

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Resolution No. 195, Approving the Final Plat for the Viking Highlands Subdivision at 640 NW 180th Street
DEPARTMENT: Planning and Development Services
PRESENTED BY: Tim Stewart, Director of Planning and Development Services

PROBLEM/ISSUE STATEMENT:

The decision before the Council is the approval of the final plat for the Viking Highlands Subdivision (a long subdivision previously know as the Zevenbergen Subdivision) proposed by John and Nancy Zevenbergen for the property located at 640 NW 180th Street, see Attachment A. The proposal would create from two lots, totaling 2.41 acres, one public right-of-way tract, two open space tracts and thirteen (13) building lots. The lot sizes range from 5,032 square feet to 16,658 square feet. (See Attachment B for final plat drawings).

The Council approved the subject preliminary plat on January 24, 2000 after an appeal to the Hearing Examiner on February 10, 1999, see Attachment C. The approval followed a public hearing held by the Planning Commission and Pro-tem Hearing Examiner opened on June 3, 1999 and closed July 22, 1999. The Planning Commission submitted a recommendation for approval after the public hearing. The Planning Commission and Staff recommendation for approval was subject to twenty-two (22) conditions, which are listed later in this report.

The engineering plans have been reviewed and approved by staff. A site development permit has been approved. All required site development including, utility and drainage improvements, road and pedestrian improvements, and landscaping improvements have been guaranteed with a performance bond, with improvements to be completed within two years of final plat approval. The applicant has met the conditions of the preliminary subdivision approval.

The applicant complied with all requirements of the City of Shoreline Code and your Council is asked to approve the final plat by adopting Resolution No. 195 (see Attachment D) and authorize the Mayor, Director of Planning and Development Services, and the City Engineer to sign the final plat. After signing it will be recorded with King County Records and Elections Division.

RECOMMENDATION

Staff recommends the adoption of Resolution No. 195, which will approve the thirteen (13) lot final plat of the Viking Highlands Subdivision at 640 NW 180th Street and authorize the Mayor, City Engineer, and Planning and Development Services Director to sign the final plat.

Approved By: City Manager  City Attorney 

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INTRODUCTION

Project Address: 640 NW 180th Street, Shoreline, WA 98177
 Zoning: R-6 Residential (six (6) dwelling units per acre)
 Property Size: 105,099 Square Feet (2.41 Acres)
 Number of Proposed Lots: Thirteen (13) residential lots, one public right-of-way tract, and two open space tracts.
 Proposed Lot Size: Lot 1: 5,560 Sq. Ft., Lot 2: 5,034 Sq. Ft., Lot 3: 5,032 Sq. Ft.
 Lot 4: 5,952 Sq. Ft., Lot 5: 5,623 Sq. Ft., Lot 6: 5,622 Sq. Ft., Lot 7: 5,391 Sq. Ft., Lot 8: 5,391 Sq. Ft., Lot 9: 5,391 Sq. Ft., Lot 10: 16,658, Lot 11: 5,721 Sq. Ft., Lot 12: 5,721 Sq. Ft., Lot 13: 5,924 Sq. Ft.
 Tract A, NW 181st Court: 11,517 Sq. Ft., Tract B: 5,933 Sq. Ft., Tract C: 496 Sq. Ft.
 Comprehensive Plan Designation: UM (Urban Medium, 4-12 units per acre)
 Subdivision: Viking Highlands Subdivision
 Application No.: 2002-201144
 Applicant: John & Nancy Zevenbergen
 Property Owner: John & Nancy Zevenbergen

BACKGROUND

Action	Review Authority	Appeal Authority and Decision – Making Body
Preliminary Long Plat (Subdivision)	Planning Commission – Public hearing: June 3, 1999 The Planning Commission submitted a recommendation for approval subject to 22 conditions.	City Council – Public Meeting: January 24, 2000 Decision: Preliminary Subdivision Approval
Final Long Plat (Subdivision)	Director – Recommendation of approval to the City Council	City Council – Public Meeting: November 12, 2002 Decision: Final Plat Approval

The preliminary subdivision approval process required formal public notification of the proposal, followed by an open record formal public hearing in front of the Planning Commission. The Planning Commission submitted recommendation for approval to the City Council. Staff and Planning Commission forwarded a recommendation for approval subject to twenty-two (22) conditions to the City Council. After a public meeting, the City Council made a decision on the project.

Site development engineering plans were created to show how the subdivision will comply with the preliminary approval conditions and code requirements. The Planning and Development Services Department reviewed the site development plans. Necessary corrections to the plans were made before development plan approval. This permit authorizes the developer to fulfill the preliminary approval requirements, such as the installation of site utilities and roads. Site development work that is not completed before final plat must be guaranteed by performance bonds or other surety. These financial guarantees assure that the construction as shown on the site development plans will be constructed. A financial guarantee has been given to the City of Shoreline in the amount of \$681,415.

The final plat is the final document, which actually creates the new lots of a new subdivision. The final plat must be reviewed, approved, all taxes paid, and recorded, before any lots are sold, or building permits for the new lots are issued. Staff reviewed the final subdivision, and verified that all conditions of the preliminary approval have been fulfilled. Based upon this review, the Director makes this recommendation to the City Council for approval.

ANALYSIS

On January 24, 2000 the Council reviewed and approved this preliminary subdivision subject to the following conditions.

(The compliance with each condition is stated in italic.):

1. The applicant shall re-design the proposed subdivision to reduce the number of proposed lots from 14 to 13 and provide recreational area in accordance with the revised subdivision design proposed at the June 3, 1999, public hearing (Exhibit No. 3.C).

The Final Plat Drawing on page 3 of 3 shows a total of 13 lots and includes two recreational Tracts B and C.

2. No Grading or clearing of the project site shall be allowed until a site development permit has been approved by the City of Shoreline.

A site development permit/engineering plans permit #2001-101216 was approved on March 12, 2002.

3. The applicant shall provide a children's play area of no less than 20' by 20' as part of the proposed recreational area. The play area shall provide a minimum of one bench for seating, children's play apparatus, and other wise conform with the requirements of subsection 18.14.190 of the Shoreline Zoning Code.

The approved landscaping plan indicates a play apparatus with safety zone and Redwood bench to be installed in Tract C. The play apparatus and bench installation is guaranteed by a performance bond.

4. The applicant shall revise the proposed design of Access Tract A to provide a minimum public right of way width of 32 feet.

