Planning Commission Meeting Date: January 6, 2022 **Agenda Item: 6a**

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	**2021 Development Code Amendments – Batch #2 – Miscellaneous, SEPA, and Tree Amendments**
DEPARTMENT:	**Planning & Community Development**
PRESENTED BY:	**Steven Szafran, AICP, Senior Planner**

☐ **Public Hearing** ☒ **Study Session** ☐ **Recommendation Only**
☐ **Discussion** ☐ **Update** ☐ **Other**

Introduction

The purpose of this study session is to:

- Review the proposed complete second batch (Batch #2) of Development Code Amendments which include Miscellaneous Amendments (**Attachment A**), SEPA Amendments (**Attachment B**), and Tree Amendments (**Attachment C**).
- Respond to questions regarding the proposed development regulations.
- Prepare changes to the proposed amendments based on direction from the Planning Commission for the public hearing.
- Gather public comment.

Amendments to the Development Code (Shoreline Municipal Code Title 20) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the review authority for these legislative decisions and is responsible for holding a public hearing on proposed Development Code amendments and making a recommendation to the City Council on each amendment.

Batch #2 consists of three distinct groups of amendments that have been grouped by topic. The first group of amendments is related to miscellaneous amendments proposed by City of Shoreline staff, the second group of amendments is related to the procedure and administration of the State Environmental Policy Act (SEPA), and the third group is related to trees. Proposed tree amendments are proposed by individual members of the Tree Preservation Code Team, which is a group of residents committed to protecting and preserving trees in Shoreline.

Proposed amendments to SEPA procedures are largely clarifying amendments that make the administration of SEPA less cumbersome and clarify that SEPA is not a permit type but a decision that is tied to a proposed permit or action.

Approved By: **Project Manager ____** **Planning Director ____**

In addition to the tree related and SEPA amendments, Batch #2 includes new regulations related to existing commercial structures that are having difficulty attracting new tenants because of nonconforming parking, landscaping, lighting, and sign standards. Staff is proposing amendments to encourage "commercial adaptive reuse" of existing buildings to encourage new activity in these vacant buildings that can benefit the neighborhood while providing more affordable rents for local businesses.

Other topics included in Batch #2 include parking, commercial design standards, Conditional Use Permits, residential setbacks, Hardscape, and critical area review.

Background

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

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

1. The amendment is in accordance with the Comprehensive Plan; and
2. The amendment will not adversely affect the public health, safety, or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

The Planning Commission started discussing Batch #2 in July of 2021. 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, 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).

The Planning Commission concluded review of the tree amendments at their meeting on December 2, 2021. (https://www.shorelinewa.gov/home/showdocument?id=53471).

The 2021 Batch Part 2 consists of 44 amendments. The Miscellaneous Amendments consist of 13 Director-initiated amendments, the SEPA Amendments consist of 16 Director-initiated amendments, and the Tree Amendments consist of 14 privately initiated amendments (some amendments include multiple code sections) and one Director initiated-amendment.

The 2021 Batch Part 2 is organized first by topic, then by the Development Code chapter: 20.20 – Definitions, 20.30 – Procedures and Administration, 20.40 – Zoning and Use Provisions, and 20.50 – General Development Standards.

Attachment A includes the proposed 2021 Batch Part 2 Miscellaneous amendments. Each amendment includes a justification for the amendment, the entire amendment in legislative format, and staff's recommendation. The proposed miscellaneous changes are generally as follows:

20.20 – Definitions

- 20.20.020 – F Definitions – Updates the definition of "Family" to remove the restriction of up to eight (8) non-related adults living together.
- 20.20.024 – H Definitions – Updates the definition of Host Agency to include public agency.
- 20.20.024 – H Definitions – Updates the definition for Hardscape to include products such as Grasscrete.
- 20.20.034 – M Definitions – Updates the definition of Managing Agency to include public agency.

20.30 – Procedures and Administration

- 20.30.300 – Conditional Use Permit – Includes a new threshold for when a new CUP is required.

20.40 – Uses

- 20.40.405 – Homeless Shelter – Adds public agency as an approved operator.
- 20.40.570 – Unlisted Use – Allows the Director to prohibit an unlisted use.

20.50 – General Development Standards

- 20.50.040 – Setbacks – Designation and Measurement – Allows a reduced front yard setback when a lot has two front yards (corner lot).
- 20.50.070 – Setbacks – Designation and Measurement – Allows a reduced front yard setback when a lot has two front yards (corner lot).

- 20.50.220 – Purpose – Clarifies that the commercial design standards apply to commercial and multifamily buildings, not townhomes.
- 20.50.230 Threshold – Required site improvements – Creates a new provision to exempt existing commercial structures from required site improvements including parking, landscaping, lighting, and signs.
- 20.50.330(B) - Project review and approval – Allows the Director to require a third-party review of an arborists report for tree removal and replacement.
- 20.50.410 (C) - Parking design standards – Updates the section to unbundle the cost of a parking space from the cost of rent of a multifamily dwelling unit.

Attachment B includes the proposed 2021 Batch Part 2 SEPA amendments. Each amendment includes a justification for the amendment, the entire amendment in legislative format, and staff's recommendation. The proposed changes are generally as follows:

20.30 – Procedures and Administration

- 20.30.040 – Ministerial Decisions – Clarifies that some Type A permits are subject to SEPA. Adds reference to SEPA appeals.
- 20.30.050 – Type B Actions – Clarifies appeal language for Type B permits.
- 20.30.060 – Quasi-Judicial Decisions – Type C – Strikes SEPA administrative appeal language and clarifies that Type C actions are appealable to King County Superior Court.
- 20.30.070 – Legislative Decisions – Strikes SEPA administrative appeal language and clarifies that there are no administrative appeals of legislative decisions.
- 20.30.170 – Limitations on the Number of Hearings – This proposed amendment moves language to another section for clarity.
- 20.30.200 – General Description of Appeals – This amendment clarifies the appeal authority for certain land use actions by including a new table for ease of use.
- 20.30.220 – Commencing an Administrative Appeal – This proposed amendment clarifies the process for filing an administrative appeal.
- 20.30.230 – Administrative Appeal Process – Clarifies the process for administrative appeals before the Hearing Examiner.
- 20.30.540 – Timing and Content of Environmental Review – Clarifies the timing of determining if a project is categorically exempt and clarifies that appeals of a SEPA determination shall accompany the appeal of the project permit (and not before).
- 20.30.565 – Planned Action Determination of Consistency – Clarifies that projects within a planned area do not need additional SEPA review.
- 20.30.570 – Categorical Exemptions and Threshold Determinations – clarifies that a SEPA determination is a final decision by the Director or decision-making authority and is not an administrative review.
- 20.30.580 – Environmental Checklist – Clarifies that it is the applicant's responsibility to fill out all section of an environmental checklist.
- 20.30.610 – Environmental Impact Statement and Other Environmental Documents – This amendment allows the applicant, qualified professional, or the

Department to prepare an Environmental Impact Statement and to dictate the contents of the EIS based on the EIS Scoping process which informs what topics will be evaluated within the EIS.

- 20.30.630 – Comments and Public Notice – This amendment clarifies that a notice of SEPA determination shall be mailed, posted onsite, and advertised in the general paper of circulation (Seattle Times) for all determinations that are subject to this chapter.
- 20.30.670 – SEPA Policies – This amendment strikes confusing language and adds more recent plans, goals, and initiatives that the Department relies on when issuing SEPA determinations.
- 20.30.680 – Appeals – The amendments to this section consolidate and clarify all the SEPA related appeal information that is currently located in other sections of the code.

Attachment C 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. The proposed changes are generally as follows:

20.20 – Definitions

- 20.20.014 – C Definitions – Adds a definition for Critical Root Zone.
- 20.20.014 – C Definitions – Adds a definition for Inner Critical Root Zone.
- 20.20.048 – T Definitions – Revises the definition of Tree Canopy.
- 20.20.048 – T Definitions – Revises the definition of Hazardous Tree.
- 20.20.048 – T Definitions – Revises the definition of Landmark Tree.
- 20.20.048 – T Definitions – Revises the definition of Significant Tree
- 20.20.050 – U Definitions – Adds a new definition for Urban Forest
- 20.20.050 – U Definitions – Adds a new definition for Urban Tree Canopy

20.50 – General Development Standards

- 20.50.290 – Tree Policy – Clarifies and revises the tree policy section.
- 20.50.300 – General Requirements – Revises the section to include Best Management Practices, violations and stop work orders, restoration plans, penalties, and financial guarantees.
- 20.50.310 – Exemptions from Permit – Revises the number of significant trees that may be removed without a permit.
- 20.50.350 – Development Standards for Clearing Activities – Increases significant tree retention from 20% to 25%.
- Exception 20.50.350(B)(1) – Significant Tree Retention – Allows the Director to waive or reduce the minimum number of significant trees to facilitate the preservation of a greater number of small trees.
- Exception 20.50.360 – Tree Replacement and Site Restoration – Removes the option for the Director to both waive tree replacement and provide fee-in-lieu for replacement trees onsite.
- 20.50.370 – Tree Protection Standards – Revises the section to provide tree protection, fence height, work within the Critical Root Zone, and mitigation.

