

# AGENDA PLANNING COMMISSION REGULAR MEETING



Thursday, December 1, 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	7:05 p.m.
a. November 3 Regular Minutes	
6. GENERAL PUBLIC COMMENT	7:06 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. The rules for procedure for Public Hearings before the Planning Commission are further defined in Resolution No. 182.</i>	
7. PUBLIC HEARING <i>Legislative Public Hearing</i>	7:10 p.m.
a. <b>Medical Marijuana Collective Gardens</b>	
1. Staff Overview and Presentation of Preliminary Staff Recommendation	
2. Questions by the Commission to Staff	
3. Public Testimony	
4. Final Questions by the Commission	
5. Deliberations	
6. Vote by Commission to Recommend Approval or Denial or Modification	
7. Closure of Public Hearing	
8. DIRECTOR'S REPORT	8:10 p.m.
9. UNFINISHED BUSINESS	8:15 p.m.
a. Planning Commission Bylaw Amendments	
10. NEW BUSINESS	8:39 p.m.
11. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS	8:40 p.m.
12. AGENDA FOR January 5 ( <i>Dec. 15 Regular Meeting Cancelled</i> )	8:44 p.m.
13. ADJOURNMENT	8:45 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 MINUTES OF REGULAR MEETING

November 3, 2011  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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### Commissioners Present

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

### Staff Present

Steve Cohn, Senior Planner, Community & Development Services  
Paul Cohen, Senior Planner, Community & Development Services  
Ian Sievers, City Attorney  
Captain Strathy, Shoreline Police Department  
Sergeant Neff, Shoreline Police Department  
Jessica Simulcik Smith, Planning Commission Clerk

### Commissioners Absent

Commissioner Behrens

### CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:02 p.m.

### ROLL CALL

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

### APPROVAL OF AGENDA

The agenda was accepted as presented.

### DIRECTOR'S COMMENTS

Mr. Cohn did not provide any comments during this portion of the meeting.

## **APPROVAL OF MINUTES**

The minutes of the September 29, 2011 dinner meeting were approved as presented. The minutes of the October 6, 2011 regular meeting were approved as amended.

## **GENERAL PUBLIC COMMENT**

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

## **STAFF REPORTS**

### **Study Session: Medical Marijuana Collective Gardens**

Mr. Cohen advised that the State Legislature passed State Bill (SB) 5073 in July of 2011, which allows medical marijuana collective gardens (MMCG) to become legal activities in the State. However, before the bill was adopted, Governor Gregoire vetoed some line items, causing a lot of confusion. Local jurisdictions are left with the responsibility of amending their codes to administer the new bill, but they fully expect the State Legislature to revisit the issue soon. In response to the new legislation, the City Council adopted Ordinance 611 later in July, which placed a moratorium on MMCG's unless they can meet four basic parameters. In September, the City Council adopted ordinance 614, which reduced the physical separation requirement between different MMCG's from 2,000 to 1,000 feet.

Mr. Cohen advised that the City Attorney and Police Department staff are present to answer questions of the Commission. If the Commission is comfortable with the proposed amendment after the study session, a public hearing would be held on November 17<sup>th</sup>. He reported that State Environmental Protection Agency (SEPA) Checklist has been completed for the proposed amendment, and the City Council anticipates a recommendation from the Commission for their December 12, 2011 meeting and is expected to make a final decision by January 9<sup>th</sup>, 2012. The six-month moratorium expires in mid January.

City Attorney Sievers explained that the Department of Justice does not find any medical evidence that cannabis (marijuana) is useful as a drug, and it is high on their list of controlled substances. However, memorandums from the Department of Justice state that they will tolerate homes uses, as long as they do not become commercial enterprises. There is still some question about whether or not the message has been consistently applied across the country. In some states, such as California and Colorado, dispensaries are quite wide spread and seem to be distributing the product via retail sales.

City Attorney Sievers explained that SB5073 was designed to solve problems with an initiative that approved marijuana for medical uses, but individuals could only possess certain quantities of marijuana if they have documentation from a physician. In addition, there is no efficient way for patients to obtain marijuana. The bill was quite comprehensive in solving the problem, but the Department of Justice notified Governor Gregoire that it was concerned about portions of the bill. Governor Gregoire decided to veto a large portion of the bill, and the portions left had inconsistencies because they referred to other sections that were repealed.

City Attorney Sievers advised that the bill allows patients to cooperate collectively with ten other patients or their patient providers to make production and distribution of marijuana more efficient than the one-on-one provider identified in the old act. It also allows local governments to adopt policies for zoning, regulation and taxing. Because this is a new land use, the City did not have any existing language to deal with it. As with anything else, the new regulations cannot conflict with the general rules of the State, and they must provide space for MMCG's to operate in the City. Consistent with the SB5073, Interim Ordinance 611 sympathizes with patients who utilize the tool of a collective garden and makes marijuana easier to get, particularly for people with disabling illnesses. However, the ordinance also includes elements designed to protect the community, such as limiting the use to commercially zoned areas. In addition, it requires that the MMCG's be dispersed a certain distance from each other and from schools, to deal with a concern that concentrating the dispensaries in small areas could increase criminal activity.

City Attorney Sievers referred to a recent update from the Municipal Research and Services Center of Washington (MRSC), which notes that the legislation does not specify any timeframe for when the 10 patients may be involved in a garden at the same time. To address this issue, he recommended the interim ordinance be amended so that patients would be unable to utilize a new provider sooner than every 15 days. The City Council did not adopt this provision because they were concerned it would make it more difficult for patients to gain access to cannabis.

City Attorney Sievers announced that another bill was introduced in the special session to correct the veto message and get the situation fixed. It proposed expanding the language to allow for increased quantities and garden cooperatives of up to 1,000 members. He cautioned against this approach, since the bigger the number, the more it looks like a commercial retail operation. He expressed concern about the Federal Government's earlier indication that they will actively enforce the prohibition on commercial level distribution. He said they have actually backed up their position by raiding two dispensaries in Spokane where the rules of operation are very liberal.

Commissioner Kaje asked the Police Department representatives to share their thoughts on whether the 1,000-foot separation requirement would be a useful and practical way to separate and police the uses. He noted there are no other uses in the City that are required to be separated by a certain distances. He questioned if locating the facilities closer together would make them easier to enforce.

Sergeant Neff said it is important, from a law enforcement standpoint, to keep the MMCG's within the business districts. They can become problematic when located in residential areas because it is hard for law enforcement to know where they are. If law enforcement knows where all the dispensaries or MMCG's are located, it is easier for them to police the areas to prevent burglaries, etc. She said she does not have a strong feeling one way or the other whether the 1,000-foot separation requirement would be beneficial. This concept was brought forward by the City Council.

Mr. Cohen commented that if the 1,000-foot separation requirement were eliminated, then many more collective gardens and their dispensaries could be located in Shoreline. He referred to a map that identifies potential collective garden sites. He pointed out the four existing dispensaries on Aurora Avenue North, as well as other locations within the commercial zones where the use would be allowed

because it would meet the separation requirement called out in the interim ordinance. He pointed out that eliminating the separation requirement would result in more places for the dispensaries or MMCG's to locate.

Commissioner Kaje asked if the City has used the separation requirement concept to limit the number of other types of uses in the City. Mr. Cohen said there are separation requirements for adult entertainment uses. They also have specific limitations on gambling uses. Commissioner Kaje suggested that if the City Council has an opinion that there should only be a certain number of MMCG's, then they should establish a cap rather than trying to limit the number via a separation requirement. He said he did not hear anything compelling from law enforcement to support a separation requirement, but he does understand the need to limit the use to commercial zones only and keep them at least 1,000 feet from schools.

Commissioner Broili requested clarification of the City Council's decision to change the separation requirement from 2,000 to 1,000 feet. Mr. Cohen responded that the City Council decreased the separation requirement between MMCG's to 1,000 feet. City Attorney Sievers advised that the City Council had some informal discussions about establishing a very large separation requirement, and 2,000 feet was found to be more reasonable. However, when the rule was applied, it eliminated one of the MMCG's that had applied for a license but was not yet established. This may have affected their decision to reduce the separation distance.

Commissioner Broili asked staff to describe an MMCG. Mr. Cohen referred to the definition for MMCG's that is contained in the draft amendment, which was taken directly from SB5073. Commissioner Broili asked if MMCG's are typically in enclosed areas. Mr. Cohen answered affirmatively.

Sergeant Neff commented that law enforcement supports the requirement that MMCG's must be located at least 1,000 feet from schools because they have enhanced sentencing laws for drug violations in these areas. Commissioner Esselman asked if the drug free zone around schools is currently set at 1,000 feet. Sergeant Neff answered affirmatively.

