



ITEM 10.A

Memorandum

DATE: October 25, 2005

TO: Planning Commission

FROM: Kim Lehmborg, Planner II

RE: Proposed Amendments to the Shoreline Development Code

CC: Rachael Markle, Assistant Director

At its October 20, 2005 meeting, the Planning Commission finalized the official docket for the 2004 Development Code Amendment process. The Planning Commission did not add any amendments to the docket. A copy of the Official Docket (Table I) is attached to this memo. The Planning Commission also requested staff to clarify some of the proposed amendments. Staff has attempted to clarify the language as requested. The amended proposals are attached.

The purpose of this workshop is to identify any additional information or clarification that may be necessary for the scheduled public hearing. Please bring with you to the workshop the October 20th staff report, as it contains the analysis and issues for each proposed amendment.

After the public hearing, which is tentatively scheduled for November 17, 2005, the docketed items will be discussed and a recommendation on whether or not to approve the proposed amendment will be passed on to the City Council for their review.

Please remove the following pages in your Development Code Amendment Binder and replace them with the attached ones.

Table 1 - Docketed Amendments

D-1

D-8

D-10

D-12

D-21

Table I

Proposed Development Code Amendments- Docketed

Log #	Category	Requested Change	Requested By	Chapter	Section(s)	Title	Proposed Change	Staff Recommendation
D-1	Dimension	Change the size of allowed exempt structures to 200 Sq. Ft. to be consistent with the IRC.	City Planning Staff	20.50	100(1)	Location of accessory structures within required yard setbacks- Standards	Change allowed size from 120 Sq. Ft. to 200 Sq. Ft. and add requirement for fire separation as identified in the adopted building code.	Staff panel recommends adoption of this change for consistency between the Development Code and the Building Codes.
D-2	Trees	Reduce requirement of tree size for Landmark Tree to 24" DBH.	Boni Biery- Comprehensive Plan Amendment Comment	20.20	48	"T" Definitions	Reduce requirement of tree size for Landmark Tree to 24" DBH.	A reduction in size requirements for a landmark tree may allow for a request for the designation of a landmark tree that is only a significant tree and has not reached a maturity in its life to be considered a landmark tree. However, this reduction in size only affects the eligibility of an application for designation as a landmark tree and does not exempt the application from being evaluated by a certified arborist. Furthermore, the application may only be filed by the property owner, who may desire to preserve the trees on their property. In this case there is no negative effect of reducing the requirements to 24" because the determination is ultimately up to an arborist, and the designation of a landmark tree may not be forced on a property owner. Staff panel neutral regarding this proposed change.
D-3	Clearing and Grading	Change the requirements to be more specific about when a C & G permit is required.	City Legal Staff	20.50	300	Clearing and Grading General Requirements	Remove 20.50.300 (E) , add provision that makes all replacement trees protected trees, modify language around when a clearing and grading permit is required, and modify language regarding compliance with the Critical Areas section of Development Code.	Staff panel recommends consideration of this proposed change.
D-4	Fence	Change fence requirements to make content amendments and allow for construction of a solid 6 foot fence on top of a retaining wall.	City Planning Staff	20.50	110 & 210	Fences and Walls- Standards	Change fence requirements to make content amendments and allow for construction of a solid 6 foot wall on top of a retaining wall. Eliminate language requiring an offset design for fences along private driveways.	The current provision in the code does not allow for the construction of a six foot solid fence on top of a wall, and limits a property owners ability to construct a privacy fence on top of a retaining wall allowing the uphill neighbor to have a full view into the downhill neighbor's yard. Change will also eliminate provision in the code that requires the construction of an alternating type fence on private roads. Staff panel found this to be too restrictive, and may promote the construction of fences and landscaping that can hide burglars/thieves. Staff panel recommends consideration of these proposed changes.
D-5	Security Fencing	Add provision to allow for barbed wire and razor wire fences for public and infrastructure facilities in residential and commercial zones so long as fence is effectively screened from neighboring public areas.	Police Department	20.50	110 (C), 210 (D), 270 (C & D)	Fences and Walls- Standards	Add provision to allow for barbed wire and razor wire fences for public and infrastructure facilities in residential and commercial zones so long as fence is effectively screened from neighboring public areas.	Staff panel recommends consideration of this proposed change.
D-6	Noticing	Add description to Administrative section of code clarifying when noticing is required for each type of permit.	City Planning Staff	Many	Many	Procedures and Administration	Add Clarifying language that the noticing requirement for notice of decision applies to Type B and C actions only.	Staff panel recommends consideration of this proposed change.
D-7	Administrative	Change Street Vacations to Type "C" actions.	City Legal Staff	20.30	70	Legislative Decisions	Change Street Vacations to Type "C" actions.	By changing a Street Vacation action to a Type C action, the appearance of fairness on ex parte communication would apply, and contact made with opponents or advocates of the vacation would be reserved until all evidence is submitted at the public hearing allowing all merits of the action to be identified prior to formation of opinion. Staff panel recommends consideration of this proposed change.
D-8	Vesting	Add provision that allows applicant to apply for a stay if subject to LUPA process.	City Legal Staff	20.30	160	Expiration of Vested Status of Land Use Permits and Approvals	Add language that automatically allows for an extension of vesting under 20.30.160 if the approved land use permit is subject to a pending legal action or appeal.	By changing this section to allow for an automatic extension of vesting the applicant may be granted the full two years before expiration of approved land use action while decision is not subject to legal injunction. Staff panel recommends consideration of this proposed change.
D-9	Technical	Amend section 20.30.740 D(2) to properly reference 20.50 and add legal language	City Legal Staff	20.30	740	Civil Penalties for Code violations	Amend section 20.30.740 D(2) to properly reference 20.50 and add legal language.	Technical amendment. Staff panel recommends consideration of this proposed change.

