

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Special Use Permit to Intensify a Nonconforming Gambling Use by Adding Satellite Off Track Wagering at 17001 Aurora Avenue North (Parker's Casino)
DEPARTMENT: Planning and Development Services
PRESENTED BY: Rachael Markle, Planning Manager

PROBLEM/ISSUE STATEMENT:

The Special Use Permit (SUP) Application before the Council is a request to allow the intensification of the nonconforming gambling use at Parker's Casino located at 17001 Aurora Avenue North by the addition of Emerald Down's off track wagering. Parker's has been conducting satellite off track wagering in the north end of Parker's Casino for the past three years. No construction activities are planned as part of this application. The building and site will remain unchanged. This application only considers whether or not the proposed use intensification, satellite off track wagering, meets the Special Use Permit Criteria.

ALTERNATIVES ANALYZED:

- Approve Ordinance 329 as recommended and supported by the Findings and Conclusions of the Planning Commission and Staff;
- Approve Ordinance 329 as amended by the City Council and supported by alternative Findings and Conclusions of the Council; or
- Deny the Approval of the Special Use Permit supported by alternative Findings and Conclusions of the Council.

FINANCIAL IMPACT:

By state statute the City does not receive gambling taxes from satellite off track betting. Therefore, there is no direct significant financial gain or loss in City revenue as a result of the approval or denial of this application.

RECOMMENDATION

Planning Commission and Staff recommends that the Council adopt Ordinance No. 329 approving the Special Use Permit to intensify a nonconforming gambling use at Parker's Casino located at 17001 Aurora Avenue North by the addition of off track wagering.

Approved By: City Manager  City Attorney 

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BACKGROUND

How Has Parker's Been Operating the Off Track Wagering for the Past 3 Years Without a Special Use Permit?

Parker's sent the Planning Department a letter in early March 2000 in which an inquiry was made regarding the City's permitting requirements for establishing satellite off track wagering. On March 27, 2000, the City Council enacted a moratorium on the establishment of satellite off track wagering. On September 27, 2000, the moratorium ended with the Council's adoption of amendments to the Development Code that more clearly states that off track wagering is defined as gambling and is therefore prohibited in the City of Shoreline unless a Special Use Permit is obtained.

Parker's has been in litigation with the City for the past two years regarding its presumed vested right to establish satellite off track wagering. Parker's claimed the inquiry letter sent in March 2000 vested satellite off track wagering as a use. The City maintained that the addition of satellite off track wagering constituted an expansion or intensification of a gambling use and therefore required the approval of a Special Use Permit. While under litigation, the court granted Parker's the right to continue the satellite off track wagering. In 2002 the Superior Court ruled that Parker's did not have a vested right to establish the off track wagering use.

Parker's appealed this decision to the Court of Appeals and later agreed to delay its appeal if the City would allow Parker's to continue to operate the off track wagering until the end of the 2002 horse racing season. The City allowed Parker's to complete the 2002 horse racing season with the understanding that a Special Use Permit would be required to operate the off track wagering in 2003 and subsequent years. Parker's dismissed the appeal and submitted the Special Use Permit application to the City on April 3, 2003.

Parker's is currently operating off track wagering through an approved Temporary Use Permit that will expire on August 1, 2003.

What is Satellite Off Track Wagering and what does adding this use entail?

In early 2000, Emerald Downs proposed to relocate its King County off-track betting facility from an establishment north of Kirkland to Parker's Casino in the City of Shoreline. Under RCW 67.16.200, the State has authorized the Horse Racing Commission to approve satellite pari-mutuel betting sites operated by Emerald Downs in Auburn "subject to local zoning and other land use ordinances". These sites receive real time betting lines and video transmission of races run at the track. No limit bets may be placed on 10-11 races held during each race day. These off-track satellites must be located at least 20 miles from the Emerald Downs track and only one such betting site is allowed for each county.

Off track wagering would be operated at Parker's from approximately April 20th to September 15th each year. The days of operation are Thursday and Friday from 5:00 p.m. to 10:00 p.m. and Saturday and Sunday from 1:00 p.m. to 9:00 p.m. Special racing event telecasts would also occur on Memorial Day, Fourth of July, and Labor Day from 1:00 p.m. to 9:00 p.m.

Seven employees operate the satellite off track wagering at Parker's: four tellers, two waitresses and one bartender. An average of 60-100 patrons attend each day of racing telecasts.

Why is a Special Use Permit required to add satellite off track wagering as a use at Parker's Casino?

Gambling uses are prohibited in the City of Shoreline. Gambling uses are defined in the Development Code as:

One of those gambling activities regulated by the State which involve staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. Gambling Uses include those uses regulated by the Washington State Horse Racing Commission and the Washington State Gambling Commission with the following exceptions as these uses are defined in Chapter 9.46 RCW...(SMC 20.20.022)

Although gambling uses are prohibited, those gambling uses that were legally established prior to the City's moratorium on gambling uses are allowed to continue as nonconforming uses. A nonconforming use may be **expanded** or **intensified** subject to approval of a Special Use permit provided a nonconformance with the Code standards is not created or increased. Intensification of a gambling use means the addition of a new gambling activity to an existing nonconforming gambling activity ex. At present, Parker's casino operates fifteen (15) legal nonconforming card tables and would like to add satellite off track wagering as a new gambling use. Expansion of a gambling use refers to a physical increase in the size of the building envelope or lot area containing a legal nonconforming gambling use. Not expansion is proposed with this application. An applicant must prove that the proposed expansion or intensification of the gambling use meets or exceeds the Special Use Permit criteria found in the Development Code Section 20.30.330.

In addition to the Special Use Permit criteria, the Code contains supplemental index criteria for gambling uses. The supplemental criteria applies parking requirements specific to gambling uses in addition to the standard parking requirements found in Section 20.40.372 of the Development Code.

PROCEDURAL HISTORY

The Shoreline Municipal Code classifies SUP applications as a "Type C." These application types require a series of actions, each of which are summarized in the table that follows.

REQUIRED ACTION	DATE COMPLETED
Pre-Application Meetings Held	March 5, 2003
Neighborhood Meeting Held	March 24, 2003
Application Date	April 3, 2003
Complete Application	May 16, 2003
Public Notice of Complete Application and Public Hearing <ul style="list-style-type: none"> • Notices Mailed • Signs Posted at Site • Advertisements In Paper 	May 19, 2003
End of Public Comment Period	June 3, 2003
Planning Commission Public Hearing: Planning Commission formulates recommendation on project and this recommendation is forwarded to City Council to utilize in their final determination for approval or denial of project.	June 5, 2003

PUBLIC COMMENT

There were no comment letters received in response to the proposed project. One person testified at the Planning Commission's public hearing expressing her concerns regarding conflicts with autos and pedestrians on North 170th Street – more specifically with cars and people entering and exiting Parker's parking lot. Please see Attachment D, June 5, 2003 Planning Commission Minutes, for more details.

