AGENDA
PLANNING COMMISSION
REGULAR MEETING

Thursday, May 6, 2010
7:00 p.m.

Shoreline City Hall
Council Chamber
17500 Midvale Ave. N

		Estimated Time
1.	**CALL TO ORDER**	7:00 p.m.
2.	**ROLL CALL**	7:01 p.m.
3.	**APPROVAL OF AGENDA**	7:02 p.m.
4.	**DIRECTOR'S COMMENTS**	7:03 p.m.
5.	**APPROVAL OF MINUTES** a. April 15, 2010 Regular Meeting	7:08 p.m.
6.	**GENERAL PUBLIC COMMENT**	7:10 p.m.

During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence. The rules for procedure for Public Hearings before the Planning Commission are further defined in Resolution No. 182.

7. **PUBLIC HEARING** *Legislative Public Hearing* 7:15 p.m.

a. **Development Code Amendments - #301606**

1. Staff Overview and Presentation of Preliminary Staff Recommendation
2. Questions by the Commission to Staff
3. Public Testimony
4. Final Questions by the Commission
5. Deliberations
6. Vote by Commission to Recommend Approval or Denial or Modification
7. Closure of Public Hearing

8.	**DIRECTOR'S REPORT**	8:35 p.m.
9.	**UNFINISHED BUSINESS**	8:40 p.m.
10.	**NEW BUSINESS**	8:45 p.m.
11.	**REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS**	8:50 p.m.
12.	**AGENDA FOR** May 20	8:55 p.m.
13.	**ADJOURNMENT**	9:00 p.m.

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.

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CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING

April 15, 2010 Shoreline City Hall
7:00 P.M. Council Chamber

Commissioners Present
Chair Wagner
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Moss
Commissioner Kaje

Staff Present
Steve Szafran, Associate Planner, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman, Moss and Kaje.

APPROVAL OF AGENDA

Commissioner Broili asked that an additional item be added to the agenda: The procedural protocol for handling quasi-judicial hearings. The discussion was added as Item C under New Business. He said he would also like an opportunity to discuss the Commission's work schedule, and the possibility of adding an addition item. This discussion was added as Item D under New Business. The remainder of the agenda was approved as presented.

DIRECTOR'S COMMENTS

Mr. Cohn thanked the Commissioners who replied back to staff regarding the Point Wells tours. Staff is still waiting to hear back from the City Council, so there will be no tour on April 16th. Staff would contact Commissioners when a date for the tour has been arranged.

Mr. Cohn announced that the City's Volunteer Breakfast will be April 16th at 7:30 a.m. in the Shoreline Room of the Shoreline Community Center.

APPROVAL OF MINUTES

The minutes of March 4, 2010 were approved as amended.

Commissioner Kaje referred to the third paragraph on Page 18 of the March 18, 2010 minutes and suggested additional language be added to read, "Staff presented a new memorandum to the Commission, dated March 18, 2010, in which Ms. Mosqueda reversed her previous opinion." Chair Wagner questioned if the Commission actually verbalized the contents of the new memorandum that was presented. She suggested the minutes could mention that a new memorandum was introduced, but perhaps it would not be appropriate to provide details about the contents of the memorandum. The memorandum has been included as part of the record. Commissioner Kaje expressed his belief that it would be relevant to add the additional statement, and Commissioner Broili concurred. The Commission agreed to make the change as put forth by Commissioner Kaje.

The March 18, 2010 minutes were approved as amended.

Commissioner Kaje referred to the first paragraph on Page 2 of the special meeting minutes of April 1, 2010 and requested an additional sentence be added to read: "Mr. Tovar thought that a memorandum had been prepared on this topic, and that it would be shared with Commissioners." The remainder of the Commissioners concurred with the change.

The April 1, 2010 minutes were approved as amended.

GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, said he was present on behalf of People with Disabilities to invite the Commissioners and the public to come and cheer on the Special Olympics on Saturday, April 24th, at the Shoreline Stadium.

STAFF REPORTS

Development Code Amendments

Mr. Cohn said the purpose of this study session is to prepare the Commission for a public hearing on the next set of Development Code amendments at their May 6th meeting.

The staff and Commission reviewed the proposed amendments as follows: *(Note: This section does not represent a chronological record of the Commission's discussion. Instead, the discussion was grouped under each of the section categories.)*

- **Category 1 – Amendments based on the need to codify an issued Administrative Order**

  Section 20.30.680 – Appeals. Mr. Szafran referred the Commission to new information staff just received from the City Attorney. He explained that the proposed amendment would correct a conflict with the State Law requiring that SEPA appeals be consolidated with the pre-decisional hearing if one is held and also be heard by the same hearing body or officer. At this time, SEPA appeals are heard by the Hearing Examiner in all cases, but the pre-decisional hearings are held by the Planning Commission for most Type C Actions. In addition, the proposed language would remove the administrative appeal for the Determination of Non-Significance (DNS) for Type C Actions where the Planning Commission makes the recommendation after the hearing. The amendment also includes a change in policy to allow substantive appeals for only those Type C Actions when the Hearing Examiner hears the pre-decisional hearing.

  Chair Wagner clarified that the proposed amendments are intended to adopt what is already State Law; not something the City is trying to augment with their own policy. Mr. Szafran agreed that most of the amendments in this section are intended to be consistent with State Law. However, the amendment that would allow substantive appeals for only those Type C Action when the Hearing Examiner hears the pre-decision hearing is actually discretionary.

  Commissioner Behrens suggested it would be helpful for staff to provide information to illustrate how an appeal to a SEPA determination would be processed based on the proposed language. Mr. Cohn agreed to provide written illustrations of the appeal process for Type A, Type B and Type C Actions. Commissioner Kaje expressed his belief that the proposed language is very confusing to understand. A diagram that goes through the different types of actions and a few different scenarios of appeals would be helpful for both the Commissioners and the public.

  Chair Wagner summarized that the Commission would continue their discussion regarding this amendment after staff has provided examples and other clarifying information. Mr. Cohn invited Commissioners to forward their additional questions to staff so a response could be provided prior to the public hearing. He said staff would request a representative from the City Attorney's Office attend the public hearing, as well. Commissioner Kaje summarized the Commission's expectation that staff would provide flow-chart diagrams to walk the Commission through the different types of decisions and the appeal processes that could come up. This information would be provided to the Commissioners as soon as possible so they can review the information and forward their questions to staff prior to the hearing.

- **Category 2 – Minor amendments that clarify existing language.**

  Section 20.20.016.D – Definitions. Mr. Szafran said this amendment would add a new definition for "detached." and would alter the definition of "director" by adding "or designee."

  Section 20.20.046.S – Definition. Mr. Szafran said this amendment would provide new definitions for the terms "secure community transitional facility," "senior citizen affordable housing," and "senior citizen assisted living."

Table 20.30.060. Mr. Szafran explained that this proposed amendment would remove the street vacation process from the Development Code since the City's current process conflicts with State Law. The actual procedures are identified in Chapter 12 of the Shoreline Municipal Code (SMC).

Section 20.30.070 – Legislative Decisions. Mr. Szafran advised that this amendment would remove the words "open record" before public hearing. He explained that every public hearing is open record, so the phrase is repetitive. Chair Wagner noted that the term "open record" makes a distinction between legislative and quasi-judicial hearings. Presuming the two types of hearings are clearly defined, all quasi-judicial hearings should be referred to as open record public hearings.

Section 20.30.150 – Public Notice of Decision. Mr. Szafran said this amendment is intended to make it clear that notice of decision will be posted and published for all Type B and C Actions, and not just site-specific proposals.

Section 20.30.160 – Expiration of Vested Status of Land Use Permits and Approval. Mr. Szafran explained that the proposed amendment would add "master development plans" to the "subdivisions" section because master development plan permits have different vesting timelines.

Vice Chair Perkowski referred to the first sentence and questioned the use of the word "shorter." He observed that shoreline permits, under the Washington Administrative Code (WAC) are for a five-year duration. Mr. Cohn agreed to research this issue further. He said he suspects there are some permit durations that are longer, and the term "shorter" may have been intended to reference "different."