Table I

Proposed Development Code Amendments- Docketed

D-10	Technical	Add provision to promote the protection of retained significant trees from damage during construction.	City Planning Staff	20.50	350	Tree Replacement and Site Restoration	Require the bonding of protection measures and tree maintenance to ensure survival and health for 36 months following construction.	This would allow staff the ability to enforce the installation of tree protection measures on site. Sometimes this is not installed properly and leads to significant impact on the trees root system and eventual decline in health. Staff panel recommends consideration of this proposed change.
D-11	Technical	Change every occurrence of "Code Violation" to a capital "V". Change every reference to Director or Designee to just Director.	City Legal Staff	Many	Many	Many	Change every occurrence of "Code Violation" to a capital "V".	This helps provide for consistency. Staff panel recommends consideration of this proposed change.
D-12	Technical	Create an alternative to allow for the planting of trees on the property line side of the sidewalk, not directly next to the street (comment also forwarded to Engineering for consideration in next Engineering Guide update).	David Anderson-Comprehensive Plan Amendment Comment	20.5	480	Street Trees	SMC 20.50.480 (C) allows for this option based on an existing condition. Proposed change would allow for design flexibility based on site conditions, and may allow for improved visibility and safety in some situations. Change would also require that sidewalks with tree pits maintain a minimum four foot passage strip, instead of the two foot strip that is currently allowed through the use of tree pits with a six foot sidewalk.	Damage to streets and sidewalks by tree roots, and impact of restricted root growth to trees would also be minimized by moving trees to private property side of sidewalk. Staff agrees that change should be made to the engineering guide to show this alternate design, and to limit the placement of tree pits when sidewalk is less than eight feet wide. Engineering staff and Staff panel recommend consideration of this proposed change.
D-13	Technical	Change the reference to Fire Code to properly identify the IFC, not the UFC.	City Planning Staff	20.30	290 B(4)	Variance from the engineering standards (Type A action)	Change the reference to Fire Code to properly identify the IFC, not the UFC.	This helps provide for consistency. Staff panel recommends consideration of this proposed change.
D-14	Administrative	Add application expiration limitations.	City Planning Staff	20.30	100	Time limits	Change section 20.30.100 and 20.30.110 to include a clause regulating the expiration of a complete permit application.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development application expiration. Staff panel recommends consideration of this proposed change.
D-15	Technical	Make technical changes to the Animals section of Zoning and Use Provisions.	City Planning Staff	20.40	240	Animals	Technical changes to 20.40.240 to properly describe sizes of cages for birds and eliminate birds from the animal specific section.	These minor changes are due to some inconsistencies found in the code. Staff panel recommends consideration of this proposed change.
D-16	Technical	Move temporary use permits from use provisions to the review and decision criteria section. Change reference in use tables to properly reflect this change.	City Planning Staff	20.40	540	Temporary Use	Move temporary use permits from use provisions to the review and decision criteria section. Change reference in use tables to properly reflect this change.	A temporary use permit is not listed in the use tables but is found in the list of supplementary criteria. Moving the requirements for a temporary use permit to the permit review and decision criteria section for Type A permits better locates this section for the user. Staff panel recommends consideration of this proposed change.
D-17	Technical	Make technical change to heading of section 20.30.140	City Planning Staff	20.30	140	Time Limits	Make technical change to heading of section 20.30.140.	This change will help clarify the content of the section. Staff panel recommends consideration of this proposed change.
D-18	Clearing and Grading Permit Requirements	Change performance section to individually describe performance and maintenance bonds.	City Legal Staff	20.50	360	Tree replacement and site restoration	Change performance section to individually describe performance and maintenance bonds.	This change helps differentiate between a performance guarantee and maintenance bond. Staff Panel recommends consideration of this proposed change.
D-19	Administrative	Add section regulating the expiration of clearing and grading and site development permits.	City Planning Staff	20.30	165	Permit expiration timelines for Clearing and Grading and Site Development Permits	Add section 20.30.165 that addresses time limits and expiration of site development and clearing and grading permits.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. Staff panel recommends consideration of this proposed change.
D-20	Administrative	Add reference to site development permit for subdivision section that references the new permit expiration limitations.	City Planning Staff	20.30	430	Site development permit for required subdivision improvements – Type A action.	Add reference in 20.30.430 to properly identify new section regulating expiration of site development permit.	Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. Staff panel recommends consideration of this proposed change.
D-21	Noticing	Revise neighborhood meeting standards and noticing requirements to better notify the public of potential land use actions and allow potential issues to be identified and resolved prior to Planning Commission public hearings.	Michael Broili	20.30	80-180	Procedures and Administration	No proposed language was submitted. Staff drafted some amendments to try and address the comment. Clarify that the meeting notice include a description of the project, zoning, site & vicinity maps and possible future land use decisions i.e. rezone, SEPA, etc. Add minimum requirements for meeting content i.e. basic agenda for meeting. Add a step to have the City mail submitted neighborhood minutes to all meeting attendees for additions, corrections, etc.	Provide more information in the neighborhood meeting notice to better alert neighbors to potential projects/change. Add some basic structure to the neighborhood meeting to insure that adequate information is being relayed to meeting attendees for the purposes of early discussions. By mailing the meeting summaries submitted by the applicant's to the meeting attendees, attendees could verify the information. This could address concerns that the applicant's minutes are not reflecting the comments at the meeting. Staff panel recommends consideration of this proposed change.

