

AGENDA

CITY OF SHORELINE PLANNING COMMISSION REGULAR MEETING



**Thursday, May 18, 2006
7:00 p.m.**

**Shoreline Conference Center
18560 1st Ave. NE | Rainier Room**

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00 p.m.
2. ROLL CALL	7:01 p.m.
3. APPROVAL OF AGENDA	7:02 p.m.
4. DIRECTOR'S REPORT	7:03 p.m.
5. APPROVAL OF MINUTES a. May 4, 2006	7:08 p.m.
6. GENERAL PUBLIC COMMENT	7:10 p.m.

The Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled for this agenda. Each member of the public may comment for up to two minutes. However, Item 6 (General Public Comment) will be limited to a maximum period of twenty minutes. Each member of the public may also comment for up to two minutes on action items after each staff report has been presented. The Chair has discretion to limit or extend time limitations and number of people permitted to speak. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Speakers must clearly state their name and address.

7. PUBLIC HEARING <i>Legislative Public Hearing</i>	7:15 p.m.
i. Permanent Hazardous Trees Regulations & Critical Areas Stewardship Plan	
a. Staff Overview and Presentation of Preliminary Staff Recommendation	
b. Questions by the Commission to Staff	
c. Public Testimony or Comment	
d. Presentation of Final Staff Recommendation	
e. Final Questions by the Commission and Commission Deliberation	
f. Closure of the Public Hearing	
g. Vote by Commission to Recommend Approval or Denial or Modification	
8. REPORTS OF COMMITTEES AND COMMISSIONERS	9:15 p.m.
9. UNFINISHED BUSINESS	9:20 p.m.
10. NEW BUSINESS	9:25 p.m.
11. ANNOUNCEMENTS	9:35 p.m.
12. AGENDA FOR June 1, 2006 Joint Meeting with Shoreline Parks Board & Discussion on Urban Forest Management, Cascade Agenda and Form-based zoning	9:39 p.m.
13. ADJOURNMENT	9:40 p.m.

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 546-8919 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 546-2190.

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These Minutes Subject to
May 18th Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

May 4, 2006
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

COMMISSIONERS PRESENT

Chair Piro
Vice Chair Kuboi
Commissioner Broili
Commissioner Harris
Commissioner Phisuthikul
Commissioner McClelland
Commissioner Pyle
Commissioner Wagner

STAFF PRESENT

Joe Tovar, Director, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Matt Torpey, Planner II, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

COMMISSIONERS ABSENT

Commissioner Hall

CALL TO ORDER

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:02 p.m.

Chair Piro explained that the main item on the agenda is a study session on the Permanent Hazardous Tree Regulations and Critical Areas Stewardship Plan. Staff would provide a formal briefing on the issue to the Commission, and no oral comments would be accepted from the public on this item. While the Commissioners would have an opportunity to ask questions related to the briefing, they would not be discussing or deliberating the proposal now. A public hearing on the issue has been scheduled for May 18th.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Piro, Vice Chair Kuboi, and Commissioners Broili, Harris, Phisuthikul, McClelland, Pyle and Wagner. Commissioner Hall was excused.

Because the meeting was being videotaped for television broadcast, Chair Piro invited the Commissioners to briefly introduce themselves.

APPROVAL OF AGENDA

Chair Piro suggested that they have only a brief Director's Report at the beginning of the meeting to focus on the topic of the study session. The remainder of the report could be provided later on the agenda. He also suggested that Reports from Committees and Commissioners be placed after the study session, as well. The Commission accepted the agenda as amended.

DIRECTOR'S REPORT

Mr. Tovar advised that he would wait until after the study session has been completed to provide his report.

APPROVAL OF MINUTES

The minutes of April 6, 2006 and April 20, 2006 were approved as corrected.

GENERAL PUBLIC COMMENT

Chair Piro acknowledged the presence of Council Members Way and McGlashan.

There was no one in the audience who expressed a desire to address the Commission during this portion of the hearing.

STAFF REPORTS

Study Session on Permanent Hazardous Tree Regulations and Critical Areas Stewardship Plan

Mr. Tovar briefly explained the working relationship and roles of the City Council, Planning Commission and City Staff. He said it is important for the public to understand that the staff works with the City Council and Planning Commission as a team to accomplish the shared mission of serving the citizens of Shoreline and protecting their quality of life. The City Council members have been elected by the citizens to adopt plans, budgets, and regulations. They are the policy makers. The Planning Commissioners are the policy advisors and have been appointed by the City Council to serve the function of reviewing materials, listening to public comments, deliberating on the issues and making recommendations to the City Council. Staff is charged with the responsibility of making recommendations to the Planning Commission. Once the Planning Commission forwards a recommendation to the City Council and a final decision has been made, staff becomes the administrator of the adopted policy.

Mr. Tovar advised that staff has an obligation to provide the Commission with their best professional recommendation, keep them apprised of what is going on in the community, etc. While the Commission does not have to agree with the staff's recommendation, they have an obligation to consider it, along with all other input from applicants, the public, and others. The Commission has an obligation to provide a timely, thorough recommendation to the City Council, and the City Council has an obligation to give fair and full consideration to the Commission's recommendation and then make a decision. The City Council is not obligated to agree with a Commission recommendation.

Mr. Tovar provided a chart to illustrate the differences between administrative actions, quasi-judicial actions, and legislative actions. Administrative actions such as short plats, building and grading permits, etc. are reviewed by staff using the existing codes. For quasi-judicial land use actions such as site-specific rezones, conditional or special use permits, etc. a public hearing is conducted by the Planning Commission. The Planning Commission reviews all of the codes and policies and all of the evidence and forwards a recommendation to the City Council, who makes the final decision. Legislative items such as development code and comprehensive plan amendments, rezones, etc. are reviewed by the Planning Commission and a public hearing is held as part of that process. The Planning Commission weighs all of the evidence and forwards a recommendation to the City Council.

Mr. Tovar emphasized that the public only has a limited ability to provide input on administrative actions. For example, the staff's discretion to approve or deny a building application is limited by the current building code requirements, so the impact of public comment would be small. However, the Commission and City Council have more discretion with quasi-judicial matters so the public's input could have more impact on the final decision. Legislative actions allow the most discretion, so the public has the greatest ability to participate in the process and impact the end result. He summarized that the level of public testimony depends upon the nature of the action. He pointed out that the proposal before the Commission at this time (Permanent Hazardous Tree Regulations and Critical Areas Stewardship Plan) is a legislative action. Thus, the public has a significant opportunity to provide comments to guide the Commission and City Council's decision.

Mr. Tovar explained that in January of 2006, the City Council adopted a moratorium on the Development Code's hazardous tree regulations. In addition, the Council adopted interim regulations to explain what would happen in hazardous tree situations while the moratorium was in place. The moratorium and interim regulations expires on July 3, 2006. The City Council asked the Planning Commission to consider permanent regulations to replace the interim control and forward a recommendation to them for final adoption. They also asked the Commission to amend the code to provide an opportunity for a Critical Areas Stewardship Plan.

Mr. Tovar announced that a public hearing has been scheduled for May 18th, and citizens have already started providing written comments that would be forwarded to the Commission prior to the public hearing. If the Commission develops a recommendation to the City Council by the end of its meeting on May 18th, the City Council could take final action before the July 3rd deadline. However, if the Commission needs more time, they could direct staff to approach the City Council with a request that the moratorium be extended.