Sheet 1 of 22 of the approved engineering plans show the Access Tract A, NW 181st Court provides a right of way width of 40 feet.

5. Access Tract A (as revised by other subdivision approval conditions) shall be dedicated to the City of Shoreline as a public right of way.

The final plat provides dedication of Access Tract A as a public right of way as NW 181st Court.

6. The required public road shall be constructed to the specification provided in the King County Road Standards.

Pages 3, 4, and 5 of 22 of the approved engineering plans show the public road, NW 181st Court designed to the specifications of the King County Road Standards. The public road construction is guaranteed by a performance bond.

7. In order to minimize the potential for additional on street parking on public roads, each lot to be created by the proposed subdivision shall provide a minimum of four vehicle parking spaces (two covered and two uncovered).

Restriction and covenant number 5 on sheet 2 of 3 of the final plat states that all lots must provide a minimum of four parking spaces, two covered, two uncovered.

8. As part of the materials required for final approval of the proposed subdivision, the applicant shall submit a traffic control plan that provides for the safe use of the existing public road system by pedestrians and vehicles through all phases of the construction process.

The approved engineering plans include sheets 1 through 4 of the Traffic Control Plan that illustrate a safe phased construction approach that provides safety for vehicles and pedestrians.

9. The applicant shall either, install fire sprinkler systems in each house built on the lots being provided road access by Access Tract A, or, extend the length of the proposed vehicle turnaround eastwards by a minimum of 5 feet.

The approved engineering plans show the vehicle turnaround length extended by five feet. After fire department review, an additional condition was required. Sheet 2 of 4 of the final plat includes restriction number 11 that requires residential fire sprinklers on lots 11, 12, and 13. The restriction also states that Lot 1 may require residential sprinklers based upon review at the time of building permit application.

10. The water main system serving the proposed subdivision shall be resized to use either, a minimum pipe diameter of 8" for a system with deadends greater than 50' in length, or, 6" diameter pipe for deadends of less than 50' in length, or 6" diameter pipe if the system is a complete loop design.

Sheet 1 of 2 of the approved engineering plans water main extension detail shows 8" diameter pipe to be installed for the water main. Construction of the water main is guaranteed by a performance bond with the City of Seattle.

11. Prior to final plat approval, the applicant must establish a Homeowners Agreement that provides for the maintenance and repair of all commonly owned facilities, such as landscaping, streetlighting, bioswale and the recreational area, by property owners in the proposed development. The Homeowners Agreement must be

reviewed and approved by the City Attorney and recorded with the King County Auditor.

The City Attorney reviewed and approved a Homeowner's Agreement for the Viking Highlands. The Homeowner's Agreement is referenced in restrictions and covenants numbers 22, 23, and 24 on sheet 2 of 3 of the final plat. The agreement will be recorded with the King County Auditor concurrent with the final plat following final approval.

12. The applicant shall increase the proposed installation depth for all stormwater management facilities crossing NW 180th Street so as to accommodate a future City of Shoreline Public Works Department drainage Capital Improvement Project.

The engineering plans, including stormwater facilities, were reviewed by the City of Shoreline Public Works Department and OTAK Engineering (the City's consultant on 3rd Avenue Drainage Improvements) through the approval process. The plans were revised and approved to provide adequate depth for the stormwater system to accommodate connection to the future City of Shoreline Capital Improvement Project on 3rd Avenue.

13. The stormwater system for the plat shall be designed to provide 100 year storm detention, and more specifically, to limit peak rate outflows from the site to 50% of the pre-development flow rates for the two year 24-hour storm flow and to limit peak rate outflows from the site to the pre-development flow rate for the 10 and 100 year 24 hour storms.

The approved engineering plans on sheets 6 through 14 provide stormwater system capacity to meet this condition. The construction of the stormwater system has been guaranteed by a performance bond.

14. The applicant shall revise the proposed stormwater management system plans to provide water quality control for all surfaces subject to vehicular access through installation of biofiltration swale and FROP-T oil/water separator. These facilities shall be designed using the Department of Ecology manual, or an equivalent manual, to safeguard the water quality of Boeing Creek.

The approved engineering plans on sheets 6 through 14 provide for a stormwater system that includes a biofiltration swale and a FROP-T that is located in the detention tanks located below NW 181st Place. The construction of the stormwater system has been guaranteed by a performance bond.

15. The applicant shall provide revised plans that accurately and adequately address the drainage problems for the houses located at 637, 631, 617, 611, and 605 NW 182nd Street.

The approved engineering plans on sheet 6 of 22 include yard drain stub outs for the lots at 623, 625, 637, 631, 617, 611, and 605 NW 182nd Street. The overall stormdrainage system was designed to accommodate this off site capacity. The

construction of the stormwater system, including stub outs, has been guaranteed by a performance bond. Notice was sent to each of these property owners notifying them of this condition.

16. In recognition of the issue of possible impact of the proposed development on Boeing Creek as potential habitat for salmonids protected under the Federal Endangered Species Act, the applicant must produce evidence satisfactory to the City that the proposed project will have no impact on the habitat potential of Boeing Creek prior to any approvals for development of the site being issued.

The applicant submitted a report from Talesaea resource and environmental consultants that provides satisfactory evidence that the proposed project will have no impact on the habitat potential of Boeing Creek.

17. All new homes to be constructed on building lots created by this subdivision shall be a maximum of two stories (above the ground level) in height and be of non-uniform color and design.

The final plat sheet 2 of 3 includes this condition verbatim in restriction and covenant number fifteen (15).

18. The applicant shall revise the design of the proposed subdivision to provide an eight (8) foot wide landscaped buffer between the northern property boundary and Access Tract A.

The approved engineering plans sheet 3 of 22 includes an eight foot buffer between the access road in Tract A and the property boundary to the north. The approved landscaping plan includes plantings of trees, shrubs and ground covers in the eight-foot wide buffer. The landscaping has been guaranteed by a performance bond.