Commissioner Moss said she compared the map that illustrates potential MMCG sites with the land use map on the City's website and found that some parcels in the Town Center Subarea and mixed-use zones were not included. Mr. Cohen responded that some mixed use commercial zones were intentionally excluded by the City Council, as were the planned areas (Ridgecrest and Alderwood).

Commissioner Moss requested clarification of the term "useable cannabis." City Attorney Sievers said there are various tinctures, extractions, and food products made with cannabis or the THC that is in cannabis. He reminded the Commission that the definition is built around an enforceable quantity, so there must be something uniform to weigh. "Useable cannabis" does not include consumables. Commissioner Moss said she comes from a health care background and is concerned that for some people, smoking or vaporizing the cannabis is not a preferable or practical route of administration. City Attorney Sievers as a policy measure, they don't want to force people into smoking, but the law requires that people make their own consumables.

Commissioner Moss questioned whether a person with a debilitating illness has the ability to make a consumable product. Chair Wagner summarized that it appears to be the City Attorney's preference not to go down the path of trying to go beyond the State's definition. City Attorney Sievers said Commissioner Moss's approach would be fine if the Legislature had identified an equivalent for the quantity of useable cannabis in terms of a drug and if there was an efficient way for law enforcement to measure consumables and translate the quantity of THC into the consumables that a garden is allowed. But this is a costly process and something the City is not equipped to do.

Vice Chair Perkowski referred to the proposed language for SMC 20.40.445 and asked how the City would know of a collective garden's existence. Mr. Cohen answered that a business license would be required, and the use must comply with the existing regulations. Vice Chair Perkowski suggested that the proposed amendment should make the business license requirement clear. It should also make it clear that a single qualifying patient does not constitute a "collective garden." It becomes a collective garden when the qualifying patient decides to distribute. City Attorney Sievers said the easiest approach is to require collective gardens to comply with the definition. In the most utopian sense, a group could take care of the garden collectively, each walking away with their own share with no money transaction. A business license would not be required in these situations. However, the use would only be allowed in commercial zones. If law enforcement is aware of people possessing and controlling marijuana in these quantities and it involves a certain number of people, they will enforce the definition. Vice Chair Perkowski summarized that the use would only be enforced on a complaint basis. Mr. Cohen said the gardens would be required to obtain other types of permits to do tenant improvements in an existing space, which is the most common. A new development for this type of use would also be required to obtain a development permit.

Vice Chair Perkowski referred to SMC 20.40.445.D.6, which states that no production, processing or delivery of cannabis shall be visible to the public from outside the building or structure. He asked if this would prohibit a member of a collective garden from distributing cannabis to a patient off site. Mr. Cohen answered that the garden could occur in a different location than the dispensing of the cannabis, as long as the dispensary only provides medical marijuana to members of the collective. City Attorney Sievers explained that the definition for MMCG's includes growing, cultivating, transporting, and delivery/dispensary. But the building must be involved in one of the functions of the garden. Item D.6 was taken directly from State law, and the intent is that any use of medical marijuana should not be visible to the public. Vice Chair Perkowski asked if it would be legal to deliver cannabis to a property that is closer than 1,000 feet to a school. City Attorney Sievers answered that delivery to a patient within 1,000 feet of a school would likely be allowed because it would not be considered the collective site where the garden is operating.

Commissioner Kaje asked if the limits under SMC 20.40.445.D.6 mirror language from State law. Mr. Cohen answered that Items 1 through 6 were taken directly from State Law. Item 7 was added by the City after talking to other jurisdictions about their concerns. He reviewed that the definitions are from the state, the zones where the use is permitted are from the City Council, provisions A through C are from the City Council, and provisions D.1 through D.6 are from the State. City Attorney Sievers summarized that the dispersal requirement, the distance requirements and the odor requirement are local requirements. However, the distance requirement from schools and from other gardens was proposed in

corrective legislation that was also presented during a special Legislative session. Mr. Cohen added that the 1,000 feet would be measured from the nearest entry from the collective garden to the boundary of the school.

Commissioner Kaje suggested that “users” should be changed to “uses” in the title of SMC 20.40.130.

Chair Wagner asked how the requirement in SMC 20.40.445.D.6 would mesh with the requirement that ground floor space in the mixed use zone is required to have 50% transparent windows. She suggested that they consider an exception for MMCG’s facilities. Mr. Cohen reminded the Commission that while transparent windows are required in some mixed-use zones, they are allowed to put up walls or shelving behind the windows. The intent is for the windows to be in place so that visibility is an option as uses change. He suggested that Chair Wagner’s concern could be addressed by requiring some type of screening behind the window. He agreed to research this issue and provide additional direction at the next meeting.

Vice Chair Perkowski asked how the City would determine which collective gardens get to remain when it is found that two are located closer than 1,000 feet from each other. Mr. Sievers said most will be required to obtain a business license, so there will be a registry and accurate stamp date for these uses. Vice Chair Perkowski suggested additional language should be added to the definition to address this issue. Mr. Cohen agreed to consider the issue further and come back with proposed language at the next meeting.

Commissioner Kaje said he supports the language that prohibits MMCG’s from being located within 1,000 feet of a school. However, he suggested that if the goal is to limit the number of MMCG’s, they should simply identify the maximum number of MMCG’s that would be allowed in the City rather creating a map of bubbles to identify potential locations. He said that not only is the separation requirement a slightly disingenuous way of limiting the number of MMCG’s, it also creates situations where the uses are pushed to the perimeter of the commercial zones and closer to the residential neighborhoods. Mr. Cohen asked if Commissioner Kaje is suggesting a citywide cap on MMCG’s. Commissioner Kaje clarified that he is not saying there must be a cap; but if the City Council’s goal is to limit the uses, they should identify a maximum number instead of using the separation requirement.

Commissioner Broili asked if it is possible place a cap on the number of MMCG’s allowed in the City, but also limit the use to designated areas of the City. For instance, they could allow MMCG’s to locate within close proximity to each other, as long as they are more than 1,000 feet from schools and residential areas. Commissioner Kaje suggested that the zoning provision is sufficient to limit the location of MMCG’s to very known places, and law enforcement will know where they are and can be located. He said he does not believe it is necessary to limit the uses to the commercial zones along Aurora Avenue North. If they want to limit the number, they should do so without creating awkwardness about where they can be located.

Commissioner Broili referred to the Ballinger area and noted that, zoning wise, an MMCG might be allowed, but it would end up being located very close to the residential neighborhood in order to achieve the required distance from a school. There may need to be some restriction on where the uses are



placed, as well as how many are allowed. Commissioner Kaje felt this approach would be too difficult and detailed unless they simply limit the use to Aurora Avenue North only. Before recommending Commissioner Broili's suggestion, they should carefully consider how it would be applied in each of the neighborhood commercial areas. Mr. Cohen referred to the map and noted that residential zones are located within 1,000 feet of all of the existing MMCG's and most of the potential sites.

Commissioner Moss reminded the Commission that they are only talking about allowing collective gardens for medical uses. If they are intended to be community gardens, then proximity to neighborhoods is particularly important. Limiting the use to Aurora Avenue North might be disrespectful of the intent, since it would make it more difficult for people with medical conditions to access the MMCG's.

### **PUBLIC COMMENT**

**Greg Logan, Assistant Director, Highland Terrace Neighborhood Association**, said he was present to support increased access for those who need and use cannabis. He understands that the City has been placed in an awkward position by Governor Gregoire. Many citizens, as well as State Representatives, have been distressed by this situation, which has resulted in a horrible waste of time for a lot of capable people that could be doing other things. He recalled a comment by Council Member McConnell, which urged the City Council to focus on the humanitarian aspect, which is the same direction that he and many other citizens are coming from. He said he does not believe the concern raised by Deputy Mayor Hall about retail establishments is valid. MMCG's cannot be considered retail establishments because there are specific limitations on who can go use them. He said there was also concern about a break in that occurred at one of the current MMCG's, and it was suggested that the use can invite additional crime. He pointed out that his neighbor's house was burglarized. Rather than getting rid of the neighbor, they need to figure out how to make the neighborhood more secure. They don't necessarily need more deputies to accomplish this task. He summarized that the City should figure out a system that has as few procedural constraints as possible so people have access to what they need.

**Jeff Denton, Shoreline**, observed that the issue of MMCG's appears to be complex. Issues have been raised about zoning, number of plants, number of patients, amounts, weights, measures, where it can be dispensed, etc. He questioned where all the proposed limitations came from. He clarified that the intent of the proposed language is to allow patients to grow cannabis and serve other patients who have medical prescriptions. As proposed, no license would be required to grow cannabis as long as no money transactions occur, but a license would be needed to transact funds. He expressed concern that the proposed regulation would discriminate against non-users because it would not allow them to run a licensed operation for profit without a prescription from a medical provider.

