

REGULAR MEETING

Thursday, May 19th, 2005
7:00 p.m.

Shoreline Conference Center | Board Room
18560 1st Ave NE

[illegible]

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These Minutes Subject to
May 19th Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

April 14, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Vice Chair Piro
Commissioner Kuboi
Commissioner McClelland
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT

Chair Harris
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

The regular meeting was called to order at 7:03 p.m. by Vice Chair Piro, who presided.

2. ROLL CALL

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

3. APPROVAL OF AGENDA

The agenda was approved as presented.

4. DIRECTOR'S REPORT

Mr. Stewart announced that the April 19th meeting with the City Council, the Planning Commission and the Innis Arden Club has been cancelled at the request of the club.

Mr. Stewart reported that the Commission has been invited to a dinner meeting with the City Council on May 9th. He asked the Commissioners to contact Ms. Simulcik to indicate whether or not they would be available for the meeting.

Mr. Stewart reviewed the items that were included in the Commissioner's mail envelopes. He referred to the termination notice to Mr. Harley O'Neil regarding the City Hall site. This issue was introduced at a pre-hearing conference with the Hearing Examiner regarding the Echo Lake proposal. He recalled that at the last meeting the Commission discussed the option of retaining the Comprehensive Plan designation for Public Open Space as it is currently shown, with an option of changing the balance of the property to Mixed Use. The map on the yellow sheet illustrates this concept. Also in the packet is a copy of an email from Dick Deal, Shoreline Parks, Recreation and Cultural Services Director, confirming that if the City does not complete the update of the Comprehensive Plan by early June, then the City's ability to apply for IAC grants would be taken away. This would have serious consequences because they are anticipating applying for a major grant for the Boeing Creek Restoration Project. Mr. Stewart then referred the Commission to the Hearing Examiner's decision. He also referred to a handout staff provides to all citizens showing the appropriate zoning by Comprehensive Plan districts. Next, he distributed a new Page 15 of the Commission packet to clarify the issue related to a change in Comprehensive Plan designation. Lastly, Mr. Stewart announced that at the request of Commissioner Kuboi, staff redrafted the findings (found in the April 21st packet). Mr. Stewart advised that staff would be happy to complete additional work at the request of the Commission before the April 21st meeting.

Other than the complication noted in Mr. Deal's e-mail regarding the City's ability to apply for grant funding, Commissioner Hall inquired if there would be ramifications in other City arenas, as well. Mr. Stewart answered that the City is not currently eligible to apply for the trust fund because they did not meet the December deadline for completing the Comprehensive Plan Update. However, the situation is not serious since the City does not anticipate any trust fund applications in the next two or three months.

5. APPROVAL OF MINUTES

No minutes available for approval.

6. GENERAL PUBLIC COMMENT

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

7. PUBLIC HEARING

Type C Quasi-Judicial Public Hearing: Echo Lake Site-Specific Comprehensive Plan Land Use Map Amendment

Vice Chair Piro emphasized that the public hearing would be on the proposed Echo Lake Site-Specific Comprehensive Plan Land Use Map Amendment only, and not the rezone proposal. In addition, he noted that the Echo Lake site is no longer under consideration for a new City Hall Complex. Therefore, no public comments would be accepted related to the rezone request, the SEPA appeal, or the City Hall Project. The rezone request and the SEPA appeal would be heard at a joint Planning Commission/Hearing Examiner public hearing scheduled for May 4th and May 5th. He reviewed the rules and procedures for the public hearing. He also reviewed the Appearance of Fairness Rules and inquired if any of the Commissioners had received any ex-parte communications. None of the Commissioners indicated any ex-parte communication. Next, he asked if anyone in the audience had concerns related to Appearance of Fairness.

Brian Derdowski, 70 East Sunset Way, Issaquah, WA 98027, said he represents the Echo Lake City Hall Oversight - People Against Rezone (ECHO-PAR), the appellants of the rezone application and SEPA Determination that is directly related to the proposed Comprehensive Plan amendment. He pointed out that the Comprehensive Plan amendment proposal is a quasi-judicial action, as is the rezone proposal. Therefore, the Commission's determinations must be made based on the record, which must be fairly constructed with a reasonable opportunity for all sides to provide information. He stated that the Commission meeting minutes show that there have been numerous instances in which the Commission has heard information about the rezone and Comprehensive Plan amendment proposals, as well as the various proposed site configurations for the purchase and sale agreement for city hall, which is no longer an active proposal.

For example, Mr. Derdowski referred to a situation that occurred several weeks ago in which his client, Janet Way, was prohibited from making any comment to the Commission about a matter related to the proposed Comprehensive Plan amendment and rezone request because it was considered a quasi-judicial matter. However, the City staff later provided a 20-minute pitch describing all of the wonderful features of the proposed Comprehensive Plan amendment, rezone and site configuration. Again, Mr. Derdowski pointed out that both the Comprehensive Plan amendment and the rezone proposal are quasi-judicial issues. He said that while the record for the Comprehensive Plan amendment would be opened and closed tonight, the Commission has already received extensive information about the application, and this should be considered ex-parte communication. A reasonable person could conclude that the Commission has prejudged the Comprehensive Plan and rezone actions.

Vice Chair Piro said the initial briefing the Commission received from staff a few weeks ago followed the standard procedures that are in place to provide an introduction to the issue prior to holding a public hearing. He pointed out that the Commission has also appropriately received communications that have been submitted to the City from the applicants and public. Mr. Stewart added that it is important to remember that ex-parte communications refer to communications that occur outside of the public record.

The communications that have taken place between the staff and Commission are all part of the public record and can be fully disclosed to anyone who wants to review them. Therefore, he disagreed with Mr. Derdowski's opinion.

Commissioner Hall invited Mr. Derdowski to identify any Appearance of Fairness issues he might have regarding specific Commissioners. Mr. Derdowski responded that he has deep concerns about the construct of the record and when it was opened. He suggested that since the public hearing is just being opened tonight, all other information the Commission has previously heard regarding this matter should not be part of the record. Mr. Derdowski stated his belief that Commissioner Hall had prejudged the matter and that he had extensive communications with staff and the applicant both orally and in writing. He noted that none of Commissioner Hall's individual conversations with staff have been included in the record.

Commissioner Hall emphasized that he has had no communication with the proponents of the project. However, he has had communications with City staff on a number of occasions, seeking their advice on what can and cannot be done when reviewing the written public comments. There were concerns raised regarding the Public Open Space, so he wanted further information regarding the City's open space policies. At the last meeting, he mentioned that he had asked staff if it was within the Commission's authority to amend the proposal, and the yellow handout that was provided by staff is related to this inquiry. Commissioner Phisuthikul said that he, too, communicated with the staff regarding the proposals. He asked for clarification and additional information that he felt was pertinent to the application. The intent of his inquiries was to gain a better understanding of the issues.

Vice Chair Piro again stated that he believes the disclosed contacts would be considered appropriate communications. He summarized that he sees no reason to limit any of the Commissioners from participating fully in the public hearing. Commissioner Kuboi agreed and stated his belief that Commissioner Hall's actions show that he is willing to do all appropriate due diligence in order to make a decision in concert with the goals of good public policy. He applauded him for his efforts. None of the Commissioners identified any additional issues related to the Appearance of Fairness rules and their ability to impartially participate in the hearing. Therefore, Vice Chair Piro opened the public hearing.

Ms. Lehmberg presented the staff report for the Echo Lake Comprehensive Plan amendment proposal and provided photographs of the site. She explained that the western portion of the property along Aurora Avenue is developed as commercial business. The interior portion of the subject property is developed as a trailer park. There is also a wetland area (Echo Lake) on the site. She said the applicant's proposal is to modify the existing Comprehensive Plan designation to make the entire parcel Mixed Use. Currently, the subject property has three different Comprehensive Plan designations: Mixed Use on the western portion, High Density Residential on the eastern portion and a 50-foot wide strip along the north property line that is designated as Public Open Space.

Ms. Lehmberg displayed a conceptual site plan, showing a configuration for mixed use development if the entire parcel was designated as Mixed Use. She noted that the current R-48 zoning would be compatible with the Mixed Use designation, as would the current regional business zoning. She explained that the current development code requires a 100-foot buffer from a Type II Wetland (Echo

Lake), and the proposed new Critical Area Ordinance would require the buffer to be 115 feet. The conceptual site plan shows a 115-foot wetland buffer.

Ms. Lehmberg advised that staff recommends that most of the developable area be changed to Mixed Use, and the area that encompasses the wetland area to Private Open Space. She explained that the underlying zoning designation would remain the same and would be compatible whether designated Public or Private Open Space.

Mr. Stewart referred to the alternative motions that were presented for the Commission's consideration. Ms. Lehmberg summarized that staff's recommendation is to change the Comprehensive Plan Map land use designation for the subject parcel from High Density Residential, Public Open Space and Mixed Use to Mixed Use for the developable portion and Private Open Space for the wetland buffer area. The applicant's request is to have the entire lot designated as Mixed Use. In addition, Commissioner Hall suggested that they could designate the area that is currently identified as High Density Residential as Mixed Use, and keep the area designated as Public Open Space as it currently exists.

Michael H. Trower, 2077 East Howe Street, Seattle, WA 98122, advised that he is a development consultant working with Echo Lake Associates. He said the applicants support the staff's recommended Option 1 (Mixed Use & Private Open Space). He asked that staff provide clarification regarding the recommendation to designate the Private Open Space as the wetland's buffer. This appears to be redundant because it would already be identified as open space. Otherwise, he said the applicants understand the need for open space, and they are in support of providing Private Open Space as per Option 1.

Mr. Trower referred to staff recommendation Option 2, which suggests that the existing public space remain as Public Open Space. He noted that if the area were designated as Public Open Space, the public would use it. However, the City has not come forward to purchase this property or to pay for the operation and maintenance associated with it. In addition, he noted that the strip along the northern edge of the property, starting at Aurora Avenue and going east, is necessary to the development for access to the parking. In addition, the Fire Department has indicated an interest in this area for emergency access to the development, and they are also interested in the applicant providing access from the subject property onto the property to the north since their access is currently tenuous.

Mr. Trower summarized that the applicants support the application they submitted to change the Comprehensive Plan land use map to Mixed Use. They feel this change would improve the options for developing the property in a very positive way for the community.

Mr. Stewart pointed out that both the Public and Private Open Space designations in the Comprehensive Plan contain very specific words that the underlying zoning would prevail. Therefore, the designation on the plan for Public Open Space includes the intent for acquisition or the possibility for future acquisition for public use. Since the underlying zoning would not change, the City would rely upon the zoning on the land and not the Comprehensive Plan designation. With a Private Open Space designation, the property would be designated for private use only, but the underlying zoning would prevail. The current underlying zoning would prohibit development within 100 feet of the wetland.

Mr. Stewart reminded the Commission that the proposed new Critical Area Ordinance would increase the buffer requirement to 115-feet. The applicant has indicated that he would be willing to designate 115 feet in anticipation of the new Critical Area Ordinance and to designate a portion of the site as open space as part of the development project.

Commissioner Kuboi questioned why a site plan has been submitted for the Commission's consideration when the issue before the Commission is related to the land-use designation only. He suggested that a proposed site plan should not be part of the Commission's consideration. He noted that if the Comprehensive Plan amendment were eventually approved, development of the site could be completely different than what is being identified on the site plan map. Ms. Lehmberg agreed but pointed out that if approved as presented, the 115-foot buffer would be enforced no matter what is developed on the site. Mr. Stewart reminded the Commission that right now, a portion of the property is designated as Public Open Space, and staff thinks it would be appropriate to designate Private Open Space that would be essentially consistent with the buffer, so they can send a message to the community, the developer and the owner that the City would protect the wetland resource.

Commissioner Kuboi referred to the map and specifically pointed out the area that is being considered for the Private Open Space designation. Mr. Stewart further pointed out the boundaries of the proposed buffers, which are consistent with the portion of the property that is being recommended as Private Open Space. He explained that under the land use regulations, a development proposal would be reviewed under the current Critical Area Ordinance. Once the application is approved, the project would be vested under the land use rules in effect at the time it was submitted. Expecting that the Critical Area Ordinance update would increase the buffer requirement, the developer is planning for that change. In any event, the City would utilize the land use law in effect at the time an application is submitted and complete.

Commissioner McClelland agreed with Commissioner Kuboi that it is inappropriate for the Commission to review the conceptual site plan at this time. However, she appreciates being able to see what a 115-foot buffer would look like in proportion to the rest of the site. She said it is important for the Commission to have a clear understanding about how Private Open Space or Public Open Space would protect the wetland. Her understanding is that a buffer is a protected area that protects a critical area from intrusion and harm. However, nothing about the term "private open space" would suggest to her that the buffer would be protected. Given the intensity that is being proposed for future development, she questioned how the City or a private property owner would be able to prevent people from encroaching into the wetland. She questioned if the 115-foot buffer would protect the wetland or not. If not, then it would be irrelevant whether the property is designated as public or private open space.

Mr. Stewart explained that the designation of Public Open Space on private property, without the owner's permission, could be construed as a taking if development rights were taken from the property. Under the 1998 Comprehensive Plan and the current zoning regulation, the Private Open Space designation is advisory, and there is no authority for the City to take, use or acquire the property. The underlying zoning of R-48 would regulate the land use. The designation of Public Open Space on the subject property came out of the CPAC's and was a community policy statement that the City would like something to happen in the future. The same holds true for the Private Open Space designation.

The underlying zoning would govern the actual use, including the critical area. The designation in the Comprehensive Plan provides a benefit because it lets the community and developers know that, as per the Critical Area Ordinance, the property would not be developed.

Again, Commissioner Kuboi asked the staff to provide feedback as to how much project level detail must be considered as part of the Commission's review of the proposed Comprehensive Plan amendment. Mr. Stewart reminded the Commission that the applicant, the appellant and the City made a procedural decision to split the issues, but the staff report that was circulated regarding the proposal was issued prior to this pre-hearing decision. He agreed that project level detail should not be part of the Comprehensive Plan Map amendment discussion.

Commissioner Broili referred to Mr. Trower's comment that if the strip of Public Open Space were left as Public Open Space, it would have an impact on the applicant's ability to provide emergency access to the subject property. He inquired if this access could be moved to another location. Mr. Trower answered that there are likely other possibilities, but the access was planned along the corridor because it works best in terms of siting the buildings and providing access to the property to the north.

Vice Chair Piro inquired if the 50-foot Public Open Space that exists now would be from the proposed building in the north to the property line. Mr. Stewart said the 50 feet would run along the edge of the lake over to the Interurban Trail. Vice Chair Piro inquired if anything would preclude the construction of an emergency access in Public Open Space. Mr. Stewart referred to Land Use Policy 69 in the current Comprehensive Plan regarding the definition for Public Open Space. Commissioner Hall read the policy as follows: "Public Open Space shall be applied to all publicly owned open space and to some privately owned property that might be appropriate for public acquisition. It is anticipated that the underlying zoning for this designation shall remain." He summarized that this policy is advisory rather than a development code. However, since the people who worked hard to designate the Public Open Space on the subject property saw potential for public acquisition, the Commission should be deliberative and sensitive before they consider extinguishing the Public Open Space designation. Vice Chair Piro again inquired if the Public Open Space designation would preclude an emergency access for fire equipment. Mr. Stewart answered that it would not.

Ann Wennerstrom, 19243 Ashworth Avenue North, said she lives across from Echo Lake Elementary school. She said she is opposed to the proposed Comprehensive Plan land use change from high-density residential to Mixed Use. The 1998 Comprehensive Plan places a lot of emphasis on keeping and protecting the character of the neighborhood and accommodating new residential units. The Echo Lake area is lovely, with a school, a park, a sports field, numerous churches and a lot of families. Changing the eastern parcel to Mixed Use would bring more businesses to the area. This would result in more traffic, especially on 192nd as people speed towards Meridian Avenue to get to Interstate 5 and from Costco up Ashworth Avenue. This increase in traffic would significantly change the character of her neighborhood. She pointed out that while the development plan depicts a charming "European Village," it is important to remember that once the designation is changed, the applicant could develop something entirely different. The Mixed Use designation would allow all business uses, without any additional residential units. She noted the significant wording change proposed for Comprehensive Plan Goal 2. The current language states that "adequate residential land and encourage a variety of quality housing

opportunities and appropriate infrastructures suitable for the needs of Shoreline's present and future residents." The proposed language would "encourage attractive, stable, high-quality residential and commercial neighborhoods." There is a significant difference between these two goals. She suggested that there was a reason why this area was identified in the 1998 Comprehensive Plan as residential.

Brian Derdowski, 70 East Sunset Way, Issaquah, WA 98027, said he represents Echo Lake City Hall Oversight - People Against Rezone (ECHO-PAR) who filed the SEPA Appeal on the rezone application. He said that since the rezone proposal is directly related to the Comprehensive Plan amendment, the two actions are linked. Since the SEPA Appeal was filed, ECHO-PAR has been engaged in some very productive discussions with the applicant. They found that they have much in common, and they are working to put together a collaborative, joint proposal. He said he is very impressed with the good will and the goals of the applicant group.

Mr. Derdowski reported that several of ECHO-PAR's objections in the SEPA Appeal have already been addressed. He recalled that the City has determined that they should separate the Comprehensive Plan from the rezone proposal. Also, the elimination of the purchase and sale agreement has addressed one of the group's most profound objections. However, they have some procedural objections, and for that reason, he referenced their March 2, 2005 appeal, as well as their comment letter dated February 4, 2005. While these documents were related to the rezone, they also raised substantive issues regarding the procedure for the Comprehensive Plan amendment. The group would also like to add the City's stream inventory to the record.

Mr. Derdowski reviewed that ECHO-PAR has the right to appeal the City's SEPA Determination to Superior Court, after the City Council takes action. Therefore, including the SEPA documentation in the record is intended to create the basis for a possible SEPA Appeal. Mr. Derdowski said the group is particularly concerned that the proposed action is based on an outdated and incomplete previous SEPA review and documents. They are also concerned about the construct of the public record, which has apparently been open for months for the staff and applicant, but not for the public. This presents an unfair situation that raises profound Appearance of Fairness problems. He said the group applauds Commissioner McClelland's initiative in visiting the site. However, she should have put this information in the record prior to the hearing. It would be inappropriate for her to base her decision on something other than the record.

Mr. Derdowski said the group also objects to the lopsided and unfair access to the present public hearing. The staff has had apparently unlimited opportunity to enter information into the record, but the public is limited to three to five minutes. There is no sworn testimony, despite the Commission's rules and procedures. Neither is there an opportunity to offer expert testimony or cross-examination. The applicant, whom they support, has been invited to provide special testimony, but ECHO-PAR has not.

Mr. Derdowski said the group is in agreement with the intensive Mixed Use designation for the site. They think the applicant is on the right track, and they applaud his efforts to design a high-quality project. After evaluating the City's mixed use development regulations and those of several other jurisdictions, it is apparent to them that the City's definition of Mixed Use is ill defined. There are many uses that fall within Mixed Use, and their impacts have not been evaluated. The City's previous

SEPA review considered R-48, but not the full range of impacts of all the uses that are included in the Mixed Use land use designation. The proposal before the Commission and what the applicant has in mind fits within the SEPA review and is probably in the public interest. But if something should happen and the applicant moves on, there are no protections to make sure the impact would not be greater than anticipated.

Mr. Derdowski said the group shares many of the applicant's concerns about the designation of any portion of the site as open space. The City's authority to designate critical areas is very clear, but it is not clear that they have the authority to designate open space as part of zoning. Commissioner Hall pointed out that the open space would revert to the underlying zoning, but one must ask what the underlying land use designation would be.

In summary, Mr. Derdowski said ECHO-PAR has had excellent discussions with the applicant and the YMCA, which is seeking to locate on the subject property. However, they continue to have certain procedural issues. They support Mixed Use, but they believe the City's definition is too broad and ill defined. In addition, they strongly support the protection of the wetland as a critical area. While they do not believe the City has the authority to zone the open space, they could adopt a land use designation of Mixed Use, with a P-Suffix condition that relates to the critical area.

Barbara B. Lacy, 19275 Stone Avenue North, said she lives on Echo Lake. She invited the Commissioners to visit the lake from her house to get a feeling for the ambiance that exists in the area. Ms. Lacy said she has heard concerns about the lake not being clean enough to swim in. She has also heard that it is important to build on the property surrounding Echo Lake because it is all undeveloped on the south end. She said she was excited about the plans for the City to construct a City Hall and park, but now these plans have changed and the site would be used for something else instead. She said she is concerned that the proposed site plan is only a potential plan, and what is actually developed on the subject property might be totally different. She noted that a Mixed Use designation would allow industrial uses and development up to five stories high, and this type of development could significantly change the existing character of the neighborhood. Tragic things could happen if the property were simply changed to a Mixed Use designation. Ms. Lacy suggested that the Growth Management Act thought of Shoreline perhaps a little differently. She said she feels Shoreline is a suburban community, with a lovely lake. They should look very carefully at what they are doing when they consider usage changes.