Section 20.30.460 – Effect of Changes in Statutes, Ordinances, and Regulations Rezones. Mr. Szafran said this amendment would change the title from "Effect of Rezones" to "Effect of Changes."

Commissioner Kaje said he is confused by the choice of the proposed new title. He suggested that since this section is about vesting of final plats, it should be called such. He emphasized that the language is specific to the platting process. Therefore, the title of the section should not imply a broader applicability of changes in statutes that could potentially be applied to something else. This section pertains to a narrower set of issues than what the new title suggests. Mr. Cohn agreed to talk with the person who proposed the amendment to see if a different name would be appropriate.

Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria. Mr. Szafran said this amendment is intended to reduce wordiness and provide consistency with other code language regarding dedications (specifically to Chapters 20.60 and 20.70 of the SMC).

Commissioner Broili referred to Section 20.30.410.D.2 and asked if the language allows for the insertion of low-impact development protocol and site development requirements. Mr. Szafran clarified that the language focuses the requirements located in 20.70 SMC (Engineering and Utilities Development Standards) and would allow for the insertion of low-impact development protocol and site development standards.

Commissioner Kaje said it appears that striking Item 1 in this section would eliminate the City's ability to require dedication of land for parks and open space. He observed that Item 2 speaks to adequacy of public facilities (utilities, stormwater, etc.) and says nothing about parks and open space. The new Item 1 says the City Council may approve a dedication of park land, which generally applies to cases related to critical areas or the preservation of park land. He summarized that the proposed amendment would lead to elimination of the City's ability to require dedication of land in a development for parks and open space. If that is the case, he would not support the amendment. He recalled that in recent months, the Commission has talked a great deal about having open space as requirements or incentives for development.

Mr. Cohn explained that there was concern that the City should only require dedication of certain land if there are impacts and the City can show requirement. Item 1 would be deleted and replaced with Item 2 so the City could work with an applicant who wants to dedicate park land.

Commissioner Kaje said that if the intent is to remove the ability for the City to require dedicated land for parks and open space, the amendment should not be considered a clarifying amendment. It would be a more substantive change, and the Commission must have a more substantive discussion about the amendment before it is moved forward.

Commissioner Behrens suggested the Commission review Snohomish County's language to see what they require from their developers to create parks as a function of the number of units built. Mr. Cohn said staff's concern is related to nexus and impacts. If a developer is doing a subdivision for less than 15 units, it would be hard for the City to come up with a reason to dedicate a significant amount of park land. The issue would be different if there were large tracts of land in the City to accommodate significant subdivisions. Commissioner Behrens said that if the language is deleted as proposed and a large parcel of land (maybe Fircrest) came open to residential redevelopment, the City would not have the ability to require the developer to provide open space or park land. Mr. Cohn said he believes the City could use the existing substantive SEPA authority to require the developer to provide open space.

Section 20.30.200 – General Description of Appeals. Mr. Szafran said the code is currently silent on how Type A decisions are appealed. The proposed amendments would clarify how these appeals happen.

Section 20.30.740 – Declaration of Public Nuisance and Enforcement. Mr. Szafran explained that this amendment would complete cross references to the SMC.

Section 20.50.030 – Lot Width and Lot Area Measurements. Mr. Szafran said this amendment includes all easements within the minimum lot width and lot area measurements.

Section 20.50.110 – Fences and Walls Standards. Mr. Szafran said this amendment makes reference to the Engineering Development Guide (SMC 20.70).

Chair Wagner inquired if this proposed amendment would relate to all zones, or to residential zones only. Mr. Szafran answered that the language is found in the single-family residential section of the code.

Vice Chair Perkowski referred to the note in Item A and questioned the purpose of recommending a maximum height for fences or walls. Mr. Szafran replied that the City currently allows six-foot fences in front yards in residential zones, but they would prefer that these fences be shorter in height. Mr. Cohn agreed to seek additional clarification and provide feedback at the Commission's next meeting.

Section 20.50 – Thresholds. Mr. Szafran advised that because there is a proposal to change all of SMC 20.70, all references to 20.70.030 would be changed to 20.70 in all sections that related to thresholds.

Section 20.50.470 – Street Frontage Landscaping Standards. Mr. Szafran explained that the current language in Sections A and B are ambiguous and fragmented, and changes have been proposed to make them read better. Section C would be amended to eliminate the technical standards. It would also point to the Engineering Development Guide (SMC 20.70) to find out how treatments for street trees and landscaping are handled. Section D would be replaced since the sight-distance criteria are part of the technical standards in the Engineering Development Guide (SMC 20.70). A new Section D would be added to clarify the intent.

Commissioner Kaje said he is confused about the proposed language in Section 20.50.470, and he is a little worried about eliminating the technical standards in Item C so they can be dealt with by the Engineering Development Guide in SMC 20.70. He said it seems that the issue of street trees and trade offs between the various options would be an important element of the Development Code and something the Planning Commission should have a voice in because the Engineering Development Guide can be changed quickly and without any public input. Mr. Szafran said the intent behind Item C was to put the landscaping that is required within the City's right-of-way into the Engineering Development Guide (SMC 20.70), which addresses everything within the City's right-of-way. Commissioner Kaje noted that the proposed language is not phrased to apply to rights-of-way. Instead, it is phrased as frontage landscaping between the building and the property line. He suggested it would be helpful for staff to provide a picture to illustrate how this particular code change would be implemented. Mr. Szafran agreed to provide a graphic illustration, as well as more clarification about the proposed amendment. Chair Wagner agreed with Commissioner Kaje's concern that the Engineering Development Guide could be amended through a process that is not visible to the Planning Commission. She recalled that the Commission has heard a lot about trees and frontage improvements over the past several months.

Staff displayed the current language found in Section 20.30.410. Commissioner Kaje said the changes appear to be substantive and alter the intent of the section. The original version says that landscaping can be substituted with trees under certain conditions, and the new version says that landscaping can be reduced in certain types of areas. It eliminates reference to trees, per say. He

suggested the Commission needs more discussion and visual information to clarify the proposed changes.
Commissioner Behrens recalled that Mr. Logan came before the Commission to speak about a lot that was established in a residential neighborhood that was used for storing equipment. He specifically talked about compatibility. He referred to Item B, which requires a 20-foot width of Type II Landscaping along the property line for non-residential development, including institutional and public facilities in residential zones. He requested clarification about how this requirement would be applied. Mr. Szafran clarified that the 20-foot width of landscaping would only be required on the street front and would not apply to any of the other property lines. Commissioner Kaje noted that other aspects of the property boundary are dealt with elsewhere in the code. Mr. Cohn emphasized that the proposed amendment is intended to clarify, not change, the existing requirement.

Commissioner Broili expressed concern that, as proposed, Item C would allow for a reduction in landscaping rather than just substituting types of landscaping. He suggested this would be counterintuitive to good stormwater management, aesthetics, etc. He said he does not see the value in reducing the landscaping requirement.

Commissioner Kaje reiterated that he is concerned that the proposed amendment represents a significant policy change. Instead of allowing developers to exchange trees for landscaping, it would allow for an actual reduction in the amount of landscaping. He said he is also concerned about moving the requirements to the Engineering Development Guide because it would take the issue out of the Commission's purview. He suggested the Commission flag this item for additional information and discussion. The Commission and staff agreed that would be appropriate.

Mr. Cohn said using the word "reduction" instead of "substitution" was intended to result in more landscaping. Using the word "substitution" appears to require no frontage landscaping as long as a developer does certain things. The proposed language would allow the landscaping to be reduced, but not eliminated. Commissioner Kaje reminded the Commission that the City has goals related to trees and tree canopy, etc. It appears the existing language is stronger in support of trees.

Chair Wagner pointed out that if there is a discrepancy between the Engineering Development Guide (SMC 20.70) and the Development Code, the Development Code would be applied. Mr. Cohn clarified that the Engineering Development Guide is applicable to things within the right-of-way only, so there would be no conflict. However, questions raised regarding tradeoffs, etc. are legitimate. Commissioner Kaje said it would be helpful to have a clear explanation about the roles of the Engineering Development Guide and the Development Code.