**Robin McClelland, Shoreline**, referred to proposed SMC 20.40.445.D.1 and D.2 and suggested that staff rework the math before the public hearing.

Chair Wagner clarified that this is a study session and not a public hearing. Therefore, the comments from the public will not be included as part of the public record that is forwarded to the City Council. If citizens want their comments to be entered into the public record, they should submit written testimony and/or attend the public hearing to provide oral testimony.

## **DIRECTOR'S REPORT**

Mr. Cohn explained that the Commission packets include a copy of the proposed Shoreline Master Program (SMP). The 62-page document was provided two weeks ahead of time so the Commission has ample time for review prior to their study session on November 17<sup>th</sup>. The Commission could continue their study session on December 1<sup>st</sup>, if necessary. He invited them to forward their comments, questions and alternative language to staff prior to the meeting via Plancom. He noted that Ms. Redinger also provided a brief summary of how she came to her recommendations.

## **UNFINISHED BUSINESS**

No unfinished business was scheduled on the agenda.

## **NEW BUSINESS**

No new business was scheduled on the agenda.

## **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS 1:17:15**

Commissioner Moss announced that she was selected to be a community representative for the Growing Transit Communities Committee, a program that is being coordinated through the Puget Sound Regional Council (PSRC). She attended the first meeting on November 3<sup>rd</sup>, and Ms. Markle and Mr. Tovar were also present to represent the City of Shoreline. She explained that PSRC received grant funding to promote livable communities that are centered around transit, and they have established committees to explore a variety of activities. Because of her particular interest in transit-oriented development, she felt the committee would be a good match for her. The committee will review basic guidelines for the portion of the north corridor project from Northgate to Everett, but they will not be involved in station area planning. The committee includes representatives from both public and private organizations, including Sound Transit, City of Seattle, King County Metro, King County, Community Transit, people who represent disadvantaged populations, etc. This is an 18-month project, and the goal is to come up with an implementation plan. They will meet once a month, and she will provide regular updates to the Commission. She invited Commissioners to provide feedback, as well. She advised that three public meetings would be scheduled at some point over the 18-month period. Mr. Cohn explained that the work is intended to culminate into a nationwide program for all jurisdictions to use.

Commissioner Moss reported that she attended the joint Oregon/Washington planning conference titled, "Cascade Collaborative: Bridging to the Future," which was sponsored by the American Planning Association (APA). Chair Wagner said she also attended the joint APA Conference. She noted that the Commissioners and staff that attended the event split up to attend a variety of sessions. She specifically highlighted the following:

- She attended a session about dedicating a certain percent of project funds for public art. She suggested the City should create a more precise policy for requiring the allocation of a percentage of project costs or space to the arts.

- She attended a session on Leadership in Energy and Environmental Design for Neighborhood Development (LEED ND). She suggested that it is important the City recognize that it is about more than just obtaining a certain certification. A developer's actions speak louder than the gold star they have been assigned.
- She said she particularly enjoyed the key note speaker, Mitch Silver, AICP and APA President and Planning Director in Raleigh, North Carolina. He pointed out that when a City says no to something, it says yes to something else. For example, when they say no to taller buildings in commercial zones, they are also saying yes to higher taxes for single-family residential properties. It is important to communicate this concept to the community.

Mr. Cohn added that Mr. Silver also talked about how the demographics in the country would change by the year 2050. He made the point that by 2050, there would be no majority race. He discussed that people are having fewer children, which means the demand for multi-family residential housing is likely to increase.

Commissioner Moss said she attended a session about high-speed, inter-city passenger rail where the Mayor of Eugene, Oregon, reported that the State of Oregon only received \$8 million out of \$598 million in federal funding that was made available to Washington and Oregon as a result of the American Reinvestment and Recovery Act. The State of Washington received the rest because they had "shovel-ready" plans to move forward with. She thanked City staff for recognizing the importance of having plans that are ready to move forward. It can make a significant difference in how the City is able to leverage federal and state funding.

Commissioner Broili announced that the world population reached 7 billion just a few days ago. When he was born 70 years ago, the population was 2 billion. He emphasized that this significant population increase has an impact on the work the Planning Commission is doing.

### **AGENDA FOR NEXT MEETING**

There was no further discussion about the November 17<sup>th</sup> agenda.

### **ADJOURNMENT**

The meeting was adjourned at 8:34 P.M.

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Michelle Linders Wagner  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

**TIME STAMP**  
**November 3, 2011**

ROLL CALL: 0:15

APPROVAL OF AGENDA: 0:33

DIRECTOR'S COMMENTS: 0:40

APPROVAL OF MINUTES: 0:51

GENERAL PUBLIC COMMENT: 1:52

STUDY SESSION: MEDICAL MARIJUANA COLLECTIVE GARDENS: 2:07

PUBLIC COMMENT: 1:05:25

DIRECTOR'S REPORT: 1:14:09

UNFINISHED BUSINESS: 1:17:08

NEW BUSINESS: 1:17:11

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS: 1:17:15

AGENDA FOR NEXT MEETING

ADJOURNMENT

**PLANNING COMMISSION AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b> Public Hearing on Medical Marijuana Collective Gardens Code Amendments
<b>DEPARTMENT:</b> Planning & Community Development Department
<b>PRESENTED BY:</b> Paul Cohen, Senior Planner

**INTRODUCTION**

The Planning Commission held a study session on November 3, 2011 to discuss proposed code amendments for medical marijuana collective gardens. Based on that session staff has made a few proposed changes to the proposed code amendments (Attachment B). This December 1, 2011 meeting is to hold a public hearing, deliberate, and make final recommendations to the City Council.

**BACKGROUND**

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 a moratorium on July 18, 2011 regarding MMCGs (Ord. No. 611) that do not meet interim regulations. These interim regulations are consistent with State Bill 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.

The Commission was directed by the City Council to review the interim regulations and related land use issues and to recommend 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.

**PROPOSAL & ANALYSIS**

The Commissioners raised several questions at the November 3 study session. Staff responses are below:

1. The current Development Code requires commercial development to have 50% of their first floor façade in transparent windows. The proposed MMCG code requires that production, processing, or delivery cannot be visible to the public. These two requirements are not necessarily conflicting. A MMCG could have transparent windows into a lobby but have the remainder of the operation separate and not visible to the public. If the Commission concludes that more

Approved By:

Project Manager PLC

Planning Director \_\_\_\_\_

clarity would result in less cost to the applicant or a better product, it could recommend an amendment to the mixed use - commercial design standards in section 20.50.280.B that exempt MMCGs from this requirement.

2. On November 3 there was significant discussion regarding the 1,000 foot separation requirement between MMCGs (Attachment C). There was concern that this requirement would result in an outcome where many operations, in order to separate would locate at the edge of commercial zones and adjacent to residential zones because commercial areas are narrow. In addition there was concern that dispersing these uses through the separation requirement would make monitoring or enforcing the code more difficult. However, based on police testimony staff believes that the potential concentration of MMCGs could result in a bigger draw for criminal activity.

There was discussion regarding establishing a cap on the number of MMCGs city-wide instead of a separation requirement. There are benefits and disadvantages to the different approaches. As reflected in the attached proposed Development Code amendment, staff recommends that the City adopt the requirement for a Safety License under 20.40.244.D.8. This will allow the City to monitor the operation and location of MMCGs. If MMCGs proliferate to a point where the community cannot tolerate more gardens then the City can consider amending the Development Code to establish a cap to the number of operations or the number of patient-members.

3. The November 3, 2011 proposed Development Code was not explicit under 20.40.445.D.1 if a patient can hire a provider, who is not a patient, to grow for them. The intent of the state legislation is to allow a patient to hire a provider. In that regard, Staff recommends amending the Development Code to be less ambiguous.

### **SEPA Review**

The SEPA checklist and notice have been publicized (Attachment D) with the intent to make a determination of non-significance. To date, no comments regarding the SEPA checklist have been received. Staff anticipates issuance of a SEPA determination of non-significance by the December 1, 2011 public hearing.

### **Development Code Amendment Criteria**

SMC 20.30.350 establishes the following criteria for approval of a Development Code amendment:

1. *The amendment is in accordance with the Comprehensive Plan;*
  - Framework Goal 3: Support the provision of human services to meet community needs.
  - Framework Goal 10: Respect neighborhood character and engage the community in decisions that affect them.
  - There are no policies that specifically address or discourage pharmacies, clinics or, MMCG's as a land use.

2. *The amendment will not adversely affect the public health, safety or general welfare;*
  - The amendment is intended to improve public health by providing collective gardens for patients to raise prescribed medical marijuana.
  
3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.*

The provisions of the amendment are not contrary to the best interest of the citizens and property owners by:

- Enacting State Bill 5073.
- Ensuring adequate separation between collective gardens and between collective gardens and school property.
- Requiring adequate regulation to ensure the community of the potential size and location of the gardens.
- Requiring registration through a safety license to monitor these businesses

### **Recommendation**

Staff recommends that the Commission hold and close the public hearing, deliberate, and make recommendations to amend the Development Code (Attachment F) as drafted by staff.