19. Prior to final plat approval, the applicant shall submit a report prepared by a certified arborist that provides for the preservation of the maximum number of existing trees on the property that are consistent with the approved development. The arborists report shall also provide for the following requirements:
- i. That any tree identified for removal shall be replaced on site by two (2) native evergreen trees of a minimum of six (6) feet in height.
 - ii. That two trees meeting the above specifications shall also be planted on site when the drip line of any tree located within the landscape buffer required by condition No. 18 (above) will be encroached upon by approved site improvements.
 - iii. Each tree to be preserved on site shall be evaluated for susceptibility to blow down. Where blow down is identified as a threat, the report shall specify methods of addressing the problem for each identified tree. Following review and approval by the City, these blow down prevention recommendations shall be implemented for each affected tree at the applicant's expense.
 - iv. Each tree on property abutting Tract A to the north shall be evaluated for susceptibility to blow down. Where blow down is identified as a threat, the report

shall specify methods of addressing the problem for each identified tree. Owners of abutting property with potentially affected trees shall determine whether they wish to have the blow down prevention recommendations implemented by the applicant at the applicants expense.

The applicant submitted an arborist report to the City during engineering review. This report was reviewed by the City's on-call arborist. After two revisions and site work by both arborists the above conditions were met. After review of the the proposed site development and landscaping plan, sixteen significant trees (eight inches or greater in diameter breast height if it's is a conifer and twelve inches or greater if deciduous) are to be retained on the site along with fifty (50) smaller trees. As conditioned by 19.i and ii the site would require 272 replacement trees. In the opinion of both arborists, 272 trees would not survive if planted on site. The approved landscaping plan provides for 175 replacement trees to be planted on site and 97 trees to be submitted to the City of Shoreline Public Works Department for planting on public property in the neighborhood.

The approved engineering plans include conditions on sheet 8 of 22 for the specific protection and preservation of trees both retained and to be planted on site. The final plat includes a thirty-foot wide tree growth protection area across all lots that establishes an area for the protection and growth of retention and replacement trees. No structures or impervious surfaces are allowed in the protection area and places the burden upon individual property owners to water, maintain, and assure the growth of trees in this area. A two-year landscaping and maintenance bond will be submitted to the City at the time of site development construction final approval to assure the establishment of landscaping. The landscaping installation including replacement trees has been guaranteed with a performance bond.

20. All street lights to be installed by the applicant at the intersection of 6th Avenue NW and NW 180th Street, the intersection of Access Tract A and 6th Avenue NW, and at the intersection of Access Tract B and NW 180th Street shall be of the non-glare type.

The approved engineering plans on sheets 3 and 4 of 22 provide for the location of three non-glare box type light standards at the conditioned locations stated above. The installation of the light standards has been guaranteed with a performance bond.

21. The improvements to the intersection of NW 180th Street and 6th Avenue NW proposed by the applicant shall be redesigned in accordance with the design concept presented by the neighbors at the June 3 to July 22 public hearing on the preliminary subdivision (Exhibit No. 27C). All new sidewalks identified in this design shall be provided as part of the intersection improvements. The revised design shall be made available for public review prior to receiving formal approval from the City.

The approved engineering plans provide for a redesigned intersection of NW 180th Street and 6th Avenue NW that is in conformance with Exhibit No. 27C. A letter was sent to all parties of record during the engineering approval process

with an update on the proposed improvements to that intersection. Plans for this intersection have been available for review throughout the process in the lobby of the Planning and Development Services Department.

22. Prior to the issuance of a site development permit, the applicant shall submit stormwater (rain), erosion, and sedimentation control plans to minimize the off-site transportation of sediment during the construction of site improvements and new homes.

The approved engineering plans provide stormwater, erosion and sedimentation control plans to minimize offsite transportation of sediment during construction on site. Specific conditions were added to the engineering plans to ensure compliance with this condition on sheets 6 and 12 of 22.

SEPA MITIGATIONS

1. Earth

- A. The applicant shall submit a Soils Report that evaluates the suitability of the existing fill placed in the eastern portion of the property for supporting house foundations and other improvements required for new residential development.

A restriction and covenant on the final plat sheet 2 of 3 includes note number ten (10) that requires that all foundations and footings be inspected by a geotechnical engineer for adequate bearing soil. A report demonstrating the results of the inspection shall be submitted with any application for building permits on site.

2. Stormwater

- A. Prior to submission of an application for final plat approval, the applicant shall submit a survey and analysis of the downstream stormwater management system running from the intersection of NW 180th Street and 6th Avenue NW to the intersection of 6th Avenue NW and NW 176th Street. The analysis shall evaluate the adequacy of the present 12" diameter pipe with respect to upstream neighborhood flows currently being collected as well as the flows to be expected from the discharge of the proposed subdivision.

A downstream stormwater analysis was submitted with the engineering plans for approval. The report demonstrates that the 12" diameter pipe along 6th Avenue NW is adequate to accommodate upstream and project flows.

3. Plants

- A. Prior to submission of an application for final plat approval, the applicant shall submit a plan that provides for the preservation of all significant trees (12" or greater trunk diameter at breast height) located outside of identified access road, driveway and building footprints.

The arborist reports and approved landscaping plan meet this condition. Most of the significant trees to be retained will be located in the tree growth protection area established on the final plat sheet 3 of 3.

- B. The applicant shall include with the plan required under A, above, a written report identifying specific protection methods to be used for each identified tree during and after site clearing and development.

The approved engineering plans include conditions on sheet 8 of 22 for the specific protection and preservation of trees on site during and after site clearing and development.

4. Aesthetics

- A. Any houses built on Lots 4 and 7 of the proposed plat shall have their sides facing the public rights of way modulated for depth and have windows installed so as to relieve the potential for blank wall.

The final plat sheet 2 of 3 includes this condition verbatim in note number eighteen (18).

5. Transportation

- A. All lots in the proposed subdivision that require direct access onto NW 180th Street or 6th Avenue NW shall use joint access driveways whenever possible.

The approved engineering plans on sheet 3 of 22 shows joint access driveways and curb cuts for lots 5, 6 and 8, 9. The final plat sheet 2 of 3 includes easement provisions that provide access to these lots from joint use driveways. The final plat drawing sheet 3 of 3 includes access easements for joint use driveways on lots 5,6,8,and 9.

- B. Prior to the submission of an application for final plat approval, the applicant shall submit plans for the installation of sidewalks, ADA ramps, curbing and gutter, together with appropriate drainage structures at all four quadrants of the intersection of NW 180th Street and 6th Avenue NW. These plans shall also provide for an appropriate transition to the existing terrain surface.