Commissioner Kaje referred to the proposed new language for Item D, which appears to say that one way to provide frontage screening is to have storage areas located within underground or structured parking. He suggested the paragraph needs to be rewritten for clarification. Mr. Cohn agreed to reconsider the language to make it clearer.

Chair Wagner also referred to the new language for Item D and recalled there is a site in Shoreline with two commercial developments with a 4-foot wall between them. This requires people on one site

to walk all the way around the wall to reach the other site. As they consider this language, they should think about whether this type of requirement is appropriate or not. Commissioner Broili agreed it is important to provide free-flow access between commercial businesses. Mr. Szafran said the 4-foot wall was intended for the street frontage rather than between the businesses. Chair Wagner said this would still block a pedestrian from being able to walk on the sidewalk to access both businesses.

Commissioner Esselman questioned why Item A only requires a 10-foot width of landscaping rather than a percentage of the lot. Mr. Szafran clarified that the 10-foot width of landscaping would be 10 feet back from the sidewalk along the entire length of the street frontage. Mr. Cohn said an applicant could always provide a greater depth of landscaping.

Commissioner Moss referred to Item C, which deletes multi-family, office and industrial zones. She asked if these zones are addressed in other areas of the code. Commissioner Kaje clarified that the reduction provision would only apply to commercial zones, except in the MUZ Zone. Mr. Cohn agreed that no reduction would be allowed in the other zones.

Section 20.50.480 – Street Trees Landscaping within the Right-of-Way. Mr. Szafran explained that technical specifications for tree replacement Best Management Practices are part of the standards contained in SMC 20.70, and the provisions in this section conflict. In addition, the term "trees" would be replaced with "landscaping" to allow for alternative forms of amenity treatments based on road design."

Commissioner Kaje said he understands that in some cases and in some places, the City might want flexibility around the type of landscaping, but it appears the proposed amendment would set the stage for having less trees rather than more trees. He reminded the Commission that the City is trying to obtain goals around urban canopy, etc., and the proposed language would be counterproductive.

Chair Wagner suggested it would be helpful for the Commission to have a copy of the Engineering Development Guide as they review the amendment in the future. Commissioner Kaje said he understands the need for flexibility, and the justification provided is that replacing the word "trees" with "landscaping" would allow for alternatives of amenity treatments based on road design. He said it appears the proposed language is geared towards eliminating requirements for street trees. While he can understand the Public Works Department's concerns about street trees and their interference with utilities, etc., he does not believe the proposed language is the right approach for addressing the issue. He said he would like more information about where and how this provision would be applied. Mr. Cohn agreed to provide additional information.

Commissioner Behrens expressed concern about adopting development code amendments that would limit what can be done with the tree code. They could actually create a conflict. Mr. Szafran explained that the tree code would not address trees within the rights-of-way. Commissioner Kaje agreed that is the scope of the current tree code. Commissioner Behrens referred to discussion within the City about allowing people to choose other places to plant replacement trees. If this is something that could possibly be done within the right-of-way, the proposed language could be counter to the

tree code. Commissioner Kaje cautioned against the City taking on a more flexible approach for tree requirements within the public rights-of-way while placing stricter codes on private properties. He expressed his belief that the Development Code should reflect the goals laid out in the Comprehensive Plan.

Commissioner Broili said that if Item C is adopted, he would want the language to replace "alternative forms" with "alternative permeable forms." He reminded the Commission that part of the City's goal is to keep landscapes as permeable as possible. "Alternative forms" can mean almost anything.

Commissioner Behrens said there might be places within the right-of-way where it might not be possible to plant trees, and alternatives forms of landscaping could be more appropriate. He said his concern is aimed at not allowing people to avoid planting trees. However, if there is a situation where they can't plant a tree, he felt it would be appropriate to use an alternate form of landscaping. Again, he suggested the Commission postpone their recommendation on this amendment until the tree code has been adopted.

Mr. Cohn agreed there may be places where trees cannot be planted within the rights-of-way, and the proposed amendment is intended to address these situations. He agreed to provide pictures to illustrate the intent. Commissioner Broili agreed there are probably places where trees are not appropriate, but the City should require an applicant to maintain, as much as possible, the functional qualities that a tree might bring to the site.

Commissioner Behrens said it would be helpful to provide some type of explanation in the proposed language to make it clear why a street tree might not be appropriate. There should also be a standard for making these decisions.

Vice Chair Perkowski expressed his belief that the changes proposed for Item A appear to be substantive. Mr. Cohn agreed to research the change and provide clarification at a future meeting.

Section 20.50.520 – General Standards for Landscape Installation and Maintenance. Mr. Szafran said this section was rewritten to add clarity and generally read better.

Commissioner Esselman questioned the use of the words "site" and "sight" throughout the document. She specifically referred to Sections 20.50.110, 20.50.470, and 20.50.520. Mr. Cohn replied that Sections 20.50.110 and 20.50.470 are correct, but the term is used incorrectly in Section 20.50.520.

Commissioner Broili referred to Item O, and suggested that from an arboreal perspective, the term "root mat" should be changed to "root zone." He pointed out that while the third sentence states that the root mat zone is assumed to be the same as the canopy, that is not the case. He suggested this sentence be replaced with the following: "Root zone width shall be determined using the International Society of Arboriculture's (ISA) recommended calculation for identifying tree protection area as spelled out in Chapters 6, Subsection: Identification of Tree Protection Zones (Pages 72 to 74) of a book entitled, Trees and Development: A Technical Guide to the Preservation of Trees During Development by Nelda Matheny and James R. Clark. He summarized that root zones are generally

larger than tree canopies and are measured by tree caliper, the health of the tree, and the age of the tree. The book spells out a formula for calculating the root zone.
Commissioner Kaje referred to the second to the last sentence. He noted that the current language states that mature tree and shrub canopies may reach an above ground utility, and the proposed language states that they may not. He asked if the proposed amendment would result in a massive project of topping trees so they no longer reach above ground utilities. He understands the desire to avoid situations where trees touch the utilities, but there are already many situations of this type in the City. He questioned the implication of the change. Mr. Cohn said he is guessing the intent of the proposed amendment is to say that new trees that are installed should be of a variety that do not grow very tall. However, he agreed the language does not make the intent clear.

Section 20.60.140 – Adequate Streets. Mr. Szafran advised that this proposed amendment would add the word "new."

Commissioner Behrens referred to a scenario where five developments go into a certain area, and each one produces 19 trips. This would result in 95 additional trips in this one area. As proposed, none of the developments would be required to submit a traffic study. He said he would prefer to use level of service at an intersection rather the number of trips to identify when a traffic study would be required. While 20 trips may not seem like a lot of additional trips, the multiple affect of each of the developments could eventually impact the intersection.

Mr. Cohn said it would be difficult and unrealistic to require all developments to do this level of analysis regardless of the size. While the Traffic Engineer has indicated that 20 is a good number, the Commission may want to consider a different number. However, using level of service could place too great a burden on the small developments.

Commissioner Broili agreed with Commissioner Behrens that the proposed language allows for "the death of a thousand cuts." As long as a development stays under 20 trips, no traffic study would be required. However, there could be numerous developments in the area that all stay under that limit, and traffic problems could result. He questioned what a more equitable solution might be. Perhaps the City could track level of service on an individual basis so that when new development is proposed that exceeds the current situation in terms of potential traffic flow, the City would have some idea of what the overall impacts on neighboring intersections would be.

Mr. Cohn agreed that the question of how to deal with concurrency is good and is going to be discussed as part of the Traffic Master Plan Update. He suggested this would be the most appropriate way to address the concerns raised by Commissioners Behrens and Broili. Chair Wagner said that while the concept of requiring each single-family home to do a full traffic study might not be the right solution, perhaps the City could charge each development a fee that is sufficient to deal with systemic problems that result from cumulative development. She agreed that this issue should be addressed within the context of the Transportation Master Plan update. The proposed amendment is specifically related to large remediation of a significant impact.

Commissioner Behrens expressed concern that using a specific number implies that as long as developers stay below the number, nothing would be required. It could become a game for developers to figure out how to stay below the number for one development, and then apply for another development that is just under the number six months later. Mr. Cohn said SEPA would no longer allow this to occur. He summarized that 20 trips equates to an approximately 5,000 square foot building, and is actually a very low threshold.

