

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

March 15, 2012
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Wagner
Vice Chair Perkowski
Commissioner Craft
Commissioner Moss

Staff Present

Rachel Markle, Director, Community and Development Services
Paul Cohen, Senior Planner, Community & Development Services
Steve Szafran, Associate Planner, Community & Development Services
Alicia McIntire, Senior Transportation Planner
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent

Commissioner Esselman
Commissioner Behrens
Commissioner Broili

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:03 p.m.

ROLL CALL

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

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Ms. Markle did not provide any comments during this portion of the meeting.

APPROVAL OF MINUTES

No minutes were presented for approval.

GENERAL PUBLIC COMMENT

No one in the audience indicated a desire to address the Commission during this portion of the meeting.

PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS – SMC 20.60.140

Chair Wagner reviewed the rules and procedures for the public hearing and then opened the public hearing.

Staff Presentation

Ms. McIntire reviewed that in December 2011, the City adopted an updated Transportation Master Plan (TMP), which is the long-range vision for the City's transportation system. Amendments to the Transportation Element of the Comprehensive Plan were also adopted at that time. Both of the documents direct the City to update its concurrency methodology for measuring transportation concurrency in order to assess the traffic impacts of growth citywide, as well as localized impacts resulting from new development. She reminded the Commission that the Growth Management Act requires cities to identify the transportation projects needed in order to accommodate growth and comply with the City's adopted transportation level of service (LOS), as well as a funding strategy to complete the projects. This is known as transportation concurrency, which requires that improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements within six years.

Ms. McIntire advised that, in the past, the City has required developers to prepare Traffic Impact Studies (TIS) for proposals that generate an increase in traffic during the evening peak travel period, which is generally between 4:00 to 6:00 p.m. However, the current code does not require a TIS for uses such as churches, schools etc, that result in increases in traffic beyond the peak period. The proposed amendment to SMC 20.60.140(B) (Attachment A) would allow the City to require a TIS for developments that have their highest traffic volumes during times other than the evening peak period. As proposed, developers would be required to mitigate for traffic impacts associated with their development proposal through the City's State Environmental Policy Act (SEPA) review process.

Ms. McIntire said the proposed amendment (Attachment A) also makes it clear that the detailed requirements of the TIS are outlined in the City's Engineering Development Manual. Items 1 through 4 summarize what is in the Engineering Development Manual as opposed to including all the detail in the code. She reported that the City is in the process of updating the Engineering Development Manual, and the new document will be published within the next few weeks. She said staff is proposing that the language be consistent with the Engineering Development Manual, which uses the term "Transportation Impact Study" as opposed to "Traffic Impact Study" because it includes bicycle, pedestrian and transit and not just vehicular traffic.

Ms. McIntire referred to SMC 20.30.350, which outlines the following three criteria that must be considered when reviewing Development Code amendments:

- *The amendment is in accordance with the Comprehensive Plan.* The proposed amendment is consistent with the new standards that were recently adopted in the Transportation Master Plan and the Comprehensive Plan.
- *The amendment will not adversely affect the public health, safety or general welfare.* By expanding the field of applicants that must identify the greatest impacts associated with their proposal and subsequently mitigate them, the proposed amendment would result in a process that further protects the public health, safety or general welfare.
- *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.* The proposal is in accordance with the citizens' best interest.

Ms. McIntire advised that the City issued a SEPA Determination of Nonsignificance (DNS) on February 21st, and the Department of Commerce was subsequently notified of the proposal. The DNS included notice for the public hearing, and was sent to the Washington State Department of Ecology (DOE) and other parties the City generally notifies. At this point, the City has received no comments in response to the SEPA determination.

Ms. McIntire summarized that staff recommends the Commission recommend approval of the proposed amendment to the City Council.

Questions by the Commission

Vice Chair Perkowski said the proposed language in SMP 20.60.140(B) implies that only four of the requirements found in the Engineering Development Manual would be mandatory for a TIS. Does that mean the other requirements in the manual would be optional? Ms. McIntire said the intent is that, at a minimum, the study should include the items outlined in the Engineering Development Manual. Items 1 through 4 are merely a table of contents of what is included in the Engineering Development Manual. The Engineering Development Manual provides greater detail about what each of the items should include. Vice Chair Perkowski suggested that deleting “at a minimum” would make the language clearer. The remainder of the Commission concurred.

At the request of Commissioner Craft, Ms. McIntire explained that the TIS requirement is intended to ensure that intersections perform at LOS D or better regardless of what development occurs in the future. She said the TIS analyzes impacted intersections and determines if they will perform at the required LOS or if they will fail. Commissioner Craft asked if the traffic analysis requirement would only apply to projects near intersections that are already at LOS D. Ms. McIntire said this requirement would apply to all projects that generate 20 or more new trips during peak hour or during the peak hour of usage, regardless of an intersection’s current LOS.

Ms. McIntire said the TIS study area depends on the type of proposal and is determined on a case-by-case basis. Generally, they are talking about the first signalized intersection in all directions, but larger proposals can definitely expand the study area. Commissioner Craft questioned why the City would want to require a traffic study if an intersection is running efficiently. Ms. McIntire said the point is to prevent future development from making the LOS worse. She explained that it is difficult to pinpoint the exact point at which the LOS at each intersection would worsen. It is the applicant’s responsibility to figure this out on a case-by-case basis.

