Commission Meeting Date: May 6, 2010

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing on Proposed Development Code Revisions, Application 301606
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Steve Cohn, Senior Planner Steven Szafran, AICP, Associate Planner

SUMMARY

On May 6, the Planning Commission will hold a public hearing on a set of proposed Development Code amendments. The purpose of this public hearing is to:

- Formally present the proposed development code revisions to the Planning Commission and public identified by Planning Commission on April 15
- Allow staff to respond to questions regarding the proposed revisions

Following the public hearing, the Commission may choose to recommend approval of some or all of the amendments and forward them to the City Council. On some amendments, The Commission may choose to study them further.

AMENDMENTS CLARIFIED FOR PLANNING COMMISSION

The Planning Commission held a study session on the proposed amendments on April 15, 2010. The Planning Commission requested further clarification on some of the proposals. The clarifications are addressed below.

The amendments listed below (In order of Section) are those which the Commission asked for further clarification and explanation. The amendments are described below together with a summary of the rationale as to why the change should be considered.

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

The reason for the change is to clarify that most, but not all, land use permits are vested for two years. Since some vesting is for less than 2 years and some for greater than 2 years, Commission recommended changing the word "shorter" to "different".

Except for subdivisions and master development plans or where a different ~~shorter~~ duration of approval is indicated in this Code, 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.

20.30.350 Amendment to the Development Code (legislative action).

The Commission requested additional clarification about the rationale for the recommendation to eliminate Criteria #3.

Staff response:
There is no distinction between decision criteria #2 and #3. In finding that a Development Code amendment does not adversely affect the public health, safety or general welfare, the Council is necessarily finding that the amendment is not contrary to the best interests of Shoreline citizens and property owners.

Both these two criteria are redundant of each other. Development regulations are an exercise of the City's police power which, by definition, must be rationally related to promoting the public, health, safety or welfare. If a law was not related to this purpose or contrary to the interest of the citizens it would be subject to legal challenge. We do not have a code section that reminds the council of this responsibility for all the other laws it passes.

'Criteria' are included by the legislative body as necessary guides to the exercise of discretion in the approval of project permits. Legislative actions like comp plan and zoning code changes are not included as project approvals under RCW 36.70B and the Council is only constrained by the constitution and state law, primarily the Growth Management Act.

B. Decision Criteria. The City Council may approve or approve with modifications a proposal for the text of the Land Use Code 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.~~

20.30.410 Preliminary subdivision review procedures and criteria.

The Commission raised questions about the ability to require dedications for public purpose in the future. This amendment does not remove that option; it still exists under the City's SEPA authority and can be invoked if a nexus is established. RCW 58.17.095

identifies all of the items to be considered for dedication including parks and open space. This amendment clarifies who may accept the dedication (i.e. The Director cannot accept park dedications on a short plat).

The ~~preliminary~~ short subdivision may be referred to as a short plat – Type B action.

The ~~preliminary~~ formal subdivision may be referred to as long plat – Type C action.

Time limit: A final short plat or final long plat meeting all of the requirements of this chapter and RCW 58.17 shall be submitted for approval within the timeframe specified in RCW 58.17.140.

Review criteria: The following criteria shall be used to review proposed subdivisions:

C. Dedications and improvements.

~~1. The City Council may require dedication of land in the proposed subdivision for public use.~~

1. ~~2.~~ Only the City Council may approve a dedication of park land. The council may request a review and written recommendation from the Planning Commission.

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

~~D. Improvements.~~

2. In addition, the City Council may require dedication of land and improvements in the proposed subdivision for public use under the standards of Chapter 20.60 SMC, Adequacy of Public Facilities and Chapter 20.70 SMC, Engineering and Utilities Development Standards necessary to mitigate project impacts to utilities, right-of-way, stormwater systems.

a. Required improvements ~~which~~ may include ~~be required~~, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.

~~2. Improvements shall comply with the development standards of Chapter 20.60 SMC, Adequacy of Public Facilities.~~

~~Time limit: Approval of a preliminary formal subdivision or preliminary short subdivision shall expire and have no further validity at the end of three years of preliminary approval~~.

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

20.30.353 G. **Master Plan Vesting Expiration**.

Who pays for the review after ten years and what is the cost? The Commission wants a trigger to send back to them for review to decide if review is needed. If changes are approved by owner, and staff does not initiate a major amendment, how is the public and Commission going to provide input?

Staff response:

There is no mechanism in place to charge a fee for the 10 year review. Since the applicant has .expended significant resources for the Master Development Plan development and approval, and since the update will only be triggered by changes the City makes to its vision, goals, strategies, Comprehensive Plan and Development Code, the City should review for consistency and absorb this cost, not the applicant, as it would for any City initiated zoning amendment to reflect these changes.

As worded, this amendment leaves it to the Commission to decide whether the 10 year review will take place ("After ten years, the Planning Commission may review the master development plan for consistency…"). Remember the Development Code is a set of rules which control property owners' rights and obligations. It is not an internal directive to staff from the Planning Commission. The current language apprises property owners of these Master Plans that the City has the right to reopen the Master Plan for consistency.

It is expected that staff will track this review and bring it to the Commission's attention. If there are no inconsistencies, staff will propose "no review" to the Planning Commission. Staff does not believe that additional language is necessary, but f the Commission wants add language to ensure they make the decision, this can be reworded to: "After ten years the Planning Commission <u>shall make a determination whether</u> to review the master development for consistency…."

After a review, it will be up to the Planning Commission to recommend whether an amendment to the Master Plan is appropriate. The Commission will have input in recommending amendments necessary for consistency.

This step is intended as a preliminary assessment. Amendments not agreed to by the owner are considered major amendments which follows the process for a new master plan approval (SMC 20.30.353) including all the public participation and council action of a Type C action.

The process is only shortened for recommendations that would not have been considered minor amendments. Recommendations that fall within the minor amendment threshold are approved by the Director under current code. If the owner

does not agree that those recommendations that are minor, however, the owner is protected by the right to a full process and a Council decision.

Major amendments proposed by the Planning Commission which the owner accepts will be final, and the expensive and time consuming Type C action process will be avoided. The risk of reduced public involvement for consistency changes is lessened because 1) the public will have agenda notices of Planning Commission review for consistency and staff recommendations, 2) the resulting amendments are Planning Commission proposals not the owner's proposals; and 3) changes must be related to updated City plan or regulatory changes made since the last approval or review, they are not open-ended. As currently written the process in unclear when the Planning Commission recommends changes after its review.

***Note:** It would be advisable to make two additional changes shown in the amendment above. Replace 'After' with 'Every' since the need to review for consistency will not end after the first ten years. Replace 'expiration' with 'vesting' in the title since this section always addressed an end to vesting not an end to the permit*

G. Master Development Plan ~~Expiration.~~ Vesting. A master development plan shall vest development identified in the plan for ten years after issuance of the plan or ten years after a major amendment, unless extended vesting for phased development is approved in the master development plan. ~~After~~ Every ten ~~10~~ years, the Planning Commission ~~shall~~ may review the master development plan for consistency ~~an update every five years. Revisions are required if it has become inconsistent~~ with current City~~'s~~ Vision, Goals, Strategies (such as the Economic Development Strategy, Housing Strategy, Environmental Sustainability Strategy), Comprehensive Plan and other sections of the Development Code. If changes are recommended, staff shall initiate a major amendment under this section to achieve consistency unless the changes are approved by the owner.