Next Steps

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

January 6	Planning Commission Meeting: Batch #2 Discussion
February 3	Planning Commission Meeting: Public Hearing on the complete 2021 Batch Part 2 Development Code Amendments.
February 28 and March 7	City Council Discussion on the complete 2021 Batch Part 2 of Development Code Amendments.
March 28	City Council Action on the complete 2021 Batch Part 2 of Development Code Amendments.

Attachments
Attachment A – Proposed 2021 Batch Part 2 of Development Code Amendments – Miscellaneous Amendments
Attachment B – Proposed 2021 Batch Part 2 of Development Code Amendments – SEPA Amendments
Attachment C – Proposed 2021 Batch Part 2 of Development Code Amendments – Tree Amendments

2021 DEVELOPMENT CODE AMENDMENT BATCH #2 – MISCELLANOUS AMENDMENTS – STAFF INITIATED

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DEVELOPMENT CODE AMENDMENTS

20.20 Amendments

Amendment #1
20.20.020 – F Definitions

Justification - Three recent laws made changes to how cities may regulate the location and occupancy of specific types of housing. Passed this year and going into effect July 25, Senate Bill (SB) 5235 restricts occupancy requirements of unrelated persons:

"Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 18 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or county ordinance, a city may not limit the number of unrelated persons that may occupy a household or dwelling unit".

The definition of family in the Development Code refers to eight persons who may or may not be related. Based on direction of State Law, this restriction is proposed to be removed from the definition.

Family An individual; two or more persons related by blood or marriage~~, a group of up to eight persons who may or may not be related~~, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. ~~For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #2
20.20.024 – H Definitions

Justification - SMC 20.40.355 was amended on May 10, 2021 which added Enhanced Shelters to the Development Code (https://www.shorelinewa.gov/home/showpublisheddocument/51676/637570353615530000).

Part of that package of amendments was Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the definition of Host Agency. A Host Agency is an organization that operates a transitional encampment.

Host Agency	A public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; or a religious organization as defined in RCW 35A.21.360, ~~religious or not for profit organization~~ that invites a transitional encampment to reside on the land that they own or lease.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #3
20.20.024 – H Definitions

Justification – Even though the definition of hardscape includes pervious concrete and asphalt, for newer products like Grasscrete, the Director has determined that staff can consider these newer technologies to be only a percentage of hardscape, based on the manufacturer's specifications. This reduction in the hardscape calculation is only applicable if grass or soil is underneath rather than gravel (which is defined as hardscape per code). The applicant will be required to provide the manufacturer's specifications for the Director to make a final determination on the actual reduction of Hardscape during the building permit review of the proposed project.

Hardscape – Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt. Retaining walls, gravel, or paver paths less than four feet wide with open spacing are not considered hardscape. Artificial turf with subsurface drain fields and decks that drain to soil underneath have a 50 percent hardscape and 50 percent pervious value. Coverings that allow growth of vegetation between components with the ability to drain to soil underneath have a hardscape percent pervious value as determined by the Director based on the manufacturer's specifications, which shall be provided by the applicant.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #4
20.20.034 – M Definitions

Justification - SMC 20.40.355 was amended on May 10, 2021 which added Enhanced Shelters to the Development Code (https://www.shorelinewa.gov/home/showpublisheddocument/51676/637570353615530000).

Part of that package of amendments was Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the definition of Managing Agency. A Managing Agency is an organization that operates a transitional encampment.

Managing Agency	An organization that has the capacity to organize and manage a transitional encampment. A managing agency must be a public agency; State of Washington registered nonprofit corporation; a federally recognized tax exempt 501(c)(3) organization; a religious organization as defined in RCW 35A.21.360; or a self-managed homeless community. A managing agency may be the same organization as the host agency.

Staff Preliminary Recommendation – Staff recommends approval.

20.30 Amendments

Amendment #5
20.30.300 Conditional use permit-CUP (Type B action).

Justification – This amendment will set a threshold for when a conditional use permit is required. The current code is silent on this which means a conditional use permit is required for any expansion of the use area, even if it is negligible and has a de minimis impact. For example, a house of worship is a conditional use in the R-6 zoning district and if that house of worship wants to add an entry vestibule for greeting parishioners a conditional use permit is currently required even though this is not added assembly area and does not intensify the use. The threshold for expansion could be any number. Staff recommends between 10%-30% based on recently approved CUP's for expansion of an existing use. Staff would also like to point out that a new CUP could include a condition that prohibits or further limits expansion without a new CUP as defined under SMC 20.30.300 as proposed for amendment. This added condition ensures that the potential impacts from an expanded CUP will not unduly burden adjacent neighbors.

A. **Purpose.** The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. **Threshold.** The purpose of this section is to determine when a conditional use permit is required. A conditional use permit is required if either of the following occurs:

1. The use area is expanded by twenty percent (20%) or more of the current use area (measured in square feet). For example, the use area is currently 2,000 sq. ft. and a 400

sq. ft. addition that expands the use area is proposed, so a conditional use permit is required.

2. The parking area (measured in the number of parking spaces) is expanded by twenty percent (20%) or more of the current parking area (measured in the number of parking spaces). For example, twenty (20) parking spaces are currently associated with the use and four (4) additional parking spaces for the use are proposed, so a conditional use permit is required.

Thresholds are cumulative ~~during a 10-year period~~ for any given parcel. This shall include all structures on other parcels if the use area and/or parking area under permit review extends into other parcels.

C~~B~~. **Decision Criteria.** A conditional use permit may be granted by the City, only if the applicant demonstrates that:

1. The conditional use is compatible with the Comprehensive Plan and designed in a manner which is compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property;

2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

5. The conditional use is not in conflict with the health and safety of the community;

6. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;

7. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

8. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

D~~C~~. **Suspension or Revocation of Permit.**

1. The Director may suspend or revoke any conditional use permit whenever:

a. The permit holder has failed to substantially comply with any terms or conditions of the permit's approval;

b. The permit holder has committed a violation of any applicable state or local law in the course of performing activities subject to the permit;

c. The use for which the permit was granted is being exercised as to be detrimental to the public health, safety, or general welfare, or so as to constitute a public nuisance;

d. The permit was issued in error or on the basis of materially incorrect information supplied to the City; or

e. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled.

2. The Director shall issue a notice and order in the same manner as provided in SMC 20.30.760.

a. The notice and order shall clearly set forth the date that the conditional use permit shall be suspended or revoked.

b. The permit holder may appeal the notice and order to the Hearing Examiner as provided in SMC 20.30.790. The filing of such appeal shall stay the suspension or revocation date during the pendency of the appeal.

c. The Hearing Examiner shall issue a written decision to affirm, modify, or overrule the suspension or revocation, with or without additional conditions, such as allowing the permit holder a reasonable period to cure the violation(s).

3. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order.

4. If a conditional use permit has been suspended or revoked, continuation of the use shall be considered an illegal occupancy and subject to every legal remedy available to the City, including civil penalties as provided for in SMC 20.30.770(D).

E~~D~~. **Transferability.** Unless otherwise restricted by the terms and conditions at issuance of the conditional use permit, the conditional use permit shall be assigned to the applicant and to a specific parcel. A new CUP shall be required if a permit holder desires to relocate the use permitted under a CUP to a new parcel. If a CUP is determined to run with the land and the Director finds it in the public interest, the Director may require that it be recorded in the form of a covenant with the King County Recorder's Office. Compliance with the terms and conditions of the conditional use permit is the responsibility of the current property owner, whether the applicant or a successor.

F~~E~~. **Expiration.**

1. Any conditional use permit which is issued and not utilized within the time specified in the permit or, if no time is specified, within two years from the date of the City's final decision shall expire and become null and void.

2. A conditional use permit shall be considered utilized for the purpose of this section upon submittal of:

a. A complete application for all building permits required in the case of a conditional use permit for a use which would require new construction;

b. An application for a certificate of occupancy and business license in the case of a conditional use permit which does not involve new construction; or

c. In the case of an outdoor use, evidence that the subject parcel has been and is being utilized in accordance with the terms and conditions of the conditional use permit.

3. If after a conditional use has been established and maintained in accordance with the terms of the conditional use permit, the conditional use is discontinued for a period of 12 consecutive months, the permit shall expire and become null and void.