Commissioner Hall requested that staff explain the SEPA appeal process for the Comprehensive Plan amendment. Mr. Stewart said Mr. Derdowski has also appeared before the City Council indicating his intent to appeal the SEPA Determination on the major update of the Comprehensive Plan, and he has raised various procedural objections in that regard. The City Council has adopted a resolution, merging the 2004-2005 annual Comprehensive Plan review that the subject application is part of and the 2003-2004 major review. As part of the merger, additional SEPA work would be completed prior to the final City Council action. He noted that in the City's development code there are two different types of procedural appeals under SEPA. One type of appeal is to the Hearing Examiner, which is what they are following for the contract rezone. The other type of appeal is on legislative decision. He advised that while the City is engaged in a quasi-judicial like process, the City Attorney has indicated that it would

be appropriate to follow the Appearance of Fairness Doctrine because it is a site-specific process. In the end, the proposed Comprehensive Plan amendment would be a legislative decision, and the SEPA decision could be appealed to Superior Court after City Council adoption.

Commissioner Kuboi asked if a SEPA appeal on the proposed Comprehensive Plan amendments were filed, would it be possible for the City to meet the June deadline and would the City still have an opportunity to apply for grant funding for the Boeing Creek Rehabilitation Project. Mr. Stewart said his understanding is that the final action of the City Council would be sustained until a judge overturns it. While the Superior Court may eventually overturn the decision under the Land Use Petition Act, the City Council's action to approve the Comprehensive Plan amendments would be presumed valid until a court overturns it. Grant funding for the Boeing Creek Rehabilitation Project would be at risk if the City does not complete its adoption of a new parks plan by June 6th. Staff believes the new parks plan should be adopted concurrently with the Comprehensive Plan update.

Commissioner McClelland said that as she reviewed the public comment letters, she noted issues that were not addressed in the staff report. In addition, at some point she would like a clear definition for open space and whether it would be a passive recreation area or a protected buffer. She would also like more information about whether the lake is safe to swim in. She said one public comment letter raised a question about the displacement of wildlife, and she questioned if this is something the Commission should discuss. She would also like to know more about the location of the piped stream and how it would be impacted by the proposed change. In addition, she would like more information about the Weimann house and whether or not it has any historic significance. Lastly, she said traffic was raised in a number of the public comments. Specific concerns were expressed about opening the traffic along 192nd to become a pass through to Ashworth, Meridian or the freeway.

Mr. Stewart said the staff originally consulted with the King County Historic Preservation Planner who advised them that there was no significant historic value to the Weimann property because of its highly denigrated nature. After this was initially entered into the record, staff received a subsequent communication from the planner indicating that after rethinking the issue, he could think of measures the City could take if the house were slated to be destroyed. Ms. Lehmberg said that, typically, these measures include photographic documentation, historic research on the previous owners, putting the house up for sale for a small amount, and having a 90-day waiting period before the house is demolished. Mr. Stewart said issues related to the historic value of the Weimann house would be dealt with at the site planning and project review level.

If the City were to approve a Comprehensive Plan Map amendment to designate the property as Mixed Use as proposed and historic status is given to the property in the future, Vice Chair Piro inquired if the historic status would then be relevant to anything that happens to the property beyond that point in time. Mr. Stewart answered affirmatively and added that this would be the case independent of whether the property is designated in the Comprehensive Plan as Mixed Use or High Density Residential.

Mr. Stewart explained that the level of intensity of development that is allowed under a High Density zoning district is very high, with high coverage of impervious surfaces. This would not be significantly

different than what could occur under a Mixed Use designation. Both the existing designations and those that have been proposed are very intensive land uses.

Commissioner McClelland questioned if the purpose of the required wetland buffer would be to protect habitat. Mr. Stewart answered that this function would be protected under the Critical Area Ordinance at the project level. The State law requires the City to protect the functions and values of the resource.

Mr. Stewart advised that the City's stream and wetland inventory clearly identifies the various watercourses throughout the City. Ms. Lehmberg used the inventory map to describe the location of the piped stream on the subject property. Commissioner McClelland referred to the pipe that runs along Aurora Avenue and questioned if it is a piped stream or a drainage pipe. Mr. Stewart said this pipe has not been formally classified at this point. It is shown in the stream inventory as a piped watercourse.

Commissioner Kuboi reminded the Commission to focus their comments and questions to issues that are directly related to the proposed Comprehensive Plan amendment. Many of the written public comments were related to the contract rezone proposal rather than to the land use change. He emphasized that the underlying zoning would not be changed if the Comprehensive Plan amendment were approved. However, approval of the Comprehensive Plan amendment would set the stage for a future change in zoning when a project level contract rezone is submitted to the City. At that point, many of the issues raised by the public would be addressed.

Vice Chair Piro said it has been suggested that a Mixed Use designation would not actually require a mix of uses. If a Mixed Use designation were approved, there might never be a residential project developed on the site. Mr. Stewart explained that the City of Shoreline determined that its Mixed Use designation under the Comprehensive Plan could be very flexible and allow a multiplicity of various districts to occur within that broad category. The mixture includes Neighborhood Business, Community Business, Office, Regional Business, Industrial and Residential (R-8 through R-48). The Mixed Use designation consolidated a number of the highly fragmented spot zones that were in place when the City incorporated. It encouraged high-quality development by allowing the consolidation of parcels and creativity in land uses. He said specific criteria must be met before rezone proposals could be approved. The criteria would be evaluated when the Commission considers the proposed change to the zoning designation, and the zoning designation determines the types of development allowed on a property.

Commissioner Kuboi inquired if all three of the criteria found on Page 8 of the staff report must be satisfied before the Commission could make a recommendation for approval of a change in a land use designation. Mr. Stewart pointed out that the three criteria contain the word "or" at the end of each. Therefore, the amendment must only be consistent with one of the following criteria:

- The amendment is consistent with the Growth Management Act, countywide planning policies or other Comprehensive Plan policies.
- The amendment addresses changing circumstances.
- The amendment will benefit the community as a whole.

Commissioner Kuboi requested staff to provide insight on how the Commission might approach the evaluation of a proposal to determine whether or not there would be a benefit to the community as a whole. Many people see the Comprehensive Plan amendment as setting the stage for ultimately making the property much more developable, marketable and economically valuable for commercial uses. This represents a significant benefit to the property owner and/or developer. He questioned what public benefit would result from the change. Mr. Stewart advised that there are a number of policies in the Comprehensive Plan to encourage and facilitate economic development, high-quality infill, and creative mixed use developments. Part of the foundation for doing this is to create a larger pallet upon which a developer could draw, and this could be considered a public benefit. Secondly, he said that while high density residential development would be allowed on the eastern part of the site, it would also be allowed under the new Mixed Use designation. But if the property were rezoned to Regional Business, residential development would also be allowed as part of a mixed use building. This multiplicity of uses would not be allowed under the current zoning designation.

Mr. Stewart said there has been a lot of discussion about whether or not a sport or social club (YMCA) would be permitted under the current zoning. He clarified that a sports and recreation club is an allowed use in the R-48 zone with a conditional use permit. It would also be allowed in a Regional Business zone. Therefore, the YMCA issue is not dependent upon either a Comprehensive Plan designation change or a rezone. It could be built on the site now with a conditional use permit.

**COMMISSIONER BROILI MOVED THAT THE PUBLIC HEARING BE CLOSED.
COMMISSIONER HALL SECONDED THE MOTION.**

Although the public portion of the hearing was closed, Commissioner Hall said he had several issues for which he would like the staff to provide further information. He said the land use policies are well addressed in the staff report. However, he referred to public comments related to parks and recreation. He said that while there are no parks on the subject property at this time, removing the Public Open Space designation could foreclose future opportunities for public park space.

Commissioner Hall requested that staff provide additional information to show how the proposed Comprehensive Plan amendment would either advance or hinder the following policies:

- **Parks and Recreation Goal 1** related to preserving open spaces and maintaining a quality parks and recreation system.
- **Parks and Recreation Goal 2** regarding the protection and enhancement of areas with critical or natural features where practical, especially if endangered by development.
- **Parks and Recreation Goal 4** related to a citywide trail system that provides linkages between parks, greenways, open spaces, regional trail systems, residential neighborhoods and community businesses. He said he is having a difficult time contemplating the difference between a strip of open space versus a consolidated area of open space.
- **Parks and Recreation Goal 24** related to opportunities for developing pedestrian and bicycle connections throughout the City to connect neighborhoods.

- **Land Use Goal 1** regarding the preservation of environmental quality by taking into account the lands suitability for development and directing intense development away from natural hazards and important natural resources.
- **Land Use Goal 30** related to the integration of open spaces into residential neighborhoods.
- **Land Use Goal 47** would include parks along the Aurora Corridor at Echo Lake and at North 160th Street.

Commissioner Hall pointed out that while the proposed amendment might hinder some policies, it could advance others. It is up to the Commission to balance the positive and negative impacts to make the best recommendation as possible to the City Council. Mr. Stewart said staff would provide additional information in writing regarding each of the goals identified by Commissioner Hall. He felt these issues could be very important to the Commission's findings of fact.

Commissioner Kuboi requested additional information from staff regarding the pros and cons of leaving the current Public Open Space designation as it currently exists. Mr. Stewart said staff could conduct some additional analysis regarding this option.

Commissioner Broili said Commissioner Hall touched on a number of issues that are important to him, as well. He is particularly concerned about linkage between the subject property, Aurora Avenue, and the Interurban Trail. He said he does not want the area to be closed off to the public. He would like the public access to the lake and trail to remain intact. He said he is in favor of moving ahead on the proposal tonight based on the testimony that has been received to date.

THE MOTION CARRIED UNANIMOUSLY.

8. DELIBERATIONS ON 2004-2005 COMPREHENSIVE PLAN AMENDMENT DOCKET

The Commission discussed how they wanted to proceed with their deliberations on the four site-specific Comprehensive Plan amendment proposals that have been heard by the Commission to date. Ms. Spencer referred to Page 43 of the Commission packet that was prepared for the April 21st meeting, which reminds the Commission where they left off after the public hearings for the other three actions. In addition, staff reattached all of the draft findings for the other three sites (Attachment 2, 4, 6). She advised that the advertised meeting agenda for April 14th includes deliberations on the annual Comprehensive Plan Update docket if time allows. Therefore, the Commission could work on any items on the docket now.

The majority of the Commission agreed to move forward with their deliberations on the other three site-specific Comprehensive Plan amendment proposals that were presented previously to the Commission. Deliberation on the Echo Lake site-specific Comprehensive Plan amendment was deferred to the next meeting, April 21, 2005.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 301275 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT 18511 LINDEN

AVENUE NORTH (ADJACENT TO THE JAMES ALAN SALON). COMMISSIONER MCCLELLAND SECONDED THE MOTION.

Mr. Stewart referred the Commission to Page 79 of the April 21st packet, which includes the draft findings and the determination of the Commission for File Number 301275. He noted that a map of the subject property could be found on Page 77. The request is to change the Comprehensive Plan land use designation from High Density Residential to Mixed Use. The Commissioners briefly reviewed the draft findings as presented by staff.

THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 201277 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT 19671 – 15TH AVENUE NORTHEAST. COMMISSIONER BROILI SECONDED THE MOTION.

Mr. Stewart advised that a map of the subject property could be found on Page 61 of the April 21st packet, and the draft findings and determination start on Page 63. He reviewed that the request is to change the Comprehensive Plan land use designation from Ballinger Special Study Area to High-Density Residential. Ms. Spencer emphasized that the Commission would not be taking action to approve the concurrent rezones now. The Commission's actions are related to the Comprehensive Plan amendments, only. They would deliberate the rezone proposals on May 19th.

Commissioner Hall said this is a clear example of a Comprehensive Plan land use map amendment that is intended to correct existing spot zoning. The subject property is completely surrounded by greater densities, and the proposed amendment would be in the public interest.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Stewart referred to File Number 201371 and advised that a map of the subject property could be found on Page 47 of the April 21st packet, and the draft findings and determination start on Page 49. The request is to change the Comprehensive Plan land use designation from Low Density Residential to High Density Residential. Ms. Spencer noted that a member of the public submitted an additional letter during the public hearing on this proposal, and it was distributed to each of the Commissioners.

COMMISSIONER HALL MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 201371 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF NORTH 160TH STREET AND FREMONT PLACE NORTH. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall said he would like to make some changes to the staff's recommendation for File Number 201371. He recalled that there was a lot of public negative testimony and concern raised about this proposal. While the large parcel across the street is developed as high density condominiums, the

remainder of the parcels in the vicinity are Low Density Residential. He said he has visited the site and noted the location of the significant trees that exist between the single family residences and the subject property. He tried to imagine what could occur if the property were developed as a large multi-family structure, which would be allowed by the action. He said he is undecided on the proposed amendment at this point.

Commissioner Broili said he would vote against the proposed amendment for at least three reasons. First, Fremont Avenue provides the natural separation between high density residential and low density residential. Everything west of Fremont Avenue and north of 160th Street is Low Density Residential. By designating the subject property as High Density Residential, the City would be setting the precedent for further movement westward. Second, he said the character of the area and the adjacent property dictate that the subject property remain Low Density Residential. Third, he said he is concerned that Boeing Creek is underground along Fremont Avenue, and he is opposed to any development that would make the potential future opportunity for day lighting the stream more difficult.

Vice Chair Piro questioned the location of Boeing Creek in this location. Mr. Broili said he walked the site and pulled up the manhole cover for Boeing Creek. It appears that the creek runs through the right-of-way or adjacent to it all along Fremont Avenue.

Commissioner Phisuthikul expressed his concern that the density being proposed for the subject property is too great. At the most, the site should only be allowed to have duplex units.

Commissioner McClelland agreed with Commissioners Hall, Broili and Phisuthikul. She disagreed with the applicant's point of view that nobody would want to live on the subject property because it is located on a busy corner. People will live about anywhere a residential structure is built. She said she is opposed to intensifying low-density residential neighborhoods.

Commissioner Kuboi said he leans towards supporting the proposal because it would allow an opportunity for the construction of more affordable housing. There is already a lot of high density residential development surrounding the subject property. It is important that the City offer affordable housing to its citizens, and high density residential development, such as that proposed, would fall in line with his desire to see a wider variety of housing stock that is affordable to the average citizen.

THE MOTION FAILED WITH COMMISSIONER KUBOI VOTING IN FAVOR AND VICE CHAIR PIRO, COMMISSIONER MCCLELLAND, COMMISSIONER PHISUTHIKUL, COMMISSIONER HALL, AND COMMISSIONER BROILI VOTING IN OPPOSITION.

COMMISSIONER BROILI MOVED THAT FILE NUMBER 201372 (ECHO LAKE COMPREHENSIVE PLAN AMENDMENT) BE TABLED UNTIL THE APRIL 21, 2005 MEETING. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

9. REPORTS OF COMMITTEES AND COMMISSIONERS

There were no Commissioner reports.

10. UNFINISHED BUSINESS

Mr. Stewart reported that, as per the Commission's request, staff has completed research about what other communities do for tree protection and view enhancement. A few technical memorandums regarding this research would be forwarded to each of the Commissioners.

Commissioner Broili asked why the joint Innis Arden/City Council meeting was cancelled. He also asked if this meeting would be rescheduled before the Commission completes their review of the Critical Area Ordinance. Mr. Stewart answered that he has not received any additional details about why the Innis Arden Club decided to cancel the meeting. He reminded the Commission that the contentious issue related to trees and views is one of the biggest hurdles the Commission will face when reviewing the Critical Areas Ordinance. Hopefully, they will be able to find some solutions.

Commissioner Broili recalled that the proposed Critical Areas Ordinance speaks to a stewardship plan. His interpretation is that this would be a suggestion, but there is no outline of what the plan should look like. Mr. Stewart clarified that there was an effort by a number of members of the Innis Arden community several years ago to create a vegetation management plan, which was actually signed by both the City Council and the Innis Arden Board as a way for the reserves to be managed. Unfortunately, there were provisions in the management plan related to some technical findings that prohibited it from ever being used or implemented. But he suggested that the concept of having a plan to maintain, manage and enhance the functions and values of the reserves would be the best way for the City to proceed in the future. He agreed that no outline for the stewardship plan process has been identified in the proposed Critical Area Ordinance. However, he pointed out that the procedural concept for the stewardship plan tool was taken from the County's ordinance in regarding to their agricultural use exemptions. The notion was that if they could build collaborative plans in agricultural areas, perhaps the same concept could be used in the contentious urban areas.

Commissioner McClelland inquired if it is necessary that the issue of trees versus views be addressed in the Critical Area Ordinance. Mr. Stewart explained that there are three types of tree protection classifications. One class is for trees that are outside of any critical area or critical area buffer. Another class would involve trees that are located within a steep slope of less than 40 percent. Cutting trees in these areas would require a permit. The third class involves trees that are located on steep slopes that are greater than 40 percent or within stream or wetland buffers. There are no provisions in the current code to permit the removal of trees in these areas other than a critical area reasonable use permit or if the tree is exempt (hazardous tree).

11. NEW BUSINESS

Commissioner Kuboi suggested that the Commission review the list of topics identified by the Commission at their retreat and look for opportunities to schedule them on upcoming Commission

meeting agendas. He particularly noted the Commission's desire to discuss Planning Commissioner expectations of each other. Mr. Stewart suggested that some of these items could be placed on the next meeting agenda. The Commission asked staff to invite the staff members who facilitated the retreat discussion to attend the next meeting, as well.

Commissioner Hall said one reason the retreat was so successful was the fact that each Commissioner did the necessary preparation work. He challenged the Commissioners to do the same for the next meeting, as well.

Commissioner Kuboi suggested that the City's new Economic Development Director be invited to attend a future Commission meeting. Mr. Stewart said staff would make the necessary arrangements. Commissioner Kuboi said it would be helpful if the Commissioners could forward comments to staff regarding the types of issues they want the Economic Development Director to address.

12. ANNOUNCEMENTS

Mr. Stewart announced that a workshop regarding code enforcement problems and issues was held last week. There will be a number of proposed amendments coming before the Commission for review in the future. Many of the comments had to do with neighborhood preservation, deteriorating structures, parking, the number of cars allowed on private lots, etc. There were about 60 people in attendance at the event.

Mr. Stewart announced that Alicia Sherman has joined the Planning and Development Services staff as the Aurora Project Manager. She formerly worked as a planner in Lake Forest Park and Maple Valley. He explained that while she is assigned to Planning and Development Services, her main job would be working with the Aurora Project Team to meet with business owners in the area in an effort to proactively solve some of their issues and concerns about access, consolidating properties, future parking and development regulations, etc. He said he would invite Ms. Sherman to a future Commission meeting, as well.

Commissioner Kuboi inquired if there were very many comments related to the fabric garage structures at the code enforcement meeting. Mr. Stewart answered that there were not. There were comments about using tarps to avoid necessary roofing repairs, but the Costco tents present a separate issue. If they are greater than 120 square feet in size, they would technically be considered a structure and a permit would be required. Ms. Lehmberg corrected that the revised building code would allow these tent structures up to 200 square feet without a permit. Mr. Stewart said this issue would be relatively low on the priority list. Commissioner Phisuthikul asked if any concerns were raised regarding cargo containers or trailers on private properties. Mr. Stewart answered that the City recently adopted a cargo container amendment. They are only allowed in central business, neighborhood, North City, regional or industrial zones with a conditional use permit. They are not allowed in any other zoning district.

13. AGENDA FOR NEXT MEETING

Vice Chair Piro reminded the Commission that their next meeting is scheduled for April 21st. The agenda would include further deliberation on the final Comprehensive Plan Update amendment proposal for Echo Lake. They would also discuss the issue of Planning Commissioner expectations of other Planning Commissioners. He noted that a joint meeting is scheduled with the Hearing Examiner on May 4th and May 5th. In addition, the Commissioners are invited to a volunteer breakfast on April 22nd.

14. ADJOURNMENT

The meeting was adjourned at 9:34 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

April 21, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi (arrived at 7:05 p.m.)
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Rachel Markle, Assistant Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
David Pyle, Planner I, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT

Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

The regular meeting was called to order at 7:02 p.m. by Chair Harris, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Hall, McClelland, Phisuthikul and Broili. Commissioner Kuboi arrived at 7:05 p.m. and Commissioners Sands and MacCully were excused.

3. APPROVAL OF AGENDA

The agenda was approved as presented.

4. DIRECTOR'S REPORT

Mr. Stewart reminded the Commissioners of the volunteer breakfast that is scheduled for April 22nd at 7:30 a.m.

