

# AGENDA PLANNING COMMISSION REGULAR MEETING



Thursday, November 3, 2011  
7:00 p.m.

Shoreline City Hall  
Council Chamber  
17500 Midvale Ave N.

	<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 COMMENTS	7:03 p.m.
5. APPROVAL OF MINUTES	7:08 p.m.
a. September 29 Dinner Minutes	
b. October 6 Regular Minutes	
6. GENERAL PUBLIC COMMENT	7:10 p.m.
<i>During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence.</i>	
7. STAFF REPORTS	7:15 p.m.
a. Study Session: Medical Marijuana Collective Gardens	
8. PUBLIC COMMENT	8:40 p.m.
9. DIRECTOR'S REPORT	8:45 p.m.
10. UNFINISHED BUSINESS	8:50 p.m.
11. NEW BUSINESS	8:52 p.m.
12. REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS	8:54 p.m.
13. AGENDA FOR November 17	8:58 p.m.
14. ADJOURNMENT	9:00 p.m.

*The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.*

## **WHO WE ARE**

The Shoreline Planning Commission is a 7-member volunteer advisory body to the City Council. The purpose of the Planning Commission is to provide guidance and direction for Shoreline's future growth through continued review and improvement to the City's Comprehensive Plan, Development Code, shoreline management, environmental protection and related land use documents. The Planning Commission members are appointed by the City Council and serve a four year term.

## **WHAT IS HAPPENING TONIGHT**

Planning Commission meetings may have several items on the agenda. The items may be study sessions or public hearings.

### **Study Sessions**

Study sessions provide an opportunity for the Commissioners to learn about particular items and to have informal discussion with staff prior to holding a public hearing. The Commission schedules time on its agenda to hear from the public; however, the Chair has discretion to limit or extend time limitations and the number of people permitted to speak. The public is encouraged to provide written comment to the Commission; however, since Commissioners are volunteers and may not have time to check email every day, if written comments are not included in the agenda packet and are offered during a study session, they may not have time to read them until after the meeting.

### **Public Hearing**

The main purpose of a public hearing is for the Commission to obtain public testimony. There are two types of public hearings, legislative and quasi-judicial. Legislative hearings are on matters of policy that affect a wide range of citizens or perhaps the entire jurisdiction and quasi-judicial hearings are on matters affecting the legal rights of specific, private parties in a contested setting. The hearing procedures are listed on the agenda. Public testimony will happen after the staff presentation. Individuals will be required to sign up if they wish to testify and will be called upon to speak generally in the order in which they have signed. Each person will be allowed 2 minutes to speak. In addition, attendees may want to provide written testimony to the Commission. Speakers may hand the Clerk their written materials prior to speaking and they will be distributed. For those not speaking, written materials should be handed to the Clerk prior to the meeting. The Clerk will stamp written materials with an exhibit number so it can be referred to during the meeting. Spoken comments and written materials presented at public hearings become part of the record.

## **CONTACTING THE PLANNING COMMISSION**

Written comments can be emailed to [plancom@shorelinewa.gov](mailto:plancom@shorelinewa.gov) or mailed to Shoreline Planning Commission, 17500 Midvale Avenue N, Shoreline WA 98133.

[www.shorelinewa.gov/plancom](http://www.shorelinewa.gov/plancom)

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF DINNER MEETING

September 29, 2011  
6:00 – 7:00 P.M.

Shoreline City Hall  
Council Conference Room

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### Commissioners Present

Chair Wagner  
Vice Chair Perkowski  
Commissioner Behrens  
Commissioner Broili  
Commissioner Esselman  
Commissioner Kaje  
Commissioner Moss

### Staff Present

Joe Tovar, Director, Planning & Community Development  
Rachael Markle, Asst. Director, Planning & Community Development  
Jessica Simulcik Smith, Planning Commission Clerk

Chair Wagner called the dinner meeting to order and turned it over to Planning & Community Development Director, Joe Tovar. Mr. Tovar introduced Rachael Markle, Assistant Director of Planning & Community Development, and explained her new role as the head of the newly formed City Planning Team.

Mr. Tovar presented two versions of the Draft 2011-2013 Long Range Planning Work Plan, Option 1 and Option 2. He reminded the Commission of its upcoming joint-meeting with the City Council and noted that the topic of conversation that evening would be the work plan. Staff will be looking to the Council to give direction on which option to proceed with. He explained that the major difference between the two options is Option 2 incorporates planning for Sound Transit Future North Corridor Light Rail into the work plan, which would push back the Comprehensive Plan Update's anticipated 2012 adoption date by approximately six months. Mr. Tovar reminded the Commission that the Council already decided last spring that it is important to update the City's Comprehensive Plan by the end of 2012 to have it reflect the ideas adopted in the Citywide Vision and Framework Goals while they are still fresh. It will be up to the Council to reexamine priorities and determine which option is now the best path to proceed with.

Mr. Tovar recognized that the upcoming work plan is full and requires a lot of the Commission's time, while also acknowledging the constraints for additional Commission agenda time. He said the Council, when adopting the work plan, also needs to weigh in on how much the public can be expected to engage in at the same time as well as how much staff time will be needed for outreach, writing staff reports, staff meetings, etc. There needs to be a good alignment between resources and expectations.

Ms. Markle announced that Sound Transit is expected to make a decision this fall on Highway 99 or Interstate 5 being the preferred alternative. This has caused some Councilmembers to ask the question

of whether the City should accelerate the time at which it looks at the process on outreach and develop principles and framework policies to guide the City's future discussions and input to Sound Transit.

She walked the Commission through the City's draft work plan for Transit-Oriented Development (TOD) and Station Area Planning. The City would kick the planning off with reintroducing the City's adopted Vision. There would be a public outreach campaign and a speaker series to inform the public about light rail and related concepts such as TOD. The next step would be developing policies for the Comprehensive Plan that would explain the City's vision for how a transit oriented community should look and function. When Sound Transit releases its Draft Environmental Impact Statement (DEIS), it will be looking at both alignments and different possible station locations. The DEIS will identify impacts of the different alignment and the impacts from the stations themselves. Then the City can start station area planning. Ms. Markle emphasized it is important for Sound Transit to have a better idea of the City's vision for redevelopment near the stations because Sound Transit will do their modeling and analysis based on that.

Mr. Tovar and Ms. Markle briefly introduced the other tasks on the work program and fielded questions from the Commission. Mr. Tovar reminded the Commission that the work plan before them is not set in stone, instead it is staff's best estimate and aspiration to get the work done, and a target on how to align resources and priorities.

The dinner meeting was adjourned at 7:00 P.M.

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Michelle Linders Wagner  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

October 6, 2011  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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### Commissioners Present

Commissioner Kaje, Chair Pro Tem  
Commissioner Behrens  
Commissioner Broili  
Commissioner Esselman  
Commissioner Moss

### Staff Present

Joe Tovar, Director, Planning & Community Development  
Steve Cohn, Senior Planner  
Kirk McKinley, Transportation Services Manager  
Randy Young, Consultant, Henderson Young and Company  
Jessica Simulcik Smith, Planning Commission Clerk

### Commissioners Absent

Commissioner Wagner, Chair  
Commissioner Perkowski, Vice Chair

### CALL TO ORDER

Ms. Simulcik Smith called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

### ROLL CALL

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

### ELECTION OF CHAIR PRO-TEM

In the absence of Chair Wagner or Vice Chair Perkowski, Ms. Simulcik Smith reviewed the rules and procedures for electing a Chair Pro Tem.

**COMMISSIONER MOSS NOMINATED COMMISSIONER KAJE AS CHAIR PRO TEM FOR THE OCTOBER 6, 2011 MEETING. THERE WERE NO OTHER NOMINATIONS, SO THE NOMINATIONS WERE CLOSED. COMMISSIONER KAJE WAS UNANIMOUSLY ELECTED AS CHAIR PRO TEM OF THE COMMISSION.**

### APPROVAL OF AGENDA

The agenda was approved as presented.

### **DIRECTOR'S COMMENTS**

In light of the anticipated staff reductions in 2012, Mr. Tovar requested an opportunity later in the meeting to review the proposed long-range plan for the Planning Commission, which will be the topic of discussion at the joint City Council/Planning Commission Meeting on October 10<sup>th</sup>.

### **APPROVAL OF MINUTES**

No minutes were available for approval.

### **GENERAL PUBLIC COMMENT**

No one in the audience expressed a desire to participate in this portion of the meeting.

### **STAFF REPORTS**

#### **Continued Study Session: Comprehensive Plan Update – Transportation Element and Development Code Amendments**

Mr. McKinley reminded the Commission that a public hearing on the Transportation Element and Development Code Amendments is scheduled for October 27<sup>th</sup>. Prior to the hearing, the documents will be updated to incorporate input provided by the Commission on September 29<sup>th</sup> and October 6<sup>th</sup>. He introduced consultant, Randy Young, from Henderson Young and Company, who was present to provide a brief presentation on concurrency.

**Randy Young, Henderson Young and Company**, cautioned that rather than focusing on the technical aspects of concurrency, his presentation is intended to help the Commissioners understand State law requirements. He said that, typically, concurrency is discussed as a measure of the capacity of the road system. As per State law, concurrency means that the transportation system needs to be adequate at about the same time as development occurs (within six years). The level of service (LOS) standard is the benchmark for determining whether a transportation system is adequate or not.

