



AGENDA

PLANNING COMMISSION

VIRTUAL/ELECTRONIC REGULAR MEETING

Thursday, December 2, 2021
7:00 p.m.

Held Remotely on Zoom

<https://us02web.zoom.us/j/83189299735?pwd=VEtHQVpqMVdHcjYm5oRFhVQVE0UT09>

Passcode: 903013

In an effort to curtail the spread of the COVID-19 virus, the Planning Commission meeting will take place online using the Zoom platform and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online; join the meeting via Zoom Webinar; or listen to the meeting over the telephone.

The Planning Commission is providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral public comment. To provide oral public comment you must sign-up by 6:30 p.m. the night of the meeting.

Please see the information listed below to access all of these options:



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Pre-registration is required by 6:30 p.m. the night of the meeting.



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Written comments will be presented to Council and posted to the website if received by 4:00 p.m. the night of the meeting; otherwise they will be sent and posted the next day.

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00
2. ROLL CALL	7:01
3. APPROVAL OF AGENDA	7:02
4. APPROVAL OF MINUTES FROM:	7:03
a. November 18, 2021 - Draft Minutes	

Public Comment and Testimony at Planning Commission

During General Public Comment, the Planning Commission will take public comment on any subject which is not specifically scheduled later on the agenda. During Public Hearings and Study Sessions, public testimony/comment occurs after initial questions by the Commission which follows the presentation of each staff report. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign-up by 6:30 p.m. the night of the meeting. Individuals wishing to speak to agenda items will be

called to speak first, generally in the order in which they have signed. In all cases, speakers are asked to state their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Generally, individuals may speak for three minutes or less, depending on the number of people wishing to speak. When representing the official position of an agency or City-recognized organization, a speaker will be given 5 minutes. Questions for staff will be directed to staff through the Commission.

5. GENERAL PUBLIC COMMENT	7:04
6. STUDY ITEMS	
a. 2021 Development Code Amendments – Batch #2 – Tree Amendments	7:05
b. MUR 70’ Zone Development Regulations Discussion	8:25
7. UNFINISHED BUSINESS	9:10
8. NEW BUSINESS	9:11
9. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS	9:12
10. AGENDA FOR Next meeting – December 16, 2021	9:13
11. ADJOURNMENT	9:15

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.

DRAFT
CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
(Via Zoom)

November 18, 2021
7:00 P.M.

Commissioners Present

Chair Mork
Vice Chair Sager
Commissioner Malek
Commissioner Callahan
Commissioner Lin
Commissioner Rwamashongye

Staff Present

Rachel Markle, Planning Director
Steve Szafran, Senior Planner
Carla Hoekzema, Planning Commission Clerk

Commissioners Absent:

Commissioner Galuska (excused)

CALL TO ORDER

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

ROLL CALL

Ms. Hoekzema called the roll.

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of November 4, 2021 were accepted as presented.

GENERAL PUBLIC COMMENT

There were no general public comments.

STUDY ITEM: 2021 DEVELOPMENT CODE AMENDMENTS – Part 2 – Tree Amendments

Steve Szafran, Senior Planner, made a presentation regarding the proposed Tree Code Amendments.

- Amendment 1 would add definitions for Critical Root Zone and Inner Critical Root Zone. Staff agrees with the applicant on this.
- Amendment 2:
 - Tree Canopy definition - Staff proposed an amendment to the applicant's definition leaving in the total area of the tree.
 - Hazardous Tree definition – Staff agrees with the applicant.
 - Heritage Tree definition – This was withdrawn by the applicant.
 - Landmark Tree definition – Staff's proposed language would keep the diameter for a landmark tree at 30 inches.
 - Nonsignificant Tree definition – This was withdrawn by the applicant.
 - Significant Tree definition – This would change the existing diameter from 8 inches to 6 inches for conifers and from 12 inches to 10 inches for non-conifers.
 - Urban Forest and Urban Tree Canopy definitions – Staff agrees with these recommendations.
- Amendment 4 was withdrawn by the applicant.
- Amendment 5 would change section titles from purpose to policy, add tree preservation and protection language, and add language that clarifies the section, (SMC 20.50.290) – Purpose (Tree Conservation, Land Clearing and Site Grading Standards). Staff recommends changes as shown in the Staff Report.
- Amendment 6 would add new sections to 20.50.300 – General Requirements (for Tree Conservation, Land Clearing, and Site Grading Standards). New sections include Best Management Practices; Site Violations; Restoration Plans; Site Investigations; Monetary Penalties; Financial Guarantees (Performance and Maintenance Bonds). Staff generally agrees, but there are some concerns as highlighted in the Staff Report because the language was originally written for critical areas and includes “vegetation”. Staff does not believe that vegetation on sites without critical areas should not be regulated in the same way. Requiring maintenance agreements and mitigation plans for tree replacement on a single-family home lot may be overly burdensome to the typical property owner.
- Amendment 7 would revise the maximum number of trees that may be removed without a permit. SMC 20.50.310 – Exemptions from Permit
- Amendment 8 would increase minimum tree retention requirements. 20.50.350 – Development Standards for clearing activities. The applicant recommended keeping the increase to the significant tree retention from 20% to 25% but deleting all the incentive language. Staff is recommending approval of the changes to this amendment.
- Amendment 9 would allow the Director to waive or reduce the minimum significant tree retention to facilitate other priorities and other circumstances such as preservation of a greater

number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals. Exception 20.50.250(B)(1) – Significant Tree Retention.

- Amendment 10 would require the applicant to either provide replacement trees for significant trees removed during development or pay the fee-in-lieu of tree replacement to the dedicated tree fund if trees cannot be replaced on-site. The intent is to restrict the director from reducing the number of trees that would have been replaced on site.
- Amendment 11 would propose tree protection measures that clarify the best management practices that need to be implemented to improve and safeguard the survival of the designated trees to be retained during construction. 20.50.370 Tree protection standards.
- Amendment 12 proposes amendments to Title 12 – Street Trees which would require public notifications when trees in the right-of-way are proposed to be removed.
- Associated Request: Establish an Urban Forestry Advisory Panel to establish consistent oversight and accountability for the city-wide urban forest and tree management decisions.

Public Comments:

Rebecca Jones, Seattle, Tree Preservation Code Team member, spoke in support of saving mature conifer and native trees in Shoreline. Due to increased climate and development pressures, the Team requests that the timeline be adjusted for a more expedient review.

Susanne Tsoming, read a statement on behalf on John Hushagen, Shoreline, Tree Preservation Code Team member, in support of his proposed Amendment 11, SMC 20.50.370 Tree Protection Standards. He thanked staff for approving most of his proposed amendment. As for the unapproved language in item D regarding tree protection barriers, he believes that the 6-foot-high chain link fence is a better barrier to protect tree root zones than the flimsy orange plastic fencing which is only four feet high and easily trampled. Furthermore, he disagrees with city arborists that a 6-foot-high chain link fence cannot be supported on steep slopes or other soil conditions that would make installing or maintaining unreasonable.

Gayle Janzen, North Seattle, Tree Preservation Code Team member, spoke regarding Amendment 8, 20.50.350 (B1) Tree Retention. The Code Team believes the current 20% minimum significant tree retention requirement on development sites is too low especially since this code pertains only to residential zones, MUR35, and MUR45 zones. She noted there are currently no retention requirements on seven zones. The Code Team has withdrawn the tree retention incentive table due to staff's concern that this would be labor intensive. The Code Team is asking staff to study other workable incentives for significant tree retention above the proposed 25%.

Nancy Morris, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 7, SMC. 20.50.310 (B1) Exemptions from Permit – Partial Exemptions. Given the present and increasing climate crisis preserving all existing tree canopies must be a definite priority.

Bill Turner, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 2, item 6, SMC 20.20.048 Significant Tree Definition. The Code Team submits the following revised definition: “Tree, Significant. Any healthy tree six inches or greater in diameter at breast height (DBH) excluding those trees that qualify for complete exemptions from SMC Chapter 20.50, Subchapter 5.” Adjacent jurisdictions of Edmonds, Lake Forest Park, Lynnwood, Redmond, Kirkland, Seattle, Woodinville, Issaquah, Snohomish and Bellingham define 6 inches DBH for significant trees. Additionally, Shoreline already uses the 6-inch DBH when referring to public right-of-way trees.

Kathleen Russell, Shoreline, Tree Preservation Code Team member, spoke against staff’s proposed Amendment 9 which would allow staff the ability to waive the retention of any significant trees in MUR35 and MUR45 properties. The Code Team asked that this code be revised to exclude the authority of the director to waive or reduce the required significant tree retention on these properties and language be provided to solve the concern when an owner does need to remove a tree due to unusual circumstances.

Isis Charest, Shoreline, Tree Preservation Code Team member, spoke in support of a revised definition of Landmark Trees in Amendment 2, item 4, 20.40.048 Landmark Tree Definitions. The Code Team recommends the definition for a Landmark Tree include the 24-inch diameter at breast height (DBH) metric. In addition, it is recommended that the existing Landmark Tree Designation Program be included in this definition as information for Shoreline Citizens who are interested in participating in this program.

Melody Fosmore, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 10, Exception 20.50.360 (CB) Tree Replacement. The Team recommends the code be amended to read: “To the extent feasible, all replacement trees shall be replaced onsite. When an applicant demonstrates that the project site cannot feasibly accommodate all the required replacement trees on site, the director may allow the payment of a fee-in-lieu tree replacement at the rate set forth in SMC 3.01 fee schedule.”

Wally Fosmore, Shoreline, Tree Preservation Code Team member, spoke regarding Amendment 6, SMC 20.50.300 General Requirements. This amendment pertains to the protection of trees on development sites including stop work orders and penalties if trees are negatively impacted by construction. Citizens want the municipal code to convey to developers that Shoreline values all trees including trees protected by a development permit. Amendment 6 adds this protection. Staff is recommending deleting the words “and vegetation”. The Code Team agrees with this recommendation. In addition, staff is not recommending items L1, M1, and M2; therefore, the Code Team asks the Planning Commission to ask staff to provide language for L1, M1, and M2 to protect individual homeowners from financial duress. The Code Team also requests that the language for L1, M1, and M2 be maintained for developers in MUR35 and MUR45 zones.

Martha Diesner, Shoreline, Tree Preservation Code Team member, spoke in support of preservation of significant trees at the 198th affordable housing project on Highway 99 near Echo Lake. With existing regulations, the developer can remove all of the 12 significant trees from the Mixed Business zone. Additionally, the architect has requested that the City remove all the significant trees on the residential zone as well. Per Amendment 9, Exception 20.50.310 (B1) the director has the right to reduce the retention of trees in residential zones, MUR35 and MUR45. The Code Team is requesting that the code be revised and that director refuses the request of the architects and that the structure at 198th be redesigned to accommodate the trees on the residential zone and mixed business where there are conifers.