### **TIMING AND NEXT STEPS**

July 2011 – State Bill 5073 passed allowing MMCGs.  
July 18, 2011 – Shoreline City Council adopted a 6 month moratorium – Ord. No 611.  
September 12, 2011 – Shoreline City Council adopted Ord. No. 614.  
October 17, 2011- Notice of SEPA and Public Hearing date.  
November 3, 2011 – Commission Study Session.  
November 8, 2011 - Re-notice of SEPA and new Public Hearing date (Attachment E).  
December 1, 2011 – Commission Public Hearing, Deliberation, and Recommendation

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. List of Exhibits
- B. Proposed Amendments to the Development Code
- C. Medical Marijuana Collective Garden Locator Map
- D. SEPA Checklist
- E. Re-Notice of Public Hearing
- F. Draft Commission Recommendations

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**PUBLIC HEARING RECORD**  
**Medical Marijuana Collective Gardens**  
*December 1, 2011 | List of Exhibits*

- Exhibit 1** December 1, 2011 Staff Report “Public Hearing on Medical Marijuana Collective Gardens Code Amendments”
- Exhibit 2** Proposed Amendments to the Development Code
- Exhibit 3** Medical Marijuana Collective Garden Locator Map
- Exhibit 4** SEPA Checklist
- Exhibit 5** Re-Notice of December 1, 2011 Public Hearing
- Exhibit 6** Draft Planning Commission Recommendation Transmittal Letter

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*The Hearing Record also includes any oral testimony given at the public hearing.*

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# 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, **and their providers**, 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.

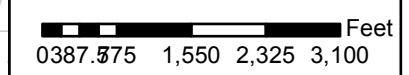
**(8) To establish a legal, collective garden a Safety License must be obtained from the City of Shoreline.**

ATTACHMENT C

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

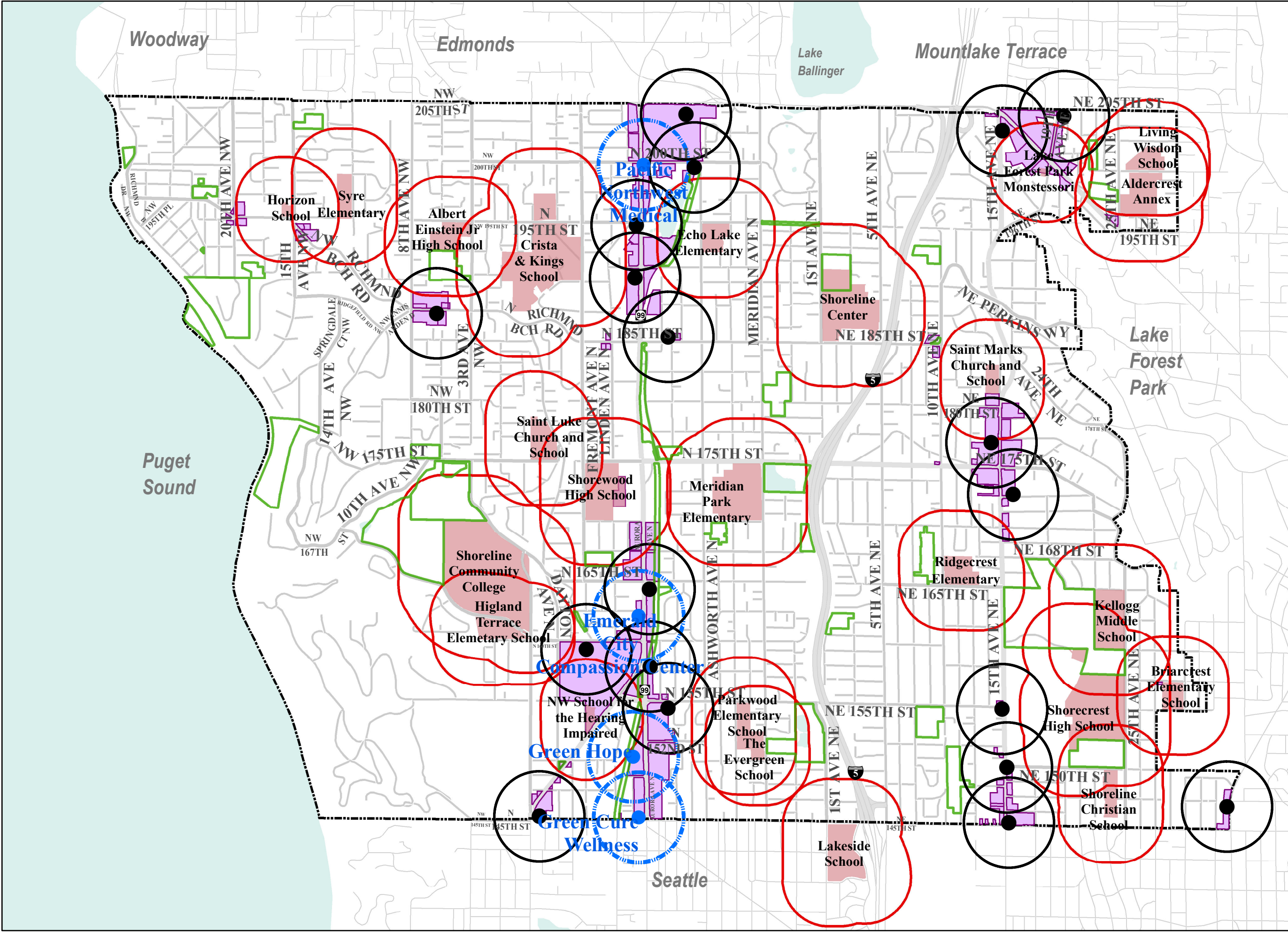


No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.



Date: 8/3/2011

Path: J:\GIS\Maps\CMO\CollectiveGardenReview.mxd



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Planning & Community Development

STATE ENVIRONMENTAL POLICY ACT  
(SEPA)  
ENVIRONMENTAL CHECKLIST

***Purpose of Checklist:***

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

***Instructions for Applicants:***

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

*Public notice is required for all projects reviewed under SEPA. Please submit current Assessor's Maps/Mailing Labels showing:*

- Subject property outlined in red.
- Adjoining properties under the same ownership outlined in yellow.
- All properties within 500' of the subject property, with mailing labels for each owner.

**NOTE:** King County no longer provides mailing label services. Planning and Development Services can provide this for a fee or provide you instructions on how to obtain this information and create a mail merge document to produce two sets of mailing labels for your application.

***Use of Checklist for nonproject proposals:***

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply". IN ADDITION complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "propose," and "affected geographic area," respectively.

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY****A. BACKGROUND**

1. Name of proposed project, if applicable:  
Medical Marijuana Collective Gardens Development Code Amendments
2. Name of applicant:  
City of Shoreline, Paul Cohen - Project Manager
3. Address and phone number of applicant and contact person:  
17500 Midvale Ave N  
206 801 2551
4. Date checklist prepared:  
September 30, 2011
5. Agency requesting checklist:  
Planning and Community Development
6. Proposed timing or schedule (including phasing, if applicable):  
Planning Commission study, public hearing, and recommendations November 3 and 17, 2011. City Council adoption by January 18, 2012.
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.  
NA
8. List any environmental information you know about that has been prepared or will be prepared, directly related to this proposal.  
NA

8/2011

**17500 Midvale Avenue North, Shoreline, Washington 98133-4905**Telephone (206) 801-2500 Fax (206) 801-2788 [pcd@shorelinewa.gov](mailto:pcd@shorelinewa.gov)The Development Code (Title 20) is located at [mrsc.org](http://mrsc.org)



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**TO BE COMPLETED  
BY APPLICANT**

**EVALUATION FOR  
AGENCY USE ONLY**

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.  
NA

10. List any government approvals or permits that will be needed for your proposal, if known.  
State Dept. of Commerce 60-day review notice and adoption notice.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description).  
Amendments to the Development Code permitting medical marijuana collective gardens within parameters.

(See attached proposed amendment.)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.  
City-wide in MUZ, NB, O, CB, I, zones. Medical Marijuana Collective Gardens need 1,000 foot separate between other gardens and schools. Based on these parameters there is a unlikely potential of 18 collective gardens in addition to the 3 currently located in Shoreline (see attached map).