Mr. Young used a glass to illustrate the concurrency concept. He explained that if a glass is only 2/3 full, it is also 1/3 empty with room for more as long as the water does not spill over the top and cause problems. By comparison, concurrency can be met as long as the number of cars does not exceed the transportation system's capacity. The theoretical capacity of a road is measured by the number of trips it can accommodate compared to the current number of actual trips. This ratio identifies whether the capacity is "over the top of the cup" or not.

Mr. Young referred to a concurrency chart that identifies streets that are 100% full as LOS F, those that are 90% full as LOS E, those that are 80% as LOS D, and so on. Because this is the same scale used for

school grades, people are conditioned to think of a transportation system that is at or near 100% capacity as failing. To illustrate a more productive way to view LOS Standards, he referred to a standard household (mom, dad, 2 kids) in a two bedroom house. The two bedrooms would be occupied 100% of the time, which would be considered an efficient use of the house. It would not be considered wise to add a bedroom or move to a larger home so there is adequate space for week-long visitors. This same concept is true for transportation systems. A roadway that is at 99% capacity and congested for a few hours a day could actually be considered an efficient use of resources. It keeps the City from spending even more tax dollars to build a lot of unused capacity. He suggested that rather than thinking of LOS E as failing, they should consider it a fairly high level of efficiency with perhaps a little additional capacity.

Chair Pro Tem Kaje said that in addition to average daily trip and peak hour trips, capacity can also be measured by the wait time at lights. He asked Mr. Young to explain how the City would decide which measurement to use to determine capacity. While he agreed it does not make sense to add additional capacity because a roadway is congested during a portion of the day, for those unfortunate enough to have to commute through difficult intersections, waiting at lights can be stressful and costly. Mr. Young referred to two tables included on Page 21 of the September 29<sup>th</sup> Staff Report. He explained that the volume to capacity method is used to measure roadways between intersections, but average delay is the best method to measure an intersection's actual capacity. This involves measuring the number of seconds a vehicle has to wait. The longer a vehicle has to wait, the worse the grade.

Commissioner Moss asked if average delay measurement includes both the red and green light times. Mr. Young answered that average delay is based on the total amount of time a vehicle has to wait at an intersection. Mr. McKinley added that the average delay is an average of movement on all lanes. If one lane gets through quickly, the average for the rest of the intersection would be lower. Mr. Young observed that many cities choose to measure capacity using just one of the methods. However, this often results in the tendency to use transportation dollars to improve just the areas that are measured (road segments or intersections). He commended Shoreline for considering a standard for both intersections and road segments.

Commissioner Esselman asked if the LOS grade for each intersection identifies the average delay during a 24-hour period. Mr. McKinley clarified that it is actually based on the average delay during the PM peak hour. Mr. Young said the same is true for the roadway segment grades.

Commissioner Behrens summarized that because intersection delay is measured by averaging all lanes going through an intersection and left turn lanes usually have shorter signal times, the delay time for left turns could be counterbalanced by vehicles traveling through the intersection quickly in the other lanes. Mr. McKinley said the City uses a program to identify separate average delay calculations for each movement at an intersection, and then the numbers are combined to determine the average delay at an intersection. Mr. Young added that long wait times in one direction at an intersection could also be offset by averages of traffic that freely flows in the opposite direction. He cautioned that numerical averages can mask the fact that a vehicle in an uncongested direction went through the intersection quickly, and a vehicle going the opposite direction had to wait for a lengthy amount of time. Mr.

McKinley emphasized the importance of using the same methodology for measuring LOS consistently throughout the City.

Commissioner Broili observed that a lot more traffic can be moved through roadway that is reaching its maximum capacity if lights are correctly timed. Mr. McKinley said that as traffic engineers calculate LOS, the model assumes the most efficient signalization possible. He reminded the Commission that the City is working to tie all signals together so they can be monitored and adjusted from one location. Commissioner Broili expressed frustration that it has taken cities in the United States so long to resolve transportation problems that were addressed by European cities 30 to 40 years ago.

Commissioner Behrens expressed concern that even though a proposed development could create a significantly higher demand on a left hand turn lane, it would not cause the intersection to fail if traffic in the other lanes continues to flow freely. He asked how this concern would be addressed. Mr. Young explained that the City's current mitigation test is performed under the State Environmental Policy Act (SEPA), which is a limited law that requires the City to look only at the very specific nearby intersections. He said he is proposing the City join their concurrency requirement with a new mitigation program called the "Growth Management Act Impact Fee." Instead of having only the person who breaks the intersection pay for the entire fix, they are proposing to smooth out the burden and have everyone contribute to a predetermined list of all the projects in the City. They are currently working with City staff to develop this program.

Mr. McKinley referred the Commission to new draft language for Policy T40 (Page 6 of Staff Report), which would establish a LOS Standard of D for intersections and segments. Intersections would be measured by delay and segments would be measured by the volume to capacity ratio. He noted that the language excludes two sections of roadway:

- Dayton Avenue North from North 175<sup>th</sup> to North 185<sup>th</sup> Streets is already beyond LOS D. In light of topographical and other challenges, staff does not believe improvements to improve the traffic flow would be worthwhile.
- After a controversial process, the southern portion of 15<sup>th</sup> Avenue Northeast between North 150<sup>th</sup> and North 175<sup>th</sup> Streets was reduced to three lanes. It functions as well or better and is safer than when it was four lanes. Staff feels that taking it back to four or five lanes would be less safe and counter to the City's goal for the street. This is a minor arterial and through traffic is not encouraged.

Given their recommendation that the two streets identified above would not be required to operate at the same LOS Standard as other streets in the City, Commissioner Behrens asked staff to share their ideas about what could be done to slow the traffic or allow traffic to flow more efficiently on the two streets. Mr. McKinley answered that no significant improvements are proposed, but the City has plans to coordinate the signals so they operate as efficiently as possible. Commissioner Behrens asked if it is possible to divert traffic volumes from these two streets onto streets that are more capable of handling the traffic. Mr. McKinley explained that the goal of the Transportation Master Plan (TMP) is to have the streets operate appropriately for the volumes. Improvements are planned for Meridian Avenue, and they will continue to work to make Aurora Avenue North work as efficiently as possible. In addition,



there is emphasis on making North 175th Street more efficient. The idea is that providing capacity in appropriate locations will draw traffic from the lesser arterials to the larger arterials. He emphasized that the key is to keep them on appropriate streets so they do not drive through neighborhoods. Commissioner Esselman commented that recent improvements on North 175<sup>th</sup> Street provide a good example. Even though there is significant volume, reducing the street to three lanes made it safer.

Chair Pro Tem noted the significant development potential for properties along 15<sup>th</sup> Avenue Northeast. He suggested that if 15<sup>th</sup> Avenue Northeast is exempt from the LOS Standard, it might make sense to call out the importance of considering different options for ingress and egress when any major redevelopment occurs. Mr. McKinley said the 2030 traffic model identifies some increased land-use assumptions for the Fir Crest site. As redevelopment occurs, the City would likely require the main entrance on 15<sup>th</sup> Avenue Northeast to line up at the North 155<sup>th</sup> Street signal. He summarized that it helps to consolidate access points, and a traffic analysis may identify the need for a traffic signal, as well. The goal is to consider all factors and then make the egress and ingress as safe as possible. Additional driveways should be avoided on arterial streets.

Chair Pro Tem Kaje asked if the two streets identified above are so unique that they are likely to be the only exceptions, or if other streets could potentially be exempted, as well. Mr. McKinley explained the process staff used to create the transportation model through 2030. He advised that, through 2030, the two streets identified above were the only ones where staff felt addressing the level of service issue would result in a worse situation.

Mr. McKinley noted that staff is proposing a Development Code amendment to Table CF-2 to reflect the LOS standards contained in Policy T40. He stressed the importance of maintaining consistency between the Comprehensive Plan, TMP and Development Code.

Mr. McKinley referred to Page 5 of the Staff Report, which lists seven sub-elements the Growth Management Act requires the City to include in their TMP. He explained that rather than adding significantly more language to the Transportation Element of the Comprehensive Plan, reference would be made to the appropriate sections in the TMP. He reminded the Commission of the City Council's goal to keep the Comprehensive Plan slim.

Mr. McKinley referred to Page 9 of the Staff Report, which outlines proposed amendments to appropriate sections of the Development Code to reflect changes in the TMP related to level of service, concurrency, dedication of rights-of-way and frontage improvements.

Chair Pro Tem Kaje asked if the last sentence in Section 20.60.140.A refers to the two streets that would be exempt from Policy T40. Mr. McKinley said it is not related to the two exceptions. The intent is to state that the Comprehensive Plan Transportation Element would be updated appropriately if a special standard for a corridor is created at some point in the future. Chair Pro Tem Kaje suggested the two exceptions to Policy T40 should be called out in the Development Code, and Mr. McKinley concurred.

Commissioner Behrens also referred to the last sentence in Section 20.60.140.A, and asked when the City would update their TMP again. Mr. McKinley answered that the TMP would be updated every five

or six years. Chair Pro Tem Kaje added that amendments to the Comprehensive Plan can be considered each year. As an example of how Section 20.60.140.A would be applied, Mr. McKinley said the Commission and City Council could consider a different way of dealing with LOS to address a large development that is politically sensitive and has a lot of related transportation issues.