Mr. Stewart referred the Commission to the purple document that was provided in their packet. He explained that this document contains the findings and determinations that staff prepared for the Commission's recommendation for denial of the Comprehensive Plan amendment for the property located at the northwest corner of North 160th Street and Fremont Place North (File No. 201371). He further explained that while typically the Chair of the meeting would sign the findings and recommendation; in this case, staff would like to allow the voting Commissioners an opportunity to comment on the document before it is sent to the City Council. He asked that Commissioners forward their comments to the staff as soon as possible.

5. APPROVAL OF MINUTES

The minutes of March 17, 2005 were approved as amended, and the minutes of April 7, 2005 were approved as submitted.

6. GENERAL PUBLIC COMMENT

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

7. REPORTS OF COMMITTEES AND COMMISSIONERS

Commissioner Broili reported that he recently attended a King County Council Meeting at which they discussed the water issues related to the drought declaration that was issued by Governor Gregoire. He said he found the discussion very interesting and suggested that the City also review the impacts the declaration could have on the City of Shoreline.

8. STAFF REPORTS

2004–2005 Comprehensive Plan Amendment Docket – Echo Lake

Mr. Stewart referred the Commission to the addendum that was prepared for the staff report in response to some of the questions that were raised at the last meeting. A number of additional policy issues were included to supplement the report. He said staff continues to recommend the proposed change to Mixed Use and Private Open Space. However, after further reflection, they feel the change to Mixed Use with the retention of the Public Open Space would also be acceptable.

Chair Harris advised that since he did not participate in the public hearing that was held on April 14th, he would not be voting on the recommendation.

Commissioner Kuboi inquired if a Public Open Space designation would retain the same boundaries as those that currently exist. Mr. Stewart said one alternative would be to retain the Public Open Space as designated in the current plan and then change the balance of the site to Mixed Use. Again, he emphasized that staff would support both alternatives (Public Open Space or Private Open Space).

COMMISSIONER BROILI MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL TO CHANGE THE

COMPREHENSIVE PLAN LAND USE DESIGNATION (FILE NUMBER 201372) OF THE SUBJECT PROPERTY THAT IS DESIGNATED HIGH DENSITY RESIDENTIAL TO MIXED USE BASED ON SPECIFIC FINDINGS MADE BY THE PLANNING COMMISSION (REFER TO YELLOW DOCUMENT HANDED OUT AT THE APRIL 14, 2005 PUBLIC HEARING). VICE CHAIR PIRO SECONDED THE MOTION.

Since concern was raised at a previous meeting about ex-parte communications, Commissioner Hall disclosed an incidental contact he had with someone he didn't know was associated with the project. He advised that while having dinner at Spiro's, he chatted with the host regarding the Fred Meyer Project, the Aurora Avenue Project, and the Gateway Project. It was then the host indicated he is also a partner with Harley O'Niel on the Echo Lake Project. Commissioner Hall emphasized that he stopped the conversation at that time, so he does not feel he had any substantive discussion regarding the subject proposal.

Commissioner Broili explained that the intent of his motion was to change only that portion of the property that is listed as High Density Residential to Mixed Use. The property that is currently designated as Public Open Space would remain the same as per page 6 of the Staff Report Addendum, #3.

Commissioner Kuboi recalled that the vast majority of public comments received regarding this proposal were directed at the actual proposed project. However, the proposed project was changed substantially by the withdrawal of the City Hall project. He said he would vote in favor of the motion on the table because he does not believe that the land use designation change would directly cause any of the concerns raised by the public during the public hearing. He felt the project would provide an overall benefit to the community by allowing more flexibility as to what can be built on the site.

Commissioner Hall recalled the concerns that have been routinely raised by the public regarding protection of the City's natural areas and the need to make Shoreline a pedestrian and bicycle friendly place. He noted that some of the Comprehensive Plan policies recently debated by the Commission have had to do with bicycle and pedestrian linkages. He particularly noted Public Comment 33, a letter from the group known as Forward Shoreline, that indicates support of the proposed rezone and amendment because of its potential to enhance public access to Echo Lake. This comment further supports the motion on the table that would leave the open space as public. He also noted that comments provided by the Sno-King Environmental Council, the Thornton Creek Legal Defense Fund, the Public Interest Associates and others who also support the concept of keeping public open space close to Echo Lake. He concluded by stating that he strongly supports the proposed motion that would allow the Public Open Space to remain as it currently exists in the Comprehensive Plan.

Commissioner McClelland said she carefully reviewed the Comprehensive Plan and noted every reference to the City's interest and support of the protection of natural systems. A number of places in the Comprehensive Plan identify Echo Lake as an important component of the City's natural system. She expressed her concern that the City not lose their opportunity to acquire land at Echo Lake in the future. She said her understanding is that the proposed motion would identify a 50-foot wide strip of land as Public Open Space, but the open space would actually be privately owned. She noted that the City would only have the ability to acquire half of the eventual 115-foot buffer between the wetland and future development. That means that it would be the responsibility of the property owner to tend more

than half of the buffer area. She pointed out that one of the benefits of constructing City Hall on the subject property would be that the land along the water's edge would be publicly owned and managed. Commissioner McClelland pointed out that, to her knowledge, there are no City plans to acquire this property for public use. She suggested that this would be a perfect opportunity for the City to demonstrate its commitment to the Comprehensive Plan policies and the Development Code requirements by acquiring land associated with a natural system.

Commissioner Kuboi clarified that the motion would only change the land use designation for the portion of the subject property that is currently designated High Density Residential. No change is being proposed for the portion of the subject property that is identified as Public Open Space. He said it appears that Commissioner McClelland is concerned that leaving the open space designation as it currently exists would stall any immediate development of the property and possibly keep its value at a lower level that would allow the City to possibly acquire a part of it in the future. He pointed out that if the proposal to change the High Density Residential portion of the property to Mixed Use were approved, it would make it more economically feasible for the property owner to develop the site. This could incrementally make it harder in the future for the City to acquire the open space property.

Commissioner McClelland emphasized that her concerns are not related to the monetary value of the property. Her concerns are related to the City's obligation to carry through with their goals and policies. While she is not saying that the owner cannot address the goals and policies, the opportunity for public ownership does not come around often and it is precarious. If the City has to pay market value for the property, so be it. She summarized her belief that the subject property is fragile. A benefit of being able to consider changes of this type is the City's ability to have some influence on the outcome of a project. She is not sure the City would have this opportunity if the open space remains in private ownership.

Commissioner Broili agreed with Commissioner McClelland that the subject property is sensitive and fragile. However, the question before the Commission is whether or not they are doing what they can to protect the 50-foot open space area and capitalize on opportunities to connect the Interurban Trail with Aurora Avenue and gain public access to the lake. The type of development that occurs upland will have an impact on this, but that is not the decision before the Commission at this time. He summarized that the Commission has two choices. They could recommend that the property to be changed to Mixed Use or that it remain as High Density Residential. In either case, the potential impacts would probably be the same. The City would merely be opening the door for a developer to do something more diverse than strictly high density residential development. He expressed his belief that this would be a good thing, and it would not impact the public open space one way or the other. He said he would support the motion in that it would send a message to the public that the City wants to retain some opportunity for keeping the space more public.

Commissioner McClelland suggested that there is nothing "public" about the open space on the subject property. Therefore, it would be inappropriate to label it as Public Open Space. There would be no public access and the property would be privately owned.

Commissioner Hall reminded the Commission that the applicant's request was to change the designation on the entire site to Mixed Use, including the portion that is currently designated as Public Open Space. The motion would attempt to balance the Comprehensive Plan goals. He pointed out that the Comprehensive Plan calls for accommodating a growing population. The Comprehensive Plan and the

City's priorities call for economic development, and there was a lot of support expressed in many of the public comment letters and during the public hearing about redeveloping the site. A Mixed Use land use designation would allow for the kind of mixed use development that the City is looking for. However, the land would continue to be privately owned, and the fact that it would be designated as Public Open Space would not prevent it from being used according to the underlying zoning. Right now, there are people living within the open space area. He agreed that the proposed action would not make the open space any more public, but it would allow a compromise that would promote mixed use development and recognize the open space area for potential park use in the future. Until such time as the City purchases the land, the developer has the right to use it for residential uses. He summarized that the action would not create public space. It would merely retain the land use designation for the open space portion of the property.

Commissioner McClelland agreed that it is appropriate for the property to be redeveloped, and she understands that the mixed use concept is probably right for the site. But her heart and her mind are at odds. She feels very tender about the open space area right now.

THE MOTION CARRIED 6-0, WITH CHAIR HARRIS ABSTAINING FROM THE VOTE.

Commissioner Hall suggested it would be important to include in the Commission findings that there was strong community support for the idea and concept of having a park at the south end of the lake and having connectivity between the lake, the Interurban Trail and the businesses in the area. Mr. Stewart indicated that staff would make note of this in the Commission findings that would be forwarded to the City Council for deliberation and a final decision.

9. UNFINISHED BUSINESS

Planning Commission Retreat Follow-Up

Ms. Markle reminded the Commission of their desire to discuss the Planning Commission's expectations of the Commission. She referred to the list of topics that was compiled at the retreat and suggested that the Commission begin their discussion by reviewing each one. She indicated that she received an email from Commissioner Kuboi asking that they also discuss what the desired behaviors and actions are meant to accomplish. He also suggested that they discuss both the quantity and quality of their work.

Commissioner Kuboi said it is important for the Commission to discuss whether they are accomplishing enough work and how they compare with other planning commissions. He pointed out that it would not be appropriate for the Commission to do more work if it means the quality of their current efforts would be impacted. He suggested that each of the items on the list created by the Commission at the retreat play into either the issue of quality or the issue of quantity. Commissioner Hall agreed with Commissioner Kuboi that quantity is definitely a concern that the Commission must address. The Commission has expressed a desire to do more work than they have been able to accomplish in the past. He questioned if there are ways the Commission could be more efficient with their time so they could address the important issues such as cottage housing, sidewalks to nowhere, etc. Commissioner Kuboi suggested that the Commissioners agree upon a method for prioritizing and deciding what their additional tasks should be.

Commissioner Broili said that as he reviewed the list of topics, he found that the only one the Commission still needs to work on is “framing the issue and keeping to issues that are related to the discussion.” The Commission has been very good at meeting all of the other items on the list. He agreed with Commissioner Kuboi that the Commission’s discussion should focus on quality and quantity and how they can achieve both expeditiously without compromising the quality of the decisions they make.

Commissioner McClelland suggested that another item be added to the list that would give the Commission Chair permission to get them back on task. Chair Harris pointed out that since the retreat discussions, the Commission has improved their ability to stay on task and get their meetings finished in a timely manner.

Commissioner Hall recalled the issues regarding the Appearance of Fairness that were raised by members of the public at the last hearing. He asked that staff invite the City Attorney to clarify whether or not it would be appropriate for the Commissioners to contact the staff and ask questions on matters that are scheduled to come before them as public hearings. Mr. Stewart suggested that it would be appropriate to schedule a small training session with the City Attorney to discuss the rules for quasi-judicial hearings. Another option would be to invite someone from the City’s insurance carrier to speak with the Commission regarding this issue. The Commission agreed that this would be helpful. Commissioner Kuboi suggested that, in addition, they should discuss the Commission’s current procedures for quasi-judicial reviews and whether or not other alternatives could or should be implemented.

Commissioner Phisuthikul recalled that in 2004 he wrote a letter to the City Council that was deemed as “prejudging an issue before it was heard.” This was considered inappropriate. Mr. Stewart said he feels responsible for that matter because he had originally advised the Planning Commission that they were dealing with a legislative issue. After he rendered that point, the City Attorney advised that it was more in the nature of a quasi-judicial matter. He explained that with quasi-judicial issues, the Appearance of Fairness Rules would apply. These rules require the Commissioners to keep an open mind until all of the information has been received. Then they must evaluate and issue a decision based upon the information they received.

Mr. Stewart referred the Commission to the items listed on the Planning Commission Agenda Planner under “On the Horizon.” He noted that the Commission indicated that they would like to have a discussion about the advantages and disadvantages of having a public hearing before the SEPA appeal deadline. He suggested that the bigger question is the entire procedural process. There are some things that are appealable in certain cases and others that are not. In addition, there are different notice provisions. This all gets very confusing, and he suggested that taking a look at this issue in a comprehensive fashion in an effort to smooth and streamline the process might result in a very valuable product.

The Commission briefly reviewed the list and identified the four they felt were most important. After compiling the results of the Commission’s choices, Ms. Markle identified the top four behaviors the Commission would like to focus on as follows:

- Does the Commission need to ask questions on everything? Are these questions critical to our decisions? Are we stalling our decision?
- Ask concise questions.
- Minimize thinking out loud and be mindful of the number of follow up questions asked.
- Frame the question and keep to issues that are related to the discussion.

Commissioner Kuboi said his understanding of the exercise was that the Commission was to identify the behaviors they felt would be most valuable for them to discuss. However, if he were to rank the behaviors to identify those that were most important, he would start with being honest and forthcoming, listening to each other, telling the truth, etc. However, he feels extremely comfortable that the Commissioners are already meeting these expectations. Ms. Markle said the goal of the exercise was for the Commissioners to identify the behaviors they would like to work on in the future.

Commissioner Broili referred to the email that Commissioner Kuboi sent to each Commissioner, which raised the question of whether or not the Commissioners feel they are getting all sides of an issue aired during their meetings. Commissioner Broili said he does not always feel this is happening. He expressed his concern that the public only has three minutes to make their points about very complex issues. He suggested that for complex matters, the Commission must find a way that allows them to get deeper into the issue. Otherwise, their decisions would always be made on just a cursory review. He suggested that the public should have an opportunity to go into more depth on issues that are complex. Commissioner Kuboi agreed with Commissioner Broili, but he reminded the Commission that this is a different issue that is unrelated to Commissioner expectations of each other. Vice Chair Piro disagreed. He said he has been fascinated with the detailed questioning the Commission often gets into with some issues. Not all of their extended questioning is necessarily bad. Commissioner Broili said his concern is related to the Commission's ability to take the time beyond three minutes to question the people who have come to testify. There is always pressure for the Commission to keep moving forward.

Ms. Markle summarized that Commissioner Broili appears to be concerned about the Commission's policy of minimizing the length and amount of follow up questions that are allowed. Commissioner Kuboi said that, in general, they allow Commissioners to follow up with questions "to their hearts delight." He questioned if the dialogue amongst Commissioners is sometimes meant to sway another Commissioner's opinion. Typically, Commissioners review the staff reports and talk with staff in preparation for their meetings. This enables each Commissioner to develop a position on the issue. While there are times when one Commissioner brings to light an angle that completely changes another's perspective on an issue, the majority of the time that is not the case. If the Commission's intent for discussing issues as a group is to crystallize the issue in each of their minds, there are probably ways to do this as they prepare for the meeting, as well as by asking concise and efficient questions at the meeting to help the Commission reach a decision as quickly as possible. Commissioner Kuboi said that while each Commissioner likely has a different way of reaching an acceptable comfort level for making a decision, his goal is to reach an 80 percent confidence factor. He doesn't have to have every possible circumstance clarified crystal clear before he can be ready to vote on an issue. However, there are other Commissioners who require a higher level of confidence before making a decision. He suggested that the Commission pays a price when they overanalyze an issue if they don't get to the other important issues that are on their Agenda Planner.

Mr. Stewart recalled that one of the Commission's expectations of staff over the next year was that they attempt to write point and counterpoint views in the staff report. He said it is important for the Commission to ask questions and help to build a public record since this helps the City Council understand how the Commissioners reached their recommendation. He said that while the Commission does not need to question everything, it is very beneficial for them to declare their reasons for making recommendations. He said tonight was a good example of just the right amount of questioning. The record is very clear and concise. But if the Commission had just voted without having a discussion, there would not have been sufficient record to justify their action. He summarized his belief that the Commission is doing a great job.

Commissioner McClelland suggested that one of the benefits of having a question and answer period as part of their deliberation is that it allows an opportunity for the Commission to seek additional information from the staff that the public had not thought to ask. They can also learn more from each other. While she understands the need to be more efficient and more concise in their questions and responses, their job is to reflect the community's expectations.

Commissioner Kuboi said he is not suggesting that the Commission not ask questions and deliberate before making a decision. However, it is important for the Commissioners to have a clear understanding of what they are trying to accomplish with the questions they are asking. For example, when Commissioner McClelland raised her concerns about Echo Lake, some Commissioners made comments that appeared to be trying to get her to see a different perspective. He suggested that it is important for Commissioners to express their opinions even if they are completely different. But once the opposing opinions are placed on the record, perhaps the Commission does not need to belabor them further.

Commissioner McClelland said that when she came to tonight's meeting, she was prepared to vote against the Comprehensive Plan amendment proposal for Echo Lake. But after listening to Commissioners Hall and Broili, she was able to get back on task and she felt that voting in favor of the proposal was the right thing to do. This should not take away from her point of view about the use of the open space land, itself. She said she did not feel that anyone was trying to sway her to think differently, but they helped her to frame and clarify the issue.

Commissioner Hall agreed with Commissioner Kuboi that sometimes the Commission does ask too many questions. But he felt that trying to persuade each other is a legitimate part of their deliberations. There have been times when he has changed his opinion based on issues raised by other Commissioners and the public. However, he said he finds himself and others asking questions out of curiosity or personal interest. He suggested that the Commissioners try to eliminate this type of questioning. He summarized that it is important for the Commission to ask appropriate questions in order to build a record. It is also appropriate for the Commissioners to try to sway each other. But they should not go beyond what the group needs to make a recommendation.

Commissioner Phisuthikul said it is important that Commissioners not continue to talk about issues just so their voice can be heard. They should be precise about the nature of their questions. Oftentimes, other Commissioners have already said many of the things he wants to say. Therefore, he chooses not to repeat the comment.

Vice Chair Piro suggested that perhaps the problem is not that the Commissioners express too many questions. On issues that he is most interested in, he does his homework and comes prepared with questions. However, on some of the less interesting issues he tends to ask questions that are less focused. He recalled that Commissioner Hall helped to expedite the Commission's deliberation on the Fremont Avenue case by immediately putting three points out on the table to support his position.

Commissioner Broili reminded the Commission that part of their responsibility is to be deliberative and look at all sides of an issue. He said his expectation of the chair is to monitor the deliberations by considering the situation before them and the time allotted for the review. When it appears that an issue has been thoroughly discussed and the Commissioners are starting to repeat themselves, the Chair could ask them to focus on making a recommendation. He said he is less concerned about the time the Commission takes to deliberate an issue than he is about the quality of the deliberative process.

Commissioner Kuboi suggested that a mechanism be put in place that would allow the Chair to request dissenting or minority opinions if they get to the point that a discussion is no longer moving forward. He said it helps him if the pros and cons regarding an issue are laid out early in the debate.

Chair Harris said that since the retreat, he has given a lot of thought to the concept of using a "straw vote" to determine where the group is at in their discussion. He suggested that once the Commission has reached a consensus on an issue, there is really no need to discuss it further. Commissioner Hall agreed, but he also reminded the Commission of the need to establish a record that explains why they made a particular recommendation. Chair Harris complimented the Commission for their efforts to remodel their habits since he was elected Chair of the Commission.

Commissioner Phisuthikul suggested that the Commission come up with a plan to get to issues identified as "items of interest for discussion" and "parking lot issues" (from the Planning Commission retreat) on the Agenda Planner. Commissioner Hall suggested that the Commission start by prioritizing the items. The item that is listed as the highest priority could be scheduled at every Commission meeting under "Old Business (if time permits)". This item could remain on the agenda until it has been dealt with. Another option would be to introduce the topic highest on the priority list as "New Business." However, it is important that the staff is prepared to address the issue.

Commissioner Kuboi recalled that over the past year, three or four meetings were cancelled because some of the established work plan items fell through. He suggested that meetings should not be cancelled when there is a strong list of outstanding issues the Commission wants to consider. The remainder of the Commission and the staff agreed.

Commissioner Broili said his understanding is that the "parking lot" issues had a higher priority than those that are identified as "items of interest for future discussion." Vice Chair Piro summarized that the parking lot issues resulted from the Commission retreat, and the other issues have been on the table for quite some time. Commissioner Broili suggested that the two lists be combined, and the remainder of the Commission agreed.

Commissioner Kuboi summarized that from tonight's discussion, the Commissioners have become much more aware of the issues of concern. Hopefully, this will cause each of them to self-police their behaviors. In addition, Chair Harris has agreed to accept the responsibility of making sure the

progression of meetings is reasonable, expeditious and efficient. The Commission has also asked that available space on future meeting agendas be filled with the items that have been identified for future discussion.