ALTERNATIVES ANALYSIS

SPECIAL USE PERMIT CRITERIA

Section 20.30.330.B of the Shoreline Municipal Code outlines the criteria by which SUP applications are reviewed. The City shall grant a SUP, only if the applicant demonstrates that it meets each of the Special Use criteria. Please see Attachment C, Applicant's Response to the Special Use Permit criteria. The Planning Commission recommendation is based on the findings of fact and conclusions regarding whether or not the proposed project or project as conditioned meets the Special Use Permit Criteria. Please see Attachment C Exhibit 1, Findings and Conclusions. Described below each criterion is a description of how the project as proposed or as conditioned meets the criterion.

1. The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.

The use as proposed does not meet this criterion. However, the use as conditioned will provide a public benefit to the neighborhood, district and City. Staff suggests that the SUP be conditioned to require the applicant to bring the north side of N 170th Street between Aurora Ave N on the east and the Parker's property line on the west (to Shorewood High School property line) up to current standards for residential streets, which includes curb, gutters, sidewalks and amenity zones. In addition, staff suggests the SUP be conditioned to require the consolidation of the access drives on North 170th Street to no more than two driveways to cut down on auto and pedestrian conflicts. See Attachment C Exhibit 2A for a generalized map of the proposed area to be improved.

2. The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.

The subject property is located adjacent to Aurora Avenue North and is zoned Industrial. The Industrial and Regional Business zone permits the most intense land uses allowed in the City of Shoreline. The uses that surround project site include the following:

Uses to the North: Auto Dealership
Uses to the South: Sugar's Adult Entertainment Club
Uses to the East: Shorewood High school
Uses to the West: Mix of retail uses

Staff contacted Shorewood High School and asked if there were any concerns regarding the applicant's proposal to add off track betting as a use at neighboring Parker's. The Vice Principal confirmed that there were no concerns regarding Parker's or the proposed intensification.

Based on the above list of uses and confirmation from the high school that there are no concerns, the characteristics of the proposed use of a restaurant, bar with a card room and off track wagering are found to be compatible with surrounding uses.

3. The special use will not materially endanger the health, safety and welfare of the community.

The proposed Special Use condition proposed under Criterion #1 allows the project as proposed to meet this criterion. The project as conditioned will address issues raised concerning vehicular and pedestrian safety. See Attachment C, Ordinance 329 Exhibit 2 – Conditions of Approval.

4. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.

Although the proposed use of bar with a card room and off track wagering would be located essentially across the street from Debby's Drift On Inn Casino and the future Hollywood Casino staff does not feel that this meets the definition of a detrimental over concentration of a particular use. If allowing the particular use would exceed the capacity of the city's infrastructure or public services such as police, fire, schools, then the use would be considered a detrimental overconcentration. The proposed Special Use conditions assist the project as proposed to meet this criterion. The project as conditioned will not cause a detrimental over concentration of the use. In addition, the State Gambling Commission only allows one off track wagering site per County alleviating the concern that this use could proliferate.

5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

Parking

Based on the parking calculations prepared by Driscoll Architects and submitted as part of the Special Use Permit application, a total of 210 parking spaces are required for the existing and proposed uses to meet the Shoreline Development Code. Parker's currently has 211 parking spaces. The provision of 210 parking spaces also meets the Supplemental index criteria for gambling (Section 20.40.372) related to parking. However, since Section 20.40.372 bases the number of parking spaces needed on the total number of seats available for viewing satellite off track betting, a condition has been added to limit the number of seats available. Should the owner need to increase the number of seats available for viewing of satellite off track betting the number of parking spaces would have to be increased in accordance with Section 20.40.372 i.e. for every three additional seats one parking space must be added. Please see Attachment C Exhibit 2, Conditions of Approval.

In addition, Transportation Solutions, Inc. performed a parking demand study for the applicant based on existing uses. The study was conducted on Thursday and Friday April 10th and 11th, 2003 between the hours of 6:00 p.m. and 10:00 p.m. This study indicated that only 40%-50% of the parking lot was filled with the existing uses. Therefore, since the applicant has sufficient parking to meet the standards of the Code with the addition of 48 seats of off track wagering and the field study provides further support that there is adequate parking, the conclusion can be drawn that the existing number of parking stalls can serve the current and proposed use.

Traffic and Pedestrian Safety

The traffic study prepared by Transportation Solutions, Inc for the applicant, indicated that the addition of satellite off track wagering would likely increase the number of p.m. peak hour trips (trips attributed to the project site between the 6:00-7:00 p.m.) from 90 trips currently to 138 trips on weekdays and from 100 trips to 166 trips on weekend days. This increase represents less than a 2% increase in traffic volume on Aurora Avenue North and according to the traffic engineer that prepared this study, would not represent a noticeable increase in activity by the average driver traveling on Aurora Avenue.

Shorewood High School is located directly east of Parker's Casino and can be accessed from North 170th Street. There is no sidewalk, curb, gutter, or amenity zone on either side of North 170th Street. There are four undefined access drives to Parker's from N. 170th Street. Staff is concerned that the lack of pedestrian amenities in combination with the uncontrolled access to the Parker's parking lot could jeopardize the safety of pedestrians on North 170th Street. There is concern especially for nearby high school students walking, riding bikes or parking on North 170th in order attend school or special events including outdoor sporting activities.

170th Street is classified in Shoreline's Comprehensive Plan as residential. The Development Code states that the standards for residential streets are:

- 6 foot concrete sidewalks;
- 4 foot amenity zones;
- curb and gutter; and
- Half-street improvements.

O meet the comments and meet the benefit criterion staff suggests that the SUP be conditioned to require the applicant to bring the north side of N 170th Street between Aurora Ave N on the east and Parker's property line on the west (to Shorewood High School property line) up to current standards for residential streets, which includes curb, gutters, sidewalks and amenity zones. In addition, staff suggests the SUP be conditioned to require the consolidation of the access drives on North 170th Street to no more than two driveways to reduce the number of conflicts between autos and pedestrians. See Attachment C Exhibit 2A for a generalized map of the proposed area to be improved.

6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.

Since the project proposal does not include the expansion of the building – sewer and water certificates were not required. The Shoreline Fire Department reviewed this application and confirmed that there is adequate water flow and fire protection to serve this site. Staff contacted the Shoreline Police Department and confirmed that City has adequate resources to serve the site with the addition of off track betting.

- 7. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.**

Not Applicable: No construction is proposed as part of this application.