Chair Pro Tem Kaje reviewed that a public hearing on the proposed Comprehensive Plan and Development Code amendments is scheduled for October 27<sup>th</sup>. He reminded staff that the Commission would like to receive the staff report at least two weeks before the hearing.

## **PUBLIC COMMENT**

**Jeff Denton, Shoreline**, asked if the volume to capacity ratio for Dayton Avenue North from North 175<sup>th</sup> Street to North 185<sup>th</sup> Street has been changed since the cut through road between North 182<sup>nd</sup> and North 183<sup>rd</sup> Streets has been closed. He suggested that reopening this portion of roadway could relieve some of the congestion on the segment between North 175<sup>th</sup> and North 185<sup>th</sup> Streets. He agreed that changing Dayton Avenue North could be costly because of the grade change, but reopening the closed road could help address the problem. Mr. McKinley agreed to research this option and provide a response to both the Commission and Mr. Denton.

Commissioner Behrens asked staff to provide a visual representation of the concept suggested by Mr. Denton. He also suggested staff provide additional visual aids when presenting the amendments at the public hearing. Chair Pro Tem Kaje specifically asked staff to provide maps to illustrate the two streets that would be exempt from Policy T40. He also asked for an explanation and perhaps a map to explain whether or not the street closure discussed by Mr. Denton would impact the LOS on Dayton Avenue North. Mr. McKinley agreed to seek additional information and history for this street segment.

**Tom Jamieson, Shoreline**, said he is unclear about the relationship between the Comprehensive Plan and the TMP. He observed that both the Planning Commission and City Council have discussed the goal of keeping the Comprehensive Plan to a smaller size. He expressed concern about moving portions of the Transportation Element out of the Comprehensive Plan and into the TMP just so the Comprehensive Plan can become smaller. He said he assumes the TMP is bound by the Comprehensive Plan, and the purpose of the Comprehensive Plan is to state the City's goals and policies. If something is important enough to be in the Comprehensive Plan, it should not be moved to the TMP (a subordinate document) on the basis of brevity.

Chair Pro Tem Kaje suggested that prior to the public hearing on October 27<sup>th</sup>, it would be helpful for staff to provide a brief explanation of the relationship between the Development Code, the Comprehensive Plan and the TMP. Mr. Tovar agreed that the TMP is a subordinate document to the Comprehensive Plan. He reminded the Commission that the City Council has given direction that the Comprehensive Plan should be as concise as possible and only include necessary language. The term "comprehensive" tends to imply that everything should be included, but the Growth Management Act describes a comprehensive plan as a "generalized land-use policy statement." The City's Comprehensive Plan is already about 350 pages, and adding the entire TMP would result in a 550-page document. He emphasized that all critical elements will either be included or referred to in the

Comprehensive Plan, but the TMP also includes a lot of supportive documentation. Mr. McKinley added that the TMP is a functional plan that provides a comprehensive look at the transportation system. All questions related to transportation can be found in the TMP, and the policies in the Comprehensive Plan will be directly linked to the TMP.

## **DIRECTOR'S REPORT**

Mr. Tovar referred to the updated Planning Work Program, which would be the topic of discussion at the joint City Council/Planning Commission Meeting on October 10<sup>th</sup>. He announced that the City Manager is recommending that two Planning & Community Development staff members be laid off at the end of the year. Both of these individuals have major roles in supporting the proposed work program. If the layoffs occur, the Commission and City Council will need to revisit the work program before the end of the year to align the tasks, resources and timing. While staff will work hard to make up the deficit, they must recognize that at some point staff's attempt to do more with less could eventually result in lower-quality work. He suggested the Commission articulate their priorities to the City Council at the joint meeting.

## **UNFINISHED BUSINESS**

### **Planning Commission Bylaw Amendments**

Ms. Simulcik Smith referred to the proposed amendments to the Planning Commission Bylaws (Attachment A on Page 15 of the Staff Report). She noted that the highlighted changes are new since the Commission last reviewed the Bylaws on July 21<sup>st</sup>. She particularly noted the proposed changes to public comment periods, time limits for public comments, and on how the Commission will handle written testimony. They should also review the new article that was included to explain how individual Commissioners should represent themselves when they are not representing the Commission. She also noted that Commissioner Kaje submitted some scenarios for the Commission to discuss.

The Commission reviewed the document section by section as follows:

**Article I – Purpose.** Mr. Cohn advised that the current Bylaws do not contain a purpose statement.

- **Article II – Membership.** Commissioner Moss questioned if the time spent fulfilling a vacated Commission term would count towards the two consecutive term limit allowed for each Commissioner. The Commission agreed this issue should be clarified in the Bylaws. They discussed two options:
  - ***Commissioners who fill a vacated term would be eligible to apply for reappointment for two additional consecutive terms.*** It was discussed that allowing additional time could result in more consistency and continuity. It was noted that the City Council would not be obligated to reappoint an existing Commissioner. On the other hand, the Planning Commission is charged with representing the broader community of Shoreline. At times, blocks of elected officials will tend to maintain a strong presence for many terms on an

- elected body, which encourages them to keep people in certain appointed positions for long periods of time, as well. It was discussed that this option would allow more flexibility for the City Council to make re-appointment decisions on a case-by-case basis.
- ***Commissioners who serve less than two years of an unexpired term would be eligible to apply for reappointment for two additional consecutive terms.*** It was discussed that it is good to have new ideas and seven or eight years is more than adequate time for any one Commissioner to participate. This option would convey that turn over and new thoughts are important.

Ms. Simulcik Smith pointed out that issues related to term limits are addressed in SMC 20.20.02(C) so implementing either of the two options may require City Council approval. Chair Pro Tem Kaje suggested this is an important enough issue that they should wait to make a final decision until all Commissioners are present. The Commission directed staff to craft language to implement the two options and research the current rules found in SMC 20.20.020(C).

Commissioner Kaje noted that the word “in” should be deleted from the first sentence of the second paragraph.

Commissioner Moss questioned if the Bylaws should address whether or not a Commissioner who serves two consecutive terms would be eligible to re-apply for a term after he/she has had a gap in service. If so, how long would he/she need to be off the Commission before re-applying? The Commission agreed that this decision should be left to the discretion of the City Council.

- **Article III – Duties of the Commission, Officers and Clerk.** Commissioner Moss asked why “sign minutes and official papers” was removed from the first paragraph of Section 3. As advised by Ann McFarland during recent parliamentary procedures training, Ms. Simulcik Smith explained the first sentence in the paragraph states that the Chair must adhere to the duties of the presiding officer as prescribed in Roberts Rules of Order Newly Revised, and signing minutes and official papers is one of the duties listed.

The Commission referenced Section 4, and particularly discussed recent advice from Ms. McFarland that they avoid having detailed minutes of their meetings as per Roberts Rules of Order. Chair Pro Tem Kaje recalled that the Commission has received comments from City Council and Community members that they appreciate the detailed minutes. The Commission asked Ms. Simulcik Smith to review Roberts Rules of Order and provide additional information for a continued discussion about minutes at a future meeting. They also agreed to raise the issue at the joint City Council/Planning Commission meeting on October 10<sup>th</sup>.

Commissioner Behrens said most bodies that operate under Roberts Rules of Order have conflicts about how they should be applied. Generally speaking, they call upon a parliamentarian to resolve disputes. He suggested this might be an appropriate role for the Planning Commission Clerk. Ms. Simulcik Smith recalled that Ms. McFarland recommended that the Chair should make rulings related to Roberts Rules of Order. Chair Pro Tem Kaje added

that Commissioners would have the option to disagree and then vote on the Chair's interpretation. They agreed not to add this responsibility to the clerk's tasks.

Commissioner Behrens asked for an explanation of what type of agenda items would fall under "New Business." He suggested that new business items raised by Commissioners could be covered under "Reports of Committees and Commissioners." Chair Pro Tem Kaje asked the Commission Clerk to discuss this issue with Director Tovar to see if there is special meaning that would merit leaving "New Business" on the agenda even if it is rarely used.

- **Article IV – Elections.** The Commission did not have any comments regarding this section of the Bylaws.
- **Article V – Meetings.** Chair Pro Tem Kaje questioned if it would be useful for staff to brief the Commission on the Open Public Meetings Act requirements. Mr. Cohn advised that a short course in public planning is generally offered in the area at least once a year, and new Commissioners have been invited to attend. Commissioner Behrens noted that the short course is also available on line, and includes a review of the Open Public Meetings Act. Commissioner Moss suggested the Bylaws could be amended to require all new Commissioners to complete training within a certain time frame. The Commission agreed that because the current Bylaws require compliance with the act, it is necessary for each Commissioner to gain a clear understanding of the requirements and there is no need for a specific requirement in the Bylaws. The Commission agreed to consider recommending to the City Council that newly appointed Planning Commissioners and newly elected Councilmembers be trained together on the Open Public Meetings Act.

