

6a. Staff Report - Tree Retention in MUR 70' Development Code Amendment

Planning Commission Meeting Date: June 21, 2018

Agenda Item: 6a

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Tree Retention in MUR-70' Development Code Amendment – Public Hearing		
DEPARTMENT:	Planning & Community Development		
PRESENTED BY:	Rachael Markle, P&CD Director Steven Szafran, AICP, Senior Planner		
<input checked="" type="checkbox"/> Public Hearing	<input type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

Introduction

Amendments to Shoreline Municipal Code (SMC) Title 20 (Development Code) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the reviewing authority for legislative decisions and is responsible for holding an open record Public Hearing on the proposed Development Code amendment and making a recommendation to the City Council.

Background

At the direction of City Council, the Planning Commission held study sessions on May 17, 2018 and June 7, 2018 to address the issue of tree retention and replacement in the MUR-70' zone and possible amendments to exemptions to the City's "Tree Code" as set forth in SMC 20.50 Subchapter 5.

Links to these staff reports are at:

<http://www.shorelinewa.gov/home/showdocument?id=38797>.

<http://www.shorelinewa.gov/home/showdocument?id=38955>.

At the June 7, 2018 meeting, the Planning Commission focused on possible incentives that would provide greater development potential in exchange for retaining and replacing trees within the MUR-70' zone. Staff offered examples from other jurisdictions and five possible incentives that could be added to the Development Code. Alternatively, staff presented a fee-in-lieu of retention or replacement if the Planning Commission is not interested in amending the Development Code and wants to ensure that development in the MUR-70' zone is not unduly thwarted. The Planning Commission narrowed the five options proposed by Staff, bringing forward two to be the subject of this Public Hearing.

The two options the Planning Commission requested be brought forward for the public hearing are:

Approved By:

Project Manager



Planning Director



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- **Option 1 (recommended by Staff) – MUR-70' Exempt from Tree Code with Incentives for Tree Retention and Replacement**

Exempt MUR-70' from the Tree Code but allow MUR-70' development to get bonuses in height, setbacks, and parking standards for retaining and replacing required trees.

- **Option 2 - A Proposed Compromise with Existing Tree Code Retention and Replacement Required with Optional Fee-In-Lieu**

Do not exempt MUR-70' from the Tree Code but allow project application to a fee-in-lieu of retention replacement with those funds going towards future city tree projects.

Decision Criteria

SMC 20.30.350 states, "An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City". Development Code amendments may also be necessary to reduce confusion and clarify existing language, respond to regional and local policy changes, update references to other codes, eliminate redundant and inconsistent language, and codify Administrative Orders previously approved by the Director. Regardless of their purpose, all amendments are to implement and be consistent with the Comprehensive Plan.

The decision criteria for a Development Code amendment in SMC 20.30.350 (B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code when all of the following are satisfied.

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.

STAFF RECOMMENDATION

Option 1 (Attachment A)

This option is based on the Planning Commission's original 2017 recommendation and would amend SMC 20.50.310 (A)(5) to include MUR-70' as a zone that is exempt from the Tree Code. However, this option would also provide new incentives to promote the

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retention and replacement of trees within a project's site. Specifically, these incentives would be contained in amendments to SMC Table 20.50.020(2) Density and Dimensions in Mixed Use Residential Zones and SMC 20.50.400(A) Reductions to Minimum Parking Requirements.

- SMC Table 20.050.02(2)

Amendments to SMC Table 20.050.020(2) would include two new exceptions. The first exception is to the base height of a structure within the MUR-70 zone, which is now 70 feet, could be increased if significant trees are retained as follows

Percentage of Significant Trees Retained	Base Height Increase
10 percent	10 feet
20 percent	20 feet

At the June 7 meeting, the Planning Commission expressed doubts about the effectiveness of an incentive for increased height due to the cost of constructing over the current height limit of 70 feet. Staff has researched a new, wood construction product called Cross Laminated Timber (CLT) which the International Code Council (ICC) is currently supporting as a substitute for steel in buildings up to 18 stories. Though it will require extra fire blocking standards, it is expected to be much closer in cost to traditional, multi-story wood construction than steel construction. Staff believes that advances such as these will enhance the attractiveness of a height-based incentive.

