

PLANNING COMMISSION FINDINGS AND RECOMMENDATION
CITY OF SHORELINE, WASHINGTON

Echo Lake Rezone File No. 201372
19250 Aurora Avenue North

Summary-

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

I. FINDINGS OF FACT

1. Project Description-

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

There are approximately 100 living units which have been described as affordable units, which amounts to approximately 15 units per acre. The main access to the site slopes down from Aurora approximately 15% from the former restaurant and the car dealership toward the trailer park. Near the eastern boundary where the property abuts the inter-urban trail there is an abrupt 10 – 20 foot grade change up to the trail. There are about 75 significant trees on site.

- 1.7 **Neighborhood:** The project site is located in the Echo Lake Neighborhood. Access to the property is gained from Aurora Ave. N (State Highway) and N. 192nd Street (a residential street). To the north of the RB-zoned portion of the site is high density development and zoning. There is a small strip of lakeside single-family development abutting the far northeastern corner of the property which is zoned R-6, Residential, 6 units per acre. Along the eastern border of the site runs the inter-urban trail, and beyond that is single-family development and zoning. The Metro Transit Center is less than one-half mile up the trail to the north. To the west is commercial development along Aurora; across Aurora is the Metro Park and Ride facility with a bus stop. The parcel to the southwest of the site is commercially developed and is zoned I, Industrial. To the southeast is single-family development with low to medium density zoning.

2. Procedural History-

- 2.1 Planning Commission meeting for deliberation on the rezone May 19, 2005.
- 2.2 Public hearing held by the Planning Commission on the rezone with joint SEPA Appeal hearing held by the Hearing Examiner May 4 and 5, 2005.
- 2.3 Public hearing held on the site-specific Comprehensive Plan amendment by the Planning Commission: April 14, 2005
- 2.4 SEPA Determination for the rezone appealed March 2, 2005
- 2.5 Notice of Public Hearing and SEPA Threshold Determination: February 15, 2005.
- 2.6 End of 14 day Public Comment Period: February 4, 2005
- 2.7 Notice of Application & Preliminary SEPA Threshold Determination for combined action:* January 20, 2005
- 2.8 Complete Application Date: January 14, 2005
- 2.9 Application Date: December 30, 2004
- 2.10 Neighborhood meeting Date: December 8, 2004
- 2.11 Pre-Application Meeting Date: August 20, 2004

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

ORIGINAL

Public Comment-

Issues commented upon included adequacy of infrastructure, the Echo Lake and wetland environment, a piped watercourse under the project site, displacement of low-income housing units, historic preservation, traffic impacts, privacy issues, public access and vermin abatement. Much of the public support for this project was based in part on the expectation of public access to the lake. The following people commented on the project:

Donna Nicholls-
Riegelhuth
Virginia Paulsen, Ph.D
Tracy Tallman
Barbara Lacy
Ann K. Wennerstrom
Elizabeth Mooney
Kevin S. Reeve
Guy Olivera
Donn Charnley
Janet Way
Shoreline Merchants
Association
Eileen Dunnihoo
Cindy Ryu
Brian Derdowski
MichelleGriffith

Kevin M. Gadzuk
Anita Smith
Harley O'Neil , Echo Lake
Associates
Michael Trower, Catapult
Community Development
Tim Smith
Dale & Norma Hanberg
Randy Hoverson
Lori Hozjan
Marci Hanberg
Lacey O'Neil
Evan Voltsis
Lindsay & Franco
Sanagustin
Caralee Cook
Traci Gradwohl

Pawel & Elzbieta Kutek
Cindy Williamson
Forward Shoreline
Stephen J. Dunn
Tim & Patty Crawford
Pearl Noreen
Bob & Pat Scott
Ken Lyons
Mike Marinella
Marlin Gabbert
Michelle McFadden
Jim Abbott
Dave Conlon
Peter Henry
Carol Murrin

SEPA Determination-

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

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

ORIGINAL

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

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

Wildlife. There are a number of animal species that are found on-site and supported by the lake. Many species of birds are found there, including waterfowl (ducks, cormorants, heron), hawks, osprey, eagle and numerous songbirds. Also in the lake are frogs and turtles. The lake is regularly stocked with trout that provide food for the birds as well as recreational value. Raccoons and opossums are often seen.

