Commission Meeting Date: June 19, 2008 **Agenda Item:** 7.A

PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Study session on first bundle of 2008 proposed Development Code revisions
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Miranda Redinger, Associate Planner

BACKGROUND

Unlike Comprehensive Plan Amendments, revisions to the Shoreline Development Code may happen at any point during the year. However, staff generally attempts to group proposed changes into bundles so that they may be deliberated and adopted at the same time instead of spread out in a piecemeal fashion. Enough changes have been proposed by various members of the Planning and Development Services Department and the City Attorneys Office to warrant such a packet of proposed revisions at this point.

The proposed changes aim to clarify existing Development Code language to prevent confusion, redundancy, inconsistency or to remain current with updated legal mandates and local policy changes. The revisions have been authored by the staff members most familiar with particular pieces of code and are intended to aid in ease of enforcement and to enhance customer service.

This is the first time the Commission has been asked to consider these particular revisions; staff will present the changes and supporting rationale at the study session for Commission review and comment. Staff expects to schedule a public hearing on the amendments for the Commission's next meeting on July 17, 2008.

The proposed modifications will are attached in legislative format (with underlining and strikeouts). In most cases, staff has included a written summary of the background and thinking that preceded the requested changes.

Miranda Redinger and Jeff Forry will attend the study session to respond to your comments. If you have questions before then, please contact Miranda at 546-3826 or email her at mredinger@ci.shoreline.wa.us prior to the meeting.

ATTACHMENTS

A: Proposed Development Code Revisions 2008

Appendix A:

Proposed Development Code Revisions 2008

*All insertions are marked as underlined, while all deletions are marked as ~~strikethroughs~~.
Staff justification for each change is included below the suggested revision in *italics.*

20.20.014 C definitions.

Community Residential Facility (CRF)	Living quarters meeting applicable Federal and State standards that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation and medical supervision, excluding drug and alcohol detoxification which is classified as health services. CRFs are further classified as follows: A. CRF-I – Nine to 10 residents and staff; B. CRF-II – Eleven or more residents and staff. If staffed by nonresident staff, each 24 staff hours per day equals one full-time residing staff member for purposes of subclassifying CRFs. CRFs shall not include Secure Community Transitional Facilities (SCTF).

20.20.046 S definitions.

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.

These two definitions have been clarified by City Attorney staff to avoid an interpretation that a Secure Community Transitional Facility may be considered within the definition of 20.20.014 C as one form of Community Residential Facility. Both are included separately in the land use tables, and while Community Residential Facilities are allowed in a variety of zones, Secure Community Transitional Facilities are only allowed in RB & I subject to supplemental regulations.

20.30.450 Final plat review procedures.

A. Submission. The applicant may not file the final plat for review until the required site development permit has been submitted and approved by the City.

B. ~~Staff Review~~ – Final Short Plat. The Director shall conduct an administrative review of a proposed final short plat ~~subdivision~~. When the Director finds that a proposed short

plat conforms to all terms of the preliminary short plat and meets the requirements of 58.17 RCW, other applicable state laws, and this title ~~chapter~~ which were in effect at the time of preliminary short plat application ~~approval, either~~ the Director shall sign on the face of the short plat signifying the Director's approval of the final short plat. ~~and either sign the statements that all requirements of the Code have been met, or disapprove such action, stating their reasons in writing. Dedication of any interest in property contained in an approval of the short subdivision shall be forwarded to the City Council for approval~~.

C. ~~City Council –~~ Final Formal Plat. After an administrative review by the Director, the final formal plat shall be presented to the City Council. ~~If~~ When the City Council finds that a subdivision proposed for final plat approval conforms to all terms of the preliminary plat, and meets the requirements of 58.17 RCW, other applicable state laws, and this title ~~chapter~~ which were in effect at the time of preliminary plat application ~~approval, public use and interest will be served by the proposed formal subdivision and that all requirements of the preliminary approval in the Code have been met, the final formal plat shall be approved and~~ the ~~mayor~~ City Manager shall sign on the face of the plat signifying ~~the statement of~~ the City Council's approval ~~on~~ of the final plat.

D. Acceptance of Dedication. City Council's approval of a long plat or the Director's approval of ~~the~~ a final short plat constitutes acceptance of all dedication shown on the final plat.

E. Filing for Record. The applicant for subdivision shall file the original drawing of the final plat for recording with the King County Department of Records and Elections. One reproduced full copy on mylar and/or sepia material shall be furnished to the Department.

