

**6a. Staff Report - 2021 Development Code Amendments - Batch #2**

**Planning Commission Meeting Date: February 3, 2022**

**Agenda Item: 6a.**

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

**AGENDA TITLE: 2021 Development Code Amendments Public Hearing – Batch #2 – Miscellaneous, SEPA, and Tree Amendments**

**DEPARTMENT: Planning & Community Development**

**PRESENTED BY: Steven Szafran, AICP, Senior Planner**

**Public Hearing**  
 **Discussion**

**Study Session**  
 **Update**

**Recommendation Only**  
 **Other**

**Introduction**

This is a public hearing on the 2021 Development Code Amendment Batch Part 2 (Batch #2). The Planning Commission discussed Batch #2 on July 15, August 5, October 7, November 18, December 2, and January 6, 2022.

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 (Group A), the second group of amendments is related to the procedure and administration of the State Environmental Policy Act (SEPA)(Group B), and the third group is related to trees (Group C). 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.

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.

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

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

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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>).

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The Planning Commission reviewed all three of the groups of amendments at the January 6, 2022 meeting. <https://www.shorelinewa.gov/home/showdocument?id=53711> Please refer to Attachments A, B and C of this staff report, which can be accessed using the link provided, if you are seeking the justification for each amendment or more information on the four (4) tree amendments that are not recommended by staff. Additionally, those amendments not recommended by staff can be found in Attachment B of this Staff Report.

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.

### Group A – Miscellaneous Amendments

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.

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- 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.

### Group B – SEPA Amendments

The proposed SEPA 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.

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- 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.

### Group C – Tree Amendments

A more detailed accounting of the tree amendments showing all of the privately-initiated amendments including the justification as provided by the applicant and staff are shown in Attachment C to the January 6, 2022 Planning Commission Meeting and can be viewed at the following link:

<https://www.shorelinewa.gov/home/showdocument?id=53711>.

The proposed Group C-Tree amendments 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.

**DEVELOPMENT CODE AMENDMENT DECISION CRITERIA**

In accordance with SMC 20.30.350(A), 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.

The Planning Commission makes a recommendation to the City Council, which is the final decision-maker on whether to approve or deny an amendment to the Development Code. The following are the Decision Criteria used to analyze a proposed amendment:

1. *The amendment is in accordance with the Comprehensive Plan*

Staff has determined that the proposed amendments in Batch #2 are consistent with the following Comprehensive Plan Goals and Policies:

*Goal LU I: Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods.*

*Goal LU V: Enhance the character, quality, and function of existing residential neighborhoods while accommodating anticipated growth.*

*Goal LU VII: Plan for commercial areas that serve the community, are attractive, and have long-term economic vitality.*

*LU6: Protect trees and vegetation and encourage additional plantings that serve as buffers. Allow flexibility in regulations to protect existing stands of trees.*

*LU55: Parking requirements should be designed for average need, not full capacity. Include regulatory provisions to reduce parking standards, especially for those uses located within ¼ mile of high-capacity transit, or serving a population characterized by low rates of car ownership. Other parking reductions may be based on results of the King County Right-Sized Parking Initiative.*

*Goal CD III: Expand on the concept that people using places and facilities draw more people.*

*CD16: Where feasible, preserve significant trees and mature vegetation.*

*CD37: Minimize the removal of existing vegetation, especially mature trees, when improving streets or developing property.*

*NE3: Balance the conditional right of private property owners to develop and alter their land with protection of native vegetation and critical areas.*

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*Goal NE I: Minimize adverse impacts on the natural environment through leadership, policy, and regulation, and address impacts of past practices where feasible.*

*Goal NE X: Maintain and improve the city's tree canopy*

Staff Analysis: The proposed 2021 Batch #2 include a wide range of topics such as reduced setbacks, reuse of existing commercial buildings, parking, the processing requirements of SEPA, tree retention, tree replacement, and the general management of trees. The Batch #2 amendments generally comply with the above referenced Comprehensive Plan goals and policies and are not in conflict with any other goals or policies. The proposed Batch #2 amendments comply with the goals and policies of the Comprehensive Plan.