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

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

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

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

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

The main access to the site areas will be off of N. 192nd St. In addition, there will be two driveways off of Aurora Ave. N. It is expected that one of these driveways will be right turn only in and out. Exact configuration of the traffic and circulation patterns will be analyzed in further detail at the time of site development. Frontage improvements will also be required for this project at the time of site development, both along Aurora Ave. N. and N. 192nd Street. These improvements will include sidewalk, curb and gutter and amenity zone.

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

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

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

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

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

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

Historic Home. The site contains an historic house. The Weiman House, built in 1924 in the colonial revival style, is not on the state or national registry of historic landmarks, nor is it considered to be eligible for registry. In 1947, the property was sold to C.B. McNaughton who built resort cabins on the acreage. The cabins were removed in the

early 1960s when the McNaughtons started the Holiday Resort and Trailer Park, which still occupies the surrounding six acres. Construction of this trailer park, including the siting of trailers immediately adjacent to the building, has altered the historic lakeside setting of the house. Further, there have been moderate to extensive changes to the physical appearance of the house, including the floor plan, windows and original cladding.

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

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

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

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

Tree Removal. There are a number of significant trees located on the subject site. The SMC requires retention of at least 20% of the significant trees (SMC 20.50.350(B)(1)), with certain exceptions. The site design for a typical development proposal would also

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

Aesthetics and Land Use. The RB zoning district has a building height limit of 65 feet, while the R-48 zone has a 35-foot base height limit that can be increased to 60 feet under certain circumstances (see page 3, table, with footnote). This may have some impact on the single-family properties to the east of the project site, although this is somewhat offset by the lower grade of the project site. A concern has been raised that the open space area around the lake, being on the north side of the property, may be darkened by the large buildings. This is somewhat mitigated by site design that breaks up the development into four separate buildings with open space in the middle. Also, a condition requiring solar access is proposed.

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

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

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

5. Consistency-

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

Rezone criteria (SMC 20.30.320(B))

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

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

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

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

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

Critical Areas 20.80
Dimensional and Density Standards 20.50.010-20.50.050
Parking Access and Circulation 20.50.380-20.50.440
Wastewater, Water Supply and Fire Protection 20.60.030-20.60.050
Surface and Stormwater Management 20.60.060-20.60.130

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

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

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

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

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

Conditions added regarding public access are reflected in Comprehensive Plan policies that were in place at the time of purchase of the property by the owner. These requirements should not impose a burden on the property owners or developers in that the site plan shows adequate room to accommodate public access.

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

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

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

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

The impetus for the amendment is the "split-zoning" condition wherein different land use rules apply for each portion of a single property. The purpose of the amendment is to provide for an effective layout of a mixed use development, not to increase the overall intensity/density of development allowed on the property under the current zoning. The amendment allows for the effective mixed—use development of the site, responding to

the need for vehicular access and natural constraints, which would be much more difficult with the split-zoning. The redeveloped parcel will increase housing, employment and economic development for the community.