This revision was proposed by the City Attorney to provide consistent terminology in the text and title, referring to plats rather than subdivisions and to reference the criteria for approval. In addition, cities are required to adopt "summary approval" of short plats as per RCW 58.17.060. The code currently requires City Council approval of dedications which is contrary to this statute and current practice. Dedications are required to mitigate the direct impacts of increased density as set forth in the Engineering Guide, rules that have been authorized by the City Council in the Dedications subchapter of SMC 20.70.

20.50.240 Site planning – Street frontage – Standards

Exception 20.50.240(A)(2): In case of a building that is exclusively either drive-through service, gas station, vehicle repair, vehicle dealership, warehouse or storage, ~~with vehicle oriented uses or other uses that have little relationship to pedestrians, or where the ground floor area has a need to limit the "pedestrian" facade,~~ pedestrian ~~frontage~~ access may be created by connecting design elements to the street. Such alternative shall provide pedestrian access through parking areas to building entrances and to adjoining pedestrian ways that are visible and direct, and minimize crossing of traffic lanes. Such pedestrian accesses through parking shall provide the following elements:

1. Vertical plantings, such as trees or shrubs;

2. Texture, pattern, or color to differentiate and maximize the visibility of the pedestrian path;
3. Emphasis on the building entrance by landscaping and/or lighting, and avoiding location of parking spaces directly in front of the entrance.
4. The pedestrian walkway or path shall be raised three to six inches above grade in a tapered manner similar to a speed table.

This revision was proposed by PADS staff. Existing code language requires buildings to be fronted to sidewalks except where vehicle–oriented uses with little relationship to pedestrians are proposed. The intent is good except that 'vehicle-oriented' is not defined, and most of the uses along Aurora Ave. could be considered vehicle-oriented because of the nature of the avenue, its traffic, and the types of land uses. In addition, the current vague code language contributes to its inconsistent administration. If the City wants to be firmer about the street frontage provisions, yet still reasonably exempt certain uses (i.e. car dealerships) from the requirement, then the code changes are necessary.

20.30.090 Neighborhood meeting.

Prior to application submittal for a Type B or C action, excluding projects that are categorically exempt under section 20.30.560 SMC, the applicant shall conduct a neighborhood meeting to discuss the proposal.

This revision has been proposed by PADS staff. Neighborhood meetings are generating false expectations for attendees in that they are under the assumption of being able to approve or deny a proposal before an application has been submitted to the City. There have been several citizen complaints about this assumption that their opinions would affect the project. The City provides appropriate notice and comment period to residents once a complete application has been received. This change would only affect SEPA exempt projects, which include 1) Buildings less than 4,000 s.f., 2) Fewer than 20 parking stalls, 3) Grading involving less than 500 cu. yds., and 4) Short Plats (four dwellings or less).

20.30.280 Nonconformance.

D. Expansion of Nonconforming Use. A nonconforming use may be expanded subject to approval of a conditional use permit ~~or~~ unless the Indexed Supplemental Criteria (20.40.200) requires a special use permit~~, whichever permit is required~~ for expansion of the use under the Code~~., or if neither permit is required, then through a conditional use permit; provided, a~~ A nonconformance with the development ~~Code~~ standards shall not be created or increased and the total expansion shall not exceed 10% of the use area. No more than one expansion of a nonconforming use shall be granted.

This revision was proposed by the City Attorney's office. This section is confusing and leads to misinterpretation by staff.

The Use Tables indicate whether a use is permitted outright, permitted conditionally, permitted as a special use or not permitted in a particular zone. Nonconforming uses, by definition, are not permitted outright, conditionally or as special uses. A nonconforming use was previously allowed in the zone, but due to changes in the Code is no longer permitted. Another example of why the Use Tables were not intended to be used to determine if a nonconforming use may be expanded is as follows:

If you look in the Use Table to determine if a nonconforming Adult Use could be expanded in Neighborhood Business zone, it does not state that a conditional use or a special use permit is required. Since neither permit is required this use could be expanded using a CUP. However, if the use is Public Agency such as a DSHS neighborhood service center the Use Table indicates that a special use would be required to expand in a Neighborhood Business Zone. It does not make sense that what would most likely be a less desirable use (adult use) would require a less stringent process than a public agency use.