8/2011

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EVALUATION FOR  
AGENCY USE ONLYTO BE COMPLETED  
BY APPLICANT

## B. ENVIRONMENTAL ELEMENTS

## 1. Earth:

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other: NA
- b. What is the steepest slope on the site (approximate percent of slope).  
NA
- c. What general types of soils are found on the site (for example clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.  
NA
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so describe.  
NA
- e. Describe the purpose, type and approximate quantities of any filling or grading proposed. Indicate source of fill.  
NA
- f. Could erosion occur as a result of clearing construction or use? If so generally describe.  
NA
- g. About what percent of the site will be covered with hardscape after project construction (for example asphalt or buildings)?  
NA
- h. Proposed measures to reduce or control erosion , or other impacts to the earth, if any:  
NA

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY****2. Air:**

- a. What types of emissions to the air would result from the proposal (i.e. dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

NA

- b. Are there any off site sources of emissions or odor that may affect your proposal? If so, generally describe.

NA

- c. Proposed measures to reduce or control emissions or other impacts to air if any:

NA**3. Water:****a. Surface:**

1. Is there any surface water body on or in the immediate vicinity of the site (including year round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

NA

2. Will the project require any work over, in, or adjacent to (within 200') of the described waters? If yes, please describe and attach available plans.

NA

3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

NA

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AGENCY USE ONLY**

4. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities, if known.  
NA
  
5. Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.  
NA
  
6. Does the proposal involve any discharges of waste materials to surface waters? If so describe the type of waste and anticipated volume of discharge.  
NA
  
- b. Ground:**
  1. Will ground water be withdrawn or will water be discharged to ground water? Give general description, purpose and approximate quantities if known.  
NA
  
  2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals ...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.  
NA

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY****c. Water Runoff (including storm water):**

1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

NA

2. Could waste materials enter ground or surface waters? If so, generally describe.

NA

3. Proposed measures to reduce or control surface ground and runoff water impacts, if any:

NA**4. Plants:**

- a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

NA

- c. List threatened or endangered species known to be on or near the site.

NA

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY**

- d. Proposed landscaping use of native plants or other measures to preserve or enhance vegetation on the site if any:

NA**5. Animals:**

- a. Mark all boxes of any birds and animals which have been observed on or near the site or are known to be on or near the site:

Birds: hawk, heron, eagle, songbirds, other:Mammals: deer, bear, elk, beaver, other:Fish: bass, salmon, trout, herring, shellfish, other: \_\_\_\_\_

- b. List any threatened or endangered species known to be on or near the site.

NA

- c. Is the site part of a migration route? If so explain.

NA

- d. Proposed measures to preserve or enhance wildlife if any:

NA**6. Energy and Natural Resources:**

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc

NA

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

NA

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BY APPLICANT****EVALUATION FOR  
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- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts if any:

NA**7. Environmental Health:**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur a result of this proposal? If so describe.

NA

1. Describe special emergency services that might be required.

NA

2. Proposed measures to reduce or control environmental health hazards, if any:

NA**b. Noise:**

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

NA

2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

NA

3. Proposed measures to reduce or control noise impacts, if any:

NA

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TO BE COMPLETED  
BY APPLICANTEVALUATION FOR  
AGENCY USE ONLY**8. Land and Shoreline Use:**

- a. What is the current use of the site and adjacent properties?  
NA
- b. Has the site been used for agriculture? If so, describe  
NA
- c. Describe any structures on the site.  
NA
- d. Will any structures be demolished? If so, what?  
NA
- e. What is the current zoning classification of the site?  
NA
- f. What is the current comprehensive plan designation of the site?  
NA
- g. If applicable, what is the current shoreline master program designation of the site?  
NA
- h. Has any part of the site been classified as an “environmentally sensitive” area? If so, please specify.  
NA
- i. Approximately how many people would reside or work in the completed project?  
NA
- j. Approximately how many people would the completed project displace?  
NA

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BY APPLICANTEVALUATION FOR  
AGENCY USE ONLY

- k. Proposed measures to avoid or reduce displacement impacts, if any:  
NA
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:  
NA
9. **Housing:**
- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low income housing.  
NA
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing.  
NA
- c. Proposed measures to reduce or control housing impacts if any:  
NA
10. **Aesthetics:**
- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?  
NA
- b. What views in the immediate vicinity would be altered or obstructed?  
NA

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- c. Proposed measures to reduce or control aesthetic impacts, if any:

NA

**11. Light and Glare:**

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

NA

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

NA

- c. What existing off site sources of light or glare may affect your proposal?

NA

- d. Proposed measures to reduce or control light and glare impacts if any:

NA

**12. Recreation:**

- a. What designated and informal recreational opportunities are in the immediate vicinity?

NA

- b. Would the proposed project displace any existing recreational uses? If so, please describe.

NA

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY**

- c. Proposed measures to reduce or control impacts on recreation including recreation opportunities to be provided by the project or applicant if any:

NA**13. Historic and Cultural Preservation:**

- a. Are there any places or objects listed on or proposed for national, state or local preservation registers known to be on or next to the site? If so, generally describe.

NA

- b. Generally describe any landmarks or evidence of historic, archaeological, scientific or cultural importance known to be on or next to the site.

NA

- c. Proposed measures to reduce or control impacts, if any:

NA**14. Transportation:**

- a. Identify public streets and highways serving the site and describe proposed access to the existing street system. Show on site plans, if any:

NA

- b. Is site currently served by public transit? If not what is the approximate distance to the nearest transit stop?

NA

- c. How many parking spaces would the completed project have? How many would the project eliminate?

NA

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AGENCY USE ONLY

- d. Will the proposal require any new roads, streets or improvements to existing roads or streets not including driveways? If so, generally describe (indicate whether public or private).

NA

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

NA

- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

NA

- g. Proposed measures to reduce or control transportation impacts if any:

NA

## 15. Public Services:

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

NA

- b. Proposed measures to reduce or control direct impacts on public services, if any.

NA

## 16. Utilities:

- a. Mark all boxes of utilities currently available at the site:

electricity,  natural gas,  water,  refuse service,  
 telephone,  sanitary sewer,  septic system, other: NA

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TO BE COMPLETED  
BY APPLICANT

EVALUATION FOR  
AGENCY USE ONLY

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity that might be needed.  
NA

c. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Printed Name: Paul Cohen

Address 17500 Midvale Ave N

Telephone Number: (206)801 2551 Date Submitted 9/30/11

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SEPA Rules

TO BE COMPLETED  
BY APPLICANTEVALUATION FOR  
AGENCY USE ONLY**D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS  
(DO NOT USE THIS SHEET FOR PROJECT ACTIONS)**

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent of the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water/emissions to air/production, storage, or release of toxic or hazardous substances; or production of noise?  
Growing marijuana emits plant aromas considered pungent and distinctive.

Proposed measures to avoid or reduce such increases are:  
No measures to reduce smells are proposed.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?  
Very unlikely because marijuana gardens would have the same controls to avoid offsite impacts as a plant nursery.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:  
No measures are proposed beyond the city's existing measures to protect and conserve plant, animal, fish, and marine life.

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**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY**

3. How would the proposal be likely to deplete energy or natural resources?  
Marijuana gardens will likely require indoor grow lights, fertilizers, soil, and water. The addition of marijuana plants will increase oxygen production unless replacing existing plants.

Proposed measures to protect or conserve energy and natural resources are:

None

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?  
Unlikely to affect sensitive areas, etc. because marijuana gardens will only be allowed in commercial zones and existing environmentally critical area regulations will apply.

Proposed measures to protect such resources or to avoid or reduce impacts are:

None

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?  
The proposal would not likely affect land and shoreline use or be encourage incompatible uses.

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SEPA Rules

**TO BE COMPLETED  
BY APPLICANT****EVALUATION FOR  
AGENCY USE ONLY**

Proposed measures to avoid or reduce shoreline and land use impacts are:  
None.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?  
None above other uses that could locate there.

Proposed measures to reduce or respond to such demands(s) are:  
None are proposed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposed land use by itself would not conflict with local, state, and federal environmental laws.

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## **ReNOTICE - The City of Shoreline Notice of Public Hearing of the Planning Commission including SEPA DNS Process**

### **Amend the Development Code to Allow Medical Marijuana Collective Gardens in Compliance with State Bill 5073.**

The City of Shoreline has determined that the proposal will not have probable significant adverse impacts on the environment and expects to issue a SEPA Determination of Non-significance (DNS). The DNS process described in WAC 197-11-355 is being used. The City will not act on this proposal for at least 14 days from the date of issuance. This decision was made after review of the environmental checklist and other information on file with the City. The information is available to the public upon request at no charge.

**This may be your only opportunity to submit written comments, including comments on the environmental impacts of the proposal.** Written comments must be received at the address listed below before **5:00 p.m. November 23, 2011**. Please mail, fax (206) 801-2788 or deliver comments to the City of Shoreline, Attn: Paul Cohen - Senior Planner, 17500 Midvale Avenue North, Shoreline, WA 98133 or emailed to [pcohen@shorelinewa.gov](mailto:pcohen@shorelinewa.gov). Upon request, a copy of the SEPA checklist for this proposal may be obtained.