The approved engineering plans provide for intersection improvements at NW 180th Street and 6th Avenue NW. Improvements include sidewalks, ADA ramps, curbing and gutter, together with appropriate drainage structures on all four corners and are shown on sheet 3 of 22 of the approved plans. Details on sheet 5 of 22 of the engineering plans provide for a minimum 6-foot wide transition taper of material to match the existing surface where the new improvements taper back down to areas without frontage improvements.

- C. In order to preserve vehicle and pedestrian safety, the applicant shall install street lighting at the intersection of 6th Avenue NW and NW 180th Street, the intersection of Access Tract A and 6th Avenue NW, and at the intersection of Access Tract B and NW 180th Street. Operating and maintenance expense of these lights shall be the responsibility of the lot owners.

The approved engineering plans on sheets 3 and 4 of 22 provide for the location of three non-glare box type light standards at the conditioned locations stated above. The Homeowner's Agreement document provides for operation and maintenance of the street light standards. The installation of the light standards has been guaranteed with a performance bond.

RECOMMENDATION

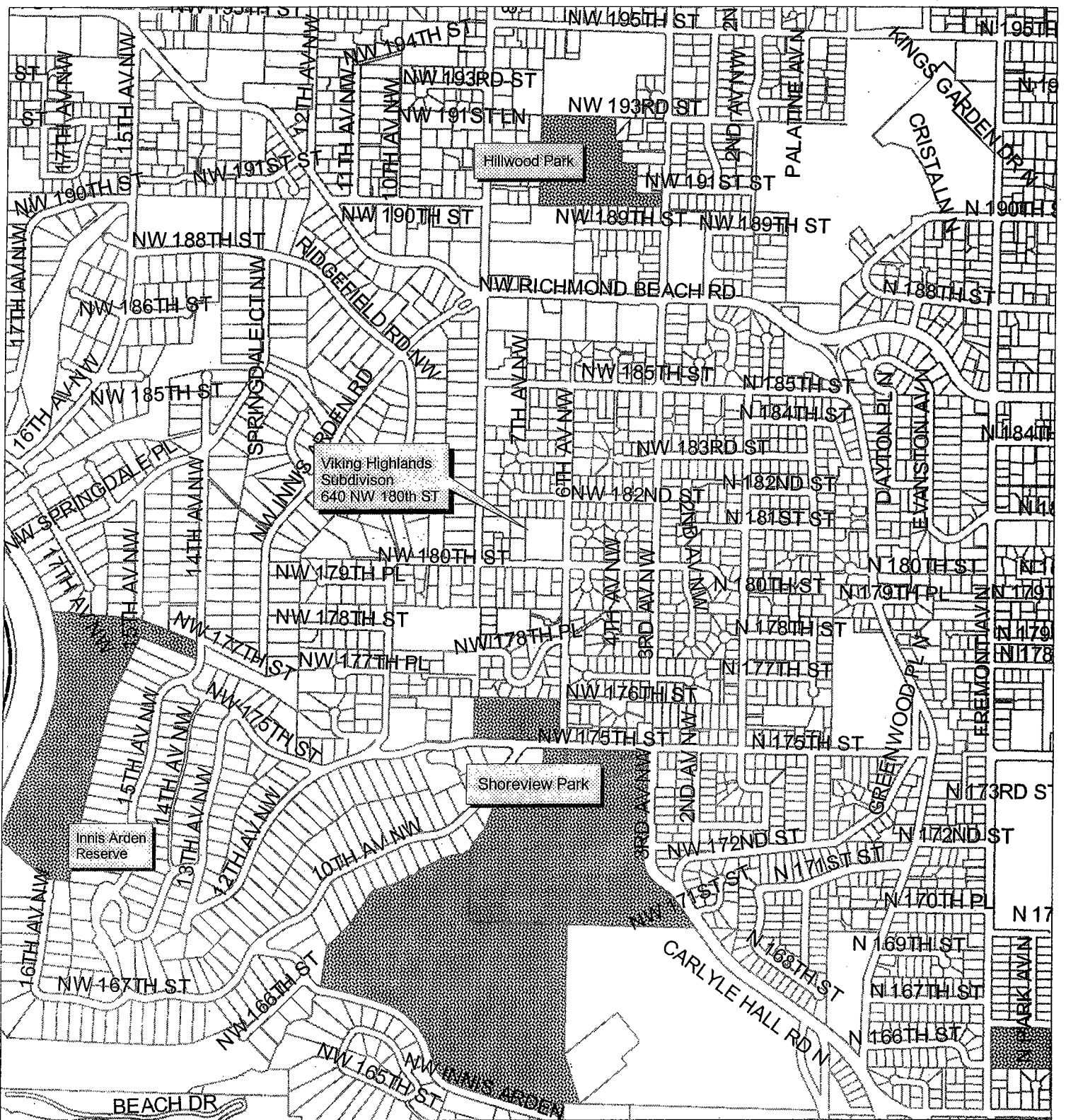
Staff recommends the adoption of Resolution No. 195, which will approve the thirteen (13) lot final plat of the Viking Highlands Subdivision at 640 NW 180th Street and authorize the Mayor, City Engineer, and Planning and Development Services Director to sign the final plat.

ATTACHMENTS

- | | |
|---------------|--|
| Attachment A: | Vicinity Map |
| Attachment B: | Copies of the final plat drawings for the subject final plat. Copies of the approved site development permit drawings are available at the Planning and Development Services Department. |
| Attachment C | City Council Minutes January 24, 2000 |
| Attachment D: | Resolution No. 195 |

Attachment A



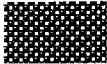
Viking Highlands Vicinity Map

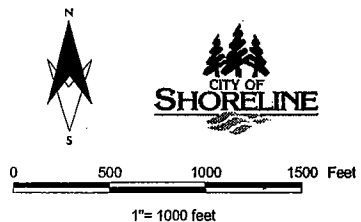


SHORELINE
GEOGRAPHIC INFORMATION SERVICES

Viking Highlands Final Plat Vicinity

640 NW 180th ST

-  City Boundary
-  Parcel Boundary
-  Park



City of Shoreline GIS, Cadastral, Ortho Photo, building outlines, contour data copyrighted by City of Seattle, 1998. All rights reserved.

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

Attachment B

Viking Highlands Final Plat

VIKING HIGHLANDS SECTION 12, T.26N., R.9E., W.M. CITY OF SHORELINE KING COUNTY, WASHINGTON

APPROVALS

PLANNING AND DEVELOPMENT SERVICES DEPARTMENT EXAMINED AND APPROVED THIS ... DAY OF ... 2002. PLANNING AND DEVELOPMENT SERVICES DIRECTOR EXAMINED AND APPROVED THIS ... DAY OF ... 2002.