Mr. Tovar displayed the text contained in the draft ordinance (Attachment 2 of Staff Report). He noted that the proposed ordinance would repeal the existing language and adopt new language for the Hazardous Tree Regulations found in Section 20.50.310 of the Shoreline Municipal Code (SMC). It would also add a new section SMC 20.80.087 that would provide for City review and approval of Critical Areas Stewardship Plans. The new language for 20.50.310 is modeled after the interim control. The City Council conducted a public hearing regarding the interim ordinance, and staff has received comments from a number of citizens, as well. Mr. Tovar briefly reviewed the proposed language for this section regarding hazardous trees (Pages 2 through 4 on Attachment 2 of the Staff Report) and invited the Commission to ask questions.

Commissioner McClelland suggested that the language provide a definition of the word “abatement,” which is used in Section 1.e. Mr. Torpey referred to SMC 20.20.010, where the word “abate” is defined. Next, Commissioner McClelland referred to Section 1.i and asked if the term “vegetation” includes trees, too. Mr. Tovar agreed that “trees” should be added to this section. Commissioner McClelland also suggested it would be helpful to provide a definition for the word “vegetation.”

Commissioner Broili referred to Section 1.i and suggested that the term “recreational trails” be defined. Mr. Tovar agreed that staff would come up with a definition for this term.

Commissioner Wagner asked how many hazardous tree forms the staff anticipates receiving each year. Mr. Torpey said that under the old regulations, the staff processed over 100 hazardous tree forms in an 8-month period. However, since the interim control went into effect on January 3rd, they have only processed two. Commissioner Wagner asked how much time staff anticipates the Director would spend on site visits, and suggested the issue of time be part of the Commission’s consideration.

Commissioner Wagner referred to Section 1.j and asked if there is a set standard to enable the City to make sure a property owner used hand-held equipment. Mr. Tovar explained that if a property owner requested to use something other than hand-held equipment, staff would expect him/her to explain where the larger equipment would be placed, why it must be used, and what the impacts would be to the surrounding area. These situations would be determined on a case-by-case basis.

Commissioner Wagner asked if the City has a definition for the term “significant trees,” which is used in Section 1.j. Mr. Torpey shared the City’s current definition for “significant trees.”

Commissioner Pyle asked that staff provide the Commissioners with a copy of the hazardous tree form, which is mentioned in several places in the proposed language. He also requested a copy of the code section that discusses code enforcement. Mr. Tovar agreed that staff could provide more information about code enforcement at the next meeting. The Commission could then decide if additional language regarding code enforcement would be necessary.

Commissioner Pyle questioned why Section 1.j would only require the replacement of significant trees and not significant vegetation, too. He pointed out that, in many cases, the under story canopy is as important as the primary canopy.

Vice Chair Kuboi agreed that the term “recreational trail” should be better defined. He would like the definition to identify how long a trail must exist before it could obtain the status of “recreational trail.” He expressed his concern that if the term “recreational trail” could be used as a definition for creating a hazard, it would be simple for a property owner to put in a trail, and the intent of the language could be distorted.

Vice Chair Kuboi referred to Section 1.g, which lists a “registered landscape architect” as a person who could address whether a tree is hazardous or not. He asked staff to research whether the typical landscape architect would have this particular professional judgment. Commissioner Broili agreed with Vice Chair Kuboi’s concern about whether or not a landscape architect would be qualified to conduct risk assessment on potentially hazardous trees.

Vice Chair Kuboi pointed out that the proposed language would not provide any avenue for a citizen with a precarious tree in a hazardous area to “cut first and ask questions later.” At the very minimum, the citizen would have to contact the Customer Response Team, and obtain verbal approval. Mr. Tovar pointed out that this would only be true for hazardous trees within a critical area. Vice Chair Kuboi asked how the average citizen would know that he/she must get permission to cut a tree in a critical area. Mr. Tovar recalled that staff has talked with the Commission and City Council about the concept of developing a greater awareness amongst the public about the natural systems in the City. The goal would be to cultivate a stewardship for the community through activities and programs, but even that would not provide citizens with a perfect knowledge of what the rules are.

Mr. Tovar said Vice Chair Kuboi raised the question of why the Critical Areas Stewardship Plan language specifies the Olympic Mountains and Puget Sound views as opposed to other types of views. Mr. Tovar reminded the Commission that last year they received a recommendation from an organization asking that the Commission specifically acknowledge the views of the Olympic Mountains and the Sound. The Commission would have to make a policy decision on whether or not views should be limited to just these two views.

Mr. Tovar briefly reviewed the proposed language for SMC 20.80.87 regarding Critical Areas Stewardship Plans. He explained that the purpose of a stewardship plan is to provide a mechanism for the City to comprehensively review and approve, deny, or approve with conditions, private proposals to manage, maintain, cut and/or restore trees, other vegetation, natural resources and trails in large critical areas of the City. The proposed language would also provide a regulatory tool for the City to make a reasonable accommodation for private view rights in view-covenanted communities while still meeting the over-arching statutory mandate to protect critical areas.

Mr. Tovar said that up to this point, the cutting of trees in critical areas has not been permitted by the City unless they are considered hazardous, which is fairly consistent with the critical areas regulations adopted by other jurisdictions in the area. He recalled that last August, the Innis Arden Club submitted a recommendation that would allow non-hazardous trees to be cut to preserve views if certain conditions and requirements could be met. However, the Commission chose not to forward the recommendation on to the City Council for consideration.

Mr. Tovar said it is important for the Commission to carefully sort out the purpose of having a Critical Areas Stewardship Plan Ordinance, since it would drive the details of what would be required to be submitted, how proposed plans would be evaluated, etc. He emphasized that it is not mandatory that the Commission forward a recommendation regarding the stewardship plan language to the City Council at the same time as the hazardous tree ordinance language.

Mr. Tovar reviewed the proposed language for SMC 20.80.87 (Pages 4 and 5 on Attachment 2 of Staff Report) and invited the Commissioners to ask questions. He particularly referred to Sections 3.a, 3.b and 3.c and explained that the Critical Areas Ordinance does not require that critical areas be left untouched. Instead, it requires that there be no net loss to the functions and values of the critical areas. He explained that the definition of a critical area is an “ecosystem,” which is defined as a system made up of a number of pieces that interrelate. When determining the function and value of an ecosystem, the larger the area considered, the greater chance of accounting for all of the parts of the ecosystem. He noted that Section 3.d refers to the interplay between the water, soil, plant materials, habitat value, etc. Section 3.e provides a mechanism for ensuring compliance with the provisions and that the information submitted is accurate.

Mr. Tovar referred to Section 5, which lists the items that must be included in a Critical Areas Stewardship Plan. He specifically referred to Section 5.c which would require an applicant to break up the property into logical sub units and provide a narrative description about how they would manage each one. He also referred to Section 5.f, which he discussed significantly with the City Attorney. He explained that under the provisions of the stewardship plan, certain representations are being made about how plans would be managed, what would happen to the lay of the land, plant materials, circulation on the site, and other details. These issues merit some type of ongoing review; and at some point, it might be warranted for the City to go onto the property to make sure all is going per the approved conditions and approved plan. Section 5.f would grant the City this legal authority.

Commissioner Phisuthikul referred to Section 5.a, which uses the term “known watercourses.” He noted that many important watercourses and wetlands might not be known. He suggested that this language be clarified using terms that have already been defined in the code. Also in this section, in accordance with the Commission’s previous discussion, Commissioner Wagner asked that the term “significant vegetation” be changed to “significant trees and/or vegetation.”

Commissioner Broili said he would like staff to create a definition for view, even though it might be difficult to do. Also, instead of just an inventory of significant vegetation, he would like Section 5.a to require an inventory of all existing vegetation. He pointed out that there might be some undesirable vegetation that should be removed and/or replaced. In addition, he asked if the scientific assessment by a qualified professional (Section 5.d) would be peer reviewed.