Discussion:

Both staff and the applicant agree on items Amendments 1, 3 and 8. There was no further discussion on these. Discussion on other amendments followed:

- Amendment 2, definition of Tree Canopy – Staff is recommending approval with amendments. Senior Planner Szafran commented that staff was uncertain if the applicant was in agreement with staff's amendment. Staff is recommending keeping language that the applicant wanted to delete. Chair Mork commented that it appeared to mean the same thing. Senior Planner Szafran concurred.
- Amendment 2, definition of Hazardous Tree – Staff is in agreement with the applicant.
- Amendment 2, Heritage Tree – This has been requested to be withdrawn by the applicant.
 - Commissioner Rwamashongye noted that within Amendment 6, you find language referring to heritage trees. If this is deleted, how do they mention a heritage tree in Amendment 6? Senior Planner Szafran clarified that the applicant requested to remove the language referring to heritage trees in Amendment 6 also.
 - Commissioner Callahan pointed out that the 2014 Shoreline Urban Forest Strategic Plan has as one of its goals to explore a heritage tree program. Vice Chair Sager echoed Commissioner Callahan's comments; she thinks this needs to be on the City's radar in the near future.
 - Chair Mork summarized that the Planning Commission strongly encourages staff come up with language for this. Senior Planner Szafran replied that if this is withdrawn staff can address it separately at a future meeting. Director Markle noted that this could be a discussion with the next biennial budget so there can be an adequate staffing plan in place. Commissioner Malek thought this is something that could possibly be addressed by a tree commission.
- Amendment 2, Landmark Tree – The City is recommending this definition with amendments. The applicant had proposed a revised definition for this. Additionally, the applicant has proposed 24 inches in diameter; staff is proposing 30 inches.
 - Vice Chair Sager spoke in support of the 24-inch DBH for landmark trees but would be willing to compromise to 27 or 28 inches.
- Amendment 2, Nonsignificant Tree definition – This has been withdrawn.
- Amendment 2, Significant Tree – This definition has also been revised. Mr. Turner had proposed that the diameter be 6 inches as a definition for a significant tree.
 - Vice Chair Sager agreed with the 6-inches as a definition; she noted that 6 out of the 10 jurisdictions looked at had 6-inch trees as significant trees.
- Amendment 4 – This was withdrawn.

- Amendment 5 – Tree Policy – Staff is recommending approval with amendments. Senior Planner Szafran did not recall if staff received comment about their proposed changes. Director Markle explained she is the one who had written this. She combined everything new from the applicant into the purpose section. The applicant’s content was kept largely intact. There was consensus that this was agreeable.
 - Commissioner Rwamashongye commented that in general the recommendation by the Tree Preservation Code Team was well balanced. They tried hard to balance the needs of both the community and development.

- Amendment 11 – There was a disagreement with the applicant about the height of the fence and also the type of fence. Senior Planner Szafran indicated staff could bring back some language for the Planning Commission to consider.
 - Commissioner Callahan asked why there was opposition by staff to the 6-foot height and the chain link fence. Senior Planner Szafran replied that the Planning Commission was free to make a recommendation for this. Commissioner Lin suggested modifying the language to allow what is most durable, which may not necessarily be a 6-foot chain link fence but could be something comparable. The purpose is for the protection, but they could allow some flexibility for different site needs. Senior Planner Szafran agreed. Commissioner Malek concurred with Commissioner Lin. He was in favor of allowing alternates that are effective. Commissioner Rwamashongye also agreed with Commissioners Malek and Lin. There was consensus that the plastic snow fence is not acceptable, but alternatives such as chain link or something similar would be acceptable. Senior Planner Szafran noted that the existing language of “constructed of chain link or similar material” gives staff a lot of flexibility. They would also be deleting the plastic fencing which would not qualify as a “similar material”.

- Amendment 6 – Staff’s recommendation is not to include the penalties, L1, M1 and M2. The applicant is requesting that these be included. Senior Planner Szafran explained that staff had justifications for not including those.
 - Commissioner Rwamashongye expressed concern about penalizing someone for something that is not feasible. He would consider a fee-in-lieu of the penalty if they restore the Director’s authority to make certain decisions (as proposed in a different amendment). Senior Planner Szafran indicated he would need more time to consider this.
 - Director Markle reiterated staff’s need for more time to make sure there is adequate time in staff’s work schedule to consider these topics. She explained that tree amendments were not on the work plan, but the City got a lot of great suggestions ahead of when it is on the work plan. Staff agrees that they need greater enforcement and perhaps penalties, but staff needs to work with code enforcement to analyze what the penalties would be.
 - Vice Chair Sager agreed that there needs to be penalties, and that these probably aren’t right. She asked for clarification about what would be so onerous for the homeowner. Senior Planner Szafran explained it is very expensive for a typical homeowner to go through the monitoring and other maintenance requirements. Vice Chair Sager asked if removing native vegetation could damage or destabilize a tree. Senior Planner Szafran indicated that when proposals come in staff relies on the arborist’s report.

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- Commissioner Lin commented that the understory within the tree drip line will normally be protected by the tree fence. If there is additional landscaping it will go in per the overall design. She agrees with staff on Amendment 6 in terms of allowing some flexibility for the homeowner. Some of the language does need to be modified, especially where it says if there is any violation, they need to stop all work. It is important to also consider construction timeline and sequencing. Regarding monitoring and maintenance requirements, it will be costly for the regular homeowner and time consuming for staff. This also needs to be considered, but there should be some mechanism to make sure that the trees are in good condition.
- Commissioner Malek agreed with Commissioner Lin. He expressed frustration that some of the language is punitive and unnecessary.
- Commissioner Rwamashongye agreed with Commissioner Malek and commented that using the definition of 6 inches DBH also would capture ornamental trees on properties that people had planted.
- Chair Mork suggested staff could prepare something that would keep the parts of this that they all agree with and put the parts that need more work to be modified or considered in the future. Senior Planner Szafran agreed that was possible. The Commission could recommend the language that is underlined except the blue parts (on the PowerPoint slides). Staff could look at the penalties and the financial guarantees in a future work plan and bring those back to the Commission. Chair Mork summarized that the Planning Commission thinks this is an urgent area that needs attention and hopes that staff would prioritize this.

Given the late hour, the discussion on the Tree Code amendments (#7, 9, 10 and definitions of Landmark Trees, and Significant Trees) was continued to a future meeting.

REPORTS OF COMMITTEES AND COMMISSIONER ANNOUNCEMENTS

Commissioner Malek commented that the Point Wells decision is under review, and a decision should be rendered on or before December 1.

AGENDA FOR NEXT MEETING

The next meeting is scheduled for December 2, 2021. Topics covered will be MUR70-related amendments and the continued Tree Code discussion.

ADJOURNMENT

The meeting was adjourned at 8:57 p.m.

Laura Mork
Chair, Planning Commission

Carla Hoekzema
Clerk, Planning Commission

DRAFT

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6a. Staff Report - 2021 Dev. Code Amendments - Batch #2 - Tree Amendments

Planning Commission Meeting Date: December 2, 2021

Agenda Item: 6a.

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	2021 Development Code Amendments – Part 2 – Tree Amendments		
DEPARTMENT:	Planning & Community Development		
PRESENTED BY:	Steven Szafran, AICP, Senior Planner		
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Only	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

Introduction

The purpose of this study session is to:

- Continue review of the proposed second batch (Batch #2) of Development Code Amendments which relate solely to the regulation of trees (Attachment A).
- Review changes to the amendments introduced by staff and the applicant since the Commission’s last meeting on November 18, 2021.
- Respond to questions regarding the proposed development regulations.
- Prepare changes to the proposed amendments based on direction from the Planning Commission.
- Gather public comment.

The proposed Development Code Amendments related to trees were presented to the Commission at its regular meeting on October 7, 2021, and November 18, 2021. Due to time constraints, the Commission did not finish its discussion on the amendments. To provide interested Commissioners with the opportunity to learn more about the proposed amendments and how they relate to the City’s tree regulations, staff invited the Planning Commissioners to meet in small groups; these small group meetings took place between October 22 and November 18.

The purpose of tonight’s meeting is to continue review of the amendments that the Commission couldn’t discuss which include Amendments 2, 6, 7, 9, and 10. In addition, the applicant and staff have requested to withdraw and/or amend some of the language in certain amendments. Staff will point out these withdrawals and amendments in the analysis section below.

Background

Batch #2 consists of three distinct groups of amendments that have been grouped by topic.

Approved By: **Project Manager** _____

Planning Director _____

6a. Staff Report - 2021 Dev. Code Amendments - Batch #2 - Tree Amendments

The Planning Commission held a meeting on July 15, 2021 to discuss the miscellaneous amendments in Batch #2

(<https://www.shorelinewa.gov/home/showpublisheddocument/52148/637613489955100000>).

The Planning Commission held a meeting on August 5, 2021 to discuss the SEPA amendments in Batch #2

(<https://www.shorelinewa.gov/home/showpublisheddocument/52443/637631694072030000>).

The Planning Commission held a meeting on October 7, 2021 to discuss the tree amendments in Batch #2. However, as noted above, there was not enough time at this meeting for the Commission to discuss these proposed amendments in detail. (<https://www.shorelinewa.gov/home/showpublisheddocument/52805/637686046344470000>).

The Planning Commission held a meeting on November 18, 2021, to discuss the tree amendments in Batch #2. However, as noted above, there was not enough time at this meeting for the Commission to finish discussion of the proposed amendments.

(<https://www.shorelinewa.gov/home/showdocument?id=53231>).

Tonight's discussion is a continuation on the amendments related to the City's tree regulations.

All amendments will be brought back together to the Commission for a Public Hearing and to make a formal recommendation to the Council on the entirety of Batch Part 2, which will include the miscellaneous amendments, the SEPA amendments, and these tree amendments.

Attachment A includes the proposed 2021 Batch Part 2 Tree amendments. Each amendment includes a justification for the amendment, the entire amendment as proposed by the submitter in legislative format, staff's recommendation, and for some amendments, alternative staff proposed language.

Analysis of staff and Applicants' requested changes to proposed amendments.

The amendments below include amendments that the Commission couldn't discuss during the November 18 meeting and recent applicant and staff related changes. These changes are described below. **Attachment A** has been updated to reflect the applicant's requested changes shown below and staff's preliminary recommendations.

Amendment #2 – 20.20.048 Landmark Tree

The applicant has requested to amend their original definition of Landmark Tree to add a reference to the existing City of Shoreline Landmark Tree program. The revised definition language is shown below.

Tree, Landmark - Any healthy tree that is or over 24 30 inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of ~~or any tree that is particularly impressive or unusual due to its size, shape, age, location,~~ aesthetic quality for its species ~~historical significant~~ or any other trait that epitomizes the

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character of the species, and/or has cultural, historic or ecological importance or that is an regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).

The Tree Preservation Code Team recommends the definition for a Landmark tree include a 24" diameter at breast height (dbh) measurement. The applicant states that without a clear and definitive measurement indication, the code is subject to various interpretations by homeowners, arborists, developers, and City Staff. Lake Forest Park uses a designation of 24" dbh for a Landmark Tree designation.

In addition, it is recommended that the existing Landmark Tree Designation program, already represented in the SMC, be included in this definition as information for Shoreline residents interested in participation in the program.

Amendment #2 – 20.20.48 Significant Tree

Staff has conducted further research on the definition of significant tree from other jurisdictions around the region and the definition of significant tree ranges from 6 inches to 16 inches diameter at breast height (dbh) for all types of trees. Also, some cities do not regulate certain species of trees even though they may be above the 6-inch threshold.