The Commission discussed the third paragraph in Section 1, which would allow the Chair or Vice Chair to cancel a meeting for lack of agenda items or a quorum. Commissioner Moss questioned the need for the language because, as per Roberts Rules of Order, the Commission cannot have a meeting if a quorum is unavailable. Ms. Simulcik Smith clarified that the Commission can open a meeting without a quorum, but no business could take place and the meeting would have to be adjourned. In answer to Commissioner Broili's question, Mr. Cohn advised that the Commission is not required to publish a notice of cancellation. The Commission did not recommend any changes to Section 1.

Chair Pro Tem Kaje invited the Commissioners to comment on the last paragraph of Section 4, which allows people who are representing organizations to speak for five minutes. He noted that the language was borrowed from the City Council's rules of procedure. Because it would be difficult to verify State registered non-profit organizations, Commissioner Esselman suggested this requirement be eliminated.

Commissioner Moss questioned how the Commission could verify that a person's comment represents the official position of an organization. Another option would be to allow each person three minutes to comment, whether he/she represents an organization or not. Commissioner Broili suggested they allow the organizations to police their own members. If someone speaks

out of line, the organization could submit further testimony to clarify the group's position. He agreed with Commissioner Esselman that the words "State registered" should be deleted. Chair Pro Tem Kaje agreed, as well, and reminded the Commission that the purpose of the bylaws is to make the meetings more efficient. The Commission would rather hear from one member of a group for five minutes than each member of a group for three minutes. Instead, they could ask for a show of hands from those who support the comments provided by someone speaking on behalf of a group. He also questioned the need to include the statement that the speaker's comment would be recorded as the official position of the organization. The transcript would reflect when a person is speaking on behalf of an organization.

Commissioner Behrens suggested the Commission could allow extra time for representatives of groups but require that they provide advance notice. Ms. Simulcik Smith suggested that people who intend to speak on behalf of a group could indicate their intentions by checking a box on the sign-up sheet. Chair Pro Tem Kaje cautioned that an advance notice requirement could create additional tension and more work for staff to monitor. Again, he reminded the Commission that the purpose of Section 4 is to consolidate comments. He advocated for a five-minute time limit without too many restrictions on the type of organization.

The Commission agreed to change the first sentence of the fourth paragraph in Section 4 to read, "When representing the official position of an agency or City-recognized organization, a speaker will be given 5 minutes." They also agreed it would be helpful to include a box on the sign-up sheet for people to indicate when they are speaking on behalf of a group.

Chair Pro Tem Kaje referred to the three options for public comment outlined in the draft language. He asked staff to briefly review the content of City Council Resolution Number 182. Ms. Simulcik said this resolution primarily describes the quasi-judicial hearing process.

Commissioner Broili summarized that Option 1 would allow for more than one public comment period at several points throughout the meeting, and Option 2 would allow one comment period at the beginning of the meeting. Ms. Simulcik noted that public hearings would always involve a separate public comment period. Commissioner Broili voiced support for Option 1, which would allow the public to comment after each staff presentation. He felt that this approach would further the Commission's long-term goal of encouraging public participation. Commissioners Moss and Esselman agreed.

Ms. Simulcik Smith asked if Commissioner Broili is suggesting a public comment period each item of business on the agenda or just those scheduled as staff reports. Chair Pro Tem Kaje suggested it would not be necessary to identify a separate public comment period for each item scheduled under "new business" and "unfinished business." He noted that the Commission could invite public comment during these discussion if they so choose. Commissioner Moss suggested that a public comment period be scheduled after each Staff Report, but not after each agenda item. Chair Pro Tem Kaje referred to the second paragraph under Option 1, which makes it clear that public comment periods would follow staff reports only.

Commissioner Moss recalled that the Bylaws identify a 20-minute limit on general public comments. She questioned if this same time limit should apply to public comments provided after staff reports. She acknowledged that the Commission cannot place a time limit on public hearings. Chair Pro Tem Kaje noted this has rarely been a problem for the Commission. He suggested the Commission Chair could effectively use other tools to manage public comment periods. He expressed opposition to placing a time limit on public comment periods.

Commissioner Broili recalled that in the past, citizens went to the City Council when they did not get the response they wanted from the Planning Commission. He said it is important to allow enough opportunity for public comment so citizens do not burden the City Council with issues that could have been raised and addressed at the Planning Commission level. Mr. Cohn agreed that the situation has changed as the Commission has made a concerted effort to give the public ample time to express their views, and the current City Council relies on the Planning Commission's record when making final decisions. He noted that State law precludes the City Council from denying public testimony on legislative items; but after watching the City Council in action, people can gain an understanding about whether it makes sense to approach the City Council or if it is more effective to voice their concerns to the Planning Commission.

The Commission agreed to implement Option 1, which continues the three separate comment periods (general, agenda item, and public hearing), but reorganizes the Bylaws to better explain them and their time limits. It was noted that the last paragraph should be changed to incorporate the language discussed earlier by the Commission regarding people who speak on behalf of an organization.

Mr. Cohn referred to Potential Option 3 and emphasized that the Commission must allow citizens to submit written comments during public hearings. The question is how the Commission wants to handle the written comments that are received after the Staff Report has been prepared. They could require that written testimony be submitted by a certain deadline prior to each public hearing so the Commissioners have ample time to review it before the hearing. Another option would be to recess the hearing for a short time so Commissioners can review the written comments. Commissioner Behrens suggested the Commission Chair could request that all additional written comments be submitted at the beginning of a public hearing. This would allow the Commission to accumulate all written testimony at one time.

Commissioner Moss suggested that public hearing notices should encourage citizens to submit written comments 48 hours before a hearing to provide adequate time for the Commissioners to review and consider the comments. This would not prohibit additional written comments at the meeting. Mr. Cohn noted that, currently, public notices ask citizens to submit written comments by 5:00 p.m. on the day of the hearing. This does not allow sufficient time for Commissioners to give the written comments due consideration.

Commissioner Broili said he is opposed to including Potential Option 3 in the Bylaws. If people want their testimony to be heard, read and considered, they will quickly figure out that they need to get it to the Commission in a timely manner. Commissioner Esselman concurred.

Ms. Simulcik Smith said this issue came up because citizens did not have enough time to complete their comments because of the two-minute time limit. The Commission discussed the idea of encouraging these individuals to submit their additional comments in writing. Chair Pro Tem Kaje agreed with Commissioner Broili that people will figure out that if they want the Commission to fully consider their written comments, they must be submitted prior to the hearing. The Commission could decide on a case-by-case basis whether to recess for a time to read through written comments that are submitted at the hearing.

The Commission agreed not to incorporate Option 3 in the Bylaws at this time. However, they expressed interest in establishing a deadline for written testimony. Mr. Cohn agreed to seek additional feedback from the City Attorney about whether it is possible to establish a deadline. They agreed that the public hearing notice should provide additional language to emphasize the importance of submitting written testimony early.

- **Article VI – Rules of Meetings.** Commissioner Esselman referred to the last sentence of Section 4 and suggested that both majority and minority opinions should be formally registered in the summary minutes. Chair Pro Tem Kaje commented that both opinions would be reflected in the Commission’s discussion. The purpose of the existing language is to make sure that single dissenting opinions are reflected in the minutes.

Commissioner Moss referred to the third sentence of Section 4 and asked if the language would require a Commissioner to formally note the reason for their abstention. Mr. Cohn explained that if a Commissioner decides not to participate in a vote because of appearance of fairness, they should recuse themselves from the process rather than merely abstaining from the vote. The Commission asked the Commission Clerk to research Roberts Rules of Order regarding abstentions and report back to the Commission.

Chair Pro Tem Kaje referred to Section 5 and recalled that Ms. McFarland informed them that meetings must be adjourned by a vote of the Commission unless they are out of business items, in which case the Chair can adjourn the meeting. The Commission requested that the language in this section be changed to reflect Robert’s Rules of Order.

- **Article VII – Committee.** The Commission did not have any comments regarding this section of the Bylaws.
- **New Article.** The Commission agreed to postpone their discussion regarding the new article until a subsequent meeting. Chair Pro Tem Kaje suggested the Commissioners carefully review the City Attorney’s comments on the scenarios he submitted to staff.
- **Article VIII – Code of Ethics.** The Commission did not have any comments regarding this section of the Bylaws.
- **Article IX – Appearance of Fairness.** The Commission did not have any comments regarding this section of the Bylaws.



Ms. Simulcik Smith agreed to prepare a new draft of the Bylaws for the Commission's continued discussion. The changes the Commission agreed upon would no longer be highlighted.

### **NEW BUSINESS**

Mr. Cohn explained that providing staff reports two weeks prior to a public hearing is often difficult and confusing. He suggested the timeline be changed so that staff reports are sent out to Commissioners on Tuesday, about nine days before a public hearing. Chair Pro Tem Kaje said he would still like staff to aim for getting staff reports out two weeks prior to a hearing, but he understands that sometimes this is not possible.

### **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

None of the Commissioners provide a report or announcement.

### **AGENDA FOR NEXT MEETING**

Mr. Cohn announced that a public hearing on the Comprehensive Plan Transportation Element and Development Code amendments is scheduled for October 27<sup>th</sup>.

### **ADJOURNMENT**

The meeting was adjourned at 9:32 P.M.