Ms. Markle reminded the Commission that they are scheduled to attend a dinner meeting with the City Council on May 9th. She suggested that the Commissioners identify the agenda items they would like to discuss at the meeting. It appears the Commission is interested in discussing the role of the Commission, forms of communication with the City Council, City Council expectations of the Commission, etc.

Commissioner Kuboi asked staff to describe the anticipated format for the dinner meeting. Ms. Markle said her impression is that the Commission has specific questions they want to ask of the City Council. The Commission would like to use the dinner meeting as an opportunity to improve the product they send to the City Council and find out if the Commission is effectively fulfilling their expectations.

Commissioner Broili reminded the Commission that they initiated the request for a dinner meeting with the City Council. Therefore, he suggested that the Commission should bring questions for the City Council to respond to. Mr. Stewart said he has attended dinner meetings with the City Council in which there was casual conversation that allowed the two groups to get to know each other. At other dinner meetings, there has been a structured agenda that identifies points of discussion. In this case, the Planning Commission has an opportunity to set the agenda for the dinner meeting. He suggested that the Commission identify the one or two items they would like to discuss.

Vice Chair Piro said that most of the City Council members he has spoken with have been very positive about the efforts of the Planning Commission. They almost always talk about how they pay attention to reading the Commission meeting minutes. However, he has also heard some criticism from individual City Council members about the system of public process and that the Commission does not reach out enough to get different public perspectives. He has also heard criticism about the Commission overstepping their bounds. He recalled the recent Commission correspondence to the City Council in which they tried to clarify some issues that had come into play around their consideration of the Comprehensive Plan. He recalled that the previous Commission Chair attended City Council Meetings to be available to talk about recommendations the Commission had made. When minority positions were stated, he also asked that a representative with a minority point of view to attend the City Council meeting. However, in the few City Council meetings he has attended, there has not been an opportunity for the Chair to even be recognized when an issue the Commission has acted upon is brought forward. He suggested that this could also be an item of discussion at the dinner meeting.

Mr. Stewart suggested that an agenda item titled, "Clarification of Planning Commission Expectations" would be an appropriate catchall discussion. This could include a discussion of both the City Council's expectations of the Planning Commission and the Planning Commission's expectations of the City Council. The Commission could ask the City Council if they expect individual Commissioners to attend their meetings to present their points of view.

Commissioner McClelland reminded the Commission that they are the keepers of the Comprehensive Plan and the future vision of Shoreline. Their recommendations on policies are intended to uphold and further the Comprehensive Plan goals. The City Council's job is much different, and the

Comprehensive Plan is only one aspect of all the things they have to do. She suggested that the Commission ask the City Council to identify specific things the Commission could do to be more clear and concise in their recommendations to them. She said it is important that the Commission is careful and cautious about politicizing any of their actions as a group. Therefore, the evening's agenda should be quite structured.

Commissioner Broili agreed. He said he would be interested in learning more about what the Commission could do to make their recommendations to the City Council more useful. He said he would like staff to forward the Planning Commission's questions to each City Council Member prior to the dinner meeting. The remainder of the Commissioners agreed that this would be appropriate. Commissioner Hall recalled that this issue was discussed extensively at the Commission retreat. He asked that this portion of the retreat notes be forwarded to each of the Commissioners via email to refresh their memories.

Commissioner Hall agreed with Mr. Stewart that an appropriate agenda topic for the dinner meeting would be Planning Commission expectations of the City Council and City Council expectations of the Planning Commission. He said he views himself as sitting in the service of the City Council. Therefore, it would be most useful for him to hear about the City Council's expectations of the Planning Commission.

Commissioner Hall suggested that one option for the meeting format would be to start with smaller group tables to discuss the agenda items. Then they could combine into one large group, with the Deputy Mayor acting as facilitator.

Ms. Markle advised that staff would compile the Commission's ideas and send out the sections of notes from the retreat regarding this issue. They expect to receive comments back from the Commissioner quickly in order to present them to the City Council prior to the dinner meeting.

Mr. Stewart observed that the City of Shoreline is still relatively new. Therefore, the institutional relationship between the Planning Commission and the City Council has not yet been formed. The Commission does have an opportunity to help build this relationship.

Commissioner McClelland recalled that several meetings ago, members of the audience suggested that the Commission could not trust the advice and information that was provided by the staff. She emphasized that she believes the staff provides excellent information to the Commission. She said she couldn't think of a single instance where she has not been able to trust the information that has been provided by staff.

Commissioner McClelland inquired if it would be possible for the Parks Board to review applications such as the Echo Lake proposal that have to do with the possible acquisition of open space. She also asked if other departments within the City review the staff reports before they are forwarded to the Commission. Mr. Stewart answered affirmatively, but said that oftentimes, this does not happen as much as the staff would like. In the case of Echo Lake, the Parks Department was on the owner/perspective purchaser side. The purchase and sale agreement included the acquisition of the park, and the Parks Department was very active in this effort. The Planning Department was on the regulatory side, so they did not talk to them regarding this element.

Commissioner McClelland suggested it would be appropriate for the Commission to have a joint meeting with the Parks Board on an annual basis. She recalled that the previous joint meeting was very effective. The Commission agreed to add this to their list of items to discuss in the future.

10. NEW BUSINESS

The Commission discussed the items listed on the Planning Commission Agenda Planner as both “parking lot” and “items of interest for discussion.” They agreed that these two lists should be combined. Then the Commission could prioritize the list at a future meeting. The Commission agreed to add a joint meeting with the Parks Board and quasi-judicial training to the list of items for future discussion.

Mr. Stewart recalled that a challenge was issued last week about the appropriateness of the staff communicating with the Planning Commissioners outside of the public hearing on quasi-judicial matters. Earlier in the meeting Commissioner Hall referred to the document titled, *You Be the Judge*, which is the “bible” for quasi-judicial activities. As noted by Commissioner Hall, this document states that the challenge is when there is a communication between a Commissioner and the applicant or opponent. It does not extend to communications between the staff and the Commission. The staff is the Commission’s resource in helping them make the right decisions. He said that while he does not believe the citizen’s charge was founded, the Commission could benefit from a refresher on the quasi-judicial process. The Commissioners agreed and added that the public would also benefit from having a clearer understanding of the process.

The Commission discussed the process they should use to add issues to the list of future discussion items. Commissioner Broili proposed that rather than prioritizing the list, the Commission should identify the most important issue. Once that issue has been taken care of, they could decide which item would be next. Issues could be added as they come up without having to rearrange the priorities. For instance, in addition to scheduling regular meetings with the Parks Board, he would like the Commission to have regular dinner meetings with the City Council. The remainder of the Commission concurred. They also concurred with the process proposed by Commissioner Broili.

The Commission agreed that the next issue for Commission discussion should be “sidewalks to nowhere.” Mr. Stewart explained that the current code requires every developer to do frontage improvements as part of their development if they have certain levels of investment. In residential areas, if the developer and the City agree, instead of building a sidewalk the money could be placed into a central pool to build common sidewalks. Chair Harris asked how much money is in the pool and what common sidewalk projects have been completed to date. Mr. Stewart said the Public Works Department administers this program, and they should be able to provide a report to the Commission.

Vice Chair Piro recalled that the Commission previously discussed the need to do a street assessment for the entire City to determine if there should be different walkability treatments. He suggested that some of the Commissioners feel the current standard for sidewalks is overkill in some places. Mr. Stewart said there are also issues about whether or not sidewalks are appropriate in all neighborhoods within the City. Commissioner Broili pointed out that there are also different ways to do sidewalks, depending on the location.

Commissioner Phisuthikul inquired if construction of a home or remodeling a home would require frontage improvements. Mr. Stewart answered that there is a trigger involved as to level of investment. If a development or redevelopment meets this trigger, frontage improvements would be required.

The Commission agreed that the issue of “sidewalks to nowhere” should be the next topic scheduled on the agenda as time permits.

At the request of Commissioner McClelland, Mr. Stewart explained that a building permit has been issued for the Fred Meyer Redevelopment Project. This is a \$4 million project that will be done in phases. Only minor exterior improvements would be made to the building, and the footprint would not be expanded. Commissioner Hall pointed out that the other buildings near the Fred Meyer facility would not be impacted by the project. Commissioner Kuboi inquired if the timing of the Fred Meyer Project has been impacted by the Aurora or Gateway Projects. Mr. Stewart said that it has not.

11. AGENDA FOR NEXT MEETING

Mr. Stewart reminded the Commission that a joint public hearing with the Planning Commission and the Hearing Examiner on the Echo Lake Site-Specific SEPA Appeal is scheduled for May 4th and 5th. He briefly reviewed the ground rules for the public hearing. He explained that after the hearing has been closed, the Hearing Examiner would have ten days to issue a decision. Once the Hearing Examiner has issued a decision, the Commission would be asked to deliberate and formulate a recommendation to the City Council. The City Council would then hold a closed record hearing, and no new testimony would be received.

Commissioner Kuboi said he is still unclear how much the developer could vary from the requirements detailed in the contract rezone before the changes would be considered significant enough to require additional Commission review. Mr. Stewart said the details or conditions associated with the rezone establish the parameters of how flexible the contract would be. As the Commission deliberates the conditions, they should be mindful that the wording is very important. There may be competing conditions offered for consideration, and the Commission also has the option of recommending denial of the contract rezone. But once a contract rezone is approved, the applicant must meet all of the conditions in order to build. There is a default in the contract that would require the developer to stick with the underlying zoning requirements if they cannot meet all of the conditions of the contract.

Commissioner Phisuthikul inquired if a site specific design would be presented at the hearing. Mr. Stewart said a specific design has been submitted as part of the contract rezone application. The portion of the design that was considered as a potential site for Shoreline City Hall is identified on the site plan as “City Hall/Office/Potential Police Station” and a maximum amount of square footage has been identified.

Commissioner McClelland asked that staff provide written ground rules for the public hearing process prior to the start of the public hearing on May 4th.

12. ADJOURNMENT

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

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Type C Action: Planning Commission Deliberations for Rezone Request– File # 201371 Generally Located at N 160th and Fremont Pl. N

DEPARTMENT: Planning and Development Services

PRESENTED BY: David Pyle, Planner I

I. PROPOSAL

This application before the Planning Commission is a request to change the zoning designation for a parcel of 7,923 Sq. Ft. located on the northwest corner of N 160th St. and Fremont Pl. N from R-6 to R-24. Under the appearance of fairness doctrine, local land use decisions that are not of area wide significance shall be processed as quasi-judicial actions. Because this is an application for a rezone it is being processed per RCW 42.36.010 as a Type C quasi-judicial action. A vicinity map showing existing zoning for the project site and adjacent properties is included as **Attachment I**. A vicinity map showing current and proposed Comprehensive Plan designations (a requested site specific Comprehensive Plan land use designation change from Low Density Residential (LDR) to High Density Residential (HDR) is being processed under another action) is included as **Attachment II**.

Type C Actions are reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval or denial is developed. This recommendation is then forwarded to City Council, who is the final decision making authority for Type C Actions. The Public Hearing for this action was held on March 3, 2005. During this meeting the record was closed and no further public testimony is being taken regarding this action.

II. PUBLIC HEARING

A public hearing on this action was held on March 3, 2005 in conjunction with the public hearing for the associated site specific Comprehensive Plan land use designation change request. A copy of the official adopted minutes from this meeting, a list of testifying parties, and the complete staff report that addresses both proposed actions is available by contacting Jessica Simulcik at (206)546-1508, or by e-mail at jsimulcik@ci.shoreline.wa.us.

III. DELIBERATION ON LAND USE CHANGE

On April 14, 2005, following the public hearing regarding the requested change in Comprehensive Plan land use designation and subsequent change in zoning, the Planning Commission deliberated on the request for change in land use designation. Citing concern over high density encroachment into low density neighborhoods and increases in allowed building coverage that may affect future day-lighting of a nearby tributary to Boeing Creek, the Commission's finding was to deny the request. A copy of these findings and meeting minutes are also available by contacting Jessica Simulcik, Planning Commission Clerk. The recommendation is currently pending City Council action.

IV. CRITERIA

Rezone requests are subject to the decision criteria listed in Section 20.30.320(B) of the SMC.

SITE REZONE CRITERIA:

1. The rezone is consistent with the Comprehensive Plan.

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. The City of Shoreline Planning Commission has made a recommendation of denial of this request to City Council. If City Council denies this request for Comprehensive Plan land use designation amendment to HDR, the re-zoning of this parcel from R-6 to R-24 would not be consistent with this decision. If the City Council approves the request for Comprehensive Plan land use designation amendment, then a rezone of this parcel from R-6 to R-24 may be considered.

2. The rezone will not adversely affect the public health, safety or general welfare.

The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare. Neither approval nor denial of this request would cause a significant impact on public safety.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. The Planning Commission has made a finding recommending denial of this request to City Council. If City Council denies the request for Comprehensive Plan land use designation amendment to HDR, the re-zoning of this

parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

Due to the site's proximity to a low density zone to the west, the impact of allowing for the placement of up to 4 units would adversely affect the adjacent low density neighborhood.

5. The rezone has merit and value for the community.

Approval of this request would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek.

V. CONCLUSIONS

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. Previous findings by the Planning Commission (as identified above) on the Comprehensive Plan land use designation change request indicate that this change would cause too great of an impact on the neighboring community and would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek. Furthermore, if City Council denies the request for Comprehensive Plan land use designation amendment to HDR, the rezoning of this parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it. If the City Council approves the request for Comprehensive Plan land use designation amendment, then a rezone of this parcel from R-6 to R-24 would be warranted in order to achieve consistency with the Comprehensive Plan.

VI. PLANNING COMMISSION ROLE AND OPTIONS

As this is a Type C action, the Planning Commission is required to make a recommendation based on the findings and testimony delivered at the Public Hearing on the proposal. The Commission should consider the application and testimony to develop a recommendation for rezone approval or denial. The City Council will then consider this recommendation prior to their final deliberation on the action.

Planning Commission has the following option for this application: Recommend denial to rezone parcel number 3299200076 based on previous findings made for the request to change the Comprehensive Plan land use designation of this parcel from LDR to HDR. See **Attachment III** for a copy of the draft Planning Commission findings and recommendation of denial for the proposed rezone.

VII. STAFF RECOMMENDATION

Considering a previous recommendation of denial made by the Planning Commission and pending City Council action on the request to change the Comprehensive Plan land use designation of this parcel from LDR to HDR, City Staff recommend denial of

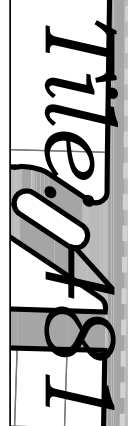
application #201371; a request to change the zoning from R-6 to R-24 for parcel number 3299200076 (generally located on the NW corner of Fremont Pl. N and N 160th St.).

ATTACHMENTS

Attachment I: Vicinity Map with Zoning Designations

Attachment II: Vicinity Map with Comprehensive Plan Designations

Attachment III: Draft Planning Commission Findings



File: 477

Tile: 480

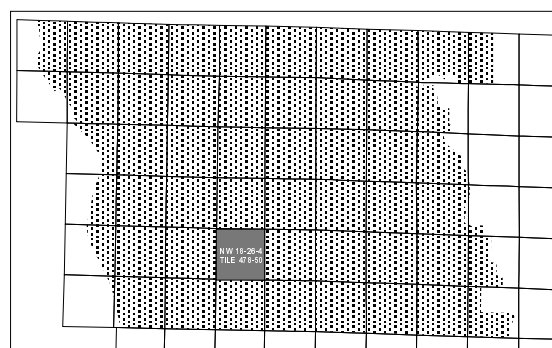
GEOGRAPHIC INFORMATION SERVICES

Official Map Adopted by
City Council on Jan 7, 2002
by Ordinance No. 292

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TILE478
NW 18-26-4

R4	Residential, 4 units/acre
R6	Residential, 6 units/acre
R8	Residential, 8 units/acre
R12	Residential, 12 units/acre
R18	Residential, 18 units/acre
R24	Residential, 24 units/acre
R48	Residential, 48 units/acre
O	Office
NB	Neighborhood Business
CB	Community Business
NCBD	North City Business District
RB	Regional Business
I	Industrial
CZ	Contract Zone

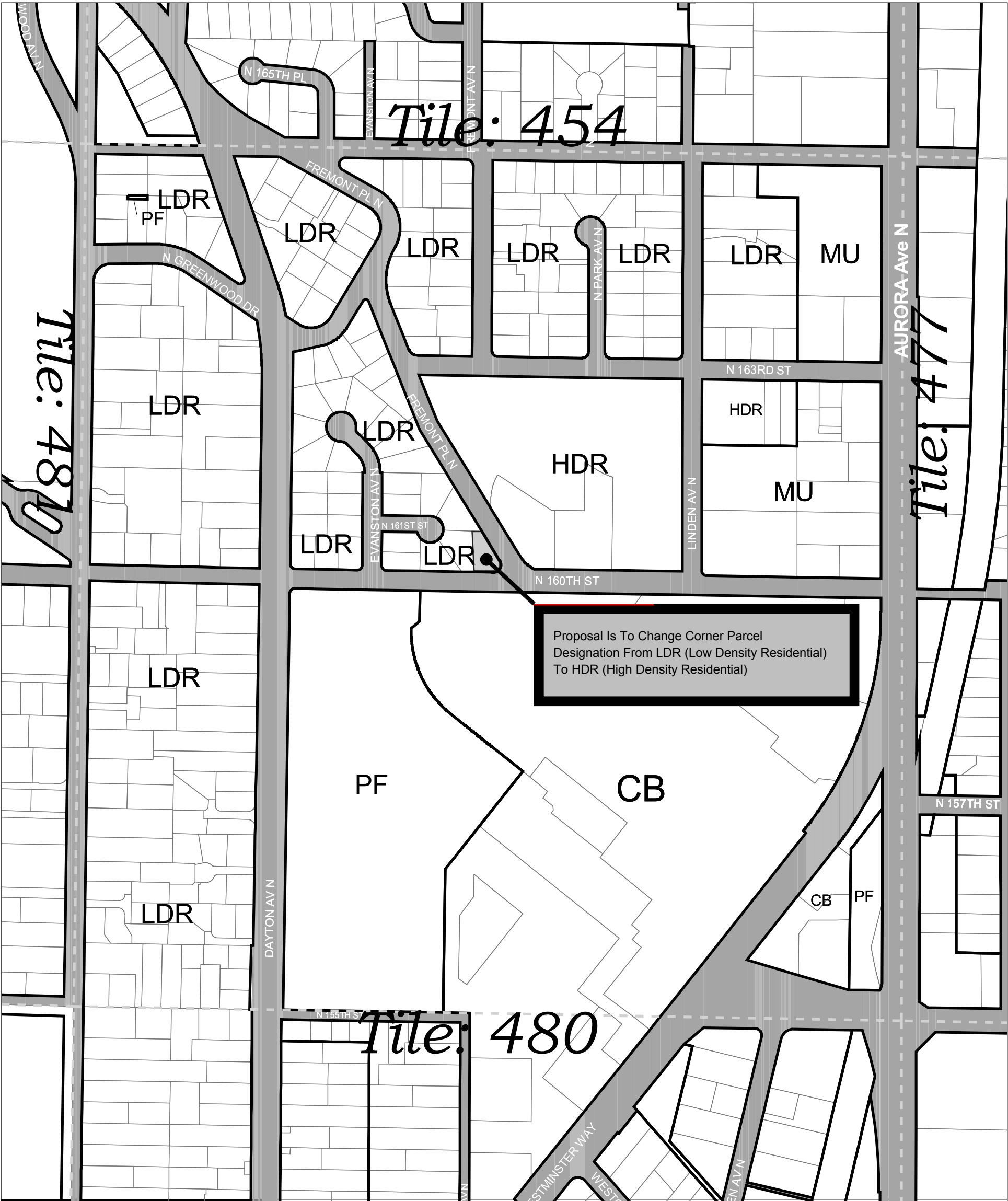
- ## Map Index Locator



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SHORELINE

GEOGRAPHIC INFORMATION SERVICES

City of Shoreline
Comprehensive
Plan

Official Map Adopted by
City Council on Jan 7, 2002
By Ordinance No. 292

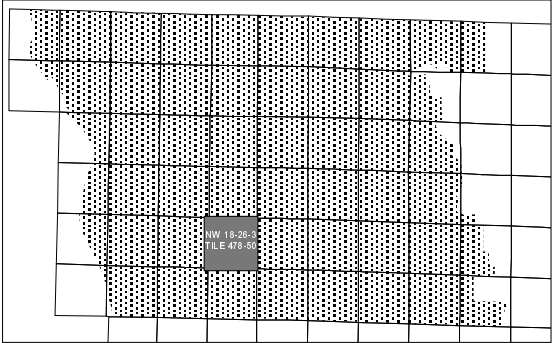
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NW 18-26-3

Legend

LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
MU	Mixed Use
CB	Community Business
RB	Regional Business
PF	Public Facility
SFI	Single Family Institution
PubOS	Public Open Space
ProS	Private Open Space
SSA	Special Study Area
NCBD	North City Business District
BaSSA	Ballinger Special Study Area
BrSSA	Briarcrest Special Study Area
PSSA	Paramount Special Study Area

- Map Index Line
- Parcel Line
- Comprehensive Plan
- Land Use District Boundary
- City Boundary
- Unclassified ROW
(Street name shown for info only)

Map Index Locator



0 100 200 300 400 Feet

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**DRAFT FINDINGS AND DETERMINATION OF THE CITY OF
SHORELINE PLANNING COMMISSION**

Rick Crosby Rezone Request
File #201371

Summary-

Following the public hearing and deliberation on the request to change the zoning from R-6 to R-24 of a 7,923 Sq. Ft. parcel located on the northwest corner of N 160th St. and Fremont Pl. N, the City of Shoreline Planning Commission has determined that the request is in conflict with it's previous findings made on April 14, 2005 regarding a request to change the Comprehensive Plan land use designation of this parcel from LDR to HDR and therefore recommends denial of such action.