II. CONCLUSIONS

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

III. RECOMMENDATION

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

City of Shoreline Planning Commission



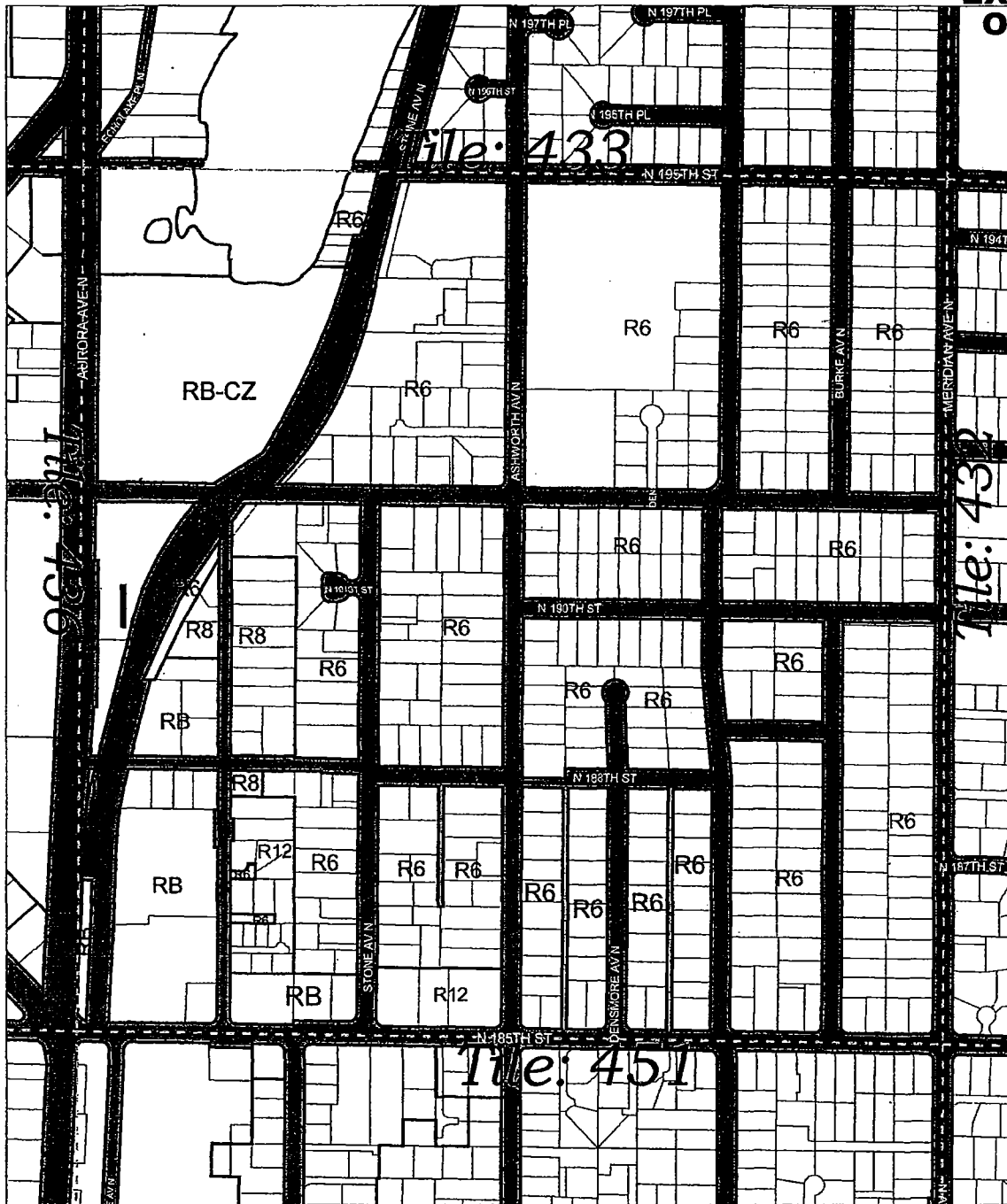
David Harris, Planning Commission Chair

5/26/2005

Date

JANUARY 1900

**EXHIBIT B
ORD. 389**



SHORELINE

GEOGRAPHIC INFORMATION SERVICES

**City of Shoreline
Zoning**

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

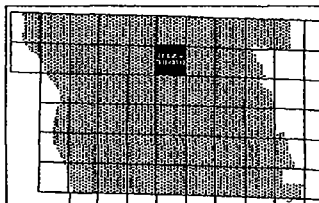
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Legend

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

- Map Index Line
- Parcel Line
- Zone District Boundary
- City Boundary
- Unclassified ROW
(Does not appear shown for this map)

Map Index Locator



0 100 200 300 400 Feet

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product.

**CONCOMITANT REZONE AGREEMENT AND
COVENANT RUNNING WITH THE LAND**

Contract Zone No. RB-CZ-05-01

This Concomitant Rezone Agreement and Covenant (hereinafter "Covenant") dated _____, 2005, by and between the City of Shoreline, Washington, a municipal corporation (hereinafter "City"), and Echo Lake Associates (hereinafter "Owners").

RECITALS

A. Owners are the owners of real property located in King County legally described as:

TRACTS 2 AND 3 AND LOT J OF TRACT 4, ECHO LAKE GARDEN TRACTS, DIVISION 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS, PAGE 19, RECORDS OF KING COUNTY;
EXCEPT THAT PORTION THEREOF CONVEYED TO THE SEATTLE-EVERETT TRACTION COMPANY FOR RIGHT OF WAY PURPOSES BY DEEDS RECORDED UNDER AUDITOR'S FILE NOS. 658621 AND 633047;
EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR STATE ROAD NO. 1, BY DEEDS RECORDED UNDER AUDITOR'S FILE NOS. 2173685 AND 2173657, RECORDS OF KING COUNTY, WASHINGTON.

