

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Discussion of Council Goal #9 (In-Lieu-Of/Impact Fee Program)
DEPARTMENT: Planning and Development Services
PRESENTED BY: Tim Stewart, Director
Sarah Bohlen, Transportation Planner

PROBLEM/ISSUE STATEMENT: Council, with 2001 Council Goal #9, has identified a need to develop a program to avoid piecemeal frontage improvements (sidewalks, surface water, etc.) Staff has been working on the development of a program to support coordinated design and installation of these kinds of improvements.

ALTERNATIVES ANALYZED: This report contains analysis of the following alternatives for satisfying this goal.

1. Eliminate the Development Code requirement for some improvements;
2. Keep the Development Code requirement for frontage improvements and adopt a Voluntary Payment In-Lieu-Of Construction program to allow funds that would be used by developers to construct certain frontage improvements to be applied to suitable Public Works Capital Projects; and
3. Make no changes.

Staff believes that a Voluntary Payment In-Lieu-Of Construction Program is the most suitable option for satisfying this Council Goal.

RECOMMENDATION

No action is required. This item is for discussion purposes only.

Approved By:

City Manager 

City Attorney 

INTRODUCTION

Council, with 2001 Council Goal #9, has identified a need to develop a program to avoid piecemeal frontage improvements (sidewalks, surface water, etc.). An in-lieu-of fee, or perhaps an impact fee program, could be implemented to both accomplish this objective and to make additional resources available to apply to future City infrastructure development projects. The City's flexibility in designing a solution to this issue is restricted by State law, but opportunities to improve upon the current situation are believed to exist.

BACKGROUND

Since Council adopted the Council Goals for 2001, staff has been researching different types of regulatory programs that might be used to implement Goal #9. This goal addresses the inefficient use of developer resources by the required construction of certain frontage improvements (primarily short sidewalk pieces on local streets that don't connect).

In June 2000, Council adopted the Shoreline Development Code, which expanded the provisions requiring sidewalk and other frontage improvements for developments. These new requirements, as well as the previous requirements, have resulted in the construction of several small sidewalk strips on local streets throughout the City. While the community generally feels there is a need to build sidewalks, many feel that these requirements cause them to be built in an inefficient manner. There is a strong desire to consolidate the resources currently being used to construct these small sidewalk strips into larger capital projects that are more likely to be used.

This type of program has been requested and suggested by developers, by citizens, and by City staff. During the 2001 Comprehensive Plan Amendment process, Council amended Comprehensive Plan Policy CF 20 to provide policy direction supporting an In-Lieu program or an Impact Fee program. After careful consideration, staff suggests that an In-Lieu program is the most appropriate action to implement Council Goal #9.

There are a number of programs authorized to assess a monetary payment on individual properties to be used by the City for capital projects. Examples of development exactions include Fees In-Lieu-Of Construction or Dedication (monetary payments to replace a development condition of approval), Impact Fees (assessments applied to new developments to fund infrastructure improvements needed to accommodate the new growth), and SEPA (State Environmental Policy Act) Mitigation Fees (fees that are assessed as a condition of approval through the SEPA process). Fees cannot be utilized to address infrastructure deficiencies existing prior to the proposed development, but must instead address only deficiencies or impacts that are caused by the new development. Because Shoreline is primarily built out and will experience most new development through infill, the assessment of any impact fee will not contribute significant levels of funding to capital projects.

ALTERNATIVES ANALYSIS

The following alternatives have been analyzed as potential solutions:

1. Eliminate the Development Code requirement for some or all frontage improvements;
2. Keep the Development Code requirement for frontage improvements and adopt a Voluntary Payment In-Lieu-Of Construction program to allow funds that would be used by developers to construct certain frontage improvements to be applied to suitable Public Works Capital Projects; and
3. Make no changes.

1. Eliminate the Development Code requirement for some or all frontage improvements.

The underlying issue behind Council Goal #9 is the piecemeal frontage improvements being constructed around the City with limited utility since they are not part of an infrastructure system. Most of these improvements are done in conjunction with single-family construction. The Development Code could be amended to provide exemptions (either wholesale exemptions or exemptions for developments that meet certain criteria) from frontage improvements for certain types of developments, particularly single family construction. This change would reduce the costs of construction in areas that have existing deficiencies. It would also decrease the amount of new sidewalk constructed in Shoreline. It may be possible to alter the current standards such that sidewalk or similar frontage improvements would only be required where those improvements are likely to be functioning parts of an operating system within a reasonable period. These incidences are likely to be rare, however, and the implementation of this change alone would fail to capture additional resources to assist in efforts to address existing system deficiencies from most development believed likely to occur within the City.

2. Keep the Development Code requirement for frontage improvements and adopt a Voluntary Payment In-Lieu-Of Construction program to allow funds that would be used by developers to construct certain frontage improvements to be applied to suitable Public Works Capital Projects

This alternative allows the City and the Developer to enter into an agreement to use the funds the developer would otherwise spend on specified frontage improvements to supplement a CIP project reasonably related to the development.