Interested persons are encouraged to provide oral and/or written comments regarding the above project at an open record public hearing. The **public hearing is scheduled for December 1, 2011 at 7 PM** in the Council Chamber at City Hall, 17500 Midvale Avenue N, Shoreline, WA.

Copies of the SEPA checklist and the proposed code amendments are available for review at the City Hall, 17500 Midvale Avenue North in the Planning and Community Development Department. There is no administrative appeal of this determination. The SEPA Threshold Determination may be appealed with the decision on the underlying action to superior court. If there is not a statutory time limit in filing a judicial appeal, the appeal must be filed within 21 calendar days following the issuance of the underlying decision in accordance with State law.

**Questions or More Information:** Please contact Paul Cohen, Planning & Community Development at (206) 801-2551.

Any person requiring a disability accommodation should contact the City Clerk at (206) 801-2230 in advance for more information. For TTY telephone service call (206) 546-0457. Each request will be considered individually according to the type of request, the availability of resources, and the financial ability of the City to provide the requested services or equipment.

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## **Memorandum**

**DATE:** December 1, 2011

**TO:** Shoreline Planning Commission

**FROM:** Steve Cohn, Senior Planner, Planning & Community Development *SC*  
Jessica Simulcik Smith, Planning Commission Clerk *JSS*

**RE:** Meeting Process and Bylaw Amendments

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### **BACKGROUND**

At its July 21 and October 6 meetings, the Planning Commission was presented with potential Bylaw amendments to review and discuss together as a group. Staff has taken the Commission's feedback and direction from both those meetings and incorporated them into the current version of potential amendments (Attachment A).

All potential amendments to the current adopted Bylaws are in strikethrough and underline format, and the amendments that are new since the Commission last reviewed them on October 6 appear in yellow highlight.

### **PROPOSAL & ANALYSIS**

At the October 6 meeting, the Commission asked staff to research and report back on several topics.

- Term limits for fulfilling a vacated position  
The Bylaws are currently silent on whether or not fulfilling a vacated term is counted towards a Commissioner's two consecutive term limit. Roberts Rules of Order 11<sup>th</sup> Edition (RONR) states that bylaws should set a provision for how long an officer can serve and "for purpose of determining eligibility to continue in office under such a provision, an officer who has served more than half a term is considered to have served a full term in that office." This means a Commissioner fulfilling a vacated position during the third or fourth year into that term would be eligible for two more consecutive four-year terms (total service of 9 to 10 years). However, a Commissioner fulfilling a vacated position during the first or second

year into that term would only be eligible for one more consecutive four-year term (total service of 6 to 8 years). This does not address whether or not a person could serve two consecutive terms and then reapply several years down the road. Presumably that would be a possibility.

There was also discussion of the value in exempting an individual from the two consecutive term limit when the Planning Commission is in the middle of a complex project where continuity, experience and expertise would be sacrificed by turn-over. The City Council is responsible for making a decision on term limits and has made an exception in the past. In 2007, Council amended SMC 20.55 to allow Park Board members the opportunity to serve three consecutive four-year terms (ORD 458) for just that reason. If the Commission believes that there would be merit in having one person serve longer than two terms due to special circumstances, it could make a recommendation, but Council would need to amend SMC 20.20 prior to the Bylaws being amended.

- Summary Minutes

During the parliamentary procedure training in September, the Commission was advised that RONR calls for minutes that contain mainly a record of what was done at the meeting, not what was said by the members. RONR goes on to state that minutes should only include the text of main motions as they stood when finally voted on, and should not include the text of secondary motions, withdrawn motions, the name of the seconder, summaries of guest speakers' remarks, contents of the report of officers or committees or voting tallies that indicate who was in the minority or abstained – all things the Planning Commission minutes currently record.

With all of this being said, there is nothing requiring the Commission to change its practices to mirror these principles exactly. Staff agrees that it is a good idea for public hearing minutes to include more detail than the rest of the minutes so the Council has a record of the thought process that led to the Commission's recommendation. Staff suggests that the Commission discuss these ideas with the City Council to find out what its preference is.

- Open Public Meetings Act

Commissioners expressed a desire to have new Planning Commissioners attend training sessions on the statutes they are required to comply with, such as the Open Public meetings Act - Chapter 42.30 RCW, Code of Ethics for Municipal Officers -Chapter 42.23 RCW, and the Appearance of Fairness doctrine - Chapter 42.36 RCW. There are two ways to accomplish this: as new Commissioners come on board, staff will provide them with hard-copies and a brief overview of the chapters; and staff will also strongly encourage new Commissioners to attend a Short Course on Local Planning when one has been scheduled. Short Courses are offered several times a year throughout the region and can be accessed online in a series of educational videos.

- Unfinished Business/New Business

The observation was made that items rarely get inserted under “unfinished business” and “new business” therefore the question arose, what are they for? RONR states unfinished business is to consider pending items of business carried over from the previous meeting. This would include items that were being deliberated when the meeting adjourned, and items that were scheduled on the agenda but were not reached before adjournment. Because the Planning Commission’s agenda template has an item for Staff Reports (Item 7), staff’s general practice has been to insert items under Staff Reports regardless of its “unfinished” or “new” business status. Staff suggests that the Commission divide the Staff Reports Item into two items, Public Hearings and Study Items, and also keep Unfinished Business and New Business as items that follow. The criteria for inserting topics under its appropriate agenda topic are:

- Public Hearings – topics of legislative decisions on matters of policy that require public input. Public Testimony follows the staff report and questions by the Commission.
- Study Items – topics being introduced to the Commission for review prior to a public hearing. The Commission should not take votes on anything during this session but are encouraged to provide staff with direction. A public comment period will follow each staff report.
- Unfinished Business – this technically would be the place where pending questions (motions) from a public hearing continuation would be brought up at the next meeting. Most of the time the Commission does not close the public hearing portion until after it has finished voting which is why these types of continuations have not been inserted under this section. Under staff’s new proposal, public hearing continuations and study sessions would be inserted under their new corresponding categories. However, staff recommends keeping unfinished business (in the Bylaw’s order of business) for when there is a pending question that needs to be brought up at the next meeting after the public hearing has been closed.
- New Business – discussion items, updates and other miscellaneous information that would not go to public hearing will be introduced under this item. Officer Elections take place under new business. Other items could be work plan discussions, work on the annual report to City Council or discussion of the Bylaws and process. If one of these items needed to be continued, it would be identified as unfinished business at the next meeting.

- Handling written testimony

The Commission talked about the challenge of how to thoughtfully review written testimony/material when it is submitted the day of or during a public hearing. The Commission agreed it will accept written testimony during the hearing but would like to decide on a case-by-case basis on how to process it, i.e. take a recess to read it, continue the item to the next meeting to have time to process the testimony, etc. The City’s Attorney’s Office will provide thoughts on this matter

prior to the Commission's discussion. Staff will email it to you when we receive it.

The Commission expressed an interest in having staff add language to the public hearing notice to emphasize the importance of submitting written testimony in advance.

- Abstentions  
The Bylaws currently state "Present members may abstain for cause", which caused some confusion on the meaning of "for cause". The Commission requested that staff look up how abstentions are supposed to be utilized under RONR. The rules state: "Although it is the duty of every member who has an opinion on a question to express it by his vote, he can abstain, since he cannot be compelled to vote." RONR also says the chair should not call for abstentions because to abstain means to not vote at all and calling for abstentions is asking someone to make their vote. Traditionally the Planning Commission minutes have indicated the vote tally, which is not recommended by RONR. Staff is recommending the words "for cause" be struck from the Bylaws.
- Individual Commissioners representing themselves  
On October 6, the Commission ran out of time to discuss how a Commissioner should handle their personal opinions when it differs from the recommendation of the Commission. It was agreed to carry the topic over to a future meeting. In a separate document, Commissioner Kaje offered a few scenarios where this situation could come into play. The Assistant City Attorney has reviewed the scenarios and has offered guidance (Attachment B).

### **RECOMMENDATION**

On December 1, the Commission will further discuss these topics and proposed amendments and may take action on them if it feels ready.

### **ATTACHMENTS**

Attachment A – Potential Planning Commission Bylaw Amendments, Nov. 3, 2011  
Attachment B – Commissioner Kaje's "Scenarios" and Assistant City Attorney Response





## PLANNING COMMISSION BYLAWS

Adopted: February 15, 1996, Revised: November 6, 1997, Revised: October 15, 1998,  
Revised: January 18, 2001, Revised: April 5, 2001, Revised: April 3, 2003, Revised: April 7,  
2005, Revised: March 16, 2006, Revised: May 1, 2008, Revised: October 1, 2009, Revised:  
March 18, 2010, **Revised: December 1, 2011**

### ARTICLE I – PURPOSE

The purpose of the Planning Commission is as set forth in City of Shoreline Municipal Code 2.20.10, Created – Purpose.