- 2. The amendment will not adversely affect the public health, safety, or general welfare.*

The proposed Batch #2 amendments will not adversely affect the public health, safety, or general welfare of the residents of Shoreline. It will promote the general welfare by providing needed updates and clarifications of current development regulations and addresses changing circumstances throughout the City.

- 3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.*

The proposed amendments are not contrary to the best interest of the residents and property owners of the City of Shoreline.

### **Staff Recommendation**

Staff recommends that the Planning Commission make findings and conclusions to recommend approval of Attachment A - 2021 Batch #2 Staff Recommended Development Code Amendments to the City Council.

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### **Next Steps**

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

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**

**6a. Staff Report - 2021 Development Code Amendments - Batch #2**

**Attachment A** - 2021 Batch #2 Staff Recommended Development Code Amendments

**Attachment B** – 2021 Batch #2 Amendments Recommended by Staff for Denial



**2021 DEVELOPMENT CODE AMENDMENT BATCH-**  
**Staff Recommended Miscellaneous Amendments (Staff Initiated)**  
**GROUP A**

**GROUP A – Miscellaneous Amendments**  
**STAFF RECOMMENDATION – PROPOSED MISCELLANEOUS AMENDMENT**  
Staff recommends approval of miscellaneous amendments A1-A13 as proposed by staff.

<b>STAFF RECOMMENDED AMENDMENTS</b>			
Number	Section	Topic	Recommendation
<b>20.20 – Definitions</b>			
1	20.20.020	Family	Approve
2	20.20.024	Hardscape for Grasscrete	Approve
3	20.20.024	Host Agency	Approve
4	20.20.034	Managing Agency	Approve
			Approve
<b>20.30 – Procedures and Administration</b>			
5	20.30.300	Threshold for when a Conditional Use Permit is Required	Approve
<b>20.40 - Uses</b>			
6	20.40.405	Homeless Shelter	Approve
7	20.40.570	Director Approval of Unlisted Uses	Approve
<b>20.50 – General Development Standards</b>			
8	20.50.040	Setbacks – Second Front Yard	Approve
9	20.50.070	Setbacks – Second Front Yard	Approve
10	20.50.220	Purpose of the Commercial Design Standards	Approve
11	20.50.230	Thresholds – Exemptions for Existing Commercial Structures to Encourage Reuse	Approve
12	20.50.330(B)	Third Party Review	Approve
13	20.50.410(C)	Parking for Multifamily Units	Approve

STAFF RECOMMENDED MISCELLANEOUS DEVELOPMENT CODE AMENDMENTS

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**20.20 Amendments**

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**Amendment #A1**

**20.20.020 – F Definitions**

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 Recommendation*** – *Staff recommends approval.*

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**Amendment #A2**

**20.20.024 – H Definitions**

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 Recommendation*** – *Staff recommends approval.*

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**Amendment #A3**

**20.20.024 – H Definitions**

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 Recommendation*** – *Staff recommends approval.*

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**Amendment #A4**

**20.20.034 – M Definitions**

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

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**20.30 Amendments**

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**Amendment #A5**

**20.30.300 Conditional use permit-CUP (Type B action).**

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.

**CB. 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.

**DC. 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).

**ED. 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.

**EE. 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.

**GF. 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.

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## 20.40 Amendments

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### Amendment #A6

#### **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.

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**Amendment #A7**

**20.40.570 – Unlisted Use**

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, ~~on 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 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.