- 8. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.**

The Comprehensive Plan does not have any policies that specifically relate to gambling. The proposed project as conditioned does support such Comprehensive Plan policies as:

- LU1: Preserve environmental quality by taking into account the land's suitability for development and directing intense development away from natural hazards and important natural resources.
- LU39: Ensure vital and attractive commercial areas through public/private investments including: pedestrian amenities and street aesthetics, such as trees, benches, etc.; adequate transportation services such as bus routes, parking, roads, loading and delivery zones, bicycle and pedestrian routes; public spaces such as plazas, pocket parks, intersection treatments and amenities, and public squares; appropriate signage excluding billboards; transportation demand management programs such as carpooling and bus usage; and gateway treatments and public art.

- 9. The special use is not in conflict with the standards of the critical areas overlay.**

Based on the information supplied by the property owner and the critical area maps available at the City of Shoreline, the proposed project does not appear to be located in any known critical area.

CONCLUSION

The proposed project to intensify the nonconforming gambling use at Parker's casino by adding satellite off track wagering as a new use as conditioned meets the Special Use Permit Criteria and the Supplemental Index Criteria for gambling uses.

RECOMMENDATION

Planning Commission and Staff recommends that the Council adopt Ordinance No. 329 approving the Special Use Permit to intensify a nonconforming gambling use at Parker's Casino located at 17001 Aurora Avenue North by the addition of off track wagering

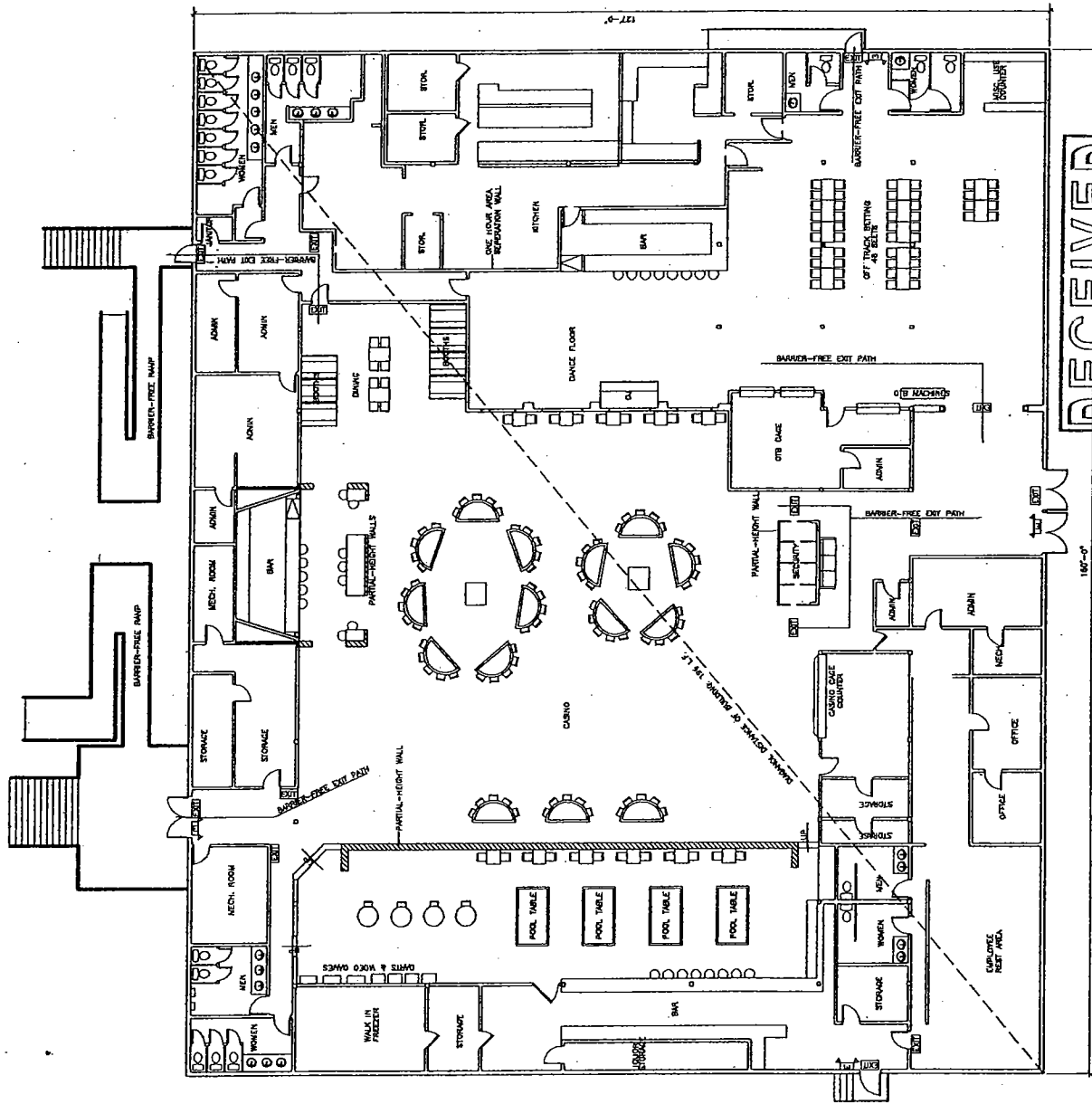
ATTACHMENTS

Attachment A	Applicable Plan Sheets
Attachment B	Applicant's responses to the Special Use Permit Criteria
Attachment C	Ordinance 329 Exhibit 1: Planning Commission Findings and Determination Exhibit 2: Conditions of Approval Exhibit 2 A: Frontage Improvements Vicinity Map
Attachment D	Draft June 5, 2003 Planning Commission Minutes

**ATTACHMENT A: APPLICABLE
PLAN SHEETS (FOR REFERENCE)**

Notes: Dwg. A3

- 1. FIELD VERIFY ALL DIMENSIONS
- 2. NO CHANGES TO BUILDING OTHER THAN USE OF INDICATED AREA
- 3. OTB SEATING ARRANGEMENT SUBJECT TO CHANGE OR MODIFICATION WITHIN CODE STANDARDS
- 4. HOURS OF OPERATION: 9AM-5AM 7D/W



RECEIVED
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 P & DS
 201219

Plan: CASINO
 1/8" = 1'-0"
 1/4" = 1'-0"

A.3

DRISCOLL ARCHITECTS
 115 Ball Street • Seattle, WA 98121
 206-441-7705 • 206-441-5373 (fax)

PARKERS CASINO
 17001 AURORA AVE. N.
 SHORELINE, WA

**ATTACHMENT B: APPLICANT'S
RESPONSE TO SPECIAL USE
PERMIT CRITERIA**

R.W. THORPE & ASSOCIATES, INC.