Commissioner Broili said he would like the language to include some provision for an adaptive management strategy so that plans could become better in the future. He agreed to work with staff to define the term “adaptive management strategy” and consider how it could be incorporated into the proposed language.

Mr. Tovar cautioned that defining the word “view” is difficult to address in regulations and permits. If the Commission talks about views, they must seek help from the public to understand exactly what views the public is talking about. This is a policy issue the Commission must grapple with.

Commissioner Pyle asked if it would be possible for people to register their views as a benchmark. He noted that the Department of Ecology has developed a number of tools that document functions and values. He suggested that adopting a formal system for assigning, assessing or valuing the landscape would enable the City to stay on track as far as target results.

Commissioner Pyle said that while he understands the benefits of “native vegetation,” (Section 3.d) the City is working in very specific circumstances where native vegetation would never really be allowed to mature. Views are being blocked as a result of growth of the native vegetation. He explained that there are quite a few species that could provide the same functions, but mature at a level that won’t block views in the future. Mr. Tovar advised that the Commission is likely to receive a lot of public testimony regarding the issue of native vegetation, and they would be required to make a policy decision about what the standard of vegetation should be and how it should be managed.

Commissioner Pyle referred to Section 5.a and asked if the dated inventory would require a survey. Mr. Tovar said they need a document that is empirically correct and reflects reality, but he is not sure a survey should be required. He said staff would consider the matter further and provide a response later.

Commissioner McClelland asked if it would be possible for Section 5.a to require a data inventory of known critical areas. The language could then list the five types of critical areas. She recalled that when this issue was reviewed last year, a concern was raised that anything such as a stewardship plan should be within the context of the state’s definition of a critical area. She also asked if it would be possible to make reference to “best available science” in Section 5.d. She stressed the importance of emphasizing throughout the document that the provisions deal with critical areas. She asked if the proposed ordinance could include language to describe what would happen if a stewardship plan failed to perform. Mr. Tovar said staff would provide further information and recommendations at the next meeting regarding enforcement of the ordinance language.

Commissioner McClelland suggested that the word “submittal” in Section 2 be changed to “approval.” She noted that there could be a time lag between when a plan is submitted and when it is approved. Mr. Tovar said the Commission will likely hear testimony that the City should consider views from the remote past out to the remote future and all points in between. The Commission will have to make a policy decision on this matter.

Commissioner McClelland asked if staff has a copy of the Department of Ecology’s outline for preparing restoration plans. She suggested that this document could be extremely useful. Mr. Tovar agreed.

Vice Chair Kuboi pointed out that the purpose statement implies that the ordinance would only apply to view covenanted properties. Mr. Tovar agreed. Vice Chair Kuboi asked if it would be possible for a

person to create a single-lot, view covenanted community. He questioned whether it would be appropriate for the City to treat a community that has covenants differently than one that does not.

Vice Chair Kuboi referred to Section 3.a and inquired if the 10 acres would have to be contiguous. Chair Piro pointed out that Section 3.b states that stewardship plans may include non-contiguous parcels under the same ownership. Vice Chair Kuboi asked if it would be possible for an owner to have parcels fragmented throughout the City that aggregate to 10 acres. Mr. Tovar answered affirmatively, but explained that if such a plan were submitted, it would be difficult for the applicant to describe the ecosystem.

If the proposed language were adopted, Vice Chair Kuboi questioned if an approved stewardship plan would be effective in perpetuity. Mr. Tovar clarified that while they call it a plan, it is really a permit or regulatory tool that authorizes or controls certain activities into the future. As proposed, the plan would have an infinite life, unless conditioned otherwise. Vice Chair Kuboi expressed his concern that once the City approves a stewardship plan and the party implements the plan, there would be no avenue for the City or the property owner to get out of the deal. He pointed out that, in most cases, the applicants would receive the immediate benefit and the payback to the City would occur over a long-period of time. Therefore, it would be important to have a mechanism in place to make sure that all parties in the plan follow through with their obligations. Mr. Tovar asked that staff be allowed to consider these concerns and provide some different scenarios for the Commission to consider as part of the Staff Report for May 18th.

Vice Chair Kuboi pointed out that Section 5 only describes what information is to be included in the submittal package for application. It does not identify the elements that must be included in the actual stewardship plan, itself. Mr. Tovar agreed that more language could be provided to describe what must be included in the approved plan. His understanding is that the approved plan would be based on the information that is submitted, as well as any additional conditions or modifications that might be imposed by the City.

Commissioner Broili recalled that he and Commissioners Hall and Phisuthikul toured the Reserves during a major rainstorm. There was a significant amount of runoff coming from the streets and other properties into the reserves. While Sections 3.b and 5.a address the issue of hydrology, he suggested they must also address the impacts from the built environment surrounding or adjacent to the critical areas.

Commissioner Broili suggested that instead of outlining the elements that must be included in a stewardship plan, the language should state the desired outcome of a plan. Just stating what must be included in the plan does not allow for more creative solutions as best available science improves or adaptive management comes into play. Mr. Tovar suggested that a new Section 6 be added to explain what an approved stewardship plan must include, including how surface water would be managed.

Commissioner Pyle suggested that Section 1 be clarified to identify who would be able to apply for a stewardship plan. As written, no one would be prohibited from applying for a stewardship plan. Mr. Tovar agreed to rework the purpose statement. Commissioner Pyle asked how the City properties have

been impacted by the regulation that only allows six significant trees to be removed during any three-year period. He questioned if a stewardship plan could be utilized by the City's Parks Department as a tool to manage their critical areas, as well.

Chair Piro referred to Section 4 and asked if a distinction could be made between parcels in a covenanted community that are held in private ownership as opposed to joint community ownership. Mr. Tovar said the way the language has been proposed, it would not matter who owns the property, as long as everyone who has some ownership interest signs as an applicant.

Chair Piro asked if the term 'view-covenanted communities' would refer to only view covenanted communities that have provisions in their covenant that define view. Mr. Tovar agreed that a definition for "view" must be discussed further by the staff and Commission. They would also need to discuss the concept of covenants further.

Commissioner Wagner referred to Section 4. She asked if the permit would stay with the property if ownership changed. Mr. Tovar answered affirmatively.

Because the language would allow stewardship plans for non-contiguous parcels, Commissioner Wagner asked if the ecosystem on the properties lying between the parcels that are part of the permit would have to be addressed, as well. Mr. Tovar referred to Item 3.d, which would mandate that all of the significant attributes on properties immediately adjacent to the subject property be disclosed and evaluated, as well. Not only must applicants describe the properties they own that would be part of the permit, they must also describe the ecosystem on adjacent critical areas.

Mr. Tovar said that if the Commissioners have additional questions they would like staff to answer on May 18th, they should forward them to Mr. Torpey by May 10th. Mr. Torpey would also collect all written public comments submitted prior to the hearing. In addition, a separate web page has been established for this particular item, and comments could be forwarded to him via this website. He also provided his mailing address.

Vice Chair Kuboi asked if all of the property within the minimum 10 acres included as part of the permit must be critical areas. Mr. Tovar agreed that the proposed language does not make this clear. Vice Chair Kuboi inquired if part of the property included as part of the application could be located outside of the City of Shoreline. Mr. Tovar answered that the City would not be able to issue a permit for property outside of Shoreline. However, a SEPA review would be required for any stewardship management plan permit. If the subject property is located along the City boundary, the SEPA review would include an analysis of impacts to the ecosystem outside of the City's jurisdiction, as well. He said staff could attempt to make this language clearer.