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final plats~~rezones~~.

The Commission questioned the need for this amendment when looking at the changes located in 20.30.410. Based on this input this section has been modified to refer only to the effect of changes to codes dealing with final plats. The proposed language below was removed from the proposed wording from 20.30.410 and placed here.

~~The owner of any lot in a final plat filed for record shall be entitled to use the lot for the purposes allowed under the zoning in effect at the time of filing of a complete application for five years from the date of filing the final plat for record, even if the property zoning designation and/or the Code has been changed. (Ord. 352 § 1, 2004; Ord. 238 Ch. III § 8(k), 2000).~~

All lots in a final short plat or final plat shall be a valid land use notwithstanding any change in zoning laws for the period specified in RCW 58.17.170 from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW

58.17.150 (1) and (3) for the period specified in RCW 58.17.170 after final plat approval unless the Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

20.30.680 Appeals

The Commission requested examples of how appeals will work under the proposal and whether appeals are different for procedural and substantive circumstances.

Staff response:

The current practice reflects the interim AO issued last December, but under the current code, the following is allowed:

TYPE OF ACTION	ADMINISTRATIVE APPEAL?	SEPA ADMINISTRATIVE APPEAL?
TYPE A	No administrative appeal is allowed for Type A actions. Appeals must be made to Superior Court.	If a SEPA is required, appeal of the threshold determination or SEPA conditions become a Type B permit. See below.
TYPE B	Administrative appeal is available Appeal is to Hearing Examiner.	Yes; must be filed within 14 calendar days of notice of threshold determination
TYPE C	No administrative appeal is allowed for Type C actions. Appeals must be made to Superior Court.	Yes; must be filed within 14 calendar days of notice of threshold determination
Legislative	None. SMC 20.30.070	None. "For actions not classified as Type A, B, or C actions…no administrative appeal of a DNS is permitted." 20.20.680(4).

With Ordinance No. 568 (in effect until December 2010), and the December 8, 2009 Administrative Order (currently in effect), the appeals for Type A, B and Legislative actions remain the same, but Type C is changed as set forth in the table below. The proposed development code change just incorporates the AO for the reason given in the table.

TYPE OF ACTION	ADMINISTRATIVE APPEAL?	SEPA ADMINISTRATIVE APPEAL?
TYPE C	No administrative appeal is available for Type C actions. Appeals must be made to Superior Court.	SEPA administrative appeals are available for those Type C actions where the Hearing Examiner has review authority (currently, preliminary formal subdivisions, site specific

		rezones, critical areas reasonable use and special use permits, and street vacations). Appeal must be filed within 14 days of the threshold determination. No SEPA administrative appeal is allowed for those Type C actions for which the Planning Commission has review authority, i.e.: (1) site specific rezones in the Town Center Subarea; (2) special use permits; and (3) master development plans. Once Ordinance No. 568 expires, the open record hearing for preliminary formal subdivisions, all site specific rezones, and street vacations will revert back to the Planning Commission. The same conflict will then exist for those Type C actions.

Reasoning: The SEPA administrative appeal must be consolidated with the open record hearing for the underlying action and must be heard by the same body or officer. All SEPA appeals are heard by the Hearing Examiner. Since the Planning Commission has review authority for site specific rezones in the Town Center Subarea, special use permits and master development plans, no SEPA appeals are allowed for these Type C actions.

A. Any interested person may appeal a threshold determination or ~~and~~ the conditions or denials of a requested action made by a nonelected official pursuant to the procedures set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.

~~B. Appeals of threshold determinations are procedural SEPA appeals which are conducted by the Hearing Examiner pursuant to the provisions of Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals, subject to the following:~~

1. Only one administrative appeal of each threshold determination shall be allowed on a proposal and procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an action pursuant to

RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.

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

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

4. All SEPA ~~An~~ appeals of a DNS for actions classified in SMC 20.60.060 as Type A, B, or those C actions with the Hearing Examiner as Review Authority, and appeals of decisions to condition or deny actions pursuant to RCW 43.21C.060 classified as Type A or B actions, in Chapter 20.30 SMC, Subchapter 2, Types of Actions, must be filed within 14 calendar days following notice of the threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for Type A, B, or C actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies. For all other actions ~~not classified as Type A, B, or C actions in Chapter 20.30 SMC, Subchapter 2, Types of Actions~~, no administrative appeal of a DNS is permitted.

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

~~C. The Hearing Examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~D. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal. See Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearing and Appeals.~~

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

20.30.760 Notice and orders.

The Commission requested more information about the rationale for deleting this section.

Staff response:

This amendment removes restriction on rescinding Notice and Orders.

PDS will rescind Notice and Orders for various reasons, such as discovering a procedural error (such as failure to properly mail the Notice and Order) or substantive violations (failure to accurately state the legal description, failure to include all violations, mistakenly citing a violation). In most cases, the Notice and Order will be reissued after its rescission.

Staff recently rescinded a Notice and Order (after discovering substantive errors in the Notice and Order) by sending notice to the property owner that the Notice and Order was being rescinded. The rescission indicated that the Notice and Order would be reissued for correction and clarification. Staff subsequently reissued the Notice and Order and the property owner appealed. One of the appeal issues was that the Notice and Order was improperly rescinded because (1) it did not set forth the reasons and underlying facts for the revocation and (2) PDS may only rescind an issue a supplemental notice and order if there is new information or a change in circumstances. The appellants argued that the re-issued Notice and Order should be declared invalid since no specific facts were stated and there was no new information or change in circumstances.

Although the issue was not determined by the Hearing Examiner (the case settled prior to hearing), it raised concerns that the wording in (H) could apply unnecessary restrictions on rescission. PDS should not be restricted from rescinding and subsequently re-issuing a notice and order; rescission always benefits the property owner and the City because the reissued notice and order more accurately states the facts and the violations.

With (H) left as-is, staff is at risk for having a re-issued Notice and Order declared invalid based on failure to properly rescind (by failing to state facts behind the rescission, for example) or bases on there not being any new information or change in circumstances (rather than just an error noticed in the original Notice and Order).

To make it clear that the person who receives that notice and orders is notified if there are changes, staff suggests the following modification to Section F:
Service of a notice and order <u>or revocation of a notice and order</u> shall be made on any responsible party by one or more of the following methods:

F. Service of a notice and order *<u>or revocation of a notice and order</u>* 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. The City may mail a copy, postage prepaid, by ordinary first class mail. 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 issue a certificate of compliance to the parties listed on the notice and order. The responsible party is responsible for filing the 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.~~

H. ~~I.~~ Failure to correct a Code 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 20.30.770.

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.

(Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 466 §§ 2, 3, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(f), 2000. Formerly 20.30.770).

20.40.400 Home occupation.

This PC asked for clarification about vehicle weights and classes. The specific dimensions are provided so that the definition includes trailers. The Council's intent was not to limit home based businesses to vehicles only. This amendment would allow a

home based business to have a vehicle and a trailer as long as those do not exceed the thresolds below.

Residents of a dwelling unit may conduct one or more home occupations as an accessory use(s), provided:

A. The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit. Areas with garages and storage buildings shall not be considered in these calculations, but may be used for storage of goods associated with the home occupation.

B. In residential zones, all the activities of the home occupation(s) (including storage of goods associated with the home occupation) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s).

