

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

<b>AGENDA TITLE:</b>	Public Hearing on Official Docket of Proposed Amendments to the Development Code
<b>DEPARTMENT:</b>	Planning and Development Services
<b>PREPARED BY:</b>	Kim Lehmborg, Planner II
<b>PRESENTED BY:</b>	Rachael Markle, Assistant Director of Planning and Development Services and Kim Lehmborg Planner II

**SUMMARY**

Amendments to the Development Code 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 legislative decisions and is responsible for holding an open record Public Hearing on the official docket of proposed Development Code amendments and making a recommendation to the City Council on each amendment.

The proposed amendment language is found in the Notebook of Proposed Development Code Amendments, which has already been distributed to the Planning Commission. Copies of the notebook are available on line at [www.cityofshoreline.com](http://www.cityofshoreline.com) and at the Planning and Development Services Office at 17544 Midvale Avenue North in the City Hall Annex. If you have any questions regarding how to obtain or view a copy of this information, please call the Planning Commission Clerk at 206-546-1508. Attachment A contains a summary Table of the 2004 Proposed Development Code Amendments - Docketed.

The purpose of this meeting is to:

- Hold a public hearing on the proposed Development Code Amendments
- Make a recommendation to the City Council on each of the proposals

**BACKGROUND / ANALYSIS**

At the October 20, 2005 meeting, the Planning Commission finalized the official docket for the 2004 Development Code Amendment process, also requested staff to clarify some of the proposed amendments. Of the non-docketed items, proposed amendments to the tree retention code and proposals for density bonuses were placed on the 2006 work item agenda for further study. 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. The following analysis contains the issues and staff recommendation for each proposed amendment.

## **AMENDMENTS AND ISSUES**

Attachment II includes a copy of the original and proposed amending language shown in legislative format. Legislative format uses ~~strikethroughs~~ for proposed text deletions and underlines for proposed text additions. The following is a summary of the proposed amendments, with staff analysis. Note that the proposals that are classified as technical amendments serve only to clarify code language or to properly reference code, they do not change the meaning or intent of the ordinance.

**Amendment #1:** 20.50.100 This amendment is staff initiated and is the result of a change in building code and is important to achieve consistency between the Development Code and the International Codes adopted by the City. Currently, the City allows for the construction of up to one 120 sq. ft. structure (SMC 20.50.110(1) in the required side and rear yard setbacks as an exempt structure, while the International Residential Code IRC R105.2(1) allows for the construction of up to a 200 sq. ft. structure as an exempt structure (exempt of building code requirements). This change would allow for the placement of up to one 200 sq. ft. structure located in the required side and front yard setbacks without permit, as long as the structure meets the fire separation requirements of the building code. Staff recommends approval.

**Amendment #2:** 20.20.048 This is a citizen initiated proposal to reduce the size requirement of a Landmark Tree from a minimum diameter at breast height of 30 inches to a diameter at breast height of 24 inches. Although this may lead to the request for designation of a tree that has not yet reached the maturity in its life cycle to be considered a Landmark Tree, the tree must be evaluated by an arborist as part of the designation process. Because the designation is ultimately up to an arborist, the reduction in size will have little effect on the eligibility of the tree to be considered a Landmark Tree. Furthermore, only the property owner may request a tree to be designated as a Landmark specimen. Other jurisdictions have a process for the designation of Landmark Trees, and research indicates the requirement is typically based on the characteristics of the specimen, which must be examined by a certified arborist. Staff recommends approval.

**Amendment #3:** 20.50.300 This is an amendment that was submitted by the City Legal Staff and is meant to adjust some of the requirements of a clearing and grading permit. This change will adjust the requirements to 1) Require a clearing and grading permit for all development activity, 2) Allow for the issuance of a clearing and grading permit for activity on already developed land 3) Regulate replacement trees under 20.50.330(D) Protected Trees, and 4) Properly reference 20.80 Critical Areas as the standard for activity on sensitive lands. These changes will help clarify when a clearing and grading permit is required and how it will be administered. Staff recommends approval.

