# AGENDA
# PLANNING COMMISSION
# REGULAR MEETING

**Thursday, June 17, 2010**
7:00 p.m.

Shoreline City Hall
Council Chamber
17500 Midvale Ave N.

| | | Estimated Time |
|---|---|---|
| **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 COMMENTS** | 7:03 p.m. |
| **5.** | **APPROVAL OF MINUTES**<br>a. May 6 Regular Meeting Minutes<br>b. May 20 Regular Meeting Minutes | 7:08 p.m. |
| **6.** | **GENERAL PUBLIC COMMENT** | 7:10 p.m. |

*During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence.*

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| **7.** | **STAFF REPORTS** | |
| | a. Development Code Amendments - #301642 | 7:25 p.m. |
| | b. Condensing Planning Commission Minutes | 8:55 p.m. |
| **8.** | **PUBLIC COMMENT** | 9:00 p.m. |
| **9.** | **DIRECTOR'S REPORT** | 9:15 p.m. |
| **10.** | **UNFINISHED BUSINESS** | 9:20 p.m. |
| **11.** | **NEW BUSINESS** | 9:25 p.m. |
| **12.** | **REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS**<br>a. Town Center Vision Statement – Vice Chair Perkowski | 9:30 p.m. |
| **13.** | **AGENDA FOR** July 1 | 9:39 p.m. |
| **14.** | **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 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.*

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DRAFT

These Minutes Subject to
June 17th Approval

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION
## MINUTES OF REGULAR MEETING

May 6, 2010 Shoreline City Hall
7:00 P.M. Council Chamber

**Commissioners Present**
Chair Wagner
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Kaje
Commissioner Moss

**Staff Present**
Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

### CALL TO ORDER

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

### ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman, Kaje and Moss.

### APPROVAL OF AGENDA

The agenda was accepted as presented.

### DIRECTOR'S COMMENTS

Mr. Cohn advised that his comments would be postponed until after the public hearing.

### APPROVAL OF MINUTES

Commissioner Moss referred to the second paragraph from the bottom on Page 13 of the April 15, 2010 minutes, which says the floor area of an Accessory Dwelling Unit (ADU) could be no larger than 50% of the living area. It goes on to give an example of how the proposed amendment would allow a

property with an existing 800 square foot structure to have an attached ADU of up to 1,600 square feet. She suggested the math is backwards. Mr. Cohn explained that this provision would work both ways. If a property is occupied by a small living unit, an owner could build a larger ADU, assuming it could fit on the property with all the setbacks. However, if you have a living unit of average size, it is not likely you could be a large ADU and still fit in all the setbacks. The ADU would have to be smaller. Commissioner Moss asked if this would result in the creation of a new primary residence, and the old structure would become the ADU. Mr. Cohn said that is true, and the owner could live in either the ADU or the primary residence.

Commissioner Moss suggested the minutes be clarified. Chair Wagner observed that the minutes reflect how the discussion was articulated. Rather than changing the minutes, she suggested the Commission provide further clarification as part of their continued discussion. The remainder of the Commission concurred.

The minutes of April 15, 2010 were approved as amended.

## GENERAL PUBLIC COMMENT

**Laethan Wene, Shoreline,** reminded everyone that today is the National Day of Prayer.

## LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (FILE NUMBER 301606)

Chair Wagner reviewed the rules and procedures for the legislative public hearing.

### Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran recalled that at the Commission's April 15th study session, they requested further clarification on some of the proposed amendments. He referred to the staff report, which addresses the issues and concerns raised by the Commission as follows:

- **Section 20.30.160 – Expiration of Vested Status of Land Use Permits and Approvals.** Mr. Szafran recalled the Commission recommended changing the word "shorter" to "different." He explained that with the exception of subdivisions and master development plans, approved land use permits expire after two years from the time of the City's final decision unless a building permit application is filed before the end of the two-year term. He reviewed that master development plans vest for 10 years, subdivisions for 7 years, and building permits for 1 year except for site development and clearing and grading permits, which vest for six years. Staff agrees that using the word "different" would reflect the intent of this provision.

- **Section 20.30.350 – Amendment to the Development Code (legislative action).** Mr. Szafran recalled the Commission requested additional clarification about the rationale for eliminating Criteria 3, and the City Attorney is now recommending that this code amendment be withdrawn. He added that the City Attorney would likely recommend that the word "criteria" is be replaced with

"consideration. He explained that it is very difficult to decide if Development Code and Comprehensive Plan amendments meet the criteria. However, it is important to consider certain things when reviewing amendment proposals.

- **Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria.** Mr. Szafran advised that the Commission raised questions about the ability to require dedications for public parks and open space. He clarified that the proposed amendment would not restrict the City from requiring dedications for public use. Through the City's SEPA authority, they can require park and open space dedications. In addition, the proposed amendment also clarifies who may accept dedications (the City Council through a Planning Commission recommendation).

- **Section 20.30.353.G – Master Plan Vesting Expiration.** Mr. Szafran recalled the Commission raised a number of questions about how the master development plan review process would work. He explained that, as proposed, every ten years City staff would initiate the review process. If no changes have occurred, staff would issue a determination of no change and the master development plan would not be brought back to the Planning Commission for review. He noted the City Attorney also noted another alternative that would enable the Commission to make that determination.

  In response to Commissioner Behrens' question about who is responsible for covering the cost of the review, Mr. Szafran explained that the cost would be included in the initial application fee, and it is staff's expectation that a review would be largely based on changes to City policy that occurred since the master plan was adopted. If an owner wants to amend the plan based on changes, the cost would be born by the applicant. Chair Wagner asked if a city-initiated review would fall into the category of being a quasi-judicial action. Mr. Cohn said that, generally speaking, when changing something that was a quasi-judicial action, any follow up amendments and reviews would also be quasi-judicial.

- **Section 20.30.460 – Effect of Changes in Statutes, Ordinances, and Regulations on Vesting of Final Plats and Rezones.** Mr. Szafran explained that the purpose of changing the title of the amendment is to clarify that the vesting of plats not only applies to zones and rezoning, it also applies to applicable statutes innumerated in the Revised Code of Washington (RCW). These statutes include sewage, water supply, drainage, roads, and sidewalk standards.

- **Section 20.30.680 – Appeals.** Mr. Szafran referred to the table staff prepared to outline how certain appeal actions would work. The table is intended to clarify the appeal process. Chair Wagner suggested that additional clarification will likely be needed for this amendment. Mr. Cohn explained that the matrix shows that no administrative appeal would be allowed for Type A Actions, and appeals must be made to Superior Court. If a SEPA review is required, appeals of the threshold determination or SEPA conditions would become a Type B Action, and the Hearing Examiner is the hearing body for all appeals to Type B Actions. Most Type C Actions go to the Hearing Examiner, including SEPA appeals. He summarized that the Washington Administrative Code (WAC) provision that requires that SEPA administrative appeals must be consolidated with the open record hearing for the underlying action and must be heard by the same body or officer. In Shoreline, all SEPA appeals are heard by the Hearing Examiner. He recalled that, at one time, the City held a

combined SEPA and substantive hearing before two bodies (the Planning Commission and the Hearing Examiner). However, the City Attorney later determined that a simultaneous hearing before one hearing officer or body means one person or one body. As per the amendment, all Type C Actions, with the exception of master development plans and rezones in areas where a subarea study is underway, would go before the Hearing Examiner. In these instances, any SEPA appeal would also go to the Hearing Examiner.

Mr. Cohn advised that the City Council made a very specific decision that certain permits (rezones and master plan developments) should not go before the Hearing Examiner. Instead, the Planning Commission would be the appropriate body to hear rezone and master plan development proposals. The Commission would make a recommendation to the City Council, who would make the final decision. Given the City Council's decision and state law that mandates only one body can hear an appeal, the City Attorney has determined that the Supreme Court is the appropriate hearing body for these appeals.

Mr. Cohn advised that one email received from the public noted a wrong citation to the Shoreline Municipal Code (SMC) on Page 36. The correct citation should be 20.30.060 instead of 20.60.060.

Mr. Cohn said staff also received a public comment expressing concern that appeals would cost $30,000, but staff is not sure what information it was based on. The filing fee for a court appeal is $230. The cost of an attorney would be the same whether the attorney is hired to represent an appellant in court or before the Hearing Examiner. The same is true for expert witnesses. He acknowledged there could be additional court fees and it would undoubtedly cost somewhat more to take an appeal to court as opposed to the Hearing Examiner, but staff does not believe $30,000 is a fair figure.

Commissioner Kaje clarified that the Commission's role in reviewing master development plan proposals is to conduct a public hearing and make a recommendation on conditions to the City Council. The City Council makes the final decision, and they could change the conditions that were recommended by the City Council. Mr. Cohn noted that any change would have to be based on the record. Commissioner Kaje noted that a member of the public would have to go to court to appeal the City Council's decision. Mr. Cohn agreed that appeals regarding SEPA and/or the substance of a master development plan proposal would be to Superior Court.

Commissioner Behrens said it is important that people have a clear understanding of their appeal rights. It should be easy for them to learn what process they must go through to file an appeal. He suggested that it would be helpful for staff to provide a presentation about the SEPA process as part of site specific rezone and master development plan hearings. He recalled that at a recent public hearing for a master development plan, numerous members of the public expressed a desire to file a SEPA appeal. If there had been a separate part of the hearing to clearly explain the SEPA process, there would have at least been a public process the audience could identify with. Mr. Cohn agreed that would have been helpful.

- **Section 20.30.760 – Notice and Orders.** Mr. Szafran said the Commission requested more information about the rationale for deleting Item H. He explained that the City should have the option to rescind a notice if it contains incorrect information. As per the Commission's concern, the revised wording in Item F clarifies that affected parties would be notified of any change to the order.

- **Section 20.40.400 – Home Occupation.** Mr. Szafran recalled that Commissioner Kaje suggested the language be changed to refer to classes of trucks. He said staff believes the proposed amendment was intended to apply to vehicles in general, including trailers. That is why specific dimensions for height and length were included in the amendment.

- **Section 20.40.600 – Wireless Telecommunication Facilities/Satellite Dish and Antennas.** Mr. Szafran reviewed that the Commission requested an illustration of what the amendment would do. He referred to Attachment 3, which provides an example of when a tower is built higher and why the diameter must be wider. He explained that when a company wants to extend a wireless tower, they usually replace the existing pole with a new pole. Because the new pole would be taller, it would generally be wider at the base, and correspondingly wider at the height for which it is equivalent of the top of the existing pole.

- **Section 20.50.040 – Setbacks – Designation and Measurement.** Mr. Szafran explained that the intent of this amendment was to allow stairs within the front yard setback as long as the distance between the ground and the surface of the stair is 30 inches or less. He referred to Attachment 2, which provides an example of stairs in the front yard. He said staff is recommending that the stair tread should be no more than 30 inches above the ground if the stairs are located in the front yard setback. Vice Chair Perkowski referred to Section 20.50.040.I.6 and suggested the word "setback" is missing from the last sentence. Mr. Szafran agreed.

- **Section 20.50.310 – Exemptions from Permit.** Mr. Szafran explained that prior to this section, the code discusses when a permit for clearing activity in a critical area would be needed. He noted that Item 6 was changed to make it clear that removal of noxious weeds or invasive vegetation from a stream buffer or within a three-foot radius of a tree on a steep slope located in a city park would be allowed without a permit. He also referred to Item B and explained that the City's Critical Areas Ordinance has specific standards regarding pesticides, herbicides and fertilizers. Rather than referring to the King County Best Management Practices, staff felt it would be more appropriate to refer to the noxious weed and invasive vegetation section of the City's Critical Areas Ordinance.

- **Section 20.50.470 – Street Frontage Landscaping – Standards.** Mr. Szafran recalled that the Commission focused on Item C at their last discussion. Currently, the code allows a property owner to eliminate landscaping between the building and the sidewalk if street trees are planted. The proposed amendment would require landscaping between the building and sidewalk even if street trees are provided. He noted that Item D was rewritten so its intent is easier to understand. He referred to Attachment 5, which is an example of street frontage screening in the Mixed Use Zone (MUZ).

- **Section 20.50.480 – Street Trees and Landscaping within the Right-of-Way – Standards.** Mr. Szafran said the Commission was uncomfortable with removing the word "trees" from the right-of-way landscaping section. He noted the amended language refers to both trees and landscaping to make it clear that the section applies to both. In addition, staff included the tree and landscaping requirements from the Engineering Development Guide to provide details.

- **Section 20.50.520 – General Standards for Landscape Installation and Maintenance – Standards.** Mr. Szafran recalled the Commission recommended that "zone" was a better word than "mat" to describe a plant's root structure. The revised language reflects this modification.

  Commissioner Broili recalled the Commission also expressed concern that the root zone is assumed to be the same as the canopy, which is not the case. Although he suggested some potential resources to correct the concern, they were not incorporated into the proposed language. Mr. Cohn agreed that at their last discussion, the intent was that this issue would be addressed, but not with the specific reference provided by Commissioner Broili. Chair Wagner recalled that Commissioner Kaje also voiced concern about the feasibility of prohibiting the trees from reaching above ground utilities. Mr. Cohn explained that in Item O, the word "not" was added to make the intent more clear.

- **Section 20.80.350 – Mitigation Performance Standards and Requirements.** Mr. Szafran explained that in response to questions from the Commission about the monitoring process, staff did some research. He advised that monitoring is explained in Item G.3, which states that the applicant's work would be monitored and inspected by a qualified professional approved by the City. It further states that the applicant's work would be inspected nine times over the five-year period. In addition, the applicant would be responsible for all costs associated with monitoring.