C. No more than ~~one~~ two nonresident FTEs working on-site shall be employed by the home occupation(s).

D. The following activities shall be prohibited in residential zones:

1. Automobile, truck and heavy equipment repair;

2. Auto body work or painting; and

3. Parking and storage of heavy equipment.

E. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:

1. One stall for ~~a~~ each nonresident FTE employed by the home occupation(s); and

2. One stall for patrons when services are rendered on-site.

F. Sales shall be limited to:

1. Mail order sales; and

2. Telephone or electronic sales with off-site delivery.

G. Services to patrons shall be arranged by appointment or provided off-site.

H. The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:

1. No more than ~~one~~ two such vehicles shall be allowed;

2. Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and

3. Such vehicles shall not exceed ~~a weight capacity of one ton~~ gross weight of 14,000 pounds, a height of nine feet and a length of 22 feet.

I. The home occupation(s) shall not use electrical or mechanical equipment that results in:

1. A change to the fire rating of the structure(s) used for the home occupation(s), unless appropriate changes are made under a valid building permit; or

2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or

3. Fluctuations in line voltage off-premises; or

4. Emissions such as dust, odor, fumes, bright lighting or noises greater than what is typically found in a neighborhood setting.

J. Home occupations that are entirely internal to the home; have no employees in addition to the resident(s); have no deliveries associated with the occupation; have no on-site clients; create no noise or odors; do not have a sign, and meet all other requirements as outlined in this section may not require a home occupation permit.

Note: Daycares, community residential facilities such as group homes, bed and breakfasts and boarding houses are regulated elsewhere in the Code. (Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. IV § 3(B), 2000).

20.40.600 Wireless telecommunication facilities/satellite dish and antennas.

The Planning Commission has requested an illustration of what the amendment does. See attachment 3. Staff has also modified #2 so it is easier to understand and apply. The intent of the change is to allow a modification to an existing pole and the replacement of a shorter pole with a taller pole (which is fundamentally the same). This cannot be accomplished with the existing language.

F. Structure-Mounted Wireless Telecommunication Facilities Standards.

1. Wireless telecommunication facilities located on structures other than buildings, such as light poles, flag poles, transformers, existing monopoles, towers and/or tanks shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. (Figures 9 and 10.)

2. The maximum height of structure-mounted facilities shall not exceed the base height limits specified for each zoning designation in this title regardless of exceptions for the particular mounting structure; provided the facility may extend up to 15 feet above the top of the structure on which the facility is installed, including those built at or above the maximum height allowed in a specific zone. ~~, so long as the diameter of any portion of a facility in excess of the allowed zoning height does not exceed the shortest~~ widest ~~diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless facilities shall be utilized to determine compliance with this subsection. Only one extension is permitted per structure.~~

3. Wireless telecommunication facilities located on structures other than buildings shall be painted with nonreflective colors in a color scheme that blends with the background against which the facility will be viewed.

4. Wireless telecommunication facilities located on structures within the City of Shoreline rights-of-way shall satisfy the following requirements and procedures:

   a. Only wireless telecommunication providers holding a valid franchise in accordance with SMC 12.25.030 shall be eligible to apply for a right-of-way permit, which shall be required prior to installation in addition to other permits specified in this chapter. Obtaining a right-of-way site permit in accordance with this title may be an alternative to obtaining both a franchise and a right-of-way permit for a single facility at a specific location.

   b. All supporting ground equipment locating within a public right-of-way shall be placed underground, or if located on private property shall comply with all development standards of the applicable zone.

   ~~c. Right-of-way permit applications are subject to public notice by mailing to property owners and occupants within 500 feet of the proposed facility, posting the site and publication of a notice of application, except permits for those facilities that operate at one watt or less and are less than 1.5 cubic feet in size proposed by a holder of a franchise that includes the installation of such wireless facilities as part of providing the services authorized thereby.~~

   c. ~~d~~. To determine allowed height under subsection (F)(2) of this section, the zoning height of the zone adjacent to the right-of-way shall extend to the centerline except where the right-of-way is classified by the zoning map. An applicant shall have no right to appeal an administrative decision denying a variance from height limitations for wireless facilities to be located within the right-of-way.

   d. ~~e~~. A notice of decision issued for a right-of-way permit shall be distributed using procedures for an application. Parties of record may appeal the approval to the Hearing Examiner but not the denial of a permit.

20.50.040 Setbacks – Designation and measurement.

The intent of the amendment is to allow stairs in the front yeard setback as long as the distance between the ground and the surface of the stair is 30 inches or less. Thirty inches in height is a number used in other places in the code; for example, a deck that is less than 30 inches above the ground does not require a building permit. See attachment 2.

I. Projections into Setback.

6. ~~Building stairs less than three feet and six inches in height,~~ Entrances and covered but unenclosed porches that are at least 60 square feet in footprint area may project up to five feet into the front yard.

7. Uncovered building stairs or ramps less than 30 inches in height & 44 inches wide may project to the property line subject to site distance requirements.

8. ~~7.~~ Arbors are allowed in required yard setbacks if they meet the following provisions:

   In any required yard setback, an arbor may be erected:

   a. With no more than a 40-square-foot footprint, including eaves;

   b. To a maximum height of eight feet;

   c. Both sides and roof shall be at least 50 percent open, or, if latticework is used, there shall be a minimum opening of two inches between crosspieces.

9. ~~8.~~ No projections are allowed into a regional utility corridor.

10. ~~9.~~ No projections are allowed into an access easement. (Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 1(B-3), 2000).

20.50.310 Exemptions from permit.

Prior to this section, the code discusses when a permit for clearing activity is needed. For example, it states that any activity within a critical area requires a permit. However, there are exceptions --No permit is needed if the clearing activity meets the exemptions below.

Complete Exemptions. The following activities are exempt from the provisions of this subchapter and do not require a permit:

6. Removal of noxious weeds or invasive vegetation as identified by the King County Noxious Weed Control Board in a wetland buffer, stream buffer or within a three foot radius of a tree on a steep slope located in a City Park when:

   a. undertaken with hand labor, including hand-held mechanical tools, unless the King County Noxious Weed Control Board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment, herbicides or biological control methods; and

   b. performed in accordance with the King County Best Management Practices for Noxious Weed and Invasive Vegetation Removal hand out; and

   c. the cleared area is revegetated with native vegetation and stabilized against erosion in accordance with the most current Stormwater Manual; and

   d. all work is performed above the ordinary high water mark and above the top of a stream bank; and

   e. no more than a 3,000 sq. ft. of soil may be exposed at any one time.

20.50.470 Street frontage landscaping – Standards.

The Commission questions focused on paragraph "c". Currently; the code allows a property owner to eliminate landscaping between the building and the sidewalk if the property owner plants street trees. This amendment will require landscaping between the building and the sidewalk even if street trees are provided. Language in D has been rewritten so it's easier to understand. See attachment 5 for example of screening in the MUZ zone.

A. A 10-foot width of Type II landscaping located on site along the front property line is required for all development including parking structures, surface parking areas, service areas, gas station islands, and similar paved surfaces. See 20.50.470(DE) for street frontage screening ~~landscaping~~ standards in the MUZ zone.

B. A 20-foot width of Type II landscaping located on site along the property line is required for nonresidential development including institutional and public facilities in residential zones ~~areas~~.