Commissioner Moss requested clarification of the terminology "during the p.m. peak hour." Mr. Cohn said this would refer to one hour within the range of time between 3:30 to 7:00 p.m. Commissioner Esselman questioned how the City would determine when the p.m. peak hour is. Mr. Cohn said the City would use data from the Institute of Traffic Engineers (ITE) Manual to make this determination, unless the developer has reliable information showing how his/her development would be different.

Commissioner Moss said it appears there is a word missing from the second sentence in the section. Mr. Cohn said the sentence should read, "The estimate of the number of trips a development generates. . ."

Section 20.80.110 – Critical Areas Reports Required. Mr. Szafran said this amendment would make it clear that critical area reports are required within all critical areas, even if they are not designated. Most of the critical areas in Shoreline are not designated.

Section 20.80.350 – Mitigation Performance Standards and Requirements. Mr. Szafran said the purpose of this amendment is to include the cost for monitoring when a contingency plan is established.

Commissioner Kaje referred to the third sentence in Item 2 and asked if the required monitoring would be performed by the City. If so, he asked if it would be appropriate to specify what the level of monitoring would be. He suggested an additional sentence be added that states that monitoring would include entry and inspections three times a year. Mr. Szafran pointed out that Item 1 states that the monitoring program would be implemented by the applicant. He agreed to research the proposed language further and provide additional guidance to the Commission. Commissioner Kaje expressed concern that if the applicant is responsible for monitoring the mitigation, perhaps another clause should be added to the language regarding some level of inspection by the City.

- **Category 3 – Amendments that are in direct conflict with State Law and must be changed.**

Section 20.30.180 – Public Notice of Public Hearing. Mr. Szafran said this amendment corrects the public notice time period for open record hearings from 14 days to 15 days.

Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria. Mr. Szafran said the changes to this section are intended to establish time limits for the expiration of preliminary and final approval of subdivisions. He explained that a recent bill signed by the governor establishes new time limits for the expiration of plats.

Commissioner Kaje asked staff to explain the relationship between Sections 20.30.410 and 20.30.460. He suggested that perhaps there is some duplication, and the amendments might add to it. He said he is having trouble understanding the need for Section 20.30.460 in light of Section 20.30.410. Mr. Cohn agreed to research the question and report back to the Commission.

Chair Wagner referred to the last sentence in the section, and pointed out that the City has consistently used the term "public health, safety or welfare." Mr. Cohn agreed to check to see if this change could be made, but he cautioned that the language may be consistent with what was adopted as State Law.

Section 20.30.353.G – Master Plan Vesting Expiration. Mr. Szafran referred to the explanation drafted by the City Attorney to describe the proposed amendment.

Chair Wagner recalled the Commission previously had a significant discussion about vesting and how it would apply to the City's master plan scenarios. She said she would particularly like to know how the proposed amendment would impact plans that are already in place. Would they become grandfathered? She recalled that the Commission discussed that master plans should require Planning Commission review after 10 years. However, the proposed language would allow, but not require, this to occur. Chair Wagner asked staff to clarify whether State Law allows the City the discretion to require Planning Commission review. If so, the Commission could discuss this as a policy issue. If review is not required, the Commission should discuss how it would be initiated. Mr. Cohn said his understanding is that the City could initiate a review. He said the City Attorney expressed concern that a review may not be appropriate or necessary if the master plan has not been changed. He felt that perhaps the word "shall" was a little too constraining, recognizing that the City would have the ability to initiate a review. In addition, a review would be required if the applicant requests an amendment to the plan.

Chair Wagner suggested it still might be appropriate to require a review after 10 years even if nothing in the master plan has changed because certain elements of the City's code may have changed during that time period. She said it is important to have the right triggers in place to initiate reviews when necessary and appropriate. Mr. Cohn suggested the City might not want to be tied to a specific requirement as to what would trigger a review.

Commissioner Kaje said it seems that after 10 years there should at least be an opportunity for the Commission to decide whether or not it would be appropriate to review the master plan again. He suggested the Commission have a role at the ten-year point. The first level could be an evaluation (staff driven but required) that looks at potential issues the Commission may want to consider. At that point, the Commission could determine the master plan is consistent enough that no additional review is necessary. Mr. Cohn agreed to seek additional feedback from the City Attorney.

Commissioner Broili noted that building codes and technologies are rapidly changing because of numerous environmental issues. He agreed that 10 years is not too short a period of time for the Commission to review a master plan again to make sure it is consistent with current code requirements and available technology.

Commissioner Behrens questioned what would be required and who would pay for the review. Would this cost be covered as part of the original permit fee? If there would be an additional fee for the applicant in the future, this should be made clear up front. In addition, the code should be clear as to what would be reviewed after 10 years. For example, determining compliance with environmental sustainability could require an extensive review. Chair Wagner agreed that it would be contrary to the City's goal of making the codes requirements predictable for developers to require an evaluation that holds developers accountable for addressing all of the changes that have occurred in code, technology, etc. Mr. Cohn agreed these are important questions to consider.

Vice Chair Perkowski referred to the last sentence of the section, which states that if changes are recommended, staff shall initiate a major amendment to achieve consistency unless the revision is approved by the owner. If changes are recommended and the owner agrees, it appears the changes would be incorporated into the master plan without an opportunity for public comment He summarized that the section needs to clarify how the changes would become part of the master plan. Guidance must also be provided to distinguish between minor and major changes. Mr. Cohn agreed that some public process should be required, and he agreed to provide information about what that might look like.

- **Category 4 – Policy changes that require greater analysis by the Planning Commission.**

Section 20.40.210 – Accessory Dwelling Units. Mr. Szafran said the proposed amendment would allow detached Accessory Dwelling Units (ADU) on any lot, regardless of size. Currently, detached ADU's must be on lots that are at least 10,000 square feet in area. The recommendation comes from various discussions throughout the City (Vision Statement and Housing Strategy) and most recently the Southeast Neighborhood Subarea Plan, which allows detached ADU's on lots smaller than 10,000 square feet. He explained that, currently, the City allows attached ADU's on any property, regardless of lot size.

Commissioner Broili said he is in favor of the proposed amendment. However, he is concerned about how the City would control the size and visual impacts associated with ADU's. He asked if this would be managed by requirements that are located elsewhere in the code. Mr. Szafran answered affirmatively and explained that the floor area of an ADU can be no larger than 50% of the living area of the primary residence. Mr. Cohn explained that with a relatively large main structure, the ADU could be as large as half of that. If the main structure is small (as an example, 800 square feet), this change would allow a detached ADU of up to 1,600 square feet, assuming all the setbacks, lot coverage, parking, etc. could still be met. However, a 1,500 square foot ADU in a neighborhood of small homes on small lots would not likely fit. Mr. Szafran noted that a 1,500 square foot addition would be allowed for a single-family home to provide additional living space. He questioned the difference between this space being detached or attached.

Commissioner Kaje said he also supports the intent of the proposed amendment because it adds another option for housing choice. However, he asked if the proposed language would allow an older garage that is non-conforming with the setback requirements to be converted to an ADU. He

suggested the code should stipulate that only structures that conform to the setback requirements could be converted to ADU's. He suggested staff propose language to address this issue if it is not covered by the current code language. Mr. Cohn agreed.
Commissioner Behrens asked how addresses would be established for separate residences on the same lot. Mr. Cohn said the City has a policy for assigning appropriate addresses. He noted that condominiums are developed on a single lot, and they have separate addresses. Commissioner Behrens noted that someone on the property calls for emergency services, there must be some way for the driver of the emergency vehicle to know which residence to go to. Chair Wagner noted that this process is clearly outlined in Section 20.70 of the Code, which includes language to address safety issues.

Section 20.30.350 – Amendment to the Development Code (legislative action). Mr. Cohn explained that the City Attorney pointed out that Criteria 2 and Criteria 3 are identical and duplicative. If a proposal is not adverse to the public health, safety and welfare, it would be in the best interest of the citizens and property owners. As proposed, Criteria 3 would be eliminated. He noted that Criteria 3 is judgmental in nature and difficult to address.