**Questions by Commission to Staff**

Chair Wagner referred to the emails contained in the desk packet, which some Commissioners might not have had a chance to read. She noted that the emails all relate specifically to the SEPA appeal amendment **(Section 20.30.680)**. Mr. Cohn suggested the Commission adjourn for a short period of time to allow the Commissioners to read through the new material. Commissioner Broili pointed out that the majority of the new material relates to amendments to **Section 20.30.680**, and it would take the Commission a substantial amount of time to review the documents. He suggested they remove this one amendment from the docket and address it at a later time, after the Commission has had a chance to more thoroughly review the information.

Mr. Cohn said he believes staff adequately responded to the questions raised in the emails. He noted that Pages 11 through 34 contain administrative codes from other cities. He agreed that the rules vary by City. He summarized that the majority of the emails recommend that all Type C Land Use Actions go to the Hearing Examiner, meaning the Hearing Examiner would also hear the SEPA appeal. However, it is important to keep in mind that the City Council has made the decision that two Type C Land Use Actions should come to the Commission for review.

Commissioner Behrens said staff framed the issue very clearly, which is whether or not all Type C Land Use Actions should be sent to the Hearing Examiner or if two specific ones (site-specific rezones and master development plans) should go to the Commission as previously decided by the City Council. He suggested the Commission have a brief discussion about the merits and detriments of having the Planning Commission continue to hear these two types of land use actions. If they determine they do not want to continue to hear these items, they must approach the City Council with a request to change the process. If they want to continue to hear these items, the WAC requires that they operate as the proposed amendment suggests.

Commissioner Kaje agreed with Commissioner Broili that even if he reads through the packet and asks questions, he would still not be ready to make a recommendation to the City Council. He advised that the few pages he was able to read of the emailed comments framed the issue better than the staff reports have to date. They contain some good and well-structured information that he wishes they would have received earlier. He said he wants to hear from the public regarding this issue, but he does not believe he has had the time to study the issue enough to make a recommendation now. He suggested the final disposition of the proposed amendments **Section 20.30.680** should be handled at a later date. The majority of the Commission concurred.

**Public Testimony**

**Dan Pidduck, Shoreline,** commented on the proposed amendment to **Section 20.50.040** regarding setbacks. He submitted some photographs, which were entered into the record. He explained that a year ago, he and his wife received a permit from the City to construct some stairs in front of their house to address a safety issue. They were in constant contact with the Planning Department staff, who came to their property a number of times because they were trying to save as much of the existing landscaping as possible. The City approved the design and a permit was issued. However, after a number of months, they received a statement in the mail notifying them that they were going to be fined $14,000 for being in violation of a setback issue. They learned that the stairs were actually located a few more inches into the setback than they should have been. He asked that the Commission approved the proposed amendment, which would put them back into compliance with the City's code. He summarized that with a single-income household in this economy, it would be a significant cost to restructure the stairs.

**Michelle Pidduck, Shoreline,** said her comments were also related to the proposed amendment to **Section 20.50.040**. She referred to the pictures submitted earlier by her husband, which provide a good example of the actual few inches of the stairs that protruded into the setback. The rest of the stairs are code compliant. She observed that relocating the stairs to be code compliant would require them to remove a tree. They are also worried about the soil in this area because of the existing rockery. She noted than a city inspector visited the site before and after the construction.

**Jim Baker, Shoreline,** said he was present to support the proposed amendment to **Section 20.40.400,** regarding home occupations, which would create a less restrictive environment for home-based businesses. He said he supports Item H.1, which states that no more than two vehicles that are used for pickup of materials or distribution of products would be allowed on the site. However, Item H.2, which prohibits the vehicles from parking within any required setback areas of the lot or on adjacent streets,

seems too restrictive. He suggested that when the language was drafted the intent was to avoid situations where commercial vehicles backed up to the neighboring property lot line, which makes sense. However, he pointed out that most driveways run through the setback. As proposed, cars would not be allowed to park on the street or within the first 20 feet of the driveway. He suggested this requirement is a bit absurd. He further suggested the language could be changed to prohibit commercial vehicles from parking within the side yard setbacks, but not within the setbacks where the driveways are already located.

Chair Wagner asked if Mr. Baker would be opposed to language that prohibits long-term, on-street parking of large commercial vehicles. Mr. Baker observed that it would be perfectly legal for a commercial plumber to bring a company vehicle home for the night and park it on street. However, a home-based business would not be allowed to do the same. He said he understands the concern about long-term parking on the street, but prohibiting parking within the setback seems too restrictive.

**Wendy DiPeso, Shoreline,** questioned why the City should prohibit a home-based business owner **(Section 20.40.400)** from using his/her driveway for parking. She also referred to the proposed amendment to **Section 20.30.680**, regarding the appeal process. She noted that WAC 197-11-680(2) reads as follows:

*"Appeal to local legislative body. RCW.43.21.C.060 allows an appeal to a local legislative body of any decision by a local non-elected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal or may eliminate such appeals altogether by rule, ordinance or resolution."*

Ms. DiPeso suggested the City follow this rule and allow the Planning Commission to be the hearing body to hear appeals rather than requiring the public to spend possibly a large sum of money to go to court. She pointed out that State Law requires that any SEPA appeal must happen at the same time as the regular hearing, and the Planning Commission could hear both items.

**Bill Bear, Shoreline,** referred to the proposed amendment to **Section 20.30.680**. He recalled that many years ago, Tim and Patty Crawford ended up having to mortgage their home to confirm that their statements concerning Aegis building on the buffer zone of Thornton Creek was illegal. Even though they theoretically won, they had to pay court costs, and his understanding is that the costs were in the range of $30,000. He suggested the proposed amendment is setting a pretty high bar for a citizen to try and defend fish who can't go to court for themselves, which is a problem.

Mr. Bear supported the comments made by Mr. Baker regarding home occupations **(Section 20.40.400)**. He said he supports the need of home businesses in the City to park their vehicles in the setback areas. He suggested that, at this time, they need to do whatever they can to help their local businesses. The City is seeing a tremendous hit in sales tax and employment. The City should do whatever they can to ensure the code protects and encourages businesses.

**Debbie Kellogg, Shoreline,** referred to the proposed amendment to **Section 20.30.680**, regarding who hears Type C quasi-judicial matters. She suggested that whether it is the Planning Commission or the

Hearing Examiner, the issue needs to be settled once and for all. She suggested that to characterize that the City Council is making the decision is somewhat disingenuous. They heard the proposal as an interim ordinance. While they are supposed to have three readings of the rule, they waived the second and third one at the desire of the City staff. Little discussion went into their decision. She found it odd that the issue has been dragging on for more than a year, but staff is just now realizing there is a problem. To merely say that Shoreline has rules that are different than other communities is unacceptable. She reminded the Commission that staff previously researched other municipalities and found they have only seven planning commissioners. Based on this information, they recommended the Shoreline Planning Commission reduce their number of members to seven, as well. She summarized that it does help to look at how other municipalities do things when they try to solve a problem. This helps them get to the solution faster instead of reinventing the wheel.

Ms. Kellogg said she met with an attorney and learned that the price for filing an appeal is more than $30,000. The cost of filing the case is now $450, not $230. She noted that the appeal for the Children's Hospital proposal cost the appellants $60,000.

**Janet Way, Shoreline,** said she is interested in the appeal issue, as well **(Section 20.30.680).** She observed that she has filed more appeals than anyone else in the room. While she wouldn't call herself an expert, she does have some experience. She suggested the appeal process should not be made more difficult for citizens. She recalled that when her group filed their first appeal with the City, they tried to charge them $1,200. The group threatened to take the City to court, and the fee was reduced to $375.

Ms. Way agreed with Commissioner Kaje's concern about the CRISTA Master Development Plan proposal going to the City Council and the public not being able to make further comment since the Council's hearing would be closed record. As a member of the Council at the time, she believes that the Planning Commission is an important people's body that should be hearing these important appeals. She said she received notice of two Determinations of Non-Significance from the Shoreline School District regarding the Shorewood and Shorecrest High School development proposals. She noted that these proposals would not come before the Planning Commission, the Hearing Examiner, or the City Council unless someone files an appeal on the SEPA determination. If someone were to file an appeal to the SEPA determination, the project would come to the City for a conditional use permit. She questioned what the choice would be for a citizen or a group to appeal the conditional use permit.

Ms. Way advised that there are members of the public who would like to plant vegetable gardens in their parking strips, and they do not want to pay the $400 permit fee.

Mr. Szafran referred to existing code language, which states that required parking space shall be located outside of any setbacks, provided driveways located in setbacks may be used for parking. Using a private driveway for parking would be acceptable. He suggested this should be made clearer in **Section 20.40.400.** Commissioner Broili said he understood the proposed language to mean the setbacks from the property lines adjacent to either side of the driveway. However, he agreed the language could be clarified. Commissioner Behrens summarized there would be no prohibition for someone parking a car across the part of their driveway that is within the setback, as long as the sidewalk is not blocked. Mr. Szafran agreed.

**Final Questions by the Commission**

Commissioner Broili referred to **Section 20.50.470.C**, which states that "landscaping between the building and the property line may be reduced in commercial zones if 2-inch caliper street trees are provided." He said he is totally amenable to flexibility, and he agreed there will be situations where street trees are not going to be adequate. He expressed concern that, one way or the other, these areas should remain permeable. Mr. Szafran said the amendment, as currently proposed, would accomplish this goal. Commissioner Broili said his interpretation of the proposal is that the landscaping can be reduced if trees are planted, but that would not allow a great deal of flexibility. It might not be possible to put trees in these areas for numerous reasons. He suggested the code allow a little more flexibility so a developer can achieve the ultimate goal of maintaining permeability of whatever the surface is.

Mr. Cohn said the proposed language represents staff's attempt to address whether or not the Commission wants to allow a reduction in the amount of frontage landscaping that is required. The language suggests that if an applicant does not put in trees, they cannot reduce the frontage landscaping. Commissioner Broili said he would support a provision that allows the applicant to reduce the frontage landscaping, as long as the permeability of the surfaces is maintained. It may not be appropriate to plant trees or low-growing vegetation in certain circumstances, and he wants to maintain a certain level of flexibility for the developer to do what is necessary to make a project work, as long as the permeability of the surface is maintained for stormwater mitigation purposes.

Mr. Szafran referred to an example of a gas station canopy project in which the City required street trees. He explained that the current code would not require an applicant to install the 10-foot landscape section if they place street trees within the right-of-way. The proposed amendment would still require frontage landscaping even if street trees are provided, but the landscaped area could be reduced because the setback in the commercial zones can actually go to the property line.

Commissioner Broili suggested the proposed language implies that the City's goal is no net loss, which means the City would be just treading water. Chair Wagner pointed out that the proposed language is actually more restrictive than the existing code requirement, and the City would end up with more landscaping. Commissioner Broili said that the proposed language would still allow an applicant to reduce the amount of pervious area within the 10-foot landscaped area. Mr. Cohn said the current code allows street trees to be substituted for the landscaping, and the proposed language would allow an applicant to reduce, but not eliminate, the landscaped area if street trees are planted.

Mr. Cohn said that while he can understand Commissioner Broili's point, they must have some standard. Requiring permeable surface does not provide enough direction for staff to determine whether or not a proposal meets the standard. Commissioner Broili agreed but said he is not comfortable in the potential reduction in permeable surface. He emphasized that his goal is to increase permeable surfaces. Mr. Cohn suggested the proposed language would accomplish this goal because it would allow for a reduction of landscaping rather than elimination, which would be an increase over the current code requirement.

Commissioner Broili questioned why the City must allow an applicant to reduce the amount of landscaping. He suggested that if an applicant is allowed to reduce the amount of landscaping, they should be required to put in some type of other pervious surface to make up for the loss. For example, if an applicant is allowed to reduce the landscape area to five feet, the City should still require that the other five feet be pervious concrete, etc. Mr. Szafran pointed out that, per the current code, if the landscape area is reduced to five feet, the applicant would not be required to landscape the area if street trees are provided.

Chair Wagner pointed out that if the code requires an applicant to keep the entire 10-foot landscape area, there would be no incentive for them to plant street trees. The proposed language offers an incentive to encourage applicants to provide street trees. Mr. Szafran pointed out that commercial zones allow development to the property line. However, the code states that if a development is setback, the setback area must be landscaped.

Commissioner Moss agreed there is merit to Commissioner Broili's recommendation. She recalled the joint meeting with the Parks Board, where there was a significant discussion about vegetation management programs. She questioned if it would be appropriate to move forward with the proposed amendment to **Section 20.50.470.C** now, or if it be better to wait until the entire Tree Ordinance is revised in the near future. She asked if it is more important to get the change in place now and then address the issue from a broader standpoint as part of their review of the Tree Ordinance. Mr. Cohn explained that the proposed amendment **to Section 20.50.470.C** was meant to clean up the language to make it more understandable. However, staff would support a Commission decision to postpone their recommendation on this amendment.

Commissioner Behrens summarized that if the proposed amendment to **Section 20.50.470** is approved, it would basically mean that while a commercial development would not be required to have a setback, if they choose to do so, it must be landscaped as per the code. He suggested that if the City is going to require a 10-foot landscape area in commercial zones, they should first establish that a setback is required. If the City tells a developer they have to spend money to landscape a setback that is not required, they will likely choose not to have a setback. If they want to obtain a certain effect, they must provide incentives to encourage developers to participate. Mr. Cohn said the issue of whether or not commercial development should be allowed to extend into the setback is a different question that must be addressed in a different venue. Commissioner Behrens agreed. As Commissioner Broili pointed out earlier, the best way to fix the issue is to address the setback requirements for commercial development, and perhaps it would be appropriate to withdraw the amendment until the setback issue has been addressed.