Commissioner Craft commented that it seems onerous and inefficient to require all developers to complete a TIS if their proposal would result in 20 or more peak hour trips. Ms. McIntire pointed out the proposed language is intended to address situations such as schools, where the major traffic impact would occur in the afternoon and could actually overlap with the peak period. She questioned how the City would mitigate the impacts if a TIS cannot be required. Chair Wagner recalled that the Commission recently reviewed a school master plan, and the majority of the comments were related to traffic, which peaked at about 3:00 p.m.

Public Testimony

There was no one in the audience who expressed a desire to participate in the public hearing.

Final Questions and Deliberations

COMMISSIONER MOSS MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE PROPOSED AMENDMENTS TO SMC 20.60.140 AS PRESENTED BY STAFF. VICE CHAIR PERKOWSKI SECONDED THE MOTION.

COMMISSIONER MOSS MOVED THAT THE MAIN MOTION BE AMENDED BY STRIKING THE WORDS, “AT A MINIMUM” FROM THE LAST SENTENCE OF SMC 20.60.140(B). VICE CHAIR PERKOWSKI SECONDED THE MOTION. THE MOTION TO AMEND WAS UNANIMOUSLY APPROVED.

Vote to Recommend Approval or Denial or Modification

THE MAIN MOTION, AS AMENDED, WAS UNANIMOUSLY APPROVED.

Closure of Public Hearing

The public hearing was closed.

PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS – 20.60.140

Chair Wagner referred to the rules and procedures for the public hearing, which were presented earlier in the meeting, and opened the public hearing. Ms. Simulcik Smith announced that the following exhibits (desk packet) were received after the Planning Commission packet was sent out:

- **Exhibit 9** – Email from Planning Commissioner Ben Perkowski dated March 13, 2012
- **Exhibit 10** – Comment letter from Boni Biery received March 13, 2012
- **Exhibit 11** – Comment letter from Elaine and Robert Phelps received March 13, 2012
- **Exhibit 12** – Comment letter from Wendy Zieve received March 13, 2012
- **Exhibit 13** – Comment letter from Vicki Westberg received March 13, 2012
- **Exhibit 14** – Comment letter from Sigrid Strom received March 13, 2012
- **Exhibit 15** – Comment letter from Ruth Williams received March 14, 2012

- **Exhibit 16** – Comment letter from Charles Brown received March 14, 2012
- **Exhibit 17** – Comment letter from Bettelinn Brown received March 14, 2012
- **Exhibit 18** – Comment letter from Jan Stewart received March 14, 2012
- **Exhibit 19** – Comment letter from Lance Young received March 15, 2012
- **Exhibit 20** – Comment Letter from Wendy DiPeso received March 15, 2012
- **Exhibit 21** – Email from Planning Commissioner Cynthia Esselman dated March 15, 2012
- **Exhibit 22** – Comment letter from Nancy Morris received March 15, 2012
- **Exhibit 23** – Comment letter from Patty Pfeifer received March 15, 2012
- **Exhibit 24** – Comment letter from Cecily Kaplan received March 15, 2012

The Commissioners indicated they all had an opportunity to review the new items contained in their desk packet.

Staff Presentation and Questions by the Commission

Mr. Cohen clarified that the proposed amendments are related only to the tree code. The “Tree City USA” designation and the creation of a Tree Board are separate projects. Regulating trees within the rights-of-way is also a separate topic. The proposed tree code amendments would only impact private properties.

Mr. Cohen reviewed that an Urban Tree Canopy (UTC) assessment was completed in April 2011, concluding that the City had not lost significant tree canopy over the past two decades. In light of these findings, the City Council directed the staff and Commission to review the current tree code to identify amendments that reform unclear and cumbersome language and adopt a policy for increasing tree canopy through voluntary programs. He referred the Commission to the proposed amendments (Attachment A) and the Commission and staff discussed each one as follows:

- **SMC 20.50.310(B)(1) – Modify the Exemption that allows for six significant trees to be removed in a three-year period.** Mr. Cohen said the current code allows property owners to remove up to six significant trees on a property in a 36-month period. Staff had originally proposed a provision that would have required property owners to notify the City of the number and diameter of trees to be removed. However, the City does not have a system in place to track tree removal, and implementing a tracking system would require a significant amount of staff time. He clarified that the problem has not been the excessive use of the provision, but the lack of ability to track tree removal throughout the three-year cycle. He said staff is now recommending that the regulation remain unchanged because violations have not been excessive, and property owners would be relieved from bureaucracy and permit costs.

Commissioner Moss asked if there is a simple way for property owners to provide information about the number and diameter of trees removed without it becoming an incredibly cumbersome process for staff. She agreed that requiring a permit could be problematic, but it would be helpful to start a tracking program by asking people to report to the City when a significant tree is removed. She suggested that perhaps the new Tree Board could provide recommendations about how this could be accomplished. While she cautioned against making the tracking process so onerous that staff has to

visit each site and make determinations, she felt a reporting requirement could help alleviate neighborhood concerns.