❖❖ Planning • Landscape • Environmental • Economics ❖❖

PRINCIPAL:
Robert W. Thorpe, AICP

Stephen Speidel, ASLA, Vice President

Special Use Permit (SUP) Criteria Sheet-Supplement

1. The use will provide a public benefit or satisfy a public need of the neighborhood district or City.

Response: *This Special Use Permit allowing Emerald Downs off-track betting at Parker's Sports Bar and Casino will continue to provide a location for indoor recreation. With a temporary permit from the City of Shoreline, Parker's has provided off-track betting for the past three years and has regularly attracted an additional 60-100 people to their business who, in addition to finding recreation, have also brought economic benefits to other local businesses. The additional revenues contribute support to the city through business taxes. Parker's Casino proposes to enclose their garbage dumpster within a solid screen material, enhance the level of landscaping along Aurora Ave N, and will increase the garbage maintenance on the property directly across from their property on N 170th Street. Another public benefit is the additional employment s provided during the off-track betting season. During the horseracing season Parker's employs an additional eight employees.*

2. The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas

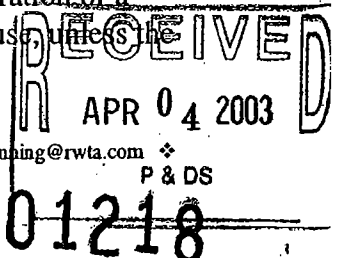
Response: *This Special Use Permit will be compatible with the surrounding uses. The surrounding uses include auto related uses such as a car dealership (Chuck Olson Chevrolet), a truck canopy retailer (Horton's Canopies), an auto parts supplier (Action Auto Parts), and a used car lot and service garage. There are other types of retail including a flea market, copy mart, and appliance sales (Osborne's Appliance). Taboo Video, and Sugar's Topless Lounge and Restaurant are also located nearby. Four casinos, "The Drift on Inn", "Goldie's Casino", The Golden Nugget Casino", and the "Hideaway Card Room" currently conduct legal gambling on Aurora Ave N within Shoreline city limits. "Hollywood Casino", currently under construction, plans to open for business in May of 2003.*

3. The special use will not materially endanger the health, safety, and welfare of the community.

Response: *In the three years that Parker's Sports Bar and Casino has provided 'Emerald Downs' off-track betting they have established a history of maintaining the health, safety, and welfare of both their customers as well as the local community. Parker's staffs 24-hour on-site surveillance as well as 24-hour on-site security as a response to potential safety issues that may arise. Shoreline Police Department has not received any complaints from neighbors about Parker's Casino regarding safety issues such as parking, noise, or traffic related incidents (per Sharon of the Shoreline Police Department).*

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4. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.



7. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.

Response: There will be no changes to existing structures, walls or fences. There will be no additional vegetation to hinder or discourage the appropriate development or use of neighboring properties. All activities related to the Special Use Permit will be contained within the structure of Parker's Sports Bar and Casino.

8. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.

Response: Please see attached Comprehensive Plan Compatibility Matrix.

9. The special use is not in conflict with the standards of the Critical Area Overlay.

Response: To our knowledge this site is not located in any critical areas. See attached owners Critical Area Worksheet.

Parker's Sports Bar and Casino

Compatibility with the 1998 City of Shoreline GMA Comprehensive Plan

Applicable Policy	Highly Compatible / Somewhat Compatible / Subjective / Incompatible	
<p>LAND USE ELEMENT Goal LU I: To assure that the land use pattern of the City encourages needed, diverse, and creative development, protects existing uses, safeguards the environment, reduces sprawl, promotes efficient use of land, encourages alternative modes of transportation and helps to maintain Shoreline's sense of community.</p>	<p>This special use contributes to the diversity of development in the area. The surrounding uses include auto related uses such as a car dealership (Chuck Olson Chevrolet), a truck canopy retailer (Horton's Canopies), an auto parts supplier (Action Auto Parts), and a used car lot and service garage. There are other types of retail including a flea market, copy mart, and appliance sales (Osborne's Appliance). Taboo Video, and Sugar's Topless Lounge and Restaurant are also located nearby. Four casinos, "The Drift on Inn", "Goldie's Casino", The Golden Nugget Casino", and the "Hideaway Card Room" currently conduct legal gambling on Aurora Ave N within Shoreline city limits. "Hollywood Casino", currently under construction, plans to open for business in May of 2003.</p>	<p>++</p>
<p>Goal LU V: The Community Business designation should be applied to areas within the Aurora Corridor Overlay District, North City and along Ballinger Road. This designation provides for retail, office and service uses, and high-density residential uses. Significant pedestrian connection and amenities are anticipated.</p>	<p>This special use is compatible with the Comprehensive Plan 'Community Business' designation.</p>	<p>++</p>
<p>PARKS, OPEN SPACE, AND RECREATION ELEMENT Goal PR II: Seek increased opportunities for Shoreline citizens to enjoy parks, recreation, and cultural resources through improving accessibility and usability of existing facilities and pursue opportunities and partnerships for new indoor and outdoor facilities for year round programming.</p>	<p>The continuation of off-track betting at Parker's Sports Bar and Casino will continue to offer Shoreline and incoming consumers the accessibility to a form of indoor recreation.</p>	<p>o/+</p>
<p>Policy PR 13: Work to improve the accessibility of park and recreation facilities to all individuals and groups of all physical capabilities, skill levels, age, income and activity interest, and seek compliance with Americans with Disabilities Act standards.</p>	<p>Parker's is an ADA accessible form of recreation for those of varied physical capabilities, skill levels, age (if over age 21), income and who are interested in a lower physical level of activity.</p>	<p>o/+</p>

**Parker's Sports Bar and Casino
Compatibility with the 1998 City of Shoreline GMA Comprehensive Plan**

Applicable Policy	Highly Compatible / Somewhat Compatible / Subjective / Incompatible	
Policy PR 15: Seek to balance indoor and outdoor recreation opportunities.	Parker's off-track betting offers an indoor recreation opportunity.	o/+
Policy PR 16: Seek to balance passive and active recreation opportunities.	Parker's off-track betting offers a passive recreation opportunity.	o/+
ECONOMIC ELEMENT Policy ED 2: Improve economic vitality by: <ul style="list-style-type: none"> • Encouraging existing businesses to thrive • Recruiting new businesses • Encouraging economic services for the community • Cooperating with businesses • Assuring increased housing density around commercial districts • Developing design guidelines to enhance commercial areas 	The continuation of off-track betting to Parker's Casino will enhance this business's ability to thrive.	++
Policy ED 5: Increase and improve the City's job base allowing people to work and shop in the community.	Off-track betting allows Parker's to increase its employee base during the horseracing season.	++
Policy ED 10: Recognize the Aurora Corridor as the economic core of the City with potential for revitalization, providing services, jobs, opportunities, and becoming an activity center for Shoreline.	Parker's as part of the Aurora Corridor, provides services, jobs, and is part of the activity center for Shoreline.	+
Policy ED 18: Encourage a mix of businesses that compliment each other and provide variety to the community to create activity and economic momentum.	Parker's Sport's Bar and Casino plays a role in the mix of businesses and provides activity and economic momentum to the community. It has been a successful business in the City of Shoreline for many years, contributing employment, tax dollars, and an opportunity for those with an inclination toward watching horseracing as recreation.	++
Policy ED 23: Actively work with the King County, Snohomish County, Shoreline Community College, SnoKing Economic Development Council, neighboring cities, Shoreline Chamber of Commerce, local business associations to stimulate business retention and implement interlocal and regional strategies.	There is only one location for off-track betting allowed per county. Parker's Sport's Bar and Casino is the location for King County. The City of Shoreline has a unique opportunity to ensure the stability and retention of Parker's by allowing the use of off-track betting. In addition, the success of Parker's will attract more consumers into the immediate area, which will contribute to the success of other local businesses.	+