**Deliberations**

**COMMISSIONER BROILI MOVED TO RECOMMEND APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS (#3016060) AS SHOWN IN ATTACHMENT 1 OF THE MAY 6, 2010 STAFF REPORT, WITH ADDITIONAL COMMISSION AMENDMENTS. COMMISSIONER KAJE SECONDED THE MOTION.**

The Commission specifically discussed the following amendments:

- **Section 20.20.046.S – Definitions.** Commissioner Moss referred to Item 3 and asked if there is another area in the code that talks about affordable housing that is not age related. Mr. Cohn explained that, at one time, senior assisted housing had a different parking standard, and he is not sure if it still does. Commissioner Moss questioned if there would need to be an age restriction if the affordable housing can meet all of the criteria in this section. Again, Mr. Cohn said this definition was specifically tied to age, and was based on studies that indicated that senior citizen housing generates less traffic and requires less parking.

  Commissioner Kaje clarified that the only reason for the definition is to address a specific senior housing issue. The term is not used outside of the context of the parking provisions. Mr. Cohn agreed and said the term is not used to reference a type of land use.

- **Section 20.30.350 – Amendment to the Development Code (legislative action).** Commissioner Kaje recalled he had some serious concerns about the amendment to begin with, and he was pleased to hear that it is being withdrawn, even if the reasons are different than the ones he would have.

  **COMMISSIONER KAJE MOVED THE COMMISSION WITHDRAW THE PROPOSED AMENDMENT TO SECTION 20.30.350 (AMENDMENT TO DEVELOPMENT CODE). COMMISSIONER BEHRENS SECONDED THE MOTION.**

  Commissioner Kaje said he still feels strongly that Criterion 2 and 3 are simply not at all equivalent in addressing the same thing.

  **THE MOTION CARRIED UNANIMOUSLY.**

- **Section 20.30.410 – Preliminary Subdivision Review Procedures and Criteria.** Commissioner Kaje recalled the Commission raised a concern at their last meeting that the proposed amendment appears to remove the City's ability to require dedication of land for public use and open space. His understanding of the staff's response was that public open space can be required through the use of SMC 20.60 (Adequacy of Public Facilities) and SMC 20.70 (Engineering and Utilities Development Standards). However, these sections speak to stormwater and other public facilities. They do not address open space and park space. Therefore, the proposed language still reads as if the City cannot require a dedication of park land. He requested staff provide further clarification. Mr. Szafran clarified that SMC 20.70.080 specifically addresses dedication of open space.

  Chair Wagner said it is her understanding that it is within the City's SEPA authority to require dedication of land for public use. Mr. Cohn agreed the City has this ability under SEPA authority, but it requires them to point to other code language, as well, such as SMC 20.70.080.

  Commissioner Kaje said the dedication of open space relates to open space that must be protected because of the way the regulations are written, and SMC 20.70.080 allows the City Council to accept such dedications of sensitive of areas. However, it does not provide for the ability to require

open space otherwise. It simply says that if a developer is required to set a certain area aside because it is in a sensitive area, etc. the City could accept that dedication. Mr. Cohn agreed, but explained that if the City can prove there is an impact, their SEPA authority allows the City to require various things, including dedication of land for parks. He recalled at the last meeting the Commission discussed that in order to get a dedication of a reasonable amount of park land, the development would have to be quite large because SEPA requires there be a nexus between the impact and the requirement.

Commissioner Behrens said he recognizes that large developments will not likely occur in Shoreline, but infill development occurs on a pretty continuous basis. However, there still does not seem to be a way to measure this in-fill development, and require developers to address the cumulative impacts of development in an area. The City is not getting any additional open space when this type of development occurs. He said he would like to see someone come up with a way to address this problem.

Commissioner Kaje said the proposed amendment would strike language in the current code (Item C.1) that reads, "The City Council may require dedication of land in the proposed subdivision for public use." He asked staff to explain the purpose of the amendment. Mr. Szafran said this was a clarifying amendment proposed by staff. The goal was to make the section easier to read. Chair Wagner asked if staff would support retaining Item C.1 to address the Commission's concerns. She expressed her belief that this would not be a threshold that would be tripped at an unreasonably low level. Instead, it would clarify for developers that, depending on the size of the project, the City may require dedicated land for public use.

Commissioner Broili said he doesn't see how striking Items C.1, C.2, C.3 and C.4 would actually contribute to clarity. The language seems clear enough as it is. Mr. Cohn recalled that the proposed amendment may have been intended to address State Law. He suggested the Commission could leave C.1 in the code, and staff could provide direction to the City Council regarding what the State Law requires.

**COMMISSIONER KAJE MOVED THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.410 (PRELIMINARY SUBDIVISION REVIEW PROCEDURES AND CRITERIA) BY UN-STRIKING ITEM C.1. COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Kaje said he did not address Items C.3 and C.4 because he believes issues related to streets and stormwater are covered adequately by the language that would become Item C.2.

Commissioner Perkowski suggested that a common phrase should be used in each of the sentences, such as "dedication of land for park use" or "parkland." Using two different terms gives the appearance that the language is trying to make a distinction between the two, which he does not believe to be the case. Commissioner Kaje said he would prefer not to change the terms. The majority of the Commission concurred.

**THE MOTION CARRIED UNANIMOUSLY.**

- **Section 20.30.680 -- Appeals.** Chair Wagner reminded the Commission of their earlier discussion to defer a decision on this amendment until a later date.

**COMMISSIONER BROILI MOVED TO WITHDRAW THE PROPOSED AMENDMENT TO SECTION 20.30.680 (APPEALS). COMMISSIONER ESSELMAN SECONDED THE MOTION.**

Commissioner Behrens asked if there are any Type C Land Use Actions on the horizon. Mr. Cohn said another master development plan will come before the Commission in the near future, but there is an administrative order currently in place that accomplishes what the proposed amendment is intended to do. Staff would follow the administrative order until an amendment has been adopted.

**THE MOTION CARRIED UNANIMOUSLY.**

- **Section 20.30.760 Notice and Orders.** Commissioner Kaje said he strongly disagrees with the proposal to strike Item H.

**COMMISSIONER KAJE MOVED THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.760 (NOTICE AND ORDERS) BY UN-STRIKING ITEM H. COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Kaje expressed his belief that the Commission would be setting a bad precedent by suggesting that when the City rescinds or otherwise changes an order, they have no obligation to spell out the reason for the change. He is not so concerned about the issue of how the notice and orders are mailed. He referred to the example given in the Staff Report about complications associated with rescinding orders, and he felt that revising Item H would address these complications. He summarized that it is absolutely reasonable to require the City to articulate in writing the reason for changing or modifying an order, even if it means a little more work.

Commissioner Broili asked staff to share their reasons for recommending that Item H be removed from the code language. Mr. Cohn said he does not believe the City Attorney has an issue with requiring the City to identify the reason for the modification or change. He said he thought the Commission's concern was making sure a person is notified if a notice and order is rescinded, and this change was made.

Chair Wagner agreed that it is important for the City to notify the person if something is rescinded, but she would not support maintaining the current language, either. She suggested they adjust the language to make its intent more clear.

Commissioner Kaje suggested that reordering the sentences in Item H would take care of the perceived problem. The Commissioners discussed various ideas for changing the language. Mr. Cohn explained that the City Attorney was concerned about any language that would limit the

circumstances under which the City could rescind or modify a notice and order. That is why staff recommended striking the entire paragraph. Chair Wagner reminded the Commission that this issue was raised when the recipient of the change notice and order decided the reasons for revocation were not appropriately detailed. She agreed that the language should give leniency to allow the City to revoke an order to fix something. Commissioner Kaje agreed that it is not necessary for the code language to itemize the reasons why the City might need to change or revoke a notice and order. But it is extremely important that the City is obligated to provide reasons to the recipient of the notice.

**COMMISSIONER KAJE REVISED HIS MOTION TO MOVE THAT THE COMMISSION REVISE THE PROPOSED AMENDMENT TO SECTION 20.30.760 (NOTICE AND ORDERS) BY UN-STRIKING ITEM H AND REWORDING IT TO READ:**

***H. THE DIRECTOR MAY REVOKE OR MODIFY A NOTICE AND ORDER ISSUED UNDER THIS SECTION. SUCH REVOCATION OR MODIFICATION SHALL IDENTIFY THE REASONS AND UNDERLYING FACTS FOR REVOCATION. THE DIRECTOR MAY ADD TO, RESCIND IN WHOLE OR PART AND OTHERWISE MODIFY OR REVOKE A NOTICE AND ORDER BY ISSUING A SUPPLEMENTAL NOTICE AND ORDER. THE SUPPLEMENTAL NOTICE AND ORDER SHALL BE GOVERNED BY THE SAME PROCEDURES APPLICABLE TO ALL NOTICE AND ORDERS CONTAINED IN THIS SECTION.***

**COMMISSIONER BROILI ACCEPTED THE MODIFICATION TO THE MOTION.**

Chair Wagner said she does not disagree with the spirit of requiring the City to notify a recipient of the reasons why a change and order is being modified or revoked. However, she cautioned that the proposed language still includes the details that staff and the City Attorney have identified as problematic. She recalled staff provided an example of a situation where the City did not explicitly set forth the reasons and underlying facts for the revocation, which caused problems. While she agreed that notice needs to be provided, she questioned the level of detail the City must provide as part of the notice.

Commissioner Kaje said he does not necessarily support the reasoning provided by City staff. If he had a notice and order on his property, he would expect the City to articulate why something had to be changed or rescinded. The issue raised in the example provided might not have happened if the language had been written more clearly, and the proposed language would make this clearer.

**THE MOTION WAS UNANIMOUSLY APPROVED AS AMENDED.**

- **Section 20.30.770 – Enforcement Provisions.** Commissioner Moss suggested that the words "an additional" be inserted in Item 3.

**COMMISSIONER MOSS MOVED THE COMMISSION ADD THE WORDS "AN ADDITIONAL" AT THE BEGINNING OF ITEM D.3 IN SECTION 20.30.700 (ENFORCEMENT PROVISIONS). THE NEW WORDING WOULD READ AS FOLLOWS:**

***D.3. AN ADDITIONAL PENALTY OF $2,000 IF THE VIOLATION WAS DELIBERATE, THE RESULT OF KNOWINGLY FALSE INFORMATION SUBMITTED BY THE PROPERTY OWNER, AGENT OR CONTRACTOR, OR THE RESULT OF RECKLESS DISREGARD ON THE PART OF THE PROPERTY OWNER, AGENT OR THEIR CONTRACTOR. THE PROPERTY OWNER SHALL ASSUME THE BURDEN OF PROOF FOR DEMONSTRATING THAT THE VIOLATION WAS DELIBERATE; AND***

**COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**Section 20.40.400 – Home Occupation.** Chair Wagner reminded the Commission that members of the audience provided comments regarding this proposed amendment. Commissioner Broili observed that staff adequately addressed the public's concern by pointing out that vehicles associated with home occupations would be allowed to park on the portion of the driveway that lies within the setback area. In addition, staff has provided language that clarifies the term "one-ton gross weight." Commissioner Esselman asked if additional language should be added to this section to address the parking issue, or if the concern is addressed by other sections of the code. Commissioner Moss recalled previous discussion that vehicles should be allowed to park within the front setbacks, but not within the side setbacks. At their last meeting they discussed the potential of allowing a home occupation to use part of the front setback to park vehicles rather parking on the street, as long as the vehicles do not infringe on the neighbors to each side and their ability for sight lines and access to their property is maintained. She suggested the language be amended to allow a home occupation to use part of the front setback for parking, as long as the vehicles do not encroach into the side setback areas. Commissioner Broili recalled that the current code allows home occupations to park vehicles within the front setback area. He agreed with Commissioner Moss that it would be appropriate to allow vehicles to park within the front setback areas, as long as they do not encroach into the side setback areas since this could result in sight distance concerns for adjacent property owners.

**COMMISSIONER MOSS MOVED THE COMMISSION MODIFY ITEM H.2 IN SECTION 20.40.400 TO READ:**

***H.2 SUCH VEHICLES SHALL NOT PARK WITHIN ANY REQUIRED SIDE SETBACK AREAS OF THE LOT OR ON ADJACENT STREETS, EXCEPT AS ALLOWED BY 20.50.410.H.***

Mr. Szafran asked if the Commission would be in favor of prohibiting vehicles from parking in driveways that run along the side setback. Commissioner Moss noted that Section 20.50.410.H addresses issues of when driveways are located within side setbacks.

**COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Behrens observed that vehicles that are not associated with home occupations would be allowed to park in the front and side setbacks, so the proposed language would place restrictions only on vehicles that are used for home occupations. He suggested the impediment a vehicle places on an adjacent property should be the issue; not whether or not it is used for a business. He summarized that he is opposed to placing exclusions on the use of property for home occupations. They do not exclude the use of property for non-commercial business, even though some of these activities can be very intrusive to a neighborhood. Mr. Szafran said the code does restrict the number of vehicles that can be parked on a property, and the vehicles must be licensed and operable. However, they do not limit the size and shape of vehicles that can park on single-family properties, nor do they limit the locations in which they can park. Mr. Cohn said that home occupations are more likely to have large trucks parked in front of their homes.

Commissioner Broili agreed with the point raised by Commissioner Behrens. He said he often sees large motor homes parked within side yard setbacks right up against the property line. Commissioner Moss concurred. She recalled Mr. Baker's point that someone who works for an off-site company could legally park a large vehicle in front of his home, but the proposed language would prevent a home occupation from doing the same. She summarized that the proposed language appears to penalize the small business owners who are trying to work from home and provide revenue for the City.

**COMMISSIONER MOSS MOVED TO AMEND HER MOTION TO STRIKE ITEM H.2. COMMISSIONER BROILI SECONDED THE MOTION TO AMEND.**

Chair Wagner recalled that at the last meeting, Mr. Szafran mentioned that another section of the code talks about the size of vehicles that can legally park in the street. She asked staff if there are general restrictions that would be applicable in all situations. The Commission agreed to table the discussion until staff could provide a code reference for their consideration.