MAYOR, CITY OF SHORELINE ATTEST: CLERK OF THE COUNCIL CITY OF SHORELINE CITY ENGINEER EXAMINED AND APPROVED THIS ... DAY OF ... 2002. KING COUNTY DEPARTMENT OF ASSESSMENTS EXAMINED AND APPROVED THIS ... DAY OF ... 2002. KING COUNTY ASSESSOR DEPUTY KING COUNTY ASSESSOR ACCOUNT NUMBER

DECLARATION OF COVENANT ASSOCIATED WITH DEVELOPMENT OF DETENTION FACILITY

- 1. DRAINAGE EASEMENTS AS SHOWN ON THE FACE OF PLAT ARE DEDICATED TO CITY OF SHORELINE FOR ACCESS TO INSPECT, MAINTAIN OR REPAIR THE FACILITIES IN CONFORMITY WITH CITY OF SHORELINE CODE. 2. CITY OF SHORELINE DETERMINES THAT MAINTENANCE OR REPAIR WORK IS REQUIRED TO BE DONE TO THE PRIVATE DETENTION FACILITY EXISTING ON THE ABOVE DESCRIBED TRACTS...

SEATTLE CITY LIGHT EASEMENT (Overhead and Underground)

THIS EASEMENT GRANTS TO THE CITY OF SEATTLE (HEREAFTER REFERRED TO AS GRANTEE), ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND AUTHORITY TO INSTALL, CONSTRUCT, ERECT, ALTER, IMPROVE, REPAIR, ENERGIZE, OPERATE AND MAINTAIN OVERHEAD AND UNDERGROUND LINES AND DISTRIBUTION FACILITIES AT DEPTHS NOT EXCEEDING SIX FEET BELOW THE FINISHED GRADE OF THE SURFACE...

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF "VIKING HIGHLANDS" IS BASED UPON AN ACTUAL SURVEY OF THE LANDS DESCRIBED HEREIN, MADE BY ME OR UNDER MY SUPERVISION AND IN ACCORDANCE WITH THE STATUTES AND REGULATIONS GOVERNING PLATTING.



STREET, T. REBER CERTIFICATE NO. 22089 LOVELL-SAUERLAND & ASSOCIATES, INC. 19400 39RD AVENUE W., SUITE 200 LYNNWOOD, WA 98036 426.776.1591

P.F.N. 02-201144

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF INTEREST IN THE LAND HEREBY SUBMITTED, HEREBY DECLARE THIS PLAT TO BE THE GRANTING OF THE RIGHT OF EGRESS AND PASSAGE TO THE SHORELINE MARINA, HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES...

FINANCE DIVISION CERTIFICATE

I HEREBY CERTIFY THAT ALL PROPERTY TAXES ARE PAID, THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS OBLIGATED TO THIS OFFICE FOR COLLECTION AND THAT ALL SPECIAL ASSESSMENT COSTS (SEEKING, ALLEYS OR FOR ANY OTHER PUBLIC USE) ARE PAID IN FULL. THIS ... DAY OF ... 2002. FINANCE DIVISION MANAGER, FINANCE DIVISION

RECORDING CERTIFICATE

FILED FOR RECORD AT THE REQUEST OF VIKING PROPERTIES, INC. THIS ... DAY OF ... 2002, AT ... MINUTES ... PAGES ... INCLUSIVE RECORDS OF KING COUNTY, WASHINGTON. DIVISION OF RECORDS AND ELECTIONS MANAGER SUPERINTENDENT OF RECORDS

ALTERATION OF LOTS 7 AND 8, RICHMOND BEACH FIVE ACRE TRACTS (VOLUME 12, PAGE 1)

IN NW1/4, NE1/4, SECTION 12, T.26N., R.9E., W.M. LOVELL-SAUERLAND & ASSOCIATES, INC. 19400 39RD AVENUE W., SUITE 200 LYNNWOOD, WASHINGTON 98036 426.776.1591 LSA FILE NO. 4389 SHEET 1 OF 3

Attachment C

City Council Minutes January 24, 2000

January 24, 2000

CITY OF SHORELINE

SHORELINE CITY COUNCIL SUMMARY MINUTES OF REGULAR MEETING

Monday, January 24, 2000
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Mayor Jepsen, Deputy Mayor Hansen, Councilmembers Grossman, Gustafson, Lee, Montgomery and Ransom

ABSENT: None

1. CALL TO ORDER

The meeting was called to order at 7:30 p.m. by Mayor Jepsen, who presided.

2. FLAG SALUTE/ROLL CALL

Mayor Jepsen led the flag salute. Upon roll by the City Clerk, all Councilmembers were present.

(a) Proclamation of "Neighbor Appreciation Day"

Mayor Jepsen proclaimed February 12, 2000 as Neighbor Appreciation Day in Shoreline. Dick Nicholson, Chair, Council of Neighborhoods, spoke about the value of strong neighborhoods and encouraged residents to participate in Neighbor Appreciation Day.

3. REPORT OF CITY MANAGER

Robert Deis, City Manager, noted the cancellation of the Council meeting on March 13 for lack of a quorum—several Councilmembers will be attending the National League of Cities conference.

Mr. Deis provided information in follow up to comments by Councilmember Ransom at the January 18 Council meeting. First, he discussed a newly proposed bill in the State Legislature that would create significant and expensive reporting requirements for cities proposing to assume special districts. Second, he reported on discussions between the Shoreline Water District and the Seattle Public Utilities (SPU) regarding a service area east of Shoreline. Mr. Deis said SPU has assured City staff that it will include the City in discussions or negotiations with the Water District about the service area. He noted that staff has asked SPU to provide a written statement of this understanding.

Next, Mr. Deis noted the need to develop a process for reviewing applications for and appointing new Planning Commissioners. Mayor Jepsen recommended the formation of

January 24, 2000

a three-member ad hoc committee of Councilmembers to review applications, conduct interviews and submit recommendations to the full Council. Councilmember Grossman, Mayor Jepsen and Councilmember Lee volunteered to serve on the committee.

Larry Bauman, Assistant City Manager, advised that the terms of three of the five Library Board members will expire on March 31. Deputy Mayor Hansen and Councilmembers Gustafson and Ransom volunteered to serve on an ad hoc committee to review applications for the three Library Board positions.