Vice Chair Perkowski questioned how the provision that allows for the removal of up to six significant trees could be implemented if property owners are not required to report to the City. Mr. Cohen pointed out that cutting more than six significant trees within a three-year period would be a code violation, regardless of whether there is a reporting requirement or not. Vice Chair Perkowski pointed out that the “six significant tree” provision would only be enforced if someone reports a violation, which would require neighbors to keep track of how many trees are removed. He said he does not support staff’s reasoning for eliminating the amendment that would require property owners to report to the City. He observed that if there are not that many trees being cut on private property in the City, it should not be a significant burden to implement a reporting system. Chair Wagner clarified that staff’s point was not that trees aren’t being cut, but that there were not a lot of code violations that exceed the six tree limit during a three-year period.

Mr. Cohen said if the Commission feels the reporting requirement is important, staff would need to put together a reporting system before the proposed amendment is forwarded to the City Council for adoption.

Commissioner Craft pointed out that SMC 20.50.310(B)(1) talks only about significant trees and does not address tree species. He pointed out that some native species of trees are more critical to the environment and the overall tree canopy in the City. If the Commission recommends adoption of a reporting system, it would also be important to track the species of trees that are removed. Mr. Cohen said the concept that some trees are more valuable than others has been discussed on previous occasions, and it was determined that it would be costly to administer a reporting system that keeps track of trees as they grow. It would also be difficult to decide the value of each species.

- **SMC 20.50.310(A)(1)(e) through SMC 20.50.310(A)(1)(i) – Remove non-active or non-imminent, hazardous trees as a category of the code because they would be part of tree removal.** Mr. Cohen explained that the designation of non active or non imminent hazardous trees can be easily applied to the majority of trees that are not perfect specimens. Staff spends a significant amount of time reviewing requests to cut hazardous trees, which involves reviewing arborist reports and conducting site visits, yet there is no permit fee attached to the requirement. He said staff recommends that Items 1.e through 1.i should be moved to the Critical Areas Ordinance (CAO). Rather than debating with an arborist about whether or not a tree is hazardous, property owners could utilize the exemption that allows up to six trees to be cut in a three-year period. To remove more than six trees, a property owner could obtain a clearing and grading permit using the City’s existing provisions. He explained that there are currently no provisions for hazardous tree removal in the CAO. Instead, the CAO refers to the hazardous tree provisions in the tree code. If the provisions are removed from the tree code, they must be added to the CAO.

Commissioner Moss expressed concern that the City’s process for removing hazardous trees would take time, which might not be available if a tree poses an imminent danger. Mr. Cohen clarified that this proposed code amendment only addresses non active or non imminent hazardous trees, and imminent or active hazardous trees are addressed in a different provisions of the tree code.

Commissioner Moss summarized that moving Items 1.e through 1.i to the CAO would not impact a property owner's ability to remove a tree that poses an imminent danger. Mr. Cohen agreed.

- **SMC 20.50.310(A)(1)(c) and SMC 20.50.310(A)(1)(d) -- Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a tree removal permit after.** Mr. Cohen noted that the proposed amendment is intended to streamline the process for removing imminently hazardous trees. As proposed, a property owner would simply be required to provide photographic proof of the hazardous tree before it is cut. After it is cut, the property owner would be required to contact the City to determine, after the fact, if the removal would require a permit and/or tree replacement.

Commissioner Moss expressed concern that it appears the proposed language would only apply to the specific situations listed and not to all hazardous tree situations. For example, she suggested it would be appropriate to add language to address situations where a hazardous tree poses a danger to a structure. Mr. Cohen advised that the provisions in Items 1.c and 1.d in SMC 20.50.310(A) are intended to apply to all hazardous tree situations. He agreed the language could be clarified.

Vice Chair Perkowski asked if Items 1.c and 1.d would also apply to hazardous trees in critical areas. Mr. Cohen answered that the provisions would apply to all trees, including critical areas, and he agreed to check to make sure the CAO cross references the provisions for active and imminent hazardous trees found in the tree code. Vice Chair Perkowski expressed concern that the provisions in Items 1.e through 1.i could be weakened if moved to the CAO because the decision would be left to the discretion of the Director (SMC 20.80.030(H)(5)). Chair Wagner summarized that, as currently proposed by staff, SMC 20.50.310(A)(1) would only deal with active and imminent hazardous trees. The CAO would have a cross reference to the original generic tree code (SMC 20.50.310(A)(1)) for active and imminent hazardous trees, and it would also have its own section (SMC 20.80.030(H)) to address non active and non imminent hazardous trees. Any imminent or active hazardous tree can be removed, but the removal must be substantiated to the City at some point. Non imminent or non active hazardous trees outside of critical areas can be removed using the "six significant trees" exemption or by obtaining a grading and clearing permit. Non imminent or non active hazardous trees within the critical area can only be removed as per the process outlined in the CAO.

