

6a. Staff Report - Plat Alterations Permanent Regulations

Planning Commission Meeting Date:

Agenda Item 6a.

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Public Hearing - SMC 20.30.420 Plat Alteration – Permanent Regulations

DEPARTMENT: City Attorney's Office

PRESENTED BY: Julie Ainsworth-Taylor, Assistant City Attorney

Public Hearing

Discussion

Study Session

Update

Recommendation On

Other

INTRODUCTION

On December 10, 2018, the City Council adopted Ordinance 849, declaring an emergency and establishing interim regulations for Plat Alterations consistent with RCW 58.17.215, as permitted under RCW 36.70A.390 and RCW 35A.63.220. In doing so, these regulations bypassed the standard process for the adoption of development regulations as set forth in SMC 20.30.070. In Section 4 of Ordinance 849, the City Council directed Staff to refer the Ordinance to the Planning Commission for its review and recommendation of permanent regulations to replace the interim regulations. A copy of the staff report for December 10, 2018 can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport121018-7d.pdf>.

The Planning Commission held a study session on these regulations at its January 3, 2019 regular meeting. The staff report for that meeting can be found at the following link: <http://www.shorelinewa.gov/home/showdocument?id=41619>

As required by RCW 35A.63.220 and RCW 36.70A.390, the City Council held a public hearing on the "interim" regulations at its February 4, 2019 regular meeting. The staff report for that meeting can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2019/staffreport020419-8a.pdf>

Tonight, in compliance with SMC 20.30.070, the Planning Commission is holding a public hearing for the purpose of accepting public testimony on the permanent regulations (Exhibit A) and to formulate its recommendation for submittal to the City Council for final adoption.

Approved By:

Project Manager



Planning Director



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DISCUSSION

The process for administering plat alterations, including the modification or removal of Plat Notes, is currently set out in RCW 58.17.215 to 58.17.218. The statute sets forth specific requirements for a plat alteration. A summary of the requirements are:

- Application for plat alteration must include the signatures of a majority of property owners in the plat;
- If the plat is subject to restrictive covenants that were filed at the time of original plat approval and the alteration would violate the covenants, all property owners need to agree to alteration;
- All owners in the plat need to receive notice of the plat alteration;
- A public hearing is not required but an owner may request a hearing; the hearing may be held by a hearing examiner;
- The legislative body determines the public use and interest in the alteration and may deny or approve the application; and
- If approved, the applicant prepares a revised plat for signature of the legislative authority and files with the county.

As stated above, the proposed regulations are consistent with RCW 58.17.215. However, the statute states that the legislative body (the City Council) is to make the final approval/denial decision. The City Council has the ability to delegate this authority. Thus, the regulations are written so that the Director of Planning & Community Development has approval authority for plat alterations unless a public hearing has been requested, and then the City Hearing Examiner would issue a final decision. The regulations also provide both City staff and applicants with a process for such alterations and applicable fees.

As was presented to the Planning Commission in January 2019, the proposed permanent regulations were modified from those adopted with Ordinance No. 849 in two regards:

Notice The interim regulations provided for all owners within a subdivision as well as those within 500 feet to receive notice. The proposed regulations require notice only to the owners within a subdivision. Notice is important because “any person receiving notice” can request a public hearing. Since the purpose of the alteration process is to allow those property owners subject to a plat restriction a say in whether or not it should be changed, limiting the persons who can request a public hearing to the same serves this purpose and intent. Staff also wanted clear direction on how notice of the public hearing should be provided. These modifications are shown in SMC 20.30.425(C).

Permit Type The interim regulations established two approval tracks – administrative approval by the Director of Planning & Community Development and Hearing Examiner approval if a public hearing was requested. Under the Shoreline Municipal Code, administrative approval is a “Type B” permit and Hearing Examiner approval is a “Type C” permit. Staff desired clarity so that the permit type process was clear. This is shown in Footnote 6 to Table 20.30.050

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and by the addition of Item 9 to Table 20.30.060 along with textual language in SMC 20.30.425(D)(1).

During the February 4, 2019 Public Hearing before the City Council, there was public comment/testimony both in support and against with some confusion as to the alteration process in relationship to private covenants. The City Council had no changes for the proposed permanent regulations but did ask the City Attorney's office to provide a one-page explanation on the difference between plat notes and private covenants when the regulations were returned to the City Council.