C. For buildings located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1) the width of frontage landscaping between the building and the property line may ~~can~~ be ~~substituted~~ reduced in ~~multifamily,~~ commercial~~, office, and industrial~~ zones if ~~with~~ two-inch caliper street trees are provided. The maximum spacing shall be 40 feet on center ~~if they are placed in tree pits with iron grates or in planting strips along the backside of curbs.~~ Institutional and public facilities may substitute 10 feet of the required 20 feet with street trees~~. if the building is located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1).~~

~~D. Trees spacing may be adjusted to accommodate sight distance requirements for driveways and intersections. See SMC 20.50.520(O) for landscaping standards. (Ord. 238 Ch. V § 7(B-2), 2000).~~

DE. ~~Any new development in the MUZ shall require~~ All ~~surface~~ parking ~~areas~~, outdoor storage ~~areas~~, and equipment storage areas serving new development in the MUZ ~~to~~ shall be screened from the public right-of-way ~~and adjacent residential land uses~~. These uses shall be located behind buildings, within underground or structured parking, or behind a 4-foot masonry wall with a 10-foot Type II landscape buffer between the wall and the property line. ~~Street frontage screening shall consist of locating the above areas behind buildings, in underground or structured parking, or behind a 4-foot masonry wall with a 10 foot width of Type II landscaping between the wall and property line, behind buildings, within underground or structured parking back of sidewalk. When adjacent to single family residential, a 20-foot width of Type I landscaping is required.~~

20.50.480 Street trees and landscaping within the right-of-way– Standards.

The Commission was uncomfortable removing the word "trees" from the right-of-way landscaping section. Staff offers amendatory language that refers to both trees and landscaping to make it clear that the section applies to both. In addition, staff included

the tree and landscaping requirements from the Engineering Development Guide to explain the detail in the Guide (see attachment 4). Currently the Guide refers to this section of the code to define where street trees should be planted. The revised Guide (example attached) will include the information rather than a reference. As noted in the study session, staff believes that the Development Code should govern development (including landscape standards) outside of the city's right of way, and that the Engineering Development Guide should govern development and landscape standards within the right of way.

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.~~ When frontage improvements are required by SMC 20.70 ~~S~~street trees are required ~~for~~ in all commercial, office, industrial, multifamily zones, and for single-family subdivisions ~~for~~ on all arterial streets.

B. Frontage ~~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:~~

~~1. Planted in a minimum four-foot wide continuous planting strip along the curb; or~~

~~2. 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~~

~~3. 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.~~

C~~F~~. Street trees and landscaping must meet the standards for the specific street classification abutting the property as depicted ~~requirements~~ in the Engineering Development Guide including but not limited to size, spacing, and site distance. All street trees must be selected from the City approved street tree list.

20.50.520 General standards for landscape installation and maintenance – ~~Standards.~~

The Commission believes "zone" is a better than "mat" when describing a plants root structure. The revised proposal reflects these modifications. In regards to the last sentence in section "O", there was a typographical error in the sentence, and it was

intended to include the word "not" when referring to trees around street lights and powerlines. The addition of the word "not" will have no effect on city policy.

O. Landscape plans and utility plans shall be coordinated. ~~In general~~ The placement of trees and large shrubs shall ~~should adjust to~~ accommodate the location of required utilities ~~utility routes~~ both above and below ground. Location of plants and trees shall be based on the ~~plant's~~ mature canopy and root zone ~~mat width~~. Root zone ~~mat width~~ is assumed to be the same width as the canopy. ~~unless otherwise documented in a credible print source.~~ Mature tree and shrub canopies may not reach an above ground utility such as street lights and power-lines. Mature tree and shrub root zone ~~mats~~ may overlap utility trenches as long as ~~approximately~~ 80 percent of the root zone ~~mat area~~ is unaffected.

P. Adjustment of plant location does not reduce the number of plants required for landscaping.

Q. Site distance ~~triangle shall be established for~~ and visual clearances consistent with ~~SMC 20.70.170~~ the Engineering Development Guide ~~driveway exits and entrances and street corners~~ shall be maintained.

20.80.350 Mitigation performance standards and requirements.

In response to questions about the monitoring process, staff did some research and offers the following explanation: Monitoring is explained in Section 20.80.350 (G)(3). The applicant's work is monitored and inspected by a qualified professional approved by the City. The applicant's work is inspected nine times over the five year period. The applicant is resposible for all costs associated with monitoring.

Monitoring Program and Contingency Plan.

1. A monitoring program shall be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.

2. A contingency plan shall be established for indemnity in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable financial guarantee is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project and include the cost for monitoring for a minimum of five years. The bond may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the proposed Development Code Amendments.

ATTACHMENTS

Attachment 1: List of all Development Code Amendments including staff's proposed revisions based direction offered at the April 15 Planning Commission study session.
Attachment 2: Illustration of stairs in a setback
Attachment 3: Illustration of WTF extension
Attachment 4: Example of EDG landscaping standards
Attachment 5: Example of 4-foot masonry wall

20.20.016 D definitions.

Detached Buildings with exterior walls separated by a distance of 5 feet. To be consistent with this definition projections between buildings must be separated by a minimum of 3 feet.

Director Planning and Development Services Director or designee. (Ord. 406 § 1, 2006).

20.20.046 S Definitions

1. Secure Community Transitional Facility (SCTF) - A residential facility for persons civilly committed and conditionally released to a less restrictive community-based alternative under Chapter 71.09 RCW operated by or under contract with the Washington State Department of Social and Health Services. A secure community transitional facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. SCTFs shall not be considered Community Residential Facilities.

2. Senior Citizen Affordable Housing

Households with:

A. Income no greater than 60% of the King County median gross income, adjusted for household size; and
B. At least one occupant is 55 years of age or older; and
C. A maximum of 3 occupants per dwelling unit.

3. Senior Citizen Assisted Housing - Housing in a building consisting of two or more dwelling units restricted to occupancy by at least one occupant 55 years of age or older per unit, and must include at least two of the following support services:

A. Common dining facilities or food preparation service
B. Group activity areas separate from dining facilities
C. A vehicle exclusively dedicated to providing transportation services to housing occupants
D. Have a boarding home (assisting living) license from Washington State Department of Social and Health Services.

Table 20.30.060.

8. Street Vacation	~~PC (3)~~ See Chapter 12.17 SMC	~~PC (3)~~ See Chapter 12.17 SMC	~~City Council~~ See Chapter 12.17 SMC	~~120 days~~ See Chapter 12.17 SMC	See Chapter 12.17 SMC

20.30.070 Legislative Decisions

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

(1) PC = Planning Commission

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

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

There is no administrative appeal of legislative actions of the City Council but they may be appealed together with any SEPA threshold determination according to State law.

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 posted

and published in the newspaper of general circulation for the general area in which the proposal is located ~~and posted for site-specific proposals.~~

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

Except for subdivisions and master development plans or where a different ~~shorter~~ duration of approval is indicated in this Code, 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.

20.30.180 Public notice of public hearing.

Notice of the time and place of an open record hearing shall be made available to the public by the Department no less than ~~14~~ 15 days prior to the hearing, through use of these methods:

20.30.200 General description of appeals.

A. Administrative decisions (Type B) are appealable to the Hearing Examiner who conducts an open record appeal hearing.

B. Appeals of City Council decisions, ministerial decisions (Type A) without an administrative appeal, and appeals of an appeal authority's decisions shall be made to the Superior Court.

