

AGENDA

CITY OF SHORELINE PLANNING COMMISSION REGULAR MEETING



Thursday, May 4, 2006
7:00 p.m.

Shoreline Conference Center
Mt. Rainier Room
18560 1st Avenue NE

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00 p.m.
2. ROLL CALL	7:01 p.m.
3. APPROVAL OF AGENDA	7:02 p.m.
4. DIRECTOR'S REPORT	7:03 p.m.
5. APPROVAL OF MINUTES	7:08 p.m.
a. April 6, 2006	
b. April 20, 2006	
6. GENERAL PUBLIC COMMENT	7:10 p.m.

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

7. REPORTS OF COMMITTEES AND COMMISSIONERS	7:15 p.m.
8. STAFF REPORTS	7:25 p.m.
a. Study Session: Permanent Hazardous Trees Regulations & Critical Areas Stewardship Plan	
<i>* This meeting is a study session only, so no oral public comment regarding the proposed amendments will be taken. A public hearing regarding the proposed amendments will be held on Thursday May 18, 2006. The Planning Commission will be accepting oral and written public comment at the May 18 hearing.</i>	
9. UNFINISHED BUSINESS	9:25 p.m.
10. NEW BUSINESS	9:30 p.m.
11. AGENDA FOR Thursday, May 18, 2006	9:35 p.m.
Public Hearing: Permanent Hazardous Trees Regulations & Critical Areas Stewardship Plan	
13. ADJOURNMENT	9:40 p.m.

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

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These Minutes Subject to
May 4th Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

April 6, 2006
7:00 P.M.

Shoreline Conference Center
Board Room

COMMISSIONERS PRESENT

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

STAFF PRESENT

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

OTHERS PRESENT

Mayor Ransom

CALL TO ORDER

Chair Harris called the regular meeting of the Shoreline Planning Commission to order at 7:05 p.m.

ROLL CALL

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

APPROVAL OF AGENDA

The Commission added a discussion regarding the upcoming Planning Commission Retreat as Item 11b. The remainder of the agenda was approved as presented.

SEATING OF NEW COMMISSIONERS

Mayor Ransom swore in the new Commission Members (Commissioners Wagner and Pyle) and the two returning Commissioners (Commissioners Kuboi and Piro). Photographs were taken to provide to the local newspaper and each of the Commissioners briefly introduced themselves.

DIRECTOR'S REPORT

Mr. Tovar reported that a volunteer breakfast has been scheduled for April 28th, in honor of all of City volunteers. Each of the Commissioners would receive a formal invitation. In addition, the City Council has scheduled a reception on May 8th to honor outgoing Planning Commissioners Sands and MacCully for their years of service. Each would be presented with a plaque and refreshments would be served.

Mr. Tovar reported that he was invited to attend the Highland Terrace Neighborhood Association Meeting on April 18th, along with various staff members. Chair Harris and Commissioner Hall would attend the meeting, too. The Association requested that he introduce the Commissioners and invite them to provide comments. At the meeting he would briefly review the role of the Planning Commission, City Council and City staff, with an emphasis on how they all work together. He has also been invited to talk about the general subject of housing. With the decline of the school age population in Shoreline schools, the Association has some concerns about land use and housing supply. In addition, he would provide a brief update on the City's plan to work on a Comprehensive Housing Strategy and invite the Association to provide their suggestions and concerns on the issue.

Mr. Tovar advised that Vice Chair Piro and Commissioner Kuboi would attend the Echo Lake Neighborhood Association meeting on April 18th. Mr. Cohen would represent the City staff at the meeting and provide remarks similar to those Mr. Tovar would provide at the Highland Terrace Neighborhood Association Meeting. Mr. Cohen is the project manager for a proposed development at the south end of Echo Lake. When it was adopted by the City Council, there was language allowing the City staff to approve minor amendments to the site plan. The developer now has some different ideas for the site plan, and these changes would be reviewed by the Echo Lake Neighborhood Association on April 18th.

Mr. Tovar reported that staff is working with the Ridgecrest Neighborhood Association, developers and property owners regarding the sub area plan for the commercial district in the area. They have discussed options for using students from the University of Washington to conduct design charettes. More details regarding this effort would be provided to the Commission in the near future.

Commissioner Hall requested that staff provide the Commission with a schedule of the regularly scheduled neighborhood association meetings so that Commission representatives could assign themselves to be in attendance. Mr. Tovar agreed to provide a schedule as requested. Commissioner Broili expressed his belief that neighborhood associations provide a rich opportunity for citizen involvement, and it is important for the City to involve them in the Comprehensive Housing Strategy process. Commissioner Pyle reported that he plans to attend the Briarcrest Neighborhood Association Meeting.

Because the public hearing was scheduled to start at 7:30, Mr. Tovar suggested the Commission postpone the remainder of his report, as well as their review and approval of the minutes until after the hearing has been completed. The Commission agreed.

APPROVAL OF MINUTES

Approval of the minutes was postponed until later on the agenda.

GENERAL PUBLIC COMMENT

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

PUBLIC HEARING ON SITE SPECIFIC REZONE/COMPREHENSIVE PLAN AMENDMENT FOR PROPERTY LOCATED AT 20060 – 15TH AVENUE NORTHEAST (FILE NUMBERS 201492 AND 301371)

Chair Harris reviewed the rules, procedures and agenda for the public hearing. He invited Commissioners to disclose any ex parte communications they received regarding the subject of the hearing outside of the hearing. None of the Commissioners identified written or oral communications. No one in the audience expressed a concern.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran provided a brief overview of the project, which is a proposal to modify the existing Comprehensive Plan and zoning designations for a 15,374 square foot parcel located at 20060 – 15th Avenue Northeast from Ballinger Special Study Area (BSSA) to High-Density Residential (HDR) and to change the zoning designation from R-12 to R-48. He explained that the Ballinger Special Study Area has been designated for future sub area or neighborhood planning and does not currently have a land use designation. The applicant is proposing to construct 7 additional single-family attached townhomes on the site where one duplex is currently under construction. The proposal would include 9 total dwelling units in three separate buildings, for an overall density of 25.5 dwelling units per acre. He explained that the current designation of BSSA and zoning of R-12 would allow up to four single-family residences on the site. He summarized that while the proposed amendment and rezone would allow the construction of up to 17 dwelling units on the site, the applicant is only proposing 9 at this time.

Mr. Szafran reviewed that the subject property is located on the east side of 15th Avenue, approximately 450 feet south of Ballinger Way North. The site is currently being developed with a duplex situated close to 15th Avenue Northeast and is relatively flat, with a small slope on the easternmost area of the site. There are few trees and vegetation, and access to the property would come from a 24-foot driveway off of 15th Avenue Northeast.

Mr. Szafran advised that the site is surrounded by a variety of zoning and land uses. To the north are parcels owned by the applicant, which are zoned R-48 and proposed for a mixed-use development consisting of a 21-unit apartment and office building for an overall density of 47.5 units per acre. To the east are commercial uses that are zoned Community Business and front along Ballinger Way North. A duplex zoned R-12 is to the south and further to the south are higher density apartments zoned R-24.

Across 15th Avenue Northeast to the west is a mini warehouse development and townhomes zoned R-24 and single-family residences zoned R-12.

Mr. Szafran reported that no letters of public comment regarding the proposal were received. In addition, no comments were received during the required neighborhood meeting.

Mr. Szafran advised that staff reviewed the environmental checklist submitted with the application and issued a Determination of Non-Significance. If developed as proposed, the site's total estimated peak hour vehicle trips would not exceed nine, which is below the threshold for requiring a traffic study. Utilities to the site would have to be upgraded, and the Shoreline Water District has identified a 6-inch waterline that must be upgraded in the street in front of the property. In addition, sewer lines must be upgraded to serve the proposed development. The site is located within close proximity to a well-served public transportation corridor along 15th Avenue Northeast, as well as Ballinger Way. There is a duplex under construction on the site, as well as an existing single-family home that would be demolished in the near future. The height of the proposed townhomes would be 32 feet, which would be well under the allowed maximum height in the R-48 zone of 50 feet. The townhomes would incorporate required design elements as identified in the Development Code. He provided slides to illustrate the current uses on the surrounding properties.