**COMMISSIONER MOSS WITHDREW HER MOTION.**

- **Section 20.50.040 – Setbacks – Designation and Measurement.** Vice Chair Perkowski pointed out that the language in this section is intended to apply only to setbacks.

**VICE CHAIR PERKOWSKI MOVED TO ADD THE WORD "SETBACK" TO THE END OF ITEM 1.6 IN SECTION 20.50.040 (SETBACKS – DESIGNATION AND MEASUREMENT). THE NEW WORDING WOULD READ AS FOLLOWS:**

***I.6. ENTRANCES AND COVERED BUT UNENCLOSED PORCHES THAT ARE AT LEAST 60 SQUARE FEET IN FOOTPRINT AREA MAY PROJECT UP TO FIVE FEET INTO THE FRONT YARD SETBACK.***

**COMMISSIONER ESSELMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Commissioner Esselman referred to Item I.7 and pointed out that "site" should be changed to "sight." She also suggested that the language in Item I.8 seems redundant. The Commission agreed that these grammatical errors should be corrected.
Commissioner Moss cautioned that if the Commission agrees to the proposed change, they should make sure the proposed limits are not too restrictive. She said the picture provided in the Staff Report is unclear. Mr. Cohn pointed out that the stairs do not follow grade and are built on their own structure. The intent is that there be no more than 30-inches of separation between the actual grade and the stair tread. Staff recommends 30 inches because it correlates with the requirement that decks over 30-inches in height must obtain a permit. The Commission recommended that a graphic illustration would help to clarify the intent of this section, and the staff concurred.

**COMMISSIONER ESSELMAN MOVED TO ADD A GRAPHIC TO ILLUSTRATE THE INTENT OF ITEM I.7 AND TO REVISE THE WORDING IN ITEMS I.7 AND 1.8 OF SECTION 20.50.040 (SETBACKS – DESIGNATION AND MEASUREMENT) TO READ AS FOLLOWS:**

***7. UNCOVERED BUILDING STAIRS OR RAMPS NO MORE THAN 30 INCHES FROM GRADE TO STAIR TREAD AND 44 INCHES WIDE MAY PROJECT TO THE PROPERTY LINE SUBJECT TO SIGHT DISTANCE REQUIREMENTS.***

***8. ARBORS ARE ALLOWED IN REQUIRED YARD SETBACKS IF THEY MEET THE FOLLOWING PROVISIONS:***

- ***a. NO MORE THAN A 40-SQUARE-FOOT FOOTPRINT, INCLUDING EAVES;***
- ***b. A MAXIMUM HEIGHT OF EIGHT FEET;***
- ***c. BOTH SIDES AND ROOF SHALL BE AT LEAST 50 PERCENT OPEN, OR, IF LATTICEWORK IS USED, THERE SHALL BE A MINIMUM OPENING OF TWO INCHES BETWEEN CROSSPIECES.***

**COMMISSIONER MOSS SECONDED THE MOTION.**

- **Section 20.50.110 – Fences and Walls -- Standards.** Commissioner Esselman pointed out that the word "site" should be changed to "sight" in Item A. However, upon further discussion, it was noted that the term "site clearance provisions" should be changed to "sight distance provisions." Staff agreed to research the term and make the appropriate correction.

- **Section 20.50.310 – Exemptions from Permit.** Mr. Cohn reminded the Commission that additional changes were made to this amendment to address their previously stated concerns. Commissioner Kaje referred to Item A.6, and asked if the "city park" qualifier is intended to apply to wetland and stream buffers, as well as trees on a steep slope. Mr. Szafran answered that it is intended to apply to

all three. Mr. Cohn added that the language is intended to apply to the removal of noxious weeds and invasive vegetation in city parks.

Vice Chair Perkowski questioned the need for the term "steep slope." Mr. Cohn answered that a tree has to be on a steep slope, but the wetland and stream buffers do not.

Commissioner Kaje asked why the language in this section would only apply to City parks. He questioned why a private property owner would need a permit to remove noxious weeds or invasive species from a steep slope. Mr. Cohn said the distinction is that removal of noxious weeks within City parks would be done by volunteers under supervision. Again, Commissioner Kaje questioned why the applicability of this exemption would be limited to actions on public park land. He suggested this would discourage people from doing the right thing and getting rid of invasive species.

Commissioner Kaje referred to the Staff Report, which states that the purpose of the amendment is to allow the removal of noxious weeds and invasive vegetation, especially blackberries, in the critical areas without a clearing and grading permit. The main impetus for the amendment is to accommodate ongoing volunteer blackberry removal projects in Shoreline's parks. However, the amendment could allow the removal of up to 3,000 square feet of noxious weeds and invasive vegetation from any property in the City without a permit or the proposal could limit the exemption to work in parks only. Staff indicated they chose 3,000 square feet as the limit since the City's threshold for requiring a clearing and grading permit outside of critical areas is 3,000 square feet. The Staff Report further states that the amendment is modeled on the King County Blackberry Clearing Regulations, and in 2005 King County refined its regulations to eliminate the need for a clearing and grading permit to remove large patches of blackberries. King County currently allows removal of up to 7,000 square feet of noxious weeds and invasive vegetation without a permit in a critical area. Also, if a property owner wishes to remove more than 7,000 square feet of weeds, a permit is required, but it is free of charge.

Chair Wagner said the Commission must make a policy decision about whether or not the language in this section should be limited to parks.

**COMMISSIONER KAJE MOVED TO REVISE THE WORDING IN PROPOSED AMENDMENTS A.6 AND A.6.b IN SECTION 20.50.310 (EXEMPTIONS FROM PERMIT) TO READ AS FOLLOWS:**

***A.6. REMOVAL OF NOXIOUS WEEDS OR INVASIVE VEGETATION AS IDENTIFIED BY THE KING COUNTY NOXIOUS WEED CONTROL BOARD IN A WETLAND BUFFER, STREAM BUFFER OR THE AREA WITHIN A THREE-FOOT RADIUS OF A TREE ON A STEEP SLOPE LOCATED IN A CITY PARK IS ALLOWED WHEN:***

***A.6.b. PERFORMED IN ACCORDANCE WITH SMC 20.80.085 PESTICIDES, HERBICIDES AND FERTILIZERS ON CITY-OWNED PROPERTY AND KING COUNTY BEST MANAGEMENT PRACTICES FOR NOXIOUS WEED AND INVASIVE VEGETATION; AND***

***COMMISSIONER ESSELMAN SECONDED THE MOTION.***

Vice Chair Perkowski expressed concern about allowing pesticides and herbicides to be used within wetland buffers without a permit. Mr. Cohn referred to SMC 20.80.085, which specifically applies to city-owned property. It says that pesticides, herbicides and fertilizers that have been identified by State or Federal Agencies as harmful to humans, fish or wildlife shall not be used in a city-owned riparian corridor, shoreline habitat or its buffer, or a wetland or its buffer, except as allowed by the Director for the following circumstances:

1. If an emergency situation exists.
2. Compost or fertilizer may be used for native plant re-vegetation projects in any location.

Commissioner Broili agreed with Vice Chair Perkowski's concern. He does not want to allow anyone to use pesticides in wetland buffers without a permit. Vice Chair Perkowski suggested that this section should apply to any wetland or stream buffer, and not just to those on City-owned property.

Chair Wagner suggested that Vice Chair Perkowski's concern must be addressed via changes to SMC 20.80.085 rather than changes to Section 20.50.310. Limiting the language so it is applicable only to city-owned land would not address the problem since SMC 20.80.085 would not prohibit a private property owner from using herbicides and pesticides within the wetland or stream buffers on their own property. Commissioner Esselman suggested the Commission make a policy decision about whether the City should allow an exemption from a permit if any type of chemical would be used in the sensitive areas.

**COMMISSIONER KAJE WITHDREW HIS ORIGINAL MOTION AND MADE A NEW MOTION TO REVISE THE WORDING IN PROPOSED AMENDMENTS A.6 AND A.6.b IN SECTION 20.50.310 (EXEMPTIONS FROM PERMIT) TO READ AS FOLLOWS:**

***A.6. WITHIN CITY-OWNED PROPERTY, REMOVAL OF NOXIOUS WEEDS OR INVASIVE VEGETATION AS IDENTIFIED BY THE KING COUNTY NOXIOUS WEED CONTROL BOARD IN A WETLAND BUFFER, STREAM BUFFER OR THE AREA WITHIN A THREE-FOOT RADIUS OF A TREE ON A STEEP SLOPE IS ALLOWED WHEN:***

***A.6.b. PERFORMED IN ACCORDANCE WITH SMC 20.80.085 PESTICIDES, HERBICIDES AND FERTILIZERS ON CITY-OWNED PROPERTY AND KING COUNTY BEST MANAGEMENT PRACTICES FOR NOXIOUS WEED AND INVASIVE VEGETATION; AND***

**COMMISSIONER ESSELMAN SECONDED THE MOTION.**

Commissioner Kaje agreed that, at this time, the exemption should only apply to city-owned property. However, he would like the Commission to consider extending the provisions to private properties. He said he does not want to discourage this type of clearing from private properties, but he completely agrees with the concern highlighted by Vice Chair Perkowski. The Commission

agreed it would be appropriate to consider applying this provision to private properties at some point in the future.

- **Section 20.50.470 – Street Frontage Landscaping – Standards.** Chair Wagner recalled that changes were made to this language to build in flexibility, but also encourage more landscaping than what is currently required. Commissioner Broili recognized that the proposed language is better than the current code language, but it still does not go as far as he would like. He suggested this issue should be addressed in another location in the code. Mr. Szafran referred to Section 20.50.230 (Site Planning for Commercial Zones), which allows commercial buildings to have a zero setback. Commissioner Broili suggested that the next round of code amendments should include potential amendments to the setback requirements for commercial development found in Section 20.50.230. The remainder of the Commission agreed that would be appropriate.

- **Section 20.50.480 – Street Trees and Landscaping Within the Right-of-Way – Standards.** Mr. Szafran reviewed that staff provided an attachment showing the specific standards in the Engineering Development Guide for street trees and landscaping within the right-of-way. Chair Wagner recalled there was some confusion when the Commission previously discussed this amendment because some street improvements are governed by the engineering code as part of the street tree provisions and others are governed by the development code as part of the frontage landscaping provisions. Mr. Szafran pointed out that the word "trees" was replaced with "landscaping." Commissioner Broili recalled that Commissioner Behrens previously reminded the Commission that they are in the process of addressing the Tree Ordinance throughout the City, and the City should set an example. Questions were asked about whether the proposed amendment would be consistent with whatever comes out of the Tree Ordinance Update or if the Commission should wait until after the Tree Ordinance has been updated to address the proposed amendment to Section 20.50.480. Recognizing that the code is evolutionary, he would be comfortable recommending approval of the proposed amendment. They can revisit the language after the Tree Ordinance has been updated. The remainder of the Commission concurred.

- **Section 20.50.520 – General Standards for Landscape Installation and Maintenance Standards.** Chair Wagner said she shares Commissioner Kaje's concern with the provision that prohibits the canopy of mature trees and shrubs from reaching an above-ground utility. She suggested this implies that the tree would be punished if it touches the power line. Perhaps a better way to phrase the language is that trees should be selected that will not likely interfere with above-ground utilities. Commissioner Broili said the City of Seattle provides a list of recommended or approved trees. Mr. Szafran noted that the City has a similar list in Section 20.50.480.

  Commissioner Kaje referred to Section 19.1.C.1 of the proposed Engineering Development Guide, which states that the topping of street trees would be prohibited. He asked if this proposed provision is currently found in any other code language. Mr. Cohn said he could not answer that question. However, be noted that 19.3.C states that "mature tree and shrub canopies may not reach an above ground utility such as street lights and power lines." He explained that the obvious intent is that street trees should be of a variety that does not grow high. However, the question is what happens if they do. Again, Commissioner Broili suggested the City provide a list of approved street trees for

areas around utilities. Mr. Cohn concluded that this issue is intended to be dealt with in the Engineering Development Guide, and staff can find out how the Engineering Department intends to deal with the issue.

Commissioner Broili said he stills has a problem with the assumption that the tree canopy is the same width as the root zone, which is wrong. He recalled he previously provided information to staff to help address the issue, and he had hoped staff would have come back with some recommended language based on their reading of the document (International Society of Arboriculture's recommended calculation for identifying tree protection area as spelled out in Chapters 6, Subsection: Identification of Tree Protection Zones (Pages 72 to 74) of a book entitled, Trees and Development: A Technical Guide to the Preservation of Trees During Development by Nelda Matheny and James R. Clark). As per this document, Commissioner Broili summarized that the root zone is based on caliper at breast height, age of the tree, and health of the tree.

Mr. Cohn suggested the Commission could add language to this section, which states: "Root zone width shall be determined by using the International Society of Arboriculture's (ISA) recommended calculation for identifying tree protection area.

