaneous and SEPA Related Development Code Amendments
Attachment B – Memorandum from the Shoreline Planning Commission

ORDINANCE NO. 959

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CERTAIN SECTIONS OF THE SHORELINE MUNICIPAL CODE TITLE 20, THE UNIFIED DEVELOPMENT CODE, REPRESENTING GROUP A AND GROUP B OF PART TWO OF THE 2021 DEVELOPMENT CODE BATCH AMENDMENTS TO PROVIDE CLARITY, ADMINISTRATIVE EFFICIENCY, AND TO RESPOND TO THE CHANGING NEEDS OF THE CITY.

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, Shoreline Municipal Code (SMC) Title 20, sets forth the City's Unified Development Code; and

WHEREAS, the 2021 Development Code Amendments are being processed in multiple batches with the first batch adopted by Ordinance No. 930 on May 3, 2021; and

WHEREAS, the second batch is comprised of three (3) groups: Group A are general administrative corrections, procedural changes, clarifying language, and codification of administrative orders; Group B are amendments to the administration and procedural aspect of the State Environmental Policy Act (SEPA); and Group C are primarily privately-initiated amendments to the City's tree regulations; and

WHEREAS, on July 15, 2021, August 5, 2021, October 7, 2021, November 18, 2021, December 2, 2021, and January 6, 2022, the City of Shoreline Planning Commission reviewed the proposed amendments; and on February 3, 2022, the Planning Commission held a public hearing on the proposed 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 amendments, as presented by Staff and amended by the Planning Commission, be approved by the City Council; and

WHEREAS, on February 28, 2022, March 7, 2022, and March 28, 2022, the City Council held study sessions on the proposed amendments and determined to consider Group A, the amendments provides for clarity and administrative efficient and Group B, the amendments to the City's SEPA regulations in isolation; 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, the City has 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 environmental impacts of the amendments to the amendments resulted in the issuance of a Determination of Non-Significance (DNS) on September 30, 2021; and

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

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation and has determined that the amendments to Title 20 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;

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

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

Section 2. Transmittal of Amendments to Washington State Department of Commerce. Pursuant to RCW 36.70A.106, the Director of Planning and Community Development, or designee, is directed to 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 the date of passage of this Ordinance.

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 Dates. A summary of this Ordinance consisting of the title shall be published in the official newspaper and shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MARCH 28, 2022

_____
Keith Scully, Mayor

ATTEST:

_____
Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

_____
Julie Ainsworth-Taylor
Assistant City Attorney
On behalf of Margaret King
City Attorney

Date of Publication: , 2022
Effective Date: , 2022

2021 DEVELOPMENT CODE AMENDMENT BATCH -
Planning Commission Recommended Miscellaneous Amendments
GROUP A

20.20 Amendments

Amendment #A1
20.20.020 – F Definitions

Family An individual; two or more persons related by blood or marriage~~, a group of up to eight persons who may or may not be related~~, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. ~~For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.~~

Amendment #A2
20.20.024 – H Definitions

Host Agency A public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; or a religious organization as defined in RCW 35A.21.360, ~~religious or not for profit organization~~ that invites a transitional encampment to reside on the land that they own or lease.

Amendment #A3
20.20.024 – H Definitions

Hardscape Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt. Retaining walls, gravel, or paver paths less than four feet wide with open spacing are not considered hardscape. Artificial turf with subsurface drain fields and decks that drain to soil underneath have a 50 percent hardscape and 50 percent pervious value. Coverings that allow growth of vegetation between components with the ability to drain to soil underneath have a hardscape percent pervious value as determined by

the Director based on the manufacturer's specifications, which shall be provided by the applicant.

Amendment #A3.1
20.20.024 – H Definitions

Housing Expenses, Rental Housing	Includes rent~~, parking~~ and appropriate utility allowance.

Amendment #A4
20.20.034 – M Definitions

Managing Agency	An organization that has the capacity to organize and manage a transitional encampment. A managing agency must be a public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; a religious organization as defined in RCW 35A.21.360; or a self-managed homeless community. A managing agency may be the same organization as the host agency.

20.30 Amendments

Amendment #A5
20.30.300 Conditional use permit-CUP (Type B action).

A. **Purpose.** The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. **Threshold.** The purpose of this section is to determine when a conditional use permit is required. A conditional use permit is required if either of the following occurs:

1. The use area is expanded by twenty percent (20%) or more of the current use area (measured in square feet). For example, the use area is currently 2,000 sq. ft. and a 400 sq. ft. addition that expands the use area is proposed, so a conditional use permit is required.

2. The parking area (measured in the number of parking spaces) is expanded by twenty percent (20%) or more of the current parking area (measured in the number of parking spaces). For example, twenty (20) parking spaces are currently associated with the use and four (4) additional parking spaces for the use are proposed, so a conditional use permit is required.

Thresholds are cumulative for any given parcel. This shall include all structures on other parcels if the use area and/or parking area under permit review extends into other parcels.

C~~B~~. **Decision Criteria.** A conditional use permit may be granted by the City, only if the applicant demonstrates that:

1. The conditional use is compatible with the Comprehensive Plan and designed in a manner which is compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property;

2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

5. The conditional use is not in conflict with the health and safety of the community;

6. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;

7. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

8. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

D~~C~~. **Suspension or Revocation of Permit.**

1. The Director may suspend or revoke any conditional use permit whenever:

   a. The permit holder has failed to substantially comply with any terms or conditions of the permit's approval;

b. The permit holder has committed a violation of any applicable state or local law in the course of performing activities subject to the permit;

c. The use for which the permit was granted is being exercised as to be detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance;

d. The permit was issued in error or on the basis of materially incorrect information supplied to the City; or

e. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled.