- **SMC 20.50.300(E) – Remove the provision that does not allow tree removal without a development proposal.** Mr. Cohen said this provision does not allow clearing and/or grading to take place on a property to prepare it for sale and/or future development when no specific plan for future development has been submitted. He pointed out that the City currently allows owners of existing residentially developed property to remove trees as per the tree code without submitting a development proposal or having plans to sell the property. He also pointed out that "development" is defined as "a permitted activity," which includes tree removal. As per the provision, a property owner cannot remove trees without a development proposal, but if the development proposal is to remove trees, it should be allowed. He said staff does not believe there is any benefit in stopping a property owner from removing trees, as long as code requirements can be met to protect and replant the site. He said he is only aware of one incident when this provision was violated in the past 15 years when someone removed trees in preparation for selling the property. In this case, the

requirements the City placed on the property owner to put the site back to together again were very similar to what would have been required if the site had been developed as a subdivision. He summarized that staff is recommending that this provision be deleted because it is contradictory and does not have a strong purpose.

Vice Chair Perkowski said a lot of tree codes, including the City of Seattle's, effectively prevent the removal of significant trees on undeveloped property. He disagreed with the idea that the provision does not have value. He said he cannot accept the circular reasoning argument as a basis for removing the provision. He expressed concern that if a property owner is allowed to clear a property without a development proposal, there would be no analysis of the benefits of potentially saving the more valuable trees. He expressed his belief that the code should protect the very large, mature, healthy trees, and removing the provision would eliminate that possibility, especially given their previous discussion about modifying the "six significant tree" exemption. Removing the provision is inconsistent with the goals identified in the Comprehensive and Sustainability Plans. He noted there were no public comments in support of removing the provision, either.

Mr. Cohen asked if Vice Chair Perkowski is suggesting that removing the provision would allow a property owner to remove all the trees on a property without approval by the City. Vice Chair Perkowski clarified that there would be no City review of the type of trees that are removed. A significant tree is defined as any tree larger than six inches in diameter. If the "six significant tree" exemption is amended as currently proposed, a property owner could potentially remove a cluster of very valuable trees. He reminded the Commission that the City's tree code does not recognize that trees have different values. He suggested that more changes to the tree code are needed to adequately protect valuable trees. He specifically referred to Lake Forest Park's tree code as a good example.

Mr. Cohen acknowledged that the City does not evaluate significant trees based on species, but that is true for all properties and not just undeveloped properties. Vice Chair Perkowski reiterated his belief that other sections of the code must be amended to better protect valuable trees, using a process that takes species into account.

Commissioner Moss said her interpretation of the provision is that it artificially limits undeveloped land. She asked if Vice Chair Perkowski's concern would be addressed if the tree code were amended to include language to protect landmark trees. Vice Chair Perkowski said landmark trees is only part of his concern. He recommended they step back and look at the tree code more comprehensively. Absent protection for landmark trees, he cannot support removing the provision. Mr. Cohen noted that the tree code does include provisions for landmark trees, and no changes have been proposed. Vice Chair Perkowski said the provision outlines a process for nominating landmark trees, but it is not a system for identifying landmark trees based strictly on size. Some cities have code provisions that prohibit the removal of exceptional trees on undeveloped lots absent a development permit review. It would be difficult to identify significant trees that should be retained without having a development proposal.

Mr. Cohen acknowledged that revising the proposed amendments will not address the concerns raised by Vice Chair Perkowski. However, he reminded the Commission that the current code

includes language and criteria that allows the Director the discretion to require more trees to be retained, allow more trees to be cut, or require more trees to be replanted.

Commissioner Craft observed that once applications for development and clearing and grading permits have been submitted, staff assesses the existing condition of the property, including significant trees. Vice Chair Perkowski is concerned about allowing a property owner of vacant land to remove trees prior to development because the City would not have control over which trees are removed and which are retained. He questioned if Vice Chair Perkowski is proposing that the tree code should delineate between vacant and developed properties. Vice Chair Perkowski agreed that is what he is proposing. He added that this is not an uncommon practice, and many cities do it.

- **SMC 20.50.360(K)(2) – Allow the Director the option to require tree maintenance bonds based on the scope of the project.** Mr. Cohen explained that the current code language requires a maintenance bond after installation of all required site improvements, including landscaping and/or tree replacement. Staff is concerned that this requirement could become burdensome to small property owners. He pointed out that other provisions in the code allow the Director discretion in how the code requirements are applied, and staff is recommending that SMC 20.50.360(K)(2) should be amended to allow the Director the option of whether to require a maintenance bond or not. He expressed his belief that the current provision is intended to apply to developers of large properties, in which case a maintenance bond would be appropriate.

Commissioner Moss agreed with staff's concern about the provision being burdensome to small developments. However, replacing the word "shall" with "may" would allow the provision to apply to large developments, as well. She questioned if it would be better to have an exemption that allows the Director to waive the maintenance bond requirement for single-lot, residential development. Chair Wagner reminded the Commission that the City's legal counsel has recommended that criteria must be provided wherever the code allows flexibility. Commissioner Moss pointed out that, in some cases, it may be appropriate to require a maintenance bond for very large, single-family lots. She suggested the language should remain as "shall" and then note that the Director may waive the maintenance bond requirement for single-family lots."