(Hereafter described as "Property").

- B. Owner has applied to rezone the Property from its current zoning, to Contract Zone, consistent with the Comprehensive Plan adopted by the City pursuant to the Growth Management Act (RCW Ch.36.70A).
- C. The City has conditionally approved the rezone application provided the Property is developed under conditions and limitations, which shall be considered as a qualification to the City's zoning designation.

NOW THEREFORE, the City and Owners agree as follows:

1. **Title.** Owners are the sole and exclusive owners of the Property described above.
2. **Covenant.** Owners covenant and agree, on behalf of themselves and their successors and assigns, that during the entire period that the Property is zoned RB-CZ-05-01, the Property will be developed only in accordance with this Covenant and subject to the conditions provided herein. The Owners specifically agree that this Covenant touches, concerns, enhances, benefits and runs with the Property.

ORIGINAL

Concomitant Rezone Agreement - Contract Zone No. RB-CZ-05-01

3. **Uses.** The Owners or their successors may construct a mixed use development on the Property subject to the conditions recited in Exhibit C-1 attached hereto.
4. **Binding Effect.** This Covenant shall remain in full force and effect, and be binding upon the Owners and their successors and assigns until 1) amended, modified or terminated by an ordinance adopted by the Shoreline City Council, 2) Owners fail to file a complete building permit application within three (3) years of the effective date of recording this covenant, or 3) Owners of all interest in the property file a written declaration with the City that they wish the Property to revert to the RB and R-48 land use designations existing immediately prior to passage of Ordinance No. 389 or such other default zoning as may have been adopted by the City Council for the Property subsequent to this agreement. Obligations contained herein shall be enforceable against all such successors and assigns.
5. **Filing.** A copy of this covenant will be filed for record with the King County Records and Elections Division.
6. **Remedies.** Violations of this Covenant shall be enforced by the City according to enforcement procedures applicable to zoning code violations.
7. **Attorney Fees.** In the event that legal action is commenced to enforce or interpret any revision of this Covenant, including any appeal thereof, the substantially prevailing party shall be entitled to its costs including reasonable attorney's fees.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date first above written.

OWNER(s)

CITY OF SHORELINE

Steve Burkett, City Manager

APPROVED AS TO FORM:

Ian Sievers, City Attorney

STATE OF WASHINGTON)

COUNTY OF KING)

) ss.

I certify that I know or have satisfactory evidence that Harley O'Neil, representing Echo Lake Associates appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: _____

By: _____

Notary Public in and for the State of Washington
residing at _____
My commission expires _____

STATE OF WASHINGTON)

COUNTY OF KING)

) ss.

I certify that I know or have satisfactory evidence that Steve Burkett, representing the City of Shoreline, appeared before me, and said person acknowledged that he signed this instrument and acknowledged it as the City Manager of City of Shoreline to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: _____

By: _____

Notary Public in and for the State of Washington
residing at _____
My Commission expires _____

EXHIBIT C-1
Ordinance No. 389

NOTE: For reference, the origin of the condition is listed in brackets after each condition, be it from the originally proposed staff conditions from the May 4 & 5 Planning Commission staff report, alternate conditions suggested by the applicant in a letter dated 3/28/05, the set of conditions contained in the agreement between the parties in the appeal (5/4/05), or a combination. The conditions were then further refined by the Planning Commission during their deliberations on May 19, 2005, and their changes to conditions are shown in legislative markup with additions underlined and deletions in ~~strikethrough~~