I. FINDINGS OF FACT

1. Project Description-

- 1.1 Action: Rezone the subject parcel from R-6 (Residential 6 units per acre) to R-24 (Residential 24 units per acre).
- 1.2 Vicinity: Northwest corner of N 160th St. and Fremont Pl. N
- 1.3 Parcel Number: 3299200076
- 1.4 A concurrent proposal to change the land use designation of this parcel from LDR to HDR has been filed and is under review by the Shoreline City Council. The City of Shoreline Planning Commission has made a finding that the request for higher density in land use designation would cause too great of an impact on the neighboring community and is recommending denial of this request to City Council.

2. Procedural History-

- 2.1 City Council is scheduled to hold a Public Hearing on the 2004-2005 Comprehensive Plan Annual Review Docket (which is comprised of four Site Specific Land Use Designation change requests) on June 6, 2005 and expects to adopt them on June 13, 2005.
- 2.2 Planning Commission deliberations and findings of denial on the request for change in Comprehensive Plan land use designation: April 14, 2005
- 2.3 Public hearing held by the Planning Commission: March 3, 2005
- 2.4 Corrected Notice of Public Hearing and SEPA Determination of Nonsignificance: February 16, 2005
- 2.5 Notice of Public Hearing and SEPA Determination of Nonsignificance: February 10, 2005
- 2.6 End of 14 day Public Comment Period: February 4, 2005
- 2.7 Notice of Application with Optional DNS: January 20, 2005

- 2.8 Complete Application Date: January 14, 2005
- 2.9 Application Date: December 13, 2004
- 2.10 Neighborhood meeting Date: April 28, 2004
- 2.11 Pre-Application Meeting Date: April 8, 2004
- 2.12 Notification of Neighborhood Meeting: April 14, 2004

3 Public Comment-

- 3.1 Oral testimony at the Public Hearing has been received from:

Dennis Jones- 700 N 160th St. # A205

Janet Way- 940 NE 147th St.

Pat Crawford- 2326 N 155th St.

Nadra Burns- 700 N 160th St #A310

David Patten- 615 N 161st Pl.

Deborah Ellis- 700 N 160th St. #A212

Kristie Magee- 700 N 160th St. #A306

Les Nelson- 15340 Stone Ave N.

Gini Paulsen- 16238 12th NE

Ralph Syverson- 621 N 161st Pl.

Tim Crawford- 2326 N 155th St.

Gloria Bryce- 708 N 161st Pl.

Corie Ruderbush- 16103 Evanston Ave N

Jan Moberly- 720 N 161st Pl.

4 SEPA Determination-

- 4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. A Notice of Application that stated the lead agency's intent to issue a DNS for this project was issued on January 20, 2005 and a 14-day comment period followed ending February 4, 2005. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030(2)(c). This decision

was made after visits to the project site and review of the environmental checklist, and other information on file with the City (there was no public comment received). A notice of determination of nonsignificance was issued on February 10, 2005. That notice was corrected to properly reflect the appeal period and was re-issued on February 16, 2005.

5. Consistency-

5.1 Site Rezone:

The application has been evaluated and found to be inconsistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

II. CONCLUSIONS

Rezone requests are subject to the decision criteria listed in Section 20.30.320(B) of the SMC.

SITE REZONE CRITERIA:

1. The rezone is consistent with the Comprehensive Plan.

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. The City of Shoreline Planning Commission has made a recommendation of denial of this request to the City Council. If the City Council denies this request for Comprehensive Plan land use designation amendment, the re-zoning of this parcel from R-6 to R-24 would not be consistent with this decision. If the City Council approves the request for Comprehensive Plan land use designation amendment, then a rezone of this parcel from R-6 to R-24 may be considered.

2. The rezone will not adversely affect the public health, safety or general welfare.

The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare. Neither approval nor denial of this request would cause a significant impact on public safety.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. The Planning Commission has made a finding recommending denial of this request to the City Council. If the City Council denies the request for Comprehensive Plan land use designation amendment, the re-zoning of this parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

Due to the site's proximity to a low density zone to the west, the impact of allowing for the placement of up to 4 units would adversely affect the adjacent low density neighborhood.

5. The rezone has merit and value for the community.

Approval of this request would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek.

CONCLUSIONS:

A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. Previous findings by the Planning Commission (as identified above) on the Comprehensive Plan land use designation change request indicate that this change would cause too great of an impact on the neighboring community and would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek. Furthermore, if the City Council denies the request for Comprehensive Plan land use designation amendment to HDR, the re-zoning of this parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it.

III. RECOMMENDATION

Based on the findings listed above, the Planning Commission recommends denial of application #201371; a request to change the zoning from R-6 to R-24 for parcel number 3299200076 (generally located on the NW corner of Fremont Pl. N and N 160th St.).

City of Shoreline Planning Commission

_____ Date: _____
Chairperson

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PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Type C Action: Planning Commission Deliberations for Rezone Request- File # 201277 Located at 19671 15th Ave NE

DEPARTMENT: Planning and Development Services

PRESENTED BY: David Pyle, Planner I

I. PROPOSAL

This application before the Planning Commission is a request to change the zoning designation of a 9,307 Sq. Ft. parcel located at 19671 15th Ave. NE from R-6 to R-24. Under the appearance of fairness doctrine, local land use decisions that are not of area wide significance shall be processed as quasi-judicial actions. Because this is an application for a site specific rezone, it shall be processed per RCW 42.36.010 as a Type C quasi-judicial action. A vicinity map showing existing zoning for the project site and adjacent properties is located in **Attachment I**. A vicinity map showing current and proposed Comprehensive Plan designations (a requested site specific Comprehensive Plan land use designation change from Ballinger Special Study Area (BaSSA) to High Density Residential (HDR) is being processed under another action) is included as **Attachment II**.

Type C Actions are reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval or denial is developed. This recommendation is then forwarded to City Council, who is the final decision making authority for Type C Actions. The Public Hearing for this action was held on March 3, 2005. During this meeting the record was closed and no further public testimony is being taken regarding this action.

No variances to the development regulations governing height, impervious surface, etc. are being requested, and as this is a non-project action there is no project proposal at this time. The following table is provided to reflect the differences in development standards for R-6 and R-24 residential development as outlined in SMC 20.50.020.

Standard	R-6	R-24
Front Yard Setback	20'	10'
Side yard Setback	15' Total/5' Min.	5'
Rear yard Setback	5'	5'
Base Height	30' (35' w/ pitched roof)	35' (40' w/ pitched roof)
Max Lot Coverage	35%	70%
Max Impervious Surface	50%	85%

II. PUBLIC HEARING

A public hearing on this action was held on March 3, 2005 in conjunction with the public hearing for the associated site specific Comprehensive Plan land use designation change request. A copy of the official adopted minutes from this meeting, a list of testifying parties, and the complete staff report that addresses both proposed actions is available by contacting Jessica Simulcik, Planning Commission Clerk, at (206)546-1508, or by e-mail at j simulcik@ci.shoreline.wa.us .

III. DELIBERATION ON LAND USE CHANGE

On April 14, 2005, following the public hearing regarding the requested change in Comprehensive Plan land use designation and subsequent change in zoning, the Planning Commission deliberated on the request for change in land use designation of this parcel. Deliberations were in favor of the proposed action, and the Commission voted to recommend approval of the request to change the Comprehensive Plan land use designation of this parcel from BASSA to HDR to City Council. A copy of these findings and meeting minutes are also available by contacting Jessica Simulcik, Planning Commission Clerk.

IV. CRITERIA

Rezoning is subject to criteria contained in the Development Code and the proposal must meet the decision criteria listed in Section 20.30.320(B) of the SMC. The criteria are listed below, with a brief discussion of how the request meets the criteria.

SITE REZONE CRITERIA:

1. The rezone is consistent with the Comprehensive Plan.

If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the rezoning of this parcel from R-6 to R-24 will be consistent with the parcel's new Comprehensive Plan land use designation. The following is the description of the High Density Residential Designation (This definition is

identical in both the 1998 Comprehensive Plan and the 2004 Planning Commission Recommended Comprehensive Plan Draft):

“High Density Residential designation is intended for areas near employment and commercial areas; where high levels of transit service are present or likely; and areas currently zoned high density residential. This designation creates a transition between high intensity uses, including commercial uses, to lower intensity residential uses. All residential housing types are permitted. The permitted base density for this designation will not exceed 48 dwelling units per acre unless a neighborhood plan, subarea plan or special district overlay plan has been approved. Appropriate zoning for this designation is R-12, R-18, R-24 or R-48 Residential.”

2. The rezone will not adversely affect the public health, safety or general welfare.

The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the concurrent proposal to rezone the parcel from R-6 to R-24 would be consistent with the new Land Use Designation of the parcel. See Site Rezone Criteria #1 above.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

It has been shown that the rezone and future development of the subject site will not be detrimental to uses in the immediate vicinity, and in fact the rezone would make the parcel consistent with the surrounding zoning. Adequate infrastructure (water, sewer, storm, etc.) exists in the area to support development at R-24 zoning. This has been verified through Certificate of water and sewer availability provided by the utility purveyors, and initial review of the City stormwater infrastructure.

5. The rezone has merit and value for the community.

The rezone will help the City achieve the housing targets established by the Comprehensive Plan and required by the GMA. Further, this site is an appropriate place to accommodate development, as the surrounding area is zoned at the same high density of R-24. A map depicting this zoning is attached as **Attachment I**. The rezone also has merit and is a good candidate because the site is free of

environmentally sensitive features, and because of good proximity to infrastructure (15th NE).

V. CONCLUSIONS

Previous findings made by the Planning Commission (as identified above) in support of the associated Comprehensive Plan land use designation change request (that is being processed as a separate action) indicate that this change is consistent with the characteristics of the surrounding neighborhood. The re-zoning of this parcel from R-6 to R-24 would be warranted to achieve consistency with the Comprehensive Plan if the Shoreline City Council approves the request for re-designation of this parcel as High Density Residential (HDR).

VI. PLANNING COMMISSION ROLE AND OPTIONS

As this is a Type C action, the Planning Commission is required to make a recommendation based on the findings in this report and testimony delivered at the Public Hearing on the proposal. The Commission should consider the application and testimony to develop a recommendation for rezone approval or denial. The City Council will then consider this recommendation prior to their final adoption of the application.

Planning Commission has the following options for the application:

1. Recommend approval to rezone parcel number 3971701190 based on the findings presented in this staff report. See **Attachment III** for a copy of the draft findings.
2. Recommend denial of the rezone application based on specific findings made by the Planning Commission.
3. Recommend changes to the proposal based on findings.

VII. STAFF RECOMMENDATION

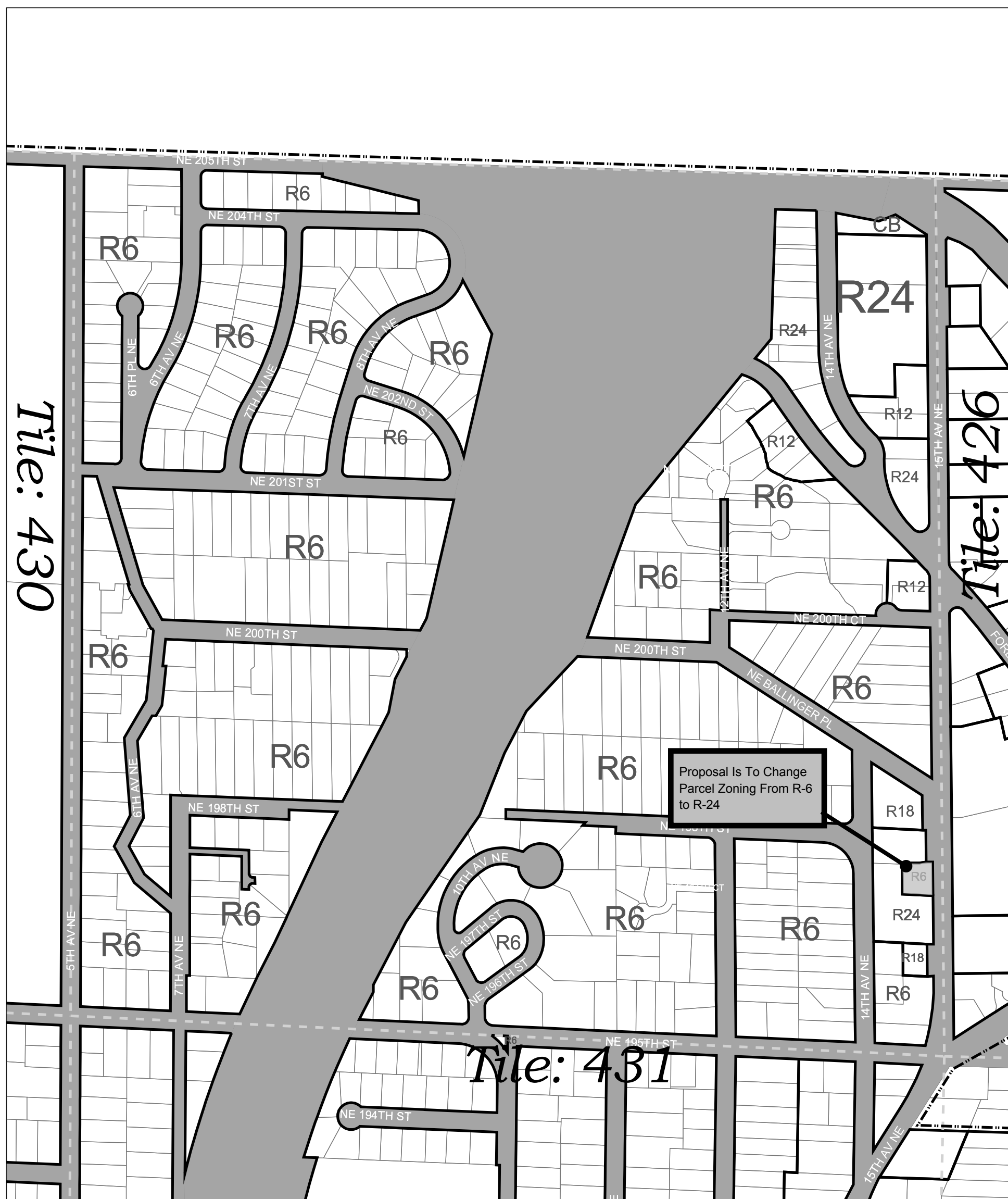
Pending approval by the Shoreline City Council, and considering previous findings of approval made by the Planning Commission regarding a request to change the Comprehensive Plan land use designation of this parcel from BaSSA to HDR, City Staff recommends approval of application #201277; a rezone request to change the zoning from R-6 to R-24 for parcel number 3971701190 located at 19671 15th Ave NE.

ATTACHMENTS

Attachment I: Vicinity Map with Zoning Designations

Attachment II: Vicinity Map with Comprehensive Plan Designations

Attachment III: Draft Planning Commission Findings and Determination



SHORELINE

GEOGRAPHIC INFORMATION SERVICES




City of Shoreline Zoning

Official Map Adopted by
City Council on Jan 7, 2002
by Ordinance No. 292

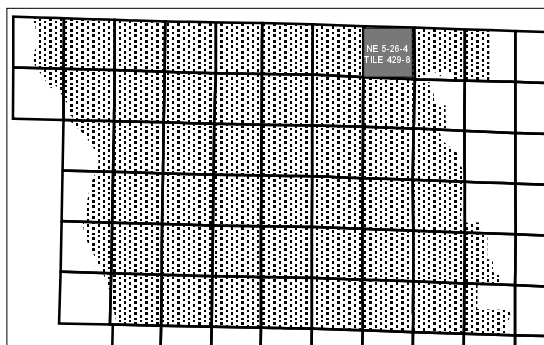
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TILE429
NE 5-26-4

Legend

R4	Residential, 4 units/acre
R6	Residential, 6 units/acre
R8	Residential, 8 units/acre
R12	Residential, 12 units/acre
R18	Residential, 18 units/acre
R24	Residential, 24 units/acre
R48	Residential, 48 units/acre
O	Office
NB	Neighborhood Business
CB	Community Business
NCBD	North City Business District
RB	Regional Business
I	Industrial
CZ	Contract Zone

-  Map Index Line
 Parcel Line
 Zone District Boundary
 City Boundary
 Unclassified ROW
 (Street name shown for info only)

Map Index Locator



0 100 200 300 400 Feet

City of Shoreline GIS. Cadastral, Ortho Photo, building outlines, contour data copyrighted by City of Seattle, 1998. All rights reserved.

No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.

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**DRAFT FINDINGS AND DETERMINATION OF THE CITY OF
SHORELINE PLANNING COMMISSION**

John Harper Rezone Request
File #201277

Summary-

Following the public hearing and deliberation on the request to change the zoning of a 9,307 Sq. Ft. parcel located at 19671 15th Ave NE, the City of Shoreline Planning Commission has determined that the request is in compliance with City codes and not detrimental to the health, safety, or welfare of the City of Shoreline, and therefore recommends approval of such action.

I. FINDINGS OF FACT

1. Project Description-

- 1.1 Action: Rezone the subject parcel from R-6 (Residential 6 units per acre) to R-24 (Residential 24 units per acre).
- 1.2 Vicinity: 19671 15th Ave NE
- 1.3 Parcel Number: 3971701190
- 1.4 A concurrent proposal to change the land use designation of this parcel from Ballinger Special Study Area to HDR has been filed and is under review by the Shoreline City Council. If the Shoreline City Council approves the request this parcel will be designated as HDR. Consistent zoning for the HDR land use designation ranges from R-12 to R-48. The proposed rezoning of this parcel from R-6 to R-24 following the proposed change in land use designation would be consistent with the new comprehensive plan designation.

2. Procedural History-

- 2.1 City Council is scheduled to hold a Public Hearing on the 2004-2005 Comprehensive Plan Annual Review Docket (which is comprised of four Site Specific Land Use Designation change requests) on June 6, 2005 and expects to adopt them on June 13, 2005.
- 2.2 Planning Commission deliberations on the request for change in land use designation and findings in support of request: April 14, 2005
- 2.3 Public hearing held by the Planning Commission: March 3, 2005
- 2.4 Corrected Notice of Public Hearing and SEPA Determination of Nonsignificance: February 16, 2005
- 2.5 Notice of Public Hearing and SEPA Determination of Nonsignificance: February 10, 2005

- 2.6 End of 14 day Public Comment Period: February 4, 2005
- 2.7 Notice of Application with Optional DNS: January 20, 2005
- 2.8 Complete Application Date: January 14, 2005
- 2.9 Application Date: December 13, 2004
- 2.10 Neighborhood meeting Date: April 28, 2004
- 2.11 Pre-Application Meeting Date: April 8, 2004
- 2.12 Notification of Neighborhood Meeting: April 14, 2004

3 Public Comment-

- 3.1 Oral testimony at the Public Hearing has been received from:

Janet Way- 940 NE 147th St.

4 SEPA Determination-

- 4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. A Notice of Application that stated the lead agency's intent to issue a DNS for this project was issued on January 20, 2005 and a 14-day comment period followed ending February 4, 2005. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030(2)(c). This decision was made after visits to the project site and review of the environmental checklist, and other information on file with the City (there was no public comment received). A notice of determination of nonsignificance was issued on February 10, 2005. That notice was corrected to properly reflect the appeal period and was re-issued on February 16, 2005.

5. Consistency-

- 5.1 Site Rezone:

The application has been evaluated and found to be consistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

II. CONCLUSIONS

Rezone requests are subject to the criteria contained in the Development Code. The proposal must meet the decision criteria listed in Section 20.30.320(B) of the SMC. The criteria are listed below, with a brief discussion of how the request meets the criteria.