20.30.350 Amendment to the Development Code (legislative action).

B. Decision Criteria. The City Council may approve or approve with modifications a proposal for the text of the Land Use Code 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.~~

20.30.353 G. Master Plan Vesting Expiration.

A master development plan's determination of consistency under RCW 36.70B.040 shall vest for ten years after issuance or after a major amendment, unless extended vesting for phased development is approved in the master

development plan permit. After ten years, the Planning Commission may review the master development plan permit for consistency with current City's vision, Goals, Strategies (such as the Economic Development Strategy, Housing Strategy, Environmental Sustainability Strategy) comprehensive Plan and other sections of the Development Code. If changes are recommended, staff shall initiate a major amendment under this section to achieve consistency unless the revision is approved by the owner.

20.30.410 Preliminary subdivision review procedures and criteria.

The ~~preliminary~~ short subdivision may be referred to as a short plat – Type B action.

The ~~preliminary~~ formal subdivision may be referred to as long plat – Type C action.

Time limit: A final short plat or final long plat meeting all of the requirements of this chapter and RCW 58.17 shall be submitted for approval within the timeframe specified in RCW 58.17.140.

Review criteria: The following criteria shall be used to review proposed subdivisions:

C. Dedications and improvements.

~~1. The City Council may require dedication of land in the proposed subdivision for public use.~~

1. ~~2.~~ Only the City Council may approve a dedication of park land. The council may request a review and written recommendation from the Planning Commission.

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

~~D. Improvements.~~

2. In addition, the City Council may require dedication of land and improvements in the proposed subdivision for public use under the standards of Chapter 20.60 SMC, Adequacy of Public Facilities and Chapter 20.70 SMC, Engineering and

Utilities Development Standards necessary to mitigate project impacts to utilities, right-of-way, stormwater systems.

a. Required improvements ~~which~~ may include ~~be required~~, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.

~~2. Improvements shall comply with the development standards of Chapter 20.60 SMC, Adequacy of Public Facilities.~~

~~Time limit: Approval of a preliminary formal subdivision or preliminary short subdivision shall expire and have no further validity at the end of three years of preliminary approval~~.

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final plats~~rezones~~.

~~The owner of any lot in a final plat filed for record shall be entitled to use the lot for the purposes allowed under the zoning in effect at the time of filing of a complete application for five years from the date of filing the final plat for record, even if the property zoning designation and/or the Code has been changed. (Ord. 352 § 1, 2004; Ord. 238 Ch. III § 8(k), 2000).~~

All lots in a final short plat or final plat shall be a valid land use notwithstanding any change in zoning laws for the period specified in RCW 58.17.170 from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for the period specified in RCW 58.17.170 after final plat approval unless the Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

20.30.680 Appeals

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

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

~~B. Appeals of threshold determinations are procedural SEPA appeals which are conducted by the Hearing Examiner pursuant to the provisions of Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals, subject to the following:~~

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

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

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

4. All SEPA ~~An~~ appeals of a DNS for actions classified in SMC 20.60.060 as Type A, B, or those C actions with the Hearing Examiner as Review Authority, and appeals of decisions to condition or deny actions pursuant to RCW 43.21C.060 classified as Type A or B actions, in Chapter 20.30 SMC, Subchapter 2, Types of Actions, must be filed within 14 calendar days following notice of the threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for Type A, B, or C actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies. For all other actions ~~not classified as Type A, B, or C actions in Chapter 20.30 SMC, Subchapter 2, Types of Actions~~, no administrative appeal of a DNS is permitted.

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

~~C. The Hearing Examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~D. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with~~

~~administrative appeals, if any, on the merits of a proposal. See Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearing and Appeals.~~

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

20.30.740 Declaration of public nuisance, enforcement.

A. A Code Violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. Any City land use and development ordinances or public health ordinances;
2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the Codes adopted in Chapter 15.05 SMC;
4. Violation of provisions of Chapter 12.15 SMC, Use of Right of Way;
5~~4~~. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Solid Waste Code;
6~~5~~. Nuisance vegetation;
7~~6~~. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property; and
8~~7~~. Violation of any of the provisions of Chapter 13.10 SMC, Surface Water Management Code.

20.30.760 Notice and orders.

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. The City may mail a copy, postage prepaid, by ordinary first class mail. 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 issue a certificate of compliance to the parties listed on the notice and order. The responsible party is responsible for filing the 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.~~

H. ~~I.~~ Failure to correct a Code 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 20.30.770.

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.

(Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 466 §§ 2, 3, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(f), 2000. Formerly 20.30.770).

20.30.770 Enforcement provisions.

2. Any responsible party who has committed a violation of the provisions of Chapter 20.80 SMC, Critical Areas, or Chapter 20.50 SMC, General Development Standards (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 subsection (D)(1) of this section, 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~~

b. ~~c.~~ A penalty of $2,000 if the violation has severe ecological impacts, including temporary or permanent loss of resource values or functions.

3. A penalty of ~~$1,000~~ $2,000 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

4. ~~3.~~ A repeat violation means a violation of the same regulation in any location within the City by the same responsible party, for which voluntary compliance previously has been sought or any enforcement action taken, within the immediate preceding 24-consecutive-month period, and will incur double the civil penalties set forth above.

5. ~~4.~~ Under RCW 59.18.085, if, after 60 days from the date that the City first advanced relocation assistance funds to displaced tenants, the landlord does not repay the amount of relocation assistance advanced by the City, the City shall

assess civil penalties in the amount of $50.00 per day for each tenant to whom the City has advanced a relocation assistance payment.

6. ~~5.~~ The responsible parties have a duty to notify the Director of any actions taken to achieve compliance with the notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the responsible party has come into compliance with the notice and order and has notified the Director of this compliance, and an official inspection has verified compliance.

7. ~~6.~~ Civil penalties may be waived or reimbursed to the payer by the Director, with the concurrence of the Finance Director, under the following circumstances:

a. The notice and order was issued in error; or

b. The civil penalties were assessed in error; or

c. Notice failed to reach the property owner due to unusual circumstances; or

d. Compelling new information warranting waiver has been presented to the Director since the notice and order was issued and documented with the waiver decision.

20.40.210 Accessory dwelling units.

B. Accessory dwelling unit may be located in the principal residence, or in a detached structure. ~~on a lot that is at least 10,000 square feet in area.~~

20.40.400 Home occupation.

Residents of a dwelling unit may conduct one or more home occupations as an accessory use(s), provided:

A. The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit. Areas with garages and storage buildings shall not be considered in these calculations, but may be used for storage of goods associated with the home occupation.

B. In residential zones, all the activities of the home occupation(s) (including storage of goods associated with the home occupation) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s).

C. No more than ~~one~~ <u>two</u> nonresident <u>FTEs</u> working on-site shall be employed by the home occupation(s).

D. The following activities shall be prohibited in residential zones:

1. Automobile, truck and heavy equipment repair;

2. Auto body work or painting; and

3. Parking and storage of heavy equipment.

E. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:

1. One stall for ~~a~~ each nonresident FTE employed by the home occupation(s); and

2. One stall for patrons when services are rendered on-site.

F. Sales shall be limited to:

1. Mail order sales; and

2. Telephone or electronic sales with off-site delivery.

G. Services to patrons shall be arranged by appointment or provided off-site.

H. The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:

1. No more than ~~one~~ two such vehicles shall be allowed;

2. Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and

3. Such vehicles shall not exceed ~~a weight capacity of one ton~~ gross weight of 14,000 pounds, a height of nine feet and a length of 22 feet.