Vice Chair Kuboi asked if a plan would have to be reevaluated if the functions and values of a parcel outside of the area covered by the stewardship plan changed. Mr. Tovar said this would all depend on the type of change. In some cases, practices and requirements that were in place prior to the change might no longer make sense, and it might be appropriate to come up with some other provisions or

requirements. He suggested that the Commission must discuss how and if the plan could be adapted in the future, if necessary.

Vice Chair Piro reminded the public and Commissioners that the May 18th meeting would be a formal public hearing on the proposals relating to the Hazardous Tree Regulations and Critical Areas Stewardship Plans. He emphasized that the Commission welcomes both written and oral comments from the citizens, and written comments should be submitted by May 10th, if possible, so they can be included in the Commission's packets. Written comments that are received after May 10th would also be shared with the Commission, but not before the hearing starts.

CONTINUED DIRECTOR'S REPORT

Mr. Tovar reported on the City Council's recent retreat, where they reviewed their goals for the City. They started with about 30 potential goals, and narrowed the number down to 17. They are planning to schedule two public town hall meetings in June to solicit public input regarding the potential goals. The City Council's intent is to create a revised set of goals for 2006 and 2007.

Vice Chair Kuboi asked if the City Council provided any amended direction regarding the City's future effort to create a comprehensive housing strategy. Mr. Tovar said the development of a housing strategy was included on the City Council's list of 17 potential goals. Whether identified as a goal or not, comprehensive housing strategies would still be considered part of the staff and Commission's work program. The City Council did not specifically discuss details surrounding this effort, so staff must still seek further direction from them on how to proceed.

Mr. Tovar referred to the Commission Agenda Planner. He noted that a public hearing and additional Commission discussion on the Hazardous Tree Regulations and Critical Areas Stewardship Plans has been scheduled for May 18th. If the Commission needs more time to make a recommendation to the City Council, they could discuss the issue further in June and staff could ask the City Council to extend the moratorium. He reviewed that the June 1st meeting has been scheduled as a joint meeting with the Parks Board to discuss the concept of Urban Forest Management. A speaker from Cascade Land Conservancy would also provide a presentation on June 1st to discuss how activities in Shoreline might relate to what is going on in the region. If time allows, he would also provide a report on "form-based zoning."

Mr. Tovar further reported that two site-specific rezone public hearings have been scheduled for June 15th. In addition, the Assistant City Manager would be present to speak to the Commission regarding their July 20th retreat agenda. A joint Planning Commission/City Council/Park Board meeting has been scheduled for June 29th. At that meeting, the Assistant City Manager and Human Resources Manager would provide training on the "communication styles methodology" that is used within the City organization. Two rezone public hearings have tentatively been scheduled for July 6th, as well as a tentative workshop on potential development code amendments. No meetings have been scheduled for the month of August.

REPORTS OF COMMITTEES AND COMMISSIONERS

Chair Piro announced that the Puget Sound Regional Council is working on an update of the Vision 20/20 document, which is the growth, transportation and economic development strategy for the four-county region. A public event has been scheduled for May 23rd in McCaw Hall at the Seattle Center to kick off the release of a draft Environmental Impact Statement that provides four different alternatives for how the region, including the City of Shoreline, King County and neighboring cities, would accommodate the 1.6 million additional people that are anticipated by the year 2040. More information is available at www.psrc.org. He advised that the Planning & Development Services and Public Works Directors are receiving direct information regarding this event, as are the elected officials. He encouraged Commissioners and fellow citizens to participate, as well.

UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

NEW BUSINESS

Chair Piro noted that the City Council would formally acknowledge the service of two former Planning Commissioners (Don Sands and Bill MacCully) at their meeting on May 8th. He encouraged the Commissioners to notify the staff of their plans to attend.

AGENDA FOR NEXT MEETING

The Commissioners had no additional comments to make regarding the agenda for the next meeting.

ADJOURNMENT

The meeting was adjourned at 9:35 p.m.

Rocky Piro
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

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Memorandum

DATE: May 10, 2006

TO: Planning Commission

FROM: Joseph W. Tovar, FAICP
Director, Planning and Development Services
Matt Torpey, Planner II

RE: Proposed Permanent Regulations amending provisions for Hazardous Trees and creating new provisions for Critical Area Stewardship Plans that would enable the limited cutting of trees and other non-hazardous vegetation in critical areas

I. Planning Commission meetings of May 4 and 18th

The Planning Commission held a study session on May 4, 2006 in order to review the staff proposed amendments to the Shoreline Municipal Code that would adopt permanent language regarding the hazardous tree code as well as establish a Critical Areas Stewardship Plan. At the May 4 meeting the Commissioners asked a number of questions of clarification. That meeting was televised in order to enable citizens to hear a detailed presentation of the proposal before the public hearing on May 18. Staff addressed a number of the questions during the study session. Questions that could not be addressed at that time were recorded by staff and compiled for further review.

At the May 18 public hearing, the Planning Commission will receive oral testimony from interested parties regarding the code amendment proposed by staff. At the conclusion of the public hearing, it is anticipated that the Planning Commission will begin deliberation of the proposed ordinance. The anticipated outcome of this meeting is either to choose to continue deliberations to a future meeting, or provide staff with a recommendation on the proposal to present to the City Council.

II. Planning Commission Comments and Questions.

Staff has attempted to address each individual question that was not answered during the study session. A matrix of the questions and answers is included as Attachment A.

Additionally, staff would like to address several of the major issues brought forth by the Planning Commission:

1. Is an “Adaptable Management Plan” a viable option for the Critical Area Stewardship Plan?

Staff has investigated the current use of adaptable management plans in the field of environmental stewardship and could not find a good example to present to the Commission that would address their questioning of the applicability of such a plan. Regardless, we believe that language in the Shoreline Municipal Code exists to address this concern.

Each section of the critical area code contains a subsection that outlines the appropriate monitoring and maintenance of a critical area after approved alteration to that critical area occurs. Monitoring and maintenance of a critical area are typical actions that take place post-permit. As an example, if a stream area was altered via a Critical Areas Stewardship Plan, SMC 20.80.500.F would trigger the requirement for a monitoring program and contingency plan:

“A monitoring program shall be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met...”

This section clearly establishes the City’s authority to have “adaptive management” of the project even after the initial tree and vegetation removal has taken place. Additionally, the code requires that maintenance bonds be put in place that will ensure the financial obligation to implement the plan is covered in the event the applicant fails to implement the required corrective changes.

2. Is an approved plan enforceable?

As stated above, the City has the ability to require maintenance bonds to ensure that implementation of the monitoring project is enforced. Because this type of permit (type C) will be reviewed by both the Planning Commission and the Council before being approved or denied, there will be ample opportunity for staff, the Commission and Council to review the proposed monitoring plan as well as the amount of the required bond to ensure that the monitoring plan assures that necessary corrective action will take place.

As a last resort, the City may invoke payment of the bond in the event that the applicant does not live up to their end of the permit conditions. The funds secured from the bonding agent can be assigned to the City or its designated professional to guarantee that monitoring and corrective action has taken place.

3. Tree Evaluation Form

Several Commissioners asked staff to provide an example of a Tree Evaluation Form. The City has created a new evaluation form that is to be used by a licensed arborist or professional forester to determine to what extent a tree is hazardous. This form is included as Attachment D

4. Can the City apply for a Stewardship Plan? Can non view covenanted communities apply for this plan?

As long as the proposal meets the minimum criteria outlined in the proposed code, the City apply for a Critical Areas Stewardship Plan. The City is bound by the same development code as its citizens. Additionally, there are existing exemptions in the municipal code that allow for some minor landscaping and vegetative work to occur in critical areas.