**Amendment #4:** 20.20.110 & 20.50.210 This change has been initiated by City staff and is meant to adjust the fence standards. The change would eliminate a provision that requires the construction of an alternating fence on private roads, a standard that is currently being imposed only on private access drives. This proposed amendment also clarifies where the height of a fence that is built on top of a retaining wall is to be measured from and would eliminate the openwork type of fence as a requirement. The current requirement does not allow property owners to build a privacy fence on top of a retaining wall to provide screening from the uphill neighbor; this change would allow neighbors to build fences to add privacy for their windows and yards. Staff recommends approval.

**Amendment #5:** 20.50.110, 20.50.210, & 20.50.270 This proposed amendment was initiated as part of the 2003 Development Code amendments and was remanded to staff for further study.

Staff considered many variations of this proposal that would allow Police and other essential public facilities to use security fencing if it is appropriately screened from public areas. Under this proposed change, if the Police Department or any other essential public facility needed to use security fencing to keep the facility secure, they would be required to screen the fencing so that it is not visible from the street or other public areas. Staff recommends approval.

**Amendment #6:** 20.30.150 This proposed amendment was initiated by City staff and is intended to clarify when to complete a public notice of decision, and specifies that a notice of decision shall be issued for Type B and C Actions, not Type L Actions. This is a technical change, and does not change any of the noticing requirements. Staff recommends approval.

**Amendment #7:** 20.30.060 & 20.30.070 This proposed change was initiated by City legal staff and would change an application for street vacation from a Legislative - Type L action to a Quasi Judicial - Type C action. Currently Street Vacation applications are listed as Type L actions. These actions are being processed as Quasi-Judicial actions and therefore should be changed to a Type C decisions. Staff recommends approval.

**Amendment #8:** 20.30.160 This proposed change was initiated by City legal staff to help clarify how land use action approvals are vested. By changing this section to allow for an automatic extension of vesting, the applicant may be granted the full two years allowed before expiration of approved land use action if the land use decision is subject to legal injunction. Staff recommends approval.

**Amendment #9:** 20.30.740 This proposed amendment was initiated by City legal staff and is intended to add enforcement capacity for clearing and grading activities to properly reference the Enforcement Provisions of the Development Code. This is a technical amendment. Staff recommends approval.

**Amendment #10:** 20.50.350 This proposed amendment was initiated by City staff to ensure the proper installation of tree protection measures. This would allow staff the ability to enforce the installation of tree protection measures on site. Sometimes tree protection measures are not installed properly and lead to significant impact on the trees root system and eventual decline in health. If the protection measures were not installed properly, City staff would have the ability to utilize the bond to hire a third party to properly install and maintain the protection measures. Staff recommends approval.

**Amendment #11:** This proposal was initiated by City legal staff and would change every occurrence of "Code violation" to "Code Violation" for consistency throughout the Development Code. This is a technical change and does not affect the regulatory content of the Development Code. Staff recommends approval.

**Amendment #12:** 20.50.480 This proposal was initiated by a citizen, David Anderson. The issue Mr. Anderson is trying to address with this amendment is the need for additional design flexibility based on site conditions when locating street trees. A specific example, tree grates are allowed to be used. The tree grate must be a minimum of 4 ft. by 4 ft. On a six foot sidewalk that could create as little as a 2 foot area that is free and clear of the tree grate for pedestrian use. This could cause access issues, especially as the tree grows and the grate potentially begins to buckle upwards. The proposed amendment would limit the use of tree grates to 8 foot sidewalks unless approved by the Director. Staff recommends approval.

**Amendment #13:** 20.30.290 This proposed amendment was initiated by City staff and is necessary for consistency with the current adopted building codes. Currently, this section of the Development Code cites the “Uniform Fire Code”, and needs to be corrected to properly cite the “International Fire Code” that has been adopted by the City. Staff recommends approval of this technical change.

**Amendment #14:** 20.30.100 This proposed amendment was initiated by City staff and is necessary to address a lack of expiration timelines for clearing and grading permit applications. Upon adoption of the International Building Code (IBC) the City lost requirements that were in place under the Uniform Building Code (UBC) for clearing and grading/site development permit application expiration. This proposed change would add clearing and grading permit application expiration regulations that are consistent with building permit application regulations.