**COMMISSIONER BROILI MOVED TO REVISE THE WORDING IN PROPOSED AMENDMENT O OF SECTION 20.50.520 (GENERAL STANDARDS FOR LANDSCAPE INSTALLATION AND MAINTENANCE) TO ADD REFERENCE TO INTERNATIONAL SOCIETY OF ARBORICULTURE CALCULATIONS. THE NEW WORDING WOULD READ AS FOLLOWS:**

***O. LANDSCAPE PLANS AND UTILITY PLANS SHALL BE COORDINATED. THE PLACEMENT OF TREES AND LARGE SHRUBS SHALL ACCOMMODATE THE LOCATION OF REQUIRED UTILITIES BOTH ABOVE AND BELOW GROUND. LOCATION OF PLANTS AND TREES SHALL BE BASED ON THE MATURE CANOPY AND ROOT ZONE. ROOT ZONE SHALL BE DETERMINED USING THE INTERNATIONAL SOCIETY OF ARBORICULTURE'S RECOMMENDED CALCULATION FOR IDENTIFYING TREE PROTECTION AREA. MATURE TREE AND SHRUB CANOPIES MAY NOT REACH AN ABOVE GROUND UTILITY SUCH AS STREET LIGHTS AND POWER LINES. MATURE TREE AND SHRUB ROOT ZONES MAY OVERLAP UTILITY TRENCHES AS LONG AS 80 PERCENT OF THE ROOT ZONE IS UNAFFECTED.***

**COMMISSIONER MOSS SECONDED THE MOTION.**

Commissioner Kaje said it is his understanding that, based on the IAS guidelines, in many cases a root zone would be recognized to be larger than the canopy. He asked if the affect of the proposed language would be fewer trees in areas where there are utilities because they would be required to allow more space for them based on their larger root zones. Commissioner Broili this would not necessarily the case. There are techniques for clearing around the roots, installing the utilities, and then reburying the roots. These techniques could be used if less than a certain percentage of the roots would be impacted and an arborist determines the health of the tree would not be impacted. He

summarized that the purpose of the proposed amendment is to define the root zone, but management of the root zone must be addressed elsewhere in the code. Commissioner Kaje suggested this issue should also be addressed as part of the next set of code amendments. The remainder of the Commission concurred.

Commissioner Broili referred to the last sentence of the proposed new language for Item O and suggested that, if properly managed, the amount of overlap could be a flexible number. Arborists have become very sophisticated in the way they can lay in utilities with minimum disturbance to root zones. He said he is not sure that 80% is appropriate. Chair Wagner suggested that language could be added at the end of Item O to read, "as long as impact to root zone is appropriately managed to minimize damage according to the IAS Guidelines. Mr. Cohn said this change would go beyond his comfort level, and he would need more information before he could provide direction to the Commission. The Commission agreed to leave the language as currently proposed, and address the issue further as part of a future code amendment.

**THE MOTION CARRIED UNANIMOUSLY.**

Commissioner Esselman pointed out that "site" should be changed to "sight" in Item Q. The remainder of the Commission concurred.

- **Section 20.80.350 – Mitigation Performance Standards and Requirements.** Commissioner Kaje said the proposed amendment is to insert and include the cost for monitoring. He asked if the intent of the proposed language is to say that 125% of the cost of the project is sufficient bond to do the monitoring and fix whatever is wrong. If not, then the language needs to be clarified.

  **COMMISSIONER KAJE MOVED TO ADD THE WORDS "IN ADDITION" AND STRIKE "AND INCLUDE" IN THE PROPOSED AMENDMENT TO SECTION 20.80.350.G.2 (MITIGATION PERFORMANCE STANDARDS AND REQUIREMENTS). THE NEW WORDING WOULD READ AS FOLLOWS:**

  ***G.2. A CONTINGENCY PLAN SHALL BE ESTABLISHED FOR INDEMNITY IN THE EVENT THAT THE MITIGATION PROJECT IS INADEQUATE OR FAILS. A PERFORMANCE AND MAINTENANCE BOND OR OTHER ACCEPTABLE FINANCIAL GUARANTEE IS REQUIRED TO ENSURE THE APPLICANT'S COMPLIANCE WITH THE TERMS OF THE MITIGATION AGREEMENT. THE AMOUNT OF THE PERFORMANCE AND MAINTENANCE BOND SHALL EQUAL 125 PERCENT OF THE COST OF THE MITIGATION PROJECT IN ADDITION TO THE COST FOR MONITORING FOR A MINIMUM OF FIVE YEARS. THE BOND MAY BE REDUCED IN PROPORTION TO WORK SUCCESSFULLY COMPLETED OVER THE PERIOD OF THE BOND. THE BONDING PERIOD SHALL COINCIDE WITH THE MONITORING PERIOD.***

  **COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

- **Section 20.40.400 – Home Occupation (continued).** Mr. Cohn advised that staff was unable to find other sections in the code that talk about the size of vehicles that can legally park in the street. He explained that the purpose of the proposed language is to limit the impacts of home occupations on the residential neighborhoods because they are not the usual single-family uses. Chair Wagner recalled the comment was rightly raised that a large recreational vehicle or boat could have just as much impact as a vehicle associated with a home occupation. Commissioner Moss said there is also the example of a person being allowed to park a vehicle they use for work that is owned by an employer outside their home. Commissioner Behrens pointed out that there is a tow truck parked at about 180th Street and Midvale Avenue that is absolutely stuffed with junk. This is the most inappropriate vehicle he has seen anywhere in the City, but it is not regulated because it is not used as a business. He cautioned that the City should not have arbitrary rules and regulations that punish someone because they happen to use a vehicle for business. A vehicle either imposes on a neighborhood or it does not.

**COMMISSIONER BROILI MOVED TO STRIKE ITEM H.2 IN SECTION 20.40.400 (HOME OCCUPATIONS). COMMISSIONER MOSS SECONDED THE MOTION.**

Commissioner Kaje said he agrees with the sentiments expressed, especially as they relate to the setback areas. However, he has a question about adjacent streets. He said it his understanding that the City does have some rules about parking vehicles for indeterminate periods of time on public streets. Mr. Cohn said he believed that vehicles are only allowed to park on the street for three days without moving. Commissioner Kaje questioned if they should strike all of Item 2, except for the portion that relates to adjacent streets. He said he is interested in the equity issue of what they allow people to do with private vehicles of whatever size. Chair Wagner referred to SMC 12.15.200 (Nuisance in the Right of Way), which is related to any activity, object or thing which occupies any right-of-way without legal authorization.

Commissioner Broili recalled from the Commission's past work that there is some language in the code that prohibits vehicles from being on public property unmoved for more than a certain period of time. Commissioner Moss agreed and said it is not a very long period of time.

Commissioner Kaje asked if he would have any recourse if his neighbor were to park a commercial type truck that is owned by his employer in front of his house. Commissioner Behrens said this type of situation occurred in front of his house, and the answer was no. If that is the case, Commissioner Kaje questioned the need to place a limitation on home-based businesses to prohibit them from being able to park in the street.

Chair Wagner recalled that people spoke to the Commission previously about a particular street that was impacted by large trucks that were parking on the street continuously. The trucks had significant enough of an impact that the issue went before the City Council, who initiated a street closure to help prevent large trucks from accessing the street. While she does not disagree with the comments of her fellow Commissioners, she questioned if the Commission has the right set of information to make an informed recommendation. There could very well be existing City codes to address this issue.

Commissioner Broili suggested the Commission move forward with the motion to strike Item H.2. He reminded the Commission that the code amendment process is evolutionary, and the proposed amendment has a number of changes that will be helpful to home occupation businesses. If there is a problem, they can reexamine this section at a future date and better define what the solution might be.

Commissioner Moss agreed that this is a bigger issue, and she would like for it to be addressed. The underlying point is that they do not want to be more restrictive to a home-based business than a regular citizen who may be driving a work vehicle. She agreed with Commissioner Broili that the issue needs to be studied in a different and more comprehensive context in the future. She said she would continue to support the motion to strike Item H.2.

**THE MOTION CARRIED UNANIMOUSLY.**

Commissioner Kaje recalled that at their last meeting he suggested using a class of vehicle in Item H.3. He said he would hate the City to prohibit a vehicle associated with a home occupation business that is doing everything else right just because they slightly exceed the size limit and a neighbor complains. Using a class of vehicle system would describe the type of vehicles allowed. He felt this would be a much more business friendly and workable option. He said staff mentioned a situation of a vehicle with a trailer. He noted that if the trailer is unhitched, it cannot be measured as one vehicle any more. He said he is disappointed with the proposed language. While he supports the intent, he does not like the solution that has been presented by staff. Mr. Cohn recalled that if a trailer is unhitched, it would also be limited to no more than 22 feet in length. He suggested it would be helpful if there was some way to use the class criteria to talk about more than trucks. People have trucks and trailers, which count for two vehicles. If they are just looking at truck classes, the trailer would not have any standing. He reminded the Commission that the intent of Item H.3 is to limit impacts. Mr. Kaje suggested that perhaps they could have a class for the vehicle, but a size for an accessory trailer.

Commissioner Kaje suggested that the way Item H.3 is currently written, it will come across as nit picky. He said he would prefer to defer their recommendation on Item H.3 until staff can provide alternative language to better address the issue. Mr. Cohn said the current language states that vehicles shall not exceed a weight capacity of one ton. Commissioner Kaje said he is not suggesting that the current language be retained. He said he would support the proposed language for the time being, but he suggested the Commission revisit it at a future point. He expressed concern that that proposed language could provide a tool for a neighbor with a grudge to measure a vehicle to the nearest inch and then issue a complaint. Mr. Cohn agreed to work with the Code Enforcement staff to develop a way to talk about two different classes of vehicles. Chair Wagner advised that any new language should be made part of the record that is forwarded to the City Council, so the City Council could act upon the new proposal.

Commissioner Behrens recalled that Georgetown, near the Port of Seattle, had a big problem with tractor trailers parking in the area. They imposed a parking ban for particular types of trucks. He suggested staff research what they did to resolve the issue.

Vice Chair Perkowski pointed out that, as written, Item H.3 does not really address the issue of trailers. Commissioner Moss pointed out that a licensed trailer is considered a vehicle, even if it is unhitched.

**Vote by Commission to Recommend Approval or Denial or Modification**

**THE MAIN MOTION TO RECOMMEND APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS (#301606) SHOWN IN ATTACHMENT 1 OF THE MAY 6, 2010 STAFF REPORT, WAS APPROVED UNANIMOUISLY, WITH THE AMENDMENTS OUTLINED ABOVE.**

**Closure of Public Hearing**

The public hearing was closed.

**DIRECTOR'S REPORT**

Mr. Cohn reported that staff presented the Planning Commission's recommendation for the Southeast Subarea Plan to the City Council on May 3rd. Vice Chair Perkowski was present to represent the Commission. The City Council had very few questions. Staff plans on going back in two weeks; but at this time, they are not sure what the Council's issues might be.

Mr. Cohn announced that the City Council would discuss the CRISTA Master Development Plan on May 10th, and it is possible they could approve the document that evening. Chair Wagner suggested that, in the event that an amendment to the CRISTA Master Development Plan comes before the Board, it would be helpful for staff to provide direction to the Commission about how to handle community interactions so they do not end up biasing themselves.

Mr. Cohn reported that the Snohomish County Council is continuing its discussion on Urban Centers, their zoning that would apply to Point Wells. They have had a continued public going on for several meetings, and they think they will reach a decision next Wednesday.

Mr. Cohn announced that the Comprehensive Plan Amendment Docket would be presented to the City Council on May 24th. Staff expects the City Council to approve the docket that evening.

**UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

**NEW BUSINESS**

No new business was scheduled on the agenda.

## REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Moss reported on her attendance at the "Green Tools Conference" on May 5th, which was very interesting. There were good speakers. It was brought up that Shoreline might think about becoming a leaf of the Cascadia Regional Green Building Coalition. This is food for thought to put out the public to see if others are interested. She said she attended a session on low-impact development where they discussed how rain gardens could absorb moisture from stormwater runoff, in particular. She also attended another session about how a community in Canada was developed via a master plan that addressed the issue of pervious versus impervious roads. The conference was helpful and interesting, and she noted that Councilmember Eggen was in attendance, along with members of the City staff.

Commissioner Moss said she sent out an email link a week ago to an Easter Seals Project Action Distance Learning Session talking about accessibility and walkability. She said she plans to listen, and would bring back information for the Commission. She noted their website provide PDF files about a number of things related to accessibility that may be of interest to the Commissioners.

## AGENDA FOR NEXT MEETING

Mr. Cohn reviewed that the May 20th agenda would include a study session on design review. He reported that staff has been working with a consultant from MAKERS to come up with some interesting presentations and discussions for the Commission.

## ADJOURNMENT

The meeting was adjourned at 10:42 P.M.

| | |
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| Michelle Linders Wagner | Jessica Simulcik Smith |
| Chair, Planning Commission | Clerk, Planning Commission |

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DRAFT

These Minutes Subject to June 17th Approval

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION
## SUMMARY MINUTES OF REGULAR MEETING

May 20, 2010 | Shoreline City Hall
7:00 P.M. | Council Conference Room

**Commissioners Present**
Chair Wagner arrive at 7:04 p.m.
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Moss

**Commissioners Absent**
Commissioner Kaje

**Staff Present**
Joe Tovar, Director, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Paul Cohen, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

**Other**
Bob Bengford, MAKERS Architecture & Urban Design

Vice Chair Perkowski called the meeting to order at 7:03 p.m. Upon roll call by the Commission Clerk the following Commissioners were present: Vice Chair Perkowski, and Commissioners Behrens, Broili, Esselman, and Moss. Chair Wagner arrived at 7:04 p.m. Commissioner Kaje was absent.

## DIRECTOR'S COMMENTS

Mr. Tovar reported on the following:

- A special workshop hosted by the City of Mountlake Terrace will be held on June 14 from 7:00 to 9:00 p.m. This event is for City Councils, Planning Commissions and anyone else interested in learning more about the Growth Management Act, the Open Public Meetings Act and other legal issues. He passed out a flyer and invited the Commission.
- On August 2nd, the City Council will hear a presentation on concurrency by the City's consultant. He extended an invitation to the Commission to attend.
- There will be no jail in Shoreline. He noted he would be visiting the Ballinger Neighborhood meeting on May 25 to talk about future of Aldercrest.
- The City Council is scheduled to adopt the Southeast Neighborhoods Subarea Plan on May 24.
- Last week Mr. Tovar attended two meetings. One was a presentation on a new software program being developed called *Decision Commons*. The second meeting was with the Department of Transportation on the Draft Main Street Highways Program.