If a use could be initially established with an SUP, requiring the same SUP process for expansion of the nonconforming use grants no recognition whatsoever to the nonconforming status of the use.

Gambling is the only nonconforming use that the Code currently specifies as requiring a special use permit for expansion. This requirement is found in the Indexed Supplemental Criteria. Therefore, all other nonconforming uses may be expanded using a Conditional Use Permit.

Staff is recommending that the expansion of a nonconforming use be limited to 10% of the use area and that no more than one expansion shall be granted. Other jurisdictions have adopted similar limitations on expansion.

The pros for limiting expansion include:

1. *Nonconforming uses are generally no longer permitted in a particular zone because the use is incompatible with existing or future development. Specifying that expansion will not exceed 10% of the use area provides the property owners/residents surrounding the nonconforming use with an assurance of how large/intense the nonconforming use may become.*
2. *Potentially phasing out nonconforming uses.*

The cons for limiting expansion include:

1. *Some nonconforming uses are compatible with surrounding uses and expansion could be welcomed (ex. favorite gift shop in a residential zone).*
2. *Limiting expansion may cause a nonconforming use to forego cosmetic updates or upgrades that would make the nonconforming use visually more compatible in the zone.*

20.30.730 General provisions.

C. 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~~ 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.

This revision was proposed by PADS staff. This section already existed in the code. It was moved to General Provision to broaden its application. Before, it was limited to cases which where Notice and Orders (N&Os) had been legally served. Some code enforcement cases use civil infractions instead of N&Os. Those violations also need to be considered ongoing until the responsible party has proved to the director's satisfaction that the violation has been corrected.

20.30.750 Junk vehicles as public nuisances.

A. Storing junk vehicles as defined in SMC 10.05.030(A)(1) upon private property within the City limits shall constitute a nuisance and shall be subject to the penalties as set forth in this section, and shall be abated as provided in this section; provided, however, that this section shall not apply to:

1. A vehicle or part thereof that is completely enclosed within a permanent building in a lawful manner, or the vehicle is not visible from the street or from other public or private property; or

2. A vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.

B. Whenever a vehicle has been certified as a junk vehicle under RCW 46.55.230, the last registered vehicle owner of record, if the identity of the owner can be determined, and the land owner of record where the vehicle is located shall each be given legal notice ~~by certified mail~~ in accordance with SMC 20.30.770.F, that a public hearing may be requested before the Hearing Examiner. If no hearing is requested within 14 days from the ~~certified~~ date of ~~receipt of the notice~~ service, the vehicle, or part thereof, shall be removed by the City. The towing company, vehicle wrecker, hulk hauler or scrap processor will notify ~~with notice to~~ the Washington State Patrol and the Department of Licensing ~~that the vehicle has been wrecked~~ of the disposition of the vehicle.

C. If the landowner is not the registered or legal owner of the vehicle, no abatement action shall be commenced sooner than 20 days after certification as a junk vehicle to allow the landowner to remove the vehicle under the procedures of RCW 46.55.230.

D. If a request for hearing is received within 14 days, a notice giving the time, location and date of such hearing on the question of abatement and removal of the vehicle or parts thereof shall be mailed by certified mail~~, with a five-day return receipt requested,~~ to the landowner of record and to the last registered and legal owner of record of each vehicle unless ~~the vehicle is in such condition that~~ ownership cannot be determined ~~or unless the landowner has denied the certifying individual entry to the land to obtain the vehicle identification number~~.

E. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with ~~his~~ the reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that ~~he~~ the landowner has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner.

F. The City may remove any junk vehicle after complying with the notice requirements of this section. The vehicle shall be disposed of by a licensed towing company, vehicle wrecker, hulk hauler or scrap processor with the disposing company giving notice ~~given~~ to the Washington State Patrol and to the Department of Licensing ~~that the vehicle has been wrecked. The proceeds of any such disposition shall be used to defray the costs of abatement and removal of any such vehicle, including costs of administration and enforcement~~ of the disposition of the vehicle.