2. The Director shall issue a notice and order in the same manner as provided in SMC 20.30.760.

a. The notice and order shall clearly set forth the date that the conditional use permit shall be suspended or revoked.

b. The permit holder may appeal the notice and order to the Hearing Examiner as provided in SMC 20.30.790. The filing of such appeal shall stay the suspension or revocation date during the pendency of the appeal.

c. The Hearing Examiner shall issue a written decision to affirm, modify, or overrule the suspension or revocation, with or without additional conditions, such as allowing the permit holder a reasonable period to cure the violation(s).

3. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order.

4. If a conditional use permit has been suspended or revoked, continuation of the use shall be considered an illegal occupancy and subject to every legal remedy available to the City, including civil penalties as provided for in SMC 20.30.770(D).

E~~D~~. **Transferability.** Unless otherwise restricted by the terms and conditions at issuance of the conditional use permit, the conditional use permit shall be assigned to the applicant and to a specific parcel. A new CUP shall be required if a permit holder desires to relocate the use permitted under a CUP to a new parcel. If a CUP is determined to run with the land and the Director finds it in the public interest, the Director may require that it be recorded in the form of a covenant with the King County Recorder's Office. Compliance with the terms and conditions of the conditional use permit is the responsibility of the current property owner, whether the applicant or a successor.

F~~E~~. **Expiration.**

1. Any conditional use permit which is issued and not utilized within the time specified in the permit or, if no time is specified, within two years from the date of the City's final decision shall expire and become null and void.

2. A conditional use permit shall be considered utilized for the purpose of this section upon submittal of:

a. A complete application for all building permits required in the case of a conditional use permit for a use which would require new construction;

b. An application for a certificate of occupancy and business license in the case of a conditional use permit which does not involve new construction; or

c. In the case of an outdoor use, evidence that the subject parcel has been and is being utilized in accordance with the terms and conditions of the conditional use permit.

3. If after a conditional use has been established and maintained in accordance with the terms of the conditional use permit, the conditional use is discontinued for a period of 12 consecutive months, the permit shall expire and become null and void.

G~~F~~. **Extension.** Upon written request by a property owner or their authorized representative prior to the date of conditional use permit expiration, the Director may grant an extension of time up to but not exceeding 180 days. Such extension of time shall be based upon findings that the proposed project is in substantial conformance, as to use, size, and site layout, to the issued permit; and there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety and general welfare.

20.40 Amendments

Amendment #A6
20.40.405 Homeless shelter.

The intent of a homeless shelter is to provide temporary relief for those in need of housing. Homeless shelters are allowed in the mixed business, community business and town center 1, 2, and 3 zones subject to the below criteria.

A. The homeless shelter must be operated by a public agency; a State of Washington registered nonprofit corporation; or a Federally recognized tax exempt 501(C)(3) organization that has the capacity to organize and manage a homeless shelter.

B. The homeless shelter shall permit inspections by City, Health and Fire Department inspectors at reasonable times for compliance with the City's requirements. An inspection by the Shoreline Fire Department is required prior to occupancy.

C. The homeless shelter shall have a code of conduct that articulates the rules and regulations of the shelter. These rules shall include, at a minimum, prohibitions against

alcohol and/or drug use and violence; and exclusion of sex offenders. The homeless shelter shall keep a cumulative list of all residents who stay overnight in the shelter, including names and dates.

D. The homeless shelter shall check that adult residents have government-issued identification such as a state or tribal issued identification card, driver's license, military identification card, or passport from prospective shelter residents for the purpose of obtaining sex offender and warrant checks. Prospective residents will not be allowed residency until identification can be presented. If adult residents do not have identification, the operator of the shelter shall assist them in obtaining such. No documentation is required to be submitted to the City for the purpose of compliance with this condition.

Amendment #A7
20.40.570 – Unlisted Use

A. Recognizing that there may be uses not specifically listed in this title, either because of advancing technology or any other reason, the Director may permit, ~~or~~ condition or prohibit such use upon review of an application for Code interpretation for an unlisted use (SMC 20.30.040, Type A action) and by considering the following factors:

1. The physical characteristics of the unlisted use and its supporting structures, including but not limited to scale, traffic, hours of operation, and other impacts; and

2. Whether the unlisted use complements or is compatible in intensity and appearance with the other uses permitted in the zone in which it is to be located.

B. A record shall be kept of all unlisted use interpretations made by the Director; such decisions shall be used for future administration purposes.

20.50 Amendments

Amendment #A8
20.50.040 – Setbacks – Designation and Measurement

A. The front yard setback is a required distance between the front property line to a building line (line parallel to the front line), measured across the full width of the lot.

Front yard setback on irregular lots or on interior lots fronting on a dead-end private access road shall be designated by the Director.

B. Each lot must contain only one front yard setback and one rear yard setback except lots abutting two or more streets, as illustrated in the Shoreline Development Code Figure 20.50.040(C). Lots with two front yards may reduce one of the front yard setbacks by half the setback specified in Table 20.50.020(1). The Director will determine the reduced front yard setback based on the development pattern of adjacent houses and location of lot access.

