

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

<b>AGENDA TITLE:</b> 2004 Formal Docket of Development Code Amendments
<b>DEPARTMENT:</b> Planning & Development Services
<b>PRESENTED BY:</b> Rachael Markle, Assistant Director

**PROBLEM/ISSUE STATEMENT:**

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 and subject to the goals and requirements of the Growth Management act (RCW 36.70A). Typically, the Development Code amendments are processed once per year, (although emergency amendments may be processed at any time throughout the year). Staff conducts State Environmental Policy Act (SEPA) review of the amendments and prepares a formal docket for the Planning Commission Public Hearing. The Public Hearing is noticed, and the docket is sent to the State Department of Community, Trade and Economic Development (CTED). This notice to CTED must be sent at least 60 days prior to Council action. The Planning Commission is the review authority for legislative decisions and is responsible for making a recommendation to the City Council on each amendment.

The Planning Commission conducted workshops on October 20 and November 3, 2005. CTED was notified of the proposed changes on October 26, 2005. A Public Hearing was held November 14, wherein the Planning Commission formulated a recommendation on each of the docketed amendments for Council review. A SEPA Determination of Nonsignificance was issued November 22, 2005. Ordinance 406 (Attachment A) will enact the Planning Commission recommended amendments. The attached Table 1 (Attachment B) contains a summary of the docketed amendment proposals.

The proposed amendments are to the following chapters of the Development Code: 20.20, 20.30, 20.40, and 20.50. Recommended changes include, but are not limited to, the following: creation of regulations specific to fence heights on top of retaining walls; allowing larger residential accessory structures to be exempt from setback standards; adding requirements for neighborhood meetings; changes in Clearing and Grading general requirements; and technical changes to clarify components of the procedures and administrative sections of the Development Code.

**FINANCIAL IMPACT:**

Staff does not anticipate that any of the amendments recommended for approval would have a financial impact on the City.

### RECOMMENDATION

Planning Commission and staff recommend approval of Ordinance 406, amending the Shoreline Development Code.

In the event that the Council wishes to modify provisions of the recommended amendments, or to add additional provisions to the cited code sections, the public participation requirements of the GMA would require that such changes be supported by the record below and notice already given. The staff will be able to assist in determining if those facts exist. If such were not the case, and the Council wished to consider such changes, it would be necessary to refer those matters to the 2006 docket.

Approved By:

City Manager

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City Attorney

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## **INTRODUCTION**

An amendment to the Development Code may be used to bring the City's land use and development regulations into conformity with the Comprehensive Plan, or to respond to changing conditions or needs of the City. The Development Code Section 20.30.100 states that "Any person may request that the City Council, Planning Commission, or Director initiate amendments to the Development Code." Development Code amendments are accepted from the public at any time and there is no charge for their submittal.

During this Development Code review cycle, the City received two formal applications from the public to amend the Development Code, involving changes to the tree retention code and proposing noticing requirements and changes to height restrictions for single-family developments. (These were been broken down into several specific amendments for tracking purposes.) Staff also submitted several amendment requests, both administrative and technical.

Neither staff nor the Planning Commission docketed the citizen-initiated requests. However, the Planning Commission has directed staff to place the tree retention amendments on the work plan for next year's review of the Development Code, as part of a more comprehensive analysis of the City's tree regulations. The other proposals, requiring public notice for single-family building permits, and lowering the height limit for single-family homes to two stories, were considered too costly to administer or overburdening for the property owner to consider. Attachment C contains a summary of these proposed amendments, with staff and Planning Commission discussion.

## **BACKGROUND**

At the October 20, 2005 meeting, the Planning Commission finalized the official docket for the 2004 Development Code Amendment process, also requested staff to clarify some of the proposed amendments. Of the non-docketed items, proposed amendments to the tree retention code and proposals for density bonuses were placed on the 2006 work item agenda for further study. A second workshop was held on November 3, 2005. A notice of Public Hearing, request for public comment, and preliminary SEPA threshold determination was published October 28, 2005. The public comment period ran from October 28, 2005 to November 14, 2005. No comment letters were received from citizens or public agencies receiving the notice. The Public Hearing was held November 17, 2005. There was no public comment, nor were there any citizens in attendance. The City issued a SEPA Determination of Non-Significance (DNS) on November, 22, 2005.

The docketed items were discussed and a recommendation on whether or not to approve the proposed amendment was made. The following analysis contains the issues and Planning Commission and staff recommendation for each proposed amendment.

## **ALTERNATIVES ANALYSIS - AMENDMENTS AND ISSUES**

Exhibit 1 to Attachment A includes a copy of the original and proposed amending language shown in legislative format. Legislative format uses ~~striketroughs~~ for proposed text deletions and underlines for proposed text additions. The following is a summary of the proposed amendments, with staff analysis. Note that the proposals that are classified as technical

amendments serve only to clarify code language or to properly reference code, they do not change the meaning or intent of the ordinance.

**Amendment #1:** 20.50.100 This amendment is staff initiated and is the result of a change in building code and is important to achieve consistency between the Development Code and the International Codes adopted by the City. Currently, the City allows for the construction of up to one 120 sq. ft. structure (SMC 20.50.110(1) in the required side and rear yard setbacks as an exempt structure, while the International Residential Code IRC R105.2(1) allows for the construction of up to a 200 sq. ft. structure as an exempt structure (exempt of building code requirements). This change would allow for the placement of up to one 200 sq. ft. structure located in the required side and front yard setbacks without permit, as long as the structure meets the fire separation requirements of the building code. Planning Commission and staff recommend approval.

**Amendment #2:** 20.20.048 This is a citizen initiated proposal to reduce the size requirement of a Landmark Tree from a minimum diameter at breast height of 30 inches to a diameter at breast height of 24 inches. The Commission discussed this item at the public hearing and concurred that it should be deferred from the current docket of code amendments and placed on the Commission's 2006 work plan for future discussion, along with all of the other amendments related to the tree retention code. They emphasized that they were not recommending voting against the proposed amendment, but felt that it should be dealt with in a more holistic fashion. The Planning Commission recommends deferring this proposal to the 2006 work plan, along with the other proposals to amend the tree retention code. Staff agrees with this recommendation.

**Amendment #3:** 20.50.300 This is an amendment that was submitted by the City Legal Staff and is meant to clarify some of the requirements of a clearing and grading permit. 1) The change to sections D and E clarifies that review may take place concurrently with any development, not just expansion, and eliminates redundancy. 2) The change to section F eliminates the seeming contradiction between F and G. This allows a clearing and grading permit on developed land when the intention is to clear for aesthetic, weed control or similar purposes, when no further development is proposed. 3) Section H was changed to treat replacement trees the same as protected trees, rather than leaving it to the written approval. 4) This change would properly reference Section 20.80, Critical Areas, as the standard for activity on sensitive lands. These changes will help clarify when a clearing and grading permit is required and how it will be administered. Planning Commission and staff recommend approval.

**Amendment #4:** 20.20.110 & 20.50.210 This change has been initiated by City staff and is meant to adjust the fence standards. The change would eliminate a provision that requires the construction of an alternating fence on private roads, a standard that is currently being imposed only on private access drives. This proposed amendment also clarifies where the height of a fence that is built on top of a retaining wall is to be measured from and would eliminate the openwork type of fence as a requirement. The current requirement does not allow property owners to build a privacy fence on top of a retaining wall to provide screening from the uphill neighbor; this change would allow neighbors to build fences to add privacy for their windows and yards. Planning Commission and staff recommend approval.

**Amendment #5:** 20.50.110, 20.50.210, & 20.50.270 This proposed amendment was initiated as part of the 2003 Development Code amendments and was remanded to staff for further study. Staff considered many variations of this proposal that would allow Police and other essential public facilities to use security fencing if it is appropriately screened from public areas. Under this proposed change, if the Police Department or any other essential public facility needed to



use security fencing to keep the facility secure, they would be required to screen the fencing so that it is not visible from the street or other public areas. The Commission asserted that other types of treatments could provide for security and be less aesthetically offensive than barbed or razor wire. The Planning Commission recommends denial of this proposal. Staff agrees with this recommendation.

**Amendment #6:** 20.30.150 This proposed amendment was initiated by City staff and is intended to clarify when to complete a public notice of decision, and specifies that a notice of decision shall be issued for Type B and C Actions, not Type L Actions. This is a technical change, and does not change any of the noticing requirements. Planning Commission and staff recommend approval.

**Amendment #7:** 20.30.060 & 20.30.070 This proposed change was initiated by City legal staff and would change an application for street vacation from a Legislative - Type L action to a Quasi Judicial - Type C action. Currently Street Vacation applications are listed as Type L actions. These actions are being processed as Quasi-Judicial actions and therefore should be changed to a Type C decisions. Planning Commission and staff recommend approval.

**Amendment #8:** 20.30.160 This proposed change was initiated by City legal staff to help clarify how land use action approvals are vested. By changing this section to allow for an automatic extension of vesting, the applicant may be granted the full two years allowed before expiration of approved land use action if the land use decision is subject to legal injunction. Planning Commission and staff recommend approval.

**Amendment #9:** 20.30.740 This proposed amendment was initiated by City legal staff and is intended to add enforcement capacity for clearing and grading activities to properly reference the Enforcement Provisions of the Development Code. This is a technical amendment. Planning Commission and staff recommend approval.

**Amendment #10:** 20.50.350 This proposed amendment was initiated by City staff to ensure the proper installation of tree protection measures. This would allow staff the ability to enforce the installation of tree protection measures on site. Sometimes tree protection measures are not installed properly and lead to significant impact on the trees' root system and eventual decline in health. If the protection measures were not installed properly, City staff would have the ability to utilize the bond to hire a third party to properly install and maintain the protection measures. Planning Commission and staff recommend approval.

**Amendment #11:** This proposal was initiated by City legal staff and would change every occurrence of "Code violation" to "Code Violation" for consistency throughout the Development Code. This is a technical change and does not affect the regulatory content of the Development Code. Planning Commission and staff recommend approval.

**Amendment #12:** 20.50.480 This proposal was initiated by a citizen, David Anderson. The issue Mr. Anderson is trying to address with this amendment is the need for additional design flexibility based on site conditions when locating street trees. A specific example, tree grates are allowed to be used. The tree grate must be a minimum of 4 ft. by 4 ft. On a six foot sidewalk that could create as little as a 2 foot area that is free and clear of the tree grate for pedestrian use. This could cause access issues, especially as the tree grows and the grate potentially begins to buckle upwards. The proposed amendment would limit the use of tree grates to 8 foot sidewalks unless approved by the Director. It would allow for trees to be planted behind the curb in such situations. Planning Commission and staff recommend approval.

**Amendment #13:** 20.30.290 This proposed amendment was initiated by City staff and is necessary for consistency with the current adopted building codes. Currently, this section of the Development Code cites the "Uniform Fire Code", and needs to be corrected to properly cite the "International Fire Code" that has been adopted by the City. Planning Commission and staff recommend approval of this technical change.

**Amendment #14:** 20.30.100 This proposed amendment was initiated by City staff and is necessary to address a lack of expiration timelines for clearing and grading permit applications. Upon adoption of the International Building Code (IBC) the City lost requirements that were in place under the Uniform Building Code (UBC) for clearing and grading/site development permit application expiration. This proposed change would add clearing and grading permit application expiration regulations that are consistent with building permit application regulations.

**Amendment #15:** 20.40.240 This proposed amendment was initiated by City staff and is meant to change the description of cage sizes from square feet to cubic feet, and to make other minor technical corrections in the Code. Currently, the Development Code regulates cage/aviary sizes for birds in square feet. Aviary sizes should be regulated in cubic feet so as to provide for the best living environment for birds. The other changes are necessary to add clarity and consistency to the Development Code.

