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ORDINANCE NO. 849

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING INTERIM REGULATIONS FOR PLAT ALTERATIONS EFFECTIVE FOR SIX MONTHS; SETTING A PUBLIC HEARING; AND DECLARING AN EMERGENCY AND IMMEDIATE EFFECTIVE DATE

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, the City is authorized to adopt interim regulations pursuant to RCW 35A.63.220 and under the Growth Management Act at RCW 36.70A.390 so long as a public hearing is held within sixty (60) days of passage of the ordinance; and

WHEREAS, RCW 58.17.215 to 58.17.218 set forth statutory requirements for the processing and approval of alterations to previously recorded plats; and

WHEREAS, recent development activity has revealed that the City's subdivision regulations do not fully comply with the statutory requirements for plat alterations and unless the subdivision regulations are immediately updated, development activity will be adversely impacted; and

WHEREAS, the establishment of interim regulations of six months in duration will provide a statutorily compliant process and will provide approval review authority delegation so as not to divert the City Council from other matters of City business; and

WHEREAS, on December 3, 2018, the City Council considered the interim regulations; and

WHEREAS, the City Council has determined that the use of the interim regulations procedures set forth in RCW 35A.63.220 and RCW 36.70A.390 is appropriate and necessary; and

WHEREAS, the City Council has determined that an emergency exists warranting the immediate effectiveness of the interim regulations as provided in RCW 35A.13.190 because without the immediate effectiveness of the regulations the City has no adopted process to allow plat alterations or modifications in accordance with state law to allow for development and subdivision applications that are otherwise consistent with the City's present zoning and long term vision for certain areas of the City; and

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WHEREAS, interim and emergency regulations are exempt from SEPA review, per WAC 197-11-800(19) Procedural Actions. The City shall conduct SEPA review of any permanent regulations proposed to replace these interim regulations;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The City Council hereby adopts and incorporates the recitals set forth above as the findings of the City Council.

Section 2. Interim Regulations Adopted.

A. Shoreline Municipal Code, Title 20, Sections 20.30.050 and 20.30.420 are amended as set forth in Exhibit A to this Ordinance.
B. A new section, Section 20.30.425 Alteration of Recorded Plats is added to Title 20 of the Shoreline Municipal Code as set forth in Exhibit A to this Ordinance.
C. Shoreline Municipal Code, chapter 3.01 Fee Schedules, Section 3.01.010(M) shall be amended to include a new subsection, Subsection 3.01.010(M)(8) as set forth in Exhibit A to this Ordinance.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and 36.70A.390, the City Council shall hold a public hearing at 7:00 pm, or soon thereafter, on February 4, 2019, at Shoreline City Hall, 17500 Midvale Avenue N, Shoreline, Washington to take testimony concerning the interim regulations.

Section 4. Permanent Regulations. The City Council directs the staff to refer this Ordinance to the Shoreline Planning Commission for its review and recommendation of permanent regulations to replace the interim regulations adopted herein. The City Council further directs the staff to transmit this Ordinance to the Washington State Department of Commerce within ten days as required by RCW 36.70A.106.

Section 5. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 6. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

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Section 7. Emergency Ordinance and Effective Date. The City Council hereby finds and declares this Ordinance is a public emergency ordinance necessary for the protection of the public health, safety, and peace, and shall take effect and be in full force immediately upon its adoption by a majority vote plus one of the whole member of the Council, and that the same is not subject to a referendum (RCW 35.11.090). Pursuant to *Matson v. Clark County Board of Commissioners,* 79 WN. App. 651, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses above, all of which are adopted by referenced as findings of fact as if fully set forth herein and shall expire six months from its effective date unless extended or repealed according to law. This Ordinance does not affect any existing vested rights.

Section 8. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper.

PASSED BY THE CITY COUNCIL ON DECEMBER 10, 2018.

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

Margaret King
City Attorney

Date of Publication: December 13, 2018
Effective Date: December 10, 2018

EXHIBIT A - Ordinance No. 849

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SMC 3.01.010 Planning and Development Fees, amended as follows:

M. SUBDIVISIONS	
1. Binding site plan	$5,870
2. Preliminary short subdivision	$6,694 for 2-lot short subdivision, plus ($515.00) for each additional lot
3. Final short subdivision	$1,957
4. Preliminary subdivision	$15,449 for 10-lot subdivision, plus ($721.00) for each additional lot, and public hearing ($3,605)
5. Final subdivision	$7,518
6. Changes to preliminary short or formal subdivision	$3,811
7. Multiple buildings	Hourly rate, 10-hour minimum $1,930
8. Plat Alteration	Hourly rate

SMC 20.30.050 Administrative decisions – Type B, amended as follows:

Table 20.30.050 – Summary of Type B Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