Non view covenanted communities may apply for the plan, as long as all affected properties are signatories to the plan. The purpose statement for the stewardship plan clearly states that this plan is intended to enable the active management of critical. While view maintenance could be one private objective of a Critical Areas Stewardship Plan, the staff does not see view maintenance as a prerequisite for a stewardship plan

5. Is the City of Shoreline required to enforce private covenants?

Per the City of Shoreline's legal department, "The City does not enforce private covenants. It would be an improper use of public funds to track privately recorded restrictions of each parcel as well as the development code regulations when we process applications. The public interest ends with the limits of City's own codes.

Builders, developers and homeowners are responsible for complying with both City codes and any legally defensible private covenants associated with their parcels. For example, if a private covenant contains a height restriction, the builder must be responsible for compliance with the restriction. The City will not check the building plans for compliance with the private covenant; it will only check them for compliance with the City's code. If the structure is built in violation of the private covenant, it is a civil matter and is up to the homeowner's association or private party to rectify the violation in a civil court. The City can not enforce the covenant or cause the builder to change the structure if it complies with City code.

When private covenants are in conflict with City, State or Federal Codes, the governmental code will override the private covenant. Governmental codes are law; private covenants are only agreements and can not be enforced if they conflict with the law."

There are many additional questions that have been asked of the staff by the Commission. The staff's responses are included in a matrix format as Attachment A.

III. Proposed Changes to the Draft Code

Several typographic errors and valid changes to the proposed code language have been provided by Commissioners to staff both at the meeting on May 4, as well as in writing. Changes to the draft ordinance are presented in legislative format as a staff recommended draft. The changes are included in the packet as Attachment B.

IV. Public Comment

Staff received a number of comment letters addressed to the Planning Commission regarding the proposed ordinance. Staff has not had an opportunity to review or comment on the responses received from the public. As appropriate, staff will respond to these at our presentation at the meeting on the 18th. These letters are included in the packet as Attachment C.

V. Next Steps

As stated at the May 4 study session, the Planning Commission may need more time to hear all the public testimony and deliberate on these proposed amendments. If that need became apparent, the Commission has two options. One would be to carry the hearing over to a later meeting in which case the staff would ask the Council to extend the moratorium and interim controls for hazardous trees which expires on July 3. Alternatively, the Commission could separate the proposed ordinance into two components and forward a recommendation to the Council regarding hazardous trees and only carry over the Critical Areas Stewardship Plan portion for further discussion. This could eliminate the need for Council to continue the moratorium and interim controls beyond July 3.

ATTACHMENTS:

- #A Question and Answer Matrix
- #B Proposed Ordinance with Amended Regulations
- #C Public Comment Letters
- #D Example Tree Evaluation Form

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
1	Kuboi	20.50.310 1.a	Is there any value to using the term "reasonable" - might this trigger a debate about reasonable use?	Staff does not believe that the word "reasonable" in this context has any association with the reasonable use of a property which involves other factors, not trees.
2	Kuboi	20.50.310 1.c	"Director may require" Does this present an avenue for litigation that some people are treated differently/better (i.e. not having to pay for peer review)?	This is typical language for any kind of third party review. Anytime third party review is determined necessary by the director, the applicant is required to cover the costs of the review.
3	Kuboi	20.50.310 1.c	"Peer view" is a typo.	Staff will correct all typos before presenting a final document.
4	Kuboi	20.50.310 1.e	"any means necessary"...change to "necessary means" to reduce the "free for all, anything goes" mentality?	Staff does not have a concern regarding this text. If a tree were hanging precariously over a home, we feel comfortable with the tree being removed "by any means necessary" to protect life and property.
5	Kuboi	20.50.310 1.g	Please check that a registered landscape architect typically has the right credentials...a co-worker of mine who is a RLA says that most RLAs do NOT have this knowledge as part of the RLA discipline/licensure. RLAs are more into landscape design. Some RLAs may also happen to be certified arborists, but their knowledge is due to their being arborists, NOT RLAs.	Staff agrees that it is not appropriate to rely solely on a Landscape Architect to determine the viability of a tree.
6	Kuboi	20.50.310 1.i	Can you or Matt save me some time and tell me if there is a definition of "recreational trail" such that any path or space in between trees can't be preemptively (conveniently) called a recreational trail?	"Recreational trail" is not defined in the code. Webster defines trail as "a marked or beaten path through the woods". Staff has been using this general definition as a standard for local trails.
7	Kuboi	20.20.87 1.	What is the definition of a "large" critical area? Why are we differentiating on this factor?	Staff intended this to reflect on the 10 acre minimum area of study for a stewardship plan. Stewardship plans are not appropriate for small critical areas or isolated areas. Removal of the term "large" will not change the purpose statement.

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
8	Kuboi	20.20.87 1.	I think view "rights" is a pretty strong (too strong?) term. Suggest using "views" rather than "view rights"	Staff is not averse to this suggestion. Changing the word does not change the statement of purpose in this chapter.
9	Kuboi	20.20.87 2.	Why are we specifying Olympic and Sound views, or any specific views at all? What about other vistas elsewhere in the city (Rainier, Baker, Cascades, territorial)...as this reg is not supposed to be specific to Innis Arden. A related question: Does the presence or absence of a view covenant affect the application or enforcement of this proposed regulation? Per the proposed code language, does the owner of a property that is NOT in a covenanted development have less "rights" to his/her view than does the resident of, say, Innis Arden?	<p>The definition of view has long been a controversy. Our current recommendation is for views to be defined as only being those scenic views of Puget Sound and the Olympic Mountains. Staff will of course be open to any suggested changes that the Planning Commission would like to recommend.</p> <p>Regarding whether a non-view covenanted lot has less "rights" to a view, a view covenant creates certain privately enforceable rights. The City is not a party to covenants and does not enforce them nor is the City bound by private covenants.</p>
10	Kuboi	20.20.87 3.a	What's the basis for the 10 acre minimum? Is it a minimum of 10 acres of critical area or could it be 1 acre critical and 9 acres regular? Can the total acreage be under multiple ownership, if all owners are signatory to the plan? Does the 10 acres need to be contiguous or can it be several plots of land in the general area?	<p>The ten acre minimum is to establish an "area wide" threshold for the minimum size of a stewardship plan. Staff does not believe that a one lot (1/4 to 1/2 acre) stewardship plan is an appropriate method of maintaining the functions and values of a critical area.</p> <p>The plan can be applied for by multiple owners of both contiguous and non-contiguous lots.</p>
11	Kuboi	General Comment	What is the legal enforcement mechanism to ensure compliance. Fines? Posting a performance bond as part of the approval process? I can see several years down the road that the signatories to a Plan run out of money to continue maintenance of the plan.	<p>Compliance with the plan can be enforced through a number of methods. The most obvious and already required under current code for critical areas is the establishment of a maintenance bond and critical area monitoring and reporting period of five years.</p> <p>The City may also wish to revisit the penalty for removing a tree without a permit.</p>

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
12	Kuboi	General Comment	What is the legal and technical enforcement mechanism for ensuring that functions and values are maintained? Do we expect a professional review every X years, paid for by the owner presumably? Do we expect that emerging BMPs are incorporated, or are specific BMP requirements "locked in" at Plan approval?	Please see above response (#11). Staff believes that a condition of using current "best management practices" in the particular field of impact on the critical area is an appropriate action to take. Regarding "adaptive management", the city's requirement for monitoring and reporting on the plan and plan implementation will allow for the occasional "correction" of the site conditions as required and allowed under the management plan.
13	McClelland	Subsection I	Does the term "vegetation" include "trees"?	Yes, should read "vegetation and trees". Staff recommends that this section be amended in the draft code.
14	Broili	20.50.310 1.i	Define "recreational trails"—vague language	Please see response #6.
15	Wagner		How many requests annually does staff think may be processed (Concern about limited staff resources).	Under pre-existing hazard tree code, approximately 100 trees were removed during 2005 under the "old" hazardous tree language. Since Jan 3, the City has processed 2 hazard tree requests for exemption from requiring a permit.
16	Pyle		What does the request form look like?	The tree evaluation form will be distributed to Commissioners in the May 18 packet.
17	Wagner	20.80.087 5.a	What is "significant vegetation"	There is no definition of "significant vegetation". Staff recommends that this section be changed to "significant trees".
18	Broili		Need a definition of "View". Is it 180 degree view, peek-a-boo view, etc?	Please see response #9.

