

## 6b. Staff Report - Development Code Amendments

---

Planning Commission Meeting Date: October 1, 2015

Agenda Item

---

**PLANNING COMMISSION AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** 2015 Development Code Amendments  
**DEPARTMENT:** Planning & Community Development  
**PRESENTED BY:** Steven Szafran, AICP, Senior Planner  
Rachael Markle, AICP, Director

**Public Hearing**  
 **Discussion**

**Study Session**  
 **Update**

**Recommendation Only**  
 **Other**

### Introduction

The purpose of this meeting is to conduct a public hearing on the 2015 Development Code Amendments (Parts 1, 2, and 3) to Title 20 of the Shoreline Municipal Code (The Development Code). The proposed amendments amend a number of sections in Chapters 20.20, 20.30, 20.40, 20.50, 20.60, 20.70, 20.80, and 20.100. Attachment 1 to this staff report is the complete list of Development Code amendments to be considered as part of this public hearing.

The purpose of this public hearing is to:

- Review the proposed Development Code Amendments;
- Respond to questions regarding the proposed amendments;
- Gather public comment;
- Deliberate and, if necessary, ask further questions of staff; and
- Develop a recommendation to forward to Council.

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 amendments and making a recommendation to the City Council on each amendment.

### Background

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".

**Approved By:** Project Manager \_\_\_\_\_

Planning Director \_\_\_\_\_

## 6b. Staff Report - Development Code Amendments

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.

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 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.

Part 1 of the Development Code amendments were presented to the Planning Commission on May 7, 2015. Part 1 consisted of 21 Director-initiated amendments that mostly clarified existing sections of the code. Two of the amendments proposed at that time, adding Microhousing to the use table and adding Microhousing to the parking table, at Planning Commission direction, were withdrawn from the batch to potentially be brought back at a later date. The Part 1 staff report can be found here: <http://shorelinewa.gov/home/showdocument?id=20668>

Part 2 of the Development Code amendments were presented to the Planning Commission on June 4, 2015. Part 2 consisted of eight Director-initiated amendments. Part two amendments included mostly minor clarification to the Development Code. The Part 2 staff report can be found here: <http://shorelinewa.gov/home/showdocument?id=20872>

Part 3 of the Development Code amendments were presented to the Planning Commission on September 3, 2015. Part 3 consisted of 17 Director-initiated amendments and one privately-initiated amendment. The proposed private amendment would allow a property owner to create lots less than the minimum lot area if the dedication of facilities to the City (such as right of way or a stormwater system) are required as part of the development and result in a reduction in achievable density. The rest of the proposed Part 3 amendments, those initiated by the Director, are organized under the following topics: Building Permit Fee Waiver, Preparing for Sound Transit, Transitional Encampments, and Development Code Updates. The Part 3 staff report can be found here: <http://shorelinewa.gov/home/showdocument?id=21876>

A memo with additional amendments related to the topic of “preparing for Sound Transit” was provided to the Commission and public at the September 3rd meeting. The Director is postponing the consideration of these amendments to receive further legal guidance. Another public hearing is expected to be scheduled before the end of 2015 to consider these and possibly other Development Code amendments.

## 6b. Staff Report - Development Code Amendments

### PROPOSED AMENDMENTS

This group of Development Code amendments has one privately initiated amendment and 41 Director initiated amendments. The proposed Development Code amendments are organized in numerical order and are divided by their respective chapters.

Amendments with an asterisk are proposed to be withdrawn from this meeting to be brought back at a future public hearing.

Amendments that are in bold have been updated and are addressed in the next section of this staff report.

#### **Chapter 20.20:**

- 20.20.016 – Clarifies the definition of shared driveways.
- 20.20.034 – New definition for Multi-Modal Access Improvements.

#### **Chapter 20.30:**

- 20.30.040 – Changes the temporary use permit reference.
- 20.30.100 – Allows the Director to waive permit fees for affordable housing.
- 20.30.110 – Clarifies the Determination of Completeness section.
- 20.30.280(C)(4) – Clarifies the modifications to nonconforming section
- \*20.30.330 – Special Use Permit process for a Light Rail Transit System/Facility.\*
- 20.30.340 – New procedure for processing Comprehensive Plan Amendments.
- 20.30.355 – Adds additional decision criteria for Development Agreements (Level-of-Service for pedestrians and bikes).
- 20.30.380 – Raises the number of lots in a short plat from four to nine.**