**Amendment #16:** 20.30.295 & 20.40.110 This proposed amendment was initiated by City staff. A temporary use permit was not listed in the use tables but was found in the list of supplementary criteria. Moving the requirements for a temporary use permit to the permit review and decision criteria section for Type A permits better locates this section for the user. Planning Commission and staff recommend approval of this technical change.

**Amendment #17:** 20.30.140 This proposed amendment was initiated by City staff and is intended to clarify the content of this section, as this section regulates the internal processing of permit applications, not the expiration of application or permit. Planning Commission and staff recommend approval of this technical change.

**Amendment #18** 20.50.360 This proposed amendment was initiated by City staff. This proposed change amends the performance assurance section of the Code to specifically address both the performance bonds and maintenance bonds in different subsections. The intent of this change is to make it easier for the reader to identify the specific requirements of a performance guarantee from those of a maintenance agreement. Planning Commission and staff recommend approval.

**Amendment #19:** 20.30.165 This proposed amendment was initiated by City staff. Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. This amendment adds a section to regulate the expiration of clearing and grading and site development permits. Planning Commission and staff recommend approval.

**Amendment #20:** 20.30.430 This proposed amendment was initiated by City staff and is intended to clarify that section 20.30.430 governs the submittal and approval of site development permits for required subdivision improvements. This amendment also adds a reference to proposed section 20.30.165 to properly identify site development permit expiration limitations. Planning Commission and staff recommend approval.

**Amendment #21:** 20.30.80-180 This proposal intends to improve the neighborhood meeting process to better notify and inform interested persons about potential projects. Staff proposes to require the future applicant to provide more information in the meeting notice such as the

description of the project, zoning of the property, site and vicinity maps and identification of the land use actions that will be required to be applied for. Staff is also proposing to require the future applicant to cover basic information such as an introduction of the meeting organizer, description of the project proposal, list of anticipated permits the project may require, a description of how comments made at the meeting are used, and provide meeting attendees with the City's contact information should questions arise regarding future permitting of this project. They will also need to provide an attendee sign-up sheet. These changes are proposed to address comments received by staff that the level of information provided at these meetings varies depending on the meeting organizer. Staff also proposes that the meeting summary submitted as part of the permit application be mailed out to meeting attendees (those persons that have signed up with a legible name and address) by staff. The purpose of this step would be to give meeting attendees the opportunity to correct or supplement the neighborhood meeting summaries. Planning Commission and staff recommend approval.

### **DECISION CRITERIA**

According to Section 20.50.350 of the Shoreline Municipal Code (SMC), an amendment to the development code may be approved if:

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

Staff has concluded that the proposed amendments do not conflict with any of the decision criteria.

### **OPTIONS**

1. Approve Ordinance 406 as recommended by Planning Commission and staff.
2. Modify Ordinance 406
3. Deny Ordinance 406
4. In addition to taking action on the Ordinance, the Council may choose to create a new docket with additional amendment proposals, to go forward to a Planning Commission Public Hearing.

### **RECOMMENDATION**

Planning Commission and staff recommend approval of Ordinance 406, amending the Shoreline Development Code.

### **ATTACHMENTS**

- Attachment A: Ordinance 406, containing proposed amendment language in legislative format as Exhibit 1.
- Attachment B: Table 1, summary of docketed amendment proposals
- Attachment C: Summary of proposals not docketed

**ORDINANCE NO. 406**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE MUNICIPAL CODE TITLE 20, INCLUDING CHANGES IN SIZE OF EXEMPT ACCESSORY STRUCTURES, REVISING FENCE REGULATIONS, REVISING NOTICING REQUIREMENTS, ADDING REQUIREMENTS FOR NEIGHBORHOOD MEETING, CLARIFYING GENERAL REQUIREMENTS FOR CLEARING AND GRADING PERMITS, GRAMMATICAL CHANGES AND PROCEDURAL REVISIONS TO THE LAND USE PERMITTING PROCESS.**

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000;

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states “Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code”; and

WHEREAS, City staff drafted several amendments to the Development Code;

WHEREAS, the Planning Commission held workshops and a Public Hearing, and developed a recommendation on the proposed amendments; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A public comment period on the proposed amendments was advertised from October 28, 2005 to November 14, 2005 and
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on November 17, 2005.

WHEREAS, a SEPA Determination of Nonsignificance was issued on November 22, 2005, in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant WAC 365-195-820; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code;

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

**Section 1. Amendment.** Shoreline Municipal Code Chapters 20.20, 20.30, 20.40, and 20.50 are amended as set forth in Exhibit 1, which is attached hereto and incorporated herein.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 3. Effective Date and Publication.** A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

**PASSED BY THE CITY COUNCIL ON January 9, 2006.**

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Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Scott Passey  
City Clerk

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Ian Sievers  
City Attorney

Date of Publication:  
Effective Date:

**20.50.100 Location of accessory structures within required yard setbacks – Standards.**

No accessory structure shall be located within any required setback.

Exception 20.50.100(1): One uninhabited freestanding structure less than 10 feet high and ~~120~~200 square feet in footprint area, such as a storage shed or greenhouse, may be located within the required rear or side yard setback. This structure shall retain a fire separation distance as specified in adopted building codes.

Exception 20.50.100(2): If the accessory structure, which is less than 120 ~~200~~ square feet in footprint and less than 10 feet high, is located in the side yard, such structure shall be set back at least five feet further than the house from any street.

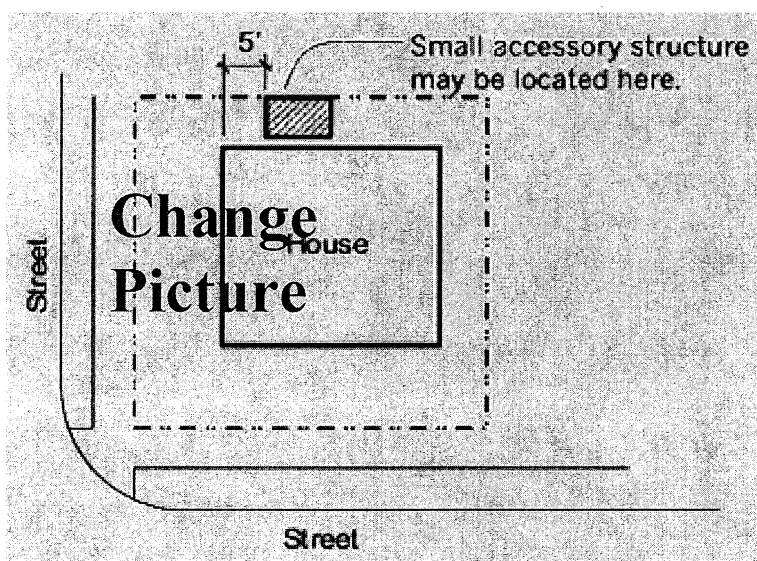


Figure Exception to 20.50.100(2): Permitted location of small accessory structure in side yard.

(Ord. 238 Ch. V § 2(B-4), 2000).

### **20.50.300 General requirements.**

A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.

B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

C. **Permit Required.** No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.

D. When clearing or grading is planned in conjunction with development a new or expanded building or complex that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.

~~E. The Director may require the submittal of required application materials for approval of tree removal, clearing and rough grading of the site with an application for formal subdivision, short subdivision, conditional use or any other land use approval in order to meet the purpose and intent of this subchapter.~~

~~GE.~~ No clearing shall be allowed on a site for the sake of preparing that site for sale or future development where no specific plan for future development has been submitted. The Director may issue a clearing and grading permit as part of a phased development plan where a conceptual plan for development of the property has been submitted to the City and the owner or developer agrees to submit an application for a building permit or other site development permit in less than 12 months.

F. A clearing and grading permit ~~shall be required~~ may be issued for developed land, if the regulated activity is not associated with another development application on the site that requires a permit.

~~HG.~~ Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D). ~~may not be removed without the written approval of the Department.~~

~~IH.~~ Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas overlay district chapter of the Shoreline Development Code, Chapter 20.80 SMC, Special Districts Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply. (Ord. 238 Ch. V § 5(B), 2000).

## 20.50.110 Fences and walls – Standards.

- A. Fences located along private roads serving lots, which are not fronting on a street, shall avoid creating a “tunnel” effect by varying the alignment or setback of the fence, softening the appearance of fence lines with planting, or similar techniques. In no instance shall a fence or wall be opaque for more than 50 feet of every 75 feet of length, or portion thereof.

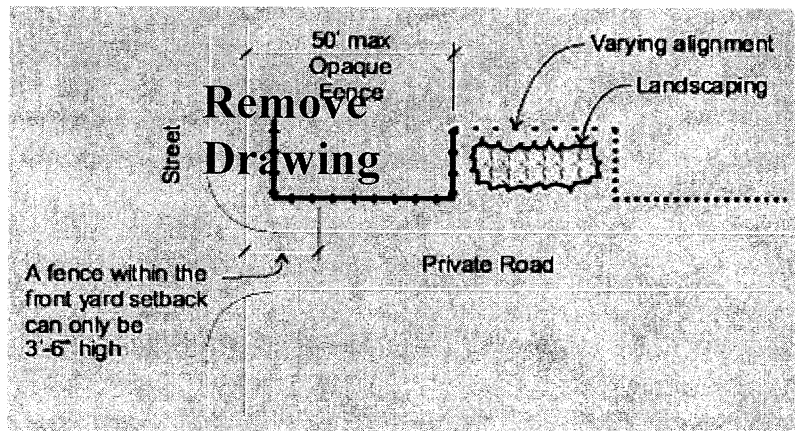
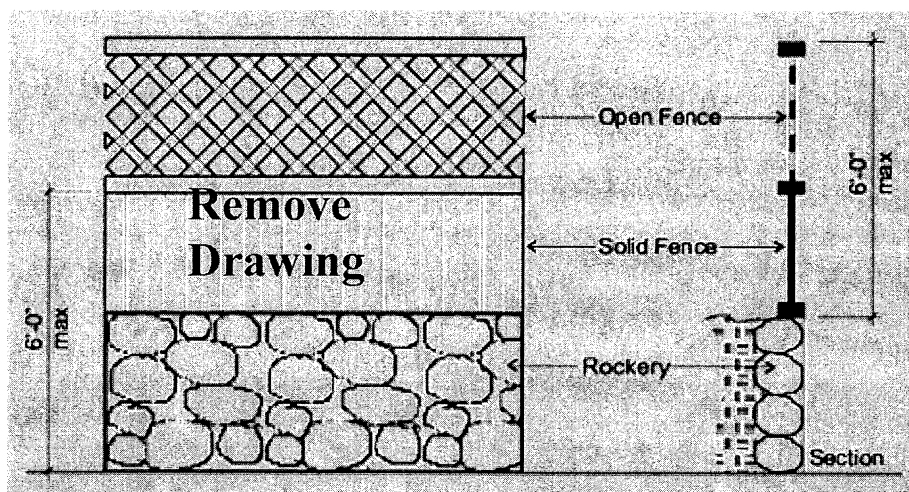


Figure 20.50.110(B): Fences along private roads.

- BA. The maximum height of fences located along a property line shall be six feet, subject to the site clearance provisions of SMC 20.70.170, 20.70.180, and 20.70.190(C). (Note: The recommended maximum height of fences and walls located between the front yard building setback line and the front property line is three feet, six inches high.

- CB. All electric, razor wire, and barbed wire fences are prohibited.

- DC. The height of a fence located on a retaining wall shall be measured from the bottom of that wall finished grade at the top of the wall to the top of the fence. The portion of a fence, that is higher than six feet above the bottom of the retaining wall, shall be an openwork type of fence, such as lattice. The overall height of the fence located on the wall shall be a maximum of six feet (cumulative opaque and openwork portions of the fence).