**ATTACHMENT C: ORDINANCE
NO. 329**

ORDINANCE NO. 329

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON APPROVING A SPECIAL USE PERMIT FOR THE PURPOSE OF INTENSIFYING A NONCONFORMING GAMBLING USE BY ADDING SATELLITE OFF TRACK WAGERING AT 17001 AURORA AVENUE NORTH

WHEREAS, certain property, located at 17001 Aurora Avenue North , is designated on the Zoning Map as Industrial and Residential 12 units/acre, and on the Comprehensive Plan Map as Community Business; and

WHEREAS, gambling as a use is permitted at 17001 Aurora Avenue North as a legal nonconforming use; and

WHEREAS, legal nonconforming gambling uses may be expanded or intensified subject to the approval of a Special Use Permit; and

WHEREAS, owners of certain property, located at 17001 Aurora Avenue North have filed an application for Special Use Permit for the purpose of intensifying the existing nonconforming gambling use by adding satellite off track wagering; and

WHEREAS, on June 5, 2003, a public hearing on the application for Special Use Permit was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on June 5, 2003, the Planning Commission recommended approval the special use permit and entered findings of fact and a conclusion based thereon in support of that recommendation; and

WHEREAS, upon consideration of the application and the Planning Commission recommendation, the City Council has determined that the special use permit application for the property located at 17001 Aurora Avenue North meets the Section 20.30.330 B Special Use Permit Criteria and Section 20.40.372 Supplemental Index Criteria for Gambling;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Findings and Conclusions on File No. 201218 as attached hereto as Exhibit 1, are hereby adopted.

Section 2. Special Use Permit. A Special Use Permit is hereby approved for the intensification of a nonconforming gambling use to add satellite off track wagering to 17001 Aurora Avenue North subject to the conditions attached in Exhibit 2.

ATTACHMENT C

Section 3. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance, is declared invalid, then the remainder of this Agreement, or the application of such provision to other persons or circumstances, shall not be affected.

Section 3. Effective Date. This ordinance shall go into effect five days after passage, and publication of the title as a summary of this ordinance.

PASSED BY THE CITY COUNCIL ON JUNE 23, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

**EXHIBIT 1: PLANNING
COMMISSION FINDINGS OF FACT
AND CONCLUSIONS**

PLANNING COMMISSION FINDINGS AND DETERMINATION

Findings and Determination of the City of Shoreline Planning Commission

Parker's Special Use Permit, File #201218

Summary-

Upon reviewing the application for the Special Use Permit to allow for off-track wagering at Parker's, staff recommends that the permit be approved subject to the conditions established in this report.

I. FINDINGS OF FACT

1. **Project Description-**

- 1.1 Action: Special Use Permit to allow for the intensification (addition) of satellite off track wagering
- 1.2 Vicinity: 17001 Aurora Ave N
- 1.3 Parcel Number: 0726049098
- 1.4 a.) The subject property has a land use designation "Community Business" as identified on the City of Shoreline's Comprehensive Plan Land Use Map.
b.) Zoning for the subject property is split zoned Industrial and Residential 12 units/acre.

2. **Procedural History-**

- 2.1 Pre-Application meeting held: March 5, 2003
- 2.2 Neighborhood meeting date: March 24, 2003
- 2.3 Application Date: April 3, 2003
- 2.4 Complete Application Date: May 16, 2003
- 2.5 Public Notice of Complete Application and Public Hearing: May 19, 2003
- 2.6 End of Public Comment period: June 3, 2003
- 2.7 Planning Commission Public Hearing: June 5, 2003
- 2.8 City Council Public Meeting: Anticipated June 23, 2003

3 **Public Comment-**

- 3.1 Cindy Ryu of 15215 Aurora Avenue North provided testimony at the June 5, 2003 Planning Commission Public Hearing. She testified that on North 170th Street

she had witnessed conflicts between autos and pedestrians exiting and entering the parking lot at Parker's. In addition, she stated that persons parking in the lot just South of Parker's across N. 170th were crossing the street to enter Parker's and creating potential safety issues for themselves and persons traveling on N. 170th Street.

4 SEPA Determination-

- 4.1 A SEPA determination was not required for this Special Use Permit pursuant to WAC 197.11.800(3).

5. Consistency-

- 5.1 The application has been evaluated and found to be consistent with the nine criteria listed in Shoreline Municipal Code Section 20.30.330 (B) and the supplemental index criteria for gambling uses in Section 20.40.372.
- 5.2 This Special Use Permit does not constitute approval for any development proposal.

II. Conclusions

1. The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.

The use as conditioned will provide a public benefit to the neighborhood, district and City. Due to the anticipated increased traffic associated with the addition of satellite wagering, the Planning Commission recommends that the SUP be conditioned to require the applicant to bring the north side of N 170th Street between Aurora Ave N on the east and the western property line (adjacent to Shorewood High School) up to current standards for residential streets, which includes curb, gutter, sidewalks and amenity zone.

2. The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.

The subject property is located adjacent to Aurora Avenue North and is zoned Industrial. The Industrial and Regional Business zone permits the most intense land uses allowed in the City of Shoreline. The uses that surround project site include the following:

- Uses to the North:** Auto Dealership
- Uses to the South:** Sugar's Adult Dancing Club
- Uses to the East:** Shorewood High school
- Uses to the West:** Mix of retail uses

Staff contacted Shorewood High School and asked if there were any concerns regarding the applicant's proposal to add off track betting as a use at neighboring Parker's. The High School's administration confirmed that there were no concerns regarding Parker's or the proposed intensification.

PLANNING COMMISSION FINDINGS & DETERMINATION

Based on the above list of uses and confirmation from the high school that there are no concerns, the characteristics of the current and proposed uses of a restaurant, bar with a card room and off track wagering are found to be compatible with surrounding uses.

3. The special use will not materially endanger the health, safety and welfare of the community.

The project as conditioned will address the issues raised concerning vehicular and pedestrian safety.

4. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.