## REVIEW OF DESIGN REVIEW CHARRETTE AND PRELIMINARY CONCEPTS FOR TOWN CENTER

Bob Bengford from MAKERS Architecture & Urban Design was present to facilitate the evening's discussion. He gave a brief introduction of the project and summarized some of the key findings from the Design Review and Town Center Charrette conducted on April 1. He noted that the results from the Small Group Exercise mirrored what came out of the Visual Preference Survey. He reported that people generally liked two to three story residential townhouses along Linden and Stone, with no commercial except for some corner retail and live/work units along Linden. In the Midvale area people preferred three to four story mixed-use pedestrian oriented retail spaces. On Aurora people indicated they wanted to see a range of commercial uses with building up to six stories. He also reviewed that the high scoring amenities were pedestrian oriented spaces scattered throughout the town center area, a green park commons area located near the trail and Midvale area, and a covered commons feature that could be located in many different locations.

Mr. Bengford presented a picture tour of notable Town Center Developments in the region that have components that would geographically fit within in the Shoreline Town Center. He reviewed concept drawings and build-out for Juanita Village, Burien Town Center and the Mill Creek Town Center.

Mr. Bengford spent time reviewing an array of regulatory and design guideline concepts that could be used to get the desired result for certain areas in the Shoreline Town Center. He pointed to the Urban Design Concepts Map that he created for the Shoreline Town Center based on feedback gathered from the Small Group Exercise and Visual Preference Survey results and reviewed the concepts for each area. He then asked the Commission if they agreed with the land use assumptions noted on it and invited them to make notations on what they wanted to see changed, added, etc.

The Commission agreed they would like to see more east-west connections as well as take advantage of the special cross-walk on Aurora. They also want to explore the idea of re-routing portions of Midvale Avenue to the east to allow businesses to abut the Interurban Trail.

Mr. Cohen said staff will take the Commission's feedback and bring back something more definitive on June 17. Vice Chair Perkowski said he felt he got enough talking points from meeting to be able to finish writing the Vision Statement for Town Center. He said he could have it finished by June 17.

## ADJOURNMENT

The meeting was adjourned at 9:36 P.M.

_____ _____

Michelle Linders Wagner
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

# PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Proposed Amendments to the Development Code
**DEPARTMENT:** Planning and Development Services
**PRESENTED BY:** Jeff Forry, Permit Services Manager

## SUMMARY

In April of 2010 the Council adopted a series of goals that provide direction to departments and assistance in developing their respective workplans. Included in Council goal number one is a desire to implement the Community Vision by updating key development regulations and to make the permit process clear, timely and predictable through appropriate planning tools.

A summary of proposed amendments can be found in **Attachment 1 and 2**. Generally the amendments proposed include:

- **Issue 1 – Environmental Review Procedures**
  Raise the thresholds on the exempt levels for environmental review under SEPA
  1. 4 dwelling units to 20 dwelling units
  2. Commercial buildings 4,000 sq ft and 20 parking stalls to 12,000 sq ft and 40 parking stalls
  3. Parking lots for 20 parking spaces to 40 parking spaces

  Clarify appeal procedures for Type C actions

- **Issue 2 – Engineering Standards – Chapter 20.70**
  Modify various sections to be consistent with other technical standards

The purpose of this study session is to:
- Briefly review the proposed revisions to the Development Code
- Respond to questions regarding the proposed amendments
- Identify any additional information that may be necessary

## BACKGROUND / ANALYSIS

### Issue 1 – Environmental Review Procedures

One "planning tool" relied upon by staff and the public is SEPA and the City's adopted environmental review procedures. Due to changes in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), and the Municipal Code, the environmental procedures are due for review and update. An adjustment to categorical exemptions will assist in providing for a clear, timely and predictable permit process. "Categorical exemptions" are exemption actions identified in state law which do not significantly affect the environment.

### State Environmental Policy Act

Washington's State Environmental Policy Act (SEPA) was first adopted in 1971. Among other things, the law required all state and local governments within the state to:

- "Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;" and

- Ensure that "…environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations…" [RCW 43.21C.030.(2)(a) and (2)(b)]

The policies and goals in SEPA supplement those of state agencies, counties, cities, and districts. Any governmental action may be conditioned or denied pursuant to SEPA. Provided, that the conditions or denials are based on policies adopted by the City and incorporated into adopted regulations, plans, or codes.

The environmental review process in SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable significant impacts for all elements of the environment. Combining the review processes of SEPA and other laws reduces duplication and delay by combining study needs, comment periods and public notices, and allowing agencies, applicants, and the public to consider all aspects of a proposal at the same time. A proposal can be either project proposals (new construction, fill and grade, etc.) or non project proposals (Comprehensive plans, Zoning, Development regulations, etc.).

**Findings**
The City Council adopted the City's initial Comprehensive Plan in 1998 and a significant update of the plan in 2005. To implement the Comprehensive Plan the City has enacted appropriate zoning.

The City Council also adopted the Shoreline Development Code in 2000 which included the minimum SEPA categorical exemptions listed in WAC 197-11-800 (1).

After the Comprehensive Plan, zoning and Development Code were adopted, the City enacted additional environmental standards and regulations for stormwater, tree retention, traffic / sewer / water concurrency, street improvements and updated the critical areas regulations based on the best available science.

Development applications are reviewed for compliance with the environmental regulations, and also for compliance with the Shoreline Municipal Code, including Title 13 (Stormwater Manual), Chapter 20.30 Subchapter 7 (Subdivisions), and other applicable standards all of which have been determined to be consistent with the Comprehensive Plan goals and policies. Increases in the SEPA categorical exemption thresholds are supported by local conditions, since compliance with adopted and updated regulations and standards will provide adequate mitigation for the environmental impacts of projects up to the maximum exemptions allowed by WAC 197-11-800(1)(c).

Increasing the SEPA categorical exemption threshold levels in accordance with WAC 197-11-800 (1) allowances will increase certainty for applicants and the public while maintaining environmental standards. The adoption of agency SEPA procedures is exempt from SEPA review under WAC 197-11-800(19)

Staff has evaluated the goals of GMA as set forth in RCW 36.70A.020 and determined that the proposed amendments reflect the appropriate balancing of the public interests served by the planning goals of the GMA

**Analysis**
The City of Shoreline SEPA regulations are in Title 20 of Shoreline's Municipal Code (SMC). The City's original SEPA regulations were adopted in 1995. In order to comply with SEPA rules in WAC 197-11 and model SEPA ordinance in WAC 173-806 the City adopted Ordinance No. 238 in 2000. The environmental ordinance in use today is essentially the same ordinance that was adopted 15 years ago having under gone only two minor amendments. The follow areas are under consideration:

1. Adoption by reference.

SMC 20.30, Subchapter 8, adopts significant portions of the SEPA rules (WAC 197-11) by reference. Sections of WAC 197-11 have been added and/or removed since the City adopted them in 1995, particularly in regards to SEPA and GMA integration. This update reviewed changes in WAC 197-11 and the adoption lists in SMC 20.30, Subchapter 8 to ensure the City is up-to-date and compliant with state regulations.

2. Model Code.

SMC 20.30, Subchapter 8, is largely based off the model code in WAC 173-806. As with WAC 197-11, there have been changes to WAC 173-806 since 1995. This update provides for consistency with WAC 173-806 and updates to SMC 20.30, Subchapter 8 where appropriate to ensure the City is up-to-date and compliant with state regulations.

3. Categorical exemptions - Flexible thresholds.

State SEPA rules allow local jurisdictions to modify the categorically exempt threshold levels for certain minor new construction activities. The City of Shoreline has only modified one of these flexible thresholds. These activities and their thresholds are as follows:

a. The construction or location of any residential structures of four dwelling units.
**Can be modified up to 20 dwelling units.**

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.
**Does not apply in Shoreline.**

c. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles.
**Can be modified up to 12,000 square feet and 40 automobiles.**

d. The construction of a parking lot designed for twenty automobiles.
**Can be modified up to 40 automobiles.**

e. Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.
**The City has adjusted this exemption up to the maximum 500 cubic yards.**

4. Appeals

The amendment corrects a conflict with State law requiring that procedural SEPA appeals be consolidated with the predecisional hearing if one is held and also be heard by the same hearing body or officer. In our code the SEPA appeal is heard by the Hearing Examiner in all cases but the predecisional hearing is held by the Planning Commission for most Type C actions. The amendment removes the administrative appeal for a DNS on Type C actions where the Planning Commission makes the recommendation after hearing.

The amendment also removes substantive SEPA appeals including conditions in a DNS or denial based on SEPA authority for all Type C actions. Substantive appeals unlike

procedural SEPA threshold appeals may not be consolidated with a predecisional hearing on the merits of the proposal, but must be consolidated with an administrative appeal of the decision itself. There is no appeal authority of Type C action, these SEPA appeals must be brought together with appeal of the underlying decision in Superior Court. Former B ,C and D are combined in new A (1) and (2) to specify when substantive appeals are allowed rather than using the existing "if any" language.

Finally the provision allowing an extra seven days for a SEPA appeal is clarified to add the additional requirement of WAC197-11-680(3)(vi)(D) that the permit decision is filed at the same time as the DNS and not simply all DNS that receive public comment. The City uses the optional DNS process for most permits which avoids duplicate comment on the DNS and for which additional appeal time is not required.

5. Critical Areas – Elimination of SEPA evaluation for categorically exempt proposals within critical areas

WAC 197-11-908

1. *Each county/city may select certain categorical exemptions that do not apply in one or more critical areas designated in a critical areas ordinance adopted under GMA (RCW 36.70A.060). The selection of exemptions that will not apply may be made from the following subsections of WAC 197-11-800: (1), (2)(a) through (h), (3), (5), (6)(a), (13)(c), (23)(a) through (g), and (24)(c), (e), (g), (h).*

   *The scope of environmental review of actions within these areas shall be limited to:*

   *(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and*

   *(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.*

   *All other categorical exemptions apply whether or not the proposal will be located within a critical area. Exemptions selected by an agency under this section shall be listed in the agency's SEPA procedures (WAC 197-11-906).*

2. *Proposals that will be located within critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in a critical area.*

GMA cities and counties considering adjustments to their categorical exemptions should consider whether the exemption would apply to a project proposed within a critical area. It is generally recommended that a new exemption not apply in critical areas unless the city or county has updated its critical areas policies and regulations to include best available science under RCW 36.70A.172.

The City's critical area regulations were originally adopted under Ordinance 238 and subsequently amended by Ordinance 324 and 398. The City's critical areas regulations include best available science. The City also employs qualified professionals as necessary in reaching its decisions on development in or adjacent to critical areas. Accordingly, there is no net loss of environmental evaluation cause by raising the categorical exemption thresholds.

**Issue 2 – Engineering Standards – Chapter 20.70**

Periodic review of adopted standards and regulations is necessary to insure that there is consistency between polices and the regulations. Council goal number one supports this activity. In reviewing Chapter 20.70 the following issues were identified.

1. Many of the codified standards in Chapter 20.70 of the SMC are excerpts from various technical manuals that are not referenced in the chapter so their origins are unknown. Technical standards are subject to change and some of the information contained in this chapter is inconsistent with technical engineering manuals employed by the City, State and other local agencies.

2. The City requires frontage improvements for a variety of development activities including individual new single family residences and additions or remodels to single family dwellings where the value exceeds 50% of the improved value of the property. Frontage improvements are intended to offset the impact of the development activity.

   Evaluation of this practice indicates that it is inconsistent with the policies in the Comprehensive Plan. Several court cases at the state and federal level has caused re-thinking of this requirement.

**Background**

**Standards revisions**
Generally, technical manuals are adopted in their entirety by reference. Subsequent to the adoption of Chapter 20.70 an Engineering Development Guide (EDG) was published. The EDG is prepared under the authority granted the department in section 20.70.020 SMC and contains specifications, standardized details, and design standards. The current edition of the EDG establishes the technical manuals (including the 2005 DOE Stormwater Manual) and standards employed for public works projects and development.

**Frontage improvements**
Comprehensive Plan policy T35 provides that devlopment regulations “require all commercial, multi-family and residential short plat and long plat developments to provide for sidewalks or separated all weather trails, or payment in-lieu of sidewalks.” This policy provides clear direction relative to the types of projects that must install sidewalks aka frontage improvements. The mitigation of the impacts on infrastructure for this level of development is provided for in various locations in the Revised Code of Washington (RCW) and through the use of the City’s substantive authority under SEPA. The policy that was developed after the adoption of the Development Code does not extend to individual single family dwellings..

For determining the level of impact of development the Revised Code of Washington defines “development activity" as any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities. In reviewing current regulations a nexus cannot be drawn to demonstrate that the level of mitigation required for development or redevelopment of an existing platted single family lot is reasonably related to the development. Nor can it be demonstrated this level of development “creates additional” demand and need for public facilities.

**AMENDMENTS AND ISSUES**

The attachments include 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.

**Docketed Amendments:**

These proposed amendments were reviewed and supported by a staff panel and are being supported and forwarded by the Director:

**ATTACHMENTS**

**Attachment 1:** Amendments to 20.30, Subchapter 8 – Environmental Procedures
**Attachment 2:** Amendments to Chapter 20.70 – Engineering and Utilities Development Standards.

**20.30.040 Ministerial decisions – Type A.**

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

~~However, permit applications, including certain categories of building permits, and~~ P~~p~~ermits for projects that require a SEPA threshold determination~~,~~ are only subject to the public notice requirements, target timelimits, and appeal authority specified in Table 20.30.050 for SEPA threshold determinations.