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**20.50 Amendments**

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**Amendment #A8**

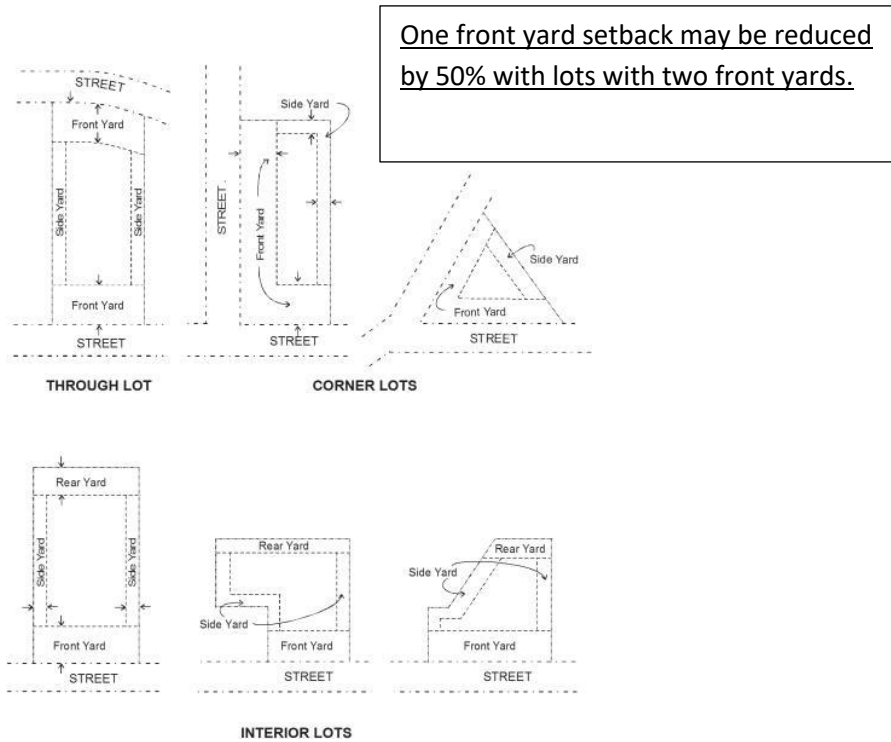
**20.50.040 – Setbacks – Designation and Measurement**

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 Recommendation – Staff recommends approval.**

**Amendment #A9**

**20.50.070 Site planning – Front yard setback – Standards.**

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-foot 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.)*



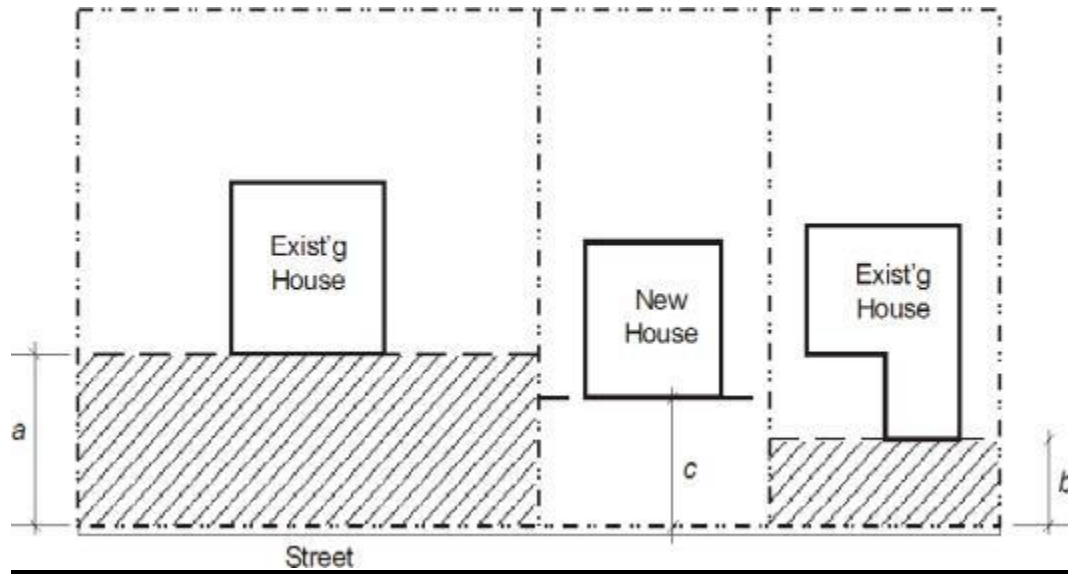
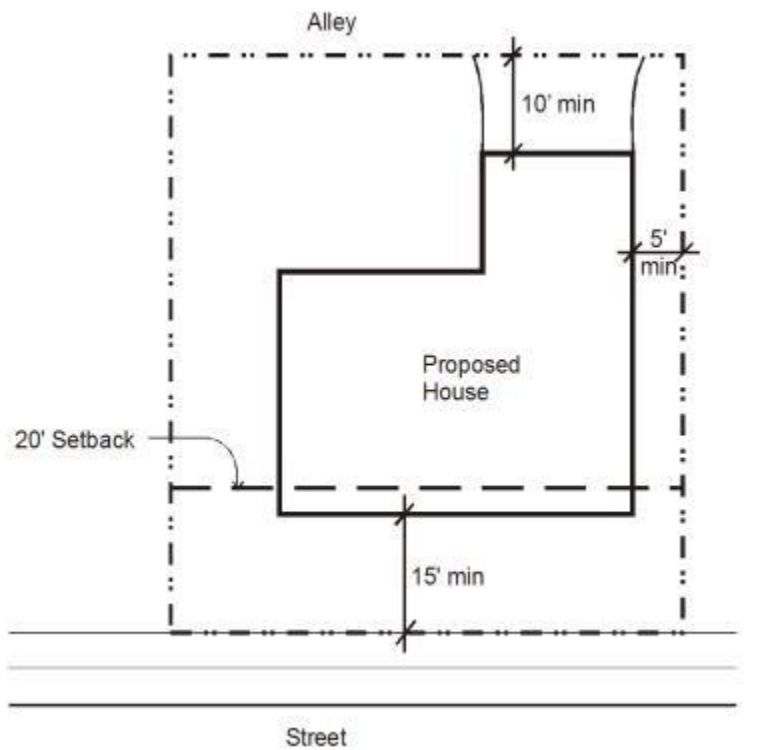