Mr. Deis went on to report the following appointments to regional committees:

- Mayor Jepsen: Growth Management Planning Council (alternate)
- Deputy Mayor Hansen: Puget Sound Regional Council Executive Committee and Operations Committee
- Councilmember Grossman: Economic Development Council
- Councilmember Gustafson: King County Block Grant Consortium Joint Regional Committee
- Councilmember Lee: Regional Water Quality Committee (alternate)
- Councilmember Montgomery: Regional Transit Committee and Puget Sound Regional Council Transportation Policy Board
- Councilmember Ransom: Jail Advisory Committee (alternate)

Finally, Mr. Deis mentioned a letter from Al Crane concerning Phase 2 of the Draft Development Code. There was Council consensus that staff provide a copy of Phase 2 of the Draft Development Code in the Council office.

4. REPORTS OF BOARDS AND COMMISSIONS: None

5. PUBLIC COMMENT

(a) Virginia Botham, 16334 Linden Avenue N, asserted that staff should include letters from citizens in the materials it provides to Council on land use decisions. She expressed her hope that the City will seriously consider the revisions that citizens propose to Phase 2 of the Draft Development Code. Finally, she encouraged citizens to apply for appointment to the Planning Commission.

(b) Stan Terry, 15811 28th Avenue NE, representing the Briarcrest Neighborhood Association, invited Councilmembers to attend the dedication of the association's neighborhood information kiosk on February 12.

(c) Al Crane, 18551 Meridian Avenue N, presented a letter opposing aspects of Phase 2 of the Draft Development Code.

(d) Margaret Walruse, 14547 26th Avenue NE, thanked Council for its attentiveness to citizen input.

(e) Dennis Lee, 14547 26th Avenue NE, reported on the Planning Commission's deliberations on Phase 1 of the Draft Development Code. He said the Commission did not seriously consider many of the proposed amendments. He asked that Council carefully consider amendments proposed for both Phase 1 and Phase 2.

(f) Robert Goiney, 829 NW 165th Street, discussed a lack of enforcement of the leash law in City parks, particularly in Shoreview Park. He requested that the City enforce its leash law, install appropriate signage and prohibit dogs from Boeing Creek and Hidden Lake.

(g) Brian Doennebrink, 20330 Burke Avenue N, addressed the Metro plan to eliminate 1.05 million hours of bus service by September in response to lower Motor Vehicle Excise Tax revenues. He noted a plan to eliminate five of six peak-hour bus routes in Shoreline. He provided materials to Council about proposed route reductions.

(h) Walt Hagen, 711 N 193rd Street, expressed his concern that the Planning Commission is trying to hurry its consideration of proposed amendments to the Draft Development Code. He mentioned a proposal to restrict consideration to those amendments sponsored by Planning Commissioners. He stressed the importance of citizen participation. He opposed the "key informant" approach that staff has proposed for the Municipal Services Strategic Plan (MSSP) as a restriction of citizen input. He supported the inclusion of the Council of Neighborhoods in the process.

Mayor Jepsen asserted that Council receives and reviews letters from citizens.

Mr. Deis said the Planning Commission will consider all of the proposed amendments to Phase 2 of the Draft Development Code; however, it may limit discussion to the particular amendments it identifies. Planning and Development Services Director Tim Stewart said the Commission has not yet determined the rules it will apply.

In response to Deputy Mayor Hansen, Mr. Stewart confirmed that staff will address every proposed amendment. He said citizens may comment during public hearings on any proposed amendment, regardless of whether the Commission designates it for discussion.

Mr. Deis acknowledged that the effectiveness of the City's leash law depends on the level of enforcement. The City is extremely limited in the enforcement it can provide. He said staff has emphasized education to restrict dogs from sensitive areas (e.g., creeks). Mayor Jepsen noted the divisiveness of discussions regarding enforcement of leash laws. He pointed out that the City relies on the County for animal control in Shoreline.

Councilmember Gustafson recommended that the Parks, Recreation and Cultural Services Advisory Committee consider the issue of leash law enforcement and develop a recommendation for Council consideration. Councilmember Ransom supported this

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recommendation. He emphasized the need for a master plan for Shoreview Park to address this issue.

Mayor Jepsen asserted that Council must identify a clear work program before delegating the issue for consideration by the Parks, Recreation and Cultural Services Advisory Committee.

Councilmember Montgomery confirmed the information that Mr. Doennebrink provided. She said Metro has postponed proposed reductions in bus service in the hope that the State legislature will provide additional transit funding.

Mr. Deis said the City has changed the process for gathering input to the MSSP to refer to "key stakeholders," instead of "key informants." He explained that the majority of the key stakeholders will be citizens, and the remainder will be business people. He confirmed that staff has included the Council of Neighborhoods in the process.

6. APPROVAL OF THE AGENDA

Councilmember Montgomery moved approval of the agenda. Councilmember Lee seconded the motion, which carried unanimously and the agenda was approved.

7. CONSENT CALENDAR

Councilmember Montgomery moved approval of the consent calendar. Councilmember Lee seconded the motion, which carried unanimously, and the following items were approved:

**Minutes of Special Meeting of January 3, 2000
Minutes of Regular Meeting of January 10, 2000**

Approval of expenses and payroll as of January 18, 2000 in the amount of \$ 928,205.30

Ordinance No. 226, reducing the tax rate on bingo and raffles

Motion to authorize the City Manager to execute a Commute Trip Reduction (CTR) Implementation Agreement with King County to provide CTR Services

8. ACTION ITEMS: PUBLIC HEARINGS

(a) **Closed Record Appeal Hearing of the Planning Commission's Recommendations on the Zevenbergen Subdivision**

After Mayor Jepsen confirmed that Councilmembers had not had any ex parte communication regarding the appeal, Mr. Stewart briefly reviewed the staff report.

Mayor Jepsen noted that he will rely upon City Attorney Ian Sievers and upon Mr. Stewart to determine that the appellant and the applicant do not introduce new information or findings of fact. With that, he called for the presentations of the parties to the appeal.