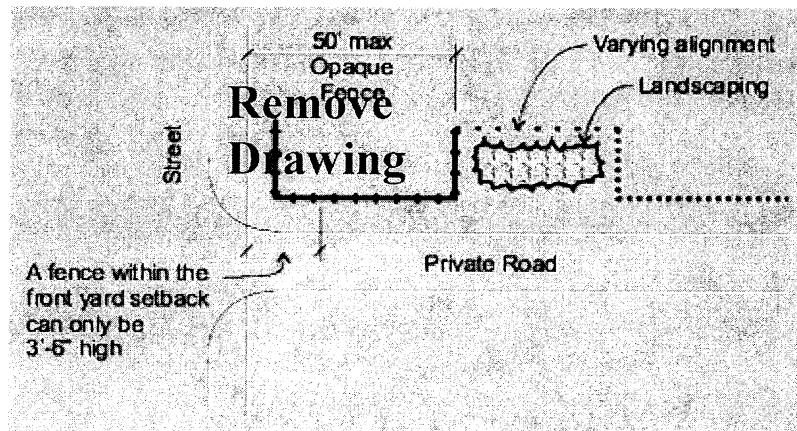


~~Figure 20.50.110(E): Example height measurement of fence located on the top of a retaining wall.~~

(Ord. 299 § 1, 2002; Ord. 238 Ch. V § 2(B-5), 2000).

## **20.50.210 Fences and walls – Standards.**

- A. Fences and walls shall be maximum three feet, six inches high between the minimum front yard setback line and the front property line for the street frontage that contains the main entrance to the building. Chain link fences are not permitted in the minimum front yard setback for the street frontage that contains the main entrance to the building.
- ~~B. Fences located along private roads serving lots, which are not fronting on a street, shall avoid creating a “tunnel” effect by varying the alignment or setback of the fence, softening the appearance of fence lines with planting, or similar techniques. In no instance shall a fence or wall be opaque for more than 50 feet of every 75 feet of length, or portion thereof.~~



~~Figure 20.50.110(B): Fences along private roads.~~

- ~~CB.~~ The maximum height of fences located along a side and/or rear yard property line shall be six feet.
- ~~DC.~~ All electric, razor wire, and barbed wire fences are prohibited.
- ~~ED.~~ The height of a fence located on a retaining wall shall be measured from the bottom of that wall finished grade at the top of the wall to the top of the fence. The portion of a fence, that is higher than six feet above the bottom of the retaining wall, shall be an openwork type of fence, such as lattice. The overall height of the fence located on the wall shall be a maximum of six feet (cumulative opaque and openwork portions of the fence). (Ord. 299 § 1, 2002; Ord. 238 Ch. V § 3(C-4), 2000).

#### **20.30.150 Public notice of decision.**

For Type B and C actions, The Director shall issue and mail a notice of decision to the parties of record and to any person who, prior to the rendering of the decision, requested notice of the decision. The notice of decision may be a copy of the final report, and must include the threshold determination, if the project was not categorically exempt from SEPA. The notice of decision will be published in the newspaper of general circulation for the general area in which the proposal is located and posted for site-specific proposals. (Ord. 299 § 1, 2002; Ord. 238 Ch. III § 4(h), 2000).

**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 (5), (6)	Review Authority, Open Record Public Hearing (1)	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
<b>Type C:</b>					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.410
2. Rezone of Property(2) and Zoning Map Change	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.320
3. Special Use Permit (SUP)	Mail, Post Site, Newspaper	PC (3)	City Council	120 days	20.30.330
4. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE (4)		120 days	20.30.333
5. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE (4)		120 days	20.30.336
6. Final Formal Plat	None	Review by the Director – no hearing	City Council	30 days	20.30.450
7. SCTF – Special Use Permit	Mail, Post Site, Newspaper (7)	PC (3)	City Council	120 days	20.40.505
<u>3. Street Vacation</u>	<u>PC(1)</u>	<u>PC (3)</u>	<u>City Council</u>	<u>120 days</u>	<u>12.17</u>

(1) Including consolidated SEPA threshold determination appeal.

(2) The rezone must be consistent with the adopted Comprehensive Plan.

(3) PC = Planning Commission

(4) HE = Hearing Examiner

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

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

(7) Notice of application shall be mailed to residents and property owners within one-half mile of the proposed site.

(Ord. 324 § 1, 2003; Ord. 309 § 3, 2002; Ord. 299 § 1, 2002; Ord. 238 Ch. III § 3(c), 2000).

### 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.

**Table 20.30.070 – Summary of Legislative Decisions**

Decision	Review Authority, Open Record Public Hearing	Decision Making Authority (in accordance with State law)	Section
1. Amendments and Review of the Comprehensive Plan	PC(1)	City Council	20.30.340
2. Amendments to the Development Code	PC(1)	City Council	20.30.350
<del>3. Street Vacation</del>	<del>PC(1)</del>	<del>City Council</del>	<del>12.17</del>

(1) PC = Planning Commission

## **20.30.160 Expiration of vested status of land use permits and approvals.**

Except for long plats or where a shorter duration of approval is indicated in this Code, the vested status of an approved land use permit under Type A, B, and C actions shall expire two years from the date of the City's final decision, unless a complete building permit application is filed before the end of the two-year term. In the event of an administrative or judicial appeal, the two-year term shall not expire. Continuance of the two-year period may be reinstated upon resolution of the appeal.

In such cases If a complete building permit application is filed before the end of the two-year term, the vested status of the permit shall be automatically extended for the time period during which the building permit application is pending prior to issuance; provided, that if the building permit application expires or is canceled, the vested status of the permit or approval under Type A, B, and C actions shall also expire or be canceled. If a building permit is issued and subsequently renewed, the vested status of the subject permit or approval under Type A, B, and C actions shall be automatically extended for the period of the renewal. (Ord. 238 Ch. III § 4(i), 2000).

## 20.30.740 Enforcement provisions.

### D. Civil Penalties.

1. A civil penalty for violation of the terms and conditions of a notice and order shall be imposed in the amount of \$500.00. The total initial penalties assessed for notice and orders and stop work orders pursuant to this section shall apply for the first 14-day period following the violation of the order, if no appeal is filed. The penalties for the next 14-day period shall be 150 percent of the initial penalties, and the penalties for the next 14-day period and each such period or portion thereafter, shall be double the amount of the initial penalties.
2. Any responsible party who has committed a violation of the provisions of Chapter 20.80 SMC, Critical Areas, or 20.50, Subchapter 5. SMC, Tree Conservation, Land Clearing and Site Grading Standards, will not only be required to restore unlawfully removed trees or damaged critical areas, insofar as that is possible and beneficial, as determined by the Director, but will also be required to pay civil penalties in addition to penalties under (D)(1), for the redress of ecological, recreation, and economic values lost or damaged due to the violation. Civil penalties will be assessed according to the following factors:
  - a. An amount determined to be equivalent to the economic benefit that the responsible party derives from the violation measured as the total of:
    - i. The resulting increase in market value of the property; and
    - ii. The value received by the responsible party; and
    - iii. The savings of construction costs realized by the responsible party as a result of performing any act in violation of the chapter; and
  - b. A penalty of \$1,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate; and
  - c. A penalty of \$2,000 if the violation has severe ecological impacts, including temporary or permanent loss of resource values or functions.

#### **20.50.350 Development standards for clearing activities.**

- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- B. **Minimum Retention Requirements.** All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:
1. At least 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
  2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.
  3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during construction through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures. Further preservation of retained trees following construction shall be required for a period of 36 months and shall be guaranteed through an approved maintenance agreement.
  - 3.4. The Director may require the retention of additional trees to meet the stated purpose and intent of this ordinance, as required by the critical areas standards, or as site-specific conditions demand using SEPA substantive authority.

## **20.50.480 Street trees – Standards.**

- A. Street trees must be two-inch caliper and planted no more than 40 feet on center and selected from the City-approved street tree list. Placement of street trees can be adjusted to avoid conflict with driveways, utilities, and other functional needs while including the required number of trees. Street trees are required for all commercial, office, industrial, multifamily zones, and single-family subdivisions for all arterial streets.
- B. Street landscaping may be placed within City street rights-of-way subject to review and approval by the Director. Adequate space should be maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way.
- C. Trees must be:
  - Planted in a minimum four-foot wide continuous planting strip along the curb, or
  - Planted in tree pits minimally four feet by four feet where sidewalk is no less than eight feet wide. If the sidewalk is less than eight feet wide a tree grate may be used if approved by the Director; or
  - Where an existing or planned sidewalk abuts the curb, trees may be planted four feet behind that sidewalk, on the side opposite the curb.
- D. Street trees will require five-foot staking and root barriers between the tree and the sidewalk and curb.
- E. Tree pits require an ADA compliant iron grate flush with the sidewalk surface.
- F. Street trees must meet requirements in the Engineering Development Guide. Trees spacing may be adjusted slightly to accommodate sight distance requirements for driveways and intersections. (Ord. 238 Ch. V § 7(B-3), 2000).



## **20.30.290 Variance from the engineering standards (Type A action).**

**A. Purpose.** Variance from the engineering standards is a mechanism to allow the City to grant an adjustment in the application of engineering standards, where there are unique circumstances relating to the proposal that strict implementation of engineering standards would impose an unnecessary hardship on the applicant.

**B. Decision Criteria.** The Department Director or designee shall grant an engineering standards variance only if the applicant demonstrates all of the following:

1. The granting of such variance will not be materially detrimental to the public welfare or injurious or create adverse impacts to the property or other property(s) and improvements in the vicinity and in the zone in which the subject property is situated;
2. The authorization of such variance will not adversely affect the implementation of the Comprehensive Plan adopted in accordance with State law;
3. A variance from engineering standards shall only be granted if the proposal meets the following criteria:
  - a. Conform to the intent and purpose of the Code;
  - b. Produce a compensating or comparable result which is in the public interest;
  - c. Meet the objectives of safety, function and maintainability based upon sound engineering judgement.
4. Variances from road standards must meet the objectives for fire protection. Any variance from road standards, which does not meet the Uniform International Fire Code, shall also require concurrence by the Fire Marshal.

## **20.30.100 Application.**

### **A. Who may apply:**

- The property owner or an agent of the owner with authorized proof of agency may apply for a Type A, B, or C action, or for a site-specific Comprehensive Plan amendment.
- The City Council or the Director may apply for a project-specific or site-specific rezone or for an area-wide rezone.
- Any person may propose an amendment to the Comprehensive Plan. The amendment(s) shall be considered by the City during the annual review of the Comprehensive Plan.
- Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code.

**B.** All applications for permits or actions within the City shall be submitted on official forms prescribed and provided by the Department.

At a minimum, each application shall ~~require~~include:

- An application form with the authorized signature of the applicant.
- The appropriate application fee based on the official fee schedule (Chapter 3.01 SMC).

**C.** The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The permit application forms, copies of all current regulations, and submittal requirements that apply to the subject application shall be available from the Department. (Ord. 238 Ch. III § 4(c), 2000).

**D.** Expiration: Absent statute or ordinance provisions to the contrary, any application for which a determination of completeness has been issued and for which no substantial steps have been taken to meet permit approval requirements for a period of 180 days after issuance of the determination of completeness will expire and become null and void. The director may grant a 180 day extension on a one-time basis if the failure to take a substantial step was due to circumstances beyond the control of the applicant.

## **20.30.110 Determination of completeness.**

**A.** An application shall be determined complete when:

1. It meets the procedural requirements of the City of Shoreline;
2. All information required in specified submittal requirements for the application has been provided, and is sufficient for processing the application, even though additional information may be required. The City may, at its discretion and at the applicant's expense, retain a qualified professional to review and confirm the applicant's reports, studies and plans.