#### **Chapter 20.40:**

- \*20.40.050 – Applies City of Shoreline zoning standards to adjacent right-of-way.
- 20.40.100 – Raises the time limit of a temporary Use Permit to one year.
- 20.40.120 – Changes the use from “Tent City” to “Transitional Encampment”.
- 20.40.140 – Prohibits hospitals and medical clinics in the R-4 and R-6 zones.
- 20.40.150 – Deletes shipping containers as a use.
- 20.40.160 – Research, development, and testing allowed in the MUR-70’ Zone and deleting Outdoor Performance Center in the MUR zones.
- 20.40.230 – Allows a permit fee waiver for affordable housing.
- 20.40.235 – Allows a permit fee waiver for affordable housing in the MUR zones.
- 20.40.400 – Clarifies parking for a home-based business must be onsite.
- 20.40.410 & .450 – Deletes the requirement that hospitals and medical clinics only be allowed as a reuse of a surplus nonresidential facility.
- \*20.40.438 – Deleted the requirement that Light Rail Transit System/Facility be approved through a Development Agreement\*
- 20.40.535 – Establishes Transitional Encampment indexed criteria.

## 6b. Staff Report - Development Code Amendments

### Chapter 20.50:

#### **20.50.020 – Allow Lots under the minimum size for the zone.**

20.50.020(C) – Calculate density before dedications.

20.50.020(3) – Environmental features do not count against hardscape requirements.

20.50.240 – Minor word change.

20.50.320 – Requires light rail transit facilities to comply with the City's tree code.

20.50.330 – Requires offsite evaluation when removing trees.

20.50.350 – Requires tree mitigation offsite.

#### **20.50.360 (C)(4), (5), and (6) – Requires offsite tree replacement and increased height of replacement trees.**

Exception 20.50.360(4) – Allow using existing significant trees as replacement trees.

20.50.370 – Requires tree protection measures for offsite trees.

Table 20.50.390(D) – Deletes a duplicative parking requirement (retail and mixed-use parking standards).

20.50.400 – Revises criteria for a reduction to minimum parking standards.

20.50.410 – Reorganization of the section - Requirements for Compact Parking Stalls and Parking Angles.

20.50.430 – Deletes Nonmotorized Access Section

20.50.480 – Updates a reference in the section.

### Chapter 20.60:

20.60.140(A)(1) – Minor amendment to clarify the section.

20.60.140 (3) – Adds a level-of-service standard for pedestrians and bicycles.

### Chapter 20.70:

20.70.320 – Frontage Improvement Exemptions for Single Family Residential Development.

### Chapter 20.80:

20.80.060 – Updates the Department's name and phone number.

### Chapter 20.100:

20.100.020 – Adds a new section for the Community Renewal Area (CRA) and establishes transition standards for the CRA.

### **AMENDMENTS UPDATED/MODIFIED SINCE PRIOR STAFF PRESENTATION**

#### **SMC 20.30.380 –**

In part 3 of the proposed amendments, staff has proposed raising the number of lots in an administratively-approved short plat from four to nine only in the mixed-use residential zones. Nine lots is the maximum allowed by the State for a short subdivision (RCW 58.17.020(6)).

## 6b. Staff Report - Development Code Amendments

Staff has revised the amendment to raise the number of lots in an administratively-approved in a short plat from four to nine throughout the City. The City Attorney's Office recommends that raising the number of lots in a short plat from four to nine throughout the City is reasonable and fair and does not single out one section of the city from another.

As staff noted at the September 3 study session, the City currently allows multiple homes to be built on one lot. For example, a developer could build five single family homes on one lot or nine townhomes on one lot. The developer may sell the homes or townhomes as a condominium or come back at a later date and subdivide the land under the existing homes. At this point in the development process, the homes are already built so the impacts are there. Staff believes there is no reason to ask a developer to apply for a formal subdivision, go to the Hearing Examiner for a public hearing, then go to the Council for approval when, at this point, the homes are built.

### **SMC 20.50.020 –**

Staff introduced this amendment at the September 3, 2015 Planning Commission study session. Staff had proposed allowing a lot to be under the minimum lot size of the zone if the City required land for road or drainage purposes through dedication. Staff had proposed not allowing a parcel to be smaller than 5,000 square feet.

The proposal of 5,000 square feet as a minimum lot size is arbitrary and staff is recommending that the lot size be reduced proportional to the amount of land taken for road or drainage purposes. For example, if the City requires 500 square feet for road dedication, then the lot in question may be reduced up to 500 square feet under the minimum lot size for the zone.

Staff is proposing the following language in Exceptions to Table 20.50.020(1):

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

### **SMC 20.50.360 –**

Staff is proposing an update to SMC 20.50.360 – Tree replacement and site restoration. The amendment adds two provisions for a fee-in-lieu for tree replacement.