Figure Exception to 20.50.070(1): Minimum front yard setback (c) may be reduced to the average setback of houses located on adjacent lots (a and b).  
 Calculation:  $c \text{ (min)} = (a + b) / 2$ .

*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 Recommendation** – *Staff recommends approval.*

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**Amendment #A10**  
**20.50.220 – Purpose**

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 Recommendation** – *Staff recommends approval.*

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**Amendment #A11**  
**20.50.230 Threshold – Required site improvements.**

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.

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:

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:

- Theater
- Health/Fitness Club
- 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 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.*

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**Amendment #A12**

**20.50.330(B) - Project review and approval.**

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. The Director shall have the sole authority to require third party review. 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.

<b>Staff Recommendation</b> – <i>Staff recommends approval.</i>
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### **Amendment #A13**

#### **20.50.410 Parking design standards**

- 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 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/staffreport12921-9a.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 –  
Staff Recommended SEPA Amendments (Staff Initiated)  
GROUP B**

**GROUP B – SEPA Amendments**  
**STAFF RECOMMENDATION – PROPOSED SEPA REGULATION AMENDMENTS:**  
Staff recommends approval of SEPA amendments B1-B16 as proposed by staff.

Number	Section	Topic	Recommendation
<b>20.30 – Procedures and Administration</b>			
B1	20.30.040	SEPA and Type A Permits	Approve
B2	20.30.050	SEPA and Type B Permits	Approve
B3	20.30.060	SEPA and Type C Permits	Approve
B4	20.30.070	SEPA and Type L Permits	Approve
B5	20.30.170	Move SEPA Appeal Hearings	Approve
B6	20.30.200	Move SEPA Appeal Language	Approve
B7	20.30.220	Update and Add link to Fee Schedule	Approve
B8	20.30.230	Clarify Administrative Appeal Process	Approve
B9	20.30.540	Identifying Timing of Categorically Exempt Projects	Approve
B10	20.30.565	Planned Action Determination Forms Required	Approve
B11	20.30.570	Clarification of Exempt Projects	Approve
B12	20.30.580	Completion of Environmental Checklist	Approve
B13	20.30.610	EIS Management	Approve
B14	20.30.630	SEPA Public Notice and Comments	Approve
B15	20.30.670	Adding Relevant Documents for the Review or SEPA	Approve
B16	20.30.680	SEPA Appeal Process	Approve

**STAFF RECOMMENDED SEPA DEVELOPMENT CODE AMENDMENTS**

**20.30 Amendments**

**Amendment #B1**

**20.30.040 Ministerial decisions – Type A.**

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
<b>Type A:</b>		
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

**ATTACHMENT A**  
**STAFF RECOMMENDATION TO**  
**THE PLANNING COMMISSION**

Action Type	Target Time Limits for Decision (Calendar Days)	Section
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
<del>17. Planned Action Determination</del>	<del>14 days</del>	<del>20.30.357</del>
17. 48. 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).