G~~F~~. **Extension.** Upon written request by a property owner or their authorized representative prior to the date of conditional use permit expiration, the Director may grant an extension of time up to but not exceeding 180 days. Such extension of time shall be based upon findings that the proposed project is in substantial conformance, as to use, size, and site layout, to the issued permit; and there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety and general welfare.

Staff Preliminary Recommendation – Staff recommends approval.

20.40 Amendments

Amendment #6
20.40.405 Homeless shelter.

Justification - SMC 20.40.355 was amended on May 10, 2021 which added Enhanced Shelters to the Development Code (https://www.shorelinewa.gov/home/showpublisheddocument/51676/637570353615530000).

Part of that package of amendments was Council's desire to add public agency to the list of approved providers for an Enhanced Shelter. More recently, Council discussed adding public agency to other transitional housing uses such as Homeless Shelters. This amendment adds public agency to the indexed criteria for Homeless Shelters.

The intent of a homeless shelter is to provide temporary relief for those in need of housing. Homeless shelters are allowed in the mixed business, community business and town center 1, 2, and 3 zones subject to the below criteria.

A. The homeless shelter must be operated by a public agency; a State of Washington registered nonprofit corporation; or a Federally recognized tax exempt 501(C)(3) organization that has the capacity to organize and manage a homeless shelter.

B. The homeless shelter shall permit inspections by City, Health and Fire Department inspectors at reasonable times for compliance with the City's requirements. An inspection by the Shoreline Fire Department is required prior to occupancy.

C. The homeless shelter shall have a code of conduct that articulates the rules and regulations of the shelter. These rules shall include, at a minimum, prohibitions against alcohol and/or drug use and violence; and exclusion of sex offenders. The homeless shelter shall keep a cumulative list of all residents who stay overnight in the shelter, including names and dates.

D. The homeless shelter shall check that adult residents have government-issued identification such as a state or tribal issued identification card, driver's license, military identification card, or passport from prospective shelter residents for the purpose of obtaining sex offender and warrant checks. Prospective residents will not be allowed residency until identification can be presented. If adult residents do not have identification, the operator of the shelter shall assist them in obtaining such. No documentation is required to be submitted to the City for the purpose of compliance with this condition.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #7
20.40.570 – Unlisted Use

Justification – *As written, it is not clear if the Director has the authority to deny/prohibit/not allow an unlisted use. Shoreline's Code is set up to list permitted uses and to not list unpermitted uses. The Director should have clear authority to not permit an unlisted use that is inconsistent with the policies set for each zoning category.*

A. Recognizing that there may be uses not specifically listed in this title, either because of advancing technology or any other reason, the Director may permit, ~~or~~ condition or prohibit such use upon review of an application for Code interpretation for an unlisted use (SMC 20.30.040, Type A action) and by considering the following factors:

1. The physical characteristics of the unlisted use and its supporting structures, including but not limited to scale, traffic, hours of operation, and other impacts; and

2. Whether the unlisted use complements or is compatible in intensity and appearance with the other uses permitted in the zone in which it is to be located.

B. A record shall be kept of all unlisted use interpretations made by the Director; such decisions shall be used for future administration purposes.

Staff preliminary recommendation – Staff is recommending clarifying this section by adding the proposed language into the Development Code. The proposed language allows the Director to approve or deny proposed uses that are not listed in the Development Code.

20.50 Amendments

Amendment #8
20.50.040 – Setbacks – Designation and Measurement

Justification – Setting aside the lot area for parcels with two front yards can make it challenging to develop, expand an existing house, or add an ADU to corner lots. Allowing one of the front yards for these parcels increases flexibility and development options and allows the homeowner to use the space in the second front yard like other properties not on a corner lot.

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

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

B. Each lot must contain only one front yard setback and one rear yard setback except lots abutting two or more streets, as illustrated in the Shoreline Development Code Figure 20.50.040(C). Lots with two front yards may reduce one of the front yard setbacks by half the setback specified in Table 20.50.020(1). The Director will determine the reduced front yard setback based on the development pattern of adjacent houses and location of lot access.

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

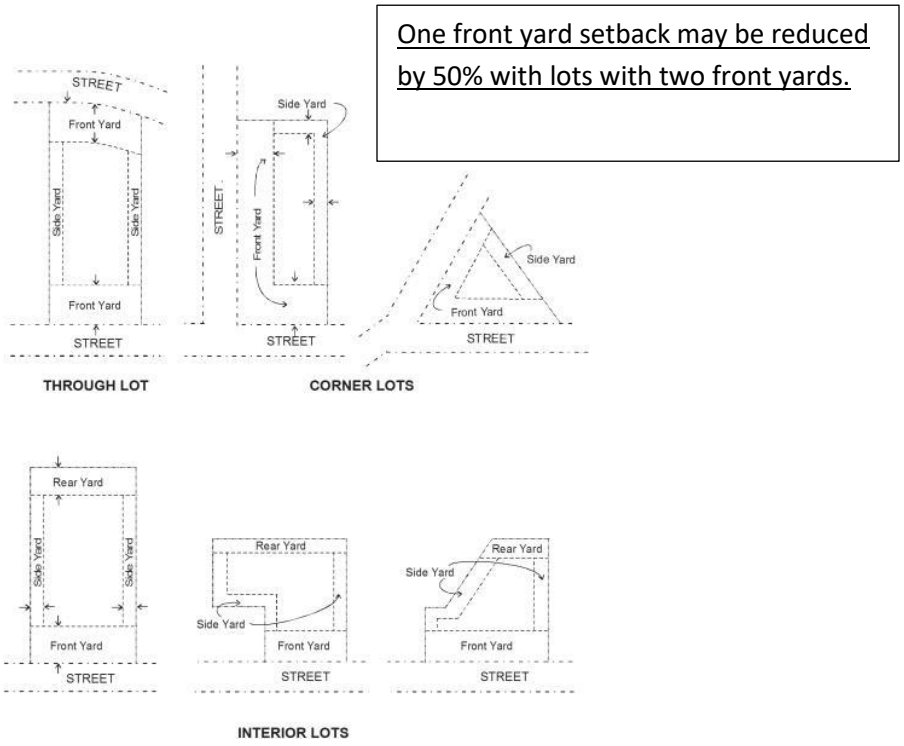


Figure 20.50.040(C): Examples of lots and required yards.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #9
20.50.070 Site planning – Front yard setback – Standards.

Justification – This amendment is related to amendment #8 which reduced one of the front yard setbacks on parcels that have two front yards. Parcels with two front yards have less flexibility in

site planning since the front yard setback in the R-6 zones is 20 feet. This is overly restrictive since homes with two front yards do not usually have two driveways that are accessed by car, especially since most of these cases apply to homes that have a private driveway on one side and the other side acts a side-setback.

The front yard setback requirements are specified in Subchapter 1 of this chapter, Dimensions and Density for Development, except as provided for below.
For individual garage or carport units, at least 20 linear feet of driveway shall be provided between any garage, carport entrance and the property line abutting the street, measured along the centerline of the driveway. See SMC 20.50.040(B) for exceptions to lots with two front yards.

Exception 20.50.070(1): The front yard setback may be reduced to the average front setback of the two adjacent lots, provided the applicant demonstrates by survey that the average setback of adjacent houses is less than 20 feet. However, in no case shall an averaged setback of less than 15 feet be allowed.

If the subject lot is a corner lot, the setback may be reduced to the average setback of the lot abutting the proposed house on the same street ~~and the 20 feet required setback~~. The second front yard setback may be reduced by half of the front yard setback established through this provision. ~~(This provision shall not be construed as requiring a greater front yard setback than 20 feet.)~~