Public Testimony

Lance Young, Shoreline, said he was present to represent One World Outing Club and the Interurban Trail Tree Preservation Group. He observed that a lot of what is being discussed is how to allow more trees to be cut rather than how to preserve more trees. He said he has talked to numerous private residential property owners who have expressed a desire for flexibility to cut hazardous trees, but the vast majority also strongly desires a good forest canopy in the City. He suggested the Commission consider incorporating the guidelines for minimum tree coverage that were identified previously by Mr. Cohen. He pointed out that if he used the "six significant tree" exemption on his lot, he would be allowed to remove all of his trees within one year. He suggested that the majority of residential property owners in Shoreline could do the same within one to four years.

Mr. Lance referred to the example plan he previously submitted to the Commission, which would establish a minimum forest cover standard and also provide a significant amount of flexibility. For

example, it would allow a property owner to remove large trees in the front yard that block solar access and plant fruit trees in other areas to maintain the forest cover. He reminded the Commission that trees provide a significant value to the community. Not only do they clean the air, but root systems filter out heavy metal from the soil. They also provide sound abatement by cutting the wind flow through the neighborhoods.

Mr. Lance suggested that a solution to the Commission's concerns about tree cutting prior to a development permit might be to require people to register the trees that are removed as part of the "six significant tree" exemption. This would remove the obligation for City staff to issue a permit, but it would allow the City to track the trees that are removed. He questioned how staff knows that very few people use the "six significant tree" exemption if there is no tracking program. The registration could be free or a minimum fee could be charged. The City could also implement an education program as part of the registration process to provide information about the value of trees, how to trim them, and a list of resources. He reminded the Commission that a 2003 tree study recommended that an education program be implemented. The study also recommended that the City should plant up to 200 trees per year.

Janet Way, Shoreline, said she was present to speak on behalf of the Shoreline Preservation Society. She agreed with the comments provide by Mr. Young, but she particularly wanted to speak to the proposed amendment to remove the provision that would not allow tree removal without a development proposal. She suggested that the provision was recommended in response to previous problems at the Bear Reserve. In that case, the key issue was whether or not a development had been proposed. She recalled that all the trees were allowed to be removed from a critical area without a development proposal. She expressed concern that eliminating this provision would open the door to allow clearing to happen again and again. There must be provisions to protect existing stands of significant trees, which are very valuable to the entire community. She reminded the Commission to reflect on whether or not the proposed changes are in line with the purpose of the tree code.

Final Questions and Deliberations

Chair Wagner referred to Mr. Young's comment and clarified that the reason it appears the Commission is focusing their discussion on how to allow more tress to be cut is because the proposed amendments are in the portion of the code that talks about how to manage tree cutting.

COMMISSIONER MOSS MOVED THAT THE COMMISSION FORWARD A RECOMMENDATION TO THE CITY COUNCIL TO ADOPT THE PROPOSED AMENDMENTS TO SMC 20.50 (TREE CODE) AS PROPOSED BY STAFF. COMMISSIONER CRAFT SECONDED THE MOTION.

The Commission reviewed the amendments and made the following amendments to the main motion:

- **SMC 20.50.300(E)**

Chair Wagner said she envisions this proposed amendment would apply to undeveloped lots, and would allow a property owner to remove numerous trees to make a lot sellable. The property owner could then sell the property, and a subsequent developer could, through the development permit

process, be allowed to remove additional trees. These multiple iterations could be more impactful than tying the clearing to the actual development process. She recalled Commissioner Craft's earlier question about whether the provision is consistent with what an owner of developed property would be allowed to do. Commissioner Craft pointed out that allowing a property owner to cut trees and then sell the property to a developer who would remove more trees as part of a development proposal would be detrimental to the goal of preserving the tree canopy.

Mr. Cohen said that, as per the provision, a property owner would not be allowed to remove any of the trees that are required to be retained for a period of 36 months, regardless of whether the property is developed or undeveloped. Commissioner Craft pointed out that, in the case of a subdivision, a new lot could be created and more trees could be cut. Mr. Cohen said that when a development application is reviewed, the number of trees required to remain on the property is based on the original cutting, regardless of how many lots are created. Commissioner Craft noted that under the "six significant tree" exemption, the City would have no recorded knowledge of how many trees were previously cut down. Mr. Cohen agreed this would be true in any situation for the six exempt trees. However, the City would have a record of permits to cut trees beyond the six allowed. Commissioner Craft summarized that a property owner would be allowed to cut up to six significant trees, and any additional tree removal would be addressed as part of a development application.

Vice Chair Perkowski said that if there were better protections in the rest of the code, he could potentially support the change. Because of the "six significant tree" exemption, he believes removing the provision would be detrimental to the City's tree canopy. He agreed that a developer would ultimately be allowed to remove trees to accommodate development, but he felt tree removal should take place as part of a development proposal. Once again, he suggested the Commission should conduct a more comprehensive review of the tree code. He referred to the recommendation he previously provided for potential code language, which was based on Lake Forest Park's tree code.