<b>Staff Recommendation</b> – Staff recommends approval.
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**Amendment #B2**  
**20.30.050 – Type B actions**

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 <sup>(1), (2), (3)</sup>	Target Time Limits for Decision	Appeal Authority	Section
<b>Type B:</b>				
1. Binding Site Plan <sup>(4)</sup>	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 <sup>(4)</sup>	Mail, Post Site, Newspaper	90 days	HE	20.30.410

**ATTACHMENT A**  
**STAFF RECOMMENDATION TO**  
**THE PLANNING COMMISSION**

Action	Notice Requirements: Application and Decision <sup>(1), (2), (3)</sup>	Target Time Limits for Decision	Appeal Authority	Section
<del>4. SEPA Threshold Determination of Significance</del>	<del>Mail, Post Site, Newspaper</del>	<del>60 days</del>	<del>HE</del>	<del>20.30.490— 20.30.710</del>
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 <sup>(5), (6)</sup>	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

<b>Staff Recommendation</b> – <i>Staff recommends approval.</i>
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**Amendment #B3**

**20.30.060 Quasi-Judicial Decisions – Type C.**

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 <sup>(23)</sup> , <sup>(34)</sup>	Review Authority, Open Record Public Hearing	Decision Making Authority (Public Meeting)	Target Time Limits for Decisions	Section
<b>Type C:</b>					
1. Preliminary Formal Subdivision	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>	City Council	120 days	20.30.410
2. Rezone of Property and Zoning Map Change	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>	City Council	120 days	20.30.320

**ATTACHMENT A**  
**STAFF RECOMMENDATION TO**  
**THE PLANNING COMMISSION**

<b>Action</b>	<b>Notice Requirements for Application and Decision <sup>(23)</sup>, <sup>(34)</sup></b>	<b>Review Authority, Open Record Public Hearing</b>	<b>Decision Making Authority (Public Meeting)</b>	<b>Target Time Limits for Decisions</b>	<b>Section</b>
3. Site-Specific Comprehensive Plan Map Amendment	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>	City Council		20.30.345
4. Special Use Permit (SUP)	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.330
5. Critical Areas Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.333
6. Critical Areas Reasonable Use Permit	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.336
7. Secure Community Transitional Facility – Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.40.502
8. Essential Public Facility – Special Use Permit	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.330
9. Master Development Plan	Mail, Post Site, Newspaper	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.353
10. Plat Alteration with Public Hearing <sup>(54)</sup>	Mail	HE <sup>(1)</sup> , <sup>(2)</sup>		120 days	20.30.425

<sup>(1)</sup> ~~Including consolidated SEPA threshold determination appeal.~~

<sup>(1)(2)</sup> HE = Hearing Examiner.

<sup>(2)(3)</sup> Notice of application requirements are specified in SMC 20.30.120.

<sup>(3)(4)</sup> Notice of decision requirements are specified in SMC 20.30.150.

<sup>(4)(5)</sup> A plat alteration does not require a neighborhood meeting.

**Staff Recommendation** – Staff recommends approval.

**Amendment #B4**

**20.30.070 – 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	<u>Appeal Authority</u>
1. Amendments and Review of the Comprehensive Plan	PC <sup>(1)</sup>	City Council	20.30.340	<u>Growth Management Hearings Board</u>
2. Amendments to the Development Code	PC <sup>(1)</sup>	City Council	20.30.350	<u>Growth Management Hearings Board</u>
3. Development Agreements	PC <sup>(1)</sup>	City Council	20.30.355	<u>King County Superior Court</u>

<sup>(1)</sup> 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 Recommendation** – *Staff recommends approval.*

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**Amendment #B5**

**20.30.170 – Limitations on the Number of Hearings**

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 Recommendation** – *Staff recommends approval.*

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**Amendment #B6**

**20.30.200 – General Description of 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.

~~BC.~~ 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.