I. The home occupation(s) shall not use electrical or mechanical equipment that results in:

1. A change to the fire rating of the structure(s) used for the home occupation(s), unless appropriate changes are made under a valid building permit; or

2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or

3. Fluctuations in line voltage off-premises; or

4. Emissions such as dust, odor, fumes, bright lighting or noises greater than what is typically found in a neighborhood setting.

J. Home occupations that are entirely internal to the home; have no employees in addition to the resident(s); have no deliveries associated with the occupation; have no on-site clients; create no noise or odors; do not have a sign, and meet all other requirements as outlined in this section may not require a home occupation permit.

Note: Daycares, community residential facilities such as group homes, bed and breakfasts and boarding houses are regulated elsewhere in the Code. (Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. IV § 3(B), 2000).

20.40.600 Wireless telecommunication facilities/satellite dish and antennas.

F. Structure-Mounted Wireless Telecommunication Facilities Standards.

1. Wireless telecommunication facilities located on structures other than buildings, such as light poles, flag poles, transformers, existing monopoles, towers and/or tanks shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. (Figures 9 and 10.)

2. The maximum height of structure-mounted facilities shall not exceed the base height limits specified for each zoning designation in this title regardless of exceptions for the particular mounting structure; provided the facility may extend up to 15 feet above the top of the structure on which the facility is installed, including those built at or above the maximum height allowed in a specific zone. ~~, so long as the diameter of any portion of a facility in excess of the allowed zoning height does not exceed the shortest~~ widest ~~diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless facilities shall be utilized to determine compliance with this subsection. Only one extension is permitted per structure.~~

3. Wireless telecommunication facilities located on structures other than buildings shall be painted with nonreflective colors in a color scheme that blends with the background against which the facility will be viewed.

4. Wireless telecommunication facilities located on structures within the City of Shoreline rights-of-way shall satisfy the following requirements and procedures:

a. Only wireless telecommunication providers holding a valid franchise in accordance with SMC 12.25.030 shall be eligible to apply for a right-of-way permit, which shall be required prior to installation in addition to other permits specified in this chapter. Obtaining a right-of-way site permit in accordance with this title may be an alternative to obtaining both a franchise and a right-of-way permit for a single facility at a specific location.

b. All supporting ground equipment locating within a public right-of-way shall be placed underground, or if located on private property shall comply with all development standards of the applicable zone.

~~c. Right-of-way permit applications are subject to public notice by mailing to property owners and occupants within 500 feet of the proposed facility, posting the site and publication of a notice of application, except permits for those facilities that operate at one watt or less and are less than 1.5 cubic feet in size proposed by a holder of a franchise that includes the installation of such wireless facilities as part of providing the services authorized thereby.~~

c. ~~d~~. To determine allowed height under subsection (F)(2) of this section, the zoning height of the zone adjacent to the right-of-way shall extend to the centerline except where the right-of-way is classified by the zoning map. An applicant shall have no right to appeal an administrative decision denying a variance from height limitations for wireless facilities to be located within the right-of-way.

d. ~~e~~. A notice of decision issued for a right-of-way permit shall be distributed using procedures for an application. Parties of record may appeal the approval to the Hearing Examiner but not the denial of a permit.

20.50.030 Lot width and lot area – Measurements.

A. Lot width shall be measured by scaling a circle within the boundaries of the lot; provided, that any ~~access~~ easement shall not be included within the circle.

20.50.040 Setbacks – Designation and measurement.

I. Projections into Setback.

6. ~~Building stairs less than three feet and six inches in height,~~ Entrances and covered but unenclosed porches that are at least 60 square feet in footprint area may project up to five feet into the front yard.

7. Uncovered building stairs or ramps less than 30 inches in height & 44 inches wide may project to the property line subject to site distance requirements.

8. ~~7.~~ Arbors are allowed in required yard setbacks if they meet the following provisions:

In any required yard setback, an arbor may be erected:

a. With no more than a 40-square-foot footprint, including eaves;

b. To a maximum height of eight feet;

c. Both sides and roof shall be at least 50 percent open, or, if latticework is used, there shall be a minimum opening of two inches between crosspieces.

9. ~~8.~~ No projections are allowed into a regional utility corridor.

10. ~~9.~~ No projections are allowed into an access easement. (Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 1(B-3), 2000).

20.50.110 Fences and walls – Standards.

A. The maximum height of fences located along a property line shall be six feet, subject to the site clearance provisions ~~of~~ in the Engineering Development Guide ~~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).

B. All electric, razor wire, and barbed wire fences are prohibited.

C. The height of a fence located on a retaining wall shall be measured from the finished grade at the top of the wall to the top of the fence. The overall height of the fence located on the wall shall be a maximum of six feet. (Ord. 406 § 1, 2006; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 2(B-5), 2000).

20.50.125 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC ~~20.70.030~~. 20.70 (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.225 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC ~~20.70.030~~. 20.70 (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.385 Thresholds – Required site improvements.
Note: For thresholds related to off-site improvements, see SMC ~~20.70.030~~. 20.70 (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.455 Thresholds – Required site improvements.
Note: For thresholds related to off-site improvements, see SMC ~~20.70.030~~. 20.70 (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.535 Thresholds – Required site improvements.
Note: For thresholds related to off-site improvements, see SMC ~~20.70.030~~. 20.70 (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.310 Exemptions from permit.

Complete Exemptions. The following activities are exempt from the provisions of this subchapter and do not require a permit:

6. Removal of noxious weeds or invasive vegetation as identified by the King County Noxious Weed Control Board in a wetland buffer, stream buffer or within a three foot radius of a tree on a steep slope located in a City Park when:

   a. undertaken with hand labor, including hand-held mechanical tools, unless the King County Noxious Weed Control Board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment, herbicides or biological control methods; and

   b. performed in accordance with the King County Best Management Practices for Noxious Weed and Invasive Vegetation Removal hand out; and

   c. the cleared area is revegetated with native vegetation and stabilized against erosion in accordance with the most current Stormwater Manual; and

   d. all work is performed above the ordinary high water mark and above the top of a stream bank; and

   e. no more than a 3,000 sq. ft. of soil may be exposed at any one time.

Table 20.50.390D – Special Nonresidential Standards (Continued)

Warehousing and storage: 1 per 300 square feet of office, plus 0.5 ~~0.9~~ per 1,000 square feet of storage area

20.50.430 Nonmotorized access and circulation – Pedestrian access and circulation – Standards.

C. The pedestrian path from the street front sidewalk to the building entry shall be at least 44 ~~60~~ inches ~~(or five feet)~~ wide for commercial and multifamily residential structures, and at least 36 inches ~~(or three feet)~~ for single-family and duplex developments.

20.50.470 Street frontage landscaping – Standards.

A. A 10-foot width of Type II landscaping located on site along the front property line is required for all development including parking structures, surface parking areas, service areas, gas station islands, and similar paved surfaces. See 20.50.470(D~~E~~) for street frontage screening ~~landscaping~~ standards in the MUZ zone.

B. A 20-foot width of Type II landscaping located on site along the property line is required for nonresidential development including institutional and public facilities in residential zones ~~areas~~.