Action	Notice Requirements: Application and Decision (1), (2), (3)	Target Time Limits for Decision	Appeal Authority	Section
Type B:				
1. Binding Site Plan (4)	Mail	90 days	HE	20.30.480
2. Conditional Use Permit (CUP)	Mail, Post Site, Newspaper	90 days	HE	20.30.300
3. Preliminary Short Subdivision (4)	Mail, Post Site, Newspaper	90 days	HE	20.30.410
4. SEPA Threshold Determination	Mail, Post Site, Newspaper	60 days	HE	20.30.490 – 20.30.710
5. Shoreline Substantial Development Permit, Shoreline Variance and Shoreline CUP	Mail, Post Site, Newspaper	120 days	State Shorelines Hearings Board	Shoreline Master Program
6. Zoning Variances	Mail, Post Site, Newspaper	90 days	HE	20.30.310
7. Plat Alteration (5)	Mail, Post Site, Newspaper	90 days	HE	20.30.425

Key: HE = Hearing Examiner

(1) Public hearing notification requirements are specified in SMC 20.30.120.

(2) Notice of application requirements are specified in SMC 20.30.120.

(3) Notice of decision requirements are specified in SMC 20.30.150.

(4) These Type B actions do not require a neighborhood meeting. A notice of development will be sent to adjacent properties.

(5) A Plat Alteration does not require a neighborhood meeting.

SMC 20.30.420 Changes to approved subdivision, subsection (B) amended as follows:

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A. .....

B. Recorded Final Plats. An application to ~~change~~ alter a final plat that has been filed for record shall be processed as provided for in SMC 20.30.425. ~~in the same manner as a new application. This section does not apply to affidavits of correction of lot line a~~djustments.

A new section **SMC 20.30.425 Alteration of Recorded Plats** is enacted to read as follows:

A. Applicability A plat alteration provides a process to alter or modify a previously recorded plat, short plat, binding site plan, or any portion thereof. The plat alteration results in changes to conditions of approval, restrictions, or dedications that are shown on the recorded plat.

1. Any person seeking to alter a recorded final plat or any portion thereof shall comply with the requirements set forth in chapter 58.17 RCW and the regulations in effect at the time the application is submitted to the City.
2. This section shall not apply to the:
   a. Alteration or replatting of any plat of state-granted tide or shore lands as provided in RCW 58.17.215.
   b. Adjustment of boundary lines as provided in RCW 58.17.040(6).
   c. Any change to a recorded final plat where an additional lot(s) is proposed shall not be considered an alteration and shall be processed as a new formal subdivision or short subdivision depending on the number of lots being created. EXCEPT, if a condition or restriction on the original plat would prohibit such a change, then the plat alteration process must first be completed before a new subdivision may be sought.

B. Application A request to alter a recorded plat shall be submitted on official forms prescribed and provided by the Department along with the applicable fees.

1. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.
2. If the subdivision is subject to restrictive covenants which were recorded at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.
3. If the application seeks to extinguish or alter an easement established by a dedication, the application must contain an agreement for the release or alteration of the easement by all of the owners or the easement.

C. Notice After the City has determined the application is complete, the City shall issue a notice of the complete application as provided in SMC 20.30.120 utilizing the methods specific in Table SMC 20.30.050. In addition, the notice shall:

1. Be provided by regular U.S. mail to all owners of property within the subdivision as provided in RCW 58.17.080 and 58.17.090; and
2. Establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within 14 calendar days of receipt of the notice. The cost of the public hearing shall be the responsibility of the applicant for the plat alteration.

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D. Review Criteria

1. Decision-making authority.
    a. Director. Applications for a plat alteration are a Type B action and shall be administratively reviewed by the Director unless a public hearing has been timely requested as provided in SMC 20.50.425(C)(2) or the City determines that a public hearing is in the public interest.
    b. Hearing Examiner. If a public hearing has been requested, an open record public hearing before the hearing examiner shall be held and the hearing examiner shall issue a decision.
2. The decision-making authority shall review the submittal materials and may approve or deny after a written determination is made whether the public use and interest will be served by the alteration and whether the alteration satisfies the review criteria set forth in SMC 20.30.410(B).
3. In any written determination approving an alteration:
    a. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.
    b. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
4. The Director's decision is final unless appealed to the hearing examiner as provided in Section F below. The hearing examiner's decision on a plat alteration for which a public hearing was requested is final and may be appealed to superior court pursuant to chapter 36.70C RCW Land Use Petition Act.

E. Recording of Alteration No later than thirty (30) calendar days after approval of the alteration, the applicant shall produce a revised drawing or text of the approved alteration to the plat, conforming to the recording requirements of Chapter 58.17 RCW and processed for signature in the same manner as set forth for final plats in this chapter. The applicant shall file, at their sole cost and expense, the revision approved by the alteration to the plat with the King County Recorder to become the lawful plat of the property.

F. Appeal

1. The Director's decision on a plat alteration where no public hearing was held may be appealed to the hearing examiner as provided in SMC 20.30 Subchapter 4 General Provisions for Land Use Hearings and Appeals.
2. The Hearing Examiner's decision shall be final on an appeal of the Director's decision on a plat alteration.
3. The final decision of the Hearing Examiner may appealed to superior court pursuant to chapter 36.70C RCW Land Use Petition Act.