The applicant has requested to amend their original definition of Significant Tree to read:

Tree, Significant: Any healthy tree six inches or greater in diameter at breast height (dbh) excluding those trees that qualify for complete exemptions from Chapter 20.50. SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).

Both City Staff and the Tree Preservation Code Team reviewed adjacent jurisdictions regarding diameter at breast height (dbh) measurements for Significant trees. The following cities define six inches (6") dbh for Significant trees: Edmonds, Lake Forest Park, Lynwood*, Redmond, Kirkland, Seattle, Woodinville, Issaquah, Snohomish*, and Bellingham.

In addition, the City of Shoreline currently uses the 6-inch dbh metric for Significant trees when referring to public right-of-way trees. SMC 12.30.040(B)(4) - right-of-way street trees states, "All existing trees six inches in diameter at breast height or greater allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360(C)(1) through (3)".

The applicant states, for the sake of consistency, the definition of Tree, Significant should match the SMC for public right-of-way trees.

**Lynnwood excludes black locust, cottonwood, native alder, native willow, Lombardy poplar from this measurement.*

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**Snohomish excludes alder and cottonwood from this measurement.*

Amendment #6 – 20.50.300 General Requirements

The applicant has requested to amend the proposed amendment. The new/amendment language shown below in **green text**–

- A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.
- B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.
- C. Permit Required. No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.
- D. When clearing or grading is planned in conjunction with development that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.
- E. A clearing and grading permit may be issued for developed land if the regulated activity is not associated with another development application on the site that requires a permit.
- F. Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D).
- G. Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter 20.80 SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply.
- H. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation at the development site. Any damage to, or alteration of trees and vegetation to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party's expense.
- I. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, all ongoing development work shall stop and the area in violation shall be restored. The City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.
- J. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved

6a. Staff Report - 2021 Dev. Code Amendments - Batch #2 - Tree Amendments

permit is issued by the City. Such a plan shall be prepared by a qualified professional arborist. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violation(s) to trees and vegetation shall be completed through a site development permit application process.

K. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

L. Penalties. Any responsible party violating any of the provisions of this chapter may be subject to any applicable penalties per SMC 20.30.770 plus the following:

1. A square footage cost of \$3.00 per square foot of impacted trees and vegetation at the development site; and a square footage cost of \$15.00 per square foot of impacted vegetation and trees at the development site in the MUR-35' and MUR-45' zones; and

2. A per tree penalty in the amount of \$3,000 per non-Significant tree; \$9,000 per Significant tree; \$15,000 per Landmark tree; and, \$20,000 per Heritage tree, for trees removed at the development site without appropriate permitting as required and/or in violation of the provisions of this subchapter.

M. Financial guarantee requirements. Bonds and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects in the MUR-35' and MUR-45' zones with required mitigation or restoration of violation to trees and vegetation on a development site consistent with the following:

1. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).

2. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation to trees and vegetation. The amount of the maintenance bond(s) shall equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

The applicant states that the remaining language is not new language to the code as it already exists in portions of SMC 20.80 Critical Areas. The applicant is copying language from the critical area portion of the code and applying it to all development sites where trees may be impacted from new development.

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Staff generally agrees that language should be added to provide additional protection for regulated trees. Staff is concerned with the language highlighted in blue. Since this proposed language was originally written for the critical areas section of the code, the language includes not only trees but also vegetation. Protection of vegetation is important in the critical areas because vegetation stabilizes slopes and landslide hazard areas and provides functions for stream and wetland buffers. Vegetation on sites without critical areas should not be regulated the same way. Property owners should have the flexibility to add, remove, or change any vegetation on their site without repercussions. The applicant agrees with this analysis.

Staff believes the proposed language in “L” and “M”, monetary penalties for clearing and requiring a maintenance agreement and a mitigation plan for tree replanting, on a typically single-family home would be unduly burdensome to the property owner. The penalties for removing an insignificant tree in a critical area is warranted to protect and preserve Shoreline critical areas and their buffers but applying a penalty for removing a small tree, shrubs, or landscaping on a typical single-family lot shouldn't be penalized. In addition, the penalties in L2 conflict with the civil penalty section in SMC 20.30.770(D)(2)(b) that states for violations not located in critical areas, the City may charge penalties based on the economic benefit that the responsible party derives from the violation which is often more substantial than the proposed penalties proposed in L2.

The applicant has clarified and requested that sections L and M only apply to properties zoned MUR-35' and MUR-45' as the original proposal was intended to exempt single-family homeowners from the proposed regulations.

Staff is still concerned with the proposed changes to the amendment that applies the regulations in L and M to only the MUR-35' and MUR-45' zones. The short turn-around time does not allow enough time for staff to evaluate the impacts of the recent change to the amendment. Staff recommends the provisions proposed in L and M be withdrawn or denied from Batch #2 and, if required, brought back to the Commission in the next batch of Development Code amendments for staff to study the issue in more detail.

Amendment #7 – 20.50.310 – Exemptions From Permit

This proposed amendment limits the number of exempt trees that may be removed under the partial exemption section.

B. Partial Exemptions. With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of three Significant trees on lots up to 7,200 square feet and one additional Significant tree for every additional 7,200 square feet of lot area up to one acre and as follows:

<u>Maximum Number of Trees Exempted</u>

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<u>Less than 7,200 sq ft</u>	<u>3 trees</u>
<u>7,201 sq ft to 14,400 sq ft</u>	<u>4 trees</u>
<u>14,401 sq ft to 21,600 sq ft</u>	<u>5 trees</u>
<u>21,601 sq ft to 28,800 sq ft</u>	<u>6 trees</u>
<u>28,801 sq ft to 36,000 sq ft</u>	<u>7 trees</u>
<u>36,001 sq ft to 43,560 sq ft</u>	<u>8 trees</u>
<u>Maximum Number of Trees Exempted on One Acre to Twenty-Five Acres</u>	
<u>1 acre + 1 sq ft (43,561 sq ft) to 2 acres</u>	<u>9 trees</u>
<u>2 acres + 1 sq ft to 5 acres</u>	<u>10 trees</u>
<u>5 acres + 1 sq ft to 10 acres</u>	<u>20 trees</u>
<u>10 acres + 1 sq ft to 15 acres</u>	<u>30 trees</u>
<u>15 acres + 1 sq ft to 20 acres</u>	<u>40 trees</u>
<u>20 acres + 1 sq ft to 25 acres</u>	<u>50 trees</u>

Maximum removal of trees on all private properties more than 25 acres is 50 trees every 36 months.

2. The removal of any tree greater than ~~24~~ 30 inches DBH or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).
3. Landscape maintenance and alterations on any property that involve the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded.

Staff’s recommendation stays the same and recommends that this proposed amendment be denied. The subject Development Code section was previously amended in January 2019 under Ordinance 850. The Planning Commission and Council agreed with staff that tree removal should be equitable among all properties in Shoreline. That amendment proposed to extend the same exemption ratio of tree to property area beyond the current 21,781 square foot (1/2 acre) cap to be equitable toward property owners that have larger parcels. The proposed amendment shown above artificially limits tree removal on properties larger than one acre where the current regulations allow one additional significant tree to be removed for every 7,200 square feet of lot area.

The current regulations are equitable for all property owners whereas the proposed regulations are more restrictive for property owners with larger lots.

Amendment #8 – 20.50.350 Development Standards for Clearing Activities

The applicant has requested to amend their original proposal by keeping the language that increases significant tree retention from 20% to 25% but withdrawing the rest of the amendment that proposes incentives for greater tree retention.

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- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- 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 ~~25~~ 20 percent of the ~~S~~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.
 3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during development through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.
 4. The minimum amount of trees to be retained cannot be removed for a period of 36 months and shall be guaranteed through an approved maintenance agreement.
 5. The Director may require the retention of additional trees to meet the stated purpose and intent of this title, as required by the critical areas regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II, or as site-specific conditions demand using SEPA substantive authority.

Staff agrees with the applicant's proposed amendment to increase retention by 5 percent but only in conjunction with the approval of Amendment #9. As staff has stated in the past, most development projects retain over the 20% minimum significant tree retention. This is also true if the significant tree retention was increased to 25%. Staff is comfortable raising the minimum significant tree retention if the Director has the increased flexibility to waive or reduce minimum significant tree retention as proposed in Amendment #9. As previously explained, there are rare times where a homeowner needs to remove a tree that is causing unusual damage to structures or utilities and the tree must be removed.

Amendment #9 – Exception 20.50.310(B)(1) Significant Tree Retention

This is a staff proposed amendment to allow the Director to waive or reduce the minimum significant tree retention percentage to facilitate several other priorities such as preservation of a greater number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals. As staff has previously said to the Commission, sometimes it's necessary to completely waive minimum significant tree retention for the times when a homeowner must remove a tree to stop site or property damage based on a qualified arborist's recommendation.

The Commission is concerned that this proposed amendment does not have criteria or guidance to inform the Director when it is appropriate to allow minimum tree retention below 20 % or to completely waive minimum significant tree retention. Staff has

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proposed an additional amendment that uses the existing criteria to allow the Director to reduce minimum significant tree retention.

Exception 20.50.350(B):

1. The Director may ~~allow a~~ waive or reduce ~~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

2. In addition, the Director may ~~allow a~~ waive or reduce ~~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.*

Amendment #10 – Exception 20.50.360 – Tree Replacement and Site Restoration

This amendment requires that the property owner or developer replace all trees on-site or pay the fee-in-lieu of tree replacement to the dedicated tree fund for the trees that cannot be replaced on-site and restricts the Director from reducing the number of replacement trees before the fee-in-lieu is paid.

20.50.360 Tree replacement and site restoration.

A. Plans Required. Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area report, mitigation or restoration plans, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant's expense. Third party review of plans, if required, shall be at the applicant's expense.

B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.

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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. 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.

b. To the extent feasible, all replacement trees shall be replaced on-site. When an applicant demonstrates that the project site cannot feasibly accommodate all of the required replacement trees on-site, the Director may allow the payment of a fee in lieu of tree replacement at the rate set forth in SMC 3.01 Fee Schedule, ~~for replacement trees or a combination of reduction in the minimum number of replacement trees required and payment of the fee in lieu of replacement at the rate set forth in SMC 3.01 Fee Schedule~~ 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.~~
- ~~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.~~

c. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

d. Replacement of significant tree(s) approved for removal pursuant to Exception SMC 20.50.350(B)(5) is not required.