Also, included in Exhibit A to this Staff Report is a fee table. Planning Staff has given consideration to the work involved in a plat alteration and has set what it believes to be a reasonable fee. The Planning Commission has no authority over fees, but this is included so that the entire alteration structure is together.

RECOMMENDATION

Staff requests that the Planning Commission recommend approval of the amendments to SMC Sections 20.30.050, 20.30.060, 20.30.420, and 20.30.425 as set forth in Exhibit A.

TIMING AND SCHEDULE

City Council Discussion - March 18, 2019
City Council Adoption (Ordinance 857) - April 1, 2019

ATTACHMENTS

Exhibit A – Permanent Plat Alteration regulations

Plat Alterations - Permanent Regulations - Exhibit A
Exhibit A – PROPOSED PERMANENT PLAT ALTERATION REGULATIONS

SMC 3.01.010 Planning and Development Fees, amended as follows:

M. SUBDIVISIONS	
1. Binding site plan	\$6,063.00
2. Preliminary short subdivision	\$6,914.00 for 2-lot short subdivision, plus (\$532.00) for each additional lot
3. Final short subdivision	\$2,021.00
4. Preliminary subdivision	\$15,956.00 for 10-lot subdivision, plus (\$745.00) for each additional lot, and public hearing (\$3,723.00)
5. Final subdivision	\$7,765.00
6. Changes to preliminary short or formal subdivision	\$3,936.00
7. Multiple buildings	Hourly rate, 10-hour minimum \$1,990
8. <u>Plat Alteration</u>	<u>Hourly rate, 2-hour minimum \$398</u>
9. <u>Plat Alteration with public hearing</u>	<u>Hourly rate, 2-hour minimum \$398 and public hearing (\$3,723)</u>

SMC 20.30.050 Administrative decisions – Type B, amended as follows:

Table 20.30.050 – Summary of Type B Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

Action	Notice Requirements: Application and Decision ^{(1), (2), (3)}	Target Time Limits for Decision	Appeal Authority	Section
Type B:				
1. Binding Site Plan ⁽⁴⁾	Mail	90 days	HE	20.30.480
2. Conditional Use Permit (CUP)	Mail, Post Site, Newspaper	90 days	HE	20.30.300
3. Preliminary Short Subdivision ⁽⁴⁾	Mail, Post Site, Newspaper	90 days	HE	20.30.410
4. SEPA Threshold Determination	Mail, Post Site, Newspaper	60 days	HE	20.30.490 – 20.30.710
5. Shoreline Substantial Development Permit, Shoreline Variance and Shoreline CUP	Mail, Post Site, Newspaper	120 days	State Shorelines Hearings Board	Shoreline Master Program
6. Zoning Variances	Mail, Post Site, Newspaper	90 days	HE	20.30.310
7. Plat Alteration ⁽⁵⁾⁽⁶⁾	<u>Mail, Post Site, Newspaper</u>	<u>90 days</u>	<u>HE</u>	<u>20.30.425</u>

Plat Alterations - Permanent Regulations - Exhibit A

Key: HE = Hearing Examiner

- (1) Public hearing notification requirements are specified in SMC 20.30.120.
- (2) Notice of application requirements are specified in SMC 20.30.120.
- (3) Notice of decision requirements are specified in SMC 20.30.150.
- (4) These Type B actions do not require a neighborhood meeting. A notice of development will be sent to adjacent properties.
- (5) A Plat Alteration does not require a neighborhood meeting.
- (6) If a public hearing is requested, the Plat Alteration will be processed as a Type C Action per SMC Table 20.30.060.

SMC 20.30.060 Quasi-judicial decisions – Type C

Table 20.30.60 – Summary of Type C Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

Action	Notice Requires for Application and Decision (3), (4)	Review Authority, Open Record Public Hearing	Decision Making Authority (Public Meeting)	Target Time Limits for Decision	Section
Type C					
...					
<u>9. Plat Alteration with Public Hearing (5)</u>	<u>Mail</u>	<u>Hearing Examiner (1), (2)</u>		<u>120 days</u>	<u>20.30.425</u>

(1) Including consolidated SEPA threshold determination appeal

...

(5) A Plat Alteration does not require a neighborhood meeting.

SMC 20.30.420 Changes to approved subdivision, subsection (B) amended as follows:

A.