Commissioner Kaje agreed that it is difficult to implement Criteria 3, but he expressed his belief that "public health, safety and welfare" is not at all the same as "best interest of the citizens." "Best interest" speaks to broader goals for the community and the broader interest of individual residents. "Public health, safety and general welfare" is a threshold term that is often used to trigger things like the ability to pass emergency ordinances or take emergency actions. If the City Attorney wants to move forward with the change, Commissioner Kaje requested that staff develop a more convincing justification.

Section 20.30.760 – Notice and Orders. Mr. Cohn explained that the existing language for dealing with notice and orders is archaic. He referred to Item 3 and explained that if the City sends something out by certified mail and the person does not accept it, there can be no notice that they accepted it. To address this issue, the proposed amendment would allow the City to also mail a copy of the letter, postage paid, by ordinary first class mail. Chair Wagner suggested the language is unclear that the first class letter would be sent out subsequent to the City receiving notice that the certified letter was not accepted. Mr. Cohn said the word "may" was used to make it clear that this is an optional approach if the first letter is not accepted. Mr. Szafran said the word "may" is also used because the code enforcement officer has the option of going on site to hand deliver the letter or post the notice.

Mr. Cohn said the Planning Director felt the City should not be limited by the specific things outlined in Item H in order to revoke or modify a Notice and Order. The proposed language would provide more flexibility. Commissioner Kaje said he would not be in favor of eliminating the last two sentences, because it is the only language that tells the City they can actually modify or rescind an order. He said that while he understands the argument of flexibility, it is also appropriate to have a certain expectation of how the City would notify someone about a change to the Notice and Orderr. He said he is not comfortable with allowing the Director to rescind or change a Notice and Order without going through a specific process. He asked staff to provide an explanation of why the last

two sentences should be deleted, as well as a better explanation of how the Director would rescind or change an order if it is not defined anywhere.

Section 20.30.770 – Enforcement Provisions. Mr. Szafran said this proposed amendment would increase the penalties for severe ecological impacts from $1,000 to $2,000. The new Item 3 would be an additional penalty of $2,000 for any code violations not specifically related to ecological impacts. Commissioner Broili asked if the two penalties could be cumulatively assessed. Chair Wagner said that was her understanding.

Chair Wagner requested clarification of the relocation assistance fund referenced in Item 5. She noted that much of the language in this section is related to ecological impacts, and she questioned whether the relocation assistance fund fits within the context of this section. Mr. Cohn said the relocation assistance fund is an enforcement provision. Commissioner Kaje referred to the language in Section 20.30.770 that comes before the proposed amendments, which clarifies that the language applies to certain types of infractions, misdemeanors, etc. He suggested the packet is missing sufficient context to make the changes clear.

Section 20.40.400 – Home Occupations. Mr. Szafran said the proposed amendment is based on a discussion between the Assistant Director of Planning and Development Services and the City Council. At this time, the City recognizes the desire and/or need of some citizens to use their residences for business activities, as well as the need to protect the surrounding areas from adverse impacts generated by business activities. The proposed amendment would change the number of employees allowed in a home occupation from one to two. It would allow no more than two vehicles, and the size of vehicle allowed for a home occupation would be changed from a 1-ton vehicle to a vehicle that is no more than 14,000 pounds, 9 feet high, and 23-feet long.

Commissioner Kaje suggested that rather than using a weight, length and height measurement, a class system would be a better approach. Truck manufacturers have classes of truck vehicles. He provided information illustrating the various classes and the gross weights allowed in each class. He also provided a website address for staff to obtain additional information.

Mr. Szafran referred to Item H.1, which would allow no more than two vehicles for the home occupation. He noted that most of the code enforcement complaints associated with home occupations are related to the number of vehicles. The proposed amendment would make the code more permissive, but it might raise concerns amongst some citizens. Commissioner Kaje said citizen concerns could be directly related to the size of vehicles allowed, and it appears that the proposed language would rule out large delivery trucks.

Commissioner Behrens pointed out that Item H.1 also prohibits vehicles from parking within the required setback areas or on adjacent streets. He said he lives on a busy street where cars and large trucks park, but it does not really impact him if someone parks a truck legally on their own lot. The problems occur when people park the vehicles on the street. This results in less visibility and more congestion and traffic accidents. He summarized that while limiting the size of a vehicle is important, the most important thing is to restrict the vehicles from parking on the street. If the number of people

and vehicles can be accommodated on site without imposing on the neighbors, he questioned why the City should limit the use. He suggested the City should encourage people to have businesses in the neighborhoods. He summarized that he would like the language to be structured in such a way that it looks at a balance between the imposition on the neighborhood and encouraging the idea of stimulating employment and jobs in the City.

Commissioner Esselman referred to Items A, which limits all activities of a home occupation to the indoors, except for those related to growing or storing plants used by the home occupation. She questioned if the Commission should consider limiting the size of the exterior use. Mr. Cohn said that would be possible, but he noted that some people may find the plants attractive. Commissioner Esselman agreed but said that boxes and tubs of plants might not be as desirable to surrounding property owners.

Section 20.40.600 – Wireless Telecommunication Facilities/Satellite Dish and Antennas. Mr. Szafran advised that the proposed amendment would delete Item 4.c., which requires the City to provide notice for the facilities when located within the public rights-of-way. He explained that these facilities require a Type A Permit, which is an administrative review. Either an application meets the code criteria or not, and public comments would have no impact on the decision. In addition, Item 2 would also be changed because it is structurally impossible to extend a pole without increasing its diameter.

Commissioner Kaje said he does not believe it would be structurally impossible to extend a pole without increasing its diameter. Mr. Cohn explained that the pole extension must be wider since it must fit on top of the existing pole. Commissioner Kaje suggested that the proposed language appears to have been written for a particular type of installation that may be common at the current time. Mr. Cohn agreed to provide a diagram to illustrate the intent of the proposed language.

Section 20.50.040 – Setbacks – Designation and Measurement. Mr. Szafran explained that the proposed amendment would allow uncovered stairs or ramps less than 3.5 feet in height and 44 inches wide to project to the property line subject to the site distance requirements. Mr. Cohn referred to the diagram provided by the Commission to illustrate a situation where a house is right at the setback line, and the bottom of the slope is at the bottom of the property line. As currently written, the code would not allow stairs from the house to the sidewalk because the area is part of the setback. Commissioner Broili questioned why the height of the stairs in the diagram appears to be measured from below the grade. Mr. Cohn agreed to provide more information about why the proposed height was set at 3.5 feet and how the height would be measured.

Chair Wagner asked if this has been an issue with building permits in the past. Mr. Cohn said there has been an issue on at least one property. Chair Wagner asked if there are other tools to deal with these situations, such as a variance. Mr. Cohn said the only other tool would require the stairs to leave from another entrance and come down another way. Commissioner Moss said all the houses across the street from her are located on a hill. They must use stairs to get from the sidewalk to the entrance of their homes, and there is no other way to provide the access.

Commissioner Esselman suggested the language is intended to allow for a steeper set of stairs within the setback, if necessary. Mr. Cohn agreed to provide additional information.

Section 20.50.310 – Exemptions from Permits. Mr. Szafran said the purpose of this amendment is to allow for the removal of up to 3,000 square feet of noxious weeds and invasive vegetation from City property without a permit. Chair Wagner referred to Item 6.c and suggested that rather than specifying the 2005 Department of Ecology Stormwater Management Manual, it may be more appropriate to change the language to read, "the most current version adopted by the City." The remainder of the Commission concurred.

Commissioner Behrens referred to Item 6.d, which references work performed above the ordinary high water mark and above the top of a stream bank. He said he actually worked on group project in a creek to remove vegetation. He noted that Bruner Bogg is below the bank, so removing evasive blackberry bushes would require people to go inside the creek bed. Mr. Szafran reminded the Commission that the list identifies exemptions from the permit requirement. Work within a creek bed would require a permit.

Commissioner Kaje requested further clarification of the first paragraph. As written, it appears that that a permit would only be required if the vegetation is not located on a steep slope. Mr. Cohn agreed that is not likely the intent, and said he would provide clarification.