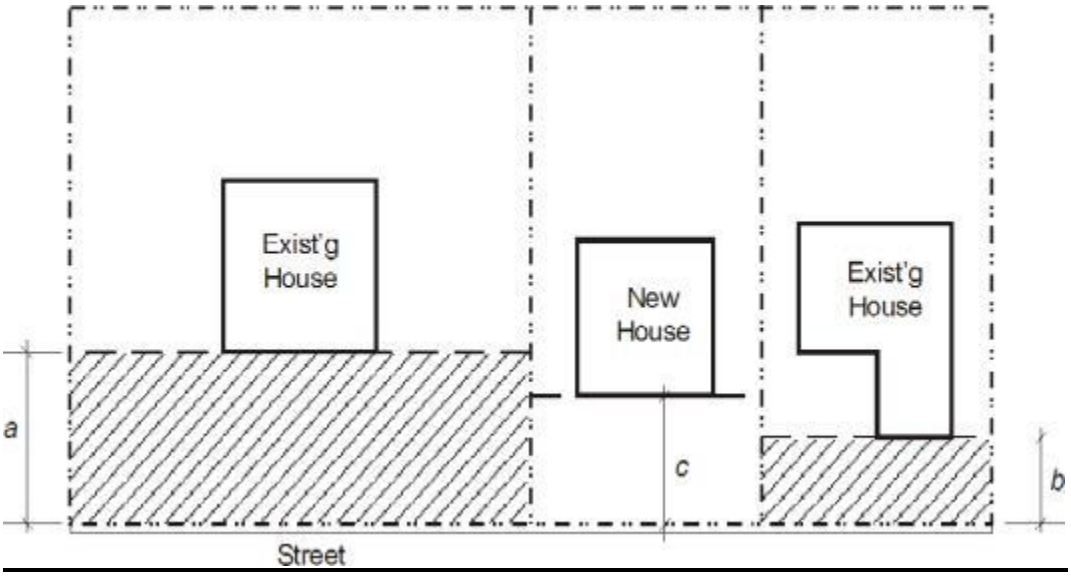
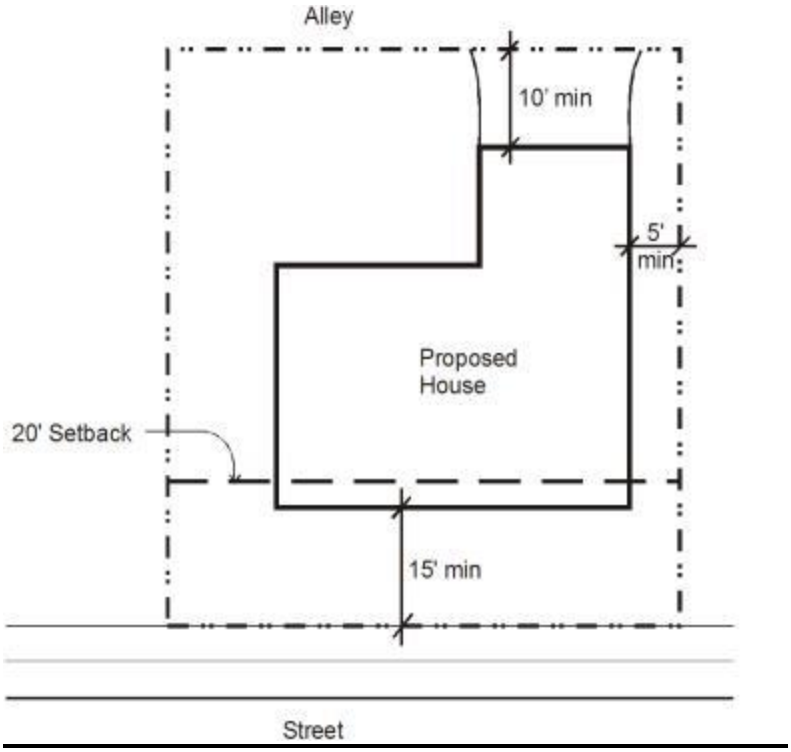


Figure Exception to 20.50.070(1): Minimum front yard setback (c) may be reduced to the average setback of houses located on adjacent lots (a and b).
Calculation: c (min) = (a +b) / 2.

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



Staff Preliminary Recommendation – Staff recommends approval.

Amendment #10
20.50.220 – Purpose

Justification - The intent with passing Ordinance No. 871, Townhouse Design Standards, was for the Commercial and Multifamily design standards to apply to commercial and multifamily development in MUR-35' and MUR-45' and for the Townhouse Design Standards to apply to single-family attached and mixed single-family developments in MUR-35' and MUR-45'. The intent was not to require compliance with the Commercial and Multifamily Design Standards for all uses other than single-family attached and mixed single-family developments in the R-8, R-12, R-18, R-24, R-48, PA 3 and TC-4 zones (e.g., institutional uses). This amendment clarifies that the Commercial and Multifamily design standards only apply to commercial and multifamily uses in the R-8, R-12, R-18, R-24, R-48, PA 3, and TC-4 zones.

The purpose of this subchapter is to establish design standards for all commercial zones – neighborhood business (NB), community business (CB), mixed business (MB) and town center (TC-1, 2 and 3). This subchapter also applies to the MUR-35' and the MUR-45' zones for all uses except single-family attached and mixed single-family developments~~,~~; and the MUR-70' zone, ~~and the~~ R-8, R-12, R-18, R-24, R-48, PA 3 and TC-4 zones for commercial and multifamily uses ~~all uses except single-family detached, attached and mixed single-family developments~~. Refer to SMC 20.50.120 when developing single-family attached and detached dwellings in the MUR-35' and MUR-45' zones. Some standards within this subchapter apply only to specific types of development and zones as noted. Standards that are not addressed in this subchapter will be supplemented by the standards in the remainder of this chapter. In the event of a conflict, the standards of this subchapter shall prevail.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #11
20.50.230 Threshold – Required site improvements.

Justification – The City has several vacant commercial buildings that are shown to be difficult to sell or lease based on existing development regulations such as parking, landscaping, vehicular and pedestrian circulation, and setbacks. In many cases, these building are difficult to sell or lease because any new use proposed in these buildings will be unable to comply with current development standards.

The City wants to encourage the reuse of these structures to activate dormant parcels and provide a more affordable rent for small businesses such as restaurants, retail, and services. The reuse of these buildings will also provide the neighborhood services instead of vacant buildings.

If the City cannot be flexible with these existing buildings and encourage reuse, the existing structures will be demolished and replaced by newer likely residential buildings with higher rents that will be unaffordable to small, local businesses.

The purpose of this section is to determine how and when the provisions for site improvements cited in the General Development Standards apply to development proposals. Full site improvement standards apply to a development application in commercial zones NB, CB, MB, TC-1, 2 and 3, and the MUR-70' zone. This subsection also applies in the following zoning districts except for the single-family attached use: MUR-35', MUR-45', PA 3, and R-8 through R-48. Full site improvement standards for signs, parking, lighting, and landscaping shall be required:

A. When building construction valuation for a permit exceeds 50 percent of the current county assessed or an appraised valuation of all existing land and structure(s) on the parcel. This shall include all structures on other parcels if the building under permit review extends into other parcels; or

B. When aggregate building construction valuations for issued permits, within any cumulative five-year period, exceed 50 percent of the county assessed or an appraised value of the existing land and structure(s) at the time of the first issued permit.

C. When a single-family land use is being converted to a commercial land use then full site improvements shall be required.

<u>D. Commercial Adaptive Reuse. When an existing building was previously used as a legally established commercial use and is proposed to be reused as a commercial use, then site improvements may be waived based on the following conditions:</u>

<u>1. The following list of uses may qualify to be exempt from the required site improvement thresholds in Section 20.50.230(A) and (B) above:</u>

- <u>Theater</u>
- <u>Health/Fitness Club</u>

- Daycare
- Professional Office
- Medical Office
- Veterinary Clinics
- General Retail Trade and Services
- Market
- Eating and Drinking Establishments
- Brewpub/Microbrewery/Microdistillery

2. The proposed use will not cause significant noise to adjacent neighbors.

3. No expansion of the building is allowed.

4. No new signs facing abutting residential uses.

5. Landscape buffers will be installed between parking spaces and/or drive aisles and abutting residential uses. If no room exists to provide a landscape buffer, then an opaque fence or wall can be provided as a buffer.

6. No building or site lighting shall shine on adjacent properties.

7. Administrative Design Review. Administrative design review approval under SMC 20.30.297 is required for all development applications that propose departures from the parking standards in Chapter 20.50 SMC, Subchapter 6, landscaping standards in Chapter 20.50 SMC, Subchapter 7, or sign standards in Chapter 20.50 SMC, Subchapter 8.

Staff Preliminary Recommendation – Staff recommends approval adding a new section for Commercial Adaptive Reuse to encourage the reuse of existing commercial buildings and to provide a more affordable options for local and small business owners to locate in the City of Shoreline.

Amendment #12
20.50.330(B) - Project review and approval.

Justification – This amendment adds the ability for the Director to require third-party review of a qualified profession's report at any time during the development process. This provision applies when tree removal is proposed, and a clearing and grading permit is required to remove non-exempt significant trees from a parcel. The amendment is needed because, in some circumstances, the city will receive more than one arborist report for a tree removal proposal with conflicting recommendations and mitigations. In these cases, the Director should have the authority to send the conflicting reports to the City's contracted arborist for review.

A. Review Criteria. The Director shall review the application and approve the permit, or approve the permit with conditions; provided, that the application demonstrates compliance with the criteria below.

1. The proposal complies with SMC 20.50.340 through 20.50.370 or has been granted a deviation from the Engineering Development Manual.

2. The proposal complies with all standards and requirements for the underlying permit.

3. If the project is located in a critical area or buffer, or has the potential to impact a critical area, the project must comply with the critical areas standards.