The Voluntary Payment In-Lieu-Of Construction Program is authorized under RCW 82.02.020 This statute limits a city's ability to assess fees to developers, but allows an exception for developers who volunteer for the In-Lieu-Of payment. Any such voluntary agreement is subject to the following provisions:

- (1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact; and
- (2) The payment shall be expended in all cases within five years of collection; and
- (3) Any payment not so expended shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the

refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

Satisfying these restrictions is not without operational cost. Staff has performed some preliminary analysis regarding the operational implementation of this kind of program, but cannot provide an estimate of these costs until the particulars of the program have been developed. The operational costs include tracking the flow of money to ensure it is credited to the correct CIP project and that it is spent within the required timeframe.

RCW 82.02.020 also states that no county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement that the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat. For example, staff has researched average walking distances for various purposes and has found that typical walking distances range from one-quarter mile for business purposes to one-half mile for social or recreational purposes. Additionally, the most common form of walking trip associated with single family development is social or recreational. These distances provide guidance for determining which CIP project in-lieu-of funds could reasonably be applied to. In addition due to the regional draw of the Interurban Trail project, staff feels that it would be reasonable to allow any development that might qualify for the in-lieu-of program to contribute to the Interurban Trail CIP project.

Most of the City is within one-half mile of CIP projects potentially eligible for the In-Lieu-Of Program (See Attachment 1). By including provisions regarding the Interurban Trail Project, all areas of the City would be within range of an eligible project. The geographic coverage of CIP projects would need to be evaluated every year during the CIP amendment process. The City should also retain the right to determine whether it will let a development utilize the program. Staff recommends that the Engineering Development Guide be updated to contain guidance for making this determination. For example, a development might be eligible for the In-Lieu-Of Program for sidewalk improvements if one or more of the following conditions exist:

- The project is not located on an arterial street,
- The required frontage improvements would not connect to an existing facility or planned facility;
- The required frontage improvements would not be of a length suitable for reasonable use of the facility;
- The required improvements would conflict with a planned City Capital Project;
- Existing public facilities (utility poles, fire hydrants, etc.) would conflict with the required improvements;
- The required improvements would conflict with steep slopes, wetlands, or rock wall;
- The required improvements would require the removal of significant vegetation; or
- The ROW width is not sufficient to accommodate the required improvements.

These criteria could also be incorporated into Alternative 1 as criteria for exempting projects from frontage requirements. The Engineering Development Guide should also be amended to include a standard methodology for calculating the payment amount. By including this in the Engineering Development Guide, a developer could challenge the payment amount through an Engineering Variance. This would be granted if the developer can show that the cost of constructing the improvements on-site would be

less than the prescribed amount. It should be noted that a private developer's cost of constructing required improvements, like sidewalks, is significantly lower than the City's cost for similar construction activity. Under State law, the City must pay prevailing wages for construction activity. Further City projects include a great deal more planning and public involvement. As a result, the City would not be able to construct the same footage of frontage improvements at a different, more functional location. However, staff recommends applying the funds to adopted CIP projects rather than creating spot projects. This will allow a more efficient use of the funds, because the funds will be used to supplement projects that have already been budgeted for. The contribution to CIP projects expected to accrue from this kind of program is quite modest. In the year 2000, 36 building permits were issued for single family houses not on arterials and not part of larger plats. Staff estimates an average \$1750 payment in lieu of sidewalk construction for each single family development. If all potentially eligible projects opted for the program, the City would have taken in \$63,000 for CIP projects.

This alternative is supported by staff for the following reasons:

- If existing CIP projects are utilized, then funds collected through the In-Lieu-of Program could likely be expended within the allowable timeframe;
- This program does not require new projects to be amended to the CIP; and
- This program is relatively easy to administer and is not likely to impact staff workloads;

3. Make no changes

Although this alternative would not alleviate the problems described in Council Goal #9, your Council may choose to maintain the status quo.

NEXT STEPS

With Council concurrence, staff would take steps to implement the Voluntary Payment In-Lieu-Of Construction Program. The next steps are to:

- Prepare Amendments to the Development Code and the Engineering Development Guide;
- Present the amendments to the Planning Commission for a public hearing;
- Return for City Council action for adoption with the Planning Commission recommendation, and
- Implement the program.

RECOMMENDATION

No action is required. This item is for discussion purposes only.

ATTACHMENTS:

Attachment 1 - Map - CIP Projects, ½ Mile Buffers, and Year 2000 Single Family Building Permits

**Attachment 1:
CIP Projects, 1/2 Mile Buffers, and Year 2000 Single Family Building Permits**

2000 Building Permits
Potentially Eligible Single Family Building Permits
Capital projects.shp
2000 CIP Projects
1/2 Buffer of CIP Projects

Areas not covered by the buffer areas
could contribute to the Interurban Trail project