20.50.100 Location of accessory structures within required yard setbacks – Standards.

No accessory structure shall be located within any required setback.

*Exception 20.50.100(1): One uninhabited **freestanding** structure less than 10 feet high and **420200** square feet in footprint area, such as a storage shed or greenhouse, may be located within the required rear or side yard setback. **This structure shall retain a fire separation distance as specified in adopted building codes.***

*Exception 20.50.100(2): If the accessory structure, which is less than 420 **200** square feet in footprint and less than 10 feet high, is located in the side yard, such structure shall be set back at least five feet further than the house from any street.*

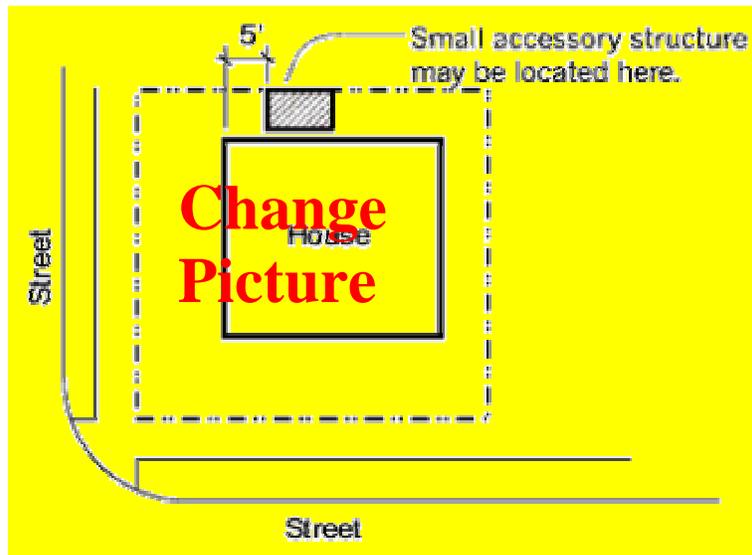


Figure Exception to 20.50.100(2): Permitted location of small accessory structure in side yard.

(Ord. 238 Ch. V § 2(B-4), 2000).

20.30.160 Expiration of vested status of land use permits and approvals.

Except for long plats or where a shorter duration of approval is indicated in this Code, the vested status of an approved land use permit under Type A, B, and C actions shall expire two years from the date of the City's final decision, unless a complete building permit application is filed before the end of the two-year term. In the event of an administrative or judicial appeal, the two-year term shall not expire. Continuance of the two-year period may be reinstated upon resolution of the appeal.