Michael O'Connell, 620 NW 182nd Street, spoke on behalf of the appellants. He asserted the applicability of the Washington State vesting doctrine to this case. He said the zoning code required 390 square feet of recreation space per unit for subdivisions of eight or more units when the Zevenbergens submitted their application in 1998. There were additional requirements for recreation space totaling 5,000 square feet or more: it must be centrally located; it must be accessible and convenient to all residents; and it must have a street or roadway parking area along ten to 50 percent of the perimeter. He said the Zevenbergen application did not meet these requirements. In response to the Zevenbergens' claim that staff waived these requirements at the time of the application, Mr. O'Connell asserted that staff had no legal authority to do so.

Mr. O'Connell argued that, under the State vesting doctrine, an application must be complete and must comply with current laws in order to vest. He referred to the Noble Manor case in which the State Supreme Court quoted from the legislative report of the statute for vesting of subdivisions. He said the report identified the full completion of an application as a prerequisite of vesting. He said the Zevenbergens argue that their fully completed application vested despite the fact that it did not meet the substantive requirements of the law.

Finally, Mr. O'Connell addressed the Friends of the Law case, in which the State Supreme Court held that an application can be considered vested even in the event of procedural defects. However, Mr. O'Connell differentiated procedural defects from substantial defects. He reiterated that the Zevenbergen application did not meet all of the zoning code requirements. He asserted that it was unlawful and that, as a result, it did not vest. He distributed, and asked Council to read, the King County ordinance referenced by the applicants' attorney. Reserving the remainder of his time, he requested that Council deny the Zevenbergen application.

Courtney Kaylor, 2025 1st Avenue, Suite 1130, Seattle, Washington, represented the applicants. Asserting that neither the facts nor the law support the appellants' claim, she asked Council to deny the appeal and to approve the preliminary plat as unanimously recommended by the Planning Commission. She reviewed the history of the project, including the Planning Commission's recommendation for approval in 1998, the appeal to the Hearing Examiner and the Hearing Examiner's determination of procedural defects and decision to remand the issue to the Planning Commission.

Ms. Kaylor said the applicant agreed to certain conditions at the June 3rd remand hearing and to others during a subsequent meeting with neighboring residents. She said the agreements did not constitute a new or revised application. She explained that the applicant was responding to public comments and staff recommendations. She asserted

the unfairness of penalizing the applicant for submitting to conditions the neighbors requested.

Ms. Kaylor quoted King County Code 19.36.085, as adopted by the City under SMC 17.05.010: "Applicant-generated modifications or requests for revision(s) which are not made in response to technical staff review, throughout the public process or from examiner conditions which result in any substantial changes as determined by the department including creation of additional lots or elimination of open space requirements shall be treated as a new application for purposes of vesting." She asserted that changes must meet all of these criteria to be treated as a new application. She said the changes to which the applicant agreed met none of them.

Continuing, Ms. Kaylor refuted the claim that the application failed to vest for failing to show common recreation space. She quoted RCW 58.17.033: "A proposed division of land . . . shall be considered under the subdivision . . . ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval . . . has been submitted to the appropriate county, city or town official" and "The requirements for a complete application shall be defined by local ordinance." She then referred to the requirements for a completed application under SMC 16.40.040. She said it does not require a plat application to demonstrate compliance with zoning code requirements in order to vest. She stressed that the application contained the required information, that staff determined the application to be complete and processed it accordingly and that the plat, therefore, vested. The appellants seek to have Council ignore SMC 16.40.040 and impose a new requirement for a completed application. She commented that Council cannot do so.

Finally, Ms. Kaylor said the State Supreme Court held in the Friends of the Law case that the application vested even though it did not comply with a substantive requirement. She quoted from the Court decision: "A preliminary plat application is meant to give local governments an approximate picture of how the final subdivision will look. It is to be expected that modifications will be made during the give and take of the approval process. . . . Once a completed application has been submitted, it is to be judged under the laws in effect at the time of submission. If the applicant can show that the plat, with the proper conditions and modifications, will comply with those laws, it will be approved."

In rebuttal, Mr. O'Connell said the applicant has represented the agreement to include recreation space as mitigation. He stated that compliance with the law is not mitigation. He reiterated that the application the Zevenbergens submitted failed to comply with the law. Supposing the application had come to Council for approval without a recreation space, he said the applicant would not have been able to revise it to include one. He asserted that the application should have been denied before and that it should be denied now.

Councilmember Ransom moved to deny the appeal based on the following key findings: 1) the developer filed a complete application in March 1998 which vested

rights to develop under a 5,000 square foot minimum lot size; 2) subsequent revisions are in response to staff review, public comment or Planning Commission recommendations; and 3) revisions incorporated by the developer or proposed in the Commission recommendation do not materially increase impacts of the development. Councilmember Grossman seconded the motion.

Councilmember Montgomery asked whether an application such as that in question must comply with all applicable regulations before the City may consider it. Mr. Sievers responded that such an application must comply with the City ordinance that determines when a plat will be complete and that once it meets that standard the application vests. He went on to say that changes an applicant makes during the review process that do not create new impacts are not considered a new application under City ordinances.

Councilmember Montgomery asked whether the City ordinance that limits the size of a building footprint in relation to the lot size applies to the proposed subdivision. Mr. Sievers mentioned a statutory requirement that a plat meet all zoning and other land use regulations upon approval. He did not know whether the City requires a plat to show building setback lines.

Councilmember Lee asked if the clear identification of the recreation space is a prerequisite for designating the application to be complete. Mr. Sievers said neither the appellants nor the applicants have disputed the staff determination that the application was complete. Mr. Stewart explained that staff identified the deficient identification of the recreation space during its review of the plat, and the clear identification of the recreation space became one of the conditions of approval that staff recommended to the Planning Commission.

Councilmember Ransom reviewed the history of the application. He noted, and Mr. Stewart confirmed, the Planning Commission's unanimous recommendation that Council approve the application with conditions. Councilmember Ransom asserted his understanding that Council is acting like a jury in a civil case to determine whether it has probable cause to believe that the recommendation is reasonable. Mr. Sievers agreed. He said the appellant bears the burden of showing by a preponderance of the evidence that Council should not adopt the recommendation.

In response to Councilmember Ransom, Mr. Sievers confirmed that the Planning Commission made a recommendation of approval regarding the identification of the recreation space. Mr. Stewart confirmed that the Planning Commission voted unanimously to approve the application with conditions.

Councilmember Grossman favored City policy whereby developers and community members meet, discuss and resolve issues. He said it would set a bad precedent for the City to determine that a developer who participates in a public process and agrees to make changes has thereby submitted a new application. He expressed discomfort at penalizing a developer for cooperating with staff and the community. He said it is unrealistic to expect an initial plat application to be perfect from the outset.