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
19	Broili	20.80.087 5.d	In terms of “qualified professionals”, who reviews their work, doesn’t want conflicting opinions, who is final arbitrator?	The City’s third party professional reviews work of the applicant’s professional. In the case of “dueling scientists”, in the past the City has required the retention of an additional independent reviewer to be the “tie breaker”
20	Kuboi		Can person cut a tree 1 st and ask questions later?	In critical areas, need to call CRT who are available 24 hours and are designated by the director as his designee for purposes of this code section. Outside of critical areas, any property owner may remove six trees every 36 months.
21	Pyle		View topic—Can you document or benchmark views?	Suggestions from the Commission would be appreciated. This is an item for deliberation.
22	Pyle		What tool is proposed to document functions and values of ecosystem to provide a benchmark? Will there be a formal system to assess landscape?	The “qualified professionals” in each of their respected professions evaluate the functions and values of the ecosystem or habitat. The establishment of a benchmark will be done on a case by case basis by the respective professionals. No two sites are the same environmentally, therefore it would be very difficult to establish a standard prior to initial field work and verification.
23	Pyle	20.80.087 3.d	Why focus on native vegetation? Can’t some non-native vegetation do the job as well or better?	Opens a good policy question. This is an item for deliberation by the commission.
24	Pyle	20.80.087 5.a	Does this permit require a licensed surveyor	A licensed land surveyor is not required for City of Shoreline permit (other than permits that establish property lines such as plats and boundary line adjustments)

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
25	McClelland		Inventory should include a list of 5 critical areas	Staff can include the critical area types in the code if the commission wishes. These critical areas are fish and wildlife habitat areas, landslide hazard areas, wetlands, flood hazard areas, and aquifer recharge areas (as defined by the GMA)
26	McClelland		How will stewardship plan be enforced?	The stewardship plan can be enforced through the establishment of a maintenance bond and a monitoring project for a certain number of years (typically five years). The bond requirement and monitoring language is already in the SMC.
27	McClelland	20.80.087 2	Should we look at "grandfathering views" from time of approval or time of submittal	This is a policy question that should be deliberated by the Commission.
28	McClelland		Do we have DOE outline for restoration plan?	Staff will contact DOE for an example of a critical area restoration plan.
29	Kuboi	30.80.087 3.a	Why 10 acres?	This is a number chosen to reflect the large size of an ecosystem. Staff is trying to avoid "single lot" stewardship plans with this proposal.
30	Kuboi		Does this permit last in perpetuity?	Permits have an infinite life (until finalized or revoked)—stays with the property
31	Broili	3d, 5a	There's a great deal of runoff in Innis Arden reserves, how would a CASP address such issues?	The stewardship plan would require review of hydrologic information by a qualified professional. Surface runoff is an element of nearly every permit or plan the City of Shoreline reviews, during review of this particular permit, surface water would be of particular interest.

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
32	Pyle	20.80.087.1	Can anyone apply for this? Can we make it clearer whether it only applies to a limited number of people? How is city affected by these rules, specifically, the six-tree limit every 36 mos?	All affected parties and landowners will need to apply for the permit The City is bound by its own municipal code.
33	McClelland		Agree with Mr. Kuboi's point re: what's in the plan? Will plan include a definition of what is to be cut, or is it a more general plan for management?	The narrative required by item 5.c outlines what is included in the submittal. If the Commission would like to add a #6 to 30.80.087 that lists the plan elements, staff will develop an initial list for discussion purposes.
34	McClelland		To amend this permit, do you have to get a new permit?	Yes
35	Piro		Is there a difference between private ownership and common ownership vis a vis who can apply?	All owners must sign as applicants
36	Piro		What if someone isn't in a critical area? Who is beneficiary of this?	They cannot use this permit process Someone who owns a critical area
37	Wagner		Does permit stay with the property?	Yes
38	Wagner		If a wetland covers several parcels, not just those applying for the permit, does the application include other wetlands?	Even parcels not included in application. Staff will ask "have you captured enough of the ecosystem?" You need to describe adjacent habitat.
39	Kuboi		10 acres—does it all have to be critical area	It is not intended for the entire 10 acres to be critical area.

Planning Commissioner Questions/Comments on Tree Regulations/Critical Areas Stewardship Plan

Log #	Commissioner	Reference	Question/Comment	Staff Response
40	Kuboi		What if ecosystem goes outside of boundaries (of city)	SEPA requires looking at impacts beyond jurisdictional boundaries. There may be a question as to how broad to look.
41	Kuboi		If ecosystem changes, does that trigger plan revision?	If ecosystems change, adopted practices may no longer make sense. This can be addressed through the monitoring and maintenance of the project.
42	McClelland	General	Can staff devise a mechanism in which people who benefit from the permit (because of improved views) provide funding to restore or improve the nearby critical area, and in doing so, provide a public benefit?	If the Commission would like Staff to pursue this idea, Staff can develop some suggestions as to how this might be accomplished.

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**CITY OF SHORELINE, WASHINGTON
ORDINANCE NO. _____**

AN ORDINANCE amending the Shoreline Municipal Code to update regulations relating to tree cutting, amending SMC 20.50.310 regarding exemptions from permit requirements for hazardous trees, amending SMC 20.80.080 to adopt by reference the provisions of SMC 20.50.310.A.1 as amended, adding a new section SMC 20.80.085 providing for City review and approval of Critical Areas Stewardship Plans, considering the goals and requirements of the Growth Management Act, Chapter 36.70A RCW, including the provisions that pertain to the designation and protection of critical areas, and establishing an effective date.

WHEREAS, the City of Shoreline is a jurisdiction planning under the Growth Management Act and is therefore subject to the goals and requirements of Chapter 36.70A. RCW during the preparation and adoption of development regulations, including those that pertain to the cutting of trees, whether or not those trees are in a critical area designated pursuant to RCW 36.70A.170; and

WHEREAS, the Shoreline City Council adopted Ordinance No. 407 on January 3, 2006 which placed a moratorium on the use and application of SMC 20.50.310.A.1 (hazardous vegetation exemption for clearing and grading permits on private property) and adopted interim regulations to govern hazardous tree abatement; and

WHEREAS, the Shoreline City Council conducted a public hearing on February 6, 2006 to hear comment on Ordinance No. 407, after which hearing the City Council adopted Ordinance No. 411, amending Ordinance No. 407 by adding "recreational trails" to the list of potential targets to be considered when evaluating requests to cut hazardous trees; and

WHEREAS, by its terms, Ordinance 407, as amended, would have expired on May 3, 2006; and