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

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

1. This Contract Rezone Agreement must be ratified by all parties and recorded against the properties in order to be a valid agreement. (Staff and O'Neil, 3/28/05)
2. The project shall comply with all mitigation measures as specified in the Mitigated Determination of Non-Significance (MDNS). (Staff and O'Neil, 3/28/05).
3. Developer shall provide a 115 foot buffer around the wetland (O'Neil, 3/28/05).
4. The zoning designation shall be RB-CZ, Regional Business with Contract Zone. The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC) with the following additional property conditions:
 - a. Site configuration and uses shall generally comply with the site plan submitted with the application, with housing units mainly contained on the east side of the property and commercial uses on the west side of the property. Up to 10,000 square feet of retail is allowed on the east side of the property. Minor changes to the site plan may be subsequently approved by the City of Shoreline Planning and Development Services Director or designee. (Staff, O'Neil, 03/28/05).
 - b. Residential density on the eastern portion of the site shall be limited to 350 units. The developer will attempt to incorporate up to 100 units of housing affordable to medium and low income households depending on the availability of subsidies for such housing. (O'Neil, 03/28/05).
 - c. Commercial floor area shall be limited to 182,000 square feet. Commercial floor area may be reduced further as replaced by residential units. (O'Neil, 03/28/05).

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- d. No more than 50% of the required parking shall be ~~surface~~-parking open to the sky. (Staff, 05/06/25).
 - e. Parking reduction of up to 20% from the maximum required by SMC 20.50.390 is allowed pursuant to SMC 20.50.400. (Staff, 05/08/05).
 - f. In order to protect solar access for the first 50 feet of the wetland buffer (water-ward), the applicant shall use best effort to demonstrate that the proposed structures will not shade these open spaces on March 21st or September 23rd at noon. (Commissioner Chakorn, 05/05/05). Further, solar access shall be considered when designing the final site plan, so as to allow southern exposure to the project's common open areas.
 - g. Maximum impervious surface allowed on the site shall not exceed 90% for development within the commercial portion of the site, and shall not exceed 90% in the residential portion of the site. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation. (Staff and O'Neil, 03/28/05).
 - h. The provisions of SMC 20.50.350 (B) shall not apply to this site outside of the wetland and its buffer. However, the developers shall preserve as many significant trees as possible, consistent with their design parameters. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site, in accordance with SMC 20.80.090 and 20.80.350, and with additional conditions listed below. (Staff, 05/06/05, O'Neil, 03/28/05 and Way-O'Neil Agreement 05/04/05, #14).
5. Vermin abatement shall take place prior to and during demolition and decommissioning of current site. Proof of abatement shall be submitted as part of the demolition permit application. (Staff with O'Neil 03/28/05)
6. Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the Shoreline Municipal Code (SMC) and the King County Surface Water Design Manual, as adopted by the City of Shoreline. Additionally, the developer shall consider working with the City to install an oversize a stormwater system to further improve Echo Lake water quality including the possibility of adding a water feature and open water course as the means of discharge into the Lake. (Staff with O'Neil 03/28/05). *NOTE: this provision conflicts with Way-O'Neil Agreement #10 to additionally use the Department of Ecology's Manual. While Way-O'Neil may agree to fulfill this agreement through the use of a third party review, the City of Shoreline will not be responsible for meeting #10 of the Way-O'Neil Agreement. In the event of a conflict between the DOE Manual and the City's adopted Stormwater manual, the City's manual shall prevail.*
7. Green Buildings. The developers shall consider pursuing a LEED or ~~BuiltGreen~~-certificate for the buildings in this project. (Staff and O'Neil 03/28/05).

The following conditions are proposed through the Way-O'Neil Agreement (staff substituted the referral to the "Owners" with "developers" for consistency). Number 10 on the Way-O'Neil agreement, requiring compliance with the Department of Ecology stormwater manual, has been deleted by staff because the City's code requires compliance with the adopted King County stormwater manual. The two manuals cannot be used together. Number 14 on the Way-O'Neil agreement has been incorporated into 4-h, above.

8. The developers will secure the services of a certified wetland biologist to direct the design of the enhancement and restoration plan for the shoreline of Echo Lake. The plan shall be based upon and consistent with the Department of Ecology's (DOE) "Best Available Science

for Freshwater Wetlands Projects," Volumes One and Two. Subject to City approval, the developers will implement this plan. [Agreement #1]