**Amendment #15:** 20.40.240 This proposed amendment was initiated by City staff and is meant to change the description of cage sizes from square feet to cubic feet, and to make other minor technical corrections in the Code. Currently, the Development Code regulates cage/aviary sizes for birds in square feet. Aviary sizes should be regulated in cubic feet so as to provide for the best living environment for birds. The other changes are necessary to add clarity and consistency to the Development Code.

**Amendment #16:** 20.30.295 & 20.40.110 This proposed amendment was initiated by City staff. A temporary use permit was not listed in the use tables but was 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 recommends approval of this technical change.

**Amendment #17:** 20.30.140 This proposed amendment was initiated by City staff and is intended to clarify the content of this section, as this section regulates the internal processing of permit applications, not the expiration of application or permit. Staff recommends approval of this technical change.

**Amendment #18** 20.50.360 This proposed amendment was initiated by City staff. This proposed change amends the performance assurance section of the Code to specifically address both the performance bonds and maintenance bonds in different subsections. The intent of this change is to make it easier for the reader to identify the specific requirements of a performance guarantee from those of a maintenance agreement. Staff recommends approval.

**Amendment #19:** 20.30.165 This proposed amendment was initiated by City staff. Upon adoption of the IBC the City lost requirements that were in place under the UBC for clearing and grading/site development permit expiration. This amendment adds a section to regulate the expiration of clearing and grading and site development permits. Staff recommends approval.

**Amendment #20:** 20.30.430 This proposed amendment was initiated by City staff and is intended to clarify that section 20.30.430 governs the submittal and approval of site development permits for required subdivision improvements. This amendment also adds a reference to proposed section 20.30.265 to properly identify site development permit expiration limitations. Staff recommends approval.

**Amendment #21:** 20.30.80-180 This proposal intends to improve the neighborhood meeting process to better notify and inform interested persons about potential projects. Staff proposes to require the future applicant to provide more information in the meeting notice such as the

description of the project, zoning of the property, site and vicinity maps and identification of the land use actions that will be required to be applied for. Staff is also proposing to require the future applicant to cover basic information such as an introduction of the meeting organizer, description of the project proposal, list of anticipated permits the project may require, a description of how comments made at the meeting are used, and provide meeting attendees with the City's contact information should questions arise regarding future permitting of this project. They will also need to provide an attendee sign-up sheet. These changes are proposed to address comments received by staff that the level of information provided at these meetings varies depending on the meeting organizer. Staff also proposes that the meeting summary submitted as part of the permit application be mailed out to meeting attendees (those persons that have signed up with a legible name and address) by staff. The purpose of this step would be to give meeting attendees the opportunity to correct or supplement the neighborhood meeting summaries. Staff recommends approval.

### **DECISION CRITERIA**

An amendment to the development code may be approved if:

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.

Staff has concluded that the proposed amendments do not conflict with any of the decision criteria.

### **OPTIONS**

Following the Public Hearing, the Planning Commission may begin deliberation on the amendments for the purpose of making a recommendation to City Council. The Planning Commission has the following options:

1. Recommend an amendment for adoption as proposed;
2. Recommend that an amendment not be adopted or pursued; or
3. Recommend a Planning Commission alternative amendment for adoption.

### **RECOMMENDATION**

Conduct a public hearing to receive comments on the official docket of proposed amendments to the Development Code. Following the public hearing, deliberate the options, and provide a recommendation to the City Council on each amendment.

### **ATTACHMENTS**

#### **Attachment A**

Table 1 – 2004 Proposed Development Code Amendments - Docketed

ITEM 7.i - ATTACHMENT A

Proposed Development Code Amendments- Docketed

Table 1

Log #	Category	Requested Change	Requested By	Chpt	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 it's 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.
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.

ITEM 7.i - ATTACHMENT A

Proposed Development Code Amendments- Docketed

Table 1

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.	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.
							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.	