Table 20.50.390D – Special Residential Standards (continued). Mr. Szafran explained that this amendment addresses parking standards for warehouse and storage uses. As currently written, staff believes these uses are over parked, creating unnecessary parking stalls that are unused and greater areas of impervious surface. The proposed amendment would change the parking requirement from .9 to .5 per 1,000 square feet of storage area. Chair Wagner inquired how staff identified the proposed new requirement. Mr. Szafran said the proposal is based on what staff has observed on properties in the City.

Commissioner Behrens expressed his belief that the proposed requirements should focus on the number of parking spaces needed to accommodate the office spaces associated with the warehouse and storage uses. Commissioner Kaje said the parking would not just be limited to the office use. Parking must also be provided for the warehouse use, as well. Mr. Cohn said 3 or 4 spaces per 1,000 square feet of office space is a typical requirement.

Section 20.50.430 – Non-motorized access and Circulation –Pedestrian Access and Circulation – Standards. Commissioner Moss asked for clarification about why staff is proposing to reduce the requirement for pedestrian paths from the street front sidewalk to the building entry from 60 inches to 44 inches wide for commercial and multi-family residential structures. Mr. Szafran explained that the proposed language would be consistent with the current ADA requirements. Mr. Cohn added that the width does not refer to the sidewalk, itself, but the path from the sidewalk to the building entry. Commissioner Kaje summarized that the ADA requirements are 44 inches, and the current code requires more than that.

Commissioner Broili asked how ADA standards would be implemented on private property. Mr. Cohn noted that this language would only apply to commercial and multi-family development. Commissioner Broili noted that the language, as proposed would require at least three-foot wide sidewalks for single-family and duplex developments. Mr. Szafran noted this is already a code requirement, and the proposed amendment would just replace "36 inches" with "three feet. Mr. Cohn agreed to provide further clarification about ADA requirements for single-family and duplex developments.

Chapter 20.70 – Engineering and Utility Development Standards. Commissioner Kaje said that, without knowing exactly how the language is being changed, he is not sure going through the entire section as a whole would be the best approach. Chair Wagner agreed that this approach could result in the Commission questioning language that was not intended to be changed. Mr. Cohn felt it would also be appropriate to postpone the discussion of Chapter 20.70 until staff members who worked on the proposed amendments are present to answer the Commission's questions. Commissioner Kaje observed that the proposed language relates to items discussed in other amendments such as dedication of open space, street trees, etc. Absent more information about what is being changed, he did not feel a Commission discussion would be productive at this time.

Mr. Cohn announced that the amendments to Chapter 20.70 have been advertised for a public hearing on May 6th. However, at the beginning of the May 6th meeting, the Commission could announce that while they would discuss the proposed changes and accept public comments, they would not take action on Chapter 20.70. Chair Wagner summarized that the Commission could take action on the other code amendments on May 6th and then continue their study session on Chapter 20.70. The Commission agreed that would be appropriate.

Commissioner Kaje observed that the Commission spent considerable time just trying to understand the context of some of the proposed code amendments. He suggested that when the next batch of Development Code amendments are presented to the Commission for review, it would be helpful to provide a better idea of how the proposed amendments fits within the overall context of the Development Code.

With the exception of Chapter 20.70, the Commission agreed they were ready to move the proposed amendments forward to a public hearing. Commissioner Kaje reminded staff that the Commission identified several amendments for which a diagram would be helpful to clarify its intent.

PUBLIC COMMENT

Wendy DiPeso, Shoreline, referred to the proposed amendments to Section 20.40.400 (Home Occupations) and agreed with Commissioner Behrens' comments about encouraging businesses to develop in neighborhoods, but structuring the code to minimize the impact. She suggested the City code allow for an administrative exception when a property owner is meeting the spirit of the code, but perhaps not the letter of the code. She referred to the situation that triggered the proposed code amendment. A gentleman converted a drug house into a very clean operation, and there have been no complaints from surrounding property owners. Someone from the City came out to the area in response

to a complaint about a neighbor who had junk cars. The staff person noted a delivery truck that had come to the home occupation to load and registered a complaint as a citizen of Shoreline. Ms. DiPeso expressed her belief that the gentleman operating the home occupation is fulfilling the spirit of the law in that the neighbors love him and his business. However, he was outside of the letter of the law because he had two vehicles parked on site. The proposed code amendment would correct this situation and allow the gentleman to be code compliant.

Ms. DiPeso summarized that she is looking for equitability, especially in today's economy. The last thing the City needs is for this business to head north to Snohomish County, which is what the owner is contemplating doing. Relocating would require him to lay off part-time seasonal employees from the Shoreline area. She noted that the owner does have the potential of eventually moving into a larger commercial space, and in another county he did just that that and ended up with 40 employees. She would like to see 40 more employees from Shoreline hired.

DIRECTOR'S REPORT

Mr. Cohn did not have any additional items to report.

UNFINISHED BUSINESS

Follow Up Discussion of Joint Meeting with City Council

Mr. Cohn recalled that Mr. Tovar met briefly with the Commission after the joint meeting. He invited the Commissioners to share their additional comments with staff.

Commissioner Kaje said he believes there has been good conversation at the joint meetings, and he likes their fairly casual tenor. However, he felt the meetings were too short given how infrequently the two groups meet. He suggested the two groups either meet more often or hold longer meetings. Commissioner Broili concurred.

NEW BUSINESS

Election of Chair and Vice Chair

Chair Wagner advised that, generally, officers are elected and take office annually at the first regular public meeting of the Commission in April. She invited Ms. Simulcik Smith, Commission Clerk, to conduct the election of officers.

Ms. Simulcik Smith opened the floor for nominations for Chair of the Planning Commission.

COMMISSIONER KAJE NOMINATED COMMISSIONER WAGNER AS CHAIR OF THE PLANNING COMMISSION. THERE WERE NO OTHER NOMINATIONS SO NOMINATIONS WERE CLOSED. THE VOTE WAS UNANIMOUS IN SUPPORT OF COMMISSIONER WAGNER AS CHAIR OF THE COMMISSION.

Chair Wagner opened the floor of nominations for Vice Chair of the Planning Commission.

COMMISSIONER BEHRENS NOMINATED COMMISSIONER PERKOWSKI AS VICE CHAIR OF THE PLANNING COMMISSION. THERE WERE NO OTHER NOMINATIONS, SO NOMINATIONS WERE CLOSED. THE VOTE WAS UNANIMOUS IN SUPPORT OF COMMISSIONER PERKOWSKI AS VICE CHAIR OF THE COMMISSION.

Discussion of Possible Planning Commission Retreat

Mr. Cohn said staff's original thought was to schedule the retreat for May 10th, which would be an extra Commission meeting. However, because the Commission has already held a number of extra meetings over the past few months, staff recommends the retreat be scheduled as a special meeting in June or at the regular meeting of June 17th. He suggested the Commission consider the topics they would like to discuss at the retreat. For example, they could talk about their rules for allowing public comment at their meetings. In addition, they could consider some changes to the Commission Bylaws and discuss general ideas for how to make the meetings work better. He invited the Commissioners to share their ideas with staff via email.

Chair Wagner said she is in favor of having a retreat, but she also appreciates that the Commissioners have been required to attend a lot of meetings over the last several months. She reminded the Commission of their earlier discussion about the concept of creating subcommittees for various items. She suggested the retreat also include a discussion about the Commission's future time commitments.

Commission's Work Schedule

Commissioner Broili requested the Commission consider putting forward a Low-Impact Development (LID) work program agenda item to the City Council. To support his request, he emphasized the following points:

- Phase II Cities are required by March 2011 to identify and remove all impediments to LID, yet there is nothing on the City's calendar to address the issue.
- Nationally, LID is becoming recognized as best management practice for stormwater management.
- The LID Phase II Permit is expected to be issued in 2012. Implementation of the new permit would be required within two to three years after issuance. Therefore, LID would be required at some yet unknown level by 2015 for all Phase II Cities.
- Implementation of LID practices shifts costs of stormwater facilities management from city and ultimately the taxpayer to the developer.
- The City should be taking advantage of the economic benefits of these environmental services and over time, reduce Cities operation operational and maintenance costs.
- Requiring LID would protect the City's remaining stream courses while reducing stormwater impacts on Puget Sound.
- The Puget Sound Partnership offers free technical assistance to help cities revise their regulations and development standards to encourage or require LID.