4. The project complies with all requirements of the City's Stormwater Management Manual as set forth in SMC 13.10.200 and applicable provisions in Chapter 13.10 SMC, Engineering Development Manual and Chapter 13.10 SMC, Surface Water Management Code and adopted standards.

5. All required financial guarantees or other assurance devices are posted with the City.

B. Professional Evaluation. In determining whether a tree removal and/or clearing is to be approved or conditioned, the Director may require the submittal of a professional evaluation and/or a tree protection plan prepared by a certified arborist at the applicant's expense, where the Director deems such services necessary to demonstrate compliance with the standards and guidelines of this subchapter. Third party review of plans, if required, shall also be at the applicant's expense. The Director shall have the sole authority to determine whether the professional evaluation submitted by the applicant is adequate, the evaluator is qualified and acceptable to the City, and whether third party review of plans is necessary. <u>The Director shall have the sole authority to require third party review.</u> Required professional evaluation(s) and services may include:

1. Providing a written evaluation of the anticipated effects of any development within five feet of a tree's critical root zone that may impact the viability of trees on and off site.

2. Providing a hazardous tree assessment.

3. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or

4. Conducting a post-construction site inspection and evaluation.

Staff Preliminary Recommendation – Staff recommends approval.

<u>Amendment #13</u>
20.50.410 Parking design standards

Justification – This proposed amendment will strike letter "C" which requires the cost of a parking space for residential units must be included in the rental or sales price of the residential unit. The parking space cannot be sold or leased separately. Staff believes section C should be removed for the following reasons:

1. The Planning Commission and Council considered an amendment in Ordinance No. 930 that removed the requirement that every residential unit in a new multifamily building shall be assigned a parking space. The City's requirements for parking do not require a 1:1 ration for parking spaces so the provision did not make sense. The removal of C below follows the same logic that every residential dwelling unit will not be assigned a parking space and every new resident moving into these units will not have a car.

2. Affordability and equity. Requiring the cost of a parking space in the monthly rent for a residential unit will increase the cost of rent for that unit. This is especially unfair if a resident does not own a car and must pay the additional cost of a parking space when the space will go unused.

3. Sustainability. The City wants to encourage less single-occupancy vehicles, and this is especially true for new multifamily projects near bus-rapid transit and the City's two light-rail stations.

4. Enforcement. It is very difficult for staff to enforce this provision. When a building permit is issued for a new residential project, staff places a condition on the permit that parking cannot be separated from the rental rate of the multifamily unit. After issuance of the permit, the leasing company may or may not comply with the condition without staff's knowledge.

The City does not have dedicated parking enforcement, and parking enforcement is generally a low priority. As such, it is hard to keep street parking organized and legal. Another concern is many areas of the City lack defined curbs/driveways which leads to more illegal parking, as it is less clear to drivers where they should be parking. Redevelopment builds sidewalks which mitigate its own problem; however, parking impacts do tend to sprawl beyond the directly adjacent property.

The City's Public Works Department will be asking Council for parking enforcement resources for effective management of parking to track and mitigate potential issues but from recent studies of available parking within the station areas, the City has a surplus of on-street parking. These on-street parking spaces are a valuable public resource and it is not being leveraged as much as it could be.

A. All vehicle parking and storage for single-family detached dwellings and duplexes must be in a garage, carport or on an approved impervious surface or pervious concrete or pavers. Any surface used for vehicle parking or storage must have direct and unobstructed driveway access.
B. All vehicle parking and storage for multifamily and commercial uses must be on a paved surface, pervious concrete, or pavers. All vehicle parking shall be located on the same parcel or same development area that parking is required to serve.
C. ~~Parking for residential units must be included in the rental or sale price of the unit. Parking spaces cannot be rented, leased, sold, or otherwise be separate from the rental or sales price of a residential unit.~~

Staff Preliminary Recommendation – Staff recommends approval of this Development Code amendment to support actions steps in the Public Works Station Area Parking Report. As stated by the city's Traffic Engineer, unbundling the cost of the parking spaces from the rent of the unit may have the effect of spill over parking. However, there is more than enough capacity for on street parking availability in nearly every area of the city based on the most recent update to the

Light Rail Station Subareas Parking Study (http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2021/staffreport112921-9a.pdf). . Residents are likely to park for free on the street rather than pay for onsite parking if they have the choice. This will continue to happen until growth and associated street parking rises to a level to make it uncomfortable enough to pay for.

While city staff supports the amendment to unbundle parking, there may be challenges to nearby homeowners that are used to using street parking as their personal parking and can no longer park directly in front of their homes. The city does not currently have a parking enforcement resource to manage on street parking well, which results in frustration due to blocked driveways, mailboxes, and other possible disruptions. Staff is seeking solutions by advocating for parking enforcement – it's needed now and will be especially needed as growth continues and as light rail stations open. Staff's suggestion is to bring a position on board by 2024.

2021 DEVELOPMENT CODE AMENDMENT BATCH – SEPA Amendments

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DEVELOPMENT CODE AMENDMENTS

20.30 Amendments

Amendment #1
20.30.040 Ministerial decisions – Type A.

Justification – The intent of these amendments to the Type A table and Type A permits is to clarify that Type A actions are not subject to SEPA unless the categorical thresholds are exceeded in SMC 20.30.560.

The Planned Action Determination has been removed from the table since a Planned Action Determination is not a permit type as the determination is always tied to a building permit.

Lastly, all of the appeal language in the footnotes of the table have been removed since the appeal language will be consolidated in the SEPA section of the code in SMC 20.30, Subchapter 8.

These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated. These decisions are made by the Director and are exempt from notice requirements.

However, Type A permit applications that exceed the categorical exemptions in SMC 20.30.560, ~~including certain categories of building permits, and permits for projects that require a SEPA threshold determination~~, are subject to SEPA review. SEPA regulations including process, noticing procedures, and appeals are specified in SMC 20.30, Subchapter 8~~. procedures, public notice requirements specified in Table 20.30.050 for SEPA threshold determination, or SMC 20.30.045~~

All permit review procedures, ~~and~~ all applicable regulations, and standards apply to all Type A actions. The decisions made by the Director under Type A actions shall be final. The Director's decision shall be based upon findings that the application conforms (or does not conform) to all applicable regulations and standards.

Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision~~, and Appeal Authority~~

Action Type	Target Time Limits for Decision (Calendar Days)	Section
Type A:		
1. Accessory Dwelling Unit	30 days	20.40.120, 20.40.210
2. Lot Line Adjustment including Lot Merger	30 days	20.30.400
3. Building Permit	120 days	All applicable standards
4. Final Short or Formal Plat	30 days	20.30.450
5. Bed and Breakfast, Boarding House	120 days	20.40.120, 20.40.250, 20.40.260
6. Interpretation of Development Code	15 days	20.10.050, 20.10.060, 20.30.020
7. Right-of-Way Use	30 days	12.15.010 – 12.15.180
8. Shoreline Exemption Permit	15 days	Shoreline Master Program
9. Sign Permit	30 days	20.50.530 – 20.50.610
10. Site Development Permit	60 days	20.20.046, 20.30.315, 20.30.430
11. Deviation from Engineering Standards	30 days	20.30.290
12. Temporary Use Permit	15 days	20.30.295
13. Clearing and Grading Permit	60 days	20.50.290 – 20.50.370
14. Administrative Design Review	28 days	20.30.297
15. Floodplain Development Permit	30 days	13.12.700
16. Floodplain Variance	30 days	13.12.800
~~17. Planned Action Determination~~	~~14 days~~	~~20.30.357~~
17. ~~18.~~ Noise Variance	30 days	9.05

An administrative appeal ~~authority~~ is not provided for Type A actions. Appeals of a Type A Action are to Superior Court pursuant to RCW 36.70(C), Land Use Petition Act. ~~except that any~~

~~Type A action which is not categorically exempt from environmental review under Chapter 43.21C RCW or for which environmental review has not been completed in connection with other project permits shall be appealable. Appeal of these actions together with any appeal of the SEPA threshold determination is set forth in Table 20.30.050(4).~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #2
20.30.050 – Type B actions

Justification – SEPA is a review associated with an action. Table 20.30.050 is a summary for Type B Actions. Actions include the approval of uses subdivisions and variances. SEPA is a review triggered by proposed development, plans and activities that meet or exceed thresholds as defined by the State. Therefore, staff is proposing that the SEPA process be defined separately in SMC 20.30.680 – Appeals and not included in Table 20.30.050.

Type B decisions require that the Director issues a written report that sets forth a decision to approve, approve with modifications, or deny the application. The Director's report will also include the SEPA Threshold Determination if applicable ~~City's decision under any required SEPA review~~.