Next, Mr. Szafran explained that the proposal must meet the criteria listed in Sections 20.30.320(B) and 20.30.340 of the SMC. He briefly reviewed how the site specific Comprehensive Plan Amendment would meet the criteria as follows:

- **The amendment is consistent with the Growth Management Act and not inconsistent with the Countywide Planning Policies and other provisions of the Comprehensive Plan and City policies.** The amendment is consistent with the Growth Management Act in that it would allow for an increase in housing choice, a higher density of housing in the urban area, and an increase in the type of housing needed by possibly senior citizens and smaller families. The following three statutory goals identified in the State Growth Management Act legislation would be met by the project: guide urban growth in areas where urban services can be adequately provided, reduce urban sprawl, and encourage efficient multi-modal transportation systems. The proposal was analyzed and found to be consistent with the King County Countywide Planning Policies. The proposed amendment would also be consistent with the City of Shoreline's Comprehensive Plan, in that it meets a number of framework, land use and housing goals and policies of the plan as discussed in detail in the staff report.
- **The amendment addresses changing circumstances, changing community values and incorporates the sub-area planning consistent with the Comprehensive Plan vision or correct information contained in the Comprehensive Plan.** The precedent for this type of action has already been set. On June 13, 2005, the City Council approved a request to change the Comprehensive Plan for property located approximately 1,500 feet to the south of the subject property from BSSA to HDR. In addition, the zoning was changed from R-6 to R-24. Although the Comprehensive Plan states that the special study area is designated for future sub area, watershed, special districts or neighborhood planning and it is intended for the underlying zoning to remain, the proposed Comprehensive Plan amendment and rezone request addresses a change in land use pattern

in the neighborhood. Because of the need for a more diverse housing stock, the proposed amendment directly addresses the changing housing market and would fill the need for higher-density housing designed for smaller families. In addition, as the commercial properties continue to develop and expand, the proposed amendment would allow the parcel to develop and serve as a transition zone between the commercial uses along Ballinger Way and the lower density residential uses to the south.

- **The amendment will benefit the community as a whole and will not adversely affect community facilities, public health, safety or general welfare.** Because of the properties proximity to the large regional business uses to the north and east and the single and multi-family uses to the south and west, the proposed amendment would serve as a transition area between the zones. In addition, the proposed amendment would allow for the construction of 9 dwelling units, which is 5 more than currently allowed. These additional dwelling units would not place an unreasonable burden on the community facilities or the health, safety or general welfare of the public.

Next, Mr. Szafran reviewed the five site-specific rezone criteria that the rezone application must meet as follows:

- **The rezone is consistent with the Comprehensive Plan.** Upon re-designation of the parcel to HDR, the rezoning of the parcel to R-48 would be consistent with the Comprehensive Plan.
- **The rezone will not adversely affect the public health, safety or general welfare.** Development on the site would be required to comply with all of the development standards found in the Shoreline Municipal Code.
- **The rezone is warranted in order to achieve consistency with the Comprehensive Plan.** Upon approval of the proposed Comprehensive Plan Amendment, the concurrent proposal to rezone the parcel to R-48 would be consistent with the new land use designation.
- **The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.** The rezone and future development of the site would not be detrimental to uses in the immediate vicinity. To ensure that adequate infrastructure exists in the area, staff has proposed a condition that would be discussed as part of the preliminary staff recommendations.
- **The rezone has merit and value for the community.** The rezone would help the City achieve the housing targets established by the Comprehensive Plan and required by the Growth Management Act. In addition, the site is an appropriate place to accommodate development considering the intensity of the adjacent commercial and high-density uses because it is free of environmentally sensitive features and because of its close proximity to infrastructure.

Mr. Szafran reviewed the following staff conclusions:

- **Consistency.** The proposed site specific Comprehensive Plan amendment and concurrent rezone is consistent with the Washington State Growth Management Act, the King County Countywide Planning Policies, and the City of Shoreline's 2005 adopted Comprehensive Plan.

- **Compatibility.** The proposed zoning is consistent with the proposed changes in land use designation as identified in the site specific Comprehensive Plan Amendment.
- **Housing/Employment Targets.** The project increases the ability for the City of Shoreline to achieve housing targets as established by King County to meet requirement of the Growth Management Act.
- **Environmental Review.** The project has satisfied the requirements of the State Environmental Policy Act (SEPA).

Mr. Szafran reviewed that since the proposal is a Type C Action, the Planning Commission is required to hold a public hearing. The Commission should consider the application and public testimony and develop a recommendation to the City Council for either approval or denial. The City Council would consider the Commission's recommendation prior to their final decision. He reviewed the Commission's options as follows: recommend approval to re-designate the land use and rezone based on the findings presented in the staff report, recommend denial of the re-designation and rezone application based on specific findings made by the Planning Commission, or recommend changes to the proposal based on findings.

Mr. Szafran said staff's preliminary recommendation is that the Commission recommend approval of Application Numbers 201492 and 301371, with the addition of the following condition: Prior to issuance of building permits, the applicant shall demonstrate compliance with the provisions for adequacy of public facilities as defined in Chapter 20.60 of the Shoreline Development Code.

Applicant Testimony

Stephen Michael Smith, the applicant's representative, advised that the applicant agrees with the findings and conclusions of the staff report. The additional condition that the applicant must comply with the utility requirements is something they would have to do anyway and would not add anything substantial to the application, so he finds the proposed condition acceptable. He pointed out that the subject property is an excellent location for added density due to its close proximity to a commercial center, transit opportunities and the freeway. In addition, there should be minimal impact to the surrounding properties. The site plan is compact and the development would not look like a large apartment complex. He noted that most of the surrounding properties have a higher density than single-family residential, and all are identified in the Comprehensive Plan for commercial or multi-family uses. He urged the Commission to recommend approval of the proposal.

Questions by the Commission to Staff and Applicant

Commissioner Kuboi asked if the Shoreline Water District would be responsible for deciding whether the sewer and water improvements proposed by the applicant would be acceptable or not. Mr. Szafran answered that when the applicant submits a building permit application, they would have to provide verification that the Shoreline Water District and Ronald Wastewater District have approved their plans for water and sewer improvements.

Commissioner Broili asked what percentage of the site would be covered as per the proposal. Mr. Szafran said the applicant is proposing a lot coverage of 67%, and the R-48 zone would allow a maximum lot coverage of 90%. Commissioner Broili inquired if a stormwater management strategy would also be part of staff's proposed condition one. Mr. Szafran answered that staff would address storm water management issues as part of their site development permit review.

Commissioner McClelland pointed out that the duplex currently being constructed on the subject property is actually identified on the map as a townhouse, but it does not front onto 15th Avenue Northeast. Mr. Smith explained that the two-unit townhouse development faces towards the new road and is a permitted use in the existing zone. The applicant anticipates that a rezone would follow and the rest of the site plan would fall into place. The applicant is also planning a mixed-use building on the property to the north that is currently zoned R-48. The two sites have been designed to share the 24-foot driveway to consolidate the access points.

Commissioner Hall pointed out that the letter from the Shoreline Water District indicates that the water system would have to be upgraded significantly to the north and south of the project site. Mr. Cohn said his understanding is that negotiations are taking place between the subject property owner, as well as other property owners on 15th Avenue Northeast to determine the final outcome for the sewer improvements. Rather than prejudging the final outcome, staff has proposed a condition that the Shoreline Water District must approve the applicant's proposal. Commissioner Hall inquired if the applicant understands that the staff's proposed condition would require them to upgrade the main to a larger pipeline from Forest Park Drive to Ballinger/205th Street. Mr. Smith said that the applicant is aware of the Shoreline Water District's requirement and finds it acceptable. The applicant has been negotiating with the water district regarding options over funding this work.

Commissioner Broili requested more details regarding the planned stormwater facility. Mr. Smith answered that rather than an exposed pond with a fence around it, the proposed system would be some type of underground system such as a pipe or detention vault that would not be visible from the surrounding properties. Commissioner Broili said his concerns would be less on aesthetics and more on the additional load placed on an already overloaded system. He questioned where the stormwater from the underground vault would go. Mr. Smith answered that the intent is to feed into the existing stormwater system. Their design would have to meet the requirements of the King County Stormwater Manual, and release volumes would be less after construction than prior to construction.

Commissioner Hall observed that staff's analysis under Criteria 2 for the rezone request (that the rezone would not adversely affect the public health, safety or general welfare) appears to rely solely on compliance with the Development Code. If that is the case, since all development in the City is required to satisfy the Development Code, then this condition is redundant. Therefore, it should either be eliminated or interpreted differently. He suggested that when evaluating whether a rezone is or is not adverse to the public health, safety or welfare, more than the Development Code should come into play. For example, issues such as density and nearby parks, schools and uses should also be considered. While he doesn't have issue with this particular application, the Commission should clarify Criteria 2 for future applications.

Commissioner Broili suggested that stormwater strategy should be a part of the additional condition proposed by staff. Chair Harris expressed his belief that the Commission should not be particularly concerned about the adequacy of public facilities in this case. The proposed condition is redundant since the Shoreline Water District has already issued a water availability certificate as part of the application indicating that an upgrade is necessary, and they have the authority to make sure the improvements are made. In addition, he pointed out that the stormwater design would have to meet the requirements of the King County Stormwater Manual.