9. The developers will not take any actions that result in further significant degradation of the wetland or buffer. The developers will use their best efforts to preserve and enhance the existing higher quality shoreline areas at the eastern and western boundaries. [Agreement #2]
10. The developers will restore and enhance all but a contiguous 70 feet of the lake shoreline, 10 feet of which will be used for a boardwalk to the ~~beach and dock~~ lake. Within this 70-foot area, the developers intend to apply for a permit to construct a publicly accessible beach and dock. [Agreement #3]
11. The restored areas of the shoreline will consist of: [Agreement #4]
 - a. A ten-foot area along the fully submerged portions of the lake's shoreline that will be planted with native plants that are compatible with and will enhance the lake's ecology and wildlife.
 - b. A ten-foot area along the shoreline that has a sufficiently high water table to support native plants that are compatible with and will enhance the shoreline's ecology and wildlife. If necessary and supported by Best Available Science, some grading may be required to establish a new grade that will support wetland plants within this area. Any wetland area created in this manner shall not be considered a new wetland boundary for the purposes of future buffer calculation. This requirement will not apply if the ground water is not sufficiently high to sustain moist soils-dependent plants.
 - c. A 55-foot area along the shoreline that is adjacent to the ten-foot area described above will be planted with native plants that are appropriate for wetland uplands areas and that support the lake's ecology and wildlife.
12. The developers will construct a boardwalk with public access through the buffer area. This boardwalk shall not intrude within the existing natural or newly restored areas described above. The boardwalk shall be constructed with kick-rails and signage to discourage public intrusion into the natural areas, and shall utilize materials and construction methods that are based on Best Available Science for natural and wetland areas. The public access shall be ensured through perpetuity through the appropriate legal document. [Agreement #5]
13. The developers shall ensure that all plantings are established and self-sustaining. The developers will implement a monitoring and maintenance plan, for two years, consistent with the wetland biologist's recommendations. [Agreement #6]
14. The developers will provide handicap accessible public access from the Interurban Trail to the project site (subject to obtaining easement from Seattle City Light [SCL]). Developer will ensure that the privacy screening required by the SEPA mitigation measure is not compromised by any such access. If access is from the private SCL right-of-way designated Stone Ave. N., the Developer will work with the City to facilitate installation of signage that prohibits public parking on the private road. The public access shall be ensured through perpetuity through the appropriate legal document. [Agreement #7, modified]
15. The developers will cooperate with efforts of the City and upstream property owners to apply effective water quality treatment to storm water flows originating off-site. This may include

the location of water treatment facilities on the project site, so long as there is no additional cost to the developers nor a taking of additional land. [Agreement #8]

16. The developers will seek actions by the sewer district to remove freshwater flows from sewer pipes that serve the project site, and direct those flows through appropriate water quality treatment facilities to the lake. Developers shall consider utilizing a natural day-lighted drainage feature for this and other drainage flows. [Agreement #9]

~~17. The developers shall consider and include, where financially reasonable and consistent with their design needs, green building and low impact development techniques such as "pervious concrete." [Agreement #11]~~

~~18.~~ 17. The developers shall work with historic preservation organizations to seek to preserve the Weiman house. This assistance includes developer's agreement to offer the house at no cost for removal from site. [Agreement #12]

~~19.~~ 18. The developers shall reduce noise and glare impacts to surrounding residential neighborhoods through the following techniques: [Agreement #13]