Commissioner Broili suggested the Commission forward a recommendation to the City Council, asking that they make the identification and removal of all impediments to LID one of the City's goals for 2010 – 2011 and direct staff and the Planning Commission to make this a high priority in their work calendar.

Commissioner Kaje expressed his belief that there should be a nexus between many of the items the Commission is currently working on and LID. For example, there are a number of Comprehensive Plan updates in progress, and some master plan developments have been proposed. He said he is often discouraged that the City's current codes do not allow the Commission to adequately address LID. He said he supports the proposal put forth by Commissioner Broili and expressed his belief that the City should get out in front with new LID requirements that are forthcoming. The City should set an example of trying to move forward faster than required by State Law.

Commissioner Behrens agreed with Commissioner Broili's proposal. He summarized that the City would eventually be required to address the issue of LID. He agreed it would be appropriate to identify a plan and approach now, rather than waiting until they are forced to do so.

Mr. Cohn pointed out that the City Council just recently adopted their goals, so it would not be possible to add an additional goal at this point. Rather than asking that the proposal be identified as an additional goal, the Commission could forward a recommendation to the City Council, asking that LID become a City priority and that the issue be added to the Commission and City Council's work programs. Commissioner Broili agreed that the proposal does not necessarily have to be added as an official 2010 City Council Goal, but the work program should outline a schedule for addressing the issue as soon as possible. He noted that numerous other cities in the state are already ahead of Shoreline, and he would like the City to take an aggressive leadership role.

Commissioner Kaje asked for direction about the best process for forwarding the recommendation to the City Council. Mr. Cohn said a formal letter from the Commission to the City Council would be the best approach. Chair Wagner suggested the Commission review their work program at the next meeting to figure out where the LID discussion could fit in. She suggested that Commissioner Broili provide direction about the timeline he anticipates for the project and if it would be appropriate to form a subcommittee to help facilitate the Commission's review and recommendation.

Commissioner Kaje said he sees City staff playing a significant role in this process. He suggested the Commission specifically identify what they want the City Council to do. For example, would it be appropriate to ask the City Council to instruct the staff of the various departments to inventory potential barriers to LID. The Commission should provide clear information about the type of response they would like the City Council to provide. He said he does not see this as primarily the work of the Commission. Instead, the Commission would provide guidance and then hear back from various City departments over time. He cautioned against creating a large work task on a short time frame. However, he agreed with Commissioner Broili that it is time for the City to make a commitment to start tackling the issue throughout City operations.

Commissioner Broili said it is his understanding, in talking to the Department of Ecology and others, that presently, Phase II Cities are required to identify and take action to remove the barriers by March of 2011. While the City would be required to comply with this requirement, there does not appear to be a program in place for addressing the issue at this time. Mr. Cohn asked Commissioner Broili to email a copy of his proposal to staff so it could be forwarded to the Commissioners. He agreed to discuss the proposal with Mr. Tovar, as well as staff from the engineering and surface water groups, and report back to the Commission at their next meeting.

Procedural Protocol for Quasi-Judicial Hearings

Commissioner Broili said he was very disappointed in the way the CRISTA Master Plan approval process occurred. He was particularly concerned about the discussion surrounding the daylighting of potential creeks or piped watercourses. He observed that the Commission received two emails in their packet for that hearing. One was from Jill Mosqueda to Mr. Szafran dated April 23, 2009 in response to an email from a citizen asking a series of questions about the CRISTA Master Plan. In the email response, Ms. Mosqueda expressed her belief that CRISTA should be required to daylight streams that exist on their campus. He expressed concern that a number of the points in the memorandum sat for a year until the issue was raised again by a citizen. At that point, staff presented a last minute email response from Ms. Mosqueda disavowing her earlier comments. He felt this was an extremely inappropriate approach that did not give the Commission an adequate opportunity to respond to the information.

Commissioner Broili referred to the later email from Ms. Mosqueda, which stated that the pipe drainage on the CRISTA site was most likely created before 1953 and that the pipe was fairly deep. He noted these statements are not facts, but suppositions. He reminded the Commission that they must deal only with factual information that can be confirmed and documented. Not only did Ms. Mosqueda's change come at the very last moment of the proceedings, it was not backed up with factual information. He summarized that the issue of daylighting did not get a fair hearing, and the decision was made based on questionable information.

Chair Wagner noted that the initial email from Ms. Mosqueda was not part of the Commission's record until the hearing, when it was submitted by a member of the public. Both of the emails were new evidence introduced at the hearing. She suggested it would be appropriate for the Commission to discuss the best way to respond to new information that is presented at hearings. She recalled that the Commission's recommendation regarding the CRISTA Master Plan represented a compromise, recognizing that not all Commissioners supported every element of the proposal. She recalled that Commissioner Broili indicated at the hearing that he did not feel the issue of daylighting the stream had been adequately resolved, and these comments were included as part of the record.

Commissioner Kaje agreed with Commissioner Broili's sense of discomfort and disappointment with how the information was presented to the Commission. He said he was embarrassed for the process, as well. However, he is just as concerned that the administrative interpretation actually created the strange and difficult issue. He explained that administrative interpretations are issued when there is a gap in the code that cannot be resolved with the existing language. He expressed his belief that the code, as

written, seemed clear. He suggested that apart from encouraging staff to avoid these situations in the future, the Commission should encourage the City Council, via letter, to become aware of how the issue played out.

Chair Wagner noted that the CRISTA Master Plan has not been presented to the City Council yet. She said the amendments made to the March 18th Minutes will help accurately reflect the record that goes before the City Council, and both emails from Ms. Mosqueda would be included as part of the record. She cautioned that because this is a quasi-judicial matter, the Commission does not have the ability to augment the record subsequent to the event. The record, as it has been created, contains information that would lead the City Council to recognize the Commission's concerns. If the City Council asks questions, the Commission could clarify and enhance their understanding. However, they should not attempt to augment the record with subsequent discussions and concerns.

Commissioner Behrens recalled he was the sole person voting against the motion to approve the CRISTA Master Plan, but he never had a chance to explain his reasons. Chair Wagner cautioned that because the minutes from this meeting would be made public and could be reviewed by the City Council prior to their hearing on the matter, it would be inappropriate to comment further until the City Council has had an opportunity to act. Mr. Cohn agreed that caution is in order.

Commissioner Behrens expressed concern that it was deemed appropriate for those who voted in favor of the proposal to discuss the problems and flaws with the process, but it would not be appropriate for him, the sole person voting in opposition, to express his reasoning. Mr. Cohn clarified that the intent of tonight's discussion was to talk about what could be done differently next time to avoid problems. Commissioner Behrens said he needs to do a better job of explaining why he comes to certain conclusions. He should have explained the reasons why he voted no at the end of the hearing, and he regrets not having taken this opportunity.

Commissioner Behrens observed that the Commission often gets involved in heated issues and members of the public come to the hearings with strong feelings. Many times, they end up with the impression that the City is against them. The way the process and procedure works, the developer and the Planning Department tend to work together to make a presentation. While the Commission understands this process, the public does not. It is important for the overall civility of the way the City operates for the Commission to do whatever they can to minimize this oppositional approach. The public should see that the Commission and City Council make decisions based on facts. A citizen should not leave a hearing with the feeling that his/her perspective is any less important than another. It is important for the citizens and public to feel that the process is fair.

Commissioner Broili said he understands Chair Wagner's concern about tainting the public record, but he felt there must be some vehicle to make it clear that the Commission, as a body, was not pleased with the way the daylighting issue was handled. That aside, he said he has a problem with the City's current method of identifying stream courses, which is left solely at the discretion of the Planning Director. He said he does not feel comfortable leaving these decisions to the Planning Director, recognizing that the Director would change over time. He recommended this process be amended to provide a better way to appropriately identify and define stream courses. Chair Wagner observed that the Commission spent a

considerable amount of time trying to understand this issue, and their discussion has been reflected in the record that will be forwarded to the City Council. However, she suggested it would also be appropriate for the Commission to consider the best approach for adding this item to their future work program. Commissioner Broili agreed the item should be added to the Commission's work program. The Commission should also request feedback from staff about how to avoid negative situations in the future when new information is entered into the record at the tail end.