C. The rear and side yard setbacks shall be defined in relation to the designated front yard setback.

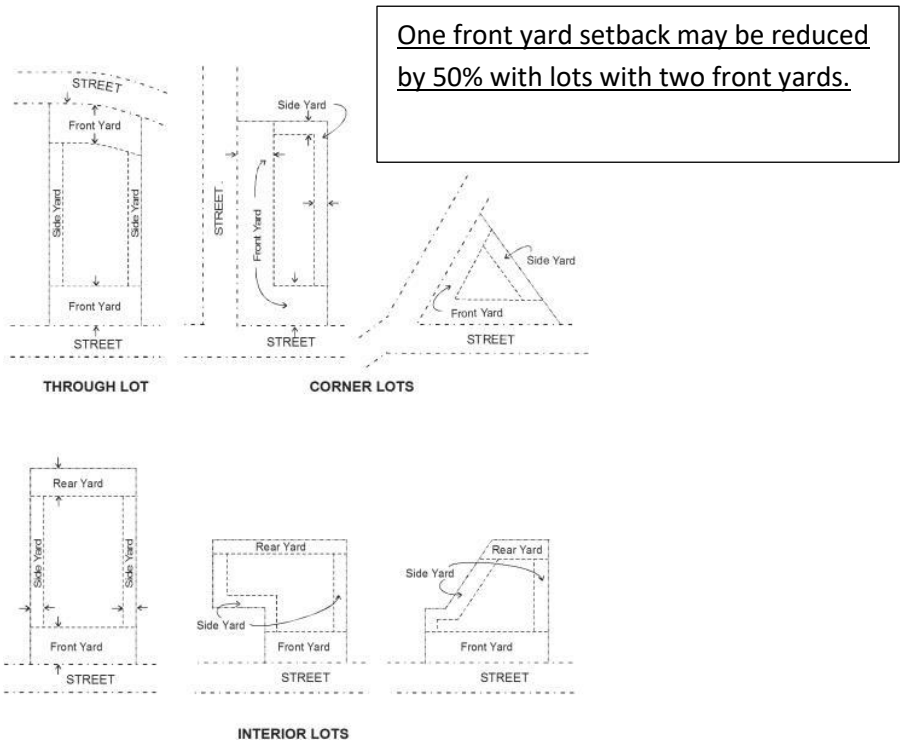


Figure 20.50.040(C): Examples of lots and required yards.

Amendment #A9
20.50.070 Site planning – Front yard setback – Standards.

The front yard setback requirements are specified in Subchapter 1 of this chapter, Dimensions and Density for Development, except as provided for below.
For individual garage or carport units, at least 20 linear feet of driveway shall be provided between any garage, carport entrance and the property line abutting the street, measured along the centerline of the driveway. See SMC 20.50.040(B) for exceptions to lots with two front yards.

Exception 20.50.070(1): The front yard setback may be reduced to the average front setback of the two adjacent lots, provided the applicant demonstrates by survey that the average setback of adjacent houses is less than 20 feet. However, in no case shall an averaged setback of less than 15 feet be allowed.

If the subject lot is a corner lot, the setback may be reduced to the average setback of the lot abutting the proposed house on the same street ~~and the 20 feet required setback~~. The second front yard setback may be reduced by half of the front yard setback established through this provision. ~~(This provision shall not be construed as requiring a greater front yard setback than 20 feet.)~~

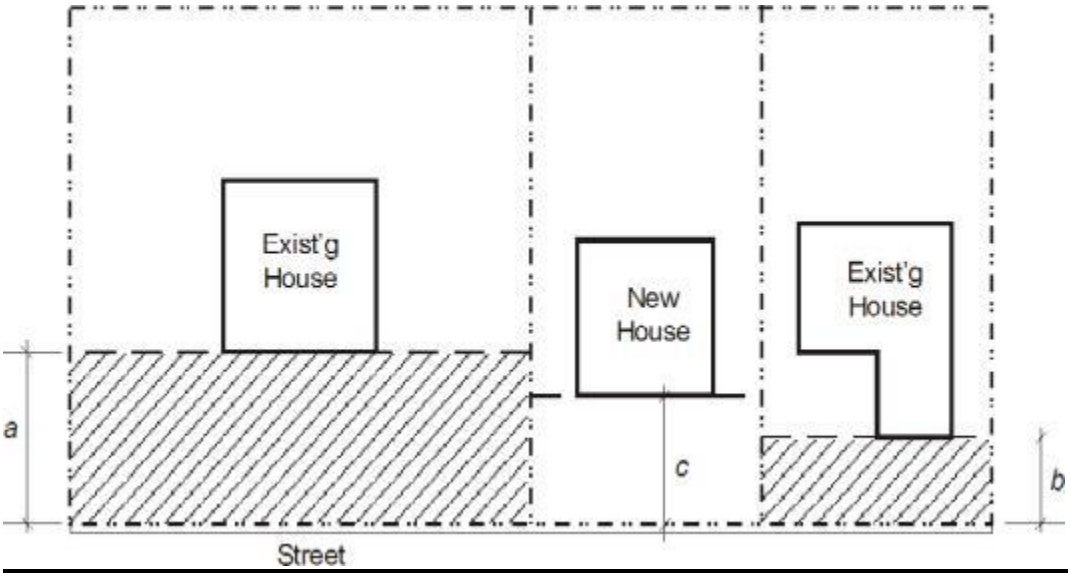
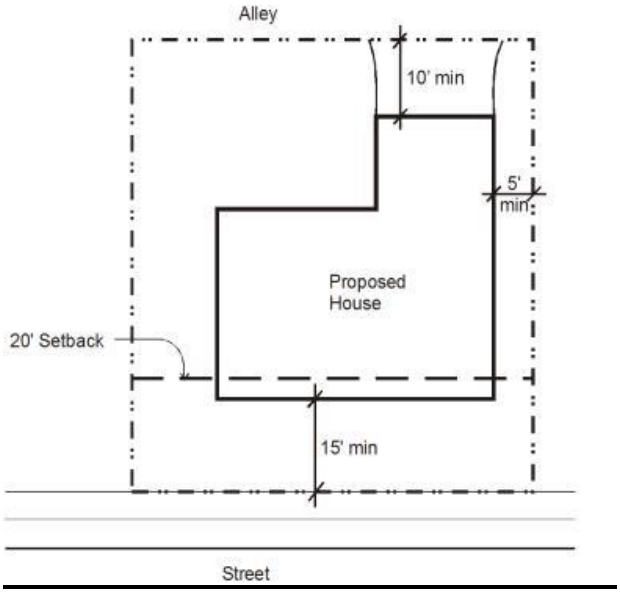