In such cases if a complete building permit application is filed before the end of the two-year term, the vested status of the permit shall be automatically extended for the time period during which the building permit application is pending prior to issuance; provided, that if the building permit application expires or is canceled, the vested status of the permit or approval under Type A, B, and C actions shall also expire or be canceled. If a building permit is issued and subsequently renewed, the vested status of the subject permit or approval under Type A, B, and C actions shall be automatically extended for the period of the renewal. (Ord. 238 Ch. III § 4(i), 2000).

20.50.350 Development standards for clearing activities.

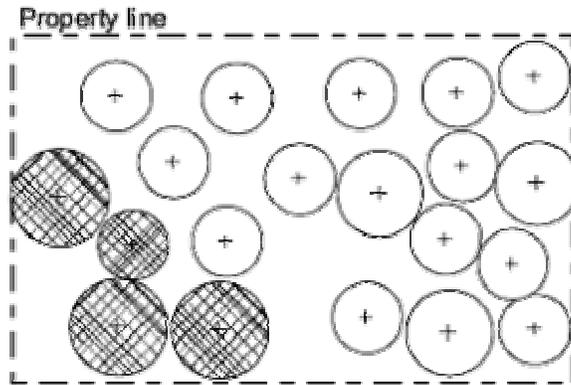
A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.

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 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during construction through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures. Further preservation of retained trees following construction shall be required for a period of 36 months and shall be guaranteed through an approved maintenance agreement.

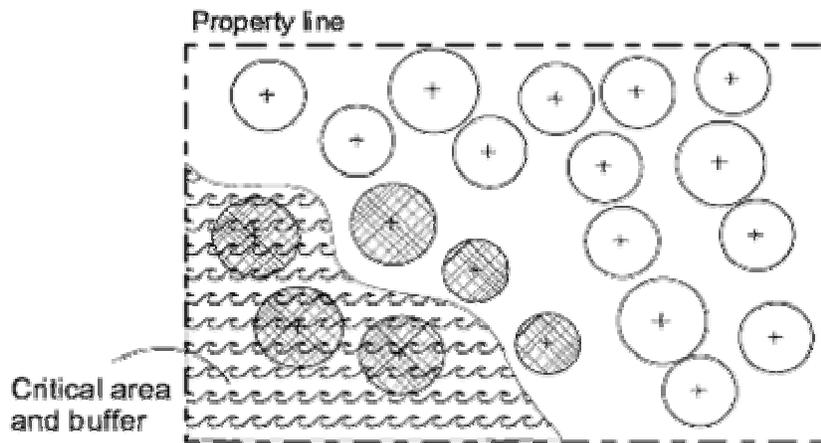
3-4. The Director may require the retention of additional trees to meet the stated purpose and intent of this ordinance, as required by the critical areas standards, or as site-specific conditions demand using SEPA substantive authority.



LEGEND

⊗ Indicates trees to be retained

Figure 20.50.350(B)(1): Demonstration of the retention of 20 percent of the significant trees on a site containing no critical areas.



LEGEND

⊗ Indicates significant trees to be retained

Figure 20.50.350(B)(2): Demonstration of the retention of 30 percent of the significant trees on a site containing a critical area.

Exception 20.50.350(B):

1. *The Director may allow a 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 a arborist certified by the International Society of Arboriculture and approved by the City that retention of the minimum percentage of trees is not advisable on an individual site.

- 2. In addition, the Director may 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 six allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC [20.50.350\(B\)](#).*
- 4. In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and three inches in caliper if otherwise. This provision may be waived by the Director for restoration enhancement projects conducted under an approved vegetation management plan.*

20.50.480 Street trees – Standards.

- A. Street trees must be two-inch caliper and planted no more than 40 feet on center and selected from the City-approved street tree list. Placement of street trees can be adjusted to avoid conflict with driveways, utilities, and other functional needs while including the required number of trees. Street trees are required for all commercial, office, industrial, multifamily zones, and single-family subdivisions for all arterial streets.
- B. Street landscaping may be placed within City street rights-of-way subject to review and approval by the Director. Adequate space should be maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way.
- C. Trees must be:
- Planted in a minimum four-foot wide continuous planting strip along the curb, or
 - Planted in tree pits minimally four feet by four feet where sidewalk is no less than eight feet wide. If the sidewalk is less than eight feet wide a tree grate may be used if approved by the Director; or
 - Where an existing or planned sidewalk abuts the curb, trees may be planted four feet behind that sidewalk, on the side opposite the curb.
- D. Street trees will require five-foot staking and root barriers between the tree and the sidewalk and curb.
- E. Tree pits require an ADA compliant iron grate flush with the sidewalk surface.
- F. Street trees must meet requirements in the Engineering Development Guide. Trees spacing may be adjusted slightly to accommodate sight distance requirements for driveways and intersections. (Ord. 238 Ch. V § 7(B-3), 2000).