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4. Replacement trees required for the Lynnwood Link Extension project shall be native conifer and deciduous trees proportional to the number and type of trees removed for construction, unless as part of the plan required in subsection A of this section the qualified professional demonstrates that a native conifer is not likely to survive in a specific location.
5. Tree replacement where tree removal is necessary on adjoining properties to meet requirements in SMC 20.50.350(D) or as a part of the development shall be at the same ratios in subsections (C)(1), (2), and (3) of this section with a minimum tree size of eight feet in height. Any tree for which replacement is required in connection with the construction of a light rail system/facility, regardless of its location, may be replaced on the project site.
6. Tree replacement related to development of a light rail transit system/facility must comply with this subsection C.
 - D. The Director may require that a portion of the replacement trees be native species in order to restore or enhance the site to predevelopment character.
 - E. The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock.
 - F. Replacement of removed trees with appropriate native trees at a ratio consistent with subsection C of this section, or as determined by the Director based on recommendations in a critical area report, will be required in critical areas.
 - G. The Director may consider smaller-sized replacement plants if the applicant can demonstrate that smaller plants are more suited to the species, site conditions, and to the purposes of this subchapter, and are planted in sufficient quantities to meet the intent of this subchapter.
 - H. All required replacement trees and relocated trees shown on an approved permit shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent permit.
 - I. Where development activity has occurred that does not comply with the requirements of this subchapter, the requirements of any other section of the Shoreline Development Code, or approved permit conditions, the Director may require the site to be restored to as near pre-project original condition as possible. Such restoration shall be determined by the Director and may include, but shall not be limited to, the following:
 1. Filling, stabilizing and landscaping with vegetation similar to that which was removed, cut or filled;
 2. Planting and maintenance of trees of a size and number that will reasonably assure survival and that replace functions and values of removed trees; and
 3. Reseeding and landscaping with vegetation similar to that which was removed, in areas without significant trees where bare ground exists.

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J. Significant trees which would otherwise be retained, but which were unlawfully removed, or damaged, or destroyed through some fault of the applicant or their representatives shall be replaced in a manner determined by the Director.

K. Nonsignificant trees which are required to be retained as a condition of permit approval, but are unlawfully removed, damaged, or destroyed through some fault of the applicant, representatives of the applicant, or the property owner(s), shall be replaced at a ratio of three to one. Minimum size requirements for replacement trees are deciduous trees at least 1.5 inches in caliper and evergreen trees at least six feet in height.

Staff recommends that this amendment be denied. As stated by the applicant, Council recently amended this section to allow the Director the flexibility to reduce the number of replacement trees if the applicant pays the fee-in-lieu for the trees unable to be replanted on site. The reasons for the inability to replant trees vary across the city but usually is based on the arborists recommendation that the replacement trees will not survive based on building and site conditions. In these circumstances, the Director should have the flexibility to reduce the number of replacement trees and charge the applicant a fee-in-lieu for those trees so the city can replant or maintain trees at alternative locations adding and maintaining to the City's urban tree canopy.

Next Steps

The schedule for the 2021 Development Code (Part 2) amendments is as follows:

December 2	Planning Commission meeting: Continued Discussion on the 2021 Batch Part 2 of Development Code Amendments – Tree Amendments.
January 2022	Planning Commission Meeting: Public Hearing on the 2021 Batch Part 2 Development Code Amendments.
February 2022	City Council Study Session and Adoption of 2021 Batch Part 2 of Development Code Amendments.

Attachments

Attachment A – Proposed 2021 Batch Part 2 of Development Code Amendments – Tree Amendments

Att. A - Proposed 2021 Batch Part 2 of Dev. Code Amendments - Tree Amendments

2021 DEVELOPMENT CODE AMENDMENT BATCH – Tree Amendments

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Number	Section	Topic	Submitted	Recommendation
20.20 – Definitions				
1	20.20.014	1. Critical Root Zone 2. Critical Root Zone, Inner	Johnstone	Approve
2	20.20.048	1. Tree Canopy 2. Tree, Hazardous 3. Tree, Heritage 4. Tree, Landmark 5. Tree, Nonsignificant 6. Tree, Significant	Turner	1. Approve (with staff modifications) 2. Approve (with staff modifications) 3. Withdrawn 4. Approve (with staff modifications) 5. Withdrawn 6. Deny
3	20.20.050	1. Urban Forest 2. Urban Tree Canopy	Johnstone	Approve
20.50 – General Development Standards				
4	20.50.280	Tree Purpose (New Section)	Kaye	Withdrawn
5	20.50.290	Tree Policy	Kaye	Approve (with staff amendments)
6	20.50.300	General Requirements	Russell	Approve (with staff modifications)
7	20.50.310	Exemptions from Tree Permit	Tree Preservation Code Team	Deny
8	20.50.350	Tree Retention Incentives	Tree Preservation Code Team	Approve (with staff modifications)
9	Exception 20.50.310(B)(1)	Waiving Tree Retention Requirements	Staff	Approve
10	20.50.360	Tree Fee-In-Lieu	Tree Preservation Code Team	Deny
11	20.50.370	Tree Protection Measures	Hushagen	Approve (with staff modifications)
SMC Amendments				

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12	13.30.040	Notice for Street Tree Removal	Tree Preservation Code Team	Deny

DEVELOPMENT CODE AMENDMENTS

20.20 Amendments

Amendment #1 (Johnstone)

20.20.014 – C definitions

Justification provided by Mr. Johnstone – These new definitions are submitted for consideration to support other amendments by the Tree Preservation Code Team (a private citizen group) are proposing to provide essential tree protection during grading, construction, and maintenance.

The Critical Root Zone (CRZ) is important to a tree because it is where the most critical tree roots are located beneath the ground. Tree roots may be crushed from heavy equipment during construction, they may be smothered, exposed, torn, or cut, or damaged by construction material. The tree trunk and canopy may also be damaged by equipment or construction material. It is necessary to protect the CRZ to prevent inadvertently damaging or killing trees that were to be protected. Because roots extend beyond this zone typically, this definition is already a compromise with development needs; the CRZ must be protected. Encroaching on the CRZ into the ICRZ could cause significant impact to the tree that would be potentially life-threatening and would require maximum post damage treatment to attempt to retain the tree.

Note: The dripline is not the CRZ; the dripline may define an area that is too small for protection of some trees with relatively smaller crowns and, sometimes, newer trees.

Critical Root Zone (CRZ) This means the International Society of Arboriculture (ISA) definition of CRZ as an area equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter. This area is also called the Tree Protection Zone (TPZ). The CRZ area is not synonymous with the dripline.

Critical Root Zone, Inner The ICRZ means an area encircling the base of a tree equal to one-half the diameter of the critical root zone. This area may also be referred to as the interior critical root zone. Disturbance of this area would cause significant impact to the tree, potentially life threatening, and would require maximum post-damage treatment to retain the tree.

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Staff preliminary recommendation – Staff is recommending adding the two above definitions into the Development Code. Staff currently requires an applicant to provide the CRZ and ICRZ on development plans and staff also verifies this information on a site visit. City staff uses current ISA standards and requires the TPZ during construction which provides protection of the CRZ. The CRZ is established as the area from the trunk to the edge of dripline and no work can occur in this area without the City’s written approval and onsite monitoring by an arborist. Staff does not typically see an area on plans that indicate CRZ and ICRZ, most areas are designated as TPZ on plans. The City does not see this as being a change to current practices being applied by the City.

Amendment #2 (Turner)

20.20.048 – T definitions

Justification (Provided by Applicant) – This new size criteria is in keeping with other cities in our region which have adopted these measurements for their Significant and/or Landmark trees because they are rapidly disappearing due to development. The cities of Redmond, Issaquah, Lake Forest Park and Lynnwood have defined six inches at diameter breast height (dbh) for their Significant trees. (It should be noted that at least two of these cities require a removal permit for these trees). Lake Forest Park and Maple Valley define Landmark trees at 24” dbh. These changes in size criteria reflect a growing acknowledgment of the vital work of trees (conifers, in particular) amidst regional concern about loss of suburban tall tree canopy.

There are urgent and compelling reasons to change the measurement criteria for Significant and Landmark trees. Most importantly, it brings more of Shoreline’s tall trees into protection. Per recommendations in the “Climate Impacts & Resiliency Study” commissioned by the City of Shoreline in June 2020, the retention of large, mature trees will increase climate resiliency. Mature trees do the work of supporting wildlife habitat, improving air and water quality, retaining carbon and mitigating stormwater runoff and urban heat island effects that are increasing in Shoreline.

The addition of Heritage Tree is needed to distinguish it from the other defined tree types. Heritage trees are exceptional examples of their species, some of which are threatened in our area. They are not only unique but are a vital part of the City’s urban tree canopy. The intent of this new definition addition is to begin the process of increasing public awareness of Heritage trees located in the City by providing the necessary protections to help preserve these trees for future generations.

Other regional cities have recognized the special importance of these exceptional trees and have adopted “Heritage” (or similar wording) tree definitions. This includes Portland, Seattle, City of Bainbridge Island and Lake Forest Park. In fact, the City spoke of the need for such a program in its “City of Shoreline Urban Forest Strategic Plan,” May 2014, stating “. . . Consider developing a Heritage Tree Program to raise awareness of the significant trees in the community.”

Tree Canopy ~~The total area of the tree or trees where the leaves and outermost branches extend,~~
also known as the “dripline.” The uppermost layer of the tree or group of trees, formed by the leaves and branches of dominant tree crowns.

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Tree, Hazardous A tree that is either dead, permanently damaged and/or is continuing in declining health or is so affected by a significant structural defect or disease that falling or failure appears imminent, or a tree that impedes safe vision or traffic flow, or that otherwise currently poses a threat to life or property.

Tree, Landmark Any healthy tree that is or over 24 30 inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of or any tree that is particularly impressive or unusual due to its size, shape, age, location, aesthetic quality for its species historical significant or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or that is a regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).

Tree, Significant Any healthy tree six inches or greater in diameter at breast height (dbh) excluding those trees that qualify for complete exemptions from Chapter 20.50. SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).

Staff Preliminary Recommendation – *Staff generally agrees with the proposed revision to the definition but is concerned with removing the language that references the total area of trees. The City conducts a Tree Canopy Assessment (<https://www.shorelinewa.gov/home/showdocument?id=39386>) that measures the citywide tree canopy area and staff believes the definition of Tree Canopy should include the total area of trees to be consistent with report. Staff recommends the following amendment (blue highlight represents staff recommend changes to the original amendment):*

Tree Canopy The total area of the tree or trees where ~~the leaves and outermost branches extend,~~ also known as the “dripline.” uppermost layer of the tree or group of trees are formed by the leaves and branches of dominant tree crowns.

Staff Preliminary Recommendation – *Staff mostly agrees with the change to the definition except lowering the diameter of a Landmark Tree from 30” to 24”. Based on research from other jurisdictions in the region, there isn’t a standard dbh used for Landmark Trees.*

Staff does recommend adding language proposed in Heritage Tree into this definition as follows:

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Tree, Landmark Any healthy tree **over 30 inches** in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of ~~or any tree that is particularly impressive or unusual due to its size, shape, age, location, aesthetic quality for its species~~ historical significant or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or that is a regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).

Staff Preliminary Recommendation – Staff believes there are pros and cons in changing the definition of Significant Tree to any tree 6 inches dbh or greater. The pros include more trees will be counted as significant which will make it easier for developers to meet minimum significant tree retention requirements.

The cons include if there are a mix of smaller and larger trees on a site, the owner or developer may remove the larger trees first and keep the smaller trees to meet minimum retention requirements. Also, since more trees will be counted as significant, more replacement trees will be required. As staff has previously stated, not all replacement trees may be able to fit on a site based on a qualified arborist recommendation.

Staff recommends denial of the amendment in order to more fully study the unintended consequences of lowering the dbh of a significant tree.