Figure Exception to 20.50.070(1): Minimum front yard setback (c) may be reduced to the average setback of houses located on adjacent lots (a and b).
Calculation: c (min) = (a +b) / 2.

Exception 20.50.070(2): The required front yard setback may be reduced to 15 feet provided there is no curb cut or driveway on the street and vehicle access is from another street or an alley.



Amendment #A10
20.50.220 – Purpose

The purpose of this subchapter is to establish design standards for all commercial zones – neighborhood business (NB), community business (CB), mixed business (MB) and town center (TC-1, 2 and 3). This subchapter also applies to the MUR-35' and the MUR-45' zones for all uses except single-family attached and mixed single-family developments~~,~~; and the MUR-70' zone, ~~and the~~ R-8, R-12, R-18, R-24, R-48, PA 3 and TC-4 zones for commercial and multifamily uses ~~all uses except single-family detached, attached and mixed single-family developments~~. Refer to SMC 20.50.120 when developing single-family attached and detached dwellings in the MUR-35' and MUR-45' zones. Some standards within this subchapter apply only to specific types of development and zones as noted. Standards that are not addressed in this subchapter will be supplemented by the standards in the remainder of this chapter. In the event of a conflict, the standards of this subchapter shall prevail.

Amendment #A11
20.50.230 Threshold – Required site improvements.

The purpose of this section is to determine how and when the provisions for site improvements cited in the General Development Standards apply to development proposals. Full site improvement standards apply to a development application in commercial zones NB, CB, MB, TC-1, 2 and 3, and the MUR-70' zone. This subsection also applies in the following zoning districts except for the single-family attached use: MUR-35', MUR-45', PA 3, and R-8 through R-48. Full site improvement standards for signs, parking, lighting, and landscaping shall be required:

A. When building construction valuation for a permit exceeds 50 percent of the current county assessed or an appraised valuation of all existing land and structure(s) on the parcel. This shall include all structures on other parcels if the building under permit review extends into other parcels; or

B. When aggregate building construction valuations for issued permits, within any cumulative five-year period, exceed 50 percent of the county assessed or an appraised value of the existing land and structure(s) at the time of the first issued permit.

C. When a single-family land use is being converted to a commercial land use then full site improvements shall be required.

D. Commercial Adaptive Reuse. When an existing building was previously used as a legally established commercial use and is proposed to be reused as a commercial use, then site improvements may be waived based on the following conditions:

1. The following list of uses may qualify to be exempt from the required site improvement thresholds in Section 20.50.230(A) and (B) above:

- Theater
- Health/Fitness Club
- Daycare
- Professional Office
- Medical Office
- Veterinary Clinics
- General Retail Trade and Services
- Market
- Eating and Drinking Establishments
- Brewpub/Microbrewery/Microdistillery

2. The proposed use will not cause significant noise to adjacent neighbors.

3. No expansion of the building is allowed.

4. No new signs facing abutting residential uses.

5. Landscape buffers will be installed between parking spaces and/or drive aisles and abutting residential uses. If no room exists to provide a landscape buffer, then an opaque fence or wall can be provided as a buffer.

6. No building or site lighting shall shine on adjacent properties.

7. Administrative Design Review. Administrative design review approval under SMC 20.30.297 is required for all development applications that propose departures from the parking standards in Chapter 20.50 SMC, Subchapter 6, landscaping standards in Chapter 20.50 SMC, Subchapter 7, or sign standards in Chapter 20.50 SMC, Subchapter 8.

Amendment #A12
20.50.330(B) - Project review and approval.

A. Review Criteria. The Director shall review the application and approve the permit, or approve the permit with conditions; provided, that the application demonstrates compliance with the criteria below.

1. The proposal complies with SMC 20.50.340 through 20.50.370 or has been granted a deviation from the Engineering Development Manual.

2. The proposal complies with all standards and requirements for the underlying permit.

3. If the project is located in a critical area or buffer, or has the potential to impact a critical area, the project must comply with the critical areas standards.

4. The project complies with all requirements of the City's Stormwater Management Manual as set forth in SMC 13.10.200 and applicable provisions in Chapter 13.10 SMC, Engineering Development Manual and Chapter 13.10 SMC, Surface Water Management Code and adopted standards.