20.30.080 Preapplication meeting.

A preapplication meeting is required prior to submitting an application for any Type B or Type C action and/or for an application for a project located within a critical area or its buffer.

Applicants for development permits under Type A actions are encouraged to participate in preapplication meetings with the City. Preapplication meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable City requirements and the project review process.

Preapplication meetings are required prior to the neighborhood meeting.

The Director shall specify submittal requirements for preapplication meetings, which shall include a critical areas checklist. Plans presented at the preapplication meeting are nonbinding and do not “vest” an application. (Ord. 324 § 1, 2003; Ord. 238 Ch. III § 4(a), 2000).

20.30.090 Neighborhood meeting.

Prior to application submittal for a Type B or C action, the applicant shall conduct a neighborhood meeting to discuss the proposal.

A. The purpose of the neighborhood meeting is to:

- 1.** Ensure that **potential** applicants pursue early and effective citizen participation in conjunction with their **application proposal**, giving the applicant **project proponent** the opportunity to understand and try to mitigate any real and perceived impact their proposal may have on the neighborhood;
- 2.** Ensure that the citizens and property owners of the City have an adequate opportunity to learn about the proposal that may affect them and to work with applicants **project proponents** to resolve concerns at an early stage of the application process.

B. The neighborhood meeting shall meet the following requirements:

- 1.** Notice of the neighborhood meeting shall be provided by the applicant and shall include the date, time and location of the neighborhood meeting **and a description of the project, zoning of the property, site and vicinity maps and the land use applications that would be required.**
- 2.** The notice shall be provided at a minimum to property owners located within 500 feet of the proposal, the Neighborhood Chair as identified by the

Shoreline Office of Neighborhoods (Note: if a proposed development is within 500 feet of adjacent neighborhoods, those chairs shall also be notified), and to the City of Shoreline Planning and Development Services Department.

3. The notice shall be postmarked at least 10 to 14 days prior to the neighborhood meeting.
4. The neighborhood meeting shall be held within the City limits of Shoreline.
5. The neighborhood meeting shall be held anytime between the hours of 5:30 and 9:30 p.m. on weekdays or anytime between the hours of 9:00 a.m. and 9:00 p.m. on weekends.
6. The neighborhood meeting agenda shall cover the following items:
 - a. Introduction of neighborhood meeting organizer (i.e. developer, property owner, etc.);
 - b. Description of proposed project;
 - c. Listing of permits that are anticipated for the project;
 - d. Description of how comments made at the neighborhood meeting are used; and
 - e. Provide meeting attendees with the City's contact information.
 - f. Provide a sign-up sheet for attendees.

C. The applicant shall provide to the City a written summary or checklist of the neighborhood meeting. The summary shall include the following:

1. A copy of the mailed notice of the neighborhood meeting with a mailing list of residents who were notified.
2. Who attended the meeting (list of persons and their addresses).
3. A summary of concerns, issues, and problems expressed during the meeting.
4. A summary of concerns, issues, and problems the applicant is unwilling or unable to address and why.
5. A summary of proposed modifications, or site plan revisions, addressing concerns expressed at the meeting. (Ord. 299 § 1, 2002; Ord. 238 Ch. III § 4(b), 2000).

Staff will mail the summary of the neighborhood meeting to all persons who attended the neighborhood meeting, signed in and provided a legible address.

20.30.100 Application.

Who may apply:

1. The property owner or an agent of the owner with authorized proof of agency may apply for a Type A, B, or C action, or for a site-specific Comprehensive Plan amendment.

2. The City Council or the Director may apply for a project-specific or site-specific rezone or for an area-wide rezone.
3. Any person may propose an amendment to the Comprehensive Plan. The amendment(s) shall be considered by the City during the annual review of the Comprehensive Plan.
4. Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code.

All applications for permits or actions within the City shall be submitted on official forms prescribed and provided by the Department.

At a minimum, each application shall require:

1. An application form with the authorized signature of the applicant.
2. The appropriate application fee based on the official fee schedule (Chapter [3.01 SMC](#)).

The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The permit application forms, copies of all current regulations, and submittal requirements that apply to the subject application shall be available from the Department. (Ord. 238 Ch. III § 4(c), 2000).