Amendment #3 (Johnstone) **20.20.050 – U definitions**

Justification – With its commitment to environmental sustainability, the City of Shoreline began measuring and analyzing the city’s tree canopy in 2009 and created the Urban Forest Strategic Plan in 2014. This commitment needs to be strengthened, particularly regarding the trees. All the trees of the urban forest together make an essential contribution to environmental sustainability including clean air, stormwater management, comfortable temperatures, habitat biodiversity, social well-being and the trees’ intrinsic worth that cannot be figured into any cost-benefit analysis. Defining Urban Forest and present Urban Tree Canopy in the code will support other code to take care of the urban forest. Otherwise, the policies and codes address what will happen to trees only on a parcel-by-parcel basis or on a right-of-way or in a park. Citizens have commented repeatedly at City Council and Tree Board meetings that operating with only the current code is not sustainable, we need to protect the urban forest. These definitions will support code to further the commitment that Shoreline has made to the environment and specifically to the urban forest.

Urban Forest All trees within the city limits and the various ecosystem components that accompany these trees (soils, understory flora, diverse species, and habitats) under any public or private ownership and land use type, developed or undeveloped. This includes public parks, city streets, private yards and shared residential spaces, community spaces (such as libraries) and commercial and government property.

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Urban Tree Canopy From an aerial view during summer, the percentage of ground that is obscured from view by trees.

Staff Preliminary Recommendation – Staff supports adding the two proposed definitions for Urban Forest and Urban Tree Canopy. The proposed definitions are consistent with Council’s adopted 2014 Urban Forest Strategic Plan (<http://cosweb.ci.shoreline.wa.us/uploads/attachments/par/urban%20forestry/2014UFSP.pdf>) and the Citywide Tree Canopy Assessment.

20.50 Amendments

Amendment #5 (Kaye)

20.50.290 – Policy Purpose

Justification – Justification (From the Applicant) – The purpose of this amendment proposal is to broaden and strengthen language within Shoreline Municipal Code to better protect and preserve our community’s tall trees and urban forest canopy. Preserving Shoreline’s mature trees will help meet—and mitigate—challenges associated with a changing environment.

The City recognizes the importance of trees and its urban forest canopy, as referenced in its many policies, procedures and publications, including its ordinances and codes, the 2014 Urban Forest Strategic Plan, the 2019 Sustainability Report, the 2020 Climate Impacts and Resiliency Study, The Comprehensive Plan, and in its alliance with state and county initiatives (1990 State of Washington Growth Management Plan, King County-Cities Climate Collaboration—K4C—and the King County 2020 Climate Action Plan).

20.50.290 Policy reflect the importance and necessity of maintaining, preserving, and protecting existing mature trees given our ever-warming climate. Climate change is real and is accelerating at a rapid pace (climate.nasa.gov). The City acknowledges as much in Element 6: Natural Environment of The Comprehensive Plan, Policy NE 39:

“Support and implement the Mayor’s Climate Protection Agreement, climate pledges and commitments undertaken by the City, and other multi-jurisdictional efforts to reduce greenhouse gases, address climate change (italics are the City’s), sea-level rise, ocean acidification, and other impacts of changing of global conditions.”

Additionally, in his letter “On the Mayor’s Mind: The Forest and the Trees,” Mayor Will Hall stated that “We love our trees in Shoreline. Trees provide all kinds of benefits for climate, air quality, and birds, and they make Shoreline a beautiful city. That’s why we have a goal to maintain and increase our tree canopy.” (His comments appeared in the October 29, 2020 Shoreline Area News.)

To support and strengthen City initiatives, goals and policies regarding trees and the environment, we propose amendments to SMC 20.50.290 Policy.

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~~The purpose of this subchapter~~ The City's policy is to reduce the environmental impacts of site development while promoting the reasonable use of land in the City by addressing the following:

- A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;
- B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;
- C. Promotion of building and site planning practices that are consistent with the City's natural topography and vegetative cover.
- D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development in the City and provide continuity and screening between developments. Preserving and protecting viable existing trees and the mature tree canopy shall be encouraged instead of removal and replacement;
- E. Protection of critical areas from the impacts of clearing and grading activities;
- F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;
- G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;
- H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.
- I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;
- J. Providing measures to protect trees that may be impacted during construction;
- K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and
- L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time.

Staff Preliminary Recommendation – Staff recommends partial approval of the proposed amendment as proposed. The staff proposed amendments (shown in blue) to the original amendment clarifies the purpose of the tree code and strengthens the language of trees and Shoreline's commitment of protecting and maintaining trees. Staff has added suggested language shown in Amendment 4 above to strengthen this section. Staff provides a justification for each suggestion below -

20.50.290 – Policy Purpose

Staff does not recommend changing the title of the section to Policy since the Development Code is not a policy document, it is a set of regulations.

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The purpose of this subchapter ~~The City's policy~~ is to reduce environmental impacts including impacts on existing significant and landmark trees of during site development while promoting the reasonable use of land in the City by addressing the following:

Staff recommends keeping the original purpose statement since the Development Code is a set of regulations and not a policy document. Staff recommends adding language regarding significant and landmark trees.

A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;

B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;

C. Promotion of building and site planning practices that are consistent with the City's natural topography and vegetative cover.

D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development; provide habitat for birds and other wildlife; protect biodiversity; lower ambient temperatures; and store carbon dioxide and releasing oxygen, thus helping reduce air pollution in the City and provide continuity and screening between developments. Preserving and protecting viable healthy significant existing trees and the urban mature tree canopy shall be encouraged instead of removal and replacement;

Staff recommends including the above language that was originally proposed in Amendment #4 to strengthen the preservation and enhancement of tree language.

E. Protection of critical areas from the impacts of clearing and grading activities;

F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;

G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;

H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.

I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;

Staff recommends the language proposed by the applicant.

J. Providing measures to protect trees that may be impacted during construction;

K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and

L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time.

Amendment #6 (Kathleen Russell)

20.50.300 – General Requirements

Justification (Provided by the Applicant) – These proposed new code amendments are submitted for consideration to ensure that trees and vegetation on development sites will be legally protected from sustaining injury or destruction during clearing and grading activity. If there is a lack of appropriate protection, causing injury or destruction to trees and vegetation on development sites, these proposed amendments will guarantee remedy and confirm who is liable for the negligence and/or destruction.

There is substantial protection of trees and vegetation on critical areas as stated in Shoreline Municipal Code Critical Areas 20.80, but a startling lack of enforcement for the protection of trees and vegetation on noncritical development sites. It is stated in the Comprehensive Plan, Element 6, Natural Environment, “Native vegetation, which in residential areas that may be subdivided or otherwise more intensely developed is at the greatest risk of being lost.”

In principle, the omission of enforcement regarding injury or damage to trees and vegetation on non-critical site areas, is biased and exclusionary. Protective language should be added to Shoreline Municipal Code to protect all trees and vegetation, since trees and vegetation at development sites are “at the greatest risk of being lost”.

In brief, when the City approves construction on a development site, the City is then responsible for the safety and protection of trees and vegetation on the development site. Either the City or the owner or the contractor, as responsible party, must be held accountable. It follows that the responsibility for the viability of trees and vegetation established for retention at the development site be passed from the City to the owner or contractor, as responsible party, while the City maintains the enforcement of regulations.

- A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.
- B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.
- C. Permit Required. No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.
- D. When clearing or grading is planned in conjunction with development that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.
- E. A clearing and grading permit may be issued for developed land if the regulated activity is not associated with another development application on the site that requires a permit.

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F. Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D).

G. Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter 20.80 SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply.

H. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation at the development site. Any damage to, or alteration of trees and vegetation to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party's expense.

I. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, all ongoing development work shall stop and the area in violation shall be restored. The City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.

J. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved permit is issued by the City. Such a plan shall be prepared by a qualified professional arborist. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violation(s) to trees and vegetation shall be completed through a site development permit application process.

K. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

L. Penalties. Any responsible party violating any of the provisions of this chapter may be subject to any applicable penalties per SMC 20.30.770 plus the following:

1. A square footage cost of \$3.00 per square foot of impacted trees and vegetation at the development site; and a square footage cost of \$15.00 per square foot of impacted vegetation and trees at the development site in the MUR-35' and MUR-45' zones; and

2. A per tree penalty in the amount of \$3,000 per non-Significant tree; \$9,000 per Significant tree; \$15,000 per Landmark tree; and, \$20,000 per Heritage tree, for trees removed at the development site without appropriate permitting as required and/or in violation of the provisions of this subchapter.

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M. Financial guarantee requirements. Bonds and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects in the MUR-35' and MUR-45' zones with required mitigation or restoration of violation to trees and vegetation on a development site consistent with the following:

1. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
2. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation to trees and vegetation. The amount of the maintenance bond(s) shall equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee 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 Preliminary Recommendation – Staff generally agrees that language should be added to provide additional protection for regulated trees. Staff is concerned with the language highlighted in blue. Since this proposed language was originally written for the critical areas section of the code, the language includes not only trees but also vegetation. Protection of vegetation is important in the critical areas because vegetation stabilizes slopes and landslide hazard areas and provides functions for stream and wetland buffers. Vegetation on sites without critical areas should not be regulated the same way. Property owners should have the flexibility to add, remove, or change any vegetation on their site without repercussions. The applicant agrees with this analysis.

Staff believes the proposed language in “L” and “M”, monetary penalties for clearing and requiring a maintenance agreement and a mitigation plan for tree replanting, on a typically single-family home would be unduly burdensome to the property owner. The penalties for removing an insignificant tree in a critical area is warranted but applying a penalty for removing a small tree on a typical single-family lot is overreaching. In addition, the penalties in L2 conflict with the civil penalty section in SMC 20.30.770(D)(2)(b) that states for violations not located in critical areas, the City may charge penalties based on the economic benefit that the responsible party derives from the violation which is often more substantial than the proposed penalties proposed in L2.

The applicant has clarified and requested that sections L and M only apply to properties zoned MUR-35' and MUR-45' as the original proposal was intended to exempt single-family homeowners from the proposed regulations.

Staff is still concerned with the proposed changes to the amendment that applies the regulations in L and M to only the MUR-35' and MUR-45' zones. The short turn-around time does not allow enough time for staff to evaluate the impacts of the recent change to the amendment. Staff recommends the provisions proposed in L and M be withdrawn or denied from Batch #2 and, if

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required, brought back to the Commission in the next batch of Development Code amendments for staff to study the issue in more detail.

Amendment #7 (Tree Preservation Code Team)

20.50.310 – Exemptions from permit

Justification (Provided by the Applicant) – This revision to the existing code is to preserve, protect and maintain Shoreline’s urban tree canopy on all private properties where the majority percentage of its urban tree canopy is found. Larger properties of over an acre have more trees than average-sized single-family lots. Some of these tracts of land have long, wide belts of contiguous tree canopy coverage which undoubtedly provide habitat for our urban wildlife and havens for biodiversity. These extensive tree canopies are effective wind blocks, have enormous storage capacity of stormwater runoff, stabilize slopes and soil, and according to the U.S. Dept. of Agriculture, one acre of forest absorbs six tons of carbon dioxide and produces four tons of oxygen per year.