5. All required financial guarantees or other assurance devices are posted with the City.

B. Professional Evaluation. In determining whether a tree removal and/or clearing is to be approved or conditioned, the Director may require the submittal of a professional evaluation and/or a tree protection plan prepared by a certified arborist at the applicant's expense, where the Director deems such services necessary to demonstrate compliance with the standards and guidelines of this subchapter. Third party review of plans, if required, shall also be at the applicant's expense. The Director shall have the sole authority to determine whether the professional evaluation submitted by the applicant is adequate, the evaluator is qualified and acceptable to the City, and whether third party review of plans is necessary. The Director shall have the sole authority to require third party review. Required professional evaluation(s) and services may include:

1. Providing a written evaluation of the anticipated effects of any development within five feet of a tree's critical root zone that may impact the viability of trees on and off site.

2. Providing a hazardous tree assessment.

3. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or

4. Conducting a post-construction site inspection and evaluation.

Amendment #A13
20.50.410 Parking design standards

A. All vehicle parking and storage for single-family detached dwellings and duplexes must be in a garage, carport or on an approved impervious surface or pervious concrete or pavers. Any surface used for vehicle parking or storage must have direct and unobstructed driveway access.

B. All vehicle parking and storage for multifamily and commercial uses must be on a paved surface, pervious concrete, or pavers. All vehicle parking shall be located on the same parcel or

same development area that parking is required to serve.

C. ~~Parking for residential units must be included in the rental or sale price of the unit. Parking spaces cannot be rented, leased, sold, or otherwise be separate from the rental or sales price of a residential unit.~~

2021 DEVELOPMENT CODE AMENDMENT BATCH –
Planning Commission Recommended SEPA Amendments
GROUP B

20.30 Amendments

Amendment #B1
20.30.040 Ministerial decisions – Type A.

These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated. These decisions are made by the Director and are exempt from notice requirements.

However, Type A permit applications that exceed the categorical exemptions in SMC 20.30.560, ~~including certain categories of building permits, and permits for projects that require a SEPA threshold determination~~, are subject to SEPA review. SEPA regulations including process, noticing procedures, and appeals are specified in SMC 20.30, Subchapter 8. ~~procedures, public notice requirements specified in Table 20.30.050 for SEPA threshold determination, or SMC 20.30.045~~

All permit review procedures, ~~and~~ all applicable regulations, and standards apply to all Type A actions. The decisions made by the Director under Type A actions shall be final. The Director's decision shall be based upon findings that the application conforms (or does not conform) to all applicable regulations and standards.

Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision~~, and Appeal Authority~~

Action Type	Target Time Limits for Decision (Calendar Days)	Section
Type A:		
1. Accessory Dwelling Unit	30 days	20.40.120, 20.40.210
2. Lot Line Adjustment including Lot Merger	30 days	20.30.400
3. Building Permit	120 days	All applicable standards
4. Final Short or Formal Plat	30 days	20.30.450

Action Type	Target Time Limits for Decision (Calendar Days)	Section
5. Bed and Breakfast, Boarding House	120 days	20.40.120, 20.40.250, 20.40.260
6. Interpretation of Development Code	15 days	20.10.050, 20.10.060, 20.30.020
7. Right-of-Way Use	30 days	12.15.010 – 12.15.180
8. Shoreline Exemption Permit	15 days	Shoreline Master Program
9. Sign Permit	30 days	20.50.530 – 20.50.610
10. Site Development Permit	60 days	20.20.046, 20.30.315, 20.30.430
11. Deviation from Engineering Standards	30 days	20.30.290
12. Temporary Use Permit	15 days	20.30.295
13. Clearing and Grading Permit	60 days	20.50.290 – 20.50.370
14. Administrative Design Review	28 days	20.30.297
15. Floodplain Development Permit	30 days	13.12.700
16. Floodplain Variance	30 days	13.12.800
~~17. Planned Action Determination~~	~~14 days~~	~~20.30.357~~
17. ~~18.~~ Noise Variance	30 days	9.05

An administrative appeal ~~authority~~ is not provided for Type A actions. Appeals of a Type A Action are to Superior Court pursuant to RCW 36.70(C), Land Use Petition Act. ~~except that any Type A action which is not categorically exempt from environmental review under Chapter 43.21C RCW or for which environmental review has not been completed in connection with other project permits shall be appealable. Appeal of these actions together with any appeal of the SEPA threshold determination is set forth in Table 20.30.050(4).~~

Amendment #B2
20.30.050 – Type B actions

Type B decisions require that the Director issues a written report that sets forth a decision to approve, approve with modifications, or deny the application. The Director's

report will also include the SEPA Threshold Determination if applicable ~~City's decision under any required SEPA review~~.

All ~~Director's~~ Type B decisions ~~made under Type B actions~~ are appealable in an open record appeal hearing, except Shoreline Substantial Development Permits, Shoreline Variances and Shoreline CUPs that shall be appealed to the Shorelines Hearing Board pursuant to RCW 90.58 Shoreline Management Act. Such hearing shall consolidate with any SEPA threshold determination. ~~appeals of SEPA negative threshold determinations~~. ~~SEPA determinations of significance are appealable in an open record appeal prior to the project decision.~~

~~All appeals shall be heard by the Hearing Examiner except appeals of shoreline substantial development permits, shoreline conditional use permits, and shoreline variances that shall be appealable to the State Shorelines Hearings Board.~~

Table 20.30.050 – Summary of Type B Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