Although the proposed use of bar with a card room and off track wagering would be located essentially across the street from Debby's Drift On Inn Casino, this does not meet the definition of a detrimental over concentration of a particular use. If allowing the particular use would exceed the capacity of the city's infrastructure or public services such as police, fire, schools, then the use would be considered a detrimental overconcentration.

5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

Parking

Based on the parking calculations prepared by Driscoll Architects and submitted as part of the Special Use Permit application, a total of 210 parking spaces are required for the existing and proposed uses to meet the Shoreline Development Code. Parker's currently has 211 parking spaces. The provision of 210 parking spaces also meets the Supplemental index criteria for gambling (Section 20.40.372) related to parking. However, since Section 20.40.372 bases the number of parking spaces needed on the total number of seats available for viewing satellite off track betting, a condition has been added to limit the number of seats available. Should the owner need to increase the number of seats available for viewing of satellite off track betting the number of parking spaces would have to be increased in accordance with Section 20.40.372 i.e. for every three additional seats one parking space must be added.

Traffic and Pedestrian Safety

The traffic study prepared by Transportation Solutions, Inc for the applicant indicated that expected increase would represent less than a 2% increase in traffic volume on Aurora Ave N and according to the traffic engineer that prepared the study, would not represent a noticeable increase in activity.

Shorewood High School is located directly east of Parker's Casino and can be accessed from North 170th Street. There is no sidewalk, curb, gutter, or amenity zone on either side of North 170th Street. There are four undefined access drives to Parker's from N. 170th Street. Staff is concerned that the lack of pedestrian amenities in combination with the uncontrolled access to the Parker's parking lot could jeopardize the safety of pedestrians on North 170th Street. There is concern especially for nearby high school students walking, riding bikes or parking on North 170th in order attend to school or special events including outdoor sporting activities.

170th Street is classified in Shoreline's Comprehensive Plan as residential. The Development Code states that the standards for residential streets are:

- 6 foot concrete sidewalks;
- 4 foot amenity zones;
- curb and gutter; and
- half street improvements.

Due to the anticipated increase in traffic associated with the addition of satellite off track wagering, the Planning Commission recommends that the SUP be conditioned to require the applicant to bring the north side of North 170th Street from Aurora Avenue North to the east property line up to current standards for residential streets. In addition, staff suggests the SUP be conditioned to require the consolidation of the access drives on North 170th Street to no more than two driveways to reduce the number of conflicts between autos and pedestrians.

- 6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.**

Since the project proposal does not include the expansion of the building – sewer and water certificates were not required. The Shoreline Fire Department reviewed this application and confirmed that there is adequate water flow and fire protection to serve this site. Staff contacted the Shoreline Police Department and confirmed that City has adequate resources to serve the site with the addition of off track betting.

- 7. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.**

Not applicable: No construction is proposed as part of the application.

- 8. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purpose of this title.**

The Comprehensive Plan does not have any policies that specifically relate to gambling. The proposed project as conditioned does support such Comprehensive Plan policies as:

- LU1: Preserve environmental quality by taking into account the land's suitability for development and directing intense development away from natural hazards and important natural resources.
- LU39: Ensure vital and attractive commercial areas through public/private investments including: pedestrian amenities and street aesthetics, such as trees, benches, etc.; adequate transportation services such as bus routes, parking, roads, loading and delivery zones, bicycle and pedestrian routes; public spaces such as plazas, pocket parks, intersection treatments and amenities, and public squares; appropriate signage excluding billboards; transportation demand management programs such as carpooling and bus usage; and gateway treatments and public art.

- 9. The special use is not in conflict with the standards of the critical areas overlay.**

PLANNING COMMISSION FINDINGS & DETERMINATION

Based on the information supplied by the property owner and the critical area maps available at the City of Shoreline, the proposed project does not appear to be located in any known critical area.

III. Recommendation

The Planning Commission recommends that the Special Use Permit be approved subject to the conditions based on the findings of fact and conclusions contained in this report.

City of Shoreline Planning Commission

_____ Date: _____
Chairperson

**EXHIBIT 2: SPECIAL USE PERMIT
CONDITIONS**

ORDINANCE 329 EXHIBIT 2

CONDITIONS OF SPECIAL USE PERMIT 201218

The Special Use Permit allowing for the intensification of the nonconforming gambling use to add satellite off track wagering at 17001 Aurora Avenue North, in addition to the standards of the Development Code, is subject to the conditions recited herein as follows:

- 1) Construct frontage improvements adjacent to the site in accordance with the standards set forth in Title 20 of the Shoreline Development Code and Engineering and Development Guide on the North side of North 170th Street between Aurora Avenue North on the east and the shared property line with Shorewood High School on the west. These frontage improvements shall include the construction of:
 - 6 foot concrete sidewalks;
 - 4 foot amenity zones;
 - curb and gutter; and
 - half street improvements.

Improvements must be constructed or fully bonded for construction, by the start of the 2004 State of Washington Horse Racing season in April. If these improvements are not completed or bonded by the start of the 2004 State of Washington Horse Racing season, the Special Use Permit will be deemed null and void. Please see Exhibit 2A for a generalized map that identifies the vicinity of the frontage improvements.

- 2) Consolidate the four (4) existing access points to the subject site on North 170th to a maximum of two (2) commercial driveways that meet the standards set forth in Title 20 of the Shoreline Development Code and the Engineering and Development Guide.

Improvements must be constructed or fully bonded for construction, by the start of the 2004 State of Washington Horse Racing season in April. If these improvements are not completed or bonded by the start of the 2004 State of Washington Horse Racing season, the Special Use Permit will be deemed null and void.

- 3) Based on current available parking, Parker's Casino is approved for 48 seats of satellite off track betting. The existing and proposed uses at this site require a total of 210 parking spaces. If additional seating is added in the area of the casino where patrons can view satellite off track betting the number of required parking spaces shall increase at a ratio of one parking space for every three seats available to view satellite off track betting. Additional parking may be allowed with the approval of the Planning and Development Services Director on site, through a shared parking agreement or in an off site lot. If the required number of parking spaces are not maintained, Parker's will be in violation of the Development Code and subject to Code Enforcement action.