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Janne Kaje  
Chair Pro Tem, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

**TIME STAMP  
October 6, 2011**

**CALL TO ORDER: 0:20**

**ROLL CALL: 0:26**

**ELECTION OF CHAIR PRO TEM: 0:45**

**APPROVAL OF AGENDA: 2:30**

**DIRECTOR'S COMMENTS: 2:40**

**APPROVAL OF MINUTES: 3:24**

**GENERAL PUBLIC COMMENT: 3:30**

**STAFF REPORT: 4:25**

**Study Session: Comprehensive Plan Update – Transportation Element and Development Code  
Amendments: 4:35**

**PUBLIC COMMENT: 48:06**

**DIRECTOR'S REPORT: 1:00:23**

**UNFINISHED BUSINESS:**

**Planning Commission Bylaw Amendments: 1:05:21**

**NEW BUSINESS: 2:28:25**

**REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS: 2:31:23**

**AGENDA FOR OCTOBER 6<sup>TH</sup>: 1:32:30**

**ADJOURNMENT**

**DRAFT**



## Memorandum

**DATE:** November 3, 2011

**TO:** Shoreline Planning Commission

**FROM:** Joseph W. Tovar, FAICP, Planning and Community Development Director  
Paul Cohen, Senior Planner *PLC*

**RE:** Study Session on Medical Marijuana Collective Gardens – Development Code Amendments

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### Introduction

In July 2011 State Bill 5073 was passed which allowed medical marijuana collective gardens (MMCG) to become a legal activity. A collective garden has prescribed patient/members that can only grow medical marijuana for their use. In response, Shoreline City Council adopted on July 18, 2011a moratorium on MMCGs (Ord. No. 611) if they do not meet interim regulations. These interim regulations are consistent with SB 5073. The 6-month moratorium is for the City to regulate and study MMCG before adopting permanent regulations. On September 12, 2011 the City Council amended the interim regulations in Ordinance No. 614 (Attachment A) only to reduce the physical separation between different MMCGs from 2,000 to 1,000 feet.

Ordinance No. 614 reads as follows:

*A moratorium is adopted upon the filing of any application or issuance of any permit or business license for the establishment of a collective garden as defined in E2SSB 5073 that does not meet the following criteria:*

- A. *There shall be no more than one collective garden permitted on a property tax parcel.*
- B. *Collective gardens may only be located in the NB, O, CB, NCBD, MUZ, and I zones.*
- C. *A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools and not within 1000 feet of any other collective garden or delivery site.*

*D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.*

The Commission has been directed to review land use issues and amendments to the development code. Issues outside the Development Code such as crime, licensing, revenue, etc. will be considered by the Council when they adopt the amendment. The Council expects to adopt development code regulations by mid January 2012.

### **Background**

In 1998 Washington voters approved Initiative 692 providing an affirmative defense to criminal prosecution of state laws prohibiting use and possession of marijuana for limited amounts possessed by individuals that are qualified for medical use or for a provider designated by a single patient. The initiative lacked authorization for large scale distribution of marijuana for patients who were unable to grow their own medical marijuana. However, dispensaries have proliferated in some areas under the argument that a commercial dispensary could dispense to one patient and then another as quickly as transactions could occur. In a July 2010 inquiry as to whether dispensaries were legal, Municipal Research Services Center (MRSC) responded that they were not under a reasonable interpretation of the statutes. General Counsel for the City's risk pool, WCIA, issued a bulletin to member cities reaching the same conclusion in December of 2010. Hearing Examiners have reached the same conclusion in denying licenses to dispensaries.

The 2011 legislature adopted a comprehensive scheme of licensing and regulating dispensaries to better address patient needs in SB 5073. However, marijuana possession continues to be a criminal offense under the federal Controlled Substances Act, and all provisions relating to dispensaries were vetoed by the Governor due to a perceived potential for federal prosecution of state regulators participating in the regulation of commercial dispensaries as well as the dispensaries themselves. The earlier argument used to expand the designated provider into a dispensary was expressly curtailed in the final bill by prohibiting providers from changing their qualified patient more frequently than every fifteen days.

While dispensaries are now clearly unlawful, SB 5073 provides a limited model for cooperative efforts by patients in production and distribution through collective gardens run by up to 10 qualified patients and containing up to 45 marijuana plants. The bill allowed local government to zone and regulate this new land use. It is likely that a collective garden can hire a designated provider or lease a site that would include multiple collective gardens. Even though there are some unanswered issues, the City cannot legislate past SB 5073 or its intent because it is viewed as incomplete legislation and likely to be revisited in the near future. Based on further analysis, staff has recommended few changes to the interim code language (Attachment B).

## Discussion

### 1. What is the current status of growing and dispensing medical marijuana in the state?

Currently, a patient with a prescription for medical marijuana can grow their own supply at home for their use only up to 15 plants and have 24 ounces. The MMCG amendment does not affect a patient's right to grow their own medical marijuana at home. Dispensing of medical marijuana that is not an outlet for only a collective garden remains prohibited. However, a collective garden dispensary can be located in commercial zones in Shoreline even though the actual garden can be located elsewhere.

### 2. How does dispensing to members work?

State law is clear that a marijuana patient may also serve as a provider to other patients. Though the SB 5073 is not explicit, City Attorney reads SB 5073 to allow a patient to now assist other patient members of a collective garden rather than just one other patient, with marijuana limits again increased. A patient cannot be a member of more than one collective garden. A patient can grow their prescription at home and be a member of a MMCG as long as their allowed quantities are not exceeded.

A key issue is that membership limits can be manipulated to allow members to pick up their prescription and then after dispensation be removed from the membership list. By constantly rotating the membership list it allows dispensaries to sell to any number of patients. This has effectively undermined the purpose of controlling the distribution of medical marijuana. The City Attorney recommended to the Council that they regulate the turn-over of a membership to a 15-day waiting period to prevent this problem. The Council rejected the provision (below) on September 12 (Attachment C) as too difficult to regulate and difficult for patients who may be limited in their mobility and funds.

*No substitution of members of a collective garden in less than fifteen days is allowed where any fee or charge is paid to the garden or a garden member for the delivery of medical marijuana.*

This restriction would have eliminated the quick designation and resignation of the patient's provider which some dispensaries argued prior to SB 5073 to justify a retail outlet to any authorized patient. To allow a garden member to pay a fee for receiving marijuana, resign and be immediately replaced by another garden member that can pay the same fee perpetuates the scheme intended to be ended by SB 5073.

### 3. What are the regulations of adjoining jurisdictions and how would they affect our interim regulations?

Jurisdictions throughout the state are currently addressing SB 5073 and trying to decide whether to prohibit or regulate MMCGs. Shoreline follows several cities that have adopted moratoria regarding collective gardens. From discussions with other cities, more are anticipated. Some cities have adopted an absolute moratorium on any

collective garden. Staff does not recommend this for two reasons. First, medical marijuana has been a comprehensive state legislative scheme for patient rights from the passage of Initiative 692 and prohibiting a right granted to patients to act collectively rather than regulate that use as expressly allowed to cities in the statute may bring a challenge, even where a moratorium is declared under existing law. Second, regulations, including moratoria, should be narrowly drawn to address a public harm, and not extend to activity or rights where harm is unlikely. Council believes the gardens that meet the interim regulations are an important benefit to patients who cannot provide marijuana themselves or through a single provider.

4. What is the purpose of separation from schools and from other collective gardens? Why 1000-foot radii?

The separation rule from schools and other gardens received the most discussion by Council July 18 (Attachment D). School bus routes were not included with school property because it is too limiting to gardens since they are transitory and could unexpectedly conflict with a long term garden lease.

There are no studies that show the optimal separation distance, however, Council adopted a 1,000 feet as sufficient for public welfare. A map of current and potential collective gardens using this rule is in Attachment D. The intent for the separation from schools and other collective gardens is to minimize conflict with school activity and students and to avoid a concentration of these gardens as a possible magnet for crime.

5. How many MMCGs exist and what is the maximum number of MMCGs possible in Shoreline?

There are currently 4 known collective gardens which are Green Cure Wellness, Green Hope, Emerald City Compassion Center, and Pacific NW Medical – all along Aurora Avenue. Based on the location parameter of 1,000 feet from schools and other collective gardens and within commercial zones, there is the potential of 19 additional collective gardens (Attachment E). This potential is highly unlikely because it would require that specific parcels be leased or purchased for all the parameters to fit. Any siting of a MMCG, other than at these specific parcels, would greatly diminish the other parcels from meeting the parameters. More realistically, there might be 6-8 additional MMCGs.

6. Will there be an increase of criminal activity because of illegal sales or theft?

Per the opinion of Police Chief Pingery, these are not fly by night operations – it's expensive to start and maintain a grow operation, due to the cost of the grow lights, venting, water, and electricity. The Shoreline Police have their hands tied regarding the criminal enforcement of medical marijuana, as any citizen can grow for personal use and many have prescriptions. Chief Pingery notes that due to the availability of marijuana and limited police resources, the Police will only be responding to calls. In a specific incident Green Hope was robbed by cutting through the adjoining wall. He expects that crime will increase around collective gardens, or wherever anyone is growing or distributing. The larger the grow operation, the larger the target for criminal

activity. There have been a number of armed robberies at home-grow operations, and if those are consolidated in collective gardens, it presents a more attractive target for crime.