Chair Wagner referred to the concept of speaking only to new evidence and trying to move forth a hearing. Unfortunately, multiple Commissioners had to listen to recordings of previous hearings in preparation of the final hearing, which resulted in situations where information had to be rehashed. This gave people from the public an additional opportunity to comment, and the Commission erred on the side of allowing more lenient public comment. The flip side is that if they don't allow the public to speak, they feel like the Commission is not listening to their concerns. She suggested the Commission have a retreat discussion about how to handle public comment at study sessions versus public hearings.

Commissioner Kaje agreed it would be appropriate for the Commission to spend a portion of the retreat talking about not only the public comment issue, but how they can make the master plan permit process work better. He suggested that a communication from the City to a citizen that bears so heavily on a proceeding should have been brought forward much earlier rather than waiting until it was discovered during the process. Letters that refer to obvious controversial issues should be put before the Commission early in the process, and City documents should not be bundled with the public comment documents.

Commissioner Behrens expressed his opinion that the Commission's charge is to weigh and determine the value of the information placed before them. He cautioned that if the Commission attempts to figure out what information should and should not be allowed, they may end up treading in dangerous waters. As long as a public comment has a bearing on the hearing, he felt the Commission should let them speak, and the Commissioners could give the comment the appropriate weight. He said he has confident that the more information before the Commission, the better decision they can make. Chair Wagner agreed. However, she observed that some members of the public had spoken on multiple occasions, introducing different things each time. While she is not suggesting the Commission deny new information that is presented late in the process, it places the Commission in the position of having to make a decision without having an opportunity to carefully weight the information.

Commissioner Broili said this is the second decision he has made as part of the Planning Commission that he felt rushed in making; the Echo Lake Proposal was the other. He expressed his belief that with larger projects, the Commission needs to be able to slow the process down. Chair Wagner reminded the Commission that they had the opportunity to continue the CRISTA Master Plan proposal to a special meeting later in the month, but they decided not to do so. Commissioner Broili agreed but said the Commission should be mindful that many of the proposals will have long-lasting effects, and it would behoove them to slow the process down rather than making decisions prematurely without full thought. Chair Wagner observed that it would not be wise to schedule very large proposals back-to-back the next time the Commissioners are up for reappointment.

Commissioner Behrens observed that when he reviewed the packet of information for the CRISTA Master Plan proposal, there were some obvious concerns that could have been lumped into a few categories. He suggested that perhaps this would be a good organizational approach when presenting information to the Planning Commission in the future. This would enable staff to center in on the major concerns being expressed and to present information and evidence to address the specific issues.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Ms. Simulcik Smith announced that she would take a group photograph of the Commission at the conclusion of their meeting.

AGENDA FOR NEXT MEETING

Mr. Cohn reminded the Commission of their joint meeting with the Parks Board on April 22nd from 7:00 to 9:00 p.m. He further reminded the Commission that they would meet prior to the joint meeting starting at 6:00 p.m. Staff would notify the Commissioners of the location of the 6:00 meeting.

Mr. Cohn announced that the Point Wells Subarea Plan is scheduled to come before the City Council for action on April 19th. The City Council would conduct a study session on the CRISTA Master Plan on April 26th, followed by a study session on the Southeast Neighborhoods Subarea Plan on May 3rd.

Commissioner Broili asked for more information about the Point Wells Tour. Mr. Cohn said staff would try and arrange the tour around the City Council's schedule and notify the Planning Commissioners of the dates.

ADJOURNMENT

The meeting was adjourned at 10:30 P.M.

_____	_____
Michelle Linders Wagner	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission

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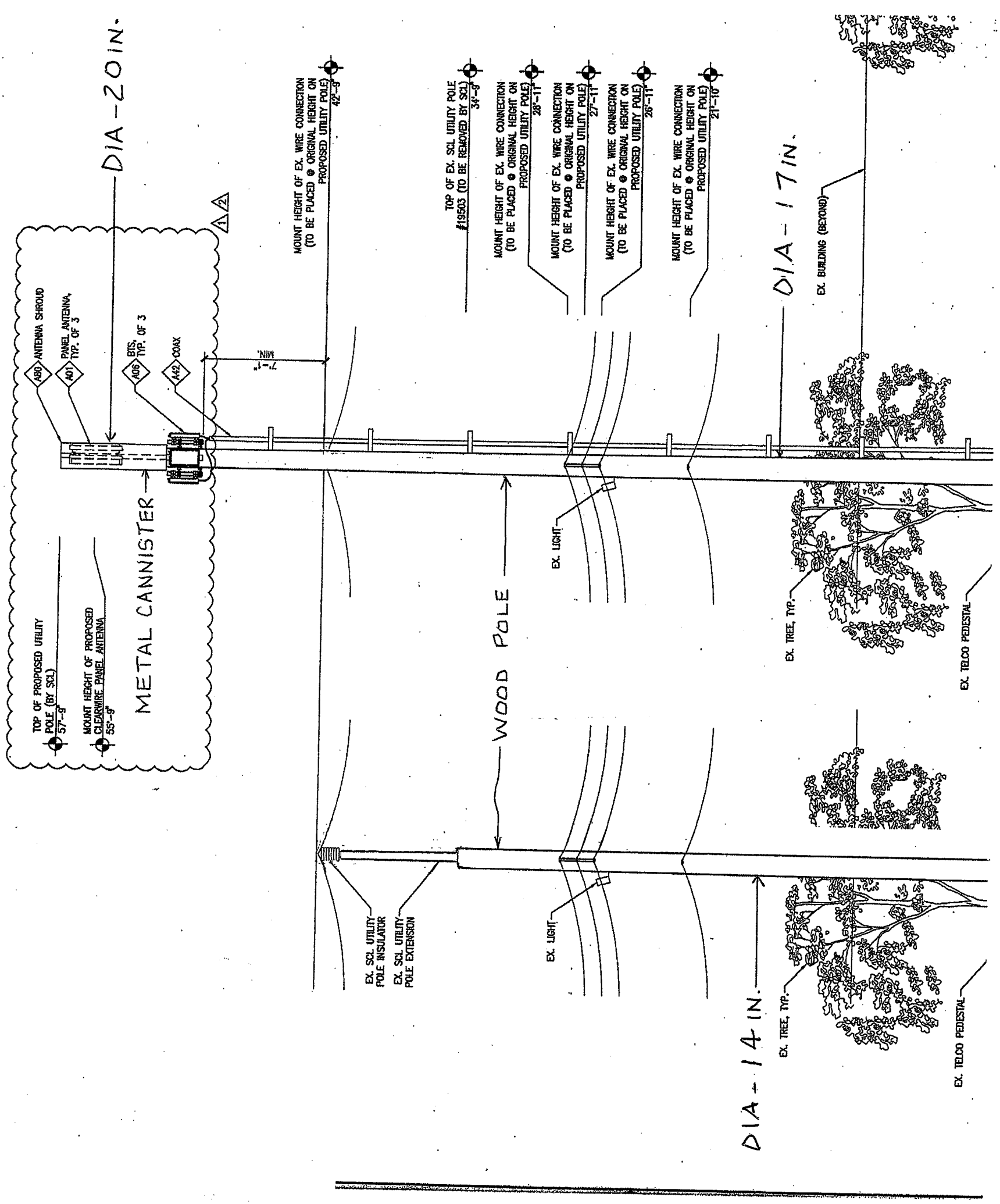
DIA-20IN.
A80 ANTENNA SHROUD
A01 PANEL ANTENNA, TYP. OF 3
A06 BTS, TYP. OF 3
A42 COAX
7'-1" MIN.
METAL CANNISTER
TOP OF PROPOSED UTILITY POLE (BY SCL) 57'-9"
MOUNT HEIGHT OF PROPOSED CLEARWIRE PANEL ANTENNA 55'-9"
MOUNT HEIGHT OF EX. WIRE CONNECTION (TO BE PLACED @ ORIGINAL HEIGHT ON PROPOSED UTILITY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

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.