<u>Decision Type</u>	<u>Appeal Authority</u>
<u>Type A</u>	<u>King County Superior Court - RCW 36.70C</u>
<u>Type B (non-shoreline)</u>	<u>Hearing Examiner – SMC 20.30 Subchapter 4 <sup>[1]</sup></u>
<u>Type B (shoreline)</u>	<u>Shoreline Hearings Board – RCW 90.58</u>
<u>Type C</u>	<u>King County Superior Court – RCW 36.70C</u>
<u>Type L (Comprehensive Plan and Development Regulations)</u>	<u>Growth Management Hearings Board – RCW 36.70A</u>
<u>Type L (Development Agreements)</u>	<u>King County Superior Court – RCW 36.70C</u>

[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.~~

<b><i>Staff Recommendation – Staff recommends approval.</i></b>
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**Amendment #B7**  
**20.30.220 Filing Commencing an administrative appeals.**

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 days 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.~~

~~BC. 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.~~

<b><i>Staff Recommendation – Staff recommends approval.</i></b>
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**Amendment #B8**  
**20.30.230 Administrative 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 these persons or entities which have timely filed complete written appeal statements and paid the appeal fee.~~

**Staff Recommendation** – *Staff recommends approval.*

### **Amendment #B9**

#### **20.30.540 – Timing and Content of Environmental Review.**

A. **Categorical Exemptions.** The City will normally identify whether an action is categorically exempt within ~~40~~ 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 Recommendation*** – *Staff recommends approval.*

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### **Amendment #B10**

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

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 Recommendation*** – *Staff recommends approval.*

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### **Amendment #B11**

#### **20.30.570 – Categorical Exemptions and Threshold Determinations – Use of exemptions**

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.

<b><i>Staff Recommendation</i></b> – <i>Staff recommends approval.</i>
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**Amendment #B12**

**20.30.580 Environmental Checklist.**

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 Recommendation** – *Staff recommends approval.*

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### **Amendment #B13**

#### **20.30.610 – Environmental Impact Statement and Other Environmental Documents– Additional considerations.**

~~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).~~

**BA.** Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the Department shall be responsible for preparation and content of an EISs 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.~~

~~EB.~~ 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.

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

~~ED.~~ 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.

~~EE.~~ 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.

~~EF.~~ 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.

~~EG.~~ 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.

<b>Staff Recommendation – Staff recommends approval.</b>
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**Amendment #B14**

**20.30.630 Comments and Public Notice – Additional considerations.**

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).

<p><b><i>Staff Recommendation – Staff recommends approval.</i></b></p>
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**Amendment #B15**

**20.30.670 SEPA Policies.**

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 Recommendation** – *Staff recommends approval.*

### **Amendment #B16**

#### **20.30.680 – Appeals.**

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.~~

**ATTACHMENT A**  
STAFF RECOMMENDATION TO  
THE PLANNING COMMISSION

~~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.~~

<b>Staff Recommendation</b> – <i>Staff recommends approval.</i>
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**2021 DEVELOPMENT CODE AMENDMENT BATCH –  
Staff Recommended Tree Amendments (Local Residents and Staff Initiated)  
GROUP C**

**GROUP C – Tree Amendments**  
**STAFF RECOMMENDATION – PROPOSED TREE REGULATION AMENDMENTS:**  
Staff recommends approval of tree amendments C1, C2, C3, C5, C6, C8, C9 and C11 as proposed and amended by staff.

<b>STAFF RECOMMENDED AMENDMENTS</b>				
Number	Section	Topic	Submitted	Staff Recommendation
<b>20.20 – Definitions</b>				
C1	20.20.014	1. Critical Root Zone 2. Critical Root Zone, Inner	Johnstone	Approve as modified by staff
C2	20.20.048	1. Tree Canopy 2. Tree, Hazardous 3. <i>Withdrawn</i> 4. Tree, Landmark 5. <i>Withdrawn</i> 6. <del>Tree, Significant</del> ( <i>Deny</i> )	Turner (Applicant withdrew Topic #3 and #5)	Approve as modified by staff
C3	20.20.050	1. Urban Forest 2. Urban Tree Canopy	Johnstone	Approve
<b>20.50 – General Development Standards</b>				
C5	20.50.290	Tree Policy	Kaye	Approve as modified by staff
C6	20.50.300	General Requirements	Russell	Approve as modified by staff
C8	20.50.350	Increases Significant Tree Retention	Tree Preservation Code Team	Approve as modified by staff
C9	Exception 20.50.310(B)(1)	Waiving Tree Retention Requirements	Staff	Approve
C11	20.50.370	Tree Protection Measures	Hushagen	Approve as modified by staff