Preservation of these tracts of treed land is part of the sustainability of the environment in general and specifically for Shoreline residents. Revising this section of the Shoreline Municipal Code will send this message that it values and protects our natural urban tree canopy.

Protection and preservation of these properties will help ensure that there is no net loss of our tree canopy. Despite plantings of new trees to counter the removal of mature trees, there remains the effectiveness of a new tree versus a mature tree. The City should not only be replacing removed or lost trees, but it should also be combining replacement with the preservation of its mature trees. The two goals combined will produce no net loss as well as guarantee that Shoreline’s beloved tall tree skyline and other natural blessings will continue for future generations.

B. Partial Exemptions. With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of three Ssignificant trees on lots up to 7,200 square feet and one additional Ssignificant tree for every additional 7,200 square feet of lot area up to one acre and as follows:

<u>Maximum Number of Trees Exempted</u>	
<u>Less than 7,200 sq ft</u>	<u>3 trees</u>
<u>7,201 sq ft to 14,400 sq ft</u>	<u>4 trees</u>
<u>14,401 sq ft to 21,600 sq ft</u>	<u>5 trees</u>
<u>21,601 sq ft to 28,800 sq ft</u>	<u>6 trees</u>
<u>28,801 sq ft to 36,000 sq ft</u>	<u>7 trees</u>
<u>36,001 sq ft to 43,560 sq ft</u>	<u>8 trees</u>
<u>Maximum Number of Trees Exempted on One Acre to Twenty-Five Acres</u>	

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<u>1 acre + 1 sq ft (43,561 sq ft) to 2 acres</u>	<u>9 trees</u>
<u>2 acres + 1 sq ft to 5 acres</u>	<u>10 trees</u>
<u>5 acres + 1 sq ft to 10 acres</u>	<u>20 trees</u>
<u>10 acres + 1 sq ft to 15 acres</u>	<u>30 trees</u>
<u>15 acres + 1 sq ft to 20 acres</u>	<u>40 trees</u>
<u>20 acres + 1 sq ft to 25 acres</u>	<u>50 trees</u>

Maximum removal of trees on all private properties more than 25 acres is 50 trees every 36 months.

2. The removal of any tree greater than ~~24~~ 30 inches DBH or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).

3. Landscape maintenance and alterations on any property that involve the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded.

Staff Preliminary Recommendation – *Staff recommends that this proposed amendment be denied. The subject Development Code section was previously amended in January 2019 under Ordinance 850. The Planning Commission and Council agreed with staff that tree removal should be equitable among all properties in Shoreline. That amendment proposed to extend the same exemption ratio of tree to property area beyond the current 21,781 square foot (1/2 acre) cap to be equitable toward property owners that have larger parcels. The proposed amendment shown above artificially limits tree removal on properties larger than one acre where the current regulations allow one additional significant tree to be removed for every 7,200 square feet of lot area.*

The current regulations are equitable for all property owners whereas the proposed regulations are more restrictive for property owners with larger lots.

Amendment #8 (Tree Preservation Code Team)

20.50.350 – Development standards for clearing activities

Justification (Provided by the Applicant) – To meet the near future growth needs of the City, there must be a balance between development and the natural assets of the City through the thoughtful creation and implementation of balanced code regulations. Development is going to continue in Shoreline for decades. Therefore, it is imperative that a balance between the loss of existing citywide tree canopy and the proposed new developments in the City become a City priority. By using a graduated higher tree retention rate as proposed and providing optional incentives and adjustments, all Shoreline property owners can work with the City to achieve a necessary balance.

A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.

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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 25 ~~20~~ percent of the Ssignificant 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.

Staff Preliminary Recommendation – *Staff agrees with the applicant's proposed amendment to increase retention by 5 percent but only in conjunction with the approval of Amendment #9.*

Amendment #9 (City Staff)

Exception 20.50.350(B)(1) – Significant Tree Retention

Justification – This is a staff proposed amendment to allow the Director to waive or reduce the minimum significant tree retention percentage to facilitate several other priorities such as preservation of a greater number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals.

Exception 20.50.350(B):

1. The Director may ~~allow a~~ waive or 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

2. In addition, the Director may waive or reduce ~~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.*

3. 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).

Staff Preliminary Recommendation – Staff recommends that this proposed amendment be approved to further greater tree preservation based on public input, public policy, and recommendations by a certified arborist.

Amendment #10 (Tree Preservation Code Team)

Exception 20.50.360 – Tree replacement and site restoration

Justification – The Tree Preservation Code Team recommends Exception SMC 20.50.360(C)(b) be revised and simplified to state that the property owner or developer can replace the trees on-site or pay the fee-in-lieu of tree replacement to the dedicated tree fund if trees cannot be replaced on-site. This revision guarantees that when there is a tree replacement decision to be made there is a fair basis for the property owner or the developer/owner.

The current code states that the Director may allow a “reduction in the minimum replacement trees required” which means tree replacement relies solely on the decision of the Director rather than a fair and equitable code regarding the replacement of trees. The public’s perception is that the Director has the discretionary option to waive the minimum number of trees to be replaced.

In addition, sub-items “i”, “ii”, “iii”, and “iv” of Exception 20.50.360(C)(b) are eliminated since these sub-items would be irrelevant and burdensome to the property owner or the developer/owner and are unnecessary to the proposed code amendment.

Furthermore, the current code, as revised on 12/7/20, does not guarantee replacement trees or fee-in-lieu to ensure “net zero loss” of Shoreline’s tree canopy, a stated goal by the City Council.

20.50.360 Tree replacement and site restoration.

A. Plans Required. Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area report, mitigation or restoration plans, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant’s expense. Third party review of plans, if required, shall be at the applicant’s expense.

B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.

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.

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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. 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.

b. To the extent feasible, all replacement trees shall be replaced on-site. When an applicant demonstrates that the project site cannot feasibly accommodate all of the required replacement trees on-site, the Director may allow the payment of a fee in lieu of tree replacement at the rate set forth in SMC 3.01 Fee Schedule, ~~for replacement trees or a combination of reduction in the minimum number of replacement trees required and payment of the fee in lieu of replacement at the rate set forth in SMC 3.01 Fee Schedule 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.~~

~~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.~~

c. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

d. Replacement of significant tree(s) approved for removal pursuant to Exception SMC 20.50.350(B)(5) is not required.

4. Replacement trees required for the Lynnwood Link Extension project shall be native conifer and deciduous trees proportional to the number and type of trees removed for construction, unless as part of the plan required in subsection A of this section the qualified professional demonstrates that a native conifer is not likely to survive in a specific location.

5. Tree replacement where tree removal is necessary on adjoining properties to meet requirements in SMC 20.50.350(D) or as a part of the development shall be at the same ratios in subsections (C)(1), (2), and (3) of this section with a minimum tree size of eight feet in height. Any tree for which replacement is required in connection with the construction of a light rail system/facility, regardless of its location, may be replaced on the project site.

6. Tree replacement related to development of a light rail transit system/facility must comply with this subsection C.

D. The Director may require that a portion of the replacement trees be native species in order to restore or enhance the site to predevelopment character.

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E. The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock.

F. Replacement of removed trees with appropriate native trees at a ratio consistent with subsection C of this section, or as determined by the Director based on recommendations in a critical area report, will be required in critical areas.

G. The Director may consider smaller-sized replacement plants if the applicant can demonstrate that smaller plants are more suited to the species, site conditions, and to the purposes of this subchapter, and are planted in sufficient quantities to meet the intent of this subchapter.

H. All required replacement trees and relocated trees shown on an approved permit shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent permit.

I. Where development activity has occurred that does not comply with the requirements of this subchapter, the requirements of any other section of the Shoreline Development Code, or approved permit conditions, the Director may require the site to be restored to as near pre-project original condition as possible. Such restoration shall be determined by the Director and may include, but shall not be limited to, the following:

1. Filling, stabilizing and landscaping with vegetation similar to that which was removed, cut or filled;
2. Planting and maintenance of trees of a size and number that will reasonably assure survival and that replace functions and values of removed trees; and
3. Reseeding and landscaping with vegetation similar to that which was removed, in areas without significant trees where bare ground exists.

J. Significant trees which would otherwise be retained, but which were unlawfully removed, or damaged, or destroyed through some fault of the applicant or their representatives shall be replaced in a manner determined by the Director.

K. Nonsignificant trees which are required to be retained as a condition of permit approval, but are unlawfully removed, damaged, or destroyed through some fault of the applicant, representatives of the applicant, or the property owner(s), shall be replaced at a ratio of three to one. Minimum size requirements for replacement trees are deciduous trees at least 1.5 inches in caliper and evergreen trees at least six feet in height.

Staff Preliminary Recommendation – *Staff recommends that this amendment be denied. As stated by the applicant, Council recently amended this section to allow the Director the flexibility to reduce the number of replacement trees if the applicant pays the fee-in-lieu for the trees unable to be replanted on site. The reasons for the inability to replant trees vary across the city but usually is based on the arborists recommendation that the replacement trees will not survive based on building and site conditions. In these circumstances, the Director should have the flexibility to reduce the number of replacement trees and charge the applicant a fee-in-lieu for those trees so the city can replant or maintain trees at alternative locations adding and maintaining to the City's urban tree canopy.*

Amendment #11 (Hushagen)

20.50.370 Tree protection standards.

Justification – Since trees serve many purposes and provide benefits to our community, saving and protecting them is part of good urban forestry management. As a retired tree care company owner and current consulting arborist, I have witnessed preventable incidents of lack of, mistreatment and misunderstanding about protecting trees. When the City approves the retention of certain trees on private land in a tree protection plan, it is essentially a contract between the property owner/developer and the City that should be observed as well as executed in a good workmanlike manner. Providing step-by-step measures as my proposed revisions do in the mitigation section gives all the parties clear and timely instructions in the event of an injury to a living tree. I believe my proposed revisions, additions, and expansion of SMC 20.50.370 Tree Protection Standards will clarify for the property owner/developer on a construction site the best management practices that need to be implemented to improve and safeguard the survival of the designated trees to be retained during such construction period.

The following protection ~~measures~~ guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

- A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- B. Tree dripline areas or critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the dripline areas of trees that are to be retained.
- C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- D. Tree protection barriers shall be a minimum of ~~four~~ six feet high, constructed of chain link, ~~or polyethylene laminar safety fencing~~ or similar material, subject to approval by the Director. “Tree Protection Area” signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.
- E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3” or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.

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F. E. Where tree protection zones are remote from areas of land disturbance, and where approved by the Director, alternative forms of tree protection may be used in lieu of tree protection barriers; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by "Tree Leave Area – Keep Out" signs.

G. F. Rock walls shall be constructed around the tree, equal to the dripline, when existing grade levels are lowered or raised by the proposed grading.

H. G. Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

I. H. Preventative Measures Mitigation. In addition to the above minimum tree protection measures, the applicant ~~should~~ shall support tree protection efforts by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

- ~~1. Pruning of visible deadwood on trees to be protected or relocated;~~
- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
1. 4. Mulching with a layer of 4" to 5" of wood chips in the ever tree critical root zones of retained trees drip line areas; and
2. 5. Ensuring 1" of irrigation or rainfall per week proper watering during and immediately after construction and from early May through September until reliable rainfall occurs in the fall throughout the first growing season after construction.