C. For buildings located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1) the width of frontage landscaping between the building and the property line may ~~can~~ be ~~substituted~~ reduced in ~~multifamily,~~ commercial~~, office, and industrial~~ zones if ~~with~~ two-inch caliper street trees are provided. The maximum spacing shall be 40 feet on center ~~if they are placed in tree pits with iron grates or in planting strips along the backside of curbs.~~ Institutional and public facilities may substitute 10 feet of the required 20 feet with street trees~~. if the building is located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1).~~

~~D. Trees spacing may be adjusted to accommodate sight distance requirements for driveways and intersections. See SMC 20.50.520(O) for landscaping standards. (Ord. 238 Ch. V § 7(B-2), 2000).~~

D~~E~~. ~~Any new development in the MUZ shall require~~ All ~~surface~~ parking ~~areas~~, outdoor storage ~~areas~~, and equipment storage areas serving new development in the MUZ ~~to~~ shall be screened from the public right-of-way ~~and adjacent residential land uses~~. These uses shall be located behind buildings, within underground or structured parking, or behind a 4-foot masonry wall with a 10-foot Type II landscape buffer between the wall and the property line. ~~Street frontage screening shall consist of locating the above areas behind buildings, in underground or structured parking, or behind a 4-foot masonry wall with a 10 foot width of Type II landscaping between the wall and property line, behind buildings, within underground or~~

~~structured parking~~ back of sidewalk. ~~When adjacent to single family residential, a 20-foot width of Type I landscaping is required.~~

20.50.480 Street trees and landscaping within the right-of-way– 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.~~ When frontage improvements are required by SMC 20.70 ~~S~~street trees are required ~~for~~ in all commercial, office, industrial, multifamily zones, and for single-family subdivisions ~~for~~ on all arterial streets.

B. Frontage ~~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:~~

~~1. Planted in a minimum four-foot wide continuous planting strip along the curb; or~~

~~2. 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~~

~~3. 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.~~

C~~F~~. Street trees and landscaping must meet the standards for the specific street classification abutting the property as depicted ~~requirements~~ in the Engineering Development Guide including but not limited to size, spacing, and site distance. All street trees must be selected from the City approved street tree list.

20.50.520 General standards for landscape installation and maintenance – ~~Standards.~~

O. Landscape plans and utility plans shall be coordinated. ~~In general~~ The placement of trees and large shrubs shall ~~should adjust to~~ accommodate the location of required utilities ~~utility~~ ~~routes~~ both above and below ground. Location of plants and trees shall be based on the ~~plant's~~ mature canopy and root zone ~~mat width~~. Root zone ~~mat width~~ is assumed to be the same width as the canopy. ~~unless otherwise documented in a credible print source.~~ Mature tree and shrub canopies may not reach an above ground utility such as street lights and power-lines. Mature tree and shrub root zone ~~mats~~ may overlap utility trenches as long as ~~approximately~~ 80 percent of the root zone ~~mat area~~ is unaffected.

P. Adjustment of plant location does not reduce the number of plants required for landscaping.

Q. Site distance ~~triangle shall be established for~~ and visual clearances consistent with ~~SMC 20.70.170~~ the Engineering Development Guide ~~driveway exits and entrances and street corners~~ shall be maintained.

20.60.140 Adequate streets.

A. Development Proposal Requirements. All new proposals for development that would generate 20 or more new trips during the p.m. peak hour must submit a traffic study at the time of application. The estimate of the number of trips a development shall be consistent with the most recent edition of the Trip Generation Manual, published by the Institute of Traffic Engineers. The traffic study shall include at a minimum:….

20.80.110 Critical areas reports required.

If uses, activities or developments are proposed within ~~designated~~ critical areas or their buffers, an applicant shall provide site-specific information and analysis as determined by the City. The site-specific information must be obtained by expert investigation and analysis. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100. Such site-specific reviews shall be performed by qualified professionals, as defined by SMC 20.20.042, who are approved by the City or under contract to the City. (Ord. 515 § 1, 2008; Ord. 406 § 1, 2006; Ord. 398 § 1, 2006).

20.80.350 Mitigation performance standards and requirements.

Monitoring Program and Contingency Plan.

1. A monitoring program shall be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.

2. A contingency plan shall be established for indemnity in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable financial guarantee is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project and include the cost for monitoring for a minimum of five years. The bond may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

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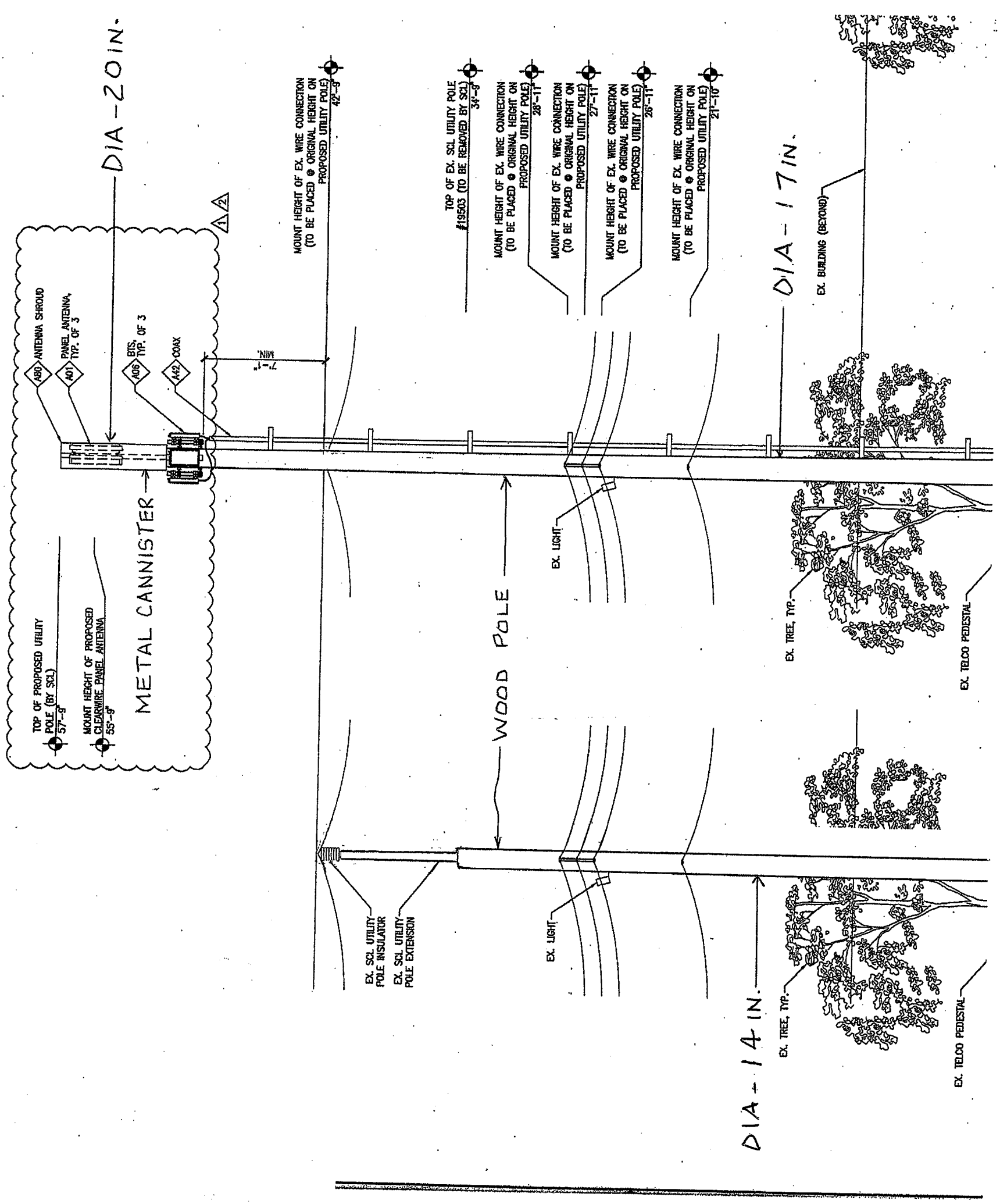
DIA-20IN.
A80 ANTENNA SHROUD
A01 PANEL ANTENNA, TYP. OF 3
A06 BTS, TYP. OF 3
A42 COAX
7'-1" MIN.
METAL CANNISTER
TOP OF PROPOSED UTILITY POLE (BY SCL) 57'-9"
MOUNT HEIGHT OF PROPOSED CLEARWIRE PANEL ANTENNA 55'-9"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY POLE) 42'-9"
TOP OF EX. SCL UTILITY POLE #19503 (TO BE REMOVED BY SCL) 34'-9"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY POLE) 28'-11"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY POLE) 27'-11"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY POLE) 26'-11"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY POLE) 21'-10"
WOOD POLE
EX. SCL UTILITY POLE INSULATOR
EX. SCL UTILITY POLE EXTENSION
EX. LIGHT
EX. LIGHT
EX. BUILDING (BEYOND)
DIA-17IN.
EX. TREE, TYP.
EX. TELCO PEDESTAL
DIA-14IN.
EX. TREE, TYP.
EX. TELCO PEDESTAL