G. The costs of abatement and removal of any such vehicle or remnant part, shall be collected from the last registered vehicle owner if the identity of such owner can be determined, unless such owner has transferred ownership and complied with RCW 46.12.101, or the costs may be assessed against the owner of the property ~~.~~ ~~The costs of abatement and enforcement shall also be collected as a joint and several liability from the landowner~~ on which the vehicle or remnant part is located, unless the landowner has ~~shown~~ prevailed in a hearing ~~that the vehicle or remnant part was placed on such property without the landowner's consent or acquiescence~~ as specified in SMC 20.30.760.E. Costs shall be paid to the Finance Director within 30 days of the ~~hearing~~ removal of the vehicle or remnant part and if delinquent, shall be ~~filed as a garbage collection and disposal lien on the property~~ assessed against the real property upon which such cost was incurred as set forth in SMC 20.30.775. (Ord. 406 § 1, 2006; Ord. 238 Ch. III § 10(e), 2000).

These revisions were proposed by PADS staff. Changes fall into 3 general areas, housekeeping to bring our junk vehicle language into line with current State Law, editorial changes to facilitate clarity, and adding the option of having the vehicle removed by a licensed towing company.

20.30.760 Notice and orders.

G. Whenever a notice and order is served on a responsible party, the Director may file a copy of the same with the King County Office of Records and Elections. When all violations specified in the notice and order have been corrected or abated, the Director shall ~~file~~ issue a certificate of compliance to the parties listed on the Notice and Order. The responsible party is responsible for filing the certificate of compliancewith 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.

This revision was proposed by PADS staff to move the responsibility of filing the Certificate of Compliance to the person or party responsibly for the violation.

20.40.250 Bed and breakfasts.

Bed and breakfasts are permitted only as an accessory to the permanent residence of the operator, provided:

A. Serving meals to paying guests shall be limited to breakfast; and

B. The number of persons accommodated per night shall not exceed ten. ~~five, except that a structure which satisfies the standards of the Uniform Building Code. as adopted by the City of Shoreline for R occupancies may accommodate up to 10 persons per night.~~

C. One parking space per guest room, plus two per facility.

D. Signs for bed and breakfast uses in the R zones are limited to one identification sign use, not exceeding four square feet and not exceeding 42 inches in height.

E. Bed and breakfasts require a bed and breakfast permit. (Ord. 352 § 1, 2004; Ord. 238 Ch. IV § 3(B), 2000).

This revision was proposed by PADS staff to mirror the language in the International Residential Code's provisions for bed and breakfasts. The City adopted the International Codes in 2006.

20.50.040 Setbacks – Designation and measurement.

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

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

B. ~~Except a lot abutting the intersection of two streets (corner lot), each lot must contain only one front yard setback and one rear yard setback. All other setbacks shall be considered side yard setbacks.~~ Each lot must contain only one front yard setback and one rear yard setback except lots abutting 2 or more streets, as illustrated in the Shoreline Development Code Fig. 20.50.040C.

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

This revision was proposed by PADS staff. There are cases where a lot can abut 2 or more streets and not be a corner lot, such as the through lot illustrated in the Shoreline Development Code Figure 20.50.040(C) .

20.50.070 Site planning – Front yard setback – Standards.

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

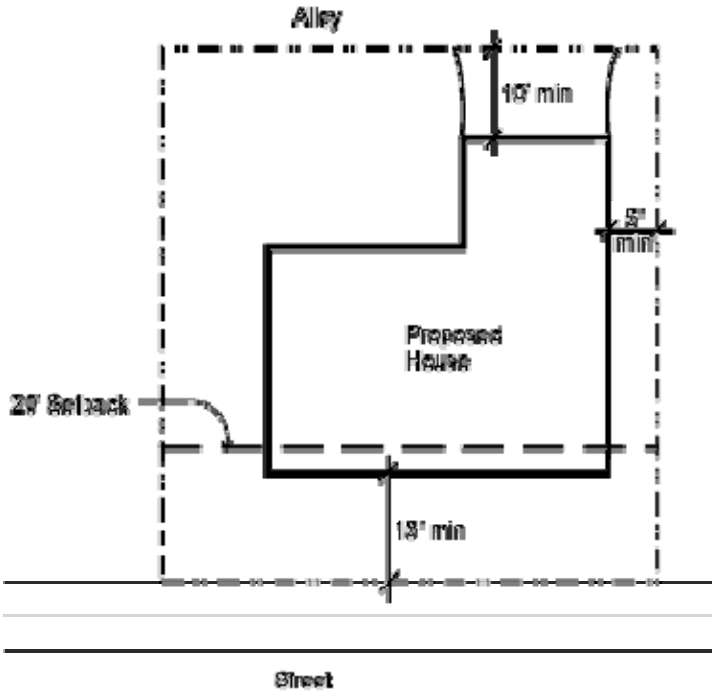

Figure Exception to 20.50.070(2~~): Minimum front yard setback may be reduced to 15 feet if there is no curb cut or driveway on the street and vehicle access is from another street or alley.~~

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

This revision was proposed by PADS staff. This text is redundant and worded slightly different from the exception noted above. The exception above refers to the required front yard setback and the wording in the figure exception below refers to the minimum front yard setback. In this case minimum and required mean the same thing. The proposal clarifies this by removing the second reference which is redundant.