- B. Within 28 days of receiving a permit application for Type A, B and/or C applications, the City shall mail a written determination to the applicant stating whether the application is complete, or incomplete and specifying what is necessary to make the application complete. If the Department fails to provide a determination of completeness, the application shall be deemed complete on the twenty-ninth day after submittal.
- C. If the applicant fails to provide the required information within 90 days of the date of the written notice that the application is incomplete, or a request for additional information is made, the application shall be deemed null and void. The director may grant a 90 day extension on a one-time basis if the failure to take a substantial step was due to circumstances beyond the control of the applicant. The applicant may request a refund of the application fee minus the City's cost of processing.
- D. The determination of completeness shall not preclude the City from requesting additional information or studies if new information is required or substantial changes are made to the proposed action. (Ord. 324 § 1, 2003; Ord. 238 Ch. III § 4(d), 2000).

#### **20.40.240 Animals.**

- A. The raising, keeping, breeding or fee boarding of small animals are subject to SMC Title 6, Animal Control Regulations.
- B. Small animals which are kept exclusively indoors as household pets shall not be limited in number, except as may be provided in SMC Title 6. Other small animals, excluding cats kept indoors as household pets, shall be limited to five, of which not more than four may be unaltered cats and dogs. Cats kept indoors shall not be limited in number.
- C. Other small animals, including adult cats and dogs, shall be limited to three per household on lots of less than 20,000 square-feet, five per household on lots of 20,000 to 35,000 square feet, with an additional two per acre of site area over 35,000 square feet up to a maximum of 20, unless more are allowed as an accessory use pursuant to subsection (F) of this section; provided, that all unaltered animals kept outdoors must be kept on a leash or in a confined area, except as authorized for a kennel or cattery.
- D. Excluding kennels and catteries, the total number of unaltered adult cats and/or dogs per household shall not exceed three.
- E. Animals considered to be household pets shall be treated as other small animals, when they are kept for commercial breeding, boarding or training.
- F. Small animals and household pets kept as an accessory use outside the dwelling shall be raised, kept or bred only as an accessory use on the premises of the owner, or in a kennel or cattery approved through the conditional use permit process, subject to the following limitations:
  - 1. Birds shall be kept in an aviary or loft that meets the following standards:
    - a. The aviary or loft shall provide one-half squarecubic foot for each parakeet, canary or similarly sized birds, one squarecubic foot for each pigeon, small parrot or similarly sized bird, and two squarecubic feet for each large parrot, macaw or similarly sized bird.
    - b. Aviaries or lofts shall not exceed 2,000 square feet in footprint.
    - c. The aviary is set back at least 10 feet from any property line, and 20 feet from any dwelling unit.
  - 2. Small animals other than birds shall be kept according to the following standards:

- a. All animals shall be confined within a building, pen, aviary or similar structure.
- b. Any covered structure used to house or contain such animals shall maintain a distance of not less than 10 feet to any property line.
- c. ~~Poultry, chicken, squab, and r~~Rabbits are limited to a maximum of one animal per one square foot of structure used to house such animals, up to a maximum of 2,000 square feet.
- d. Hamsters, nutria and chinchilla are limited to a maximum of one animal per square foot of structure used to house such animals, up to a maximum of 2,000 square feet.
- e. Beekeeping is limited as follows:
  - i. Beehives are limited to four hives on sites less than 20,000 square feet;
  - ii. Hives must be at least 25 feet from any property line;
  - iii. Must register with the Washington State Department of Agriculture;
  - iv. Must be maintained to avoid overpopulation and swarming.
- f. Prohibited Animals. The keeping of mink, foxes, and/or hogs shall be prohibited. (Ord. 238 Ch. IV § 3(B), 2000).

### **20.50.300 General requirements.**

A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.

B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

C. **Permit Required.** No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.

D. When clearing or grading is planned in conjunction with development a new or expanded building or complex that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.

~~E. The Director may require the submittal of required application materials for approval of tree removal, clearing and rough grading of the site with an application for formal subdivision, short subdivision, conditional use or any other land use approval in order to meet the purpose and intent of this subchapter.~~

~~GE.~~ No clearing shall be allowed on a site for the sake of preparing that site for sale or future development where no specific plan for future development has been submitted. The Director may issue a clearing and grading permit as part of a phased development plan where a conceptual plan for development of the property has been submitted to the City and the owner or developer agrees to submit an application for a building permit or other site development permit in less than 12 months.

F. A clearing and grading permit ~~shall be required~~ may be issued for developed land, if the regulated activity is not associated with another development application on the site that requires a permit.

~~HG.~~ Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D), may not be removed without the written approval of the Department.

~~IH.~~ Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas overlay district chapter of the Shoreline Development Code, Chapter 20.80 SMC, Special Districts Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply. (Ord. 238 Ch. V § 5(B), 2000).

#### **20.30.140 Permit processing Time limits.**

A. Decisions under Type A, B or C actions shall be made within 120 days from the date of a determination that the application is complete. Exceptions to this 120-day time limit are:

1. Substantial project revisions made or requested by an applicant, in which case the 120 days will be calculated from the time that the City determines the revised application to be complete.
2. The time required to prepare and issue a draft and final Environmental Impact Statement (EIS) in accordance with the State Environmental Policy Act.
3. Any period for administrative appeals of project permits.
4. An extension of time mutually agreed upon in writing by the Department and the applicant.
5. Amendments to the Comprehensive Plan or Code.

B. The time limits set for Type A, B, and C actions do not include:

1. Any period of time during which the applicant has been requested by the Department to correct plans, perform studies or provide additional information. This period of time shall be calculated from the date the Department notifies the applicant of the need for additional information, until the date the Department determines that the additional information satisfies the request for such information or 14 days after the date the information has been provided to the Department, whichever is earlier.
2. If the Department determines that the additional information submitted to the Department by the applicant under subsection (B)(1) of this section is insufficient, the Department shall notify the applicant of the deficiencies, and the procedures provided in subsection (B)(1) of this section shall apply as if a new request for studies has been made.

C. If the Department is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limit has not been met and an estimated date for issuance of the notice of decision. (Ord. 238 Ch. III § 4(g), 2000).

## **20.50.360 Tree replacement and site restoration.**

**K. Performance Assurance.** A performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree retention, replacement, and protection measures may be required in an amount determined by the Director.

### **K. Performance Assurance.**

1. The Director may require a performance bond for tree replacement and site restoration permits to ensure the installation of replacement trees, and/or compliance with other landscaping requirements as identified on the approved site plans.

2. A maintenance bond shall be required after the installation of required site improvements and prior to the issuance of a Certificate of Occupancy or finalization of permit and following required landscape installation or tree replacement. The maintenance bond and associated agreement shall be in place to ensure adequate maintenance and protection of retained trees and site improvements. The maintenance bond shall be for an amount not to exceed the estimated cost of installation and 25% of the estimated cost of maintenance and protection measures for a minimum of 36 months or as determined by the Director.



## **20.30.165 Permit expiration timelines for Clearing and Grading and Site Development Permits**

**A. Purpose:** A clearing and grading permit may be issued approving land clearing and site grading activities in conjunction with the development of a site. The expiration limitations of this permit are as follows:

**1. Clearing and Grading Permit: Permit Expiration.** Clearing and Grading permits shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

**2. Clearing and Grading Permit: Permit Extension.** The Director is authorized to grant, in writing, one or more extensions of time for periods of not more than 180 days each, the extension shall be requested in writing and justifiable cause demonstrated.

**B. Purpose:** A site development permit may be issued approving engineering plans for infrastructure and grading improvements required in conjunction with the development of a site. The expiration limitations of this permit are as follows:

**1. Site Development Permit: Permit Expiration.** Site development permits shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Site development permits associated with subdivision applications shall expire when the preliminary subdivision approval has expired as set forth by RCW 58.17.140.

**2. Site Development Permit: Permit Extension.** The Director is authorized to grant, in writing, one or more extensions of time for periods of not more than 180 days each, the extension shall be requested in writing and justifiable cause demonstrated. Extensions may be granted for those permits issued in conjunction with a preliminary subdivision approval that has been extended as provided in RCW 58.17.140.

**20.30.430 Site development permit for required subdivision improvements – Type A action.**

Engineering plans for improvements required as a condition of preliminary approval of a subdivision, shall be submitted to the Department for review and approval of a site development permit, allowing sufficient time for review before expiration of the preliminary subdivision approval. Permit expiration time limits for site development permits shall be as indicated in SMC 20.30.165. (Ord. 238 Ch. III § 8(h), 2000).

### **20.30.090 Neighborhood meeting.**

Prior to application submittal for a Type B or C action, the applicant shall conduct a neighborhood meeting to discuss the proposal.

A. The purpose of the neighborhood meeting is to:

1. Ensure that potential applicants pursue early and effective citizen participation in conjunction with their application proposal, giving the applicant project proponent the opportunity to understand and try to mitigate any real and perceived impact their proposal may have on the neighborhood;
2. Ensure that the citizens and property owners of the City have an adequate opportunity to learn about the proposal that may affect them and to work with applicants project proponents to resolve concerns at an early stage of the application process.

B. The neighborhood meeting shall meet the following requirements:

1. Notice of the neighborhood meeting shall be provided by the applicant and shall include the date, time and location of the neighborhood meeting and a description of the project, zoning of the property, site and vicinity maps and the land use applications that would be required.
2. The notice shall be provided at a minimum to property owners located within 500 feet of the proposal, the Neighborhood Chair as identified by the Shoreline Office of Neighborhoods (Note: if a proposed development is within 500 feet of adjacent neighborhoods, those chairs shall also be notified), and to the City of Shoreline Planning and Development Services Department.
3. The notice shall be postmarked at least 10 to 14 days prior to the neighborhood meeting.
4. The neighborhood meeting shall be held within the City limits of Shoreline.
5. The neighborhood meeting shall be held anytime between the hours of 5:30 and 9:30 p.m. on weekdays or anytime between the hours of 9:00 a.m. and 9:00 p.m. on weekends.
6. The neighborhood meeting agenda shall cover the following items:
  - a. Introduction of neighborhood meeting organizer (i.e. developer, property owner, etc.);
  - b. Description of proposed project;
  - c. Listing of permits that are anticipated for the project;
  - d. Description of how comments made at the neighborhood meeting are used; and
  - e. Provide meeting attendees with the City's contact information.
  - f. Provide a sign-up sheet for attendees.

C. The applicant shall provide to the City a written summary or checklist of the neighborhood meeting. The summary shall include the following:

1. A copy of the mailed notice of the neighborhood meeting with a mailing list of residents who were notified.
  2. Who attended the meeting (list of persons and their addresses).
  3. A summary of concerns, issues, and problems expressed during the meeting.
  4. A summary of concerns, issues, and problems the applicant is unwilling or unable to address and why.
  5. A summary of proposed modifications, or site plan revisions, addressing concerns expressed at the meeting. (Ord. 299 § 1, 2002; Ord. 238 Ch. III § 4(b), 2000).
- Staff will mail the summary of the neighborhood meeting to all persons who attended the neighborhood meeting, signed in and provided a legible address.

### **20.30.100 Application.**

Who may apply:

1. The property owner or an agent of the owner with authorized proof of agency may apply for a Type A, B, or C action, or for a site-specific Comprehensive Plan amendment.
2. The City Council or the Director may apply for a project-specific or site-specific rezone or for an area-wide rezone.
3. Any person may propose an amendment to the Comprehensive Plan. The amendment(s) shall be considered by the City during the annual review of the Comprehensive Plan.
4. Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code.

All applications for permits or actions within the City shall be submitted on official forms prescribed and provided by the Department.

At a minimum, each application shall require:

1. An application form with the authorized signature of the applicant.
2. The appropriate application fee based on the official fee schedule (Chapter 3.01 SMC).

The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The permit application forms, copies of all current regulations, and submittal requirements that apply to the subject application shall be available from the Department. (Ord. 238 Ch. III § 4(c), 2000).

**Technical Amendment:** Change every occurrence of “Code violation” to use a capital “V”. Change every reference to “Director or Designee” to just “Director”.

## **20.20.010 A Definitions.**

**Abate** To repair, replace, remove, destroy or otherwise remedy a condition which constitutes a Code ~~v~~Violation by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community and the environment.