7. Who will enforce land use violations?

The Planning and Community Development Code Enforcement Officer will enforce land use violations and if necessary in coordination with the police.

8. How can we ensure that medical marijuana is not consumed with the operation of a vehicle?

We cannot ensure that consumption and driving will not happen. Like other prescribed drugs that are narcotics such as oxycodone and vicadine, a person can pick up a prescription at the pharmacy, consume the drug, and drive away. Police can pull over and cite a driver for erratic and impaired driving.

**Next Steps**

The Planning Commission has scheduled a public hearing on November 17, 2011. Staff is scheduled to return to the City Council with the Commission's recommendation on December 12, 2011 and again January 9, 2012 for adoption. The 6-month moratorium ends mid-January 2012.

**Attachments**

- A. Ordinance No. 614
- B. Proposed Amendments to the Development Code
- C. City Council Sept 12, 2011 Meeting Minutes
- D. City Council July 18, 2011 Meeting Minutes
- E. Medical Marijuana Collective Garden Locator Map

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ORDINANCE NO. 614

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,  
AMENDING INTERIM REGULATIONS FOR COLLECTIVE GARDENS  
REDUCING THE DISTANCE PERMITTED BETWEEN COLLECTIVE  
GARDENS**

WHEREAS, E2SSB 5073 (the Act) effective on July 22, 2011 authorizes "collective gardens" which would authorize certain qualifying patients the ability to produce, grow and deliver cannabis for medical use; and

WHEREAS, the Act authorizes local municipalities to exercise local location, health and safety controls for the regulation of collective gardens; and

WHEREAS, the City Council established interim regulations with passage of Ordinance No.611 on July 18, 2011 and held a public hearing on September 12, 2011 on these interim regulations; and

WHEREAS, based on comment received since the adoption of Ordinance No. 611 the Council now wishes to amend interim collective gardens to reduce the space required between gardens; now therefore

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

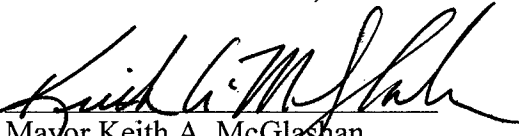
**Section 1.** Section 2 of Ordinance No. 611 is amended to read as follows:

A moratorium is adopted upon the filing of any application or issuance of any permit or business license for the establishment of a collective garden as defined in E2SSB 5073 that does not meet the following criteria:

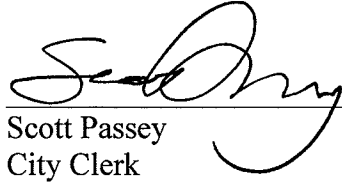
- A. There shall be no more than one collective garden permitted on a property tax parcel.
- B. Collective gardens may only be located in the NB, O, CB, NCB, MUZ, and I zones.
- C. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools and not within ~~1000~~2000 feet of any other collective garden or delivery site.
- D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

**Section 2. Publication.** This ordinance shall take effect five days after publication of the title of this ordinance as an approved as a summary of the ordinance in the official newspaper of the City.

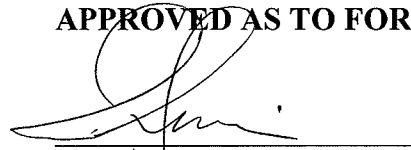
PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2011.

  
Mayor Keith A. McGlashan

**ATTEST:**

  
Scott Passey  
City Clerk

**APPROVED AS TO FORM:**

  
Ian Sievers  
City Attorney

Date of publication: September 15, 2011  
Effective date: September 20, 2011

# Proposed Development Code Amendments for Medical Marijuana Collective Gardens

## Chapter 20.20 - Definitions.

### 20.20.034 M definitions.

**Medical Marijuana Collective Garden** – Qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

**Useable Cannabis** – Dried flowers of the Cannabis plant having a THC concentration greater than three-tenths of one percent without stems, stalks, leaves, seeds, and roots containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

### 20.40.130 Nonresidential uses.

NAICS #	SPECIFIC LAND USE	R4-R6	R8-R12	R18-R48	NB & O	CB & NCBD	MUZ & I
RETAIL/SERVICE TYPE							
	<u>Medical Marijuana Collective Gardens</u>				<u>P-i</u> <u>P-i</u>	—	<u>P-i</u>

P = Permitted Use S = Special Use  
 C = Conditional Use i = Indexed Supplemental Criteria

### 20.40.445 Medical Marijuana Collective Gardens.

- A. There shall be no more than one collective garden permitted on a tax parcel.
- B. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1,000 feet of schools and not within 1,000 feet of any other collective garden or delivery site measured in a straight line from the closest school property line to the nearest building entry to a collective garden.
- C. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

**D. Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:**

**(1) No more than ten qualifying patients may participate in a single collective garden at any time;**

**(2) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;**

**(3) A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;**

**(4) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in section 901 of this act, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and**

**(5) No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.**

**(6) No production, processing or delivery of cannabis shall be visible to the public from outside of the building or structure.**

**(7) No odors shall be allowed to migrate beyond the interior portion of the building or structure where the garden is located.**

September 12, 2011 Council Business Meeting

**A vote was taken on the motion to approve the Briarcrest Neighborhood Association mini-grant application in the amount of \$866 for invasive plant removal and planting of native species on the NE 147<sup>th</sup> unimproved right-of-way, which carried 6-0.**

(b) Public hearing to receive citizens' comments on Ordinance No. 611, which adopted Interim Regulations for Collective Gardens and established a Moratorium for Six Months on the filing or acceptance of any Applications for Development of Land or Business Licenses for Collective Gardens except those in compliance with Interim Regulations and Adoption of Ordinance No. 614, Amending Interim Regulations

Flannary Collins, Assistant City Attorney, provided the staff report and outlined the Council's past action which established a moratorium on Medical Marijuana Dispensaries and created interim regulations on Collective Gardens. She recommended that the Council adopt Ordinance No. 614, which amends interim regulations related to medical marijuana collective gardens to provide a reduction in the distance between collective gardens from 2,000 feet to 1,000 feet. The ordinance also clarifies that members may not be substituted within fifteen days where fees are paid to another member or designated provider. Ms. Collins concluded that the next steps are for the Planning Commission to review the Council's action and recommend permanent regulations.

Mayor McGlashan opened the public hearing.

a) Kurt Boehl, Seattle, supported the amendment to reduce the distance to 1,000 feet but opposed limitation of patients. He said there are 3,000 patients in Shoreline and this would serve only 60 patients every month, which is not monetarily feasible for any access point.

b) Laura Healy, Lake Stevens, opposed the 15-day waiting period and said it will just push people to the black market.

c) Chris Healy, Green Hope Patient Network, said he appreciated working with the City Attorney and thanked the City for everything. He added that collective gardens reduce crime.

d) Dawn Darrington, Seattle, commented that cannabis is saving his life and that there are many shops that should probably be closed down, but Green Hope is a great place.

e) Patrick Gahan, Seattle, on behalf of A Green Cure, stated that these limitations would force people elsewhere and would not allow businesses to pay their bills. He stated that they are trying to create safe access and they have built a network of 550 patients and 52% are Shoreline residents.

September 12, 2011 Council Business Meeting

f) Steven Lee, Seattle, spoke against the limitations on collective gardens. He stated that he goes to A Green Cure because many marijuana providers in Seattle are unprofessional.

g) Whitney Arnot favored the reduction in distance and opposed the 15-day waiting period, adding that A Green Cure is a clean facility.

h) Kimberly Lind, Mill Creek, stated that A Green Cure is good and has safe access to medical marijuana. She said A Green Cure is a professional facility that has always treated her like a patient.

i) Lauren Harris, Shoreline, commented that naturopaths at Hempfest were writing prescriptions for anyone and young people are having more problems with marijuana addiction. She expressed concerns about how this will affect the community.

j) David Semkin, Seattle, commented that proper zoning makes sense and it needs to be kept away from schools. He stated that A Green Cure is a responsible club and that it makes sense to allow this kind of club.

k) Daniel Torres, Mukilteo, stated that his injuries led him to medical marijuana and it has helped him tremendously. He added that A Green Cure is a proper and law-abiding business.

l) Krista Iverson, Mountlake Terrace, voiced her support for Green Cure and said she does not agree with the limitations.

**Councilmember Eggen moved to adopt Ordinance No. 614, amending interim regulations. Deputy Mayor Hall seconded the motion.** Councilmember Eggen felt there is a need for interim regulations. He noted that the Planning Commission will discuss permanent regulations and they will protect the public in accordance with the State. Responding to Councilmember Roberts, Ms. Collins said she was not aware of other cities establishing limitations on new members for the collective garden model.

**Councilmember Roberts moved to strike “Section E. No substitution of members of a collective garden in less than 15 days is allowed where any fee or charge is paid to a garden or a garden member for the delivery of medical marijuana.” Councilmember McConnell seconded the motion.**

Councilmember Roberts discussed the opinion of the Municipal Research Services Center (MRSC) and said he is not convinced the City can regulate this at a higher level of state law. Ms. Collins also highlighted that Section 4 under designated providers is not spelled out clearly in state law.

Councilmember McConnell expressed concern about how the City ensures a facility is good since there isn't much information about them. She questioned the City staff

September 12, 2011 Council Business Meeting

rationale for the ten patients, 15-day waiting period because she felt having ten patients would not be economically feasible.