Vice Chair Perkowski said he believes the recent tree canopy study was a worthy effort, and the City got their money's worth. However, if the City intended to use the study as the major rationale for the tree code, it should have been much more comprehensive and provided more detail to support the findings. He said he cannot support using the study as the premise for saying that the current tree code is adequate with just a few minor amendments. He commented that even if the survey was adequate, it does not recognize the major issue of scale. He said it is inappropriate to look at tree canopy on a citywide scale and say that no additional changes are needed to the tree code because there is an overall tree canopy of 30%. Removing a large cluster of mature trees in one area will have impacts in that location. In addition, trees located near wetlands, streams, or Puget Sound are much more valuable and will have impact on a site scale basis.

Chair Wagner asked if Vice Chair Perkowski could propose alternative language to address the concerns he has raised about the proposed amendment. Vice Chair Perkowski said he could not propose alternative language at this time. He proposed that the provision be retained for now, and then the Commission could revisit the issue again as part of a more comprehensive review of the tree code. Once again, he reminded the Commission that numerous cities have similar provisions that work well.

In response to Ms. Way's comment about the Bear Reserve permit, Ms. Markle explained that, under legal advice, the City could not deny the permit based on the provision, as written. The trees were allowed to be cut after an appeal to the City's decision. She summarized that, even if the provision stays in place, the City has been legally advised not to use it to deny cutting on an undeveloped parcel.

The Commission discussed adding the words "and grading" in the first line of Item E. Mr. Cohen pointed out that this change was originally proposed because the code typically references "clearing and grading" together. Staff recommended the change for consistency.

VICE CHAIR PERKOWSKI MOVED THAT THE ORIGINAL LANGUAGE IN SMC 20.50.300(E) REMAIN, WITH INCLUSION OF THE WORDS "AND GRADING" AFTER "CLEARING." THE LANGUAGE WOULD READ AS FOLLOWS:

No clearing and grading shall be allowed on a site for the sake of preparing that site for sale or future development where no specific plan for future development has been submitted. The Director may issue a clearing and grading permit as part of a phased development plan where a conceptual plan for development of the property has been submitted to the City and the owner or developer agrees to submit an application for a building permit or other site development permit in less than 12 months.

COMMISSIONER MOSS SECONDED THE MOTION.

Chair Wagner asked for additional clarification about why the City Attorney advised that the provision would not be enforceable. Ms. Markle clarified that the provision would be enforceable in relation to a site plan for future development. However, applying the words "where no specific plan for future development has been submitted" to the reserve's situation would not be legally defensible.

THE MOTION CARRIED UNANIMOUSLY.

- **SMC 20.50.310(A)(1)(c) and SMC 20.50.310(A)(1)(d)**

COMMISSIONER MOSS MOVED THAT THE LANGUAGE IN SMC 20.50.310(A)(1)(c) AND SMC 20.50.310(A)(1)(d) BE COMBINED AND AMENDED TO READ:

In addition to other exemptions of Subchapter 5 of the Development Code, SMC 20.50.290 through 20.50.370, a request for the cutting of any tree that is an active and imminent hazard, such as tree limbs or trunks that are demonstrably cracked, leaning towards overhead utility lines or structures, or uprooted by flooding, heavy winds or storm events. After tree removal, the City will need photographic proof and appropriate application approval, if any.

COMMISSIONER CRAFT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

CHAIR WAGNER MOVED THAT AN ADDITIONAL SENTENCE BE ADDED AT THE END OF SMC 20.50.310(A)(1)(c) TO READ:

The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.

VICE CHAIR PERKOWSKI SECONDED THE MOTION.

Chair Wagner felt the additional language would give the City more action in case a tree is removed that is not really hazardous. The provision would no longer specify that a property owner must provide photographic proof. Mr. Cohen suggested it would be useful to require a property owner to submit some type of documentation for staff to base their decision. However, he agreed that the documentation does not necessarily have to be photographic.

- **SMC 20.50.310(B)(1)**

Chair Wagner recalled that during a previous staff report, Mr. Cohen not only discussed that it would be administratively difficult to provide permits, but any type of registration process would be administratively burdensome. Mr. Cohen explained that staff would be obligated to verify each situation if property owners are required to notify the City whenever a significant tree is removed. Failure to notify the City of a significant tree removal would be considered a code violation, which would take additional staff time to administer. He recommended that the City could retain the reporting requirement and establish a permit and fee to cover administrative costs, or they could eliminate the reporting requirement altogether.

Chair Wagner agreed that if the City implements a reporting requirement, they must also recognize the associated costs of administering the provision. She reminded the Commission that the Community and Development Services staff level has been reduced, and their workload needs to be carefully considered.

Vice Chair Perkowski reminded the Commission that the Tree Canopy Study was used to justify the elimination of the reporting requirement. He noted that if the City chooses not to track the removal of significant trees through a permit system, they will be required to track tree canopy via a costly survey. Once again, he said the Tree Canopy Study survey does not adequately justify the proposed change.

Commissioner Moss said staff has recommended that periodic urban tree canopy assessments be done. She recalled that the last Tree Canopy Study was funded by a grant from the Department of Natural Resources. She questioned where the City would obtain funding to do a study that is truly adequate and addresses all elements of urban tree canopy and stormwater management. She said she understands that a reporting requirement would have associated administrative costs, but eliminating the requirement would require the City to conduct additional tree canopy surveys in the future. She said she would like the City to further explore options for tracking significant tree removal. She pointed out that the new Tree Board and the City's effort to become a "Tree City USA" will likely focus on educating citizens about the need to protect the existing tree canopy. She noted that the

cost of tree removal is significant, and an additional \$10 permit fee would probably not play a significant role in a property owner's decision.