## **20.30.720 Purpose.**

This subchapter is an exercise of the City's power to protect the public health, safety and welfare; and its purpose is to provide enforcement of Code ~~v~~Violations, abatement of nuisances, and collection of abatement expenses by the City. This Code shall be enforced for the benefit of the general public, not for the benefit of any particular person or class of persons.

It is the intent of this subchapter to place the obligation for Code compliance upon the responsible party, within the scope of this subchapter, and not to impose any duty upon the City or any of its officers, officials or employees which would subject them to damages in a civil action. (Ord. 238 Ch. III § 10(a), 2000).

## **20.30.730 General provisions.**

- A. For the purposes of this subchapter, any person who causes or maintains a Code ~~v~~Violation and the owner, lessor, tenant or other person entitled to control, use, or occupancy of property where a Code ~~v~~Violation occurs shall be identified as the responsible party and shall be subject to penalties as provided in this subchapter.

However, if a property owner affirmatively demonstrates that the action which resulted in the violation was taken without the owner's knowledge or consent by someone other than the owner or someone acting on the owner's behalf, that owner shall be responsible only for bringing the property into compliance to the extent reasonably feasible under the circumstances, as determined by the Director. Should the owner not correct the violation, after service of the notice and order, civil fines and penalties may be assessed against the owner.

- B. It shall be the responsibility of any person identified as a responsible party to bring the property into a safe and reasonable condition to achieve compliance. Payment of fines, applications for permits, acknowledgment of stop work orders and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the extent reasonably possible under the circumstances.

- C. The procedures set forth in this subchapter are not exclusive. These procedures shall not in any manner limit or restrict the City from remedying or abating Code ~~v~~Violations in any other manner authorized by law. (Ord. 238 Ch. III § 10(b), 2000).

**20.30.740 Enforcement provisions.**

- A. Whenever the Director has determined that a Code ~~v~~Violation has occurred, the Director may issue a Class 1 civil infraction, or other class of infraction specified in the particular ordinance violated, to any responsible party, according to the provisions set forth in Chapter 7.80 RCW.
- B. Any person who willfully or knowingly causes, aids or abets a Code ~~v~~Violation by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed \$1,000 and/or imprisonment in the county jail for a term not to exceed 90 days. Each week (seven days) such violation continues shall be considered a separate misdemeanor offense. A misdemeanor complaint or notice of infraction may be filed as an alternative, or in addition to any other judicial or administrative remedy provided in this subchapter or by law or other regulation.
- C. The Director may suspend, revoke or limit any permit issued whenever:
1. The permit holder has committed a Code ~~v~~Violation in the course of performing activities subject to that permit;
  2. The permit holder has interfered with the Director in the performance of his or her duties relating to that permit;
  3. The permit was issued in error or on the bases of materially incorrect information supplied to the City; or
  4. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or cancelled.

Such suspension, revocation or modification shall be carried out through the notice and order provisions of this subchapter and shall be effective upon the compliance date established by the notice and order. Such revocation, suspension or cancellation may be appealed to the Hearing Examiner using the appeal provisions of this subchapter. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order. (Ord. 251 § 2(D), 2000; Ord. 238 Ch. III § 10(c), 2000).

### **20.30.750 Declaration of public nuisance, enforcement.**

Code violations detrimental to the public health, safety and environment are hereby declared public nuisances. All conditions determined to be public nuisances shall be subject to and enforced pursuant to the provisions of this subchapter except where specifically excluded.

- A. A public nuisance is any violation of any City land use and development ordinance, public health ordinance, or violations of this subchapter including, but not limited to:
  - 1. Any accumulation of refuse; except for such yard debris that is properly contained for the purpose of composting. This does not apply to material kept in garbage receptacles maintained for regular collection;
  - 2. Nuisance vegetation;
  - 3. The discarding or dumping of any material onto the public right-of-way, waterway, or other public property;
- B. All conditions defined as public nuisances shall be subject to abatement under this subchapter. (Ord. 251 § 2(E), 2000; Ord. 238 Ch. III § 10(d), 2000).

### **20.30.760 Junk vehicles as public nuisances.**

- A. Storing junk vehicles upon private property within the City limits shall constitute a nuisance and shall be subject to the penalties as set forth in this section, and shall be abated as provided in this section; provided, however, that this section shall not apply to:
  - 1. A vehicle or part thereof that is completely enclosed within a building in a lawful manner, or the vehicle is not visible from the street or from other public or private property; or
  - 2. A vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.
- B. Whenever a vehicle has been certified as a junk vehicle under RCW 46.55.230, the last registered vehicle owner of record and the land owner of record where the vehicle is located shall each be given notice by certified mail that a public hearing may be requested before the Hearing Examiner. If no hearing is requested within 10 days from the certified date of receipt of the notice, the vehicle, or part thereof, shall be removed by the City with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked.

- C. If the landowner is not the registered or legal owner of the vehicle, no abatement action shall be commenced sooner than 20 days after certification as a junk vehicle to allow the landowner to remove the vehicle under the procedures of RCW 46.55.230.
- D. If a request for hearing is received within 10 days, a notice giving the time, location and date of such hearing on the question of abatement and removal of the vehicle or parts thereof shall be mailed by certified mail, with a five-day return receipt requested, to the land owner of record and to the last registered and legal owner of record of each vehicle unless the vehicle is in such condition that ownership cannot be determined or unless the land owner has denied the certifying individual entry to the land to obtain the vehicle identification number.
- E. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner.
- F. The City may remove any junk vehicle after complying with the notice requirements of this section. The vehicle shall be disposed of by a licensed vehicle wrecker, hulk hauler or scrap processor with notice given to the Washington State Patrol and to the Department of Licensing that the vehicle has been wrecked. The proceeds of any such disposition shall be used to defray the costs of abatement and removal of any such vehicle, including costs of administration and enforcement.
- G. The costs of abatement and removal of any such vehicle or remnant part, shall be collected from the last registered vehicle owner if the identity of such owner can be determined, unless such owner has transferred ownership and complied with RCW 46.12.101. The costs of abatement and enforcement shall also be collected as a joint and several liability from the landowner on which the vehicle or remnant part is located, unless the landowner has shown in a hearing that the vehicle or remnant part was placed on such property without the landowner's consent or acquiescence. Costs shall be paid to the Finance Director within 30 days of the hearing and if delinquent, shall be filed as a garbage collection and disposal lien on the property. (Ord. 238 Ch. III § 10(e), 2000).

#### **20.30.770 Notice and orders.**

Whenever the Director has reason to believe that a Code ~~v~~Violation exists or has occurred, the Director is authorized to issue a notice and order to correct the violation to any responsible party. A stop work order shall be considered a notice and order to correct. Issuance of a citation or stop work order is not a condition precedent to the issuance of any other notice and order.



- A. Subject to the appeal provisions of SMC 20.30.790, a notice and order represents a determination that a Code ~~v~~Violation has occurred and that the cited person is a responsible party.
- B. Failure to correct the Code ~~v~~Violation in the manner prescribed by the notice and order subjects the person cited to any of the compliance remedies provided by this subchapter, including:
1. Civil penalties and costs;
  2. Continued responsibility for abatement, remediation and/or mitigation;
  3. Permit suspension, revocation, modification and/or denial; and/or
  4. Costs of abatement by the City, according to the procedures described in this subchapter.
- C. Any person identified in the notice and order as a responsible party may appeal the notice and order within 14 days of issuance, according to the procedures described in SMC 20.30.790. Failure to appeal the notice and order within 14 days of issuance shall render the notice and order a final determination that the conditions described in the notice and order existed and constituted a Code ~~v~~Violation, and that the named party is liable as a responsible party.
- D. Issuance of a notice and order in no way limits the Director's authority to issue a criminal citation or notice of infraction.
- E. The notice and order shall contain the following information:
1. The address, when available, or location of the Code ~~v~~Violation;
  2. A legal description of the real property where the violation occurred or is located;
  3. A statement that the Director has found the named person to have committed a Code ~~v~~Violation and a brief description of the violation or violations found;
  4. A statement of the specific provisions of the ordinance, resolution, regulation, public rule, permit condition, notice and order provision or stop work order that was or is being violated;

5. The civil penalty assessed for failure to comply with the order;
  6. A statement advising that the notice and order may be recorded against the property in the King County Office of Records and Elections subsequent to service;
  7. A statement of the corrective or abatement action required to be taken and that all required permits to perform the corrective action must be obtained from the proper issuing agency;
  8. A statement advising that, if any required work is not commenced or completed within the time specified by the notice and order, the Director may proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and several personal obligation of all responsible parties;
  9. A statement advising that, if any assessed penalty, fee or cost is not paid on or before the due date, the Director may charge the unpaid amount as a lien against the property where the Code ~~v~~Violation occurred and as a joint and several personal obligation of all responsible parties;
  10. A statement advising that any person named in the notice and order or having any record or equitable title in the property against which the notice and order is recorded may appeal from the notice and order to the Hearing Examiner within 14 days of the date of issuance of the notice and order;
  11. A statement advising that a failure to correct the violations cited in the notice and order could lead to the denial of subsequent City permit applications on the subject property;
  12. A statement advising that a failure to appeal the notice and order within the applicable time limits renders the notice and order a final determination that the conditions described in the notice and order existed and constituted a Code ~~v~~Violation, and that the named party is liable as a responsible party; and
  13. A statement advising the responsible party of his or her duty to notify the Director of any actions taken to achieve compliance with the notice and order.
- F. Service of a notice and order shall be made on any responsible party by one or more of the following methods:

1. Personal service may be made on the person identified as being a responsible party.
2. Service directed to the landowner and/or occupant of the property may be made by posting the notice and order in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available.
3. Service by mail may be made for a notice and order by mailing two copies, postage prepaid, one by ordinary first class mail and the other by certified mail, to the responsible party at his or her last known address, at the address of the violation, or at the address of their place of business. The taxpayer's address as shown on the tax records of the county shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day the notice and order was mailed.

The failure of the Director to make or attempt service on any person named in the notice and order shall not invalidate any proceedings as to any other person duly served.

- G. Whenever a notice and order is served on a responsible party, the Director may file a copy of the same with the King County Office of Records and Elections. When all violations specified in the notice and order have been corrected or abated the Director shall file a certificate of compliance with the King County Office of Records and Elections, if the notice and order was recorded. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil penalties, for which liens have been filed, are still outstanding and continue as liens on the property.
- H. The Director may revoke or modify a notice and order issued under this section if the original notice and order was issued in error or if a party to an order was incorrectly named. Such revocation or modification shall identify the reasons and underlying facts for revocation. Whenever there is new information or a change in circumstances, the Director may add to, rescind in whole or part or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notice and orders contained in this section.
- I. Failure to correct a Code ~~v~~Violation in the manner and within the time frame specified by the notice and order subjects the responsible party to civil penalties as set forth in SMC 20.30.780.

1. Civil penalties assessed create a joint and several personal obligation in all responsible parties. The City attorney may collect the civil penalties assessed by any appropriate legal means.
2. Civil penalties assessed also authorize the City to take a lien for the value of civil penalties imposed against the real property of the responsible party.
3. The payment of penalties does not relieve a responsible party of any obligation to cure, abate or stop a violation.

#### **J. Abatement of Unfit Premises and Collection of Costs.**

1. The Shoreline City Council finds that there exist within the City of Shoreline premises that are unfit for human habitation or other uses due to conditions that are inimical to the health and welfare of City residents.
2. In the case of such unfit dwellings, buildings, structures, and premises or portions thereof, the Director, as an alternative to any other remedy provided in this subchapter, may abate such conditions and have abatement costs collected as taxes by the King County treasury pursuant to RCW 35.80.030.
3. The Uniform Code for the Abatement of Dangerous Buildings (UCADB), 1997 Edition, as published by the International Conference of Building Officials is adopted for abatement procedures under this section, subject to the following amendments:
  - a. Whenever used in the UCADB, "building official" shall mean the Director.
  - b. UCADB Sec. 302 is amended to read as follows:

#### **SECTION 302 UNFIT BUILDINGS AND PREMISES.**

*For the purpose of this Code, any building, structure or premises which has any or all of the conditions or defects hereinafter described shall be deemed to be an unfit building or premises, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.*

...