Staff believes there should be an option, to the City or a private property owner, to either replant required replacement trees or take the value of those replacement trees and use it for the maintenance and health of the City's urban forest.

Sound Transit will be required to comply with the City's tree code. Sound Transit will generally be required to replace significant trees removed on a 3 to 1 ratio. For every one significant tree Sound Transit removes, 3 replacement trees are required to be replanted. For safe operation of Sound Transit's light rail system, it will likely not be possible to replant all of the required replacement trees within the light rail alignment. It will be beneficial to have a fee-in-lieu option when trees are removed or damaged by construction of the light rail system or facilities.

## 6b. Staff Report - Development Code Amendments

Conversations with the Parks and Recreation Department have revealed that the City does not have the space or the staff to replant and maintain hundreds, if not thousands, of new trees.

Staff is proposing the addition of the following two provisions to SMC 20.50.360(C):

4. Tree replacement on adjoining properties where tree removal is necessary to meet requirements in 20.50.350(D) or as a part of the anticipated development shall be at the same ratios in C. 1, 2, and 3 above with a minimum tree size of 12 feet in height.

Alternatively, property owners on adjoining private property, may choose either installation of the replacement trees or compensation for the value of the trees removed. Compensation shall be limited to the value described in SMC 3.01.300(G). SMC 20.50.350(B) Minimum Retention Requirements for trees, must also be met.

5. Tree replacement related to development of a light rail transit system/facility must comply with SMC 20.50.360 (C)1-3. Alternatively, the City may approve payment of a fee-in-lieu for the trees removed in accordance with SMC 3.01.300 for the development of a light rail transit system/facility. The fee-in-lieu shall be used for the maintenance, replanting and enhancement of the City's urban tree canopy.

### **Proposed Amendments being withheld and placed on hold at this time**

Staff is requesting Amendments 7, 11, and 21 be withdrawn from this public hearing to be brought back at a later date. Amendments 7, 11, and 21 are as follows:

Amendment #7 – 20.30.330 – Special Use Permit

Amendment #11 – 20.40.050 – Special Districts

Amendment #21 – 20.40.438 – Light Rail Transit System/Facility (Delete)

Based on conversations with the City Attorney's Office, staff needs additional time to work out issues with Amendments 7, 11, and 21. Further legal review of existing Development Code and proposed amendments has revealed potential gaps in the City's process for permitting Sound Transit's light rail transit facility/system. The Code specifies that light rail transit facilities/systems require a Development Agreement. The Development Agreement as defined by State law is not designed to accommodate deviations or variances from the underlying zone's regulations. The light rail transit facility/system is an essential public facility and therefore it is appropriate to allow for deviations or variances from underlying zoning to accommodate the use.

## 6b. Staff Report - Development Code Amendments

Staff had recommended using the process identified in the Comprehensive Plan for siting essential public facilities, a Special Use Permit Process, instead at the last Planning Commission study session on September 3<sup>rd</sup>.

### **Discussion and Analysis**

The justification and analysis for each of the proposed amendments are found in **Attachment 1** under each of the respective amendments.

### **SEPA and Public Notice**

Staff issued notice of the October 1, 2015 public hearing on September 16. Notice was published on the City's Website and in the *Seattle Times*. Staff provided the required 15 day notice period which provides adequate notice of the hearing. The public hearing notice is included as **Attachment 6**.

SEPA review has been completed for these amendments and the Determination of Nonsignificance (DNS) was issued September 16, 2015. The DNS is attached under **Attachment 7**.

### **Schedule**

October 1 – Planning Commission Public Hearing and Recommendation

October 15 – Planning Commission Public Hearing and Recommendation on Sound Transit Related Amendments

November 16 – City Council Study Session on all 2015 Development Code Amendments

December 14 – City Council Adoption

### **Recommendation**

Staff recommends approval of all Development Code amendments in Attachment 1 with the exception of amendments 7, 11, and 21 which will be brought back to Commission at a later date.

### **Attachments**

Attachment 1 – 2015 Development Code Amendments

Attachment 2 – Staff Report to Council on August 3, 2015 for Permit Fee Waiver for Affordable Housing.

Attachment 3 – Examples of Jurisdictions with Building Permit Fee Waivers

Attachment 4 – Privately Initiated Application for Development Code Amendment

Attachment 5 – BERK Transition Area Memo

Attachment 6 – Notice of Public Hearing

Attachment 7 – SEPA threshold Determination of Nonsignificance