All ~~Director's~~ Type B decisions ~~made under Type B actions~~ are appealable in an open record appeal hearing, except Shoreline Substantial Development Permits, Shoreline Variances and Shoreline CUPs that shall be appealed to the Shorelines Hearing Board pursuant to RCW 90.58 Shoreline Management Act. Such hearing shall consolidate with any SEPA threshold determination. ~~appeals of SEPA negative threshold determinations. SEPA determinations of significance are appealable in an open record appeal prior to the project decision.~~

~~All appeals shall be heard by the Hearing Examiner except appeals of shoreline substantial development permits, shoreline conditional use permits, and shoreline variances that shall be appealable to the State Shorelines Hearings Board.~~

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

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

Key: HE = Hearing Examiner

(1) Public hearing notification requirements are specified in SMC 20.30.120.

(2) Notice of application requirements are specified in SMC 20.30.120.

(3) Notice of decision requirements are specified in SMC 20.30.150.

(4) These Type B actions do not require a neighborhood meeting. A notice of development will be sent to adjacent properties.

(5) A plat alteration does not require a neighborhood meeting.

(6) If a public hearing is requested, the plat alteration will be processed as a Type C action per SMC Table 20.30.060

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #3
20.30.060 Quasi-Judicial Decisions – Type C.

Justification –The amendments proposed in this section clarify that a consolidated SEPA appeal process is not available for all Type C actions and that SEPA appeal processes are provided for in SMC 20.30.680 – Appeals.

These decisions are made by the City Council or the Hearing Examiner, as shown in Table 20.30.060, and involve the use of discretionary judgment in the review of each specific application.

Prior to submittal of an application for any Type C permit, the applicant shall conduct a neighborhood meeting to discuss the proposal and to receive neighborhood input as specified in SMC 20.30.090.

Type C decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision made by the City Council or Hearing Examiner. ~~Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a determination of significance, which is appealable under SMC 20.30.050.~~

There is no administrative appeal of a Type C ~~actions~~ decision. Any appeal of a Type C decision is to King County Superior Court pursuant to RCW 36.70(C), Land Use Petition Act.

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time Limits for Decisions

Action	Notice Requirements for Application and Decision (2), (3)	Review Authority, Open Record Public Hearing	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
Type C:					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	HE (1), ~~(2)~~	City Council	120 days	20.30.410
2. Rezone of Property and Zoning Map Change	Mail, Post Site, Newspaper	HE (1), ~~(2)~~	City Council	120 days	20.30.320
3. Site-Specific Comprehensive Plan Map Amendment	Mail, Post Site, Newspaper	HE (1), ~~(2)~~	City Council		20.30.345
4. Special Use Permit (SUP)	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.30.330
5. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.30.333
6. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.30.336
7. Secure Community Transitional Facility – Special Use Permit	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.40.502
8. Essential Public Facility – Special Use Permit	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.30.330
9. Master Development Plan	Mail, Post Site, Newspaper	HE (1), ~~(2)~~		120 days	20.30.353
10. Plat Alteration with Public Hearing (5)	Mail	HE (1), ~~(2)~~		120 days	20.30.425

(1) ~~Including consolidated SEPA threshold determination appeal.~~

(1)~~(2)~~ HE = Hearing Examiner.

(2)~~(3)~~ Notice of application requirements are specified in SMC 20.30.120.

(3)~~(4)~~ Notice of decision requirements are specified in SMC 20.30.150.

(4)~~(5)~~ A plat alteration does not require a neighborhood meeting.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #4
20.30.070 – Legislative Decisions

Justification – The following provision in SMC 20.30.070 has caused confusion and to interested parties, applicants, and the City. The clause states:

> *"There is no administrative appeal of legislative actions of the City Council, but such actions may be appealed together with any SEPA threshold determination according to State law."*

Staff is proposing that Legislative Decisions do not provide for an administrative appeal to Council's decision when combined with an appeal of the SEPA determination. Instead, all appeals related to Legislative Decisions would be filed either with the Growth Management Hearings Board pursuant to RCW 36.70A Growth Management Act or to Superior Court pursuant to RCW 36.70C, Land Use Petition Act. These amendments would alleviate the internal contradictions in this clause and Table 20.30.070. These amendments streamline the appeals process by removing questions about when and to what authority one must submit an appeal.

This amendment also adds a column for appeal authorities to Table 20.30.070 – Summary of Legislative Decisions.

These decisions are legislative, nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands. There is no administrative appeal of legislative decisions.

Table 20.30.070 – Summary of Legislative Decisions

Decision	Review Authority, Public Hearing	Decision Making Authority (in accordance with State law)	Section	Appeal Authority
1. Amendments and Review of the Comprehensive Plan	PC(1)	City Council	20.30.340	Growth Management Hearings Board
2. Amendments to the Development Code	PC(1)	City Council	20.30.350	Growth Management Hearings Board
3. Development Agreements	PC(1)	City Council	20.30.355	King County Superior Court

(1) PC = Planning Commission

Legislative decisions include a hearing and recommendation by the Planning Commission and final action by the City Council.

The City Council shall take legislative action on the proposal in accordance with State law.

There is no administrative appeal of legislative ~~actions~~ decisions of the City Council, ~~but such actions may be appealed together with any SEPA threshold determination according to State law.~~ Amendments to the Comprehensive Plan and the Development Code and any related SEPA determination are appealable to the Growth management Hearings Board pursuant to RCW 36.70A Growth Management Act. Any appeal of a Development Agreement is appealable to King County Superior Court pursuant to RCW 36.70(C) Land Use Petition Act.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #5
20.30.170 – Limitations on the Number of Hearings

Justification – The SEPA appeal information is being added to SMC 20.30.680 – Appeals and the language that is proposed to be struck from this section is being moved to 20.30.230.

No more than one open record hearing shall be heard on any land use application. ~~The appeal hearing on SEPA threshold determination of nonsignificance shall be consolidated with any open record hearing on the project permit. (Ord. 238 Ch. III § 5(a), 2000).~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #6
20.30.200 – General Description of Appeals

Justification – The amendments in this section clarify the types of appeals heard by the Council, Hearing Examiner, Superior Court, or the Growth Management Hearings Board depending on the type of permit that is being appealed. Item "C" is proposed to be removed from the section since all SEPA appeal information is now contained in SMC 20.30.680 – Appeals.

A. Type A decisions may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

B. Type B ~~Administrative~~ decisions, except for shoreline permits, ~~(Type B) are appealable~~ may be appealed to the Hearing Examiner ~~who conducts an open record appeal hearing~~ pursuant to SMC 20.30 Subchapter 4 Land Use Hearings and Appeals. Shoreline substantial development, variance, and conditional use permits may be appealed to the Shoreline Hearings Board pursuant to RCW 90.58 Shoreline Management Act.

~~B~~C. Type C decisions may be appealed ~~Appeals of City Council decisions without ministerial decisions (Type A), an administrative appeal, and appeals of an appeal authority's decisions shall be made~~ to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

D. Type L decisions, except for Development Agreements, may be appealed to the Growth Management Hearings Board pursuant to RCW 36.70A Growth Management Act. Development Agreements may be appealed to the King County Superior Court pursuant to RCW 36.70C Land Use Petition Act.

Decision Type	**Appeal Authority**
Type A	King County Superior Court - RCW 36.70C
Type B (non-shoreline)	Hearing Examiner – SMC 20.30 Subchapter 4 [1]

Type B (shoreline)	Shoreline Hearings Board – RCW 90.58
Type C	King County Superior Court – RCW 36.70C
Type L (Comprehensive Plan and Development Regulations)	Growth Management Hearings Board – RCW 36.70A
Type L (Development Agreements)	King County Superior Court – RCW 36.70C

[1] Final decisions of an appeal on a Type B decision to the Hearing Examiner may be appealed as provided in SMC 20.30 Subchapter 4.

~~C. SEPA Determinations are appealable with Type A, Type C and Type L decisions to Superior Court.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #7
20.30.220 ~~Filing~~ Commencing an administrative appeals~~.~~

Justification – This proposed amendment clarifies the process for filing an administrative appeal.

A. Any aggrieved person may appeal a decision to the Hearing Examiner. Only Type B decisions may be appealed.

B. Appeals, and the appeal fee set forth in the fee schedule adopted pursuant to SMC 3.01, must be received by the City Clerk no later than 5:00 pm local time on the ~~shall be filed within 14~~ fourteenth calendar day~~s~~ ~~from~~ following the date of the notice of the Director's decision ~~receipt of the mailing~~. ~~A decision shall be deemed received three days from date of mailing~~.

~~B~~C. Appeals shall be ~~filed~~ in writing ~~with the City Clerk. The appeal shall~~ and comply with the form and content requirements of the rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC ~~in accordance with this chapter~~. The written appeal statement shall contain a concise statement demonstrating the person is adversely affected by the decision; identifying each alleged error of fact, law, or procedure and the manner in which the decision fails to satisfy the applicable decision criteria; and the specific relief requested.