*15. Whenever any building, structure or premises, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, accumulation*

*of garbage or refuse, or otherwise, is determined by the Director to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease to the occupants, occupants of neighboring dwellings or other residents of the City. When a structure or premises is declared unfit under this subsection, repair as used in the UCADB shall include removal of the condition.*

...

- c. UCADB Sec. 205, Board of Appeals, is hereby repealed.
- d. UCADB Chapter 5, Appeal, is hereby repealed, and substituted with the appeal provisions specified in this subchapter.
- e. UCADB Chapter 6, Procedures for Conduct of Hearing Appeals, is hereby repealed and substituted with the procedures for appeal as specified in this subchapter.
- f. UCADB Chapter 9, Recovery of Cost of Repair or Demolition, is hereby repealed and the following provision is substituted:

*The amount of cost of repairs, alterations or improvements; or vacating and closing; or removal or demolition by the Director shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Upon certification to him by the City Finance Director of the assessment amount being due and owing, the County treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the City. If the dwelling, building structure, or premises is removed or demolished by the Director, the Director shall, if possible, sell the materials from such dwelling, building, structure, or premises and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the Director, after deducting the costs incident thereto.*

*The assessment shall constitute a lien against the property, which shall be of equal rank with State, county and municipal taxes.*

- K. All monies collected from the assessment of civil penalties and for abatement costs and work shall be allocated to support expenditures for abatement, and shall be accounted for through either creation of a fund or other appropriate accounting mechanism in the

Department issuing the notice and order under which the abatement occurred. (Ord. 238 Ch. III § 10(f), 2000).

Table 1

## Proposed Development Code Amendments- Docketed

Log #	Category	Requested Change	Requested By	Chapter	Section(s)	Title	Proposed Change	Staff Recommendation
D-1	Dimension	Change the size of allowed exempt structures to 200 Sq. Ft. to be consistent with the IRC.	City Planning Staff	20.50	100(1)	Location of accessory structures within required yard setbacks- Standards	Change allowed size from 120 Sq. Ft. to 200 Sq. Ft. and add requirement for fire separation as identified in the adopted building code.	Planning Commission and staff recommend adoption of this change for consistency between the Development Code and the Building Codes.
D-2	Trees	Reduce requirement of tree size for Landmark Tree to 24" DBH.	Boni Biery- Comprehensive Plan Amendment Comment	20.20	48	"T" Definitions	Reduce requirement of tree size for Landmark Tree to 24" DBH.	A reduction in size requirements for a landmark tree may allow for a request for the designation of a landmark tree that is only a significant tree and has not reached a maturity in its life to be considered a landmark tree. However, this reduction in size only affects the eligibility of an application for designation as a landmark tree and does not exempt the application from being evaluated by a certified arborist. Furthermore, the application may only be filed by the property owner, who may desire to preserve the trees on their property. In this case there is no negative effect of reducing the requirements to 24" because the determination is ultimately up to an arborist, and the designation of a landmark tree may not be forced on a property owner. Planning Commission and staff recommend deferral to the 2006 amendment cycle.
D-3	Clearing and Grading	Change the requirements to be more specific about when a C & G permit is required.	City Legal Staff	20.50	300	Clearing and Grading General Requirements	Remove 20.50.300 (E) , add provision that makes all replacement trees protected trees, modify language around when a clearing and grading permit is required, and modify language regarding compliance with the Critical Areas section of Development Code.	Planning Commission and staff recommend approval.
D-4	Fence	Change fence requirements to make content amendments and allow for construction of a solid 6 foot fence on top of a retaining wall.	City Planning Staff	20.50	110 & 210	Fences and Walls- Standards	Change fence requirements to make content amendments and allow for construction of a solid 6 foot wall on top of a retaining wall. Eliminate language requiring an offset design for fences along private driveways.	The current provision in the code does not allow for the construction of a six foot solid fence on top of a wall, and limits a property owners ability to construct a privacy fence on top of a retaining wall allowing the uphill neighbor to have a full view into the downhill neighbor's yard. Change will also eliminate provision in the code that requires the construction of an alternating type fence on private roads. Staff panel found this to be too restrictive, and may promote the construction of fences and landscaping that can hide burglars/thieves. Planning Commission and staff recommend approval.
D-5	Security Fencing	Add provision to allow for barbed wire and razor wire fences for public and infrastructure facilities in residential and commercial zones so long as fence is effectively screened from neighboring public areas.	Police Department	20.50	110 (C), 210 (D), 270 (C & D)	Fences and Walls- Standards	Add provision to allow for barbed wire and razor wire fences for public and infrastructure facilities in residential and commercial zones so long as fence is effectively screened from neighboring public areas.	Planning Commission recommends denial, and staff supports the Planning Commission recommendation.
D-6	Noticing	Add description to Administrative section of code clarifying when noticing is required for each type of permit.	City Planning Staff	Many	Many	Procedures and Administration	Add Clarifying language that the noticing requirement for notice of decision applies to Type B and C actions only.	Planning Commission and staff recommend approval.
D-7	Administrative	Change Street Vacations to Type "C" actions.	City Legal Staff	20.30	70	Legislative Decisions	Change Street Vacations to Type "C" actions.	By changing a Street Vacation action to a Type C action, the appearance of fairness on ex parte communication would apply, and contact made with opponents or advocates of the vacation would be reserved until all evidence is submitted at the public hearing allowing all merits of the action to be identified prior to formation of opinion. Planning Commission and staff recommend approval.
D-8	Vesting	Add provision that allows applicant to apply for a stay if subject to LUPA process.	City Legal Staff	20.30	160	Expiration of Vested Status of Land Use Permits and Approvals	Add language that automatically allows for an extension of vesting under 20.30.160 if the approved land use permit is subject to a pending legal action or appeal.	By changing this section to allow for an automatic extension of vesting the applicant may be granted the full two years before expiration of approved land use action while decision is not subject to legal injunction. Planning Commission and staff recommend approval.
D-9	Technical	Amend section 20.30.740 D(2) to properly reference 20.50 and add legal language	City Legal Staff	20.30	740	Civil Penalties for Code violations	Amend section 20.30.740 D(2) to properly reference 20.50 and add legal language.	Technical amendment. Planning Commission and staff recommend approval.
D-10	Technical	Add provision to promote the protection of retained significant trees from damage during construction.	City Planning Staff	20.50	350	Tree Replacement and Site Restoration	Require the bonding of protection measures and tree maintenance to ensure survival and health for 36 months following construction.	This would allow staff the ability to enforce the installation of tree protection measures on site. Sometimes this is not installed properly and leads to significant impact on the trees root system and eventual decline in health. Planning Commission and staff recommend approval.

Table I

## Proposed Development Code Amendments- Docketed

D-11	Technical	Change every occurrence of "Code Violation" to a capital "V". Change every reference to Director or Designee to just Director.	City Legal Staff	Many	Many	Many	Change every occurrence of "Code Violation" to a capital "V".	This helps provide for consistency. Planning Commission and staff recommend approval of this technical change.
D-12	Technical	Create an alternative to allow for the planting of trees on the property line side of the sidewalk, not directly next to the street (comment also forwarded to Engineering for consideration in next Engineering Guide update).	David Anderson- Comprehensive Plan Amendment Comment	20.5	480	Street Trees	SMC 20.50.480 (C) allows for this option based on an existing condition. Proposed change would allow for design flexibility based on site conditions, and may allow for improved visibility and safety in some situations. Change would also require that sidewalks with tree pits maintain a minimum four foot passage strip, instead of the two foot strip that is currently allowed through the use of tree pits with a six foot sidewalk.	Damage to streets and sidewalks by tree roots, and impact of restricted root growth to trees would also be minimized by moving trees to private property side of sidewalk. Staff agrees that change should be made to the engineering guide to show this alternate design, and to limit the placement of tree pits when sidewalk is less than eight feet wide. Planning Commission and staff recommend approval.
D-13	Technical	Change the reference to Fire Code to properly identify the IFC, not the UFC.	City Planning Staff	20.30	290 B(4)	Variance from the engineering standards (Type A Action)	Change the reference to Fire Code to properly identify the IFC, not the UFC.	This helps provide for consistency. Planning Commission and staff recommend approval of this technical change.
D-14	Administrative	Add application expiration limitations.	City Planning Staff	20.30	100	Time limits	Change section 20.30.100 and 20.30.110 to include a clause regulating the expiration of a complete permit application.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development application expiration. Planning Commission and staff recommend approval.
D-15	Technical	Make technical changes to the Animals section of Zoning and Use Provisions.	City Planning Staff	20.40	240	Animals	Technical changes to 20.40.240 to properly describe sizes of cages for birds and eliminate birds from the animal specific section.	These minor changes are due to some inconsistencies found in the code. Planning Commission and staff recommend approval of this technical change.
D-16	Technical	Move temporary use permits from use provisions to the review and decision criteria section. Change reference in use tables to properly reflect this change.	City Planning Staff	20.40	540	Temporary Use	Move temporary use permits from use provisions to the review and decision criteria section. Change reference in use tables to properly reflect this change.	A temporary use permit is not listed in the use tables but is found in the list of supplementary criteria. Moving the requirements for a temporary use permit to the permit review and decision criteria section for Type A permits better locates this section for the user. Planning Commission and staff recommend approval.
D-17	Technical	Make technical change to heading of section 20.30.140.	City Planning Staff	20.30	140	Time Limits	Make technical change to heading of section 20.30.140.	This change will help clarify the content of the section. Planning Commission and staff recommend approval of this technical change.
150 D-18	Clearing and Grading Permit Requirements	Change performance section to individually describe performance and maintenance bonds.	City Legal Staff	20.50	360	Tree replacement and site restoration	Change performance section to individually describe performance and maintenance bonds.	This change helps differentiate between a performance guarantee and maintenance bond. Planning Commission and staff recommend approval.
D-19	Administrative	Add section regulating the expiration of clearing and grading and site development permits.	City Planning Staff	20.30	165	Permit expiration timelines for Clearing and Grading and Site Development Permits	Add section 20.30.165 that addresses time limits and expiration of site development and clearing and grading permits.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. Planning Commission and staff recommend approval.
D-20	Administrative	Add reference to site development permit for subdivision section that references the new permit expiration limitations.	City Planning Staff	20.30	430	Site development permit for required subdivision improvements – Type A action.	Add reference in 20.30.430 to properly identify new section regulating expiration of site development permit.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. Planning Commission and staff recommend approval.
D-21	Noticing	Revise neighborhood meeting standards and noticing requirements to better notify the public of potential land use actions and allow potential issues to be identified and resolved prior to Planning Commission public hearings.	Michael Broili	20.30	80-180	Procedures and Administration	Clarify that the meeting notice include a description of the project, zoning, site & vicinity maps and possible future land use decisions i.e. rezone, SEPA, etc. Add minimum requirements for meeting content i.e. basic agenda for meeting. Add a step to have the City mail submitted neighborhood minutes to all meeting attendees who sign in.	Provide more information in the neighborhood meeting notice to better alert neighbors to potential projects/change. Add some basic structure to the neighborhood meeting to insure that adequate information is being relayed to meeting attendees for the purposes of early discussions. By mailing the meeting summaries submitted by the applicant's to the meeting attendees, attendees could verify the information. This could address concerns that the applicant's minutes are not reflecting the comments at the meeting. Planning Commission and staff recommend approval.