SITE REZONE CRITERIA:

1. The rezone is consistent with the Comprehensive Plan.

If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the rezoning of this parcel from R-6 to R-24 will be consistent with the parcel's new Comprehensive Plan land use designation. The following is the description of the High Density Residential Designation (This definition is identical in both the 1998 Comprehensive Plan and the 2004 Planning Commission Recommended Comprehensive Plan Draft):

“High Density Residential designation is intended for areas near employment and commercial areas; where high levels of transit service are present or likely; and areas currently zoned high density residential. This designation creates a transition between high intensity uses, including commercial uses, to lower intensity residential uses. All residential housing types are permitted. The permitted base density for this designation will not exceed 48 dwelling units per acre unless a neighborhood plan, subarea plan or special district overlay plan has been approved. Appropriate zoning for this designation is R-12, R-18, R-24 or R-48 Residential.”

2. The rezone will not adversely affect the public health, safety or general welfare.

The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the concurrent proposal to rezone the parcel from R-6 to R-24 would be consistent with the new Land Use Designation of the parcel. See Site Rezone Criteria #1 above.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

It has been shown that the rezone and future development of the subject site will not be detrimental to uses in the immediate vicinity, and in fact the rezone would make the parcel consistent with the surrounding zoning. Adequate infrastructure (water, sewer, storm, etc.) exists in the area to support development at R-24 zoning. This has been verified through Certificate of water and sewer availability provided by the utility purveyors, and initial review of the City stormwater infrastructure.

5. The rezone has merit and value for the community.

The rezone will help the City achieve the housing targets established by the Comprehensive Plan and required by the GMA. Further, this site is an appropriate place to accommodate development, as the surrounding area is zoned at the same high density of R-24. A map depicting this zoning is attached as **Attachment I**. The rezone also has merit and is a good candidate because the site is free of environmentally sensitive features, and because of good proximity to infrastructure (15th NE).

CONCLUSIONS:

Previous findings made by the Planning Commission (as identified above) in support of the associated Comprehensive Plan land use designation change request (that is being processed as a separate action) indicate that this change is consistent with the characteristics of the surrounding neighborhood. The re-zoning of this parcel from R-6 to R-24 would be warranted to achieve consistency with the Comprehensive Plan if the Shoreline City Council approves the request for re-designation of this parcel as High Density Residential (HDR).

III. RECOMMENDATION

Based on the Findings, and if the Shoreline City Council approves the request for re-designation of this parcel as High Density Residential (HDR), the Planning Commission recommends approval of application #201277; a request to change the zoning for parcel number 3971701190 located at 19671 15th Ave NE from R-6 to R-24.

City of Shoreline Planning Commission

_____ Date: _____
Chairperson

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Type C Action: Rezone Application – Echo Lake

DEPARTMENT: Planning and Development Services

PRESENTED BY: Tim Stewart, Director
Kim Lehmberg, Planner II

I. PROPOSAL

This application before the Planning Commission is a request to change the zoning designation for a site that is split-zoned, R-48 and R-B, to RB-CZ, Regional Business with contract zone in order to facilitate a mixed use development on the parcel located on the south shore of Echo Lake, at 19250 Aurora Ave. N.

The open record public hearing was held by the Planning Commission May 4 and 5, 2005, with a joint hearing on an appeal of the SEPA determination by the Hearing Examiner on May 5th. Alternatives to the proposed conditions of the rezone were discussed at the hearing, as well as additional conditions that were a result of an agreement between the applicant and members of the appellant group. Staff has developed a revised set of proposed conditions, presented here as **Attachment A**. For reference, the originally proposed staff conditions from the May 4 & 5 staff report, alternate conditions suggested by the applicant in a letter dated 3/28/05, and the set of conditions contained in the agreement between the parties in the appeal (5/4/05) are attached, (**Attachments B, C and D**, respectively).

PUBLIC COMMENTS

At the public hearing, the Planning Commission accepted testimony and closed the verbal testimony portion of the hearing. They then moved to allow written comments to be accepted until May 18, 2005 at noon. Comments are also posted on the following web site: <http://www.cityofshoreline.com/cityhall/departments/planning/index.cfm>

PLANNING COMMISSION ROLE AND OPTIONS

1. Recommend that Council modify the zoning designation as requested, based on the attached draft findings. See **Attachment E** for a copy of the draft findings.
2. Recommend denial of the rezone application based on specific findings made by the Planning Commission.
3. Recommend changes to the proposal based on findings.

STAFF RECOMMENDATION

Based on the Findings, City Staff recommends approval of application #201372; a rezone from RB and R-48 to RB-CZ, for parcel number 2222900040, located at 19250 Aurora Ave. N, with the revised conditions (**Attachment A**).

ATTACHMENTS

Attachment A: Revised Proposed Conditions

Attachment B: Original staff-recommended conditions

Attachment C: March 28, 2005 letter from Harley O'Neil recommending alternative conditions

Attachment D: May 4, 2005 Agreement between parties, outlining additional conditions

Attachment E: Findings and Determination

CONDITIONS OF CONCOMITANT REZONE AGREEMENT AND COVENANT RUNNING WITH THE LAND Contract Zone No. RB-CZ 05-01

The rezone of the property is subject to the conditions recited herein as follow:

1. This Contract Rezone Agreement must be ratified by all parties and recorded against the properties in order to be a valid agreement. (Staff and O'Neil, 3/28/05)
2. The project shall comply with all mitigation measures as specified in the Mitigated Determination of Non-Significance (MDNS). (Staff and O'Neil, 3/28/05).
3. Developer shall provide a 115 foot buffer around the wetland (O'Neil, 3/28/05).
4. The zoning designation shall be RB-CZ, Regional Business with Contract Zone. The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC) with the following additional property conditions:
 - a. Site configuration and uses shall generally comply with the site plan submitted with the application, with housing units mainly contained on the east side of the property and commercial uses on the west side of the property. Up to 10,000 square feet of retail is allowed on the east side of the property. Minor changes to the site plan may be subsequently approved by the City of Shoreline Planning and Development Services Director or designee. (Staff, O'Neil, 03/28/05).
 - b. Residential density on the eastern portion of the site shall be limited to 350 units. The developer will attempt to incorporate up to 100 units of housing affordable to medium and low income households depending on the availability of subsidies for such housing. (O'Neil, 03/28/05).
 - c. Commercial floor area shall be limited to 182,000 square feet. Commercial floor area may be reduced further as replaced by residential units. (O'Neil, 03/28/05).
 - d. No more than 50% of the required parking shall be surface parking open to the sky. (Staff, 05/06/25).
 - e. Parking reduction of up to 20% from the maximum required by SMC 20.50.390 is allowed pursuant to SMC 20.50.400. (Staff, 05/08/05).
 - f. In order to protect solar access for the first 50 feet of the wetland buffer (water-ward), the applicant shall use best effort to demonstrate that the proposed structures will not shade these open spaces on March 21st or September 23rd at noon. (Commissioner Chakorn, 05/05/05). Further, solar access shall be considered when designing the final site plan, so as to allow southern exposure to the project's common open areas.
 - g. Maximum impervious surface allowed on the site shall not exceed 90% for development within the commercial portion of the site, and shall not exceed 90% in the residential portion of the site. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation. (Staff and O'Neil, 03/28/05).
 - h. The provisions of SMC 20.50.350 (B) shall not apply to this site outside of the wetland and its buffer. However, the developers shall preserve as many significant trees as possible, consistent with their design parameters. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site, in accordance with SMC 20.80.090

10.a.3 - ATTACHMENT A

and 20.80.350, and with additional conditions listed below. (Staff, 05/06/05, O'Neil, 03/28/05 and Way-O'Neil Agreement 05/04/05, #14).

5. Vermin abatement shall take place prior to and during demolition and decommissioning of current site. Proof of abatement shall be submitted as part of the demolition permit application. (Staff with O'Neil 03/28/05)
6. Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the Shoreline Municipal Code (SMC) and the King County Surface Water Design Manual, as adopted by the City of Shoreline. Additionally, the developer shall consider working with the City to install an oversize a stormwater system to further improve Echo Lake water quality including the possibility of adding a water feature and open water course as the means of discharge into the Lake. (Staff with O'Neil 03/28/05). *NOTE: this provision conflicts with Way-O'Neil Agreement #10 to additionally use the Department of Ecology's Manual. While Way-O'Neil may agree to fulfill this agreement through the use of a third party review, the City of Shoreline will not be responsible for meeting #10 of the Way-O'Neil Agreement. In the event of a conflict between the DOE Manual and the City's adopted Stormwater manual, the City's manual shall prevail.*
7. Green Buildings. The developers shall consider pursuing a LEED or BuiltGreen certificate for the buildings in this project. (Staff and O'Neil 03/28/05).

The following conditions are proposed through the Way-O'Neil Agreement (staff substituted the referral to the "Owners" with "developers" for consistency). Number 10 on the Way-O'Neil agreement, requiring compliance with the Department of Ecology stormwater manual, has been deleted by staff because the City's code requires compliance with the adopted King County stormwater manual. The two manuals cannot be used together. Number 14 on the Way-O'Neil agreement has been incorporated into 3-I, above.

8. The developers will secure the services of a certified wetland biologist to direct the design of the enhancement and restoration plan for the shoreline of Echo Lake. The plan shall be based upon and consistent with the Department of Ecology's (DOE) "Best Available Science for Freshwater Wetlands Projects," Volumes One and Two. Subject to City approval, the developers will implement this plan. [Agreement #1]
9. The developers will not take any actions that result in further significant degradation of the wetland or buffer. The developers will use their best efforts to preserve and enhance the existing higher quality shoreline areas at the eastern and western boundaries. [Agreement #2]
10. The developers will restore and enhance all but a contiguous 70 feet of the lake shoreline, 10 feet of which will be used for a boardwalk to the beach and dock. Within this 70-foot area, the developers intend to apply for a permit to construct a publicly accessible beach and dock. [Agreement #3]
11. The restored areas of the shoreline will consist of: [Agreement #4]
 - a. A ten-foot area along the fully submerged portions of the lake's shoreline that will be planted with native plants that are compatible with and will enhance the lake's ecology and wildlife.

10.a.3 - ATTACHMENT A

- b. A ten-foot area along the shoreline that has a sufficiently high water table to support native plants that are compatible with and will enhance the shoreline's ecology and wildlife. If necessary and supported by Best Available Science, some grading may be required to establish a new grade that will support wetland plants within this area. Any wetland area created in this manner shall not be considered a new wetland boundary for the purposes of future buffer calculation. This requirement will not apply if the ground water is not sufficiently high to sustain moist soils-dependent plants.
 - c. A 55-foot area along the shoreline that is adjacent to the ten-foot area described above will be planted with native plants that are appropriate for wetland uplands areas and that support the lake's ecology and wildlife.
- 12. The developers will construct a boardwalk with public access through the buffer area. This boardwalk shall not intrude within the existing natural or newly restored areas described above. The boardwalk shall be constructed with kick-rails and signage to discourage public intrusion into the natural areas, and shall utilize materials and construction methods that are based on Best Available Science for natural and wetland areas. [Agreement #5]
- 13. The developers shall ensure that all plantings are established and self-sustaining. The developers will implement a monitoring and maintenance plan, for two years, consistent with the wetland biologist's recommendations. [Agreement #6]
- 14. The developers will provide handicap accessible public access from the Interurban Trail to the project site (subject to obtaining easement from Seattle City Light [SCL]). Developer will ensure that the privacy screening required by the SEPA mitigation measure is not compromised by any such access. If access is from the private SCL right-of-way designated Stone Ave. N., the Developer will work with the City to facilitate installation of signage that prohibits public parking on the private road. [Agreement #7, modified]
- 15. The developers will cooperate with efforts of the City and upstream property owners to apply effective water quality treatment to storm water flows originating off-site. This may include the location of water treatment facilities on the project site, so long as there is no additional cost to the developers nor a taking of additional land. [Agreement #8]
- 16. The developers will seek actions by the sewer district to remove freshwater flows from sewer pipes that serve the project site, and direct those flows through appropriate water quality treatment facilities to the lake. Developers shall consider utilizing a natural day-lighted drainage feature for this and other drainage flows. [Agreement #9]
- 17. The developers shall consider and include, where financially reasonable and consistent with their design needs, green building and low impact development techniques such as "pervious concrete." [Agreement #11]
- 18. The developers shall work with historic preservation organizations to seek to preserve the Weiman house. This assistance includes developer's agreement to offer the house at no cost for removal from site. [Agreement #12]
- 19. The developers shall reduce noise and glare impacts to surrounding residential neighborhoods through the following techniques: [Agreement #13]
 - a. Locate high noise generating uses away from the lake.

10.a.3 - ATTACHMENT A

- b. Control construction hours to preserve early morning, night and Sunday morning quiet times.
- c. Utilize landscaping as sound attenuators
- d. Incorporate noise reduction techniques in site and building design where practical.
- e. Employ low-glare, directed lighting to reduce ambient light.

Staff-proposed Conditions from May 4 & 5, 2005 Staff Report

1. The contract rezone Agreement must be ratified by the applicant and the City and recorded against the property in order to be a valid agreement.
2. The project shall comply with all mitigation measures as specified in the Mitigated Determination of Non Significance (MDNS).
3. The zoning designation shall be RB-CZ, Regional Business with Contract Zone. The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC) with the following additional property conditions:
 - a. Site configuration and uses shall generally comply with the site plan submitted with the application (Attachment C). Minor changes to the site plan may be subsequently approved by the City of Shoreline Planning and Development Services Director or designee. Configurations that promote greater retention of significant trees, additional setback from residential development, amenities to serve the Interurban Trail, and better solar access for open spaces and residential areas shall be given highest consideration.
 - b. Residential density shall be limited to 350 dwelling units, 40% of which shall be affordable to middle and low income residents.
 - c. Commercial floor area shall be limited to 182,000 square feet.
 - d. The housing developments shall be required to provide a minimum of 420 parking spaces within the structures.
 - e. The commercial developments shall be required to provide a minimum of 600 parking spaces within the structures.
 - f. Parking reduction of up to 20% from the maximum required by SMC 20.50.390 is allowed pursuant to SMC 20.50.400.
 - g. Upper floor "step back" on the north sides of the buildings abutting Echo Lake and the sides of the buildings facing the common open space shall be required to allow sunlight into the open space. Each floor shall be set back 10 feet further than the floor below.
 - h. Maximum impervious surface allowed on the site shall not exceed 90%. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation.
 - i. The provisions of SMC 20.50.350 (B) shall not apply to this site outside of the wetland and its buffer. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site.
4. Vermin abatement shall be performed by a licensed pest controller prior to and during demolition and decommissioning of current site. Proof of abatement from the pest controller shall be submitted as part of the demolition permit application.
5. Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the Shoreline Municipal Code (SMC) and the King County Surface Water Design Manual, as adopted by the City of Shoreline. A drainage easement for maintenance of the large pipe on the north property line of the site will be required. Additionally, the developer shall consider working with the City to install an oversize a stormwater system to further improve Echo Lake water quality including the possibility of adding a water feature and open water course as the means of discharge into the Lake.
6. Green Buildings. The developers shall consider pursuing a LEED (Leadership in Energy and Environmental Design) or BuiltGreen certificate for the buildings in this project.

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March 28, 2005

Ms. Kim Lehmberg, Project Manager
Department of Planning and Development Services
City of Shoreline
17544 Midvale Avenue North
Shoreline, WA 98133

Planning Commission Members
City of Shoreline
17544 Midvale Avenue North
Shoreline, WA 98133

RE: Project Number 201372
Contracted Rezone at Echo Lake

Dear Ms. Lehmberg and Shoreline Planning Commission Members,

I hereby request that you ~~cons~~ider changing Attachment A, "Conditions of Concomitant Rezone Agreement and Covenant Running with the Land", RB-CZ 05-01 as follows:

1. This Contract Rezone must be recorded to run with the land and be part of any future sub-division of the property.
2. No changes.
3. Developer agrees to provide a 115 foot buffer around the wetland.
4. a) Site configuration and uses shall generally comply with the site plan submitted with the application (attachment B), with housing units contained on the east side of the property and commercial uses on the west side of the property. This Contract Rezone allows for up to 10,000 square feet of retail on the east side of the property. Residential development will be allowed on the west side of the property.

b) The Residential density on the eastern portion of the site shall be limited to 350 units. Developer will attempt to incorporate up to 100 units of housing affordable to medium and low income households depending on the availability of subsidies for such housing.

c) Commercial floor area shall be limited to 182,000 square feet. Commercial floor area may be reduced further as replaced by residential units.

d) Parking shall be provided for the residential developments per the Shoreline Municipal Code requirements.

e) Parking shall be provided for the commercial development per the Shoreline Municipal Code requirements.

f) The residential development and the commercial development on the site shall comply with the requirements of the City of Shoreline Urban Design Standards for the RB Zone.

g) The maximum impervious surface allowed on the site shall not exceed 90% for development within the commercial portion of the site, and shall not exceed 90% in the residential portion of the site. The City of Shoreline policy is that required buffer areas are not included in the calculation of pervious areas for purposes of calculating allowable impervious areas on a site. While the developer has agreed to the 115 foot buffer, only the current standard of a 100 foot buffer shall be excluded from the calculation of pervious area on the site.

h) Development of the site shall comply with the requirements of the RB zoning as to building coverage of the site, which do not include a limitation on building area coverage.

i) The provisions of SMC 20.50.350(B) shall not apply to this site outside of the wetland and its buffer. All existing trees in the 115 foot buffer area shall be maintained as is undisturbed by the construction of the development. Developer shall install a buffer restoration area in the northeast corner of the site in the areas within the buffer where existing buildings and pavement will be removed from this portion of the site, prior to a certificate of occupancy for any building on the site. The restoration plan shall be approved by the City Planning Department.

5. No changes.

6. No changes.

7. No changes.

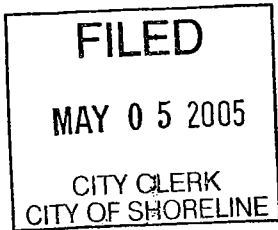
8. Changes to the site plan adopted in Attachment C may be subsequently approved by the City of Shoreline Planning and Development.

Thank you for your consideration.

Sincerely,



Harley D. O'Neil, Jr., Managing Member
Echo Lake Associates, LLC
c/o Royal Property Management, Inc.
1408 N.W. Richmond Beach Rd.
Shoreline, WA 98177

**AGREEMENT BETWEEN PARTIES**

May 4, 2005

The undersigned Appellants and members of Echo-Par and the owners of the Echo Lake Rezone Property are desirous of a positive working relationship to ensure a high quality development of the property, protect and enhance the natural environment, promote public interest values, and enable the achievement of the owners' financial objectives.

To achieve our common objectives we agree to the following:

Certain conditions will be added to the Contract Rezone, subject to approval of the City of Shoreline. Echo-Par and the Owners' will cooperate to seek City approval. These conditions are as follows:

1. The Owners will secure the services of a certified wetland biologist to direct the design of an enhancement and restoration plan for the shoreline of Echo Lake. The plan shall be based upon and consistent with the Department of Ecology's "Best Available Science for Freshwater Wetlands Projects", Volumes One and Two. Subject to City approval, the Owners will implement this plan.
2. The Owners will ensure, after the date of this Agreement that the Owners will not take any actions that results in further significant degradation of the wetland or buffer. The Owners will use their best efforts to preserve and enhance the existing higher quality shoreline areas at the eastern and western boundaries.
3. The Owners will restore and enhance all but a contiguous 70 feet of the lake shoreline, 10 feet of which will be used for a board walk to the beach and dock. Within this 70-foot area, Owners intend to apply for a permit to construct a publicly accessible beach and dock.
4. The restored areas of the shoreline will consist of:
 - A ten-foot area along the fully submerged portions of the lake's shoreline that will be planted with native plants that are compatible with and will enhance the lake's ecology and wildlife.
 - A 10 foot area along the shoreline that has a sufficiently high water table to support native plants that are compatible with and will enhance the shoreline's ecology and wildlife. If necessary and supported by best available science, some grading may be required to establish a new grade that will support wetland plants within this area. Any wetland area created

in this manner shall not be considered a new wetland boundary for the purposes of future buffer calculation. This requirement will not apply if the ground water is not sufficiently high to sustain moist soils dependent plants.