**Note: Proposed amendments #4, #7, #10 and #12 are not recommended for approval by staff and are therefore not contained in this Attachment.**

STAFF RECOMMENDED DEVELOPMENT CODE AMENDMENTS

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**20.20 Amendments**

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**Amendment #C1 (Johnstone)**  
**20.20.014 – C definitions**

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 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.*

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**Amendment #C2 (Turner)**  
**20.20.048 – T definitions**

Tree        **The total area of the tree or trees where** the leaves and outermost branches extend,  
Canopy     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 Recommendation** – *Staff generally agrees with the proposed revision to the Tree Canopy definition but is concerned with removing the language that references “the total area of the tree or 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 Tree Canopy Assessment. Staff recommends the amendment as revised by staff.*

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.

**Staff Recommendation** – *Approve without revision.*

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 Recommendation** – *Staff mostly agrees with the proposed change to the definition except lowering the diameter at breast height (dbh) of a Landmark Tree from 30” to 24”. Based on research from other jurisdictions in the region, there is not a standard dbh used for Landmark Trees. Staff recommends approval of the proposed amendment as modified and shown **highlighted in blue.***

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**Amendment #C3 (Johnstone)**

**20.20.050 – U definitions**

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 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.*

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**20.50 Amendments**

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**Amendment #C5 (Kaye)**

**20.50.290 – Policy Purpose**

**20.50.290 – Policy Purpose**

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:

- 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.

**Staff Recommendation** – *Staff recommends approval of the proposed amendment as edited by staff and shown highlighted in blue.*

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**Amendment #C6 (Kathleen Russell)**  
**20.50.300 – General Requirements**

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 required for retention 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 required for retention at the development site. Any damage to, or alteration of trees and vegetation required 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 or permit revision is issued by the City. Such a plan shall be prepared by a qualified professional an 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 performance standards for restoration in SMC 20.50.360 Tree replacement and site restoration 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.

**Staff Recommendation** – *Staff generally agrees that language should be added to provide additional protection for protected trees and vegetation where applicable. The original amendment has been edited by staff for consistency with existing provisions in SMC 20.30 and 20.50. For Transparency, staff would like to draw your attention to staff addition to Section H-Best Management Practices above. The phrase “required for retention” is added because not all of the trees and vegetation on a development site will be retained and therefore subject to tree protection BMPs. Section I – Unauthorized development has been edited to remove redundant wording. Section J - Qualified professional. This is a defined term in the SMC. Arborist is only one type of qualified professional that may have the expertise to develop a restoration plan. The proposed requirement to specify that a Site Development permit must be applied for to permit a restoration plan is not necessary. Other permit types may be more appropriate depending on the violation/scope of the restoration. For example, a Clearing and Grading permit or post issuance revision of a building permit may also be used. Therefore, staff recommends deleting that reference. Note: Proposed New Sections L and M are not recommended by staff and therefore not included in the list of staff recommended amendments.*

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**Amendment #C8 (Tree Preservation Code Team)**  
**20.50.350 – Development standards for clearing activities**

- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:
1. At least ~~25~~ 20 percent of the ~~S~~significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
  2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

**Staff 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.**

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**Amendment #C9 (City Staff)**

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

Exception 20.50.350(B):

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

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

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

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

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

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**Amendment #C11 (Hushagen)**

**20.50.370 Tree protection standards.**



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

A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

B. ~~Tree dripline areas or~~ Critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the Critical Root Zone dripline areas of trees that are to be retained.

C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

D. Tree protection barriers shall be a minimum of ~~four~~ six feet high, constructed of chain link, ~~or polyethylene laminar safety fencing~~ or similar material, subject to approval by the Director. "Tree Protection Area" signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.

E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3" or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.

~~E. 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 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.