The second exception is to the minimum front yard setback on a non-arterial street, which is now 10 feet, may be reduced if significant trees are retained as follows:

Percentage of Significant Trees Retained	Front yard setback reduction
20 percent	5 feet

- SMC 20.50.400(A)

Amendments to the parking standards in SMC 20.50.400(A) would allowed a two new criteria for the Director to consider when allowing for a reduction to the minimum parking requirements for a project. The first is if the project applicant retained at least 20 percent of the significant trees and the second is if the applicant replacement all significant trees removed on the site. In these situations, in combination with other criteria in SMC 20.40.500(A), a parking reduction of up to 25 percent may be granted.

Staff recommends Option 1 for the following reasons:

- It maintains the development potential of the MUR-70' zone as adopted to implement the 185th and 145th Street Station Subarea Plans while using incentives to create the potential for greater tree retention and replacement;

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- The Comprehensive Plan policies strongly support the full development of the Station Areas as urban, transportation-oriented development with people, jobs, and activities;
- Developers have provided staff with feedback that not permitting Tree Code exemption within the MUR-70' zone will thwart the planned redevelopment; and
- Required landscaping standards will fill the remaining open space with trees that can adapt to the new environment and help succeed and replenish the existing, aging tree canopy.

Option 2 (Attachment B)

If the Planning Commission does not accept Option 1, then Staff suggests that the Planning Commission consider amending the Development Code as described in Option 2. Option 2 would allow a developer to either retain and replant trees or to pay a fee in lieu of those requirements.

This amendment would provide new exceptions in SMC 20.50.350(B) and SMC 20.50.360(C). Tree retention requirements are contained in SMC 20.50.350(B) but specific exceptions are also provided. Option 2 would add another exception allowing for the payment of \$266 per inch of a tree's diameter measured at breast height (DBH) in lieu of retaining at least 20 percent of the significant trees. Similarly, exceptions to the tree replacement requirements contained in SMC 20.50.360(C) are provided with Option 2 setting a fee of \$2,472.00 per tree in lieu of each required replacement tree.

At the June 7 meeting, the Planning Commission discussed the fee-in-lieu incentives if tree retention and replacement continue to be required in the MUR-70' zone. The Commission expressed concern about how to determine the fee value for a significant tree that would be removed and a fee for replacement trees. Staff suggested using the City's current fine for the unauthorized removal of a significant tree within a critical area or its buffer, which is \$9,000, or the existing street tree replacement fee of \$2,472.

Some Planning Commissioners suggested a value based on the diameter of each tree required to be retained – the bigger the tree diameter the greater the fee. If the Commission wants to recommend this approach then staff suggests using the current fee/fine as a basis for value and converting it to a per diameter inch at breast height fee or \$266 per diameter inch. Fee-in-lieu for replacement trees could be based on the current cost of replacing a public street tree at \$2,472 for each required replacement tree.

Next Step

July 30 – Present Planning Commission recommendation to the City Council

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Attachment A - Proposed Amendments for Option 1 (staff recommendation)

Attachment B - Proposed Amendments for Option 2

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Attachment A

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PROPOSED AMENDMENT OPTION 1

SMC 20.50.310 Exemptions from permit

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

...

5. Removal of trees from property zoned NB, CB, MB and TC-1, 2 and 3, and MUR-70' unless within a critical area or critical area buffer.

...

SMC Table 20.50.020(2) – Densities and Dimensions in Mixed Use Residential Zones

STANDARDS	MUR-35'	MUR-45'	MUR-70' (10)
Base Density: Dwelling Units/Acre	N/A	N/A	N/A
Min. Density	12 du/ac (<u>1746</u>)	18 du/ac	48 du/ac
Min. Lot Width (2)	N/A	N/A	N/A
Min. Lot Area (2)	N/A	N/A	N/A
Min. Front Yard Setback (2) (3)	0 ft if located on an arterial street 10 ft on nonarterial street 22 ft if located on 145th Street (<u>1514</u>)	15 ft if located on 185th Street (<u>1514</u>) 0 ft if located on an arterial street 10 ft on nonarterial street 22 ft if located on 145th Street (<u>1514</u>)	15 ft if located on 185th Street (<u>1514</u>) 22 ft if located on 145th Street (<u>1514</u>) 0 ft if located on an arterial street 10 ft on nonarterial street (<u>18</u>)
Min. Rear Yard Setback (2) (4) (5)	5 ft	5 ft	5 ft

Tree Retention in MUR 70' Development Code Amemdment - Attachment A

STANDARDS	MUR-35'	MUR-45'	MUR-70' (10)
Min. Side Yard Setback (2) (4) (5)	5 ft	5 ft	5 ft
Base Height (9)	35 ft (45 <u>16</u>)	45 ft (45 <u>16</u>)	70 ft (11) (12)(12 <u>13</u>) (15 <u>16</u>)
Max. Building Coverage (2) (6)	N/A	N/A	N/A
Max. Hardscape (2) (6)	85%	90%	90%

Note: Exceptions to the numerical standards in this table are noted in parentheses and described below.