- A 55 foot area along the shoreline that is adjacent to the 10 foot area described above will be planted with native plants that are appropriate for wetland upland areas and that support the lake's ecology and wildlife.
5. The Owners will construct a boardwalk with public access through the buffer area. This boardwalk shall not intrude within the existing natural or newly restored areas described above. The boardwalk shall be constructed with 'kick-rails' and signage to discourage public intrusion into the natural areas, and shall utilize materials and construction methods that are based on "Best Available Science" for natural and wetland areas.
 6. The Owners shall ensure that all plantings are established and self-sustaining. The Owner will implement a monitoring and maintenance plan, for two years, consistent with the wetland biologist's recommendations.
 7. The Owners will provide handicap accessible public access from the Interurban Trail to the project site. An existing asphalt road that currently connects the project site to the trail may be modified to satisfy this requirement.
 8. The Owners will cooperate with efforts of the City and upstream property owners to apply effective water quality treatment to storm water flows originating off-site. This may include the location of water treatment facilities on the project site, so long as there is no additional cost to the Owners nor a taking of additional land.
 9. The Owners will seek actions by the Sewer District to remove freshwater flows from sewer pipes that serve the project site, and direct those flows through appropriate water quality treatment facilities to the lake. Owners shall consider utilizing a natural day-lighted drainage feature for this and other drainage flows.
 10. The Owners will comply with the Department of Ecology's stormwater drainage manual and city requirements. Water quality treatment shall utilize "Best Available Science", and the Owners shall consider utilizing surface features wherever feasible.
 11. The Owners shall consider and include, where financially reasonable and consistent with their design needs, green building techniques such as "pervious concrete".

12. The Owners shall work with historic preservation organizations to seek to preserve the Weiman house. This assistance includes Owners' agreement to offer the house at no cost for removal from site.
13. The Owners shall reduce noise and glare impacts to surrounding residential neighborhoods through the following techniques:
 - a. Locate high noise generating uses away from the lake.
 - b. Control construction hours to preserve early morning, night and Sunday morning quiet times.
 - c. Utilize landscaping as sound attenuators
 - d. Incorporate noise reduction techniques in site and building design where practical.
 - e. Employ low-glare, directed lighting to reduce ambient light.
14. The Owners shall identify significant trees and preserve as many as can be preserved, consistent with their design parameters.
15. This Agreement is expressly conditioned on the Owners acceptance of the Contract Rezone.

Harley D. O'Neil, Jr.

Harley D. O'Neil, Jr., Managing Member
Echo Lake Associates, LLC

Peter Henry

Marnie Bender

Richard H. Stein
Janet W. Day

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**Amended *DRAFT* FINDINGS AND DETERMINATION
OF THE CITY OF SHORELINE PLANNING COMMISSION**

Contract Rezone Request

Summary-

Following the public hearing and deliberation on the request to Rezone that portion of the property zoned R-48, Residential, 48 Units per Acre to RB-CZ, Regional Business with a Contract Zone (concomitant agreement), the City of Shoreline Planning Commission recommends approval of changing the zoning as presented and approving the concomitant agreement with the proposed conditions. The Planning Commission has determined that this action, based on the following findings, meets the criteria for Rezone under the Shoreline Municipal Code (SMC) Section 20.30.320.

I. FINDINGS OF FACT

1. Project Description-

- 1.1 Modify the existing zoning designations for an 8.61-acre, split-zoned parcel located on the south shore of Echo Lake, at 19250 Aurora Ave. N. The proposal is to change the zoning of the entire parcel to RB-CZ, Regional Business with contract zone, in order to facilitate a cohesive mixed use development.
- 1.2 Existing zoning: the site is currently split-zoned, with 2.21 acres of RB and 6.4 acres of R-48, high density residential.
- 1.3 Comprehensive Plan Designation: Current Comprehensive Plan designations for the parcel are as follows: the western portion of the site (approximately 1.85 acres) is designated as MU, Mixed Use, the eastern portion (approximately 6.1 acres) is designated as HDR, High Density Residential. There is a 50-foot wide strip (approximately 34,773 square feet) along the northern border from Aurora to the inter-urban trail that is designated POS, Public Open Space. This rezone request cannot be approved unless and until the Comprehensive Plan land use map is changed to a designation that supports the Regional Business zone. A High Density Residential designation does not support a Regional Business zoning designation. At its April 21, 2005 meeting, the Planning Commission voted to recommend approval of changing that portion of the Comprehensive Plan map designated High Density Residential to Mixed Use, which would support the requested change.
- 1.4 Location: 19250 Aurora Ave. N.
- 1.5 Parcel Number: 2222900040

- 1.6 Site Description: The subject site is generally located at the southern end of Echo Lake, currently occupied by the Holiday Resort trailer park, an abandoned restaurant, a gas station/minimart, and a used car dealership. There are approximately 100 living units which have been described as affordable units, which amounts to approximately 15 units per acre. The main access to the site slopes down from Aurora approximately 15% from the former restaurant and the car dealership toward the trailer park. Near the eastern boundary where the property abuts the inter-urban trail there is an abrupt 10 – 20 foot grade change up to the trail. There are about 75 significant trees on site.
 - 1.7 Neighborhood: The project site is located in the Echo Lake Neighborhood. Access to the property is gained from Aurora Ave. N (State Highway) and N. 192nd Street (a residential street). To the north of the RB-zoned portion of the site is high density development and zoning. There is a small strip of lakeside single-family development abutting the far northeastern corner of the property which is zoned R-6, Residential, 6 units per acre. Along the eastern border of the site runs the inter-urban trail, and beyond that is single-family development and zoning. The Metro Transit Center is less than one-half mile up the trail to the north. To the west is commercial development along Aurora; across Aurora is the Metro Park and Ride facility with a bus stop. The parcel to the southwest of the site is commercially developed and is zoned I, Industrial. To the southeast is single-family development with low to medium density zoning.
- 2. Procedural History-**
- 2.1 Public hearing held by the Planning Commission on the rezone with joint SEPA Appeal hearing held by the Hearing Examiner May 4 and 5, 2005.
 - 2.2 Public hearing held on the site-specific Comprehensive Plan amendment by the Planning Commission: April 14, 2005
 - 2.3 SEPA Determination for the rezone appealed March 2, 2005
 - 2.4 Notice of Public Hearing and SEPA Threshold Determination: February 15, 2005.
 - 2.5 End of 14 day Public Comment Period: February 4, 2005
 - 2.6 Notice of Application & Preliminary SEPA Threshold Determination for combined action:* January 20, 2005
 - 2.7 Complete Application Date: January 14, 2005
 - 2.8 Application Date: December 30, 2004
 - 2.9 Neighborhood meeting Date: December 8, 2004
 - 2.10 Pre-Application Meeting Date: August 20, 2004

*Original application was for a combined site-specific Comprehensive Plan Amendment and Re-zone. The actions were separated after an appeal of the SEPA determination and scheduling conflicts, and agreed to by all parties.

3 Public Comment-

Issues commented upon included adequacy of infrastructure, the Echo Lake and wetland environment, a piped watercourse under the project site, displacement of low-income housing units, historic preservation, traffic impacts, privacy issues and vermin abatement.

A complete listing of participants and parties of record will be inserted after the public comment period is completed.

4 SEPA Determination-

The City has issued a Mitigated Determination of Non-significance for this project, based upon review of the environmental checklist and reports submitted with the application, including a traffic report, wetland survey, historical report and geotechnical report. Staff has also received input from citizens and other agencies regarding the site environment.

Echo Lake/Wetland. The term "waters of the state" refers to WAC 173-201A Water Quality Standards for Surface Waters of the State of Washington. WAC 173-201A-010 (2) states " Surface waters of the state include lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands, and all other surface waters and water courses within the jurisdiction of the state of Washington." All surface waters are protected by narrative criteria, designated uses, and an antidegradation policy. Echo Lake is classified as Salmon and Trout Spawning, Core Rearing, and Migration (WAC 173-201A-200) and is designated use for recreation is Extraordinary Primary Contact Recreation (WAC 173-201A-200 (2)(b)).

Echo Lake is classified and regulated as a Type II wetland under City codes (SMC 20.80), as the City has no "lake" category codified. Echo Lake is a headwaters to McAleer Creek, which is a salmonid-bearing stream; thus the quality of its water is very important. The site currently has no water quality devices, site run-off flows directly into the lake without treatment. There is a grassy buffer around most of the south side of the lake, with some buildings and mobile units within 20 to 30 feet of the water.

The current Development Code requires a maximum buffer of 100 feet for Type II wetlands. Limited uses are allowed in the buffer, such as passive recreation (e.g. viewing platforms, pervious trails) under SMC 20.80.330.F.

Wildlife. There are a number of animal species that are found on-site and supported by the lake. Many species of birds are found there, including waterfowl (ducks, cormorants, heron), hawks, osprey, eagle and numerous songbirds. Also in the lake

are frogs and turtles. The lake is regularly stocked with trout that provide food for the birds as well as recreational value. Raccoons and opossums are often seen.

Geotechnical and Soils. A soils and geotechnical report was prepared for the site by Pacrim Geotechnical, Inc. Natural groundwater table was not encountered at the time of their explorations. In Test Pit 2 at the location near Echo Lake, seepage was observed at four feet below grade. In Test Pit 8, seepage was observed at seven feet below grade. The seepage conditions observed in these test pits were interpreted by the geotechnical engineer as local groundwater perched atop of native Glacial Till, and are not likely continuous. Site soils consist of fill and dense native Glacial Till and Advanced Outwash. The report contains recommendations for foundation construction and notes that the site is appropriate for supporting development as long as geotechnical recommendations are followed.

Phase I & II Environmental Assessments were conducted on the site in 2002 when it was sold to its current owner. Some contaminated soils were found, mainly in association with the gas station and car dealership. As of this time, half of the contamination has been cleaned up; the remainder will be cleaned-up along with the decommissioning of the trailer park or with the respective new projects as they are developed.

Traffic, Infrastructure, Parking and Utilities. A traffic impact analysis was conducted for the proposed development (*Perteet, December 30, 2004*). The study focused on comparing the expected traffic impacts of the proposal with the expected impacts of what would be allowed under the current zoning. The comparison in this report projected impacts to the year 2010. It found no significant differences are to be expected between what would currently be allowed on site as compared to the proposed project.

An amendment to the study was prepared by Perteet (March 10, 2005). This report projects impacts to the year 2015, and indicates that intersection improvements will be required if the site is built out to the maximum proposed. The level of improvements will be determined at the time of site development, based on the build-out of the project. If the project is built out as proposed, a turn lane will be required on N. 192nd St.

While the studies use City Hall as a proposed use for the trip generation calculations, the trip generation numbers for a government office are the same or higher than for a general office use. Therefore, these numbers are transferable for analysis of the current project impacts. However, if the use of that amount of space attributed to City Hall (comparable to office use), changes to retail for example, additional study would be required.

The main access to the site areas will be off of N. 192nd St. In addition, there will be two driveways off of Aurora Ave. N. It is expected that one of these driveways will be right turn only in and out. Exact configuration of the traffic and circulation patterns will

be analyzed in further detail at the time of site development. Frontage improvements will also be required for this project at the time of site development, both along Aurora Ave. N. and N. 192nd Street. These improvements will include sidewalk, curb and gutter and amenity zone.

Parking analysis indicates that for the proposed build-out, the proposed number of parking spaces appears to be adequate. For residential apartments, the required number of parking spaces averages out to 1.625 per unit. Multiply this by 350 equals 569 spaces. For most commercial uses, one space is required for every 300 square feet of floor area. The proposed 182,000 square feet of commercial space, divided by 300 equals 606 spaces. The total in this analysis is 1176 spaces. The proposal is to provide 1,125 spaces, which is 51 fewer spaces than in this analysis. Section 20.50.400 of the Development code allows up to a 20% reduction of required parking with coordinated design and shared access to consolidated parking areas linked by pedestrian walkways. It also allows the parking requirement for primarily nighttime uses to be served by primarily daytime uses. The Director may approve up to a 50% reduction of required spaces for uses that are in proximity to transit, or that can show that parking demand can be adequately met through a shared parking agreement. Since this is a mixed use development that is in close proximity to two major transit facilities, it can be argued that a reduction in the parking requirement would be approved.

Adequate utilities, infrastructure and transit exist in the area. Notice of this application was sent to all utilities serving the area and no comments were received. Additionally, water and sewer availability certificates were submitted as part of the application requirements. These certificates indicate adequate capacity for the proposal. Additional water (fire flow) and sewer certificates are required for individual building permits.

Drainage and Piped Watercourse. A 30-inch corrugated piped conveyance runs along the west property line of the site, in the Aurora Ave. N. right-of-way at a depth of between 10 feet at the south end to near 20 feet towards the north end. The depth is needed because it is running counter to the natural topography. The pipe turns to the east at the northwest corner of the site, following the north property line of the site, then flows into Echo Lake. A 1958 map that depicted an 18-inch culvert under Aurora Avenue and those along 192nd indicate the historic presence of water at these points. Road builders and road engineers placed culverts at known places of water to protect the road bed and prevent ponding of water adjacent to roads. Size of culverts gives only a relative indication of amount of water. The sizes used at Aurora and 192nd were 18-inch diameter. Road culverts typically were placed at natural points, i.e. stream channel, or somewhat on convenience of down-stream impacts, i.e. not towards a house but select forested undeveloped tract of land. The 1958 map depicts 3-surface inlets (two 12-inch pipes and one 18-inch pipe) with one 18-inch outlet pipe. This indicates that the inflows were not great, as the outlet pipe would have been larger than 18 inches. The current Metro park-n-ride was a bog that drained towards Echo Lake via

N. 192nd St. It then flowed in a 12-inch pipe under the mobile home park and into Echo Lake.

When Aurora was built and the land developed it may or may not have had channelized (stream) flow into Echo Lake at the SW corner. It is not known if there was a clearly defined channel, how large a channel might have existed or flow quantities. Current topography does not indicate a defined channel.

The smaller catch basin system on site is an older system that collects site drainage. The southern portion flows south and connects with the bigger pipe, which then flows north. The northern section of the smaller pipe flows north and connects directly to the lake. The City's Stream and Wetland Inventory shows only one conveyance, dubbed EL2. It appears to show the large conveyance turning east at about the midpoint between the south and north ends of the large pipe, then going through the property and along to the lake. There are in fact currently two systems, the larger one that runs south to north in the right-of-way before turning east onto private property at the north property line of the project site, and the smaller catch basin system on site. Piping installed prior to 1973 (adoption of federal Clean Water Act), would be considered part of the stormwater conveyance system, and not a stream.

Currently, surface water from the site flows into Echo Lake. It is neither treated nor detained. Redevelopment of the site will require that surface water from new pollution-generating surfaces be treated for water quality before discharge, and the remainder of the drainage be detained. At the time of redevelopment, the City will require a drainage easement for that portion of the large pipe that is on private property.

Historic Home. The site contains an historic house. The Weiman House, built in 1924 in the colonial revival style, is not on the state or national registry of historic landmarks, nor is it considered to be eligible for registry. In 1947, the property was sold to C.B. McNaughton who built resort cabins on the acreage. The cabins were removed in the early 1960s when the McNaughtons started the Holiday Resort and Trailer Park, which still occupies the surrounding six acres. Construction of this trailer park, including the siting of trailers immediately adjacent to the building, has altered the historic lakeside setting of the house. Further, there have been moderate to extensive changes to the physical appearance of the house, including the floor plan, windows and original cladding.

It is expected that this house will be removed for the proposed development. In January, staff contacted the King County Historic Preservation Officer regarding this project, who had reported back to staff that because of the recent history of the house, and extensive alterations to it and the site, no mitigation was recommended. Since this initial contact, the County Officer has been in touch with members of the public regarding the possibility of a landmark designation for the house. He then contacted staff on March 22, and said that the Weiman house isn't an outstanding candidate for landmark designation but has potential. On April 4, 2005, he presented the following recommendations for the disposition of the house:

“My recommendation in brief is to encourage the project proponent to find a means of incorporating the house into the plan for the site, preferably in its current location and with some green area around it (and ideally an open view to and from the lake). Moving it on site to a better location would be preferable to demolition. If demolition is the only feasible alternative, the property and its history should be documented (current and historic photos, additional research, etc.) and the project proponent should advertise the house for moving and contribute the cost of demolition and disposal to whomever moves the building.”

Proposed conditions encourage the developer to retain the Weiman House, however, since it is not designated a landmark and has been extensively altered, this is not a requirement. Further, moving the house may be prohibitively expensive due to the brick and stone foundation, which is an exceptional historic feature of the house.

Housing. The site is currently underdeveloped (15 units per acre) to the current zoning standards, which between the R-48 zoning and the RB zoning, would allow approximately 357 units. The R-48 zoning allows 48 units per acre, while Regional Business zoning allows unlimited density (as long as other requirements of the Code are met, such as parking). This contract zone proposes to limit the density to 350 units. Thus the rezone will not result in a significant loss of potential land for housing. The development would result in a loss of 101 units. Many of these units have been described as affordable units, however they are not designated affordable units under the City's Affordable Housing Benchmark Indicator report. A proposed condition requires the developer to attempt to incorporate up to 100 units in the development that are affordable.

Tree Removal. There are a number of significant trees located on the subject site. The SMC requires retention of at least 20% of the significant trees (SMC 20.50.350(B)(1)), with certain exceptions. The site design for a typical development proposal would also be required to meet the requirements of 20.50.350(D)(1-9) which stipulates that trees be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site. Re-planting would be required under 20.50.360. Because the urban densities and design of this proposal promotes the economic value of development consistent with the Shoreline Comprehensive Plan, and this value must be balanced with other competing values, staff is recommending that the contract rezone exclude the development standards for clearing activities (SMC 20.50.350) from areas of the site outside of the wetland buffer. This means, in effect, that the tree protection requirement would only apply within the wetland buffer and the other trees on the site would not be protected. To offset the impact of loss of trees for habitat, a proposed condition is to have an approved habitat restoration plan be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site.

Aesthetics and Land Use. The RB zoning district has a building height limit of 65 feet, while the R-48 zone has a 35-foot base height limit that can be increased to 60 feet under certain circumstances (see page 3, table, with footnote). This may have some

impact on the single-family properties to the east of the project site, although this is somewhat offset by the lower grade of the project site. A concern has been raised that the open space area around the lake, being on the north side of the property, may be darkened by the large buildings. This is somewhat mitigated by site design that breaks up the development into four separate buildings with open space in the middle. Also, a condition requiring solar access is proposed.

The question arose at the February 3, 2005 Planning Commission workshop as to how to prevent the property from forming into a "strip mall" type of development with minimal build-out and surface parking. A condition proposed would required a percentage of the parking to be structured in order to discourage excessive surface parking.

Vermin. Demolition and decommissioning of an older site often results in the resident rat population invading the surrounding neighborhood. One of the proposed conditions on this project is for the developer to conduct vermin abatement and containment prior to and during demolition.

Water quality will improve with redevelopment because any new development will be subject to the City's surface water regulations. Water quality measures, including detention and filtration are required for new pollution-generating surfaces such as driveways and parking lots. Detention is required for new impervious surfaces. Currently, there is no detention or filtration occurring on the site; all of the sheet flow from the trailer park, with its many pollution-generating vehicles, goes into the lake untreated. Further, any new development will be required to provide a wetland buffer under the critical areas ordinance of the Shoreline Municipal Code (SMC). The current required buffer for a Type II wetland is 100 feet; the proposed update of the critical areas ordinance, currently under review, would require a 115-foot buffer. The proposal is to provide a 115-foot buffer.

5. Consistency-

- 5.1 The application has been evaluated and found to be consistent with the Rezone criteria listed in Shoreline Municipal Code Section 20.30.320 (B), provided the proposed Comprehensive Plan amendment is approved.

Rezone criteria (SMC 20.30.320(B))

Criteria 1: The rezone is consistent with the Comprehensive Plan.

This rezone request cannot be approved unless and until the Comprehensive Plan land use map is changed to a designation that supports the Regional Business zoning district. At it's April 21, 2005 meeting, the Planning Commission voted to recommend approval of changing that portion of the Comprehensive Plan map designated High Density Residential to Mixed Use, which would allow the rezone to be consistent with the Comprehensive Plan.

Criteria 2: The rezone will not adversely affect the public health, safety or general welfare.

The rezone will not adversely affect the public health, safety or general welfare. The redevelopment of the property will replace uses and structures that are in transition with a more stable built environment that is consistent with current standards, while protecting the natural environment. Conditions imposed under the Contract Zone plus compliance with the Development Code, will further serve to protect the unique nature of the site.

All development of these sites must meet the requirements of Title 20 of the SMC (the Development Code). Section 20.10.020 states the general purpose of the Code is to “promote the public health, safety, and general welfare.” Future permit applications for the subject site shall show compliance with the Code, including but not limited to the following sections:

Critical Areas 20.80

Dimensional and Density Standards 20.50.010-20.50.050

Parking Access and Circulation 20.50.380-20.50.440

Wastewater, Water Supply and Fire Protection 20.60.030-20.60.050

Surface and Stormwater Management 20.60.060-20.60.130

Criteria 3: The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

This rezone request cannot be approved unless and until the Comprehensive Plan land use map is changed to a designation that supports the Regional Business zoning district.