**Proposed Amendments Not Docketed:**

These proposed amendments were reviewed by a staff panel and are not supported by staff. The Planning Commission and the Director have not included these amendments with those docketed for consideration. The Council may choose to consider putting these amendments on a new docket for additional noticing, SEPA review, and Planning Commission Public Hearing.

**Amendment #ND-1: 20.30.040** This proposed amendment was citizen initiated in 2003 and was brought forward in 2004 during the Development Code Amendment process. The proposal to increase noticing requirements for commercial projects was remanded back to staff for further review. Staff considered lowering the threshold for SEPA review, however this would be a change to State law. Any additional requirements for tenant improvements, commercial additions, or commercial new constructions would impact commercial and economic redevelopment in Shoreline.

**Things to consider:**

- **Resources:** Additional administrative staff would need to be brought into the review process for publishing and mailing public notice.
- **Permit Turn-around Time:** Creating and publishing the public notice adds approximately two weeks to the permit process. Without additional staff resources to perform these duties, the turnaround time could be much longer as projects would have to wait for staff availability to prepare, publish and mail the notices. In addition, a "Type B" application that requires public notice also requires the applicant to have a pre-application meeting with City staff, and a neighborhood meeting with surrounding property owners prior to application. These requirements add another 3 – 4 weeks to the process for the applicant before the application is submitted.
- **Public Expectation:** Approval of a building permit not subject to SEPA is a ministerial decision, meaning that if the application meets Code requirements, it must be approved. Providing public notice of such a permit may give the public the expectation that public input is part of the approval process; for a "Type A" permit it would not be.
- **Precedent:** Requiring a notice period for a "Type A" ministerial action would set a precedent that may be counter to the public welfare. If these types of actions become subject to public scrutiny, an overall slowdown of essential governmental functions would be expected.
- **Council Goal #4:** Implementing an active economic improvement plan is a City Council goal. This proposal would slow down the permitting process, thus slowing down economic improvement.
- **Noticing Requirements for nearby jurisdictions:** The following table shows noticing requirements for some local jurisdictions, for comparison.

JURISDICTION	RADIUS	BUILDING PERMITS SUBJECT TO NOTICE	NOTES
Auburn	300'	Building permits subject to SEPA	
Bothell	300'	Building permits subject to SEPA	
Bremerton	300'	Building permits subject to SEPA	
Covington	1000'	Building permits subject to SEPA, Single-family houses of 10,000 sq. ft. or more.	
Edmonds	300'	Building permits subject to SEPA	
Federal Way	300'	Building permits subject to SEPA	

Issaquah	300'	Building permits subject to SEPA	
Kenmore	500'	Building permits subject to SEPA, Single-family houses of 10,000 sq. ft. or more	
Kent	300'	Building permits subject to SEPA	
Kirkland	300'	Building permits subject to SEPA	
Lake Forest Park	300'	Building permits subject to SEPA	
Lynnwood	300'	Building permits subject to Design Review (most building permits except for single-family).	Notice of impending decision is mailed.
Mount Lake Terrace	300'	Building permits subject to SEPA	
Mill Creek	No mailing radius for building permit not associated with land use action.	Building permits subject to SEPA – notices are posted and published in newspaper.	Actions requiring Public Hearing notices require a 500' radius mailing. Administrative permit decisions are mailed to adjacent property owners.
Monroe	500'	Building permits subject to SEPA	
Renton	300'	Building permits subject to SEPA	
Sammamish	500'	Building permits subject to SEPA	
University Place	300'	Building permits subject to SEPA	
Woodinville	500'	Building permits subject to SEPA	

**Amendment #ND-2:** 20.50.020 & 20.50.050 This was a citizen initiated proposal to reduce the height limit in single-family zones from 30 feet (35 feet with a pitched roof) to 25 feet. A reduction to the allowed building height in low density residential zones would be too restrictive for residential development. A roof height of 25 feet would barely allow for the construction of a two story home and would promote the construction of flat rooftops that are not effective with Washington weather.

**Amendment #ND-3:** 20.50.310 & 20.50.320 This is a citizen initiated request to reduce the number of trees that can be removed as an exemption from 6 to 2. This change would be too restrictive for residential development, and for the homeowner in general. Some home owners have large numbers of trees and would like to add more light to their property. Lowering the number of trees allowed to be removed without a permit to two would impact property owners. This change would also be difficult to enforce due to lack of standard procedure and staff for tracking non-permitted tree removal. The Planning Commission and staff recommend deferring this proposal to the 2006 work plan, as part of a more comprehensive analysis of the City's tree regulations.

**Amendment #ND-4:** 20.50.350(B) This is a citizen initiated request to reduce the number of trees that can be removed as part of a development permit from 20 and 30% retention to 30 and 45% retention. Also requesting to change the replacement standard in the exemptions section to require replacement with slightly larger stock. This change would not be compatible with other provisions of the Development Code. By increasing the number of retained trees on a site, it may lead to difficulty in the placement of a building footprint if trees are sporadically placed on the lot. Instead of increasing the required percentage for retention, those provisions providing incentive for voluntary tree retention through site planning should be reinforced. Staff panel recommends no change as proposed. The Planning Commission and staff recommend deferring this proposal to the 2006 work plan, as part of a more comprehensive analysis of the City's tree regulations.

**Amendment #ND-5:** 20.50.350(B) This proposed amendment was citizen initiated and is a request to add the following to the tree removal regulations: "At no time shall a development proposal or action reduce the number of potential significant trees below 3 trees per 1,000 square feet." and also to add the definition of potential significant tree. This is addressed in the minimum retention requirements section SMC 20.50.350, and by our replanting requirements. The removal of all trees beyond the six exempt currently requires replanting with tree stock identified in SMC 20.50.360. By creating a standard that is based on square footage it may allow some sites to remove more trees and not replant and others to plant more than should be required based on the existing site conditions. The Planning Commission and staff recommend deferring this proposal to the 2006 work plan, as part of a more comprehensive analysis of the City's tree regulations.

**Amendment #ND-6:** 20.20.048 This proposed amendment was citizen initiated, and is a request to change the definition of significant tree to reduce the size requirements from 8" to 6" and 12" to 9" DBH, respectively. Reducing the size requirements for significant trees would limit a property owner's ability to adjust the landscaping on their property. This change may also lead to increased limitations of development and redevelopment opportunity in the City. Property owners have the option to keep all the trees on their parcel if they choose. The Planning Commission and staff recommend deferring this proposal to the 2006 work plan, as part of a more comprehensive analysis of the City's tree regulations.

**Amendment #ND-7:** 20.30.040 This is a citizen initiated proposal to change the noticing and application review requirements of a residential building permit. The citizen is proposing the addition of a noticing period with appeal process, essentially making the application a Type B Action. The noticing requirements of this proposed amendment would be very costly in terms of actual noticing and staff time. This would also allow for an appeal of a new single family home or remodel.

Things to consider:

- **Resources:** Additional administrative staff would need to be brought into the review process for publishing and mailing public notice.
- **Permit Turn-around Time:** Creating and publishing the public notice adds approximately two weeks to the permit process. Without additional staff resources to perform these duties, the turnaround time could be much longer as projects would have to wait for staff availability to prepare, publish and mail the notices. In addition, a "Type B" application that requires public notice also requires the applicant to have a pre-application meeting with City staff, and a neighborhood meeting with surrounding property owners prior to application. These requirements add another 3 – 4 weeks to the process for the applicant before the application is submitted.
- **Public Expectation:** Approval of a building permit not subject to SEPA is a ministerial decision, meaning that if the application meets Code requirements, it must be approved. Providing public notice of such a permit may give the public the expectation that public input is part of the approval process; for a "Type A" permit it would not be.
- **Precedent:** Requiring a notice period for a "Type A" ministerial action would set a precedent that may be counter to the public welfare. If these types of actions become subject to public scrutiny, an overall slowdown of essential governmental functions would be expected.

- **Council Goal #4:** Implementing an active economic improvement plan is a City Council goal. This proposal would slow down the permitting process, thus slowing down economic improvement.

**Amendment #ND-8:** This is a citizen initiated proposal requesting a design review process for single family residential building permits. The citizen is concerned that new homes are being constructed that are out of proportion to the old neighborhood and that existing views may be blocked by these new homes. This proposal would institute a neighborhood review board to have authority over the design of a new home. Subjecting residential building permit applications that have proven compliance with the standards established by 20.50 to a design review board would add cost both in time and fees to the residential building permit process.

Things to consider:

- **Resources:** Additional administrative staff would need to be brought into the review process to coordinate the neighborhood design review board function.
- **Permit Turn-around Time:** Creating additional review requirements outside of City site and structural review would add several weeks to the permit process. Without additional staff resources to perform these duties, the turnaround time could be much longer as projects would have to wait for staff availability to perform additional functions.
- **Public Expectation:** Approval of a building permit not subject to SEPA is a ministerial decision, meaning that if the application meets Code requirements, it must be approved. Providing public process (design review) of such a permit may give the public the expectation that public input is part of the approval process; for a "Type A" permit it would not be.
- **Precedent:** Allowing a neighborhood review board to manipulate the design of personal residence would set a precedent that may be counter to the public welfare. If these types of actions become subject to public scrutiny, an overall slowdown of essential governmental functions would be expected.
- **Available Alternative:** Citizens may form home owners associations if persons in the neighborhood agree. These associations could form their own covenants and enforce through private means as long as the covenants do not conflict with federal, state and local regulations.

**DRAFT**

These Minutes Subject to  
December 1<sup>st</sup> Approval

**CITY OF SHORELINE**

**SHORELINE PLANNING COMMISSION  
SUMMARY MINUTES OF REGULAR MEETING**

November 17, 2005  
7:00 P.M.

Shoreline Conference Center  
Rainier Room

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**PRESENT**

Vice Chair Piro  
Commissioner Phisuthikul  
Commissioner Sands  
Commissioner Broili  
Commissioner McClelland

**STAFF PRESENT**

Rachael Markle, Assistant Director, Planning & Development Services  
Steve Szafran, Planner II, Planning & Development Services  
Jessica Simulcik Smith, Planning Commission Clerk

**ABSENT**

Chair Harris  
Commissioner MacCully  
Commissioner Hall  
Commissioner Kuboi

**CALL TO ORDER**

The regular meeting was called to order at 7:10 p.m. by Vice Chair Piro, who presided.

**ROLL CALL**

Upon roll call by the Commission Clerk, the following Commissioners were present: Vice Chair Piro, Commissioners Phisuthikul, Sands, Broili, and McClelland. Chair Harris and Commissioners MacCully, Hall and Kuboi were excused.

**APPROVAL OF AGENDA**

A discussion on the community meeting regarding Cottage Housing was added to the agenda as part of "Reports of Committees and Commissioners."

## **DIRECTOR'S REPORT**

Ms. Markle announced that the Development Code updates were provided in the Commission packets. The last edition of *THE PLANNING COMMISSION JOURNAL* was also included. She noted that the subscription for the Journal expires soon, and she questioned if the Commission wants to continue to receive the publication. The Commission agreed that they like to continue to receive the journal.

Ms. Markle introduced new Long-Range Planning Team Member, Steve Szafran. He was already on staff, but has been promoted to Planner II to fill David Pyle's position. He has been on the permit services team for the past year. Before coming to Shoreline, he spent about four years in the Clark County (Las Vegas) area. He has a lot of experience working with planning and other types of commissions on presenting reports and permits.

Lastly, Ms. Markle advised that the Planning Director, Joe Tovar, was unable to attend this Planning Commission meeting, but he did forward information regarding the cottage housing meeting.

## **APPROVAL OF MINUTES**

The minutes of November 3, 2005 were approved as corrected.

## **GENERAL PUBLIC COMMENT**

There was no one present in the audience to address the Commission during this portion of the meeting.