Exceptions to Table 20.50.020(1) and Table 20.50.020(2):

...

(12) Base height in the MUR-70' zone may be increased up to 80 feet when at least 10 percent of the significant trees on site are retained and up to 90 feet when at least 20 percent of the significant trees on site are retained.

(13) All building facades in the MUR-70' zone fronting on any street shall be stepped back a minimum of 10 feet for that portion of the building above 45 feet in height. Alternatively, a building in the MUR-70' zone may be set back 10 feet at ground level instead of providing a 10-foot step-back at 45 feet in height. MUR-70' fronting on 185th Street shall be set back an additional 10 feet to use this alternative because the current 15-foot setback is planned for street dedication and widening of 185th Street.

(14) The minimum lot area may be reduced proportional to the amount of land needed for dedication of facilities to the City as defined in Chapter 20.70 SMC.

(~~44~~15) The exact setback along 145th Street (Lake City Way to Fremont Avenue) and 185th Street (Fremont Avenue to 10th Avenue NE), up to the maximum described in Table 20.50.020(2), will be determined by the Public Works Department through a development application.

(~~45~~16) Base height may be exceeded by 15 feet for rooftop structures such as arbors, shelters, barbeque enclosures and other structures that provide open space amenities.

(~~46~~17) Single-family detached dwellings that do not meet the minimum density are permitted in the MUR-35' zone subject to the R-6 development standards.

(18) The minimum front yard setback in the MUR-70' zone may be reduced to five (5) feet on a nonarterial street if 20 percent of the significant trees on site are retained.

Tree Retention in MUR 70' Development Code Amemdment - Attachment A

SMC 20.50.400 Reductions to minimum parking requirements.

A. Reductions of up to 25 percent may be approved by the Director using a combination of the following criteria:

...

8. Retention of at least 20 percent of the significant trees on a site zoned MUR-70'.

9. Replacement of all significant trees removed on a site zoned MUR-70' as follows:

a. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.

b. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.

c. Minimum size requirements for replacement trees under this provision: Deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

Tree Retention in MUR 70' Development Code Amendment - Attachment B

Attachment B

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PROPOSED AMENDMENT OPTION 2

20.50.350 Development standards for clearing activities.

B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:

1. At least 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

Exception 20.50.350(B):

1. Excluding critical areas and critical area buffers a per tree fee in lieu of retaining at least 20 percent of the significant trees on a MUR-70' zoned site may be paid at a rate of \$266 per diameter inch measured at breast height for each tree to be retained.

2. The Director may allow a reduction in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation of an arborist certified by the International Society of Arboriculture or by the American Society of Consulting Arborists as a registered consulting arborist that retention of the minimum percentage of trees is not advisable on an individual site; or

.3. In addition, the Director may allow a reduction in the minimum significant tree retention percentage if all of the following criteria are satisfied: The exception is necessary because:

- There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.
- Strict compliance with the provisions of this Code may jeopardize reasonable use of property.
- Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.
- The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

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4. If an exception is granted to this standard, the applicant shall still be required to meet the basic tree replacement standards identified in SMC 20.50.360 for all significant trees removed beyond the minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).

5. In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and three inches in caliper if otherwise. This provision may be waived by the Director for restoration enhancement projects conducted under an approved vegetation management plan.

SMC 20.50.360 Tree replacement and site restoration.

C. Replacement Required. Trees removed under the partial exemption in SMC 20.50.310(B)(1) may be removed per parcel with no replacement of trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:

1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
3. Minimum size requirements for replacement trees under this provision: Deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.....

Exception 20.50.360(C):

a. In the MUR-70' zone, a per tree fee of \$2,472.00 may be paid in lieu of each required replacement tree.

b. No tree replacement is required when the tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.

c. The Director may allow a reduction in the minimum replacement trees required or off-site planting of replacement trees if all of the following criteria are satisfied:

i. There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.

ii. Strict compliance with the provisions of this Code may jeopardize reasonable use of property.

Tree Retention in MUR 70' Development Code Amendment - Attachment B

- iii. Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.
- iv. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.
- d. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.