The Commission discussed the need to differentiate between smaller, significant trees and trees that could be considered "landmark" trees. Vice Chair Perkowski said the proposal he previously submitted recognized that not all significant trees have the same value. It also addressed how the "six significant tree" exemption could be equitably applied equitably on both small and large lots. He said he is opposed to allowing the removal of up to six significant trees, regardless of their size or value, without some type of review requirement.

Chair Wagner said she would be opposed to requiring a property owner to notify the City whenever a significant tree is removed because it would place an administrative burden on staff. However, she said she would not be opposed to a provision where the maximum number of significant trees that could be cut in a three-year period is based on the size of the lot. For example, the provision could allow as few as three significant trees to be cut on the smallest residential lots and up to six significant trees on the largest lots. The provision could also require a permit to remove any tree that is greater than 30 inches in diameter.

Mr. Cohen suggested an easier and more equitable approach would to identify the number of significant trees that could be removed per acre. This number could be used to calculate how many significant trees could be removed from each lot based on size. Chair Wagner agreed this would be a good approach, but she felt they should place a cap on the maximum number of trees that could be removed from a lot, regardless of size. The Commission agreed that the total number should not exceed 6.

Vice Chair Perkowski pointed out that a "significant tree" is defined elsewhere in the code as any tree that is 6" diameter at breast height (DBH) or greater. Mr. Cohen clarified that "significant tree" is actually defined as 8" for conifer and 12" for deciduous trees. Vice Chair Perkowski suggested that the term "significant trees" should be removed. In its place, the language should make it clear that the provision only applies to trees that are between 6" and 30" DBH. Commissioner Craft suggested the provision should apply to all significant trees up to a maximum of 30" DBH. The remainder of the Commission concurred.

Commissioner Moss summarized that, as currently proposed, property owners would have to know their lot size to determine the number of trees that could be removed. However, no permit would be required and the property owner would not be required to notify the City of tree removal. The City would only get involved if a property owner cuts more trees than allowed.

Commissioner Moss pointed out that measuring DBH is open to interpretation. Some tree codes specifically state that the diameter should be measured at 4.5' above the ground. She suggested that identifying the exact location for where the measurement should take place would be a clearer approach. Mr. Cohen said DBH is already defined in the code as "the diameter of any tree trunk measured at 4.5' above average grade."

Director Markle questioned the value in requiring a permit to remove trees that are greater than 30” DBH if the permits are automatically approved unless the tree is located in a critical area. Vice Chair Perkowski said his intent is to create regulations for trees that are greater than 30” DBH. However, he recognized that this would require additional changes elsewhere in the tree code, and the proposed change is a good place to start. Commissioner Moss expressed her belief that the provision would also raise awareness that larger trees have more value and encourage property owners to retain the more significant trees when possible. By requiring a permit, a property owner would likely give more thought to how important it is to retain the very large trees.

The Commission discussed that language should be added SMC 20.50.310(B) to make it clear that a clearing and grading permit would be required for removal of any tree greater than 30” DBH or for the removal of more trees than specified in the table. Vice Chair Perkowski asked if the clearing and grading permit would require replacement trees. Mr. Cohen said that the clearing and grading provision would require replacement when tree removal exceeds the number or size allowed in the exemption.

The Commission discussed that the minimum cost for a clearing and grading permit is currently set at \$448.50 (3 hours of staff time). They expressed concern that the current fee may be too onerous for tree removal permits. Ms. Markle suggested that perhaps the fee schedule could be adjusted to allow the City to charge a sliding scale fee for tree removal permits based on the hours of staff time required to process the application. The Commission agreed that would be an appropriate recommendation to forward to the City Council.

Mr. Cohen pointed out that SMC 20.50.360(C) currently states that up to six significant trees can be removed per parcel with no replacement requirement, and the Commission is currently discussing the option of basing the number of significant trees that can be removed on lot size. The Commission agreed that that SMC 20.50.360(C) should be amended to be consistent with SMC 20.50.310(B)(1).

COMMISSIONER CRAFT MOVED TO AMEND SMC 20.50.310(B)(1) AND ADD A NEW SMC 2.50.310.B.2 TO READ:

1. *The removal of up to a maximum of six significant trees (excluding trees greater than 30” DBH per tree) in accordance with the table below. (See Chapter 20.20 SMC, Definitions)*

<i>Lot Size in Square Feet</i>	<i>Number of Trees</i>
<i>Up to 7,200</i>	<i>3</i>
<i>7,201 to 14,400</i>	<i>4</i>
<i>14,401 to 21,780</i>	<i>5</i>
<i>21,781 and above</i>	<i>6</i>

2. *The removal of any tree greater than 30” DBH, or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (20.50.290 – 20.50.370).*

COMMISSIONER CRAFT FURTHER MOVED THAT THE TABLE IN SMC 20.50.310(B)(1) BE APPROPRIATELY LABELED AND THAT SMC 20.50.360(C) BE AMENDED TO BE CONSISTENT WITH SMC 20.50.310(B)(1). COMMISSIONER MOSS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **SMC 20.50.350(D)(2)**

Commissioner Moss referred to the last bulleted item in SMC 20.50.350(D)(2), which identifies cottonwoods as having a significant water-retention function. She pointed out that the City of Seattle actually bans cottonwoods from their parking strips. While cottonwoods are great if they are near streams and water, there is some debate about their value in residential areas.