## **PUBLIC HEARING ON ANNUAL DOCKET OF CODE AMENDMENTS**

Vice Chair Piro opened the public hearing at 7:18 p.m. and noted that there was no one in the audience to participate. The Commission agreed to move on to the staff report and their continued deliberations, but leave the public hearing open in case someone arrived to provide comment.

## **COMMISSION DELIBERATION ON ANNUAL DOCKET OF CODE AMENDMENTS**

Because there was no one in the audience and staff has already presented the proposed amendments to the Commission, she would keep her staff report extremely brief. She recalled that at the end of the Commission's last meeting the public comment period was still open, but they received no additional written comments. They did receive one phone call from Ms. Berry regarding her proposed amendments related trees. The message was relayed to her that while the Commission had some interest in her tree amendments, they wanted to review the entire tree ordinance in a more comprehensive fashion in 2006.

Vice Chair Piro recalled that at the last meeting, Commissioner Broili made a motion, seconded by Commissioner Sands, to move the docket of code amendments forward with a recommendation for approval, and the motion is still on the table for Commission discussion. He suggested that the Commission start their deliberations by noting the proposed amendments that they would like to discuss further before taking action.

Commissioner Sands said he would like the Commission to further discuss **Amendments D-2, D-3, and D-5**. None of the other Commissioners indicated a desire to further discuss any of the amendments in greater detail before taking action.

Commissioner Sands referred to **Amendment D-2** and said he does not see a point in designating “landmark” trees, other than to possibly tie up property for extensive periods of time. However, since the City already has this provision, he would be opposed to an amendment that would reduce the size necessary to be considered a “landmark” tree. He summarized that he would prefer not to make it any easier to designate a “landmark” tree than it already is.

Vice Chair Piro recalled that the Commission moved the other proposed amendments related to trees to future action items. He suggested that it would be appropriate for **Amendment D-2** to be part of the overall tree package that is considered at a later date. Commissioner Broili agreed that all of the other amendments related to trees have been set aside for future discussion, and he would support a decision to do the same with **Amendment D-2**. This would allow them to deal with the tree issue in a holistic manner in conjunction with the City’s upcoming potential effort consider an urban forest management strategy.

Commissioner McClelland said **Amendment D-2** states that only the property owner could apply to have a tree classified as “landmark.” She asked if the classification could be revoked if a property is sold in the future. Commissioner Broili answered that the classification would stand, even after a property has been sold.

The Commission concurred that **Amendment D-2** should be removed from the docket of code amendments and placed on the Commission’s 2006 work plan for future discussion, along with all of the other amendments related to trees. They emphasized that they are not voting against the proposed amendment, but it should be dealt with in a more holistic fashion.

Commissioner Sands referred to **Amendment D-3** and asked staff to explain the difference between the existing language and the new proposed language. Ms. Markle responded by stating that the amendment is not intended to change the regulation, but to make it more clear. Commissioner Sands said the current language would only require a property owner to obtain a grading permit if proposing a new or expanded building complex. Commissioner Broili asked staff to provide clarification about what would trigger the need for a building permit. Ms. Markle said anytime more than 50 cubic yards of earth is being moved, a grading permit would be required regardless of the type of project.

Commissioner Sands said the staff report indicates that **Amendment D-3** would adjust the requirements to require a clearing and grading permit for all development activity. He asked if this would this be interpreted as all development over the threshold of 50 cubic yards. Ms. Markle answered that the threshold would still apply. She explained that the words “new and expanded building complex” are inconsistent with the rest of the chapter. The proposed amendment would make the language more consistent and clear. She referred to Section 20.53.20 of the Development Code, which lists all of the

activities that require a permit for clearing and grading. This section would not be changed, and **Amendment D-3** is intended to be a technical rather than a substantive change.

Commissioner Sands referred to **Amendment D-5** and recalled that the Commission previously voiced their opposition to the use of barbed-wire or razor wire in the City of Shoreline. At that time, they suggested that if the Police Department wants to use these materials for fencing, they should provide further explanation to the Commission about why it would be appropriate. He noted that the Police Department never approached the Commission with an explanation for why barbed wire was essential. He suggested that the Commission continue to oppose the use of barbed wire fences.

Vice Chair Piro said that while the Commission did not vote on this issue, a strong majority of them voiced opposition to these types of fences. The Commission suggested that other types of treatments could provide for security and be less aesthetically offensive than barbed or razor wire.

Commissioner Broili said he was not part of the Commission's previous decision, but he would also be opposed to the use of barbed or razor wire in the City of Shoreline. He said he finds it would be unnecessary and there are more aesthetically pleasing options that are not quite so extreme. If the Police Department feels strongly about the use of these materials, they should provide further explanation to the Commission.

**COMMISSIONER BROILI MOVED THAT THE COMMISSION NOT RECOMMEND AMENDMENT D-5, A PROVISION TO ALLOW FOR BARBED WIRE AND RAZOR WIRE FENCES FOR PUBLIC AND INFRASTRUCTURE FACILITIES IN RESIDENTIAL AND COMMERCIAL ZONES SO LONG AS THE FENCE IS EFFECTIVELY SCREENED FROM NEIGHBORING PUBLIC AREAS, AS AN AMENDMENT TO THE DEVELOPMENT CODE. COMMISSIONER MCCLELLAND SECONDED THE MOTION. THE MOTION CARRIED 5-0.**

**COMMISSIONER SANDS MOVED TO AMEND THE MAIN MOTION (Made November 3, 2005 to accept the proposed development code amendments as presented by staff) AND FORWARD APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS AS PRESENTED BY STAFF WITH THE EXCEPTION OF PROPOSED AMENDMENTS D-2 AND D-5. HE FURTHER MOVED THAT THE COMMISSION RECOMMEND THAT AMENDMENT D-2, LANDMARK TREES, BE PLACED ON THE 2006 WORK PLAN WITH A GOAL OF REVIEWING THE ISSUE OF "TREES" MORE HOLISTICALLY, AND THAT AMENDMENT D-5, THE SECURITY FENCING AMENDMENT, NOT BE SUPPORTED AS A 2004 DEVELOPMENT CODE AMENDMENT. VICE CHAIR PIRO SECONDED THE AMENDMENT TO THE MAIN MOTION. THE MOTION TO AMEND AND APPROVE THE MAIN MOTION CARRIED 5-0.**

**COMMISSIONER BROILI MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**



## **REPORTS OF COMMITTEES AND COMMISSIONERS**

Commissioner McClelland said she and Vice chair Piro attended the recent meeting to discuss the process for conducting a public forum on the issue of cottage housing. The City Council has decided to move forward with the public meeting, and the original plan was that the meeting would be hosted by the City Council and the Planning Commission. However, the document the Commission received in their packet indicated the meeting would be hosted by the City Council. She noted that the City Council decided to use the term “community dialogue” to describe the meeting.

Ms. Markle referred the Commission to the notice that was published in the newspaper and mailed to everyone on the cottage housing mailing list. She said the agenda for the meeting would include a brief introduction by staff and then 20 minutes would be set aside for the Planning Commission to present the amendments they forwarded to the City Council. She suggested that the Planning Commission discuss and determine how they want to prepare for this presentation. She emphasized that the Commission should not feel as though they have to defend their recommendation, just present it.

Vice Chair Piro said it would be important for the Commission to provide a summary of the events that have taken place to date regarding the cottage housing issue, starting from when the ordinance was first adopted. He pointed out that the transmittal letter the Commission recently forwarded to the City Council provided a good summary of their most recent work.

Commissioner McClelland recalled that Commissioner Kuboi previously suggested that the public meeting should start by allowing the citizens to express their concerns and frustrations. She agreed that people would be more interested in the ability to voice their opinion rather than hearing a historical summary of the Cottage Housing Ordinance. She said she finds it frustrating that, even with the existing ordinance and the proposed amendments, they still do not have the product they want.

Commissioner Broili referred to the transmittal letter that was recently forwarded to the City Council regarding cottage housing. He suggested that Chair Harris could just read this letter, which states both sides of the Commission’s opinion. Then during the course of the evening, each Commissioner would have an opportunity to express their own thoughts and positions. The remainder of the Commission agreed that this would be an appropriate outline. It was emphasized that none of the Commissioners were satisfied with their work thus far, and that they all have frustrations. They agreed that Chair Harris should act as spokesperson for the Commission, and Commissioner McClelland would serve as back up spokesperson if Chair Harris is unable to attend. Ms. Markle advised that staff would help the spokesperson summarize the high points of their recommendation prior to the meeting.

Commissioner Broili referred to the document illustrating the proposed seating arrangement for the meeting and asked if the Commission could propose some changes. Ms. Markle said the chart illustrates the seating that is being proposed, but she does not believe it is locked in. Commissioner Broili suggested that the citizens be dispersed evenly throughout the room and mixed with the City Council and Commission Members. This would open the door to a more inclusive roundtable dialogue. Commissioner Sands explained that they will probably have a limited number of seats for citizens in the

main circle. The intent was to provide an opportunity for citizens to sit down for a while and then leave so that others could participate.

Commissioner McClelland said that creating a big hole in the middle is one of the worst arrangements because all of the energy falls into a blank area. She suggested that a "U" configuration would be better than a circle. She said she also likes the concept of dispersing the citizens amongst the Commission and City Council Members. She said it is also important that everyone be able to see each other. Rather than having a set arrangement, they should feel free to make adjustments after people arrive at the meeting. Commissioner Broili said he prefers the roundtable configuration. When everyone is looking across from each other, there would be no head of the table and everyone would be on equal footing.

Commissioner Sands provided an update on the Economic Development Committee Meetings. He said they have just one more meeting next week, and then they will have a working draft of an amended Economic Development Plan. He anticipates presenting this plan to the City Council on January 23<sup>rd</sup>. He said the revised plan provides more detail and uses a more holistic approach. He said he would provide a copy of the draft document to each Commissioner and advised that the City Council might choose to continue the committee to help implement the Economic Development Plan.

Commissioner Sands extended an invitation to interested Commissioners, and advised that the next meeting would be November 22<sup>nd</sup> from 7:30 to 9:00 a.m. in the third floor conference room at City Hall. Commissioner McClelland requested that she be placed on the committee's next agenda so that she could provide comments.

Commissioner Broili reported that he participated in the tour of the Vashon Island Park, which went very well. He said he was disappointed to be the only Planning Commissioner in attendance, but there were a number of people from the Parks Board, City Staff and the Parks Director. He said it had been a year and a half since he last visited the 30-acre park, and he found the progress to be quite remarkable. The park provides an excellent model of a well-restored small park, second growth forest. After the tour, they visited the Vashon Forest Stewardship Groups' small sawmill. They paid for the trees that came from the Vashon Park site, and they milled the best ones to sell on the island. The long-term intent is to create a market for lumber that is cut, milled and sold on the island. They are doing well.

### **UNFINISHED BUSINESS**

Commissioner McClelland referred to the letter from Tracy and Jenny Owens regarding The Highlands. She said the Commission should make it clear that they did not grant The Highlands the ability to act as a government agency. Ms. Markle said this issue has to do with the fact that The Highlands is recognized by the City as a utility provider because they have their own sewer facility. Commissioner McClelland suggested the Commission provide a letter of response to the Owens to explain the situation. Ms. Markle noted that the letter was also sent to the City Council, who would likely provide a response anyway. Vice Chair Piro asked that staff notify the Commission about how the City responds to the Owens' letter.

### **NEW BUSINESS**

There was no new business scheduled on the agenda.

### **ANNOUNCEMENTS**

Commissioner McClelland announced that the wife of Nicholas Knatts, from the Bellevue Planning Department, passed away unexpectedly from a brain aneurysm.

### **AGENDA FOR NEXT MEETING**

Vice Chair Piro reviewed that the December 1<sup>st</sup> meeting agenda would include an update on the Master Plan work for the Richmond Beach Saltwater Park.

### **ADJOURNMENT**

The meeting was adjourned at 8:05 p.m.

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David Harris  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

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