WHEREAS, the Shoreline City Council has directed the Director of the Department of Planning and Development Services (the Director) to work with various stakeholders and interested citizens in the preparation of proposed permanent regulations to deal not only with the subject of hazardous trees, but to create a regulatory mechanism for the City to consider and potentially authorize the limited cutting of trees for the purpose of view preservation; and

WHEREAS, the Director did communicate with and meet several times with individual citizens as well as stakeholder groups in order to hear their suggestions and concerns regarding the City's tree regulations; and

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WHEREAS, in preparing the proposed permanent tree regulations, it became apparent to the Director that additional time would be necessary to circulate the proposal for public review and comment prior to a public hearing before the Shoreline Planning Commission; and

WHEREAS, the Shoreline City Council conducted a public hearing on April 10, 2006 on the subject of whether to extend for an additional two months the moratorium adopted by Ordinance 407, as amended, after which the City Council adopted Ordinance 422 to extend the effective date of the moratorium to July 3, 2006; and

WHEREAS, the Director broadly disseminated public notice of the availability for public review the proposed permanent tree regulations at City Hall and on the City's website, and likewise gave public notice of scheduled review and public hearings before the Shoreline Planning Commission; and

WHEREAS, the Shoreline Planning Commission conducted a study session workshop on the proposed permanent regulations on May 4, 2006 and conducted a public hearing on May 18, 2006; after which the Commission forwarded a recommendation to the City Council;

NOW, THEREFORE, the City Council of the City of Shoreline adopts Ordinance No. ____ which amends the Shoreline Municipal Code as follows:

Section 1. Repealer. SMC 20.50.310.A.1 (hazardous vegetation exemption for clearing and grading permits for private property) is hereby repealed, and replaced with the following:

20.50.310 Exemptions from permit

1. Emergency situations on private property involving danger to life or property or substantial fire hazards.
 - a. Statement of Purpose – Retention of significant trees ~~and vegetation~~ is necessary in order to utilize natural systems to control surface water runoff, reduce erosion and associated water quality impacts, reduce the risk of floods and landslides, maintain fish and wildlife habitat and preserve the City's natural, wooded character. Nevertheless, when certain trees become unstable or damaged, they may constitute a hazard requiring cutting in whole or part. Therefore, it is the purpose of this section to provide a reasonable and effective mechanism to minimize the risk to human health and property while preventing needless loss of healthy, significant trees ~~and vegetation~~.

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- b. For purposes of this section, "Director" means the Director of the Department of Planning and Development Services and his or her designee.
- c. For purposes of this section, "peer review" means an evaluation performed by a qualified professional retained by and reporting to the Director. The Director may require that the cost of "peer review" be paid by the individual or organization requesting either an exemption or critical areas stewardship plan approval under this section.
- d. In addition to other exemptions of Subchapter 5 of the Development Code, SMC 20.50.290-.370, a permit exemption request for the cutting of any tree or clearing vegetation that is an active and imminent hazard (i.e., an immediate threat to public health and safety) shall be granted if it is evaluated and authorized by the Director under the procedures and criteria set forth in this section.
- e. For trees ~~or vegetation~~ that pose an active and imminent hazard to life or property, such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines, or are uprooted by flooding, heavy winds or storm events, the Director may verbally authorize immediate abatement by any means necessary.
- f. For hazardous circumstances that are not active and imminent, such as suspected tree rot or diseased trees or less obvious structural wind damage to limbs or trunks, a permit exemption request form must be submitted by the property owner together with a tree evaluation risk assessment form. Both the permit exemption request form and risk assessment form shall be provided by the Director.
- g. The permit exemption request form shall include a grant of permission for the Director and/or his qualified professionals to enter the subject property to evaluate the circumstances. Attached to the permit exemption request form shall be a risk assessment form that documents the hazard and which must be signed by a certified arborist, ~~registered landscape architect~~, or professional forester.
- h. No permit exemption request shall be approved until the Director reviews the submitted forms and conducts a site visit. The Director may direct that a peer review of the request be performed at the applicant's cost, and may require that the subject tree(s) vegetation be cordoned off with yellow warning tape during the review of the request for exemption.
- i. Approval to cut or clear vegetation may only be given if the Director concludes that the condition constitutes an actual threat to life or property in homes, private yards, buildings, public or private streets and driveways, recreational trails, improved utility corridors, or access for emergency vehicles.
- j. The Director shall authorize only such alteration to existing trees ~~and vegetation~~ as may be necessary to eliminate the hazard and shall condition authorization on means and methods of removal necessary to minimize environmental impacts, including replacement of any

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significant trees. All work shall be done utilizing hand-held implements only, unless the property owner requests and the Director approves otherwise in writing. The Director may require that all or a portion of cut materials be left on-site.

(The remainder of this section is not proposed to change.)

Section 2. SMC 20.80.080 is amended by the addition of a new subsection as follows:

20.80.080 Alteration or development of critical areas – Standards and criteria.

G. The provisions for emergency situations regarding hazardous trees ~~and other vegetation at in~~ SMC 20.50.310.A.1 is adopted by reference. In addition, the removal, restoration and management of vegetation within a critical area may be permitted by the City as provided in SMC 20.80.085.

Section 3. New Section, SMC 20.80.087 is adopted as follows:

20.80.087 Critical Areas Stewardship Plan.

1. Statement of Purpose – the purpose of a critical areas stewardship plan is to provide a mechanism for the City to comprehensively review and approve, deny, or approve with conditions, private proposals to manage, maintain, cut and/or restore trees, other vegetation, natural features and trails in ~~large~~ critical areas of the city.
In addition ~~t~~The stewardship plan also provides a regulatory tool for the City to make a reasonable accommodation of private ~~views~~ rights in view-covenanted communities while still meeting the over-arching statutory mandate to protect critical areas.
2. In addition to the provisions of SMC 20.80.080.G, the removal, restoration, and management of vegetation in critical areas and their buffers may be reviewed and authorized by the City if approved under a critical areas stewardship plan. An approved stewardship plan may authorize the limited cutting of non-hazardous vegetation in order to preserve private views of the Olympic Mountains and Puget Sound that existed at the time of the submittal of the plan.
3. A critical areas stewardship plan must be processed through Process C, SMC 20.30.060 and satisfy all of the following criteria:
 - a. The minimum area of land within a stewardship plan is 10 acres.
 - b. A stewardship plan may include non-contiguous parcels under the same ownership.

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- c. The implementation of the Plan's provisions shall result in no net loss of the functions and values of the subject critical area(s).
 - d. The implementation of the Plan's provisions shall assure that the natural hydrological systems, native vegetation, and any fish or wildlife habitat on site, or functionally connected to the site, will be maintained, restored, or enhanced.
 - e. The provisions of the stewardship plan provide sufficient legal and practical means for the City to assure compliance with its provisions.
 - f. The public health, safety, and welfare will be served.
4. A critical areas stewardship plan must be initiated by the applicant property owner(s) of the parcel(s) proposed to be included within the scope of the Plan. The applicant shall bear the cost to the City to retain qualified professionals to assist the City in its review of the submitted stewardship plan.
5. An application for a critical areas stewardship plan shall include at least the following:
- a. A dated inventory of known watercourses, significant vegetation, and physical improvements (including but not limited to trails and underground and overhead utilities lines), identification of soils conditions, identification of areas with slopes in excess of 15%, identification of areas with slopes in excess of 40%, and fish or wildlife habitat associated with species that are present on site or immediately adjacent.
 - b. A scaled topographic map on which named or numbered proposed "management zones" will be displayed.
 - c. A narrative describing applicable objectives, policies, principles, methodologies and vegetation management practices that will be employed to achieve the stated objectives in the delineated management zones.
 - d. A scientific assessment performed by qualified professionals of all of the ecological functions and values of the site and how the identified functions and values would be affected by the provisions of the proposed stewardship plan.
 - e. Other graphic or narrative information that will assist the City in evaluating whether the proposed stewardship plan satisfies the stated private objectives while also enabling the City to provide reasonable assurance that the "values and functions" of the critical area in question will be maintained.
 - f. A legal instrument in a form approved by the City Attorney to assure that the Director, city staff or consultants may enter the property in order to evaluate the physical and scientific circumstances that exist on site, including peer review, and to assure compliance with the provisions and conditions of any approved stewardship plan.