D. B. ~~Appeals shall be accompanied by a filing fee in the amount to be set in Chapter 3.01 SMC.~~

~~C. Within 10 calendar days following timely filing of a complete appeal with the City Clerk, notice of the date, time, and place for the open record hearing shall be mailed by the City Clerk to all parties of record.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #8
20.30.230 Administrative Appeal process.

Justification – This amendment clarifies that a decision can be someone other than the Director and clarifies the permit appeal process.

A. All administrative appeals are conducted pursuant to rules of procedure adopted by the Hearing Examiner pursuant to 2.15.070 SMC.

B. ~~A.~~ No more than one open record hearing shall be heard on any permit decision.

C. An appeal shall be heard and decided within 90 days from the date the appeal is filed. The parties may agree in writing to extend this time. Any extension of time must be submitted to the Hearing Examiner for approval.

C. ~~B.~~ Timely filing of an appeal shall stay ~~delay~~ the effective date of the Director's decision until the appeal is ruled upon by the Hearing Examiner or withdrawn by the appellant. A subsequent appeal of the Hearing Examiner's decision to the King County Superior Court shall not stay the effectiveness of the Director's decision unless the Court issues an order staying the decision.

D. ~~C.~~ The hearing shall be limited to the issues ~~included~~ set forth in the written appeal statement. Participation in the appeal shall be limited to the appellant, City, including all staff, and the applicant for the proposal subject to appeal, if not the appellant~~, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee~~.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #9
20.30.540 – Timing and Content of Environmental Review.

Justification – This amendment will align the determination of completeness of a land use application with the determination of a SEPA categorical exemption.

The second amendment to this section deletes SMC 20.30.540(2) which states that if the City is lead agency for a project, SEPA may be appealed before a permit is submitted. The purpose of these SEPA amendments to consolidate and clarify the SEPA review and appeal process so the below section will be delated, and all of the appeal language will be stated in SMC 20.30.680 – Appeals.

A. **Categorical Exemptions.** The City will normally identify whether an action is categorically exempt within ~~10~~ 28 days of receiving an ~~complete~~ application.

B. **Threshold Determinations.** When the City is lead agency for a proposal, the following threshold determination timing requirements apply:

1. If a Determination of Significance (DS) is made concurrent with the notice of application for a proposal, the DS and scoping notice shall be combined with the notice of application~~(RCW 36.70B.110).~~ Nothing in this subsection prevents the DS/scoping notice from being issued before the notice of application. If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process.

2. SEPA determinations for city capital projects may be appealed to the Hearing Examiner as provided in SMC 20.30, Subchapter 4. ~~If the City is lead agency and project proponent or is funding a project, the City may conduct its review under SEPA and may allow appeals of procedural determinations prior to submitting a project permit application.~~

2. ~~3.~~ If an open record predecision hearing is required on the proposal, the threshold determination shall be issued at least 15 calendar days before the open record predecision hearing ~~(RCW 36.70B.110 (6)(b)).~~

3. ~~4.~~ The optional DNS process provided in WAC 197-11-355 may be used to indicate on the notice of application that the lead agency is likely to issue a Determination of Non-Significance (DNS). If this optional process is used, a separate comment period on the DNS may not be required ~~(refer to WAC 197-11-355(4)).~~

C. For nonexempt proposals, the DNS or draft Environmental Impact Statement (EIS) for the proposal shall accompany the City's staff recommendation to the appropriate review authority. If the final EIS is or becomes available prior to review, it shall be substituted for the draft.

D. The optional provision of WAC 197-11-060(3)(c) analyzing similar actions in a single environmental document is adopted.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #10
20.30.565 Planned Action Determination of Consistency ~~approval SEPA exemptions.~~

Justification – The amendment clarifies that projects within a Planned Action Area may not require an additional SEPA determination. Projects within a Planned Action Area do require a form be filled out that describe the project and document the impacts from that proposal.

Projects proposed within a planned action area, as defined by the City, may be eligible for planned action status. The applicant shall submit a complete Planned Action Determination of Consistency Review Checklist and any other submittal requirements specified by the Director at the time of application submittal. If the City determines the project is within a planned action area and meets the thresholds established by the planned action, no additional SEPA analysis is required. If a project does not qualify as a planned action, SEPA review will be required. A planned action determination appeal is a Type A decision and may be appealed as provided in SMC 20.30.200.~~Development approvals in planned action districts identified on the City zoning map are designated planned action approvals pursuant to WAC 197-11-164. The environmental impacts of development in these districts consistent with the applicable code provisions have been addressed in a planned action EIS and do not require additional SEPA review.~~

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #11
20.30.570 – Categorical Exemptions and Threshold Determinations – Use of exemptions

Justification – This amendment clarifies that a SEPA determination is a final decision by the Director or decision-making authority and may or may not be an administrative review.

A. The determination of whether a proposal is categorically exempt shall be made by the responsible official.

B. The determination that a proposal is exempt shall be a final decision. ~~and not subject to administrative review~~.

C. If a proposal is exempt, none of the procedural requirements of this subchapter shall apply to the proposal.

~~D. The responsible official shall not require completion of an environmental checklist for an exempt proposal.~~

E. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

1. The responsible official shall not give authorization for:

    - Any nonexempt action;
    - Any action that would have an adverse environmental impact; or
    - Any action that would limit the choice of alternatives.

2. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

3. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #12
20.30.580 Environmental Checklist.

Justification – The submittal of an environmental checklist is required for all projects subject to SEPA review. It is the applicant's responsibility to complete all sections of the checklist and submit it to the City for review and to issue a determination. This amendment removes the provision that the applicant can request the City fill out portions of the checklist on the request of the applicant.

A. A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the City's responsible official and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. Except as provided in subsection E of this section, the checklist shall be in the form of

WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4).

B. For private proposals, the responsible official will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The responsible official may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if any ~~either~~ of the following occurs:

1. The City has technical information on a question or questions that is unavailable to the private applicant; or

2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration; ~~or~~

3. ~~On the request of the applicant.~~

D. The applicant shall pay to the City the actual costs of providing information under subsections (C)(2). ~~and (C)(3) of this section.~~

E. For projects ~~submitted as~~ seeking to qualify as planned actions ~~under WAC 197-11-164~~, the ~~City shall use its~~ applicant shall submit a planned action determination of consistency review checklist and any other submittal requirements specified by the Director. ~~existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a 30-day review prior to use.~~

F. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and planned action checklist and shall have the authority to determine the final content of the ~~environmental~~ checklists.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #13
20.30.610 – Environmental Impact Statement and Other Environmental Documents– ~~Additional considerations~~.

Justification – This amendment allows the applicant, qualified professional, or the Department to prepare an Environmental Impact Statement and to dictate the contents of the EIS based on the EIS Scoping process which informs what topics will be evaluated within the EIS. This amendment takes more of the burden from the department, and the Director, when preparing and managing the EIS process. Letter "A" is being moved from the section to SMC 20.30.630 since that is the comment section of the code.

~~A. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).~~

~~B~~A. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the Department shall be responsible for preparation and content of an EIS~~s~~ and other environmental documents by or under the direction of the SEPA Responsible Official. ~~The Department may contract with consultants as necessary for the preparation of environmental documents. The Department may consider the opinion of the applicant regarding the qualifications of the consultant but the Department shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.~~ An EIS may be prepared by the lead agency's staff; by an applicant or its agent; or by an outside consultant retained by either an applicant or the lead agency. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

~~C~~B. Consultants or sub-consultants selected ~~by the Department~~ to prepare environmental documents for a private development proposal shall not:

(1) act as agents for the applicant in preparation or acquisition of associated underlying permits;

(2) have a financial interest in the proposal for which the environmental document is being prepared; and

(3) perform any work or provide any services for the applicant in connection with or related to the proposal.

~~D~~C. All costs of preparing ~~the~~ any required environment document shall be borne by the applicant.

~~E~~D. If the responsible official requires an EIS for a proposal and determines that ~~someone other than~~ the City will prepare the EIS, the responsible official shall notify the applicant ~~immediately~~ as soon as reasonably possible after completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

~~F~~E. The City may require an applicant to provide information ~~the City does not possess, including information~~ that must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulations, statute, or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this subchapter nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

~~G~~F. In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the Department ~~and consultant~~. The applicant shall continue to be responsible for all monies expended by the Department ~~or consultants~~ to the point of the Department's receipt of notification ~~to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents~~.

~~H~~G. The Department shall only publish ~~an environmental impact statement (~~an EIS~~)~~ when it believes that the EIS adequately discloses the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable significant adverse impacts.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #14
20.30.630 Comments and Public Notice – Additional considerations.