Commissioner Pyle expressed his belief that since there is a need for significant infrastructure upgrades on 15th Avenue Northeast, perhaps now would be a good time for the City to review the properties identified in the Comprehensive Plan as Ballinger Special Study Area from a larger perspective rather than piecemeal.

Commissioner McClelland suggested that when the Commission reviews future proposals for medium density housing developments, it would be helpful for staff to provide information in the Staff Report to illustrate where schools, bus stops, shopping, sidewalks, etc would be located in relation to the subject property.

Commissioner Kuboi asked if the applicant would be opposed to an additional condition that would bind the rezone and Comprehensive Plan amendment to the proposed site plan and layout dimensions. Mr. Smith said the applicant would not be opposed to this type of contract rezone condition. Their only concern would be that enough flexibility be allowed for the applicant to shift buildings around slightly as final designs are prepared. Mr. Cohn cautioned the Commission against tying their recommendation to a site plan that has not yet been reviewed by the staff. The Commission should focus on the density rather than the site plan.

Commissioner Kuboi expressed that his primary concerns are about density and height. An R-48 zone would allow a much larger envelope for the developer to work with, and he would not want the project to be reconfigured substantially different than what is currently being proposed. Commissioner Hall cautioned that it is not appropriate for the Commission to focus on the site plan as part of their review of the rezone application. Site plan issues would be dealt with as part of the building permit review process. As the Commission reviews the rezone application, they must consider whether or not it is appropriate for the subject property to be zone R-48, recognizing that this would allow the current property owner or any future property owner to build up to the maximum density allowed in an R-48 zone. He expressed his belief that because of the proximity of commercial and higher density residential properties and the City's desire to meet housing goals, an R-48 zoning designation would be consistent with the City's mission and values for the community.

Commissioner Broili said he would support the rezone request to R-48. However, he would like some assurance that the stormwater would be managed on site as much as possible, with little or no overflow into the nearby stream or existing stormwater system.

Commissioner Broili agreed with Commissioner Pyle that the City should move forward with their work on the Ballinger Special Study Area. The City must identify specific Comprehensive Plan land use

designations for these properties so property owners in the area can anticipate how they might be developed in the future.

Commissioner Phisuthikul requested information from staff regarding the logic for granting an administrative variance to allow the applicant to reduce the driveway width from 30 feet to 24 feet. Mr. Szafran answered that the City's Traffic Engineer and Development Review Engineer both reviewed the variance request and determined that it should be approved. They considered the proposed development on the subject property, as well as the applicant's plan to develop the property to the north as a mixed-use building.

Commissioner Kuboi pointed out that the legal notice that was provided for the hearing specifically referenced a 9-unit project on the subject property. While the core issue is density and zoning, the hearing was noticed with a specific project in mind. He questioned if the lack of public comment might have been based on a 9-unit development rather than the maximum number of units that would be allowed on the site if zoned R-48. He suggested that the Commission consider a condition that would limit the number of units to 9 or 10. Mr. Cohn said the City Attorney advised that because a project proposal was submitted as part of the application, the hearing should be noticed as such. However, the SEPA analysis addressed issues such as traffic, water and sewer based on the maximum number of units that could be developed if the property were rezoned to R-48.

If the Commission decides they want to add a condition that would restrict the number of units allowed on the site, Mr. Smith requested that they take a recess to allow him an opportunity to contact the applicant to make sure he would be willing to make this type of commitment. He commented that he has received no indication from the applicant that he is interested in changing the site plan significantly.

After further discussion, the Commission conducted a straw vote on Commissioner Kuboi's proposal to condition the rezone approval to 9 or 10 units. Commissioners Kuboi, Phisuthikul, Wagner and Pyle indicated that they would support the condition. Chair Harris, Vice Chair Piro and Commissioners McClelland, Broili, and Hall indicated that they would be opposed.

Mr. Cohn explained that the application was filed with a SEPA Checklist that addressed the rezone and Comprehensive Plan Amendment from the perspective of the property's highest and best use, or the most number of units (17) that could be placed on the property if zoned R-48.

Public Testimony or Comment

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

Presentation of Final Staff Recommendation

Based on the findings and site specific Comprehensive Plan amendment and concurrent rezone change criteria, Mr. Szafran advised that staff recommends approval of Application Numbers 201492 and 301371, a site specific Comprehensive Plan Amendment to change the land use designation from Ballinger Special Study Area to High Density Residential and rezone from R-12 to R-48 for parcel Number 7417700031, with the condition that prior to issuance of building permits the applicant shall

demonstrate compliance with the provisions for adequacy of public facilities as defined in Chapter 20.60 of the Shoreline Development Code.

Final Questions by the Commission and Commission Deliberation

Commissioner Broili proposed that Condition 1 be changed to add “all but 100-year storm events be managed on site.” He advised that this concept is laid out in the Western Washington Stormwater Manual. Mr. Tovar pointed out that while Shoreline has not adopted this manual yet, they are in the process of doing so.

Commissioner Hall said that while he supports Commissioner Broili’s desire to protect environmentally sensitive areas, he would prefer to change the Development Code to include a standard that could be applied equally to all properties in the City. He expressed his concern that Commissioner Broili’s additional language would hold the applicant to a higher standard than others, which is not fair.

Commissioner Broili pointed out that the staff has already proposed a condition related to water and sewer facilities. Because stormwater is just as important, he suggested that they either add language regarding stormwater management or eliminate the condition entirely. While this may appear to discriminate against one property owner, he said it is time for them to move in a more positive direction that is better for the City.

Mr. Tovar said that regardless of how the Commission deals with the proposal before them, it would be appropriate for them to encourage the City Council to commit the necessary resources to allow staff to move forward with the process of adopting the 2005 Western Washington Stormwater Manual as soon as possible.

Chair Harris said he would be against imposing a higher standard that has not yet been adopted by the City. Commissioner Pyle pointed out that any subsequent permits for the subject property would not be vested until they are deemed complete, so there is still time to adopt the 2005 Western Washington Stormwater Manual prior to the applicant’s submittal of a building permit.

Mr. Smith agreed that the concept of low-impact development is a very good idea, and the applicant tries to do low-impact development whenever possible. However, the soil conditions on the subject property are not permeable. An infiltration system would require that the entire site be excavated and filled with drain rock, and it would still overflow some times. Since detention vaults are expensive, they would prefer to use infiltration for stormwater management, but it would not be a viable engineering alternative in this case. Commissioner Broili pointed out that, in addition to infiltration, there are many options for stormwater management that could be considered for the site.

Closure of the Public Hearing

VICE CHAIR PIRO MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSIONER WAGNER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Vote by Commission to Recommend Approval, Denial or Modification

COMMISSIONER HALL MOVED THAT THE COMMISSION RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE PROPOSED COMPREHENSIVE PLAN AMENDMENT AND REZONE APPLICATION (FILE NUMBERS 301371 AND 201492) AS RECOMMENDED BY STAFF, INCLUDING CONDITION 1. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

APPROVAL OF MINUTES

The minutes of March 16, 2006 were approved as submitted.

CONTINUED DIRECTOR'S REPORT

Mr. Tovar referred to the Planning Commission Agenda Planner that was provided. He noted that at the April 20th meeting, a presentation would be made regarding the Department of Ecology's 2005 Wetland Classification Manual. In addition, the Commission would discuss the Planning Commission Retreat and joint training with the Parks Board and City Council on communication styles.

Mr. Tovar advised that he would not be present at the April 20th Meeting, since he would be attending a Planning Conference where the issue of "form-based zoning" would be discussed. He explained that most traditional zoning deals with zoning districts, with a large amount of detail about what uses are permitted. Traditional zoning limits the number of units allowed in a zone. However, with "form-based zoning" the number of uses and the mix of uses on a site are less important than issues such as bulk, configuration of buildings, orientation of building frontages, access to the site, etc. These qualitative aspects matter just as much or more than density. Mr. Tovar said he would provide a report of his attendance at the conference on May 4th.

Mr. Tovar advised that also on May 4th the Commission would hold a study session on the proposed permanent regulations for hazardous trees and a critical areas stewardship plan in preparation for a public hearing on May 18th. Staff would provide a report regarding the City Council's retreat on May 18th, as well. On June 1st, the Planning Commission would host a joint meeting with the Parks Board. At the meeting the Parks Director would provide a report on the Urban Forest Management Concept, and a representative from the Cascade Land Conservancy would provide a presentation about their 100-Year Conservation Agenda for the region. On June 15th, the Commission would hold public hearings on three specific rezone applications. A number of code amendment issues would be presented to the Commission in July and August.