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ITEM 7.i - ATTACHMENT C COMMENT LETTERS

Due to the large number of pages, all comment letters the City received in regards to hazardous trees regulations and critical areas stewardship plans are being provided to the Planning Commission under separate cover. Comment letters can be viewed online at the City's website: www.cityofshoreline.com/cityhall/departments/planning/ordinances/trees, or in-person in the Planning & Development Services Department: 1110 N. 175th St., Shoreline, Suite 107. Copies are available for a fee. If you have any questions, please contact Jessica Simulcik Smith at 206.546.1508 or jsmith@ci.shoreline.wa.us.

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TREE EVALUATION FORM

Site/Address: _____
 Map/Location: _____
 Owner: public _____ private _____ unknown _____ other _____
 Date: _____ Arborist: _____ ISA#: _____
 Arborist's Signature: _____

HAZARD RATING:

_____ + _____ + _____ = _____
 Failure + Size + Target = Hazard
 Potential of part Rating Rating
 _____ Immediate action needed
 _____ Needs further inspection
 _____ Dead tree

TREE CHARACTERISTICS

Tree #: _____ Species: _____
 DBH: _____ # of trunks: _____ Height: _____ Spread: _____
 Form: ☐ generally symmetric ☐ minor asymmetry ☐ major asymmetry ☐ stump sprout ☐ stag-headed
 Crown Class: ☐ dominant ☐ co-dominant ☐ intermediate ☐ suppressed
 Live crown ratio: _____% Age Class: ☐ young ☐ semi-mature ☐ mature ☐ over-mature/senescent
 Pruning History: ☐ crown cleaned ☐ excessively thinned ☐ topped ☐ crown raised ☐ pollarded ☐ crown reduced ☐ flush cuts ☐ cabled/braced
☐ none ☐ multiple pruning events Approx. dates: _____
 Special Value: ☐ specimen ☐ heritage/historic ☐ wildlife ☐ unusual ☐ street tree ☐ screen ☐ shade ☐ indigenous ☐ protected by gov. agency

TREE HEALTH

Foliage Cover: ☐ normal ☐ chronic ☐ necrotic Epicormics? Y N Growth obstructions:
 Foliage Density: ☐ normal ☐ sparse Leaf size: ☐ normal ☐ small ☐ stakes ☐ wire/ties ☐ signs ☐ cables
 Annual shoot growth: ☐ excellent ☐ average ☐ poor Twig Dieback? Y N ☐ curb/pavement ☐ guards
 Woundwood development: ☐ excellent ☐ average ☐ poor ☐ none ☐ other _____
 Vigor class: ☐ excellent ☐ average ☐ fair ☐ poor
 Major pests/diseases: _____

SITE CONDITIONS

Site Character: ☐ residence ☐ commercial ☐ industrial ☐ park ☐ open space ☐ natural ☐ woodland/forest
 Landscape type: ☐ parkway ☐ raised bed ☐ container ☐ mound ☐ lawn ☐ shrub border ☐ wind break
 Irrigation: ☐ none ☐ adequate ☐ inadequate ☐ excessive ☐ trunk wetted
 Recent site disturbance? Y N ☐ construction ☐ soil disturbance ☐ grade change ☐ line clearing ☐ site clearing
 % dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? Y N
 % dripline w/fill soil: 0% 10-25% 25-50% 50-75% 75-100%
 % dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%
 Soil problems: ☐ drainage ☐ shallow ☐ compacted ☐ droughty ☐ saline ☐ alkaline ☐ acidic ☐ small volume ☐ disease center ☐ history of fail
☐ clay ☐ expansive ☐ slope _____? aspect: _____
 Obstructions: ☐ lights ☐ signage ☐ line-of-site ☐ view ☐ overhead lines ☐ underground utilities ☐ traffic ☐ adjacent veg. ☐ _____
 Exposure to wind: ☐ single tree ☐ below canopy ☐ above canopy ☐ recently exposed ☐ windward, canopy edge ☐ area prone to windthrow
 Prevailing wind direction: _____ Occurrence of snow/ice storms ☐ never ☐ seldom ☐ regularly

TARGET

Use Under Tree: ☐ building ☐ parking ☐ traffic ☐ pedestrian ☐ recreation ☐ landscape ☐ hardscape ☐ small features ☐ utility lines
 Can target be moved? Y N Can use be restricted? Y N
 Occupancy: ☐ occasional use ☐ intermittent use ☐ frequent use ☐ constant use

ITEM 7.i - ATTACHMENT D

TREE DEFECTS

ROOT DEFECTS:

Suspect root rot: Y N Mushroom/conk/bracket present: Y N ID: _____
 Exposed roots: ☐ severe ☐ moderate ☐ low Underscored: ☐ severe ☐ moderate ☐ low
 Root pruned: _____ Root area affected: _____% Buttress wounded: Y N When: _____
 Restricted root area: ☐ severe ☐ moderate ☐ low Potential for root failure: ☐ severe ☐ moderate ☐ low
 LEAN: _____ deg. From vertical ☐ natural ☐ unnatural ☐ self-corrected Soil heaving: Y N
 Decay in plane of lean: Y N Roots broken: Y N Soil cracking: Y N
 Compounding factors: _____ Lean severity: ☐ severe ☐ moderate ☐ low
 CROWN DEFECTS: Indicate presence of individual defects and rate their severity (s=severe, m=moderate, l=low)

DEFECT	ROOT CROWN	TRUNK	SCAFFOLDS	BRANCHES
Poor taper				
Bow, sweep				
Codominants/forks				
Multiple attachments				
Included bark				
Excessive end weight				
Cracks/splits				
Hangers				
Girdling				
Wounds/seam				
Decay				
Cavity				
Conks/mushrooms/bracket				
Bleeding/sap flow				
Loose/cracked bark				
Nesting hold/bee hive				
Deadwood/stubs				
Borers/termites/ants				
Cankers/galls/burls				
Previous failure				

HAZARD RATING

Tree part most likely to fail: _____
 Inspection period: _____ annual _____ biannual _____ other _____
 Failure Potential + Size of Part + Target Rating = Hazard Rating
 _____ + _____ + _____ = _____

Failure potential: 1-low; 2-medium; 3-high; 4-severe
 Size of part: 1 - <6" (15 cm); 2 - 6-18" (15-45 cm);
 3 - 18-30" (45-75 cm); 4 - > 30" (75 cm)
 Target rating: 1 - occasional use; 2 - intermittent use;
 3 - frequent use; 4 - constant use

HAZARD ABATEMENT

Prune: ☐ remove defective part ☐ reduce end weight ☐ crown clean ☐ thin ☐ raise canopy ☐ crown reduce ☐ restructure ☐ shape
 Cable/Brace: _____ Inspect further: ☐ root crown ☐ decay ☐ aerial ☐ monitor
 Remove tree: Y N Replace? Y N Move Target: Y N Other: _____
 Effect on adjacent trees: ☐ none ☐ evaluate
 Notification: ☐ owner ☐ manager ☐ governing agency Date: _____

COMMENTS