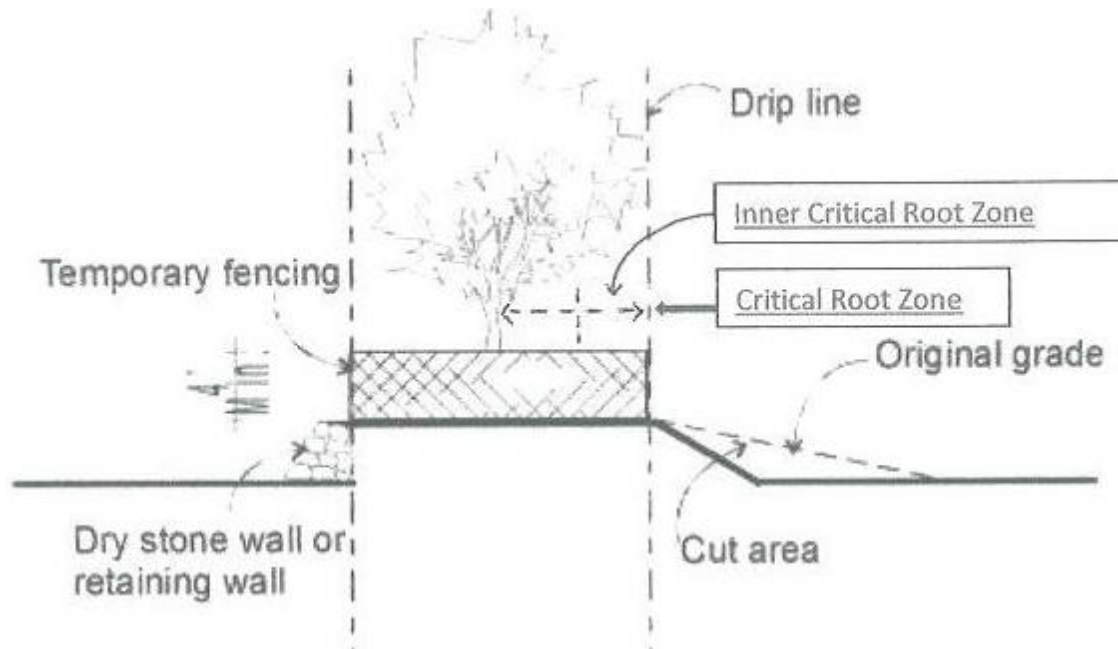


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

*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 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.*

**ATTACHMENT B  
AMENDMENTS RECOMMENDED  
FOR DENIAL**

<b>AMENDMENTS RECOMMENDED BY STAFF FOR DENIAL *</b>			
<b>20.50 – General Development Standards</b>			
<b>Number</b>	<b>Section</b>	<b>Topic</b>	<b>Submitted</b>
2	20.20.048	6. Tree, Significant	Turner
7	20.50.310	Exemptions from Tree Permit	Tree Preservation Code Team
10	20.50.360	Tree Fee-In-Lieu	Tree Preservation Code Team

<b>SMC Amendments</b>			
12**	13.30.040	Notice for Street Tree Removal	Tree Preservation Code Team

\* Applicant justification for each amendment can be found in Attachments C of the January 6, 2022 Planning Commission Staff Report and accessed using this link <https://www.shorelinewa.gov/home/showdocument?id=53711>.

\*\* Amendment #12 is not under the purview of the Planning Commission as this is an amendment to Shoreline Municipal Code Title 12 Streets Sidewalks and Public Places. The Planning Commission is therefore not required to provide the Council with a recommendation on this amendment. The Parks, Recreation and Cultural Services/Tree Board is currently reviewing this amendment instead.

**Amendment #2 (Turner)**  
**20.20.048 – T definitions**

Tree, Any healthy tree six inches or greater in diameter at breast height (dbh) excluding  
 Significant 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 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 #7 (Tree Preservation Code Team)**  
**20.50.310 – Exemptions from permit**

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

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

<u>Maximum Number of Trees Exempted</u>	
<u>Less than 7,200 sq ft</u>	<u>3 trees</u>
<u>7,201 sq ft to 14,400 sq ft</u>	<u>4 trees</u>
<u>14,401 sq ft to 21,600 sq ft</u>	<u>5 trees</u>

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

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

2. The removal of any tree greater than 24 3/8 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 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 #10 (Tree Preservation Code Team)  
Exception 20.50.360 – Tree replacement and site restoration**

**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

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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.

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

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

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

**Staff 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.*