Councilmember Eggen also asked about pushing the growth of marijuana out into the neighborhoods and enforceability of the 15-day wait period. Ms. Collins replied that the police would have to enforce and check the collective garden lists by spot checking. She added that commercial gardens are not allowed in residential neighborhoods. The rationale for the 15-day waiting period is to try to put a stop to dispensaries with no limits on marijuana distribution and model what the State did for designated providers.

Councilmember Eggen inquired if the City has the means to assure providers are safe and clean. Ms. Collins replied that the State law requires that each collective garden must ensure each patient has valid documentation and identity. She concluded that there is no language in the City ordinance concerning the safety of the environment or the providers.

Deputy Mayor Hall noted that this amendment means that collective gardens would be allowed to have an unlimited number of patients, but neither State law nor this ordinance intended such an outcome. He opposed the amendment because collective gardens should not be permitted to operate as dispensaries. Mayor McGlashan concurred and opposed the amendment.

Councilmember Eggen inquired if there would be any penalties if the ordinance is violated and Ms. Collins replied that they would fall under a misdemeanor offense through court.

Councilmember Scott asked if the City would be in violation of state law if section E were stricken. Ms. Collins replied that it would not be in direct violation and it would be consistent with the spirit of the law.

Councilmember McConnell wondered if there were any other examples of other cities that have stricken this section. She said she would rather err on the side of access, comfort, and care. She said she was in favor of striking the language from the ordinance.

**A vote was taken on the motion to strike “Section E. No substitution of members of a collective garden in less than 15 days is allowed where any fee or charge is paid to a garden or a garden member for the delivery of medical marijuana.” Motion carried 4-2, with Mayor McGlashan and Deputy Mayor Hall dissenting.**

Deputy Mayor Hall pointed out that this amendment means that he will vote against the main motion because it would allow the retail sale of marijuana in Shoreline.

Councilmember Roberts supported the amendment and ordinance and encouraged the City staff and Planning Commission to look closely at what the City wants from the permanent regulations. He encouraged the City staff to think about the density between mixed use versus Town Center, etc. He added that he hopes the legislature clarifies this law because the spirit of the law does not encourage a retail marijuana establishment.

September 12, 2011 Council Business Meeting

Councilmember Scott said there might be some abusers, but there are patients out there that really need help. He encouraged residents to make their voices heard in Olympia because the State legislature put cities in this predicament. He supported the ordinance.

Councilmember Eggen said he is also voting for this ordinance and said there needs to be some state regulation. This is necessary medicine for people, he said. He also stated that there should be a way to figure out how to prevent adverse affects to neighborhoods or facilities.

Councilmember McConnell noted that the map does not really leave room for another dispensary to open up in the community and said she wants the Planning Commission to address this.

Deputy Mayor Hall inquired if a collective garden can purchase wholesale products elsewhere and Ms. Collins confirmed that they would have to produce their own products.

Mayor McGlashan communicated that the State left everyone wondering what to do and the City decided to have some control by doing the moratorium. He noted that the amended ordinance allows for a retail operation to serve an unlimited number of patients. He opposed the ordinance.

Mayor McGlashan closed the public hearing.

**A vote was taken on the motion to adopt amended Ordinance No. 614, amending interim regulations, which carried 4-2, with Mayor McGlashan and Deputy Mayor Hall dissenting.**

#### RECESS

Mayor McGlashan called for a five-minute break at 8:58 p.m. The meeting reconvened at 9:02 p.m.

#### 9. UNFINISHED BUSINESS

##### (a) Sound Transit Update - North Corridor Transit Project

Kirk McKinley, Transportation Services Manager, Alicia McIntyre, Senior Transportation Planner, and Matt Shelden, Sound Transit, provided information regarding the Sound Transit plan to extend high capacity transit north of Northgate. Mr. Shelden discussed the alignment and mode alternatives, the environmental process, and the need for the City to participate in Sound Transit's process by providing technical and policy direction. He said that after a light rail alignment has been determined in 2014, the City will work with the community on station area planning for the selected station locations and to identify appropriate mitigation. The Council and speakers reviewed photos and discussed both the I-5 and Hwy 99 project alternatives.



## CITY OF SHORELINE

### SHORELINE CITY COUNCIL SUMMARY MINUTES OF SPECIAL MEETING

Monday, July 18, 2011  
7:00 p.m.

Shoreline City Hall – Council Chamber  
17500 Midvale Avenue North

PRESENT: Mayor McGlashan, Councilmember Eggen, Councilmember McConnell,  
Councilmember Roberts, Councilmember Scott, and Councilmember Winstead

ABSENT: Deputy Mayor Hall

#### 1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor McGlashan, who presided.

#### 2. FLAG SALUTE/ROLL CALL

Mayor McGlashan led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present with the exception of Deputy Mayor Hall.

**Upon motion by Councilmember Winstead, seconded by Councilmember Eggen and carried 6-0, Deputy Mayor Hall was excused.**

#### 3. CITY MANAGER'S REPORT AND FUTURE AGENDAS

Julie Underwood, City Manager, provided reports and updates on various City meetings, projects, and events.

#### 4. COUNCIL REPORTS

Councilmember Eggen reported on the congestion relief measure and said SeaShore's core cities put together a letter to King County that supported a councilmatic adoption of that measure because of the economic effects on transit-dependent populations.

#### 5. PUBLIC COMMENT

a) Laura Healy, Lake Stevens, Green Hope Patient Network, addressed item 8(a) and urged the City to explore options for allowing access points to medical marijuana.

b) David Westberg, Shoreline, urged the City to work with Green Hope, noting that it is a well-behaved, orderly, quiet, and efficient business.

c) Philip Dowdy, Seattle, said Green Hope is a stellar and clean operation that will comply with the collective garden model and urged the Council to look at what Seattle passed in regards to medical marijuana.

d) Robert Magnum, Lynnwood, commented on the benefits of the Green Hope Patient Network and its positive impact on the community.

e) Jonathan Farmer, Mountlake Terrace, discussed his injuries and spoke in favor of Green Hope Patient Network.

f) Dennis Ryder, Everett, commented that he takes less pain medication due to new pain management through medical marijuana.

g) James Burley, Kenmore, commented that medical marijuana is a bill that brings more jobs to the City and commented that Green Hope has done everything right to stay open.

h) Matt Harmon, Shoreline, noted that dispensaries provide safe access and urged the Council to keep it open and safe to provide revenue for the City.

i) Wayne Ferguson, Kirkland, spoke in favor of medical marijuana and its benefits on society in curbing violence and crime.

Councilmember Eggen stated that the people of this state have made medical marijuana legal, but the state government has not shown cities how to make it available. He hoped a law will come out soon that is good for everyone and the Council is serious about doing the best it can.

Mayor McGlashan confirmed that there would be a public hearing on this issue before the Council.

## 6. APPROVAL OF THE AGENDA

**Upon motion by Councilmember Winstead, seconded by Councilmember Eggen and unanimously carried, the agenda was approved.**

## 7. CONSENT CALENDAR

**Upon motion by Councilmember Scott, seconded by Councilmember Winstead and unanimously carried, the following Consent items were approved:**

(a) **Motion to Authorize the City Manager to Approve the Sidewalk Construction Contract**

(b) **Motion to Authorize the City Manager to Obligate \$6,357,839 of Washington State Department of Transportation (DOT) Regional Mobility Funds for the Aurora Corridor Project**

(c) **Motion to Authorize the City Manager to Execute a Construction Contract with Doolittle Construction, LLC for the Implementation of the Bituminous Surface Treatment (BST) Program**

8. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS, AND MOTIONS

(a) Approval of Ordinance No. 611 to Establish a Moratorium on Collective Gardens

Ian Sievers, City Attorney, explained the reasoning for adopting Ordinance No. 611, which would establish a moratorium on collective gardens and interim regulations controlling the growth and distribution of medical marijuana. Shoreline has two active dispensaries; one hearing is extended to August 5. He reviewed the legislative history on this item and reviewed the vetoed sections of the legislative bill. He noted that the City does not have a dispensary model and discussed other moratoria. He noted that some cities have introduced moratoria and others have banned collective gardens completely. Mr. Sievers discussed section 2 of the ordinance and noted that it limits collective gardens to a small scale.

**Councilmember Scott moved adoption of Ordinance No. 611 adopting a moratorium and interim regulations for medical marijuana and collective gardens. Councilmember McConnell seconded the motion.**

**Councilmember Roberts moved to amend Ordinance No. 611 by inserting clauses in the Whereas portion as follows: “Whereas, federal law prohibits the production, processing, and dispensing of medical cannabis or medical cannabis products, and strict sentencing guidelines enhance the penalties for violations of more than 99 plants or within 1,000 feet of school; and Whereas, state law strictly enhances the penalties for violations of the Controlled Substances Act for violations within 1,000 feet of a school.” His motion also included striking “1,000 feet of schools or school bus routes stops and not” from Section 2(c) as follows: “A collective gardens or facility for delivery of cannabis produced by the garden may not be located ~~within 1000 feet of schools or school bus route stops, and not~~ within 2000 feet of any other collective garden or delivery site.” Councilmember Eggen seconded the motion.**

Councilmember Eggen spoke in favor of the amendment and confirmed that the 1000-foot restriction from bus stops is covered by RCW 69.50.435 in Washington State law. He added that by deleting this from our ordinance it refers it back to state law. Mr. Sievers interjected that he

does not think the 1,000-foot language is required since the City sets land use. He said he has no objection to removing the routes from the ordinance. Councilmember Eggen said he prefers including the 1,000-foot restriction for schools, but utilizing a shorter distance for bus routes.