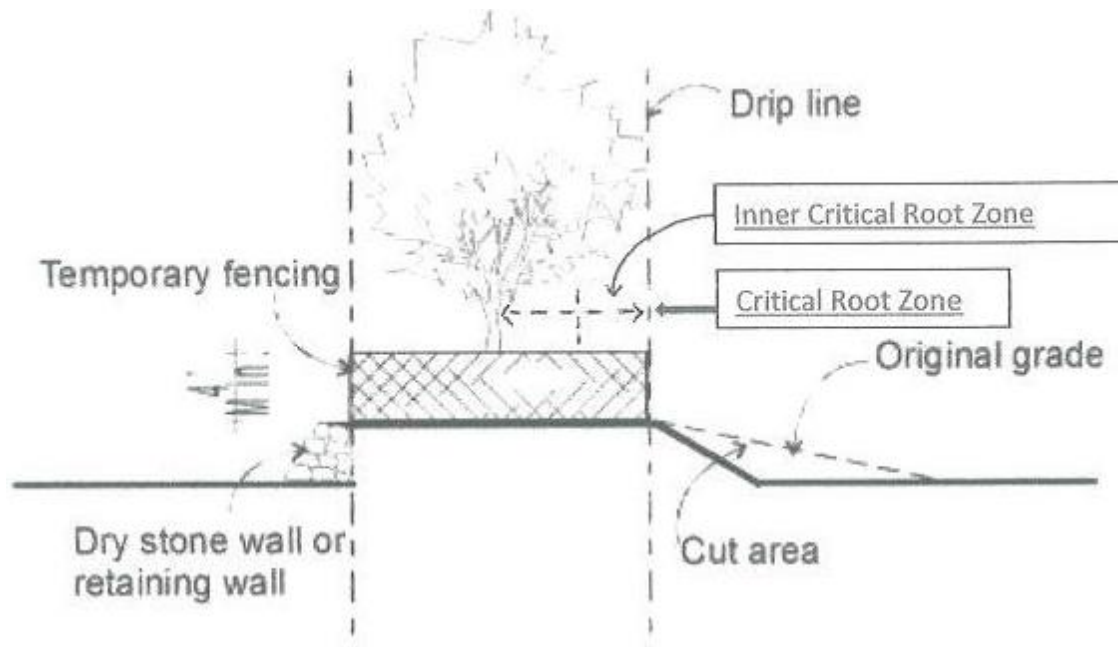


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

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The Director may waive certain protection requirements, allow alternative methods, or require additional protection measures based on concurrence with the recommendation of a certified arborist deemed acceptable to the City.

Staff Preliminary Recommendation – Staff mostly recommends approval of the proposed amendment except the language highlighted in blue. **Blue highlights** indicate staff proposed additions to the amendment.

Also, Deadwooding is an acceptable practice for the care of any tree. If there is an otherwise healthy tree that will be remaining onsite, it should be allowed to be deadwooded to ensure the safety of the workers as well as the health of the tree.

The following protection ~~measures~~ guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

- A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- B. **Tree dripline areas or** Critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the **Critical Root Zone dripline areas** of trees that are to be retained.
- C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- D. Tree protection barriers shall be a minimum of ~~four~~ six feet high, constructed of chain link, ~~or polyethylene laminar safety fencing~~ or similar material, subject to approval by the Director. “Tree Protection Area” signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.
- E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3” or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.
- ~~F. E.~~ Where tree protection zones are remote from areas of land disturbance, and where approved by the Director, alternative forms of tree protection may be used in lieu of tree protection barriers; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by “Tree Leave Area – Keep Out” signs.
- ~~G. F.~~ Rock walls shall be constructed around the tree, equal to the dripline, when existing grade levels are lowered or raised by the proposed grading.

Att. A - Proposed 2021 Batch Part 2 of Dev. Code Amendments - Tree Amendments

H. G. Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

I. H. Preventative Measures Mitigation. In addition to the above minimum tree protection measures, the applicant ~~should~~ shall support tree protection efforts by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

- ~~1. Pruning of visible deadwood on trees to be protected or relocated;~~
- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
1. 4. Mulching with a layer of 4" to 5" of wood chips in the over tree critical root zones of retained trees drip line areas; and
2. 5. Ensuring 1" of irrigation or rainfall per week proper watering during and immediately after construction and from early May through September until reliable rainfall occurs in the fall throughout the first growing season after construction.

Title 12

Amendment #12 (Tree Preservation Code Team)

12.30.040(C) – Right-of-way street trees

Justification – Currently a notice is placed on public trees 2 (two) weeks prior to removal which is not adequate advance notice to the greater public. By lengthening the public notice period and posting clearly, there will be more transparency in the City's plans and the opportunity for public comments. This new proposed code will foster more public participation in city government. These public trees on public rights-of-way belong to the citizens of Shoreline, who have the right to be informed well in advance of the removal of public trees.

A. A right-of-way use permit shall be required and issued by the director of the parks, recreation, and cultural services department (hereafter "director") for planting street trees in rights-of-way adjacent to the applicant's property according to the variety and spacing approved in the Engineering Development Guide if such activity does not physically disturb the existing or planned public use of the right-of-way. Planted street trees shall be maintained by the applicant in accordance with the issued right-of-way use permit.

B. A right-of-way use permit shall be required and shall only be issued by the director for the nonexempt pruning or removal of trees in rights-of-way adjacent to the applicant's property in compliance with the following:

1. Limits on removal under critical area regulations.

Att. A - Proposed 2021 Batch Part 2 of Dev. Code Amendments - Tree Amendments

2. No permit shall be issued for removal of trees on rights-of-way that have not been opened with public improvements, including, but not limited to, streets, sidewalks, pathways, and underground or overhead utilities.
3. No trees listed in the Engineering Development Guide as approved street tree varieties shall be removed regardless of size unless the tree is removed by the city as hazardous or causing damage to public or private infrastructure.
4. All existing trees six inches in diameter at breast height or greater allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360(C)(1) through (3). Replacement trees shall be maintained by the applicant in accordance with the issued right-of-way use permit. If the director determines there is no suitable space for replanting street trees in the vicinity of removal, the applicant shall replant at public sites approved by the director or pay a fee in lieu of replacement according to the current city fee schedule to be used exclusively for planting public trees in rights-of-way, parks or other public places.
5. All removed trees or pruned material shall be removed from the right-of-way and the right-of-way shall be restored in accordance with the issued right-of-way use permit.

C. Public Notice

1. Notice of all proposed removal of public tree(s) on public rights-of-way shall be given 90 (ninety) days in advance of public tree(s) removal. This notice shall be given by the legal entity removing the public tree(s), including but not limited to, the City of Shoreline, State of Washington, Shoreline School District, Shoreline Community College, and any entity granted permission to remove public tree(s).
2. This notice, along with the arborist report and documentation, shall be:
 - i) posted to the City's project description on the City's website;
 - ii) listed in the monthly *Currents* publication;
 - iii) emailed to every resident who requests advance notification of public tree removal;
 - iv) posted on the public tree(s) designated for removal 30 (thirty) days in advance of tree(s) removal date on 11" x 14" laminated paper with the words "NOTICE OF TREE REMOVAL" in bold 48-point font. Signage will include (a) posting date, (b) date of tree removal, and (c) City project contact or entity project contact, phone number, email, together with the website where the public may download the arborist report and documentation. Notices shall be tied to the tree(s) with twine or wire.
3. If public objections and/or questions are posed regarding the proposed public tree(s) removal, the issue shall be brought to the Director of Planning for response to the public. The Director may postpone the public tree(s) removal to answer the questions raised; or may hire an arborist to review the public tree(s) on site and prepare a report; or may direct the tree(s) be removed.

Att. A - Proposed 2021 Batch Part 2 of Dev. Code Amendments - Tree Amendments

Staff Preliminary Recommendation – *The authority for 12.30 Public Tree Management is the responsibility of the Parks, Recreation and Cultural Services (PRCS) Department and specifically the PRCS Director and their staff. The PRCS Department and the City's Arborist have reviewed the proposed amendment and have recommended denial of the proposed changes. Staff does not support the changes for the following reasons:*

1. The proposed amendments put a very high burden on the City (and other entities) to provide public notification specific to trees. Most of the City's capital projects have a separate public outreach process to share project information, answer questions and get feedback from the public. The City provides information on the website, but it does not always have a specific tree removal report and the City does not typically post the arborist or other technical reports. The City must strike a balance on what information is posted on the website with the time and effort to update and maintain the website and the documents on it.

2. Coordination and timing of a tree removal notice. Staff is concerned that coordinating a tree removal notice with a Currents publication, a posted notice 30-days before removal, and email notification to property owners will take longer than expected. Staff does not maintain an email registry of property owners, so email notification is not possible. Also, the PRCS Department has experience with notices on trees being taken down and vandalized.

3. The proposed language states that the Director of Planning shall respond to questions/concerns about tree removal in the ROW. This responsibility falls on the PRCS Director since trees in the ROW and Parks are approved and maintained by the PRCS Department.

Planning Commission Meeting Date: December 2, 2021

Agenda Item: 6b.

PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: MUR-70' Zone Development Regulations Discussion

DEPARTMENT: Planning & Community Development

PRESENTED BY: Andrew Bauer, Planning Manager

Public Hearing

Study Session

Recommendation Only

Discussion

Update

Other

INTRODUCTION

On October 25, 2021, a joint meeting was convened between the City Council and Planning Commission with the following objectives:

1. Have an in-depth discussion of the MUR-70' zone and issues that may be constraining development; and
2. Provide clear direction to staff for development of a workplan that includes Development Code amendments for consideration and potential action in the second quarter of 2022.

Tonight's meeting will provide an opportunity for the Planning Commission to "debrief" on what was discussed at the October 25th joint meeting as well as to continue discussion and provide direction to staff to develop draft amendments to the regulations for consideration in early 2022.

BACKGROUND

Generally speaking, the light rail station subarea plans are performing as anticipated through the first 6+ years since adoption. Many of the challenges to development identified in the plans are playing out, such as aggregating several small lots into sites large enough to accommodate the scale of development envisioned – particularly in the MUR-70' zone where the highest density development is allowed. However, it is important to note these are long-range plans intended to be implemented over decades. Included in Attachment A is a case study of Orenco Station in Hillsboro, Oregon which is 25-years into its transformation.

The core elements of the plans and the MUR-70' zone continue to be aligned with the City's broader goals and priorities such as creating housing choices affordable to a range of household income levels and supporting sustainability goals through green building.

Approved By: Project Manager _____ Planning Director _____

6b. Staff Report - MUR 70' Zone Development Regulations Discussion

As with any plan, refinements and updates are periodically needed based on observed outcomes and feedback provided. The purpose of Development Code amendments would be to refine the code to facilitate better development outcomes in the MUR-70' zone.

MUR-70' Zone

The October 25, 2021 staff report to the Council and Planning Commission provides a summary of the MUR-70' zone and the development standards. The October 25th report can be viewed at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2021/staffreport102521-8a.pdf>.