Action	Notice Requirements: Application and Decision (1), (2), (3)	Target Time Limits for Decision	Appeal Authority	Section
Type B:				
1. Binding Site Plan (4)	Mail	90 days	HE	20.30.480
2. Conditional Use Permit (CUP)	Mail, Post Site, Newspaper	90 days	HE	20.30.300
3. Preliminary Short Subdivision (4)	Mail, Post Site, Newspaper	90 days	HE	20.30.410
~~4. SEPA Threshold Determination of Significance~~	~~Mail, Post Site, Newspaper~~	~~60 days~~	~~HE~~	~~20.30.490 – 20.30.710~~
5. Shoreline Substantial Development Permit, Shoreline Variance, and Shoreline CUP	Mail, Post Site, Newspaper	120 days	~~State~~ Shorelines Hearings Board	Shoreline Master Program
6. Zoning Variances	Mail, Post Site, Newspaper	90 days	HE	20.30.310
7. Plat Alteration (5), (6)	Mail	90 days	HE	20.30.425

Key: HE = Hearing Examiner
(1) Public hearing notification requirements are specified in SMC 20.30.120.
(2) Notice of application requirements are specified in SMC 20.30.120.
(3) Notice of decision requirements are specified in SMC 20.30.150.
(4) These Type B actions do not require a neighborhood meeting. A notice of development will be sent to adjacent properties.

(5) A plat alteration does not require a neighborhood meeting.
(6) If a public hearing is requested, the plat alteration will be processed as a Type C action per SMC Table 20.30.060

Amendment #B3
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 a Type C ~~actions~~ decision. Any appeal of a Type C decision is to King County Superior Court pursuant to RCW 36.70(C), Land Use Petition Act.

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 (~~2~~3), (~~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 (2~~3~~), (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~~4~~)	Mail	HE (1), ~~(2)~~		120 days	20.30.425

(1) ~~Including consolidated SEPA threshold determination appeal.~~
(1)~~(2)~~ HE = Hearing Examiner.
(2)~~(3)~~ Notice of application requirements are specified in SMC 20.30.120.
(3)~~(4)~~ Notice of decision requirements are specified in SMC 20.30.150.
(4)~~(5)~~ A plat alteration does not require a neighborhood meeting.

Amendment #B4
20.30.070 – Legislative Decisions

These decisions are legislative, nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands. There is no administrative appeal of legislative decisions.

Table 20.30.070 – Summary of Legislative Decisions

Decision	Review Authority, Public Hearing	Decision Making Authority (in accordance with State law)	Section	Appeal Authority
1. Amendments and Review of the Comprehensive Plan	PC[(1)]	City Council	20.30.340	Growth Management Hearings Board
2. Amendments to the Development Code	PC[(1)]	City Council	20.30.350	Growth Management Hearings Board
3. Development Agreements	PC[(1)]	City Council	20.30.355	King County Superior Court

[(1)] PC = Planning Commission

Legislative decisions include a hearing and recommendation by the Planning Commission and final action by the City Council.

The City Council shall take legislative action on the proposal in accordance with State law.

There is no administrative appeal of legislative ~~actions~~ decisions of the City Council, ~~but such actions may be appealed together with any SEPA threshold determination according to State law.~~ Amendments to the Comprehensive Plan and the Development Code and any related SEPA determination are appealable to the Growth management Hearings Board pursuant to RCW 36.70A Growth Management Act. Any appeal of a Development Agreement is appealable to King County Superior Court pursuant to RCW 36.70(C) Land Use Petition Act.

Amendment #B5
20.30.170 – Limitations on the Number of Hearings

No more than one open record hearing shall be heard on any land use application. ~~The appeal hearing on SEPA threshold determination of nonsignificance shall be consolidated with any open record hearing on the project permit. (Ord. 238 Ch. III § 5(a), 2000).~~

Amendment #B6
20.30.200 – General Description of Appeals

A. Type A decisions may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

B. Type B ~~Administrative~~ decisions, except for shoreline permits, ~~(Type B) are appealable~~ may be appealed to the Hearing Examiner ~~who conducts an open record appeal hearing~~ pursuant to SMC 20.30 Subchapter 4 Land Use Hearings and Appeals. Shoreline substantial development, variance, and conditional use permits may be appealed to the Shoreline Hearings Board pursuant to RCW 90.58 Shoreline Management Act.

~~B~~C. Type C decisions may be appealed ~~Appeals of City Council decisions without ministerial decisions (Type A), an administrative appeal, and appeals of an appeal authority's decisions shall be made~~ to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

D. Type L decisions, except for Development Agreements, may be appealed to the Growth Management Hearings Board pursuant to RCW 36.70A Growth Management Act. Development Agreements may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

Decision Type	**Appeal Authority**
Type A	King County Superior Court - RCW 36.70C
Type B (non-shoreline)	Hearing Examiner – SMC 20.30 Subchapter 4 [1]
Type B (shoreline)	Shoreline Hearings Board – RCW 90.58
Type C	King County Superior Court – RCW 36.70C
Type L (Comprehensive Plan and Development Regulations)	Growth Management Hearings Board – RCW 36.70A
Type L (Development Agreements)	King County Superior Court – RCW 36.70C

[1] Final decisions of an appeal on a Type B decision to the Hearing Examiner may be appealed as provided in SMC 20.30 Subchapter 4.

~~C. SEPA Determinations are appealable with Type A, Type C and Type L decisions to Superior Court.~~

Amendment #B7
20.30.220 ~~Filing~~ Commencing an administrative appeal~~s~~.