B. Recorded Final Plats. An application to ~~change/alter~~ a final plat that has been filed for record shall be processed as provided for in SMC 20.30.425. ~~in the same manner as a new application. This section does not apply to affidavits of correction of lot line adjustments.~~

SMC 20.30.425 Alteration of Recorded Plats, amended as follows:

- A. Applicability** A plat alteration provides a process to alter or modify a previously recorded plat, short plat, binding site plan, or any portion thereof. The plat alteration results in changes to conditions of approval, restrictions, or dedications that are shown on the recorded plat.
1. Any person seeking to alter a recorded final plat or any portion thereof shall comply with the requirements set forth in chapter 58.17 RCW and the regulations in effect at the time the application is submitted to the City.
 2. This section shall not apply to the:
 - a. Alteration or replatting of any plat of state-granted tide or shore lands as provided in RCW 58.17.215.
 - b. Adjustment of boundary lines as provided in RCW 58.17.040(6).

Plat Alterations - Permanent Regulations - Exhibit A

- c. Any change to a recorded final plat where an additional lot(s) is proposed shall not be considered an alteration and shall be processed as a new formal subdivision or short subdivision depending on the number of lots being created. EXCEPT, if a condition or restriction on the original plat would prohibit such a change, then the plat alteration process must first be completed before a new subdivision may be sought.

B. Application A request to alter a recorded plat shall be submitted on official forms prescribed and provided by the Department along with the applicable fees.

1. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.
2. If the subdivision is subject to restrictive covenants which were recorded at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.
3. If the application seeks to extinguish or alter an easement established by a dedication, the application must contain an agreement for the release or alteration of the easement by all of the owners or the easement.

C. Notice

1. Complete Application. After the City has determined the application is complete, the City shall issue a notice of the complete application. This notice shall: ~~as provided in SMC 20.30.120 utilizing the methods specified in Table SMC 20.30.050. In addition, the notice shall:~~

1. Be provided by regular U.S. mail to all owners of property within the subdivision as provided in RCW 58.17.080 and 58.17.090; and
2. Establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within 14 calendar days of receipt of the notice. The cost of the public hearing shall be the responsibility of the applicant for the plat alteration.

2. Public Hearing. If a public hearing is timely requested, notice of the public hearing shall be provided as set for in SMC 20.30.180.

D. Review Criteria

1. Decision-making authority.
 - a. Director. Applications for a plat alteration are a Type B action and shall be administratively reviewed by the Director unless a public hearing has been timely requested as provided in SMC 20.50.425(C)(2) or the City determines that a public hearing is in the public interest, in which case it is a Type C action.
 - b. Hearing Examiner. Applications for a plat alteration for which ~~if~~ a public hearing has been requested are a Type C action. ~~An~~ open record public hearing before the hearing examiner shall be held and the hearing examiner shall issue a decision.
2. The decision-making authority shall review the submittal materials and may approve or deny after a written determination is made whether the public use and interest will be served by the alteration and whether the alteration satisfies the review criteria set forth in SMC 20.30.410(B).
3. In any written determination approving an alteration:
 - a. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.
 - b. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
4. The Director's decision is final unless appealed to the hearing examiner as provided in Section F below. The hearing examiner's decision on a plat alteration for which a public hearing was requested is final and may be

Plat Alterations - Permanent Regulations - Exhibit A

appealed to superior court pursuant to chapter 36.70C RCW Land Use Petition Act.

E. Recording of Alteration No later than thirty (30) calendar days after approval of the alteration, the applicant shall produce a revised drawing or text of the approved alteration to the plat, conforming to the recording requirements of Chapter 58.17 RCW and processed for signature in the same manner as set forth for final plats in this chapter. The applicant shall file, at their sole cost and expense, the revision approved by the alteration to the plat with the King County Recorder to become the lawful plat of the property.

F. Appeal

1. The Director's decision on a plat alteration where no public hearing was held may be appealed to the hearing examiner as provided in SMC 20.30 Subchapter 4 General Provisions for Land Use Hearings and Appeals.
2. The Hearing Examiner's decision shall be final on an appeal of the Director's decision on a plat alteration.
3. The final decision of the Hearing Examiner may be appealed to superior court pursuant to chapter 36.70C RCW Land Use Petition Act.