There are a number of Comprehensive Plan goals and policies that would support the contract rezone and a mixed use development. Both the 1998 Comprehensive Plan and the draft Planning Commission recommended policies for 2004 were analyzed for consistency.

The split-zoning of the parcel is a barrier to allowing the property to redevelop as a cohesive mixed-use project. Allowing for the Regional Business zoning district, along with the limitations proposed as part of the “contract” will better accomplish the goals of the Comprehensive Plan.

The proposal to modify the zoning as part of a “contract” is consistent with the Comprehensive Plan. The contract rezone will simply reconfigure the existing anticipated uses and level of development in order to facilitate a cohesive development on this property. The rezone will not significantly increase the intensity or density beyond that allowed under the current zoning.

Criteria 4: The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

The contract rezone will limit the overall intensity of the development to a similar level to that allowed by the current zoning. Future development will be organized similar to what is currently envisioned by the zoning and Comprehensive Plan, with commercial uses predominantly on the western portion of the site. The existing Interurban Trail and the existing topography and vegetation will help to act as a buffer to adjacent low-density residential uses. Development standards required by the Shoreline Municipal Code will further ensure that future development is compatible with the surrounding land uses.

There appears to be adequate infrastructure improvements available in the project vicinity. This includes adequate storm, water, and sewer capacity for the future development. The development of this site will also require that the infrastructure accommodates existing and anticipated stormwater improvements to be installed as part of the development proposal.

Criteria 5: The rezone has merit and value for the community.

The impetus for the amendment is the “split-zoning” condition wherein different land use rules apply for each portion of a single property. The purpose of the amendment is to provide for an effective layout of a mixed use development, not to increase the overall intensity/density of development allowed on the property under the current zoning. The amendment allows for the effective mixed—use development of the site, responding to the need for vehicular access and natural constraints, which would be much more difficult with the split-zoning. The redeveloped parcel will increase housing, employment and economic development for the community.

II. CONCLUSIONS

1. **Consistency-** This rezone request cannot be approved unless and until the Comprehensive Plan land use map is changed to a designation that supports the Regional Business zoning district. At its April 21, 2005 meeting, the Planning Commission voted to recommend approval of changing that portion of the Comprehensive Plan map designated High Density Residential to Mixed Use.
2. **Compatibility-** Provided that the Comprehensive Plan amendment is approved, the proposed zoning, with conditions, is consistent with the land use patterns identified in the Comprehensive Plan.
3. **Housing / Employment Targets-** The project does not negatively impact the City of Shoreline’s ability to meet housing or employment targets as established by King County to meet requirements of the Growth Management Act. The difference in number of units allowed under the current zoning and the contract rezone is minimal.

4. **Environmental-** The City issued a SEPA Mitigated Determination of Non-significance for this project.

III. RECOMMENDATION

Based on the Findings, the Planning Commission recommends approval of a request to modify the existing zoning designations, applied for under permit #201372, for the parcel located on the south shore of Echo Lake, at 19250 Aurora Ave. N., to change the zoning of the entire parcel to RB-CZ, Regional Business with contract zone.

City of Shoreline Planning Commission

David Harris, Chairperson

Date: _____

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PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Critical Areas Ordinance: Continued Planning Commission Deliberations

DEPARTMENT: Planning and Development Services

PRESENTED BY: Tim Stewart, Director, Planning and Development Services
Matthew Torpey, Planner II

EXECUTIVE SUMMARY

On March 17, 2005 the Planning Commission held an open record public hearing on the draft critical areas ordinance. Deliberations began on April 7, 2005 with a page by page review of the proposed critical area amendments. At the conclusion of the meeting, deliberations were continued until the May 19, 2005 Planning Commission meeting.

Attached is a comment matrix that includes amendments to the proposed code that have previously been requested by both staff and the Planning Commission. One new amendment was passed at the April 7, 2005 Planning Commission meeting. This amendment proposed two changes to the proposed amendments. The first was to remove the term "open" from the definition of streams. The second is to establish a 10 foot buffer to piped stream segments. This amendment passed unanimously. The amendment, however, was left open at passage with the proviso that Commissioner Broili would like to amend the buffer requirement to allow more flexibility. Staff recommends that the Commission discuss this amendment to provide clarification and precise wording of the proposed code language.

All inquiries, questions, and comments in regards to the draft documents may be directed to Matt Torpey, Planner II. City of Shoreline, 17544 Midvale Ave. N., Shoreline, WA 98133. (206) 546-3826, or email mtorpey@ci.shoreline.wa.us

STAFF RECOMMENDATION

Staff recommends that the Planning Commission continues deliberation on the draft critical areas ordinance. Staff also suggests that the Planning Commission identify to staff which additional amendments, if any, they would like to see included in the matrix as well as clarification of the amendment passed at the April 7, 2005 meeting. Once proposed amendments have been identified by the Commission, staff will provide any required information prior to a future Planning Commission meeting where further deliberations are to take place.

ATTACHMENTS

Attachment I: Proposed Amendments to the CAO

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Proposed Changes to the Draft Critical Areas Ordinance

<i>Item #</i>	<i>Current Draft Code Section</i>	<i>Proposed Change to Draft Code</i>	<i>Proposed Draft Code Section</i>
1	20.20.046 S definitions. Streams Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses . <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u>	Remove the phrase "in the City of Shoreline."	20.20.046 S definitions. Streams Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses . <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u>
2	20.80.030 Exemptions. ... <u>L.</u> Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, and use of existing trails for horseback riding, bicycling and hiking, that will not have an adverse effect on the critical area;	Remove "Horseback Riding" Insert "public beach access and other water recreation related activities"	20.80.030 Exemptions. ... <u>L.</u> Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, <u>public beach access including water recreation related activities,</u> and use of existing trails for horseback riding, bicycling and hiking, that will not have an adverse effect on the critical area;

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
3	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owners that occur in the following sequence:</p>	Remove the phrase “seek to” from this code section	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owners that occur in the following sequence:</p>
4	<p>20.80.230 Required buffer areas.</p> <p>...</p> <p>D. Landslide hazard area buffers may be reduced to a minimum of 15 feet when technical studies conclusively demonstrate that the reduction will adequately protect <u>people and</u> the proposed and surrounding development from the landslide hazard.</p>	Remove “conclusively” and reword the section to reduce risk of a hazard to people and property.	<p>20.80.230 Required buffer areas.</p> <p>...</p> <p>D. Landslide hazard area buffers may be reduced to a minimum of 15 feet when technical studies conclusively demonstrate that the reduction will <u>not increase the risk of the hazard to people or property on or off site.</u></p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
5	<p>20.80.270 Classification.</p> <p>Fish and wildlife habitat areas are those areas <u>designated by the City based that meet on</u> any of the following criteria, <u>review of the best available science, and input from Washington Department of Fish and Wildlife, Washington Department of Ecology and other agencies:</u></p> <p>A. The documented presence of species proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority <u>documented by best available science</u>; or</p> <p>B. The presence of heron rookeries or <u>priority</u> raptor nesting trees; or</p> <p>C. Type I wetlands, as defined in these regulations; or</p> <p>D. Type I streams, as defined in these regulations; or</p> <p>E. Those areas which include the presence of locally significant species, if the City has designated such species. (Ord. 238 Ch. VIII § 4(B), 2000).</p>	<p>All regulated streams and wetlands, and their buffers should be considered fish and wildlife habitat areas.</p> <p>The Puget Sound should be considered a fish and wildlife habitat area.</p>	<p>20.80.270 Classification.</p> <p>A. Fish and wildlife habitat <u>conservation areas</u> are those areas <u>designated by the City based that meet on review of the best available science; input from Washington Department of Fish and Wildlife, Washington Department of Ecology, and other agencies; and any of the following criteria, review of the best available science, and input from Washington Department of Fish and Wildlife, Washington Department of Ecology and other agencies:</u></p> <p><u>1A.</u> The documented presence of species proposed or listed by the Federal government or <u>the</u> State of Washington as endangered, threatened, critical, or priority <u>documented by best available science</u>; or</p> <p><u>2B.</u> The presence of heron rookeries or <u>priority</u> raptor nesting trees; or</p> <p><u>3. Streams and wetlands and their associated buffers that provide significant habitat for fish and wildlife.</u></p> <p>C. Type I wetlands, as defined in these regulations; or</p> <p>D. Type I streams, as defined in these regulations; or</p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
5			<p><u>B. The City designates the following fish and wildlife habitat conservation areas that meet the above criteria, and this designation does not preclude designation of additional areas as provided in SCC 20.80.270(A):</u></p> <p><u>1. All regulated streams and wetlands and their associated buffers as determined by a qualified specialist.</u></p> <p><u>2D. The waters, bed and shoreline of Puget Sound up to its ordinary high water mark.</u></p>
6	<p>20.80.470 Classification.</p> <p><i>[Numbering is corrected in this section.]</i></p> <p>Streams shall be designated Type I, Type II, Type III, and Type IV according to the criteria in this section. When more than one stream type is present in short alternating segments on a subject property, it will be classified according to the stream type which is more restrictive.</p> <p>A. "Type I streams" are those streams identified as "Shorelines of the State" under the City Shoreline Master Program.</p> <p>B. "Type II streams" are those natural-streams that are not Type I streams and are either perennial or intermittent and <u>have salmonid fish use</u>have one of the following characteristics:</p> <p>1. Salmonid fish use;</p>	See next page for proposed change.	<p>20.80.470 Classification.</p> <p><i>[Numbering is corrected in this section.]</i></p> <p>Streams shall be designated Type I, Type II, Type III, and Type IV according to the criteria in this section. When more than one stream type is present in short alternating segments on a subject property, it will be classified according to the stream type which is more restrictive.</p> <p>A. "Type I streams" are those streams identified as "Shorelines of the State" under the City Shoreline Master Program.</p> <p>B. "Type II streams" are those natural-streams</p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
	<p>2. Potential for salmonid fish use; or 3. Significant recreational value.</p> <p>C. "Type III streams" are those natural streams with perennial (year-round) or intermittent flow and are not used by salmonid fish and have no potential to be used by salmonid fish.</p> <p>D. "Type IV streams" are those streams and natural drainage swales with perennial or intermittent flow with channel width less than two feet taken at the ordinary high water mark that are not used by salmonid fish.</p> <p>E. <u>For the purposes of this section, "salmonid fish use" and "used by salmonid fish" is presumed for:</u></p> <p>1. <u>Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;</u> 2. <u>Streams that are fish passable by salmonid populations from Lake Washington or Puget Sound, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and</u> 3. <u>Streams that are planned for restoration in a 6-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Washington or Puget Sound.</u></p> <p><u>The Department may waive the presumption of salmonid fish use for stream segments where a qualified professional has determined there are confirmed, long term water quality parameters making the stream segment incapable of supporting fish.</u></p> <p>E. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated to the City through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this subchapter, except manmade streams that provide critical habitat for species of fish and wildlife that are proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority species.</p>	<p>Include language to allow proposals for private dam removal to be considered when assessing fish passability.</p>	<p>that are not Type I streams and are either perennial or intermittent and have salmonid fish use have one of the following characteristics: 1. Salmonid fish use; 2. Potential for salmonid fish use; or 3. Significant recreational value.</p> <p>C. "Type III streams" are those natural streams with perennial (year-round) or intermittent flow and are not used by salmonid fish and have no potential to be used by salmonid fish.</p> <p>D. "Type IV streams" are those streams and natural drainage swales with perennial or intermittent flow with channel width less than two feet taken at the ordinary high water mark that are not used by salmonid fish.</p> <p>E. <u>For the purposes of this section, "salmonid fish use" and "used by salmonid fish" is presumed for:</u></p> <p>1. <u>Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;</u> 2. <u>Streams that are fish passable by salmonid populations from Lake Washington or Puget Sound, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and</u> 3. <u>Streams that are:</u> <u>a. planned for restoration in a 6-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Washington or Puget Sound.</u> <u>b. Planned removal of private dams that will result in a fish passable connection to Lake</u></p>

10.b - ATTACHMENT I

<i>Item #</i>	<i>Current Draft Code Section</i>	<i>Proposed Change to Draft Code</i>	<i>Proposed Draft Code Section</i>
	<p>Intentionally created streams that provide documented critical habitat for these species shall be classified and treated as natural streams. (Ord. 238 Ch. VIII § 8(B), 2000).</p>		<p><u>Washington or the Puget Sound.</u></p> <p><u>The Department may waive the presumption of salmonid fish use for stream segments where a qualified professional has determined there are confirmed, long term water quality parameters making the stream segment incapable of supporting fish.</u></p> <p>E. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated to the City through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this subchapter, except manmade streams that provide critical habitat for species of fish and wildlife that are proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority species. Intentionally created streams that provide documented critical habitat for these species shall be classified and treated as natural streams. (Ord. 238 Ch. VIII § 8(B), 2000).</p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
7	<p>20.80.480 Required buffer areas.</p> <p>...</p> <p><u>H. Restoring piped watercourses.</u></p> <p><u>1. The city encourages the opening of previously channelized/culverted streams and the rehabilitation and restoration of streams.</u></p> <p><u>2. When piped watercourse sections are restored, a protective buffer shall be required of the stream section. The buffer distance shall be based on an approved restoration plan, regardless of stream classification, and shall be a minimum of 10 feet to allow for restoration and maintenance. The stream and buffer area shall include habitat improvements and measures to prevent erosion, landslide and water quality impacts. Opened channels shall be designed to support fish access, unless determine to be unfeasible by the City.</u></p> <p><u>4. Removal of pipes conveying streams shall only occur when the City determines that the proposal will result in a net improvement of water quality and ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.</u></p> <p><u>5. Where the buffer of the restored stream would extend beyond a required setback on an adjacent property, the applicant shall seek written agreement from the affected neighboring property owner.</u> (Ord. 299 § 1, 2002; Ord. 238 Ch. VIII § 8(C), 2000).</p>	<p>Change the requirement, “the applicant shall seek written agreement” to “the applicant shall obtain a written agreement.”</p>	<p>20.80.480 Required buffer areas.</p> <p>...</p> <p><u>H. Restoring piped watercourses.</u></p> <p><u>1. The city encourages the opening of previously channelized/culverted streams and the rehabilitation and restoration of streams.</u></p> <p><u>2. When piped watercourse sections are restored, a protective buffer shall be required of the stream section. The buffer distance shall be based on an approved restoration plan, regardless of stream classification, and shall be a minimum of 10 feet to allow for restoration and maintenance. The stream and buffer area shall include habitat improvements and measures to prevent erosion, landslide and water quality impacts. Opened channels shall be designed to support fish access, unless determine to be unfeasible by the City.</u></p> <p><u>4. Removal of pipes conveying streams shall only occur when the City determines that the proposal will result in a net improvement of water quality and ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.</u></p> <p><u>5. Where the buffer of the restored stream would extend beyond a required setback on an adjacent property, the applicant shall seek obtain a written agreement from the affected neighboring property owner.</u> (Ord. 299 § 1, 2002; Ord. 238 Ch. VIII § 8(C), 2000).</p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
8	<p>20.80.320 Classification.</p> <p>Wetlands, as defined by this section, shall be designated Type I, Type II, Type III, Type IV and artificial <u>classified</u> according to the following criteria:</p> <p>A. "Type I wetlands" are those wetlands which meet any of the following criteria:</p> <ol style="list-style-type: none"> 1. The presence of species proposed or listed by the Federal government or State of Washington as endangered, threatened, critical or monitored <u>priority</u>, or the presence of critical or outstanding actual or potential habitat for those species; or 2. Wetlands having 40 percent to 60 percent open water in dispersed patches with two or more wetland subclasses of vegetation; or 3. High quality examples of a native wetland listed in the terrestrial and/or aquatic ecosystem elements of the Washington Natural Heritage Plan that are presently identified as such or are determined to be of Heritage quality by the Department of Natural Resources; or 4. The presence of plant associations of infrequent occurrence. These include, but are not limited to, plant associations found in bogs and in wetlands with a coniferous forested wetland class or subclass occurring on organic soils. <p>B. "Type II wetlands" are those wetlands which are not Type I wetlands</p>	<p>Adopt the Washington State Department of Ecology's Washington State Wetland Rating System for Western Washington.</p>	<p>Section 20.80.320 would need to be repealed in it's entirety. A new section 20.80.320 could adopt Ecology's manual by reference. The manual is viewable at</p> <p>http://www.ecy.wa.gov/biblio/0406025.html</p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
	<p>and meet any of the following criteria:</p> <p>1. Wetlands greater than one acre (43,560 sq. ft.) in size;</p> <p>2. Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one-half acre (21,780 sq.ft.) in size and have three or more wetland classes; or</p> <p>3. Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one-half acre (21,780 sq.ft.) in size, and have a forested wetland class or subclasses.</p> <p>C. "Type III wetlands" are those wetlands that are equal to or less than one acre in size and that have one or two wetland classes and are not rated as Type IV wetlands, or wetlands less than one-half acre in size having either three wetlands classes or a forested wetland class or subclass.</p> <p>D. "Type IV wetlands" are those wetlands that are equal to or less than 2,500 square feet, hydrologically isolated and have only one, unforested, wetland class.</p> <p>E. "Artificially created wetlands" are those landscape features, ponds and stormwater detention facilities purposefully or accidentally created. Artificially created wetlands do not include wetlands created as mitigation or wetlands modified for approved land use activities. Purposeful or accidental creation must be demonstrated to the City through documentation, photographs, statements or other evidence. Artificial wetlands intentionally created from nonwetland sites for the purposes of wetland mitigation are</p>		

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
	regulated under this subchapter. (Ord. 238 Ch. VIII § 5(B), 2000).		
9	<p>20.80.030 (F) exemptions</p> <p>F. Activities affecting <u>isolated</u> Type IV wetlands which are individually smaller than 1,000 square feet and/or cumulatively smaller than 2,500 square feet in size <u>where 80 percent or greater of the wetland area has been altered or is covered by invasives and the wetland has been determined to be of low hydraulic and habitat function;</u></p>	When cumulative impacts will be between 1,000 and 2,500 square feet, the City should require mitigation.	<p>20.80.030 (F) exemptions</p> <p>F. Activities affecting <u>isolated</u> Type IV wetlands which are individually smaller than 1,000 square feet.</p>
10	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owner shall that occur in the following sequence:</p> <p>A. Avoiding the impact altogether by not taking a certain action or parts of actions;</p> <p>B. Minimizing impacts by limiting the degree or magnitude of the action</p>	As defined by the WAC 197-11-768, mitigation is a sequence of six steps to be followed. Add “Monitoring the impact and taking appropriate corrective measures”.	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owner shall that occur in the following sequence:</p> <p>A. Avoiding the impact altogether by not taking a</p>

<i>Item #</i>	<i>Current Draft Code Section</i>	<i>Proposed Change to Draft Code</i>	<i>Proposed Draft Code Section</i>
	<p>and its implementation;</p> <p>C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;</p> <p>D. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action; and/or</p> <p>E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 2(B), 2000. Formerly 20.80.170.).</p>		<p>certain action or parts of actions;</p> <p>B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;</p> <p>C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;</p> <p>D. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action; and/or</p> <p>E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 2(B), 2000. Formerly 20.80.170.).</p> <p><u>F. Monitoring the impact and taking appropriate corrective measures.</u></p>

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section																																	
11	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>	Delete the word “open” from the definition of streams.	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where open surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial open watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>																																	
12	<p>Table 20.80.480B</p> <table><tr><th>Stream Type</th><th>Standard Buffer Width (ft)</th><th>Minimum Buffer Width (ft)</th></tr><tr><td>Type I</td><td>150</td><td>115</td></tr><tr><td>Type II</td><td>115</td><td>75</td></tr><tr><td>Type III</td><td>65</td><td>35</td></tr><tr><td>Type IV</td><td>35</td><td>25</td></tr></table>	Stream Type	Standard Buffer Width (ft)	Minimum Buffer Width (ft)	Type I	150	115	Type II	115	75	Type III	65	35	Type IV	35	25	Include a column for “piped” water course on the stream buffer chart. The buffer shall be 10ft.	<p>Table 20.80.480B</p> <table><tr><th>Stream Type</th><th>Standard Buffer Width (ft)</th><th>Minimum Buffer Width (ft)</th></tr><tr><td>Type I</td><td>150</td><td>115</td></tr><tr><td>Type II</td><td>115</td><td>75</td></tr><tr><td>Type III</td><td>65</td><td>35</td></tr><tr><td>Type IV</td><td>35</td><td>25</td></tr><tr><td>Piped</td><td>10</td><td>10</td></tr></table>	Stream Type	Standard Buffer Width (ft)	Minimum Buffer Width (ft)	Type I	150	115	Type II	115	75	Type III	65	35	Type IV	35	25	Piped	10	10
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