COMMISSIONER MOSS MOVED THAT SMC 20.50.350(D)(2) BE AMENDED BY STRIKING THE WORDS, “SUCH AS COTTONWOODS.” COMMISSIONER CRAFT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Chair Wagner pointed out that the bullets need to be rearranged in SMC 20.50.350(D)(2). Commissioner Moss said there are formatting issues in other areas of the document, as well, where bullets have been used.

- **SMC 20.50.350(K)**

Commissioner Moss suggested that “shall” should be used instead of “may” in SMC 20.50.350(K)(2). She also recommended that additional language should be added allowing the Director to exempt individual single-family development from the maintenance bond requirement. Mr. Cohen pointed out that single-family development can include more than one lot, such as a subdivision. Ms. Markle pointed out that, through code enforcement, the City would still require that trees live, even if a maintenance bond is not required. Commissioner Moss said her intent is to not make it onerous for single-family parcels to develop.

COMMISSIONER MOSS MOVED THAT SMC 20.50.350(K)(2) BE AMENDED BY REPLACING “SHALL” WITH “MAY” IN THE FIRST SENTENCE AND DELETING “IF REQUIRED” FROM THE SECOND SENTENCE. SHE FURTHER MOVED THAT ITEM 3 SHOULD BE ADDED TO SMC 20.50.350(K) TO READ:

A. The Director may exempt individual single-family lots from a maintenance bond.

VICE CHAIR PERKOWSKI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **SMC 20.80.030(H)**

The Commission discussed that SMC 20.80.030(H) must be amended to be consistent with the proposed changes to SMC 20.50.310(A)(1)(c). They agreed that having separate language to distinguish between active or imminent and non active or non imminent would provide more clarity.

COMMISSIONER MOSS MOVED TO ADD A NEW ITEM H TO SMC 20.80.030 TO READ: “FOR ACTIVE OR IMMINENT HAZARDOUS TREES REFER TO SECTION 20.50.310(A)(1)(c).” SHE FURTHER MOVED THAT A NEW ITEM I BE CREATED AND TITLED: “REMOVAL OF NON ACTIVE OR NON IMMINENT HAZARDOUS TREES” AND THE SUBSEQUENT LANGUAGE WOULD FOLLOW AS PROVIDED IN THE ORIGINAL DOCUMENT. CHAIR WAGNER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY. (Note: The remaining items in SMC 20.80.030 would be renumbered.)

Vote to Recommend Approval or Denial or Modification

THE MAIN MOTION TO RECOMMEND APPROVAL OF THE PROPOSED AMENDMENTES TO SMC 20.50 (TREE CODE) WAS UNANIMOUSLY APPROVED AS AMENDED.

As per the Commission’s earlier discussion, Chair Wagner asked that the transmittal letter prepared by staff also include the Commission’s direction to the City Council to consider a sliding-scale fee structure for tree removal permits.

Closure of Public Hearing

Chair Wagner closed the public hearing.

DIRECTOR’S REPORT

Ms. Markle thanked Vice Chair Perkowski for his years of service on the Commission.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Moss reported on her attendance at a recent Growing Transit Communities North Corridor Task Force meeting. She announced that the task force’s overreaching goal is to identify different types of topographies for the various types of station areas in the north corridor. Public hearings will be conducted in June.

AGENDA FOR NEXT MEETING

Mr. Szafran announced that Mayor McGlashan will be present at the Commission’s April 5th meeting to swear in the three new Commissioners. At that meeting, Ms. Redinger will be present to explain the Natural Environment Element of the Comprehensive Plan. The Commission will also discuss amendments to the Development Code and elect new officers.

ADJOURNMENT

The meeting was adjourned at 10:18 P.M.

Michelle Linders Wagner
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

**TIME STAMP
March 15, 2012**

CALL TO ORDER: 00:13

ROLL CALL: 00:18

APPROVAL OF AGENDA: 00:33

DIRECTOR'S COMMENTS: 00:39

APPROVAL OF MINUTES: 00:45

GENERAL PUBLIC COMMENT: 00:50

PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS – SMC 20.60.140: 01:00

Staff Presentation: 02:10

Questions by the Commission: 8:16

Public Testimony: 17:07

Final Questions and Deliberations: 17:46

Vote to Recommend Approval or Denial or Modification: 19:36

Closure of Public Hearing: 19:52

PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS – 20.60.140: 20:00

Staff Presentation and Questions by the Commission: 21:59

Public Testimony: 1:18:18

Final Questions and Deliberations: 1:28:08

Vote to Recommend Approval or Denial or Modification: 3:11:25

Closure of Public Hearing: 3:12:37

DIRECTOR'S REPORT: 3:13:10

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS: 3:13:37

AGENDA FOR NEXT MEETING: 3:14:45