Mr. Tovar recalled that when the City Council repealed the Cottage Housing Regulations, they recognized the need to look at housing more comprehensively, as pointed out by the Commission. At the last City Council Meeting staff provided a report regarding affordable housing and a presentation regarding a comprehensive housing strategy that would be broader than cottage housing, affordable housing, etc. The City Council provided more direction to staff and agreed to discuss the concept more at their retreat later in April.

Mr. Cohn recalled that staff advised the City Council that a series of questions must be answered during their discussion of a Comprehensive Housing Strategy, such as whom the housing should serve in the future. In addition, they must decide what kind of housing might be acceptable in certain parts of the City such as duplexes, carriage houses, zero lot line houses, etc. They must also decide how active the City wants to be in this arena. Should they let the market guide future development, or do they want to be more active?

Mr. Cohn advised that staff presented a preliminary work program and schedule for the Comprehensive Housing Strategy Process. Their intent is to have a preliminary strategy worked out for the City Council to review in January and present to the public in February. Hopefully, a final set of resolutions could be presented to the City Council in March. The City Council appeared to be supportive of the proposed work program and schedule. They specifically encouraged the staff to work more on the public involvement piece of the project to bring in the public early in the process. Mr. Tovar said staff would likely recommend that an ad hoc advisory committee on housing be formed, and some Commissioners might be invited to participate. Staff would keep the Commission apprised of how the process is moving forward. In addition, the Commissioners should feel free to provide comments and suggestions to the City Council.

The Commission requested that staff provide information as soon as possible regarding proposed changes to the approved site plan for the Echo Lake properties. Commissioner Hall noted that the Commission worked extraordinarily hard to balance the community interests and values and the applicant's desires as much as possible. In his opinion, if the developer cannot live by the conditions identified as part of the contract rezone approval, the rezone should be void and the process should start over. Mr. Tovar said the latest site plan is much better, but staff must review it to determine whether or not it still meets the conditions of the approved contract rezone.

REPORTS OF COMMITTEES AND COMMISSIONERS

Commissioner Broili referred to an article in *THE SEATTLE TIMES* on March 26th which heralds Seattle as a national leader in "green construction." He recommended the Commissioners review this article, which points out that there is a growing and strong market for well-built, environmentally sensitive, low-impact construction.

UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

NEW BUSINESS

Election of Chair and Vice Chair

Ms. Simulcik Smith reviewed the rules and procedures for electing a new Commission Chair and Vice Chair. She advised that she would conduct the election for the chair and then the newly elected Chair would take over the meeting and conduct the election for Vice Chair.

COMMISSIONER MCCLELLAND NOMINATED COMMISSIONER PIRO AS CHAIR OF THE COMMISSION.

No other nominations were offered, so nominations for Chair were closed.

THE COMMISSION UNANIMOUSLY APPROVED COMMISSIONER PIRO AS CHAIR OF THE COMMISSION. (Commissioner Piro did not vote).

COMMISSIONER BROILI NOMINATED COMMISSIONER KUBOI AS VICE CHAIR OF THE COMMISSION.

No other nominations were offered, so nominations for Vice Chair were closed.

THE COMMISSION UNANIMOUSLY APPROVED COMMISSIONER KUBOI AS VICE CHAIR OF THE COMMISSION.

Discussion on 2006 Planning Commission Retreat

Mr. Cohn reported that at the request of Vice Chair Kuboi, he asked the Assistant City Manager, Ms. Modrzejewski, to be a facilitator at the Commission Retreat. She suggested that the retreat be scheduled for an evening sometime in July. Mr. Cohn asked the Commissioners to check their schedules and inform the staff of their vacation plans.

ANNOUNCEMENTS

Ms. Simulcik Smith announced that the remaining 2006 Commission Meetings would be located in the Rainier Room rather than the Board Room.

Mr. Tovar advised that Bob Olander was recently appointed as the new City Manager.

AGENDA FOR NEXT MEETING

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

ADJOURNMENT

COMMISSIONER HALL MOVED TO ADJOURN THE MEETING AT 9:40 P.M. COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

David Harris
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

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These Minutes Subject to
May 4th Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

April 20, 2006
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

COMMISSIONERS PRESENT

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

STAFF PRESENT

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

CALL TO ORDER

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:08 p.m.

ROLL CALL

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

APPROVAL OF AGENDA

The Director's Report and Reports from Committees and Commissioners were placed on the agenda after the Department of Ecology's presentation. In addition, a discussion of possible follow up items from staff based on the presentation regarding the 2005 Wetlands Classifications Manual was added to the agenda. The remainder of the agenda was approved as presented.

APPROVAL OF MINUTES

No minutes were available for approval.

GENERAL PUBLIC COMMENT

There was no one from the public in the audience.

STAFF REPORTS

Department of Ecology Guest Speaker – 2005 Wetlands Classifications Manual

Mr. Torpey recalled that when going through the process of updating the Critical Areas Ordinance in 2005, the Commission and staff expressed a desire to change and update the City's wetland rating system, but they agreed it was too large of a task to handle at that time. Now that the Critical Areas Ordinance has been adopted as per the required timeline, staff is prepared to discuss the issue of wetland ratings with the Commission. Mr. Torpey introduced Eric Stockdale, Senior Wetlands Specialist from the Department of Ecology, who was present to speak to the Commission regarding the Western Washington Wetland Rating System. He would also discuss some of the potential options the Commission could consider when reviewing the City's Critical Areas Ordinance in the future.

Mr. Stockdale pointed out that the Growth Management Act requires that local jurisdictions include Best Available Science (BAS) in developing policies and regulations, including those for critical areas. The BAS Volume I document was completed in August of 2003 and BAS Volume 2 was completed in August of 2004. In addition, the Corps of Engineers and the Environmental Protection Agency have just completed their work on a document that provides guidance for wetland mitigation. The Department of Ecology has also compiled a synopsis of how the Western Washington Wetland Rating System works, and they are currently working on a tool that would provide a landscape approach to wetland protection.

Mr. Stockdale emphasized that the BAS documents are not a state rule, but are intended to provide guidance to local governments. They only cover freshwater wetlands and not riparian areas or streams. He noted that not all subjects are covered adequately in the documents because there is a lack of scientific information in some cases. Mr. Stockdale explained that the BAS Volume I draws the following conclusions:

- Permitting does not meet the goal of no-net-loss because it does not adequately account for landscape scale processes that sustain wetlands.
- Functions of wetlands are affected by actions in other parts of the landscape. While a wetland may be avoided, its hydrology might not be protected because of development outside of the wetland.
- Decisions made without an understanding of landscape factors will not protect wetland functions.
- Regulations and permitting alone fail to protect existing functions because exemptions contained in many local land use regulations nibble at the resource without adequate mitigation. In addition, buffers degrade and shrink over time, and a "buffers only" approach represents a moderate risk approach to protecting wetlands. In many cases mitigation fails or

falls short of protecting the wetlands, and landscape-scale processes that drive wetland functions are not properly accounted for. The greater the reliance on a site-specific regulation, the more stringent the regulation must be to overcome risk.

Mr. Stockdale advised that BAS Volume II offers options for wetland management. The main focus of the document is to lay out a framework for managing wetlands, analyzing the landscape and wetlands, and developing plans and policies to address wetland protection as part of the Comprehensive Plan process. The document also outlines non-regulatory tools that are available, as well as recommendations on how to characterize risk and approach wetlands from an adaptive management perspective. He noted that many of the planning tools are very limited in an already built out urban environment such as Shoreline.

Mr. Stockdale advised that the wetland rating system was developed in the early 1990's and significantly updated in 2004 into two documents, one for Western Washington and one for Eastern Washington. The new rating systems were intended to provide a rapid function method that can be applied in a just a few hours in most situations. Both were designed to differentiate wetlands based on their sensitivity to disturbance, their rarity, the ability to replace them, and the functions they provide.

Mr. Stockdale explained that the Western Washington Wetland Rating System is four-tiered, based on a wetland's need for protection and management. It is used to describe criteria for avoidance, width of buffers and mitigation ratios. While it does not characterize streams, riparian areas or other valuable aquatic resources, it does meet the definition of "best available science" under the Growth Management Act. He further explained that the rating system characterizes three main groups of wetland functions: habitat, water quality and hydrological.

Mr. Stockdale advised that the Department of Ecology has spent a tremendous amount of time considering the science of wetland buffers. Buffers are important and critical to maintaining wetlands and their functions. Available literature makes it clear that several key factors should be considered when determining the adequacy of a buffer on a critical area such as wetland type and its function as determined by category or score from rating, the intensity of the impacts from the adjacent land use, and the character of the existing buffer (i.e. slope, soils, vegetation).