Councilmember Winstead noted that drug-free zones are 1,000 feet and inquired if bus routes are included. Mr. Sievers discussed local, state, and federal laws concerning medical marijuana. He said he has no objection to either adding or leaving the bus routes language in the ordinance.

Councilmember McConnell preferred to keep the 1,000-foot restriction in the ordinance even if it is repetitive. However, she noted that dealing with school bus routes might be difficult.

Councilmember Scott supported the two new whereas clauses, but questioned the portion concerning bus routes. He added that if bus stops change he would be in favor of striking the second portion of the amendment. Councilmember Eggen agreed, but stated that this is a six-month moratorium so they will not change during the duration of this ordinance. He felt comfortable with the bus routes limitation.

Councilmember McConnell pointed out that bus stops can change in the first month or two and if they do, it might make police enforcement difficult. Councilmember Roberts did not object to adding the 1,000-foot school zone restriction back in, but is concerned about adding a 50 or 100-foot radius around bus stops. He explained that all of the bus stops are in residential zones and the ordinance already states that collective gardens are not permitted in residential zones.

Mayor McGlashan commented that he is leaning toward not supporting the whereas clauses and omitting the bus stop amendment. Mr. Sievers responded to Councilmember Eggen that the whereas clauses do not address the school bus stops.

Councilmember Roberts explained that the purpose of having this language is to say explicitly that the City will not be in violation of federal or state law, thereby recognizing the primacy of state and federal law.

**Councilmember Roberts withdrew the motion on the table and moved to amend Ordinance No. 611 by inserting the following clauses: “Whereas, federal law prohibits the production, processing, and dispensing of medical cannabis or medical cannabis products, and strict sentencing guidelines enhance the penalties for violations of more than 99 plants or within 1,000 feet of school; and Whereas, state law strictly enhances the penalties for violations of the Controlled Substances Act for violations within 1,000 feet of a school.” Councilmember Eggen seconded the motion, which carried 6-0.**

**Councilmember Roberts moves to strike "or school bus route stops" from Section 2(c) as follows: “A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools ~~or school bus route stops~~, and not within 2000 feet of any other collective garden or delivery sites.” Councilmember Eggen seconded the motion, which carried 6-0.**

**Councilmember Eggen moved to amend Section 2 (c) by striking “and not within 2,000 feet of any other collective garden or delivery site” and inserting “and collective gardens must be separated by at least 2,000 feet and delivery sites must be separated by at least 2,000 feet.” Councilmember Scott seconded the motion.** Council and staff discussed the merits of the motion. Councilmember Eggen explained that the goal of his amendment is to ensure a delivery site is somewhat separated from a garden that produces. **A vote was taken on the motion to amend Section 2 (c) by striking “and not within 2,000 feet of any other collective garden or delivery site” and inserting “and collective gardens must be separated by at least 2,000 feet and delivery sites must be separated by at least 2,000 feet”, which failed 4-2, with Councilmembers Eggen and Mayor McGlashan voting in the affirmative.**

Councilmember Roberts stated that he supports the ordinance but has concerns with directing the Planning Commission. He has issues with having them in certain zones because a couple who produces plants in a residential zone can grow 30 plants if they reside in one home. He also communicated that 1,000 feet from a school is a far distance and is unnecessary.

**A vote was taken on the motion to adopt Ordinance No. 611 adopting a moratorium and interim regulations for medical marijuana and collective gardens, as amended, which carried 6-0.**

**Councilmember Roberts left meeting at 8:40 p.m.**

#### RECESS

**At 8:35 p.m., Mayor McGlashan called for a five-minute recess. The meeting reconvened at 8:42 p.m.**

#### 9. STUDY ITEMS

(a) Transportation Master Plan (TMP) Bicycle Plan, Pedestrian Plan, Transit Plan, Master Street Plan, Sustainability Procedures

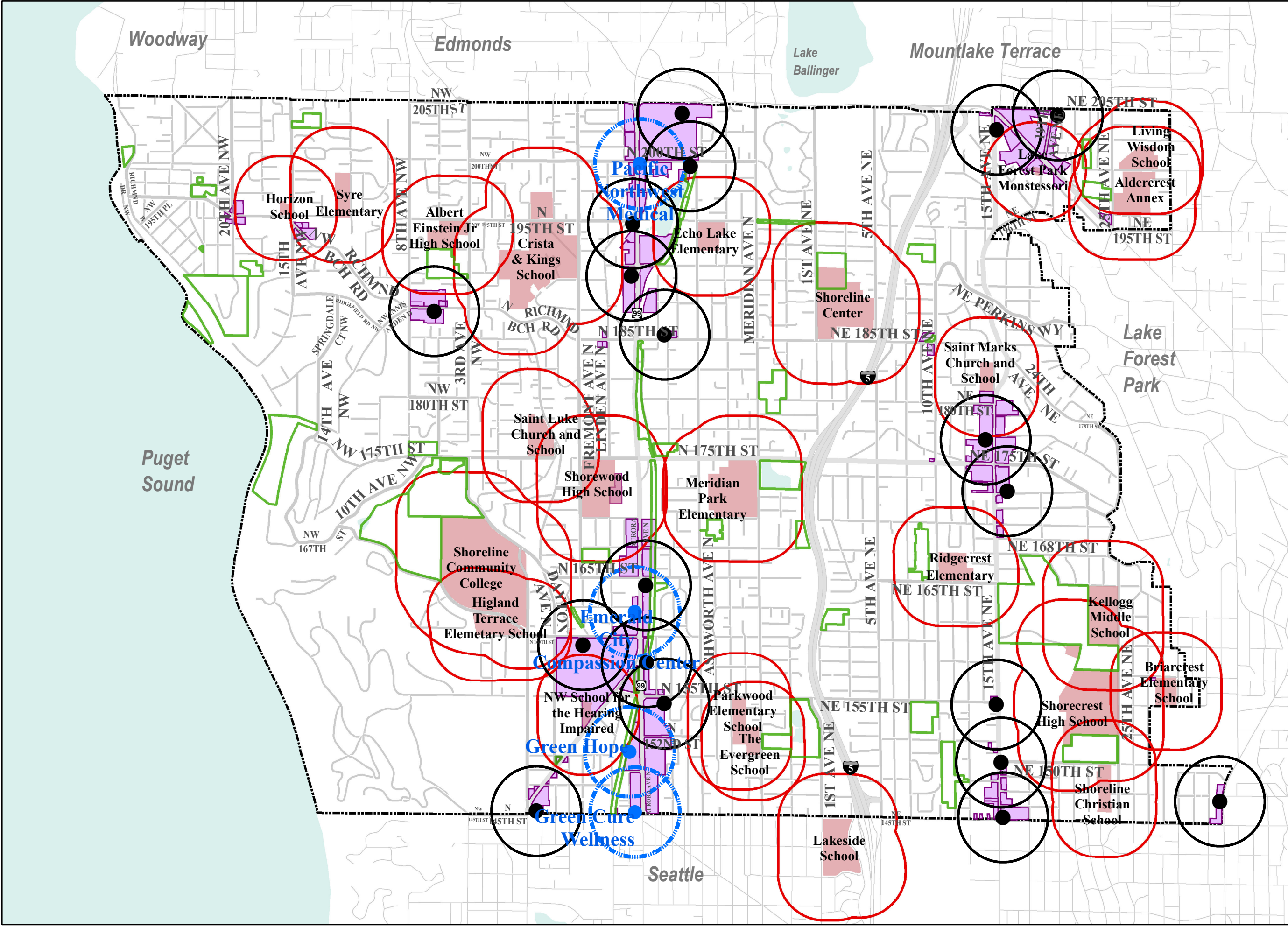
Mark Relph, Public Works Director, introduced Kirk McKinley, Transportation Services Manager, and Alicia McIntyre, Senior Transportation Planner, who provided the staff report.

Ms. McIntyre stated that the City staff has provided responses to Council questions within the staff report, and City staff is requesting direction on goals, policies, implementation strategies, and the system plans regarding Sustainability and Quality of Life, Master Street Plan, Bicycle Plan, Pedestrian Plan, Transit Plan, and Street classifications.

Councilmember Eggen confirmed that the City staff will work with residents to get their input and noted that there are limits to what can be done in the short term.






Councilmember Winstead noted that there was no complete streets map in the Council packet. Ms. McIntyre explained that the concept of complete streets is to consider all users. She said

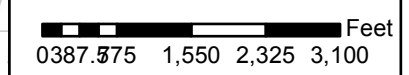
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## Potential Collective Garden Sites

## Collective Garden & 1000 Foot Buffers From School Perimeter

-  1000' from Collective Garden  
4 Sites
-  1000' from Potential Site  
19 Sites
-  1000' from School
-  Collective Garden
-  Potential Site



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



Date: 8/3/2011

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