20.50.125 Thresholds – Required site improvements.

Same change for 20.50.225, 20.50.385, 20.50.455 and 20.50.535

The purpose of this section is to determine how and when the provisions for site improvement cited in the General Development Standards apply to development proposals. These provisions apply to all multifamily, nonresidential, and mixed-use construction and uses.

Full site improvements are required for parking, lighting, landscaping, walkways, storage space and service areas, and freestanding signs if a development proposal is:

- Completely new development;
- ~~Expanding the square footage of an existing structure by 20 percent; or~~
- The construction valuation is 50 percent of the existing site and building valuation.

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

This revision was proposed by PADS staff. Existing code has a 20% building square footage expansion as a threshold to require costly, full-site improvements for parking, signage, storm-water, street frontage, etc. That make sense if 20% means, perhaps, 10,000 additional square feet on a large commercial lot but it doesn't work well as in most cases where a 100 foot addition to a 500 square foot car dealer office on a 2 acre lot is being proposed. Proportionality can be adequately administered by the threshold of 50% of existing site and building valuation because it takes into consideration the value of the development (building size and quality) and the lot size.

20.70.030 Required improvements.

The purpose of this section is to identify the types of development proposals to which the provisions of this chapter apply.

A. Street improvements shall, as a minimum, include half of all streets abutting the property. Additional improvements may be required to ensure safe movement of traffic, including pedestrians, bicycles, nonmotorized vehicles, and other modes of travel. This may include tapering of centerline improvements into the other half of the street, traffic signalization, channeling, etc.

B. Development proposals that do not require City-approved plans or a permit still must meet the requirements specified in this chapter.

C. It shall be a condition of approval for development permits that required improvements be installed by the applicant prior to final approval or occupancy.

D. The provisions of the engineering chapter shall apply to:

1. All new multifamily, nonresidential, and mixed-use construction;

2. Remodeling or additions to multifamily, nonresidential, and mixed-use buildings ~~or conversions to these uses that increase floor area by 20 percent or greater,~~ or any alterations or repairs which exceed 50 percent of the value of the previously existing structure;

This revision was proposed by PADS staff with the same justification as the previous recommendation for 20.50.125 Thresholds above.

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. ~~pay the City for environmental review, including~~ The site-specific information ~~that~~ 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 ~~in the employ of~~ approved by the City or under contract to the City ~~and who shall be directed by and report to the Director~~. (Ord. 406 § 1, 2006; Ord. 398 § 1, 2006).

This revision was proposed by PADS staff. Section 20.80.110 of the Critical Area Ordinance (CAO) requires an applicant to pay the City for environmental reviews. It also requires critical areas reports to be performed by qualified professionals, who are in the employ of the City or under contract to the City, and to be directed by and report to the Director.

The intent of this section, adopted in March of 2006, was to avoid "consultant wars" where the applicant paid a consultant for critical areas report only to have the veracity of the report challenged, either by City staff or project opponent. This would result in the City requiring the applicant to pay for an additional report that may conflict with the original report, wherein a third report would be required, and so on. The result at times was lack of clarity and an applicant who would be billed for multiple reports.

In administering this section of the code for the past two years, staff has encountered some problems with the way it is written. It still results in the applicant being double-billed; once during the pre-application phase where the applicant pays for research to

delineate and type the critical area to find out whether the project is indeed subject to the CAO, and then once again when the application comes in and the applicant has to pay the City for another study. To avoid having to pay for the study twice, the applicant has been paying the City to have the study done during the pre-application phase.

It is at the pre-application stage where it is inappropriate for the City to be accepting money for critical areas studies on private property.

The fix for this is for the City to develop a list of City-approved consultants and a standard scope of work for each type of critical area report. This way an applicant would choose from the list of approved consultants who have been screened by the City so that the veracity of the reports would not be suspect , therefore, it would meet the intent of the code while avoiding having the City administer projects prior to application. It likely would also minimize costs to the applicant.