Mr. Stockdale explained that determining how wide a buffer should be is largely an exercise of deciding how much risk is acceptable. It is important to consider an adequate buffer to protect a wetland from adjacent development. In addition, there are quite a few species of wildlife that depend on the riparian zone around a wetland to meet part of their lifestyle requirements. He advised that the scientific literature reports a wide range of buffer widths needed to protect wetlands depending on the functions and the acceptable level of risk. Smaller widths increase the risk to wetland functions and larger widths decrease the risk to functions.

Mr. Stockdale advised that the BAS Guidelines provide three alternatives for managing wetlands:

- **Alternative 1** is based only on the wetland rating score. While this is the simplest alternative, it is also the most restrictive. This alternative identifies a specific buffer requirement for each

category of wetland, even though the wider buffers are only needed for some wetlands within each rating category. This would not be a preferred approach because there are other tools that could be implemented at the site scale.

- **Alternative 2** is based on the rating score and the intensity of impacts from the proposed activity. This alternative allows jurisdictions to use existing zoning designations and basin conditions to refine land use impact categories. Buffers could be reduced if the adjacent land uses would have a low or moderate impact.
- **Alternative 3** is based on the rating score, the intensity of impacts from the proposed activity, and the functions or sensitivity of the wetland to disturbance. This alternative is used by many local governments and incorporates flexibility and provides predictability. It includes criteria for increasing, decreasing and averaging buffer widths and represents a moderate risk approach to wetlands.

Mr. Stockdale advised that one of the benefits of the new rating system is that it allows jurisdictions to consider how the rating system scores the different functions at a given site. For example, a low habitat score would require a much narrower buffer, depending on the intensity of the adjacent wetland, than a wetland that scores high. In addition, the new rating system also addresses wetlands that are very sensitive to changes in water chemistry such as bogs. Estuarine wetlands are also addressed differently. While they don't have a function assessment method for estuarine wetlands, protection measures are prescribed primarily due to their value and rarity.

Mr. Stockdale pointed out that Alternative 3 has the most flexibility to meet conditions that allow a reduction in buffer. The first condition would allow width reduction based on reducing the intensity of impacts from proposed land uses. He referred to the table on Page 10 of Appendix 8-C, which provides examples of site design measures to minimize the level of impact. Utilizing these measures could result in a reduction of impact from high to moderate, thus reducing the necessary buffer requirements. The second condition would allow a buffer width reduction where existing roads or structures lie within the buffer.

Mr. Stockdale said there are also conditions for increasing the width of a buffer. He explained that the buffer recommendations are based on the assumption that the buffer is well-vegetated. If a buffer is not well vegetated, a jurisdiction could require that it be enhanced and/or vegetated or that it be made wider in order to perform the necessary function. He said jurisdictions could also require additional width if the buffer is located on a steep slope. Also, if a wetland and/or its buffer is used by sensitive species a jurisdiction could require that the buffer width be increased.

Mr. Stockdale advised that using buffers alone is a blunt regulatory tool, particularly using Alternative 1. Buffers are not necessarily the best or only way to protect wetlands, but are typically the approach local governments have decided to use. The Department of Ecology is recommending that local governments consider a more systematic approach to prescribing buffer widths. He said that using a landscape approach to protect wetland function would be best since it would allow jurisdictions to incorporate stormwater management considerations, prescribe and protect wildlife corridors to connect wetlands to each other, and fold in a restoration planning element.

Mr. Stockdale provided an example of a wetland in Mukilteo that was rated using the Western Washington Wetland Rating System. He emphasized that the habitat point is the score used to determine the wetland buffer. Using Alternative 1, the required wetland buffer for this particular wetland would be 300 feet, and Alternative 2 would require 300 feet for a high intensity development, as well. Alternative 3 would allow a reduction of the buffer requirement to 110 feet if site buffer management protection measures were implemented to address the impacts.

Vice Chair Kuboi asked who would be responsible for determining whether or not impacts to a wetland could be reduced enough to warrant a reduction in the buffer requirement. Mr. Stockdale said the local jurisdictions would be responsible for making this determination. The Department of Ecology's intent was to make recommendations for consideration, with the understanding that they would have to be integrated at the site scale. Vice Chair Kuboi expressed his concern that Alternatives 2 and 3 both include mechanisms that infuse evaluation, subjectivity and interpretation into the process. While this allows flexibility to incorporate best available science, it could also be used as an opportunity for getting around the requirements. Mr. Stockdale said the Department of Ecology has been asked to mediate situations where there are disagreements amongst consultants. In addition, he said the Department of Ecology has trained more than 300 people to use the rating system. They have found that, with training, the error of margin can be greatly reduced to an acceptable level. Mr. Torpey said he participated in the Department of Ecology's training program and found that the system is not difficult to use. Commissioner Pyle added that the training course goes through the guidance document piece by piece, which is helpful.

Next, Mr. Stockdale reviewed examples of another wetland in Mukilteo and a wetland on the Sammamish Plateau, both were rated using the Western Washington Wetland Rating System. He explained that the development on the Sammamish Plateau was able to completely avoid the wetland, but no consideration was given for stormwater runoff or the wetland's connectivity to other wetlands in the vicinity. This resulted in negative impacts to the wetland. He emphasized that poor erosion control during construction significantly contributes to wetland degradation, as well. He referred to Yellow Lake, which is located on the Sammamish Plateau, where no erosion control was required for an 8 to 12 acre development. All of the sediment from this bare ground ended up in the lake. He summarized that in order for buffer requirements to be effective, they must be used in conjunction with stormwater management requirements.

Mr. Stockdale concluded his presentation by stating that the Growth Management Act charges local governments with the responsibility to protect existing functions, and was not intended to protect against the extinction of threatened or endangered species or to protect future or past functions. The goal of the Department of Ecology's recommendations is not to force the restoration of non-conforming uses. Rather, the goal is to not increase the degree of non-conformity. He explained that determining buffer widths is an exercise in risk management, and "big scary" buffers apply only in very limited circumstances. Buffer Alternative 3 was designed to be flexible and site specific and was developed in close consultation with local governments, planners, biologists and consultants.

Mr. Stockdale reviewed the list of jurisdictions within Washington that have adopted Alternative 3 or some version of Alternative 3 as part of their critical areas ordinances. He noted that many other jurisdictions are currently reviewing the option, as well.

Commissioner Pyle referred to the table on Page 10 of Appendix 8-C, which lists examples of measures to minimize impacts to wetlands from proposed changes in land use that have high impacts. He asked how these measures could be integrated into the City's Development Code, understanding that there may be conflicting regulations in other sections of the Development Code that would not allow a measure to be implemented. Mr. Stockdale answered that if a measure is against the City's Development Code, it would be dishonest for a developer to qualify for lenience.

Commissioner Pyle referred to the conditions that would allow a jurisdiction to require a greater buffer, particularly if a buffer area was devoid of vegetation. Mr. Stockdale said the City could either require a larger buffer or require that the existing buffer be enhanced to perform the required function. The City has the responsibility to make sure that the buffer functions properly. He said he anticipates a developer would rather revegetate a buffer area than increase its size.

Commissioner McClelland referred to the rezone the Commission recently considered near Echo Lake, and asked if the Commission discussed the impact created by stormwater runoff into the lake. Commissioner Broili added that the developer was allowed to reduce the buffer because their design utilized low impact techniques. Mr. Torpey explained that Echo Lake is a Class II Wetland, which requires a 115 foot setback. However, because the existing buffer consists of a gravel parking lot, the City allowed the developer to reduce the proposed buffer in exchange for significant improvements in the remaining buffer area.

Vice Chair Kuboi emphasized that the goal of the rating system is to maintain the existing function, not improving it. However, if a buffer is compromised, the system also provides incentives for a developer to improve it. Mr. Stockdale explained that any change of use or redevelopment would be required to meet the new standards. Vice Chair Kuboi expressed concern that the existing Department of Ecology language does not make this clear.

Commissioner Broili clarified that the rating system is based on what the wetland is now, and not what it used to be or what it could be in the future. Mr. Stockdale said that is correct in terms of scoring, but the rating system could also be used hypothetically at a site to make some assumptions about improvements that are being proposed to see if the rating would change. Commissioner Broili expressed his concern that, even with adoption of the new rating system, they are slowly losing ground and not improving the quality and functions of the wetlands. Mr. Stockdale said the issue is more related to the application of the site protection measures than the rating system. He said the Department of Ecology recognizes that there must be a nexus between the impact and the mitigation. A local jurisdiction's critical areas ordinance could not require something that is in excess of the anticipated impact. However, it is difficult to address the cumulative impacts from development, and the rating system is not the right tool to use. It is intended to be a tool for considering the site scale, but local jurisdictions must also use the landscape tool to address the cumulative effects of development and develop with a restoration plan to achieve a net gain.