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

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

| Action Type | Target Time Limits for Decision | Section |
|---|---|---|
| **Type A:** | | |
| 1. Accessory Dwelling Unit | 30 days | 20.40.120, 20.40.210 |
| 2. Lot Line Adjustment including Lot Merger | 30 days | 20.30.400 |
| 3. Building Permit | 120 days | All applicable standards |
| 4. Final Short Plat | 30 days | 20.30.450 |
| 5. Home Occupation, Bed and Breakfast, Boarding House | 120 days | 20.40.120, 20.40.250, 20.40.260, 20.40.400 |
| 6. Interpretation of Development Code | 15 days | 20.10.050, 20.10.060, 20.30.020 |
| 7. Right-of-Way Use | 30 days | 12.15.010 – 12.15.180 |
| 8. Shoreline Exemption Permit | 15 days | Shoreline Master Program |
| 9. Sign Permit | 30 days | 20.50.530 – 20.50.610 |
| 10. Site Development Permit | 60 days | 20.20.046, 20.30.315, 20.30.430 |
| 11. Deviation from Engineering Standards | 30 days | 20.30.290 |
| 12. Temporary Use Permit | 15 days | 20.40.100, 20.40.540 |

| | | |
|---|---|---|
| 13. Clearing and Grading Permit | 60 days | 20.50.290 – 20.50.370 |
| 14. Planned Action Determination | 28 days | 20.90.025 |

An administrative appeal authority is not provided for Type A actions, except that any Type A action which is not categorically exempt from environmental review under Chapter 43.21C RCW or for which environmental review has not been completed in connection with other project permits shall be appealable. Appeal of these actions together with any appeal of the SEPA threshold determination is set forth in Table 20.30.050(4). (Ord. 531 § 1 (Exh. 1), 2009; Ord. 469 § 1, 2007; Ord. 352 § 1, 2004; Ord. 339 § 2, 2003; Ord. 324 § 1, 2003; Ord. 299 § 1, 2002; Ord. 244 § 3, 2000; Ord. 238 Ch. III § 3(a), 2000).

**20.30.550 Categorical exemptions and threshold determinations – Adoption by reference.**

The City adopts the following sections of the SEPA Rules by reference, as now existing or hereinafter amended, as supplemented in this subchapter:

WAC

197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-355 Optional DNS process.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-800 Categorical exemptions ~~(flexible thresholds)~~.
~~*Note: the lowest exempt level applies unless otherwise indicated.*~~
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

(Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(g), 2000).

**20.30.560 Categorical exemptions – Minor new construction.**

The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water; ~~2) the proposal would alter the existing conditions within a critical area or buffer~~; or 2~~3~~) a rezone or any license governing emissions to the air or discharges to water is required.

A. The construction or location of any residential structures of ~~four~~ 20 dwelling units.

B. The construction of an office, school, commercial, recreational, service or storage building with ~~4,000~~ 12,000 square feet of gross floor area, and with associated parking facilities designed for ~~20~~ 40 automobiles.

C. The construction of a parking lot designed for ~~20~~ 40 automobiles.

D. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (Ord. 324 § 1, 2003; Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(h), 2000).

**20.30.680 Appeals**

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

~~B. Appeals of threshold determinations are procedural SEPA appeals which are conducted by the Hearing Examiner pursuant to the provisions of Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals, subject to the following:~~

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

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

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

4. All SEPA ~~An~~ appeals of a DNS for actions classified in SMC 20.30.060 as Type A, B, or those C actions with the Hearing Examiner as Review Authority in Chapter 20.30 SMC, Subchapter 2, Types of Actions, must be filed within 14 calendar days following notice of the threshold determination as provided in SMC 20.30.150, Public notice of decision; provided, that the appeal period for a DNS for Type A, B, or C actions issued at the same time as the final decision shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies. For Type L or Type C actions with the Planning Commission as Review Authority ~~not classified as Type A, B, or C actions in Chapter 20.30 SMC, Subchapter 2, Types of Actions~~, no administrative appeal of a DNS is permitted.

5. The Hearing Examiner shall make a final decision on all procedural SEPA determinations. The Hearing Examiner's decision may be appealed to superior court as provided in Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearings and Appeals.

~~C. The Hearing Examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.~~

~~D. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal. See Chapter 20.30 SMC, Subchapter 4, General Provisions for Land Use Hearing and Appeals.~~

~~E.~~B. Notwithstanding the provisions of subsection~~s~~ (A) ~~through (D) of this section~~, the Department may adopt procedures under which an administrative appeal shall not

be provided if the Director finds that consideration of an appeal would be likely to cause the Department to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The Director's determination shall be included in the notice of the SEPA determination, and the Director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action

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**Chapter 20.70**
**Engineering and Utilities**
**Development Standards**

**Subchapter 1. General Engineering Provisions**

**20.70.010 Purpose.**
*Reworded purpose statement. Removed regulatory language.*

**20.70.020 Engineering Development Guide.**
*Reworded for clarification and added cite to 20.10.050. A clear link to the authority granted to the director to publish standards and procedures is established.*

~~**20.70.030**~~ **Required street improvements.**
*Moved to 20.70.210 – Subchapter 4*
*Clarified when frontage improvements are required to address nexus to impact. Clarification lead to a change in voluntary contributions (fee in-lieu) collected for system improvement. Provides consistency with RCW 82.02 and court decisions regarding voluntary payments.*

~~**20.70.035**~~ **Required stormwater drainage facilities.**
*Moved t0 20.70.220 – Subchapter 4*

**Subchapter 2. Dedications** - *Section Renumbered/reorganized*

**20.70.040 Purpose**.
*Summarized purpose statement and added a new General section to identify when dedications could be required*

**20.70.050 Dedication of right-of-way.**
*Clarified wording*

**20.70.060 Dedication of stormwater facilities – Drainage facilities accepted by the City.**

**20.70.070 Dedication of stormwater facilities – Drainage facilities not accepted by the City.**
*Combined .060 and .070 into one section.*

**20.70.080 Dedication of open space.**
*Wording modified to include critical areas.*

**20.70.090 Easements and tracts.**
*Added language to tracts to clarify that they do not represent a building site.*

**Subchapter 3. Streets** - *Section Renumbered/reorganized*

**20.70.100 Purpose.**
*Wording changes throughout to incorporate Transportation Master Plan*

**20.70.110 Street classification.**

**20.70.120 Street plan.**

~~**20.70.130 Street trees.**~~
*Deleted to eliminate confusion. Chapter 12 SMC regulates activities in the right-of-way. Specific criteria for street landscaping/trees are based on the street classification and specific street segment. This will be further clarified by the Transportation Master Plan. Landscaping*

*provisions requiring street trees has also been modified to permit flexibility.*

~~**20.70.140 Truck routes.**~~

*Deleted section. Discussion of truck routes is not necessary.*

**20.70.150 Street naming and numbering.**

**20.70.160 Private streets.**

~~**20.70.170 Sight clearance at intersections – Purpose.**~~

~~**20.70.180 Sight clearance at intersections – Obstruction of intersection.**~~

~~**20.70.190 Sight clearance at intersections – Sightline setbacks for intersection types.**~~

~~**20.70.200 Sight clearance at intersections – Obstructions allowed.**~~

*Deleted sections. They conflict with WSDOT Manual and other technical standards and do not provide a comprehensive evaluation of access management. General engineering principles for access management have been added to the Engineering Development Guide.*

**Subchapter 4. ~~Sidewalks, Walkways, Paths and Trails~~**

*Created new subchapter 4 and incorporated required improvements for frontage, stormwater, pathways. Wording in these sections was changed to meet reformatting.*

~~**20.70.210 Purpose.**~~

~~**20.70.220 Required installation.**~~

~~**20.70.230 Location.**~~

**Subchapter 5. Utility Standards**

*Clarified language by adding the term service connection. Title 13 regulates when Utilities must underground their facilities, the Development Code specifies when development triggers for undergrounding of service connections.*

*Reformatted section*

**20.70.440 Undergrounding of electric and communication facilities – Purpose.**

**20.70.470 Undergrounding of electric and communication facilities – When required.**

**Chapter 20.70**
**Engineering and Utilities Development Standards**

## SUBCHAPTER 1. General Engineering Provisions

**20.70.010 Purpose**.
The purpose of this chapter is to establish engineering regulations and standards to implement the Comprehensive Plan and provide a general framework for relating the standards and other requirements of this Code to development.

**20.70.020 Engineering Development Guide.**
Pursuant to SMC Section 20.10.050 The Director is authorized to prepare and administer an "Engineering Development Guide". The Engineering Development Guide includes processes, design and construction criteria, inspection requirements, standard plans, and technical standards for engineering design related to development.

## SUBCHAPTER 2. Dedications

**20.70.110 Purpose.**
The purpose of this subchapter is to provide guidance regarding the dedication of facilities to the City. Dedication shall occur at the time of recording for subdivisions, and prior to permit issuance for development projects.

**20.70.120 General**
Dedications may be required in the following situations:

A. When it can demonstrated that the dedications of land or easements within the proposed development or plat are necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply;
B. To accommodate motorized and nonmotorized transportation, landscaping, utilities, surface water drainage, street lighting, traffic control devices, and buffer requirements as required in 20.70.210;
C. Prior to the acceptance of a private street, private stormwater drainage system or other facility for maintenance;.
D. The development project abuts an existing substandard public street and additional right-of-way is necessary to incorporate future frontage improvements as set forth in the Transportation Master Plan and the Engineering Development Guide for public safety; or
E. Right-of-way is needed for the extension of existing public street improvements necessary for public safety.

**20.70.130 Dedication of Right-of-Way**

A. The Director may grant some reduction in the minimum right-of-way requirement where it can be demonstrated that sufficient area has been provided for all frontage improvements.
B. The City may accept dedication and assume maintenance responsibility of a private street only if the following conditions are met:
    1. All necessary upgrades to the street to meet City standards have been completed;

2. All necessary easements and dedications entitling the City to properly maintain the street have been conveyed to the City;
3. The Director has determined that maintenance of the facility will contribute to protecting or improving the health, safety, and welfare of the community served by the private road; and
4. The City has accepted maintenance responsibility in writing.

**20.70.140 Dedication of stormwater facilities**

A. The City is responsible for the maintenance, including performance and operation, of drainage facilities which the City has accepted for maintenance. The City may require the dedication of these facilities as required in 20.70.210.

B. The City may assume maintenance of privately maintained drainage facilities only if the following conditions have been met:
   1. All necessary upgrades to the facilities to meet City standards have been completed;
   2. All necessary easements or dedications entitling the City to properly maintain the drainage facility have been conveyed to the City;
   3. The Director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
      a. Flooding;
      b. Downstream erosion;
      c. Property damage due to improper function of the facility;
      d. Safety hazard associated with the facility;
      e. Degradation of water quality or in-stream resources; or
      f. Degradation to the general welfare of the community; and
   4. The City has accepted maintenance responsibility in writing.

C. The Director may terminate the assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
   1. Flooding;
   2. Downstream erosion;
   3. Property damage due to improper function of the facility;
   4. Safety hazard associated with the facility;
   5. Degradation of water quality or in-stream resources; or
   6. Degradation to the general welfare of the community.

D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the persons holding title to the property for which the facility was required.

**20.70.150 Dedication of open space.**

A. The City may accept dedications of open space and critical areas which have been identified and are required to be protected as a condition of development. Dedication of such areas to the City will be considered when:
   1. The dedicated area would contribute to the City's overall open space and greenway system;
   2. The dedicated area would provide passive recreation opportunities and nonmotorized linkages;
   3. The dedicated area would preserve and protect ecologically sensitive natural areas, wildlife habitat and wildlife corridors;
   4. The dedicated area is of low hazard/liability potential; and
   5. The dedicated area can be adequately managed and maintained.

**20.70.160 Easements and tracts**

The purpose of this section is to address the usage of easements and tracts when facilities on private property will be used by more than one lot or by the public in addition to the property owner(s).

A. **Easements.**

   1. Easements may be used for facilities used by a limited number of parties. Examples of situations where easements may be used include, but are not limited to:
      a Access for ingress and egress or utilities to neighboring property;
      b. Design features of a street necessitate the granting of slope, wall, or drainage easements; and
      c. Nonmotorized easements required to facilitate pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers even if the facility is not specifically shown on the City's adopted nonmotorized circulation plan maps.
   2. Easements granted for public use shall be designated "City of Shoreline Public Easement." All easements shall specify the maintenance responsibility in the recording documents.

B. **Tracts**
   1. Tracts should be used for facilities that are used by a broader group of individuals, may have some degree of access by the general public, and typically require regular maintenance activities. Examples of facilities that may be located in tracts include private streets, drainage facilities serving more than one lot, or critical areas.
   2. Tracts are not subject to minimum lot size specifications for the zone, although they must be large enough to accommodate the facilities located within them.
   3. Tracts created under the provisions of this subchapter shall not be considered a lot of record unless all zoning, dimensional, and use provisions of this code can be met.

## SUBCHAPTER 3. Streets

**20.70.210 Purpose.**
The purpose of this subchapter is to classify streets in accordance with designations of the Comprehensive Plan and to ensure the naming of new streets and assignment of new addresses occurs in an orderly manner.

**20.70.220 Street classification.**
Streets and rights-of-way are classified in the Transportation Master Plan.

**20.70.230 Street plan.**
Streets shall be designed and located to conform to the adopted plans. Where not part of an adopted plan streets shall be designed to provide for the appropriate continuation of existing streets.

The Public Works Department shall maintain a list of public streets maintained by the City.

**20.70.240 Private streets.**
Local access streets may be private, subject to the approval of the City. If the conditions for approval of a private street cannot be met then a public street will be required. Private streets may be allowed when all of the following conditions are present:

A. The private street is located within a tract or easement; and
B. A covenant, tract, or easement which provides for maintenance and repair of the private street by property owners has been approved by the City and recorded with King County; and
C. The covenant or easement includes a condition that the private street will remain open at all times for emergency and public service vehicles; and
D. The private street would not hinder public street circulation; and
E. The proposed private street would be adequate for transportation and fire access needs; and
F. At least one of the following conditions exists:
    1. The street would ultimately serve four or fewer single-family lots; or
    2. The private street would ultimately serve more than four lots, and the Director determines that no other access is available; or
    3. The private street would serve developments where no circulation continuity is necessary.