### ARTICLE II - MEMBERSHIP

The Shoreline Planning Commission shall consist of seven (7) members, appointed by majority vote of the City Council but a fewer number, not less than four (4), shall constitute a lawful Commission.

Membership of the Planning Commission shall be limited to residents or owners of property within the City. No member shall serve longer than two consecutive terms, however

#### Potential Options

Option 1) Commissioners who fulfill a vacated term are eligible to apply for reappointment for two additional consecutive terms.

Option 2) Commissioners who serve less than two years of a vacated term are eligible to apply for reappointment for two additional consecutive terms.

New Planning Commissioners shall be sworn in by the Mayor or Deputy Mayor or the designee.

Any Commissioner desiring to resign from the Planning Commission shall submit his/her resignation in writing to the Planning Commission Clerk, who will present it to the Chair.

Vacancies occurring other than through the expiration of terms shall be filled for the unexpired terms in the same manner as for appointments as provided in Shoreline Municipal Code 20.20.020(C).

**Comment [j1]:** 10/6 - PC questioned if time spent fulfilling a vacated term would count towards the two consecutive term limit. The Bylaws are currently unclear about it. PC asked for two potential options to discuss further.

*RONR 11<sup>th</sup> ed. P. 575* states: "For purposes of determining eligibility to continue in office under such a provision, an officer who has served more than half a term is considered to have served a full term in that office."

**ARTICLE III - DUTIES OF THE COMMISSION, OFFICERS AND ~~DUTIES~~ CLERK**

**SECTION 1: DUTIES OF THE COMMISSION**

As stated in City of Shoreline Municipal Code 2.20.020, the Commission shall undertake the duties and responsibilities defined in 2.20.060 in accordance with the purpose stated in 2.20.010.

**SECTION 2: OFFICERS**

Officers shall be a Chair and a Vice-Chair; both ~~elected~~ appointed members of the Commission and voted into office by the Commission. In absence of both the chair and vice chair, members shall elect a Chair *pro tem*.

**SECTION 3: DUTIES OF THE OFFICERS**

CHAIR: The Chair shall preside at all meetings and public hearings and adhere to the duties of the presiding officer prescribed in Robert's Rules of Order Newly Revised. ~~When necessary, the Chair shall call for special meetings when necessary.~~ The Chair shall be a full voting member of the Commission. The Chair shall ~~sign minutes and official papers,~~ appoint all committees and their respective Chairs, and may act as an *ex-officio* member of each, but without voting privileges. The Chair may delegate duties to other Commissioners with the consent of the Commission. The Chair shall speak on behalf of the Commission before the City Council, the public and City staff.

A term of Office shall be defined as one year. A Commissioner may serve as Chair for no more than two consecutive terms.

VICE CHAIR: The Vice Chair shall perform the duties of the Chair in the absence of the same. The Vice Chair may also serve as convener of special committees. The Vice Chair shall speak on behalf of the Commission before the City Council, the public and City staff when the Chair is not available to speak.

A term of Office shall be defined as one year. A Commissioner may serve as Vice Chair for no more than two consecutive terms.

**SECTION 4: DUTIES OF THE CLERK OF THE COMMISSION**

CLERK OF THE COMMISSION: The Clerk shall record and retain, by electronic means, each meeting for the official record and shall prepare summary minutes for the Commission, maintain official records and post agendas.

**ARTICLE ~~III~~ IV - ELECTIONS**

The Commission shall elect a Chair and a Vice Chair each year. Generally, officers shall be elected and take office annually at the first regular public meeting of the Commission in April.

Such election shall take place as the first item of new business of that meeting, and elected officers shall assume their duties at the close of elections.

The election of Chair will be conducted by the Planning Commission Clerk. No one Commissioner may nominate more than one person for a given office until every member wishing to nominate a candidate has an opportunity to do so. Nominations do not require a second. The Clerk will repeat each nomination until all nominations have been made. When it appears that no one else wishes to make any further nomination, the Clerk will ask again for further nominations and if there are none, the Clerk will declare the nominations closed. A motion to close the nominations is not necessary.

After nominations have been closed, voting for the Chair takes place in the order nominations were made. Commissioners will be asked to vote by a raise of hands. As soon as one of the nominees receives a majority vote (four votes), the Clerk will declare him/her elected. No votes will be taken on the remaining nominees. A tie vote results in a failed nomination. If none of the nominees receives a majority vote, the Clerk will call for nominations again and repeat the process until a single candidate receives a majority vote. Upon election, the Chair conducts the election for Vice Chair following the same process.

Should the Chair be vacated prior to the completion of the Term, the Vice-Chair shall assume the duties and responsibilities of the Chair for the remainder of the said Term. The Chair shall then conduct elections for a new Vice-Chair.

Should the Vice-Chair be vacated prior to the completion of the Term, the Chair shall conduct elections for a new Vice-Chair to serve out the remainder of the Term.

Time spent fulfilling a vacated Term shall not count towards the two consecutive Term limit for Chair and for Vice-Chair.

#### ARTICLE IV – MEETINGS

All Planning Commission meetings shall comply with the requirements of the Open Public Meetings Act (Chapter 42.30 RCW). All meetings shall be noticed and open to the public.

##### **SECTION 1: SCHEDULE**

The Planning Commission shall hold regular meetings according to the following schedule:

First and Third Thursday of each month. The meetings shall begin at 7:00 p.m. ~~and end at 9:30 p.m.~~ unless modified. Should a regular meeting day be a legal holiday, the scheduled meeting shall be postponed to the succeeding Thursday, unless a majority of the Commission votes to select another day or to cancel the meeting.

Special meetings may be held by the Commission subject to notice requirements prescribed by State law. Special meetings may be called by the Chair of the Commission, the City Council or Mayor, City Manager or designee, or by the written request of any three (3) Commissioners by

written notice emailed or delivered to each member of the Commission at least 24 hours before the time specified for the proposed meeting.

Any Planning Commission meeting may be canceled by a majority vote or consensus of the Commission. The Chair or Vice Chair may cancel a Planning Commission meeting for lack of agenda items or a quorum.

**SECTION 2: PURPOSE OF SPECIAL MEETINGS**

Special meetings called in accordance with Section 1 of this article shall state the subjects to be considered, and no subject other than those specified in the notice shall be considered. No special meetings shall be scheduled between December 15th and the end of the year. The agenda for a special meeting need not conform to that specified in Section 3 of this Article.

**SECTION 3: ORDER OF BUSINESS**

**Option 1)** The order of business for each **regular** meeting of the Commission shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. DIRECTOR’S COMMENTS
5. APPROVAL OF MINUTES
6. GENERAL PUBLIC COMMENT
7. **STAFF REPORTS/PUBLIC HEARINGS\***
  - Staff Presentation
  - Public Testimony
8. **STUDY ITEMS\***
  - Staff Presentation
  - Public Comment
- ~~8. PUBLIC COMMENT~~
9. DIRECTOR’S REPORT
10. UNFINISHED BUSINESS
11. NEW BUSINESS
12. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
13. AGENDA FOR NEXT MEETING
14. ADJOURNMENT

**Comment [j2]:** Separate Public Hearings and Study Items to better differentiate between the two

The order of business for each meeting that includes a **Public Hearing** shall be as follows:

- ~~1. CALL TO ORDER~~
- ~~2. ROLL CALL~~
- ~~3. APPROVAL OF AGENDA~~
- ~~4. DIRECTOR’S COMMENTS~~
- ~~5. APPROVAL OF MINUTES~~

\*Each item inserted under 7 & 8 will have a staff presentation followed by a public testimony/comment period

- 6. GENERAL PUBLIC COMMENT
- 7. PUBLIC HEARING
- 8. DIRECTOR'S REPORT
- 9. UNFINISHED BUSINESS
- 10. NEW BUSINESS
- 11. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
- 12. AGENDA FOR NEXT MEETING
- 13. ADJOURNMENT

**SECTION 4: PUBLIC COMMENT AND TESTIMONY**

~~Planning Commission meetings allow the public to express its views. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Each speaker must begin by clearly stating their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak.~~

~~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, Item 6 (the General Public Comment period) will generally be limited to 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.~~

~~During Public Hearings, the public testimony or comment follows the Staff Report. The rules for procedure for Public Hearings before the Planning Commission are further defined in Resolution No. 182.~~

Planning Commission meetings allow the public to express its views during three comment periods: "General Public Comment", "Public Hearing Testimony" and "Study Item Public Comment".