Commissioner Broili said it is becoming better understood that protecting the upland areas is just as important as protecting the function of the wetland buffers. Mr. Stockdale said this would depend on the type of sediment generated by a development that is immediately adjacent to a wetland. He said that what is generated higher in the watershed that ends up in the lake would not be addressed by the buffers on the lake. The buffers on the lake should be geared towards the effect of the development on the lake and the habitat needs of the species that are using it. Upland sediment should be controlled through the City's stormwater regulations. Commissioner Broili summarized that the City allows a lot of undesirable development practices to happen further upland, which ultimately impact what is happening to the wetlands.

DIRECTOR'S REPORT

Mr. Cohn reported that Rachel Markle has returned to work, but Jeff Ding has left the City to work at a private consulting firm. Staff also lost their intern who was helping with a variety of projects. The City intends to replace both positions.

Mr. Cohn reminded the Commissioners of the Volunteer Appreciation Breakfast on Friday, April 28th, at 7:30 a.m. He further reminded them that a coffee and cake reception has been scheduled for May 8th at 7:00 p.m. to recognize outgoing Planning Commission and Library Board Members.

Mr. Cohn announced that each of the Commissioners received updates to the Shoreline Municipal Code and Shoreline Development Code.

Mr. Cohn further announced that the next two Commission Meetings would be videotaped and televised. Chair Piro reminded the Commission that a study session regarding the hazardous tree regulations has been scheduled on their May 4th agenda. He suggested this be made clear in the notices that are provided to the public, since the format would be different and no public comment would be allowed once the study session begins. Mr. Cohn advised that the SEPA Notice of Application would go out on April 24th for the code change, and this would include notice for the public hearing on May 18th and the workshop (not legally required) on May 4th.

REPORTS OF COMMITTEES AND COMMISSIONERS

Highland Terrace Neighborhood Meeting

Commissioner Hall reported that he and Commissioner Harris attended the Highland Terrace Neighborhood Meeting. Because of the staff's presentation, the audience focused on just a few pending and future actions. The citizens expressed particular concern about the trees that would be cut down to accommodate the Highlands Utility Yard Project. They would like the City to prevent the developer from removing the trees, even though they are on private property. He said staff also provided an outline about the process of governance (the role of the Commission, Council and staff), which was beneficial, and the City Council Members who were present at the meeting offered strong support to the

City staff. Commissioner Harris agreed that Mr. Tovar's presentation was well received by everyone in attendance at the neighborhood meeting.

Echo Lake Neighborhood Meeting

Vice Chair Kuboi reported that he and Chair Piro attended the Echo Lake Neighborhood Meeting, at which the South Echo Lake Revised Site Plan was discussed. A subset of the presentation was related to the proposed YMCA Project. He said he did not find the revised site plan substantially different, as far as intent, from the plan the Commission previously reviewed. The site is in the process of being sold, but the dark green buffer area (shown on the site-plan) would be retained by the current owner to develop as a buffer area.

Vice Chair Kuboi noted that reference was made at the meeting regarding a traffic study that would be presented to the City Council. He said he was surprised to learn this since revisions to the Transportation Master Plan require a review by the Planning Commission before being presented to the City Council for final approval. Chair Piro clarified that provisions in the Transportation Master Plan called for some transportation plan sub area studies, specifically in the area around 175th and Meridian Avenue. He recalled that the Planning Commission previously discussed a desire to be part of this process. Mr. Cohn said he would follow up on the matter and report back to the Commission.

Chair Piro said the presentation provided by staff at the neighborhood meeting set the context for a lot of the questions that were raised. Most of the discussion centered on finding the source of pollution in Echo Lake and possible solutions to remedy the problems. He said he and Vice Chair Kuboi were asked to respond to some questions, as well.

Vice Chair Kuboi said that, at the meeting, there appeared to be a wide divergence and misunderstanding regarding access to the waterfront from the South Echo Lake site. Because the project will not come back before the Commission for further review, he urged staff to make it very clear to the public about what kind of access would be available to the waterfront. Mr. Cohn agreed to check into this question.

Commissioner Hall referred to the recently approved contract rezone that was granted for the South Echo Lake Project. He noted that there were two primary vehicular access points, one on 192nd Street and one on Aurora Avenue North, with an emergency access point on Aurora. Now there appears to be two primary vehicular access points on 192nd Street and two on Aurora Avenue. Because this would radically alter the safety of the area for pedestrians and transportation, he said he does not view the site plan changes as minor. He recalled that at the public hearing, a great deal of concern was expressed about open space and pedestrians. He further pointed out that the large courtyard that is now being proposed appears to privatize the open space, and breaking up the buildings would make the open space less inviting. One significant issue raised at the hearing was whether or not the open space would be public or private; a dedication versus an easement. He summarized that the original site plan offered a far more inviting access not only to the lake, but the visual corridor, as well. He said he would like an explanation from Mr. Tovar about how he believes the proposed changes would be considered minor. He reminded the Commission that as part of the contract rezone, they granted the Planning Director the

authority to approve minor changes to the site plan. However, he does not feel the proposed changes could be considered minor. The remainder of the Commission agreed that it would be helpful for staff to provide a report at a subsequent meeting regarding the proposed changes to the site plan.

PUBLIC COMMENT

There were no members of the public in the audience.

UNFINISHED BUSINESS

Discussion on Planning Commission Retreat and Joint Meeting with the Parks Board

Mr. Cohn said staff is still working on the agenda for the joint Parks Board/Planning Commission meeting and would report further at the next Commission meeting.

Mr. Cohn suggested that the Commission brainstorm ideas and topics of discussion for the upcoming Commission Retreat. Staff would use the Commission's input to develop an agenda for the retreat.

Commissioner McClelland suggested that the Commission review situations where changes took place to site plans after the Commission had reviewed the applications and made recommendations to the City Council. She suggested they discuss an appropriate process that would allow administrative changes to come back to the Commission for review, if only to keep them informed.

Vice Chair Kuboi said it would be appropriate for the Commission to spend some time at their retreat developing their own work plan for the remainder of 2006. He noted that the Commission does have some discretionary time, and they should plan in advance how to use it.

Commissioner Phisuthikul said he would like the Commission to hold a retreat discussion regarding the possibility of revisiting the "Vision for Shoreline." Commissioner McClelland asked that staff provide an update on the Central Shoreline Sub Area Plan, as well. In addition, Chair Piro said he would like the Commission to hold a retreat discussion regarding future opportunities for increased interaction with the City Council.

Vice Chair Kuboi recalled that at that last retreat, the facilitator expected all of the Commissioners to put some thought into each of the topics prior to the meeting. He suggested that they follow this same process, and said he could work with the facilitator to collect information from each of the Commissioners in advance. The remainder of the Commission agreed this would be appropriate.

Mr. Cohn advised that staff would attempt to schedule the retreat for July 20th, which is a regular Commission meeting date.

Commissioner Hall urged each of the Commissioners to review the materials regarding the hazardous tree ordinance prior to the public hearing on May 18th so they are prepared to deliberate immediately after taking public testimony. Chair Piro agreed. However, he expressed his concern about whether or

not the Commission would be able to make a recommendation on May 18th, given that they anticipate a significant amount of public participation. If they are unable to make a recommendation on May 18th, he suggested they schedule continued deliberation to occur as soon as possible. The remainder of the Commission concurred.

NEW BUSINESS

Request for Follow Up Items Based on the Presentation Regarding the 2005 Wetlands Classifications Manual

Commissioner Hall expressed his belief that no matter what wetland classification system the City uses, the City's buffer requirements appear to fall at the lower end of the range. He said he would not recommend the Commission revisit the issue of buffer widths at this time. Chair Piro inquired if the City is required to review their Critical Areas Ordinance on a regular basis. Commissioner Hall said the Growth Management Act limits the City to updating their Comprehensive Plan no more than once a year, but the development regulations could be updated at any time, as long as they remain consistent with the Comprehensive Plan. He emphasized that the City's Critical Areas Ordinance was just recently accepted by the City Council, and no appeals have been filed to date. If no challenges are submitted, the ordinance would be officially adopted in just a few weeks.

Vice Chair Kuboi requested that staff provide feedback regarding the official map that was created to illustrate the right-of-way boundary on Aurora Avenue North. He asked staff to report about whether or not the document worked the way staff intended. Was it a positive piece of information, or did it create more turmoil?