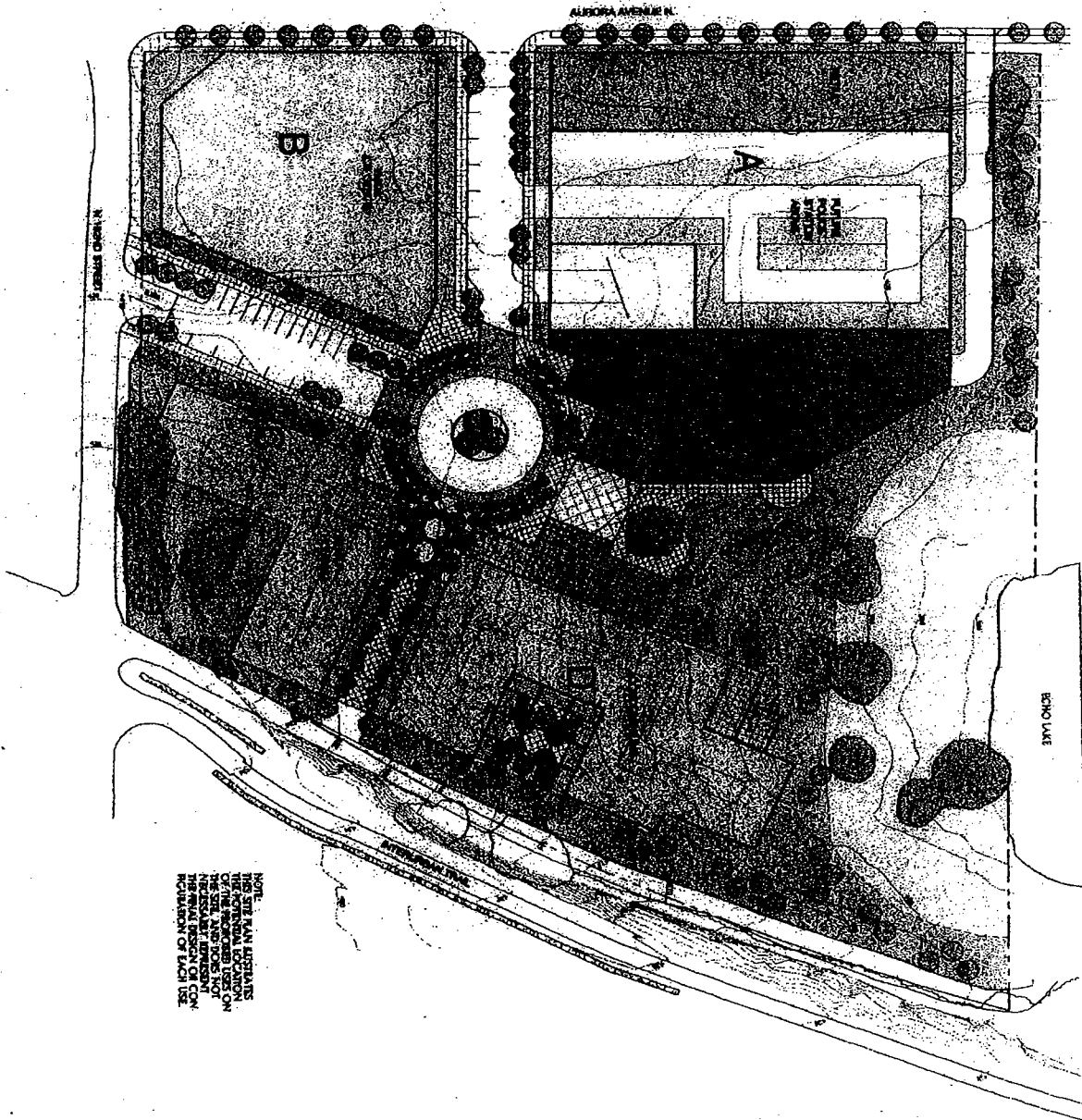
- a. Locate high noise generating uses away from the lake.
- b. Control construction hours to preserve early morning, night and Sunday morning quiet times.
- c. Utilize landscaping as sound attenuators
- d. Incorporate noise reduction techniques in site and building design where practical.
- e. Employ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

19. The developers will provide public access from Aurora Avenue on the northern half of the site from the Aurora Avenue Frontage to the boardwalk along the lake. This public access shall be ensured through perpetuity through the appropriate legal document.

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SITE PLAN

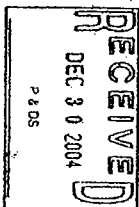


NOTE:
THIS SITE PLAN ILLUSTRATES
THE GENERAL LOCATION
OF STRUCTURES AND DOES NOT
SHOW EXACT DIMENSIONS OR
CONSTRUCTION DETAILS. THE
GENERAL LOCATION OF
STRUCTURES IS INDICATED BY
THE SHADING AND DOES NOT
NECESSARILY REPRESENT
THE FINAL DESIGN OR CON-
STRUCTION OF EACH USE.

ILLUSTRATIVE SITE PLAN

ECHO LAKE
0405712804

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SITE SECTIONS

ECHO LAKE
04057 12804

201372

NOTE:
THIS SECTION ILLUSTRATES
THE POTENTIAL LOCATION
OF THE PROPOSED USES ON
THE SITE, AND DOES NOT
NECESSARILY REPRESENT
THE FINAL DESIGN OR CON-
FIGURATION OF EACH USE.

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