As previously noted, there is continued developer interest in MUR-70' zoned properties. Below is an update of the five projects in the MUR-70' zone:

- 7-story mixed use building with 252 units, 2,501 square feet of ground floor commercial, and structured parking directly adjacent to the Shoreline South/148th Station. Permit applications were filed on September 24, 2021.
- 6-story multifamily building with 482 units with structured parking located at the intersection of NE 145th Street and 1st Avenue NE. A pre-application meeting was held in March 2021 and discussions with the applicant continue.
- 6-story multifamily building with 161 units and structured parking located at the NE corner of 5th Ave NE and NE 148th St. An Administrative Design Review (ADR) application was approved in November 2021.
- 7-story mixed use building with 238 units, 2,275 square feet of ground floor commercial, and structured parking located on four existing parcels approximately at 140 NE 145th Street. An ADR was approved in October 2021.
- 7-story mixed use building with 240 units, ground floor commercial, and structured parking located on a six-lot assemblage north of the Shoreline North/185th Station. An ADR application was filed on October 5, 2021 and construction permit applications are anticipated to follow issuance of a decision on the ADR.

DISCUSSION

The topic areas presented by staff for discussion at the October 25th joint meeting included:

1. Parking standards
2. Catalyst development incentives
3. Development agreement process and building height

Below is a brief summary of the October 25th discussion on each topic:

Parking Standards

Some of the joint meeting attendees indicated the current 25% parking reduction available to development within ¼ mile of the light rail stations was adequate, while others seemed open to exploring further reductions if appropriate conditions or

6b. Staff Report - MUR 70' Zone Development Regulations Discussion

performance standards were put into place. For example, measures should be considered to help mitigate or offset parking impacts on nearby streets.

There was consensus that eliminating minimum parking requirements in the MUR-70' zone should not be an option for consideration.

Catalyst Development Incentives

The concepts behind the catalyst developments are multi-faceted and would entail defining what qualifies as a catalyst development (e.g. number of units) and the thresholds for either how long the catalyst development provisions are effective or how many developments should be able to utilize them before expiring.

The primary goal of the catalyst development incentives would be to encourage early MUR-70' zone developments by waiving or modifying development standards such as parking, impact fees, building height, etc. It should be noted there may be multiple developments underway by the time catalyst development provisions would be adopted.

During the October 25th discussion there was interest in having more analysis to accompany any amendments that would further waive or credit impact fees. Other commentors on the catalyst development incentives noted that if provisions are created the thresholds should encourage large-scale developments by having a high minimum unit count to be eligible.

Going beyond the potential provisions identified in the staff report, there was mention of exploring opportunities for infrastructure improvements such as stormwater, sewer, water, etc. as a way to catalyze development. Infrastructure improvements would be an effort that would need to occur outside the purview of the Development Code.

Development Agreement Process and Building Height

As currently structured, a development agreement is required to achieve the maximum 140' height in the MUR-70' zone. As part of the development agreement, several additional requirements must be met. See SMC 20.30.355.D for development agreement requirements for MUR-70' at the following link:

<https://www.codepublishing.com/WA/Shoreline/#!/Shoreline20/Shoreline2030.html#20.30.355>.

During the October 25th discussion there were some that noted the highest priority requirements of the development agreement should be codified and the requirement for a development agreement could be removed as a way to reduce time and uncertainty for development. Heights above 70' would become allowed by right. Others noted that based on developer feedback the current market appears to not be able to support heights over 70 feet (7 stories) due to the change of construction type from wood frame to steel.

Other Discussion Notes and Observations

In addition to the topics above, there were other comments summarized below:

6b. Staff Report - MUR 70' Zone Development Regulations Discussion

- The subarea plans anticipated some development would not come until after the stations open and any amendments should not compromise on core goals of the City or subarea plans.
- There should be emphasis on placemaking and marketing that would attract employers and new residents with a particular focus on the “creative economy.”

Key Takeaways

- If further parking reductions are considered, there should be conditions to potential offset impacts. Elimination of minimum parking requirements should not be an option.
- If impact fee waivers are considered, more analysis is needed to understand the impacts to the City.
- If additional height above 70' without a development agreement is considered, the most meaningful development standards should be included as requirements and the development agreement process be revised to be no longer needed to achieve heights over 70'.
- Amendments should not be considered that would compromise or be contrary to core goals of the City or subarea plans.

Discussion Questions

Below are questions for Planning Commission consideration for tonight's meeting:

1. Which topics discussed could be most meaningful in facilitating better development outcomes in the MUR-70' zone?
2. Of the topics discussed at the October 25th meeting and highlighted above, what should be advanced to include as part of the Development Code amendments?
3. If further parking reductions are allowed, what types of conditions should be considered (e.g. transit passes to residents, bike/car share options, etc.)?
4. If an increased height allowance is allowed, what should be taken into consideration as a condition of increased height?

NEXT STEPS

With direction and feedback from the Planning Commission tonight, staff will begin to identify potential Development Code amendments. Outreach to the Developer Stakeholder Group and other stakeholders will be explored as a way to get feedback on draft amendments. Staff anticipates coming back to the Planning Commission with draft amendments for consideration in the first part of 2022.

RECOMMENDATION

There is no staff recommendation at this time. Staff is seeking direction on potential MUR-70' Development Code amendments for future consideration.

ATTACHMENTS

Attachment A – Orenco Station Case Study

PSQ (/publicsquare)



DESIGN (/PUBLICSQUARE/CATEGORY/DESIGN)

A 25-year laboratory of suburban transformation

Orenco Station in Hillsboro, Oregon, is a model for more sustainable suburbs and regions.

ROBERT STEUTEVILLE (/node/538) JUL. 8, 2021



(<http://www.facebook.com/sharer/sharer.php?u=https%3A//www.cnu.org/node/8673&title=A%2025-year%20laboratory%20of%20suburban%20transformation>)



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(<mailto:?subject=Check%20out%20A%2025-year%20laboratory%20of%20suburban%20transformation&body=https%3A//www.cnu.orgpublicsquare/2021/07/08/25-year-laboratory-suburban-transformation>)

I first visited Orenco Station in 2000, when it was one of the most talked-about transit-oriented developments (TODs). Back then, few prominent TOD examples existed anywhere in the US. Now they are much more common.

My impression of Orenco was that of decent New Urbanism, but not good TOD. Arriving at the Hillsboro, a western suburb of Portland, I walked a quarter-mile of empty space before I arrived at the development.

I understood that more development was to come, but it seemed like a faraway dream. Would this suburban example of New Urbanism ever be fully connected to transit? Would it work as a place? In the last two decades, that question has been definitively answered. Arrivals and departures at the Hillsboro station do so in urbanism as dense and lively as many a compact big city neighborhood.



Outdoor market. Source: Michael Mehaffy

The 150-acre new neighborhood is now one of the biggest and most fully realized examples of TOD in the US. Orenco has a wide range of civic sites and buildings, including public parks, a neighborhood post office, an adjacent church, two adjacent schools, and the light rail station. It is also adjacent to major employment, an Intel microchip factory that has been there since the 1980s. The population is close to 5,000, with shops, restaurants, and other businesses including a grocery store. It is a good example of a “15-minute city” in a suburb.

As someone who has watched this project since its inception, it’s great to see this project completed on schedule in 2018 and maturing, with a nice canopy of trees. Those of us in the business of urbanism know that it takes a generation to build something meaningful—but when a significant increment is complete, it can serve people for centuries.

And yet the completion of Orenco has more relevance than that, according to Michael Mehaffy, Orenco Station project manager and one of the development's driving forces. "To put it colloquially, Orenco Station 'got it done' to a level that is still too rare," Mehaffy says. "Orenco Station is not only an individual TOD development, but a notably successful part of a larger regional 'polycentric' planning effort."



A key strategy of the Portland regional approach has been to rezone land adjacent to light rail stations to create new mixed-use, transit-oriented development. "In several prominent cases, the station areas have been designated as mixed-use town centers, following the New Urbanist program of well-connected, pedestrian-friendly streets and a diverse mix of housing, retail, and civic uses," he says. "Orenco Station emerged as the most prominent laboratory in that regional experiment, in part because it offered a (remarkably successful) real-world test of a great many specific aspects of that program."

Among the achievements in Orenco, according to Mehaffy:

- A pedestrian axis to the light rail station, providing a framework for a network of alley-loaded, pedestrian-friendly streets.
- A walkable town center of mixed-use shops, services and residential.
- "Liner" buildings with limited on-street parking and parking lots tucked behind.
- A range of housing types and prices, which at the outset spanned from \$79,000 to over \$500,000, as well as rental units.

- Construction of accessory dwelling units and live-work units. **Att. A - MUR 70" Zone**
- Much higher density than is usual for a suburb, up to 100 units per acre on individual building sites.
- An early form-based code.

The project continued to innovate throughout its more than 20-year buildout, Mehaffy notes—the later stages included three affordable housing developments, bicycle infrastructure, solar panel systems, a farmer’s market, three community gardens, transportation demand management, and more.



Accessory dwelling units. Source: Michael Mehaffy

Of all the new urbanist projects, Orenco is one of the most studied from a sociological standpoint. Bruce Podobnik of Lewis & Clark College studied Orenco Station in 2012, and found that residents walk to the store and use transit more than typical suburbanites—and they report a stronger sense of community. Fifty percent of residents walk to the store at least five times a week. In a conventional suburb that was studied for comparison, two-thirds of residents never walk to the store.

All of this validates Orenco Station as a proving ground of suburban transformation. “Orenco Station has shown that major shifts are possible within sprawling suburban locales, to create market-facing, appealing, and successful new models of walkable mixed use,” Mehaffy says.

Robert Steuteville is editor of Public Square: A CNU Journal and senior communications adviser for the Congress for the New Urbanism. **Att. A "MUR 70" Zone**



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N [Michael Mehaffy](#) • 4 days ago • edited

One last point about the empty space you found in 2000, Rob. That was a tough problem - the light rail should have been closer to the main arterial, Cornell Road. But we inherited that problem, and made the difficult decision to start at the arterial, NOT the light rail station. We foresaw that the market would develop over time, and we could do a second center at the station as it did so -- a "barbell" plan as I referred to it. That happened, exceeding our wildest dreams. By comparison, The Round, just down the line, was built right on the rail line at the outset - and it went into bankruptcy... twice. (In spite of \$8 million in city investment, compared to our city investment of zero.) Lesson: Plan incrementally over time. What you can do tomorrow may be much more than you can do today, if you plan carefully. Time can be a powerful tool for urbanism.

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N [Robert Steuteville](#) Mod → [Michael Mehaffy](#) • 3 days ago

Thanks, Michael. It's good to hear those stories. Retail on the arterial makes more sense than retail on the light rail stop initially.

| • Reply • Share ›

N [Michael Mehaffy](#) • 4 days ago • edited

Thank you, Rob. I think a key lesson is that it's possible to set ambitious regional urban goals (in this case at the state level as well as the regional level) and achieve them through multi-sector partnerships. And another point is that a more "polycentric" approach (building a network of walkable, mixed, connected suburban neighborhoods) is probably key to opening up more locales for supply to meet demand, easing pressure on home prices. What hasn't worked is the "build baby build" approach in the cores alone. (I highly recommend Patrick Condon's new book on this subject, "Sick City: Disease, Race, Inequality, and Urban Land.")

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