AGENDA FOR NEXT MEETING

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

ADJOURNMENT

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

Rocky Piro
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission



Memorandum

DATE: April 25, 2006

TO: Planning Commission

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

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

I. Planning Commission meetings of May 4 and May 18

The Planning Commission's regular meeting of May 4 includes one major agenda item – a study session on staff-proposed permanent regulations governing the cutting of hazardous trees and other vegetation and the creation of a new regulatory tool – the critical areas stewardship plan. The purpose of this study session is to provide an opportunity for the Planning Commission to become familiar with the history, scope, substance, and rationale for the proposed amendments. The staff will provide a section by section review of the proposal and answer any questions of clarification that the Commission members may have. It will also be an opportunity for the Commission to ask for additional information to be researched and presented for the Commission's subsequent consideration on May 18.

Note that the May 4 meeting is not a public hearing. While the public is invited to attend, and the meeting will be televised for the benefit of home viewers, no written or oral public comment is appropriate on May 4. The public hearing has been scheduled for May 18 (see Attachment #1 – public notice) and the staff has been advising citizens of this sequence of events. Likewise, the staff will not be forwarding to the Commission any written public comment prior to the May 4 study session.

The proposed amendments represent the staff's best attempt to craft regulations that will enable the City to be responsive both to state mandates to protect critical areas as well as the rights and reasonable expectations of all citizens and property owners. In preparing

this draft, the staff has communicated with many Shoreline citizens and their representatives, via email, via telephone and in a number of meetings over the past two months. We have attempted to write regulations that fairly balance all those interests and opinions and that the staff can effectively explain and enforce. Even so, we look forward to hearing from the public prior to and during the May 18 public hearing and would like to reserve the opportunity to subsequently provide the Planning Commission with additional and/or revised final recommendations.

II. Overview of proposed ordinance to adopt permanent regulations

The proposed regulations have been put into the format of a proposed ordinance. (Attachment #2) Following is a section-by-section overview of the substance of the ordinance.

Section 1

Section 1 repeals SMC 25.50.310.A.1 (Attachment #3), which is the City's existing exemption from permit requirements for the cutting of hazardous trees. This text has been set aside since January 3, 2006 when the City Council adopted Ordinance No. 407 adopting a moratorium on this language. (See Attachment #4 – Ordinance No. 407). By that same ordinance, the City Council adopted interim controls that have been utilized during the period of moratorium. The City Council subsequently conducted a public hearing on the moratorium and interim controls, slightly amending the provisions of the critical areas regulations, and on April 10, 2006 adopted Ordinance No. 421 (Attachment #5) that extended the moratorium and interim controls to July 3, 2006.

Section 1 also adopts permanent regulations to replace the interim controls. The proposed permanent language is patterned on the language of the interim controls, but has been augmented with a "Statement of Purpose" section, definition of certain terms, and clarification of the procedures necessary for the City to evaluate and authorize the abatement of hazardous situations.

Note that the provisions of Section 1 of the Ordinance applies to all properties in the City, including non-critical areas. However, as a practical matter, the code allows property owners to entirely remove up to six healthy trees every 18 months per SMC 20.50.310.B, so in most instances there would be no need for a property owner to invoke this exemption language for hazardous tree removal in non-critical areas. This text would come into play on non-critical area properties only if a property owner had reached the limit for cutting trees and was then faced with a hazardous tree situation.

Section 2

Section 2 of the proposed ordinance clarifies that the hazardous tree provisions of Section 1 also apply in critical areas of the city.

Section 3

Section 3 of the proposed ordinance creates an entirely new regulatory mechanism – the critical areas stewardship plan. The Planning Commission may recall that a version of this concept was introduced last summer during your deliberations on the Critical Areas Ordinance. The Commission ultimately did not choose to incorporate the concept into your recommendation to the City Council at that time. Both the staff and the original proponent of the stewardship plan are aware of the Commission’s earlier concerns and questions and will be prepared to address them with the current proposal.

The purpose of the critical areas stewardship plan is set forth on page 4 of the draft ordinance. The essential principle underlying this approach is that certain critical areas may be actively managed in ways that both protect their values and functions as well as serve other objectives, including maintenance of safe and secure recreational trails, management of surface water flow to minimize the risk of erosion, flooding and landslides, the preservation of the city’s wooded character, and the preservation or restoration of private views in view-covenanted communities.

The text includes required submittal information and criteria for the City to review, approve, deny or condition a privately-initiated critical area stewardship plan. The Planning Commission would conduct a public hearing on any proposed critical area stewardship plan prior to forwarding a recommendation to the City Council. As a process C permit, the City Council would have final authority to approve, deny, or approve with conditions any critical areas stewardship plan.

ATTACHMENTS:

- #1 Public Notice
- #2 Proposed Ordinance with amended regulations
- #3 Existing text of SMC 25.50.310.A.1
- #4 Ordinance No. 407
- #5 Ordinance No. 421

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***Planning and Development Services***

17544 Midvale Avenue N., Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

CITY OF SHORELINE NOTICE OF APPLICATION AND NOTICE OF PUBLIC HEARING

PROJECT INFORMATION

PROPOSED PROJECT DESCRIPTION: The City of Shoreline is proposing two amendments to its development code. The first code amendment is to adjust the definition and implementation of the hazardous tree code. The second proposed code amendment is to establish a Critical Area Stewardship Plan to allow the alteration of vegetation and trees in critical areas, if it can be proven that there will be no net loss of function and value of the critical area. The City of Shoreline is currently soliciting written comments on the proposed amendments. To view the amendments please visit the City's website at www.cityofshoreline.com or call 206-546-1811 to request a copy. The City of Shoreline Planning Commission will be holding a study session to discuss the amendments on May 4, 2006 at 7:00 p.m. in the Rainier Room at the Shoreline Center, no public comment will be taken at this meeting. A Public Hearing for both of the proposed amendments will be held on May 18, 2006 at 7:00 p.m. in the Rainier Room at the Shoreline Center, public comment will be taken at this meeting.

PROPERTY OWNER/APPLICANT: City of Shoreline, Planning and Development Services

LOCATION: Shoreline, WA 98133, 98177

EFFECTIVE DATE OF NOTICE: April 24, 2006

END OF PUBLIC COMMENT PERIOD: May 8, 2006

PROJECT REVIEW

The Environmental Policy Act (SEPA) checklist has been required for this proposal, and SEPA review is required. The environmental checklist and proposed code amendments are available for viewing at the City Planning and Development Services Department, located at 1110 N. 175th St., Suite # 107.

PUBLIC COMMENT

You are encouraged to submit written comments on this proposal to the Planning and Development Services by 5:00 p.m. May 8, 2006. Written comments become part of the public record, are considered in the development of a SEPA threshold determination, and will be forwarded to the Planning Commission and City Council.

For questions or comments, contact the project manager, Matt Torpey, at 206.546.3826, or write to Planning and Development Services, City of Shoreline, 17544 Midvale Avenue N., Shoreline, WA 98133.

PUBLIC HEARING

The City of Shoreline Planning Commission will be holding a public hearing to discuss the above referenced proposed code amendments. The public hearing will be held on May 18, 2006 at 7:00 p.m. in the Rainier Room at the Shoreline Center. The Shoreline Center is located at 18560 1st Ave. NE in Shoreline.

The Public Hearing is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 206.546.8919 in advance for information. For TTY telephone service, call 206.546.0457. For up-to-date information on future agendas, call 206.546.2190.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.50.310 Exemptions from permit

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

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

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

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

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

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

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

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

20.80.87 Critical Areas stewardship plan.

1. Statement of Purpose – the purpose of a critical areas stewardship plan is to provide a mechanism for the City to comprehensively review and approve, deny, or approve with conditions, private proposals to manage, maintain, cut and/or restore trees, other vegetation, natural features and trails in large critical areas of the city. The stewardship plan also provides a regulatory tool for the City make a reasonable accommodation of private view rights in view-covenanted communities while still meeting the over-arching statutory mandate to protect critical areas.
2. In addition to the provisions of SMC 20.80.080.G, the removal, restoration, and management of vegetation in critical areas and their buffers may be reviewed and authorized by the City if approved under a critical areas stewardship plan. An approved stewardship plan may authorize the limited cutting of non-hazardous vegetation in order to preserve private views of the Olympic Mountains and Puget Sound that existed at the time of the submittal of the plan.
3. A critical areas stewardship plan must be processed through Process C, SMC 20.30.060 and satisfy all of the following criteria:
 - a. The minimum area of land within a stewardship plan is 10 acres.
 - b. A stewardship plan may include non-contiguous parcels under the same ownership.
 - c. The implementation of the Plan's provisions shall result in no net loss of the functions and values of the subject critical area(s).