N 175TH ST

AURORA AV N

RONALD PL N

(NAC MIDVALE AV N)

AUTOMOBILE

Shorewood
Highschool

SH
Chuck Olson
Automotive

SUBJECT SITE

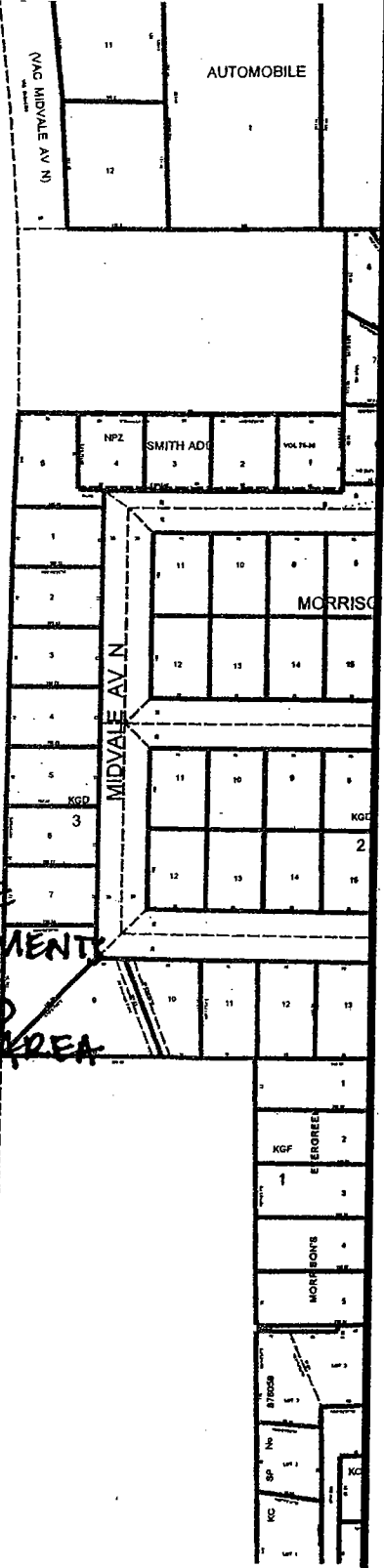
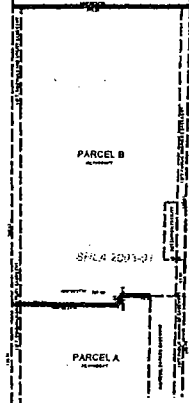
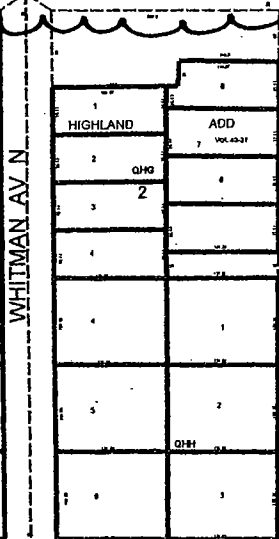
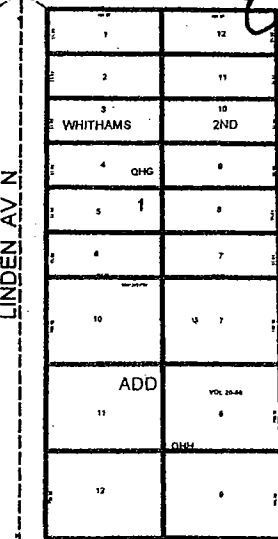
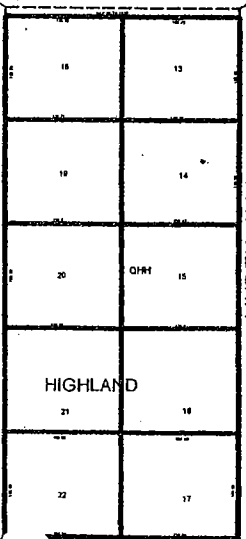
No. **Parkers** 99-015
17001 Aurora Ave N

FRONTAGE
IMPROVEMENTS
REQUIRED
IN THIS AREA

N 170TH ST

MIDVALE AV N

MORRIS



N 167TH ST

AURORA AV N

FRONTAGE
IMPROVEMENTS
VICINITY MAP



**ATTACHMENT D: DRAFT JUNE 5,
2003 PLANNING COMMISSION
MINUTES**

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

June 5, 2003
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Chair Doennebrink
Vice Chair Harris
Commissioner MacCully
Commissioner Kuboi
Commissioner Doering
Commissioner McClelland
Commissioner Piro

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Rachael Markle-Oleson, Planning Manager, Planning & Dev. Serv.
Jeff Ding, Planner, Planning & Development Services
Lanie Curry, Planning Commission Clerk

ABSENT

Commissioner Sands
Commissioner Gabbert

1. CALL TO ORDER

The regular meeting was called to order at 7:00 p.m. by Chair Doennebrink, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Doennebrink, Vice Chair Harris, Commissioners Doering, Kuboi, MacCully, Piro and McClelland. Commissioners Gabbert and Sands were excused.

3. APPROVAL OF AGENDA

VICE CHAIR HARRIS MOVED TO APPROVE THE AGENDA AS PROPOSED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. APPROVAL OF MINUTES

COMMISSIONER DOERING MOVED TO ACCEPT THE MINUTES OF MAY 15, 2003 AS WRITTEN. COMMISSIONER MCCLELLAND SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER PIRO MOVED TO ACCEPT THE MINUTES OF MAY 22, 2003 AS AMENDED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

5. GENERAL PUBLIC COMMENT

There was no one in the audience who desired to address the Commission during this portion of the meeting.

6. STAFF REPORTS

a. Quasi Judicial Public Hearing: Special Use Permit to Intensify Gambling at Parker's Casino by adding off-track wagering.

Ms. Markle introduced Jeff Ding, the City's new planner, who was hired to replace Brian Krueger.

Ms. Markle advised that the application before the Commission is for a special use permit to allow the intensification or the addition of off-track wagering as a legal non-conforming gambling use at Parker's Casino at 17001 Aurora Avenue North. She explained that the public hearing is being held to establish the record for which a decision on the application will be based. The City Council would make the final decision.

Ms. Markle said that Parker's has been conducting satellite off-track wagering in the north end of the casino for the past three years. As stated by the applicant, and in accordance with the State Horse Racing Commission and Emerald Downs Horse Racing, only one satellite off-track racing location is allowed per county. Parker's was selected to be that one location in King County. She said it is important to note that no construction activities are planned as part of the application. The building and site would remain unchanged.

Ms. Markle explained that, technically, gambling is prohibited in the City of Shoreline, but Parker's gambling use was legally established prior to the City's moratorium on gambling. Therefore, the gambling use has been allowed to continue as a legal, non-conforming use, which can be expanded or intensified with the approval of a special use permit. The proposal would add off-track wagering as an addition to the other types of gambling on the site. At this time, Parker's has a mini casino with card tables.

Ms. Markle explained that, as proposed, the off-track wagering would take place at Parker's from late April to September 15th of each year. The days of operation would be Thursday and Friday between

5:00 and 10:00 p.m., and Saturday and Sunday between 1:00 and 9:00 p.m. There would be telecasts for special events such as the Kentucky Derby and on some holidays. She said it is important to note that the peak times for off-track wagering and racing are not in direct conflict with the other uses of the casino, bar and restaurant. Ms. Markle provided a picture to illustrate what the off-track betting area would look like.