CHAPTER 19 LANDSCAPING

Landscaping planned for maximum public benefit provides a “sense of place” critical to the vitality of neighborhoods and their business districts.

The landscaping design criteria in this section are based on transportation safety requirements and on minimum requirements for plants to achieve mature growth.

The following criteria apply to landscaping improvements in the right-of-way. For landscaping requirements on private property, please contact a planner in Planning and Development Services or refer to Chapter 20.50 SMC.

Links to Standard Plans

- Local Street
- Arterial Street
- Sight distance
- Tree Planting
- Tree Pit
- Landscaping Cross section

19.1 GENERAL.

A. Any right-of-way landscaping disturbed by construction activity shall be replaced or restored to its original condition.

B. All landscaping shall meet the sight distance and sight triangle requirements in Chapter 17 Intersection Design and the set back requirements in Chapter 20 Roadside Design.

C. Trees

1. Topping of street trees is prohibited.
2. All requests for maintenance or removal of trees in the right-of-way should be directed to Public Works Operations and Maintenance. Staff. Public Works assesses the tree for health and safety risks and determines if tree removal will improve public safety. If Public Works indicates the property owner can remove the tree, a right-of-way use permit is required.

D. Maintenance

E. Pesticide and herbicide use is prohibited

F. The City maintains the trees in the right-of-way. Other vegetation may be maintained by property owners.

G. Property owners are encouraged to maintain the amenity strip abutting their properties.

19.2 DESIGN.

19.2.1 Plans

A. The landscaping plan shall show property lines, plant locations, above- and below-ground utility locations, right-of-way infrastructure, driveways, and intersections, as well as all information needed to install and inspect the installation.

B. The landscaping plan shall provide soil specifications, including soil depths.

C. Landscaping plans and utility plans shall be coordinated. In general, the placement of trees and large shrubs should adjust to the location of required utility routes both above and below ground.

D. Installation of ground cover and/or low (24-30 inches) shrubs, or perennials is required. Under some conditions, a combination of the plantings and grass (lawn) or plantings and pavers may be appropriate depending on the street classification and the need to accommodate parking in the curb lane.

19.2.2 Plant Selection

A. New landscape material shall be indigenous plant species within areas of undisturbed, existing vegetation, within critical areas or their buffers, or within the protected area of significant trees. The use of pesticide and chemical fertilizer might be restricted within these landscaped areas.

B. Plant selection shall consider adaptability to climatic, geologic, and topographic conditions of the site.

C. Existing trees and landscaping shall be preserved where desirable. Placement of new trees shall be compatible with other features of the environment. In particular, maximum heights and spacing shall not conflict unduly with overhead utilities, or root development with underground utilities.

D. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the “American Standard for Nursery Stock” manual; provided, that existing healthy vegetation used to augment new plantings shall not be required to meet these standards.

E. Trees must be a minimum of two-inch caliper at the time of installation.

F. Trees must be selected from the City-approved street tree list.

19.2.3 Tree Spacing.

A. Space trees to provide the optimum canopy cover for the streetscape. All spacing shall be a function of mature crown spread, and may vary widely between species or cultivars.

B. Trees must be and planted no farther apart than 40 feet on center. Placement of street trees can be adjusted to avoid conflict with driveways, utilities, and other functional needs while including the required number of trees.

C. The City recommends planting trees as follows:

Small-scale trees between 20 - 25 feet apart.

Small/Medium scale trees 25 - 30 feet apart.

Medium/Large scale trees 30 - 35 feet apart.

Large-scale trees should be planted between 35 - 40 feet apart.

D. Understanding that adjustments may be made in the field, locate trees on the landscaping plan according to the following criteria:

1. Middle of the amenity zone.
2. Eight feet from underground utility lines (three feet with root barriers)
3. Ten feet from power poles (Fifteen feet recommended)
4. Seven and one-half feet from driveways (ten feet recommended)
5. Twenty feet from street lights or other existing trees.
6. Thirty feet from street intersections.

19.2.3 Soil.

Soils shall be …

19.3 INSTALLATION.

A. All landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy plant growth.

B. Location of plants shall be based on the plant's mature canopy and root mat width. Root mat width is assumed to be the same

width as the canopy unless otherwise documented in a credible print source.

C. Mature tree and shrub canopies may not reach an above ground utility such as street lights and power-lines.

D. Mature tree and shrub root mats may overlap utility trenches as long as approximately 80 percent of the root mat area is unaffected.

E. Trees must be:

1. Planted in a minimum four-foot wide continuous planting strip along the curb; or
2. 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. Tree pits require an ADA compliant iron grate flush with the sidewalk surface ; or
3. Where an existing or planned sidewalk abuts the curb, trees may be planted four feet behind that sidewalk on the side opposite the curb.
4. Street trees will require five-foot staking and root barriers between the tree and the sidewalk and curb.

F. Grading

1. Planting strips.
    i. The final grade of soil surfaces in planting strips must accommodate runoff from sidewalk surfaces cross-sloped to drain toward the street. In cases where a mounded planting strip is proposed to provide a more effective separation between the sidewalk and street, a centerline height of 6” above the adjacent sidewalk grade is typical and gaps between mounded areas must be provided so that backup of runoff and ponding does not occur on the paved sidewalk.
2. Tree pits.
    i. Shall be graded to provide a soil surface 2 inches below the adjacent sidewalk and curb elevation and be top dressed with bark, wood chips, cinders, or crushed angular aggregate material that is routinely maintained to minimize the grade differential between the sidewalk and open pit area.