Referring to King County Code 19.36.085, adopted by SMC 17.05.010, Mayor Jepsen asserted his understanding that modifications the applicant makes to respond to City staff, the public or the Hearing Examiner do not constitute a new plat application. He went on to note the examples of substantial change included under KCC 19.36.085 (3). He asked about additional legal definitions of "substantial change." Mr. Sievers noted that SMC 18.40.040 (B) states that "An applicant-requested modification . . . shall be deemed a new application for the purpose of vesting when such modification would result in a substantial increase in a project's impacts. . . ." While acknowledging that SMC 18.40.040 (B) does not apply to subdivisions, he said it provides an analogy to help determine the subdivision code.

Deputy Mayor Hansen asserted his understanding that an applicant who concedes to a negotiated mitigation that does not substantially increase the impacts of the project has not submitted a new application for the purpose of vesting. Mr. Sievers agreed.

Deputy Mayor Hansen and Councilmember Lee noted that staff determined the Zevenbergen Subdivision application to be complete in 1998.

A vote was taken on the motion, which carried 6-1, with Councilmember Gustafson dissenting, and the appeal was denied, based on the following key findings: 1) the developer filed a complete application in March 1998 which vested rights to develop under a 5,000 square foot minimum lot size; 2) subsequent revisions are in response to staff review, public comment or Planning Commission recommendations; and 3) revisions incorporated by the developer or proposed in the Commission recommendation do not materially increase impacts of the development.

RECESS

At 9:18 p.m., Mayor Jepsen declared a five-minutes recess. The meeting reconvened at 9:23 p.m.

9. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS AND MOTIONS

- (a) Motion to approve the preliminary plat for the Zevenbergen Subdivision, subject to the Findings of Fact, Conclusions and Conditions provided in the Planning Commission report

Mr. Stewart reviewed the 22 conditions of the approval of the Zevenbergen Subdivision (pages 136-139 of the Council packet).

Deputy Mayor Hansen moved that Council approve the preliminary plat for the Zevenbergen Subdivision, subject to the Findings of Fact, Conclusions and Conditions provided in the Planning Commission report. Councilmember Lee seconded the motion.

In response to Mayor Jepsen, Mr. Stewart explained that condition five reflects the conclusion of the Planning Commission in favor of a public right-of-way over an access tract and that condition 18 was meant to preserve the trees along the northern property boundary.

In response to Council questions, Mr. Stewart said Attachment H (page 217 of the Council packet) is the exhibit the applicants presented to the Planning Commission to demonstrate how they would meet the conditions imposed by the Planning Commission. He noted that staff has not yet reviewed and approved this plat map. In response to Deputy Mayor Hansen, he confirmed that the plat map must reflect the written conditions of the Planning Commission report to qualify for approval.

Councilmember Lee said many residents of developments similar to the one proposed express concerns about the ability of fire trucks to locate and access their homes. She asked if the City's new development code will address these issues more directly. Mr. Stewart mentioned the City's objective for the new development code to provide clear direction of what the fire department is willing to accept.

A vote was taken on the motion, which carried 7-0, and the preliminary plat for the Zevenbergen Subdivision was approved, subject to the Findings of Fact, Conclusions and Conditions provided in the Planning Commission report.

- (b) Ordinance No. 225, amending the City's Zoning map to change the zoning of a .75 acre parcel located at 20028 15th Ave. NE from R-6 to Contract Zone #CZ-99-02 subject to restrictive covenants (the Parker Rezone)

Mr. Stewart provided a brief overview of the staff report.

Deputy Mayor Hansen moved that Council adopt Ordinance No. 225. Councilmember Gustafson seconded the motion.

Mayor Jepsen supported the proposed contract rezone.

Noting that the proposed building falls 14 units short of the 36 units possible under the adopted Comprehensive Plan land use designation, Councilmember Grossman expressed concern about City fulfillment of the housing requirement under the Growth Management Act (GMA). Mr. Stewart said staff supports the proposed building for this site. He acknowledged that the City must identify opportunities to make up the shortfall.

A vote was taken on the motion, which carried 7-0, and Ordinance No. 225, amending the City's Zoning map to change the zoning of a .75 acre parcel located at 20028 15th Avenue NE from R-6 to Contract Zone #CZ-99-02 subject to restrictive covenants (the Parker Rezone), was approved.

Attachment D

Resolution No. 195

RESOLUTION NO. 195

**A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON,
APPROVING THE FINAL PLAT OF THE VIKING HIGHLANDS
SUBDIVISION.**

WHEREAS, the applicant has made application for final plat of the Viking Highlands Subdivision a thirteen lot subdivision; and

WHEREAS, your Council approved the subject preliminary plat of the Zevenbergen Subdivision on January 24, 2000 following a public hearing held by the Planning Commission on September 17, 1998 and continued to October 1, 1998, and

WHEREAS, the Zevenbergen Subdivision has been renamed the Viking Highlands Subdivision,

WHEREAS, engineering and site development plans have been approved to construct all required plat improvements, which will satisfy all requirements for final plat; and

WHEREAS, all required site development including, utility and drainage improvements, road and pedestrian improvements, and landscaping improvements have been guaranteed with a performance bond; and

WHEREAS, the applicant complied with all requirements of the City of Shoreline Municipal Code chapter 20.30.060 for recording the plat;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF SHORELINE, WASHINGTON AS FOLLOWS:**

Section 1. The Council finds that the conditions of preliminary plat approval have been met and the requirements for recording the final plat have been satisfied. The Council hereby adopts the findings of fact of the Director of Planning and Development Services set out following each preliminary subdivision condition in *Council Agenda Item 7(f) ANALYSIS* section, of the Shoreline Council Meeting packet of November 12, 2002.

The Council further finds that the plat of the Viking Highlands as proposed is in conformity with all applicable zoning ordinances and other land use controls of the City of Shoreline.

Section 2. The final plat of the Viking Highlands Subdivision is approved.

Section 3. The Mayor, City Engineer, and the Planning and Development Services

Director are authorized to sign the plat, which will then be recorded with King County Records and Elections Division.

ADOPTED BY THE CITY COUNCIL ON November 12, 2002.

Mayor Scott Jepsen

ATTEST:

Sharon Mattioli, CMC
City Clerk

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