Justification – This amendment clarifies that a notice of SEPA determination shall be mailed, posted onsite, and advertised in the general paper of circulation (Seattle Times) for all determinations that are subject to this chapter.

A. For purposes of WAC 197-11-510, public notice for SEPA threshold determinations shall be required as provided in Chapter 20.30.120~~, Subchapter 3, Permit Review Procedures, except for Type L actions~~. At a minimum, notice shall be provided to property owners located within 500 feet, posted on the property (for site-specific proposals), and the Department shall publish a notice of the threshold determination in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, and the location where the complete application and environmental documents may be reviewed.

B. Publication of notice in a newspaper of general circulation in the area where the proposal is located shall also be required for all nonproject actions and for all other proposals that are subject to the provisions of this subchapter but are not classified as Type A, B, ~~or~~ C, or L actions.

C. The SEPA responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure.

D. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #15
20.30.670 SEPA Policies.

Justification – This amendment strikes letter "A" as the current language is confusing. The second amendment adds more recent plans, goals, and initiatives that the Department relies on when issuing SEPA determinations.

~~A. The policies and goals set forth in this section are supplementary to those in the existing authorization of the City of Shoreline.~~

~~B.~~ For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the City's substantive authority to condition or deny proposals under SEPA, subject to the provisions of RCW 43.21C.240 and SMC 20.30.660.

1. The policies of the State Environmental Policy Act, RCW 43.21C.020.

2. The Shoreline Comprehensive Plan, its appendices, subarea plans, surface water management plans, park master plans, and habitat and vegetation conservation plans.

3. The ~~City of~~ Shoreline Municipal Code.

4. The Shoreline Historic Inventory.

5. The Shoreline Environmental Sustainability Strategy.

6. The Shoreline Climate Action Plan.

7. The Shoreline Diversity and Inclusion Goals.

Staff Preliminary Recommendation – Staff recommends approval.

Amendment #16
20.30.680 – Appeals.

Justification – The amendments to this section consolidate and clarify all the SEPA related appeal information that is currently located in SMC 20.30 Subchapter 2. As currently written, it is difficult to know how to appeal a SEPA determination when that SEPA determination is associated with a building permit (which is a Type-A administrative decision); a Type-B land use application which is an administrative decision by the Director; a Type-C action which is either approved by the Hearing Examiner or the City Council; or a Type-L action which is approved by the City Council.

The confusion mainly occurs when a Type-A action has SEPA attached to it. A Type-A action is an administrative approval which mean an appeal of a Type-A action goes to Superior Court. The SEPA determination on the Type-A permit would also need to go to Superior Court. Staff's proposal is to have all SEPA appeals go to either the State Superior Court, the Growth Management Hearings Board, or the State Shoreline Hearings Board based on the type or permit being appealed. For example, a Comprehensive Plan Amendment is classified as a Type L – Legislative action approved by Council. An appeal of Council's action of a Type L action will go to the Growth management Hearings Board. It makes sense for the SEPA appeal to go to the same hearing body as the permit.

A. There are no administrative appeals of a SEPA threshold determination except threshold determinations associated with a Type B actions. Any appeal of a SEPA determination, together with the City's final decision on a proposal, may be appealed to the King County

Superior Court, the Growth Management Hearings Board, or the Shoreline Hearings Board, based on the type of ~~permit~~ action being appealed, as provided in RCW 43.21.075.

~~A. Any interested person may appeal a threshold determination or the conditions or denials of a requested action made by a nonelected official pursuant to the procedures set forth in this section and Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals. No other SEPA appeal shall be allowed.~~

~~1. If an administrative appeal is allowed, Only one administrative appeal of each threshold determination shall be allowed on a proposal. Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.~~

~~3. An appeal of a DS must be filed within 14 calendar days following issuance of the DS.~~

~~4. All Administrative appeals of SEPA determinations are allowed for appeals of a DNS for actions decisions classified in Chapter 20.30 SMC, Subchapter 2, Types of Actions, as Type A or B, or C actions decisions for which the Hearing Examiner is the has review appeal authority., must These appeals must be filed within 14 calendar days following notice of the SEPA threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for a Type A or B actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.~~

~~5. The Hearing Examiner shall make the final decision on all Administrative Appeals as allowed in SMC Chapter 20.30, Subchapter 2, Types of Actions - Type B. Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner's decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.~~

~~B. Notwithstanding the provisions of subsection (A) of this section, the Department may adopt procedures under which an administrative appeal shall not be provided if the Director finds that consideration of an appeal would be likely to cause the Department to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The Director's determination shall be included in the notice of the SEPA determination, and the Director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action.~~

Staff Preliminary Recommendation – Staff recommends approval.

2021 DEVELOPMENT CODE AMENDMENT BATCH – Tree Amendments

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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.

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."~~ <u>The uppermost layer of the tree or group of trees, formed by the leaves and branches of dominant tree crowns.</u>

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 to the original 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:

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.

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.

~~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.

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.

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.

For new development in the R-8, R-12, R-18, R-24, R-48, TC-4, MUR-35', and MUR-45', the following standards 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, 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.

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 that 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 (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 S~~s~~ignificant trees on lots up to 7,200 square feet and one additional S~~s~~ignificant tree for every additional 7,200 square feet of lot area up to one acre and as follows:

Maximum Number of Trees Exempted	
Less than 7,200 sq ft	3 trees
7,201 sq ft to 14,400 sq ft	4 trees
14,401 sq ft to 21,600 sq ft	5 trees
21,601 sq ft to 28,800 sq ft	6 trees
28,801 sq ft to 36,000 sq ft	7 trees
36,001 sq ft to 43,560 sq ft	8 trees

Maximum Number of Trees Exempted on One Acre to Twenty-Five Acres	
1 acre + 1 sq ft (43,561 sq ft) to 2 acres	9 trees
2 acres + 1 sq ft to 5 acres	10 trees
5 acres + 1 sq ft to 10 acres	20 trees
10 acres + 1 sq ft to 15 acres	30 trees
15 acres + 1 sq ft to 20 acres	40 trees
20 acres + 1 sq ft to 25 acres	50 trees

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.

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~~s~~ignificant 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 reduce~~tion, 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.

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.

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.

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 ~~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~~.

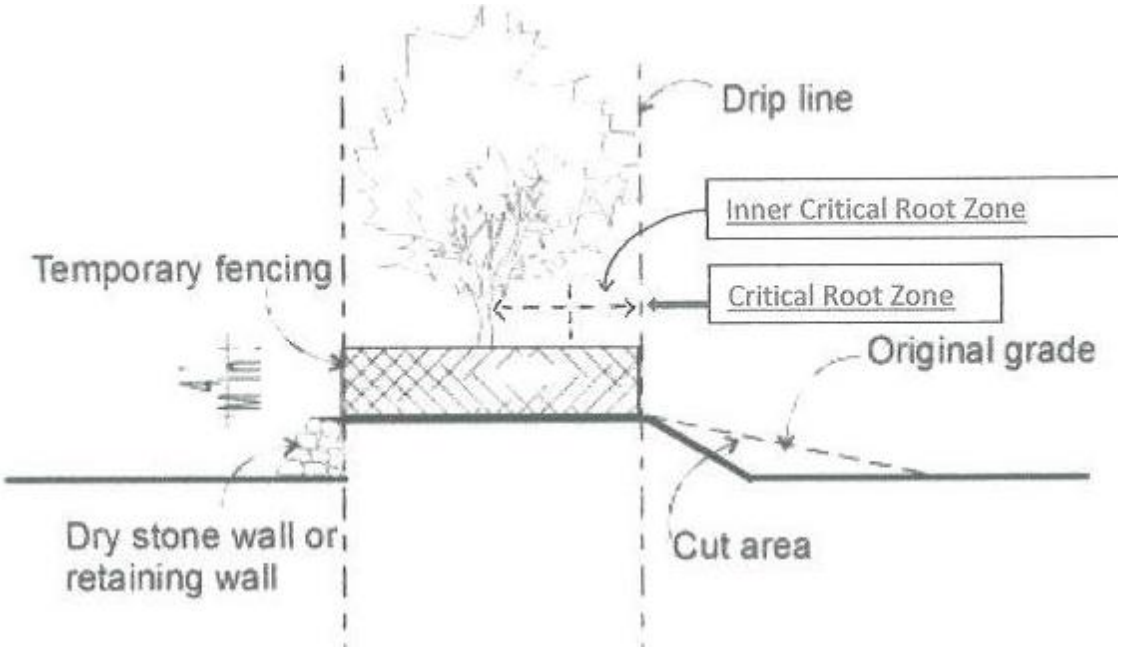

Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

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~~ C~~c~~ritical 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.

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.

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.

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.