A. Any aggrieved person may appeal a decision to the Hearing Examiner. Only Type B decisions may be appealed.

B. Appeals, and the appeal fee set forth in the fee schedule adopted pursuant to SMC 3.01, must be received by the City Clerk no later than 5:00 pm local time on the ~~shall be filed within 14~~ fourteenth calendar day~~s from~~ following the date of the notice of the Director's decision ~~receipt of the mailing~~. ~~A decision shall be deemed received three days from date of mailing~~.

~~B~~C. Appeals shall be ~~filed~~ in writing ~~with the City Clerk. The appeal shall~~ and comply with the form and content requirements of the rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC ~~in accordance with this chapter~~. The written appeal statement shall contain a concise statement demonstrating the person is adversely affected by the decision; identifying each alleged error of fact, law, or procedure and the manner in which the decision fails to satisfy the applicable decision criteria; and the specific relief requested.

D. ~~B. Appeals shall be accompanied by a filing fee in the amount to be set in Chapter 3.01 SMC.~~

~~C. Within 10 calendar days following timely filing of a complete appeal with the City Clerk, notice of the date, time, and place for the open record hearing shall be mailed by the City Clerk to all parties of record.~~

Amendment #B8
20.30.230 Administrative Appeal process.

A. All administrative appeals are conducted pursuant to rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC.

B. ~~A.~~ No more than one open record hearing shall be heard on any permit decision.

C. An appeal shall be heard and decided within 90 days from the date the appeal is filed. The parties may agree in writing to extend this time. Any extension of time must be submitted to the Hearing Examiner for approval.

C. ~~B.~~ Timely filing of an appeal shall stay ~~delay~~ the effective date of the Director's decision until the appeal is ruled upon by the Hearing Examiner or withdrawn by the appellant. A subsequent appeal of the Hearing Examiner's decision to the King County Superior Court shall not stay the effectiveness of the Director's decision unless the Court issues an order staying the decision.

D. ~~C.~~ The hearing shall be limited to the issues ~~included~~ set forth in the written appeal statement. Participation in the appeal shall be limited to the appellant, City, including all staff, and the applicant for the proposal subject to appeal, if not the appellant~~, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee~~.

Amendment #B9
20.30.540 – Timing and Content of Environmental Review.

A. **Categorical Exemptions.** The City will normally identify whether an action is categorically exempt within ~~10~~ 28 days of receiving an ~~complete~~ application.

B. **Threshold Determinations.** When the City is lead agency for a proposal, the following threshold determination timing requirements apply:

1. If a Determination of Significance (DS) is made concurrent with the notice of application for a proposal, the DS and scoping notice shall be combined with the notice of application~~(RCW 36.70B.110).~~ Nothing in this subsection prevents the DS/scoping notice from being issued before the notice of application. If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process.

2. SEPA determinations for city capital projects may be appealed to the Hearing Examiner as provided in SMC 20.30, Subchapter 4. ~~If the City is lead agency and project proponent or is funding a project, the City may conduct its review under SEPA and may allow appeals of procedural determinations prior to submitting a project permit application.~~

2. ~~3.~~ If an open record predecision hearing is required on the proposal, the threshold determination shall be issued at least 15 calendar days before the open record predecision hearing ~~(RCW 36.70B.110 (6)(b)).~~

3. ~~4.~~ The optional DNS process provided in WAC 197-11-355 may be used to indicate on the notice of application that the lead agency is likely to issue a Determination of Non-Significance (DNS). If this optional process is used, a separate comment period on the DNS may not be required ~~(refer to WAC 197-11-355(4)).~~

C. For nonexempt proposals, the DNS or draft Environmental Impact Statement (EIS) for the proposal shall accompany the City's staff recommendation to the appropriate review authority. If the final EIS is or becomes available prior to review, it shall be substituted for the draft.

D. The optional provision of WAC 197-11-060(3)(c) analyzing similar actions in a single environmental document is adopted.

Amendment #B10

20.30.565 Planned Action Determination of Consistency ~~approval SEPA exemptions.~~

Projects proposed within a planned action area, as defined by the City, may be eligible for planned action status. The applicant shall submit a complete Planned Action Determination of Consistency Review Checklist and any other submittal requirements specified by the Director at the time of application submittal. If the City determines the project is within a planned action area and meets the thresholds established by the planned action, no additional SEPA analysis is required. If a project does not qualify as a planned action, SEPA review will be required. A planned action determination appeal is a Type A decision and may be appealed as provided in SMC 20.30.200.~~Development approvals in planned action districts identified on the City zoning map are designated planned action approvals pursuant to WAC 197-11-164. The environmental impacts of development in these districts consistent with the applicable code provisions have been addressed in a planned action EIS and do not require additional SEPA review.~~

Amendment #B11

20.30.570 – Categorical Exemptions and Threshold Determinations – Use of exemptions

A. The determination of whether a proposal is categorically exempt shall be made by the responsible official.

B. The determination that a proposal is exempt shall be a final decision. ~~and not subject to administrative review~~.

C. If a proposal is exempt, none of the procedural requirements of this subchapter shall apply to the proposal.

~~D. The responsible official shall not require completion of an environmental checklist for an exempt proposal.~~

E. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

1. The responsible official shall not give authorization for:
    - Any nonexempt action;
    - Any action that would have an adverse environmental impact; or
    - Any action that would limit the choice of alternatives.

2. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

3. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

Amendment #B12
20.30.580 Environmental Checklist.

A. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the City's responsible official and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. Except as provided in subsection E of this section, the checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4).

B. For private proposals, the responsible official will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The responsible official may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if any ~~either~~ of the following occurs:

1. The City has technical information on a question or questions that is unavailable to the private applicant; or

2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration; ~~or~~

3. ~~On the request of the applicant.~~

D. The applicant shall pay to the City the actual costs of providing information under subsections (C)(2). ~~and (C)(3) of this section.~~

E. For projects ~~submitted as~~ seeking to qualify as planned actions ~~under WAC 197-11-164~~, the ~~City shall use its~~ applicant shall submit a planned action determination of consistency review checklist and any other submittal requirements specified by the Director. ~~existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a 30-day review prior to use.~~

F. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and planned action checklist and shall have the authority to determine the final content of the ~~environmental~~ checklists.

Amendment #B13
20.30.610 – Environmental Impact Statement and Other Environmental Documents~~–Additional considerations~~.

~~A. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).~~

~~B~~A. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the Department shall be responsible for preparation and content of an EIS~~s~~ and other environmental documents by or under the direction of the SEPA Responsible Official. ~~The Department may contract with consultants as necessary for the preparation of environmental documents. The Department may consider the opinion of the applicant regarding the qualifications of the consultant but the Department shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.~~ An EIS may be prepared by the lead agency's staff; by an applicant or its agent; or by an outside consultant retained by either an applicant or the lead agency. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

~~C~~B. Consultants or sub-consultants selected ~~by the Department~~ to prepare environmental documents for a private development proposal shall not:

(1) act as agents for the applicant in preparation or acquisition of associated underlying permits;
(2) have a financial interest in the proposal for which the environmental document is being prepared; and
(3) perform any work or provide any services for the applicant in connection with or related to the proposal.

~~D~~C. All costs of preparing ~~the~~ any required environment document shall be borne by the applicant.

~~E~~D. If the responsible official requires an EIS for a proposal and determines that ~~someone other than~~ the City will prepare the EIS, the responsible official shall notify the applicant ~~immediately~~ as soon as reasonably possible after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

~~F~~E. The City may require an applicant to provide information ~~the City does not possess, including information~~ that must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulations, statute, or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this subchapter nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

~~G~~F. In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the Department ~~and consultant~~. The applicant shall continue to be responsible for all monies expended by the Department ~~or consultants~~ to the point of the Department's receipt of notification ~~to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents~~.

~~H~~G. The Department shall only publish ~~an environmental impact statement (~~an EIS~~)~~ when it believes that the EIS adequately discloses the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable significant adverse impacts.

Amendment #B14
20.30.630 Comments and Public Notice – Additional considerations.

A. For purposes of WAC 197-11-510, public notice for SEPA threshold determinations shall be required as provided in Chapter 20.30.120~~, Subchapter 3, Permit Review Procedures, except for Type L actions~~. At a minimum, notice shall be provided to property owners located within 500 feet, posted on the property (for site-specific proposals), and the Department shall publish a notice of the threshold determination in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, and the location where the complete application and environmental documents may be reviewed.

B. Publication of notice in a newspaper of general circulation in the area where the proposal is located shall also be required for all nonproject actions and for all other proposals that are subject to the provisions of this subchapter but are not classified as Type A, B, ~~or~~ C, or L actions.

C. The SEPA responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure.

D. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

Amendment #B15
20.30.670 SEPA Policies.

A. ~~The policies and goals set forth in this section are supplementary to those in the existing authorization of the City of Shoreline.~~

~~B.~~ For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the City's substantive authority to condition or deny proposals under SEPA, subject to the provisions of RCW 43.21C.240 and SMC 20.30.660.

1. The policies of the State Environmental Policy Act, RCW 43.21C.020.

2. The Shoreline Comprehensive Plan, its appendices, subarea plans, surface water management plans, park master plans, and habitat and vegetation conservation plans.

3. The ~~City of~~ Shoreline Municipal Code.
4. The Shoreline Historic Inventory.

5. The Shoreline Environmental Sustainability Strategy.

6. The Shoreline Climate Action Plan.

7. The Shoreline Diversity and Inclusion Goals.

Amendment #B16
20.30.680 – Appeals.

A. There are no administrative appeals of a SEPA threshold determination except threshold determinations associated with a Type B actions. Any appeal of a SEPA determination, together with the City's final decision on a proposal, may be appealed to the King County Superior Court, the Growth Management Hearings Board, or the Shoreline Hearings Board, based on the type of ~~permit~~ action being appealed, as provided in RCW 43.21.075.

~~A. Any interested person may appeal a threshold determination or the conditions or denials of a requested action made by a nonelected official pursuant to the procedures~~

set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.

1. If an administrative appeal is allowed, Only one administrative appeal of each threshold determination shall be allowed on a proposal. Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.

2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.

3. An appeal of a DS must be filed within 14 calendar days following issuance of the DS.

4. All Administrative appeals of SEPA determinations are allowed for appeals of a DNS for actions decisions classified in Chapter 20.30 SMC, Subchapter 2, Types of Actions, as Type A or B, or C actions decisions for which the Hearing Examiner is the has review appeal authority., must These appeals must be filed within 14 calendar days following notice of the SEPA threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for a Type A or B actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.

5. The Hearing Examiner shall make the final decision on all Administrative Appeals as allowed in SMC Chapter 20.30, Subchapter 2, Types of Actions - Type B. Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner's decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.

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