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- d. The implementation of the Plan's provisions shall assure that the natural hydrological systems, native vegetation, and any fish or wildlife habitat on site, or functionally connected to the site, will be maintained, restored, or enhanced.
 - e. The provisions of the stewardship plan provide sufficient legal and practical means for the City to assure compliance with its provisions.
 - f. The public health, safety, and welfare will be served.
4. A critical areas stewardship plan must be initiated by the applicant property owner(s) of the parcel(s) proposed to be included within the scope of the Plan. The applicant shall bear the cost to the City to retain qualified professionals to assist the City in its review of the submitted stewardship plan.
5. An application for a critical areas stewardship plan shall include at least the following:
- a. A dated inventory of known watercourses, significant vegetation, and physical improvements (including but not limited to trails and underground and overhead utilities lines), identification of soils conditions, identification of areas with slopes in excess of 15%, identification of areas with slopes in excess of 40%, and fish or wildlife habitat associated with species that are present on site or immediately adjacent.
 - b. A scaled topographic map on which named or numbered proposed "management zones" will be displayed.
 - c. A narrative describing applicable objectives, policies, principles, methodologies and vegetation management practices that will be employed to achieve the stated objectives in the delineated management zones.
 - d. A scientific assessment performed by qualified professionals of all of the ecological functions and values of the site and how the identified functions and values would be affected by the provisions of the proposed stewardship plan.
 - e. Other graphic or narrative information that will assist the City in evaluating whether the proposed stewardship plan satisfies the stated private objectives while also enabling the City to provide reasonable assurance that the "values and functions" of the critical area in question will be maintained.
 - f. A legal instrument in a form approved by the City Attorney to assure that the Director, city staff or consultants may enter the property in order to evaluate the physical and scientific circumstances that exist on site, including peer review, and to assure compliance with the provisions and conditions of any approved stewardship plan.

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20.50.310 Exemptions from permit.

A. **Complete Exemptions.** The following activities are exempt from the provisions of this subchapter and do not require a permit:

1. Emergency situations involving danger to life or property or substantial fire hazards. Any tree or vegetation which is an immediate threat to public health, safety, or welfare, or property may be removed without first obtaining a permit regardless of any other provision contained in this subchapter. If possible, trees should be evaluated prior to removal using the International Society of Arboriculture method, Hazard Tree Analysis for Urban Areas, in its most recent adopted form. The party removing the tree will contact the City regarding the emergency, if practicable, prior to removing the tree.

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ORDINANCE NO. 407

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING A MORATORIUM AND INTERIM CONTROL PURSUANT TO RCW 35A.63.220 PROHIBITING THE CUTTING OF TREES IN CRITICAL AREAS AND PROHIBITING LAND CLEARING OR GRADING IN CRITICAL AREAS, AND DECLARING AN EMERGENCY

WHEREAS, under the provisions of the Growth Management Act the City is required to adopt development regulations to designate and protect critical areas; and

WHEREAS, SMC 20.50.310.A.1 effectively authorizes property owners to remove “hazardous trees” without a before-the-fact judgment by the City as to whether the circumstances constitute an actual and immediate threat to public health, safety or welfare; and

WHEREAS, SMC 20.50.310.A.1 does not require removal of hazardous trees from private property in a manner which will protect critical areas or the replanting of trees to prevent the loss of critical area functions and values after removal ;

WHEREAS, the continued operation of SMC 20.50.310.A.1 is likely to result in ongoing tree cutting, clearing and grading in critical areas of the City, contrary to the state’s explicit public policy of protecting critical areas and the general public interest; and

WHEREAS, an interim control for four months will allow the City to preserve planning options and prevent substantial change to critical areas while the Planning Commission and city staff engage the public and various stakeholder groups in crafting permanent development regulations, including but not limited to such alternatives as a vegetation management plan; and

WHEREAS, the City Council has determined from recent public correspondence and comment that the City’s ability to protect its critical areas will suffer irreparable harm unless interim controls are placed on the cutting of trees and the modification of land surfaces within such areas; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; and

WHEREAS, pursuant to SEPA regulations, SMC 20.30.550 adopting Washington Administrative Code Section 197-11-880, the City Council finds that an exemption under SEPA for this action is necessary to prevent an imminent threat to public health and safety and to prevent an imminent threat of serious environmental degradation through continued development under existing regulations. The City shall conduct SEPA review of any permanent regulations proposed to replace this moratorium; now, therefore,

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. Finding of Fact. The recitals set forth above are hereby adopted as findings of the City Council.

Section 2. Moratorium. A moratorium is adopted upon the use or application of SMC 20.50.310.A.1 (hazardous vegetation exemption for clearing and grading permits for private property). No land clearing and grading shall be permitted on private property except as permitted under the interim control as adopted in Section 3 of this ordinance.

Section 3. Interim Controls adopted. The City adopts the following interim controls pursuant to the authority of RCW 35A.63.220:

Emergency situations on private property involving danger to life or property or substantial fire hazards.

In addition to other exemptions of Subchapter 5 of the Development Code, SMC 20.50.290-.370, the proposed cutting of any tree or clearing vegetation that is an immediate threat to public health and safety shall be allowed without a permit if it is evaluated and authorized by the City prior to such work being performed. The evaluation shall be done using the International Society of Arboriculture method, Hazard Tree Analysis for Urban Areas, in its most recent adopted form. Authorization to cut or clear vegetation under this exemption may only be given if the City concludes that the condition constitutes an actual and immediate threat to life or property in homes, private yards, buildings, public or private streets and driveways, improved utility corridors, or access for emergency vehicles. The party proposing cutting or clearing under this exemption shall contact the City regarding the emergency prior to taking the action and shall allow City access to assess the hazardous vegetation prior to, during and after removal and to assure compliance with conditions. If deemed by the City to be necessary, the City may retain, at the applicant's cost, an arborist/tree consultant to evaluate the request prior to any final determination. The City shall authorize only such alteration to existing trees and vegetation as may be necessary to eliminate the hazard and shall condition authorization on means and methods of removal necessary to minimize environmental impacts, including replanting. Any authorized work shall be done utilizing hand implements only and the City may require that all or a portion of cut materials be left on-site.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 the City Clerk shall notice a public hearing before the City Council to take testimony concerning this moratorium within sixty days of passage of this ordinance.

ITEM 8.A - ATTACHMENT 4

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. Effective Date. The City Council declares that an emergency exists requiring passage of this ordinance for the protection of public health, safety, welfare and peace based on the Findings set forth in Section 1 of this ordinance. This ordinance shall take effect and be in full force immediately upon passage and shall expire four months from its effective date unless extended or repealed according to law.

Section 7. Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON JANUARY 3, 2006

Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication: January 5, 2006
Effective Date: January 3, 2006

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ORDINANCE NO. 421

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, EXTENDING A MORATORIUM AND INTERIM CONTROL PURSUANT TO RCW 35A.63.220 PROHIBITING THE CUTTING OF TREES IN CRITICAL AREAS AND PROHIBITING LAND CLEARING OR GRADING IN CRITICAL AREAS UNTIL JULY 3, 2006

WHEREAS, under the provisions of the Growth Management Act the City is required to adopt development regulations to designate and protect critical areas; and

WHEREAS, the City of Shoreline City Council enacted an emergency moratorium on the cutting of hazardous trees on January 3, 2006 with Ordinance No. 407 as amended by Ordinance No. 411; and

WHEREAS, the City of Shoreline has four months from the original date of passage to either let the moratorium expire or enact permanent regulations; and

WHEREAS, an interim control for two additional months will allow the City to preserve planning options and prevent substantial change to critical areas while the Planning Commission and city staff engage the public and various stakeholder groups in crafting permanent development regulations, including but not limited to such alternatives as a vegetation management plan; and

WHEREAS, the City Council has determined from recent public correspondence and comment that the City's ability to protect its critical areas will suffer irreparable harm unless interim controls are placed on the cutting of trees and the modification of land surfaces within such areas; and

WHEREAS, pursuant to SEPA regulations, Washington Administrative Code Section 197-11-800, the City Council finds that the purpose of the moratorium and interim controls relates to procedures for authorizing removal of hazardous trees rather than substantive standards that modify the environment and are there for exempt from SEPA review.; now, therefore,

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Finding of Fact. Based upon the public hearing held on the extension of Ordinance No. 407 as amended by Ordinance No. 411 for two months to July 3, 2006, the recitals set forth above are hereby adopted as findings of the City Council.

ITEM 8.A - ATTACHMENT 5

Section 2. Moratorium Extended. The expiration date of Sections 2 of Ordinance 407 and 3 of Ordinance 411 shall be extended to July 3, 2006.

Section 3. Effective Date. This ordinance shall take effect and be in full force five days following passage and publication of a summary consisting of its title.

PASSED BY THE CITY COUNCIL ON APRIL 10, 2006

ATTEST:

Mayor Robert L. Ransom
APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication: April 13, 2006
Effective Date: April 18, 2006