During General Public Comment, the Planning Commission will take public comment on any subject which is not specifically scheduled later on the agenda. During Public Hearings and Study Sessions, public testimony/comment follows the presentation of each staff report and initial questions by the Commission. The rules for procedure for Public Hearings before the Planning Commission are further defined in City Council Resolution No. 182.

In all cases, speakers are asked to come to the podium to have their comments recorded. Each speaker must begin by clearly stating their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Generally, individuals may speak for three minutes or less, depending on the number of people wishing to speak. If more than 10 people are signed up to speak for any of the comment periods, each speaker will be allocated 2 minutes.

When representing the official position of an agency or City-recognized organization, a speaker will be given 5 minutes. Each organization shall have only one, five-minute presentation.

**Comment [j3]:** After discussion on 10/6 – the Commission agreed to continue with three separate comment periods but reorganize the Bylaws to better explain them and their time limits.

**Comment [j4]:** Now that staff is proposing to separate Public Hearings and Study Items in the order of business template, the following paragraph has been reworked.

## ARTICLE VI - RULES OF MEETINGS

### SECTION 1: ABSENCES

~~Unexcused~~ Absence from more than three (3) consecutive meetings ~~shall~~ may be cause for removal. Members shall communicate with the Chair of the Commission or the Vice Chair or the Planning & Community Development Services Director ~~prior to the meeting~~ with requests for excused absences in the event they will miss three or more consecutive meetings. Emergency requests may be considered. The Chair of the Commission may approve the ~~excused~~ absence.

### SECTION 2: QUORUM

At all Planning Commission meetings, ~~The~~ the presence of four (4) members constitutes a quorum, and is required for the Commission to take any action other than to adjourn.

### SECTION 3: RULES OF PROCEDURE

The current edition of Robert's Rules of Order Newly Revised shall provide the basis for meeting structure and official decisions shall be made by motion and vote of the Commission.

### SECTION 4: VOTING

In instances where a vote is called for or required, the present majority is sufficient to act (providing a quorum is present). Each member shall have one vote and no proxies shall be allowed. Present members may abstain ~~for cause~~. The Chair may vote on any issue, and shall vote in the event of a tie. No action is taken if the Chair votes and the tie continues. A majority vote shall carry, and minority opinions shall be formally registered in the summary minutes and reported to the City Council.

### SECTION 5: ADJOURNMENT / RECESSES / CONTINUATIONS

Meetings shall be adjourned by a majority vote of the Commission or by the Chair when it appears that there is no further business.

The Commission may, by a majority vote, recess for a short break. The proposal to recess may set a time limit or can be until the Chair calls the meeting back to order.

Comment [J5]: The section title has "Recesses" in it but doesn't talk about them. Staff is proposing the underlined language.

Continuations of meetings shall be to a definite time and place, by majority vote of present members.

## ARTICLE VII – COMMITTEES

Committees may be appointed by the Commission Chair. Standing committees shall serve at the pleasure of the Commission and special committees shall also serve for such purposes and terms as the Commission approves. Committees shall establish their own meeting schedule, and the deliberations thereof shall take the form of written reports, submitted to the entire Commission.

**NEW ARTICLE**

Planning Commissioners who meet with, speak to, or otherwise appear before a community group or another governmental agency or representative must clearly state if his or her statement reflects their personal opinion or if it is the official stance of the Planning Commission, or if this is the majority or minority opinion of the Commission.

**Comment [j6]:** On 10/6, the Commission decided to carry the discussion on how a Commissioner should handle their personal opinions when it goes against the official recommendation of the Commission to a future meeting.

As a matter of courtesy, written communication that does not express the majority opinion of the Planning Commission shall be presented to the full Planning Commission prior to publication so they may be made aware of it.

**ARTICLE VIII - CONFLICT OF INTEREST CODE OF ETHICS**

~~The Chair shall routinely ask members if they have a conflict of interest with any quasi-judicial item on the agenda. Such conflict(s) must be publicly announced at the earliest possible opportunity, and the member shall step down during the particular case(s), neither deliberating nor voting on same.~~

Members of the Planning Commission shall fully comply with Chapter 42.23 RCW, Code of Ethics for Municipal Officers, and City Council Resolution No. 170, City of Shoreline Code of Ethics.

**ARTICLE VIII-IX - APPEARANCE OF FAIRNESS**

**Comment [j7]:** On 11/28, the Council is scheduled to adopt the Commission's recommendation to send all QJ Items to the Hearing Examiner, and then there will not be a need for this article.

The members of the Planning Commission in considering quasi-judicial matters, shall maintain the appearance of fairness as required by Chapter 42.36 RCW~~law~~. The Chair shall routinely ask members if they have a conflict of interest with any quasi-judicial item on the agenda. Such conflict(s) must be publicly announced at the earliest possible opportunity, and the member shall step down during the particular case(s), neither deliberating nor voting on same.

**ARTICLE IX - AMENDMENTS**

These Bylaws may be amended or repealed and new Bylaws may be adopted at any regular meeting or special meeting by a majority vote of the membership. A copy of the proposed Bylaws, or amendments thereto, shall be furnished to each member at least three (3) days prior to the date of the meeting. All amendments to the Bylaws shall be submitted to the Mayor and City Council for their information.

It is hereby understood that the undersigned Clerk of the Planning Commission does hereby certify that the above and foregoing Bylaws were duly adopted by the members of the Commission as the Bylaws of the Commission on the 18th ~~1st~~ day of ~~March~~

| December 20102011, and that they do now constitute the Bylaws  
of the City of Shoreline Planning Commission.

\_\_\_\_\_  
Jessica Simulcik Smith  
Clerk, Planning Commission

**SIGNED BY:**

\_\_\_\_\_  
Michelle Linders Wagner  
Chair, Planning Commission

\_\_\_\_\_  
Joseph W. Tovar  
Planning & Community Development ~~Services~~ Director



*Scenarios, offered by Commissioner Kaje*  
Assistant City Attorney offers guidance in bullet points below

***Scenario 1: Following a decision by the Commission on matter X, an individual commissioner testifies against all or part of that decision in front of city council, nominally "as a private citizen". While we probably can't ban this type of practice, I believe it should be highly discouraged as it undermines the integrity of the Commission and its mode of decision-making. So, we could craft some language about this and pair it with the idea that dissenting views should be clearly represented in the Commission's records so that the Council can benefit from that insight.***

- The minutes will reflect dissenting views. They will have discussion and the vote. The dissenter should take care to explain very clearly why he/she does not agree with the Commission's overall vote.
- The proposed new bylaw requires that any dissenting views need to be given to the Commission before publication (letter to the editor, etc).
- As for oral testimony, it would be difficult to require the dissenting Commissioner give a written heads-up to the Commission prior to testifying, since they will be orally testifying, not submitting it in writing.
- They cannot be restricted from testifying in front of Council (chilling freedom of speech); the bylaw makes it clear that they need to state this is their position, not the position of the Commission.

***Scenario 2: A Commissioner is invited to a community meeting of some kind or to participate in a neighborhood planning process (such as the Southeast Subarea). The invitation is made specifically because that person is on the Commission, or perhaps even requested by staff. In my view, this is a very positive thing, but any Commissioner who does so should clearly state that their views and perspectives are their own and not reflective of the broader Commission. A Commissioner in this scenario should not participate in voting or selection of alternatives and the like within that group. If a Commissioner assumes a more active role in decision making, then she/he should recuse themselves from subsequent Commission action.***

- Yes, the Commissioner should state at the planning meeting that these are their views.
- But, the Commission should not recuse themselves from Commission participation in a legislative action (such as a subarea) – Commissioners have a duty to participate in all planning processes in front of the Commission.
- State law only requires recusal for quasi-judicial matters, such as a site specific rezone (Aldercrest) due to appearance of fairness issues. Recusal is also required where a Commissioner has a financial conflict of interest re a matter on which they vote.

***Scenario 3: Following a decision by the Commission on matter X, staff requests clarification of intent from the Commission to help inform Council (our recent example related to Town Center). This is a tricky one. I wouldn't want to ban this outright, but it should only be done in a way that provides opportunity for Commissioners to agree on the interpretations that are offered. This would require at***

*Scenarios, offered by Commissioner Kaje*

Assistant City Attorney offers guidance in bullet points below

*least a bit of lead time. As Commissioner Behrens pointed out, a unanimous vote does not mean unanimous interpretation. Perhaps the chair could appoint an adhoc subcommittee of 2 commissioners to draft a response, followed by an opportunity for all commissioners to weigh in or offer their clarifications. Obviously, this would have to be on a short time line with clear deadlines for participation.*

- Clarification of intent should be written by staff, not the Commission. Once the Commission has decided something, the record of the Commission is complete and forwarded to Council, with the recommendation.
- Forming a committee to determine intent should not occur; if the Council is confused and does not understand the intent or does not see that the Commission dealt with a certain issue, the Council remands back to the whole Commission for deliberation.