**20.70.250 Street naming and numbering**.
The purpose of this section is to establish standards for designating street names and numbers, and for addressing the principal entrances of all buildings or other developments.

A. All streets shall be named or numbered in the following manner:
    1. Public or private street names and/or numbers shall be consistent with the established grid system as determined by the Department. Named streets can

only be assigned when the numbered grid is determined infeasible by the Department. The Department may change the existing public or private street name if it is determined to be inconsistent with the surrounding street naming system.

2. All streets shall carry a geographic suffix or prefix. Streets designated as "Avenues" shall carry a geographic suffix and be in a north-south direction, and streets designated as "Streets" shall carry a geographic prefix and be in an east-west direction. Diagonal streets are treated as being either north-south or east-west streets. Names such as lane, place, way, court, and drive may be used on streets running either direction.
3. Only entire street lengths or distinct major portions of street shall be separately designated.
4. In determining the designation, the Department shall consider consistency with the provisions of this section and emergency services responsiveness including Emergency-911 services.

B. Building addresses shall be assigned as follows:
   1. New Buildings. The assignment of addresses for new buildings shall occur in conjunction with the issuance of a building permit.
   2. New Lots. The assignment of addresses for new lots created by subdividing shall occur during project review and be included in the recording documents.
   3. Previously Unassigned Lots. Lots with no address of record shall be assigned an address and the property owner shall be notified of the address.
   4. The assignment of addresses shall be based on the following criteria:
      a. Even numbers shall be used on the northerly side of streets named as east-west and on the easterly side of streets named as north-south.
      b. Odd numbers shall be used on the southerly side of streets named as east-west and on the westerly side of streets named as north-south. Addresses shall be assigned whole numbers only.
      c. In determining the address assignment, the Department shall consider the consistency with the provisions of this section, consistency with the addressing needs of the area, and emergency services.

C. All buildings must display addresses as follows:
   1. The owner, occupant, or renter of any addressed building or other structure shall maintain the address numbers in a conspicuous place over or near the principal entrance or entrances. If said entrance(s) cannot be easily seen from the nearest adjoining street, the address numbers shall be placed in such other conspicuous place on said building or structure as is necessary for visually locating such address numbers from the nearest adjoining street.
   2. If the addressed building or structure cannot be easily seen or is greater than 50 feet from the nearest adjoining street, the address numbers shall be placed on a portion of the site that is clearly visible and no greater than 20 feet from the street.
   3. The address numbers shall be easily legible figures, not less than three inches high if a residential use or individual multifamily unit, nor less than five inches high if a commercial use. Numbers shall contrast with the color of the

structure upon which they are placed, and shall either be illuminated during periods of darkness, or be reflective, so they are easily seen at night.

**SUBCHAPTER 4. Required Improvements.**

**20.70.310 Purpose**
The purpose of this subchapter is to provide safe and accessible transportation facilities for all modes of travel as described in the Comprehensive Plan, Transportation Master Plan, and the Parks, Recreation and Open Space Plan.

**20.70.320 Frontage improvements**.
Frontage improvements required for subdivisions pursuant to RCW 58.17 and SMC 20.30, Subchapter 7 and to mitigate identified impacts shall be provided pursuant to this section. When required frontage improvements shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment

A. Standard frontage improvements consist of curb, gutter, sidewalk, amenity zone and landscaping, drainage improvements and pavement overlay to one-half of each right-of-way abutting a property as defined for the specific street classification. Additional improvements may be required to ensure safe movement of traffic, including pedestrians, bicycles, nonmotorized vehicles. The improvements can include items such as transit bus shelters, bus pullouts, utility under grounding, street lighting, signage, and channelization.

B. Frontage improvements are required for:
   1. All new multifamily, nonresidential, and mixed-use construction;
   2. Remodeling or additions to multifamily, nonresidential, and mixed-use buildings or conversions to these uses that increase floor area by 20 percent or greater, as long as the original building footprint is a minimum of 4,000 square feet, or any alterations or repairs which exceed 50 percent of the value of the previously existing structure;
   3. Subdivisions;

Exception:

   i. Subdivisions, short plats, and binding site plans where all of the lots are fully developed.

   4. New development on vacant lots platted before August 31, 1995.

C. Exemptions to some or all of these requirements may be allowed if the street will be improved as a whole through a Local Improvement District (LID) or City-financed project scheduled to be completed within five years of approval. In such a case, a contribution may be made and calculated based on the improvements that would be required of the development. Contributed funds shall be directed to the City's capital project fund and shall be used for the capital project and offset future assessments on the property resulting from an LID. An LID "no-protest"

commitment shall also be recorded. Adequate interim levels of improvements for public safety shall be required.

D. Required improvements shall be installed by the applicant prior to final approval or occupancy.

E. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

**20.70.330 Surface water facilities.**

A. All development and redevelopment as defined in the Stormwater Manual shall provide stormwater drainage improvements that meet the minimum requirements of 13.10 SMC.
B. Development proposals that do not require City-approved plans or a permit must meet the requirements specified in 13.10 SMC.
C. Required improvements shall be installed by the applicant prior to final approval or occupancy.
D. For subdivisions the improvements shall be completed prior to final plat approval or post a bond or other surety as provided for in SMC 20.30.440.

**20.70.340 Sidewalks, Walkways, Paths and Trails.**

A. Sidewalks required pursuant to SMC 20.70.320 and fronting public streets shall be located within public right-of-way or a public easement as approved by the Director.
B. Other sidewalks or trails provided to mitigate identified impacts should use existing undeveloped right-of-way, or, if located outside the City's planned street system, may be located across private property in pedestrian right-of-way restricted to that purpose.
C. Required sidewalks on public and private streets shall be installed as described in the Transportation Master Plan and the Engineering Development Guide for the specific street classification and street segment.
D. Installation, or a financial security of installation subject to approval by the Director, is required as a condition of development approval.

**SUBCHAPTER 5. Utility Standards**

**20.70.410 Purpose**.

The purpose of this subchapter is to establish when new and existing service connections including, but not limited to, telephone, cable television, electrical power, natural gas, water, and sewer, are to be installed and/or placed underground.

**20.70.420 Utility installation**

Required utility improvements shall be installed by the applicant prior to final approval or occupancy. For subdivisions the applicant shall complete the improvements prior to final plat approval or post a bond or other surety with the utility provider.

**20.70.430 Undergrounding of electric and communication service connections – When required**

A. Undergrounding required under this subchapter shall be limited to the service connection and new facilities located within and directly serving the development from the public right-of-way excluding existing or relocated street crossings.

B. Undergrounding of service connections and new electrical and telecommunication facilities defined in chapter 13.20 SMC shall be required with new development as follows:
   1. All new nonresidential construction, including remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of service.
   2. All new residential construction and new accessory structures or the creation of new residential lots.
   3. Residential remodels and additions where the total value of the project exceeds 50 percent of the assessed valuation of the property and improvements and involves the relocation of the service connection.

C. Conversion of a service connection from aboveground to underground shall not be required under this subchapter for:
   1. The upgrade or change of location of electrical panel, service, or meter for existing structures not associated with a development application; and
   2. New or replacement phone lines, cable lines, or any communication lines for existing structures not associated with a development application.

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**Commission Meeting Date:** June 17, 2010 Agenda Item: 7.B

# PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Condensing Planning Commission Minutes for Study Meetings
**DEPARTMENT:** Planning & Development Services
**PRESENTED BY:** Steven Cohn, Senior Planner

## PROBLEM/ISSUE STATEMENT:

Over the years, minutes of Planning Commission meetings have provided a greater level of detail and become increasingly lengthy. This was due to concerns over how individuals were being summarized and what was being omitted. As a result, the minutes writer began to report minutes that were longer and more detailed.

## BACKGROUND & DISCUSSION:

SMC 2.20.030.C states that "The commission shall adopt such rules and regulations as are necessary for the conduct of its business and shall keep a taped record of its proceedings and such written notes as the commission may from time to time direct. The taped record and any written notes shall be a public record. [Ord. 36 § 3, 1995]"

The Planning Commission adopted Bylaws that states its Clerk shall "record and retain, by electronic means, each meeting for the official record and shall prepare summary minutes for the Commission".

It appears the intent of the SMC and Bylaws is to have the audio recording be the essential record and the written minutes are intended only to summarize the record.

By definition, minutes are the historical record of an officially convened meeting of an organized decision-making body and focus on decisions and actions taken by the group. The minutes may also convey the thought process that led to decisions.

For several years, Planning & Development Services has hired a minute writer to review audio tapes and draft Planning Commission minutes. With our current detailed minutes, for every hour of a study session meeting it takes three hours to draft the minutes, and for every hour of a public hearing it takes four hours to draft the minutes.

The benefit of detailed minutes is that they reflect the main ideas in a discussion and, in the case of public hearings and the follow up deliberations, help Council understand how the Planning Commission came to its recommendation.

The downside of detailed minutes is that they are expensive and lengthy. They take a lot of staff time to prepare and to review. Having less detailed minutes would free up resources which could be used in other ways.

Given the current attention to budgets, but understanding the usefulness of minutes, particularly as the record of a public hearing, staff is proposing that the Commission keep less detailed minutes for study sessions. Staff will bring an example of "less detailed" minutes to your meeting so the Commissioners can preview what a shorter version would look like.

## RECOMMENDATION

Staff is recommending the Planning Commission shorten its meeting minutes for study meetings while keeping the minutes for public hearings detailed. At this time, we are *not proposing* to have "summary" minutes for study sessions, which only report actions and votes; rather we would be providing less detailed minutes that would report the main ideas in the discussion, but will not include each Commissioner's comments. The minutes for public hearings will be as detailed as they have been in the past.

This would provide a cost savings which will be helpful in the present economic environment. It will also free up some staff time that can be shifted from review of detailed minutes (for study sessions) in order to work on other tasks.

If you have questions or comments about this proposal, please contact Steve Cohn at 801-2511 or scohn@shorelinewa.gov prior to the meeting.

**DRAFT TOWN CENTER 2030 VISION**

*June 8, 2010*

Shoreline Town Center in 2030 is the vibrant cultural and governmental heart of the City with a rich mix of housing and shopping options, thriving businesses, and public spaces for gatherings and events. People of diverse cultures, ages, and incomes enjoy living, working and interacting in this safe, healthy, and walkable urban place.

Once a crossroads on the Interurban that connected Seattle and Everett, Shoreline's Town Center has evolved into a signature part of the City. The Center stands out as a unique and inviting regional destination while gracefully fitting in with its surrounding landscape and neighborhoods. Connections to neighborhoods and the region are convenient and accessible through a system of paths, roads and public transit. Citizens, business owners and city officials are justifiably proud of the many years of effort to create a special and livable place that exemplifies the best of Shoreline past, present and future.

Town Center (*see Figure 1**) is anchored on one end by the City Hall complex, Shorewood High School, the Shoreline Museum, and other public facilities. The linear park with the Interurban Trail provides a green thread through the center. City Hall not only is the center of government, but provides an active venue for many other civic functions. On the other end, the revitalized historic five-point interchange again attracts people from throughout the community.

Town Center is a physically and visually attractive, inviting and interesting place where form and function come together to promote a thriving environment for residents, businesses, and visitors. Notable features include a number of green open spaces both large and intimate, enclosed plazas, storefronts opening onto parks and wide sidewalks, underground and rear parking, numerous ground-floor and corner retail options within mixed-use buildings, and internal streets within large blocks and other pathways that provide safe, walkable connections throughout the Center area both east and west and north and south.

Building heights range from one to three stories within transition areas adjacent to single-family residential areas such as Linden and Stone avenues, up to six stories in mixed-use buildings along sections of Aurora Boulevard, while buildings in the Midvale and Firlands areas are generally four to five-story mixed-use structures. Building materials, facades, designs, landscaped setbacks as well as public art and green infrastructure features represent a wide variety of styles and functions while maintaining a harmonious look and feel.

The City of Shoreline has long been committed to the realization of the three E's of sustainability -- *environmental quality*, *economic vitality* and *social equity* -- and Town Center has integrated and balanced each of these successfully.

Environmental Quality

While respecting elements of its historic character, Town Center has become a model of environmentally sound building and development practices. The buildings themselves are state-of-the-art energy efficient and sustainable structures with zero carbon impacts. The Center's extensive tree canopy and native vegetation are all part of a strategic system for capturing and treating stormwater on site and protecting and enhancing overall environmental quality. Major transit stops along the mature boulevard provide quick and convenient connections to major centers elsewhere in the region. Civic spaces and parks have been designed for daily use and special events.

Economic Vitality

Town Center attracts a robust mix of office, service and retail development. The boulevard boasts an exciting choice of shops, restaurants, entertainment, and nightlife. The Center is a model of green industry and economic sustainability that generates the financial resources that support excellent city services, with the highest health and living standards. As a result, Town Center's success helps to make Shoreline one of the most fiscally sound and efficiently run cities on the West Coast.

Social Equity:

Town Center offers a broad range of housing choices that attract a diversity of household types, ages and incomes. Attention to design allows the public gathering places to be accessible to all. People feel safe here day and night. Festivals, exhibits and performances attract people of all ages and cultural backgrounds.

Summary:

Town Center is thoughtfully planned and built yet all the choices feel organic and natural as if each feature and building is meant to be here. In short, Town Center is a place people want to be in Shoreline in 2030.

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** Note: This version assumes there will be a Figure 1 that shows the geographic scope of Town Center and some basic details, including major roads and conceptual features. This text will likely need to be edited to match with Figure 1, once it is developed.*