Ms. Markle informed the Commission that no written public comments were received. She advised that the Commission's recommendation to the City Council must be based on the special use criteria. She said that staff's review of the application determined that it meets all of the special use permit criteria with the exception of Numbers 1 and 5.

- Criteria 1 – The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.
- Criteria 5 – The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.

Ms. Markle advised that staff does not believe a public benefit is being met by the proposed application. There would only be minimal financial gain to the City because the Horse Racing Commission does not allow cities to tax horse racing revenue. Although Parker's collects an admission fee for people to attend the off-track racing events, the City does not have an admission tax, either. The only financial gain to the City would be related to the increase in sales tax if more alcohol and food were sold to the customers.

Ms. Markle said the applicant has stated that the benefit to the community is the availability of having an opportunity to participate in off-track wagering as recreation. It is the only site in the County where this use is allowed. She said that while staff does not disagree, in order to meet the criteria of a special use permit, the public benefit must meet a broader public need. Therefore, staff has proposed a couple of conditions for the Commission's consideration in order to help the application meet Criteria 1.

Ms. Markle said one of the proposed conditions is to have Parker's construct frontage improvements on North 170th, which is the southern border of the property. She noted that, currently, there are no curbs, gutters, sidewalks or other amenities on either side of North 170th. Just to the west of the Parker's site is Shorewood High School. By making improvements to the one side of North 170th from Aurora Avenue towards the high school, it is hoped that someday the School District would construct the rest of the sidewalk to have a complete link between Aurora Avenue and Shorewood High School.

Ms. Markle said another consideration is that Parker's currently has no defined driveways. They are all uncontrolled on North 170th. This creates the potential for direct conflicts between autos and pedestrians. The second condition was to eliminate at least two of the drives. This would increase safety and aesthetics on North 170th. She pointed out an error in her staff report, which states that the total number of parking spaces required for the existing and proposed use would be 194. Actually, this number identifies the parking requirements for the existing use only and does not include the proposed use. The correct number is 210 parking spaces for both the existing and proposed uses. Parker's has

proposed to add 48 seats for off-track wagering. She noted that Parker's currently has 211 parking spaces.

Ms. Markle said that when she visited the site, she noticed that because the seats inside the facility are movable, it is possible for Parker's to have more than 48 seats at any given time. Staff is concerned that there could be a parking problem in the future, but right now, there is not. All the reports from neighboring properties and the traffic studies indicate that parking is adequate. However, to protect the neighborhood, staff has proposed an additional condition for the Commission's consideration. The proposed condition would limit Parker's to 48 seats for off-track betting. This would not mean they could not increase the number of seats, but they would need to meet the parking requirements. The regulations state that one parking space must be provided per every three seats of off-track betting. The City would be able to enforce this condition as a code enforcement action if a problem arises.

Ms. Markle said that staff is recommending that the Commission forward a recommendation of approval to the City Council for the special use permit subject to the conditions proposed by staff based on the findings of fact and conclusions contained in the staff report.

Lisa Mach, R. W. Thorpe Associates, 705 Second Avenue, Suite 710, Seattle, 98103, said she represents the applicant, Parker's Casino. She advised that Parker's is willing to perform the work necessary to meet the two conditions that have been outlined by the staff.

Chair Doennebrink reviewed the rules and procedures for public hearings, as well as the rules that apply to the Appearance of Fairness Law. None of the Commissioners indicated a need to disclose any ex-parte communications they might have received about the subject of the public hearing. No one in the audience expressed a concern about ex-parte communications, either. The public comment portion of the hearing was opened.

Cindy Ryu, 15215 Aurora Avenue North, said that she has children who attend Shorewood High School, so she drives by the subject property almost every day. She said she is concerned about the traffic coming in and out of the Parker's' parking lot. The people who park on the south side of the street across from the subject property have created dangerous situations for pedestrians, as well. She asked that the Commission consider some type of condition to address her concern.

Mark Jones, Financial Manager, Parker's Casino, said he knows that people who visit Parker's sometimes park across the street, but this property is owned by the City. Therefore, he is not sure how Parker's could address this issue. A crosswalk might be possible, but he is not sure about the rules for constructing crosswalks. He agreed with Ms. Ryu that when the improvements are made to provide the sidewalk and the two access points, it would probably be a lot safer for everyone (pedestrians and autos).

Commissioner Piro asked that staff provide more information about the City's rationale for putting a moratorium on gambling, as well as some of the issues that are currently in litigation. Ms. Markle said the moratorium was put in place to allow the City time to study the impacts of gambling in Shoreline. She noted that Shoreline has a fair number of gambling establishments, especially when other jurisdictions nearby have tried to prohibit and grandfather out their gambling establishments. A study

was done to review options for addressing the impacts. The City Council looked at everything from full prohibition to fully allowing gambling establishments. They decided to allow the existing gambling establishments to remain as non-conforming uses that could expand and improve with a special use permit. Ms. Markle said Hollywood Casino was the first to submit an application using the new rules. Staff was not sure how strict the special use permit rules should be interpreted. Commissioner Piro inquired regarding the nature of the expansion proposed by Hollywood Casino. Was it physical expansion or the expansion of activities? Ms. Markle said that the application involved extreme physical expansion and the addition of 14 card tables.

Commissioner McClelland noted that the application identifies space for 48 additional people inside the facility and parking for 211 cars. She inquired what the fire code would allow for occupancy of the building. Mr. Jones answered that the fire code would allow for about 1,050 people. Commissioner McClelland said there does not appear to be a relationship between how many people are allowed in the building and the parking requirements. Therefore, something else will have to trigger the City's knowledge that there is a need for additional parking.

Mr. Jones explained that Parker's operated an off-track wagering activity for three years before they had to obtain a special use permit. There is really no difference between what is being proposed now compared to what existed for those three years. He recalled that Parker's asked the police department if they had ever had any particular problems associated with the off-track wagering activity or if there had been any complaints to the City regarding parking over the past three years. There were no complaints issued to the City. The casino is the busiest at night when activities at Shorewood High School and Chuck Olsen's Chevrolet are at their lowest or nonexistence. Chuck Olsen's business uses about 40 to 50 of Parker's' parking spaces during the day. He said he noticed that tonight there were between 50 to 60 open spots when racing had been going on for an hour. He said they have never had a problem with parking in the past. They have had concerts or other special events at their facility that require more parking space, but these were held when Shorewood High School was closed and they could use their lot, too. He added that Shorewood High School uses Parker's' parking space during the day for overflow traffic. Over the past three years, they have not heard any complaints about parking.

Commissioner Kuboi referred to Condition 3, and inquired how much could the facility expand before another review, if any, is triggered? Ms. Markle said that the way the condition is written, as long as Parker's can provide adequate parking and meet all other code requirements, the use would be allowed if the special use permit is approved. Commissioner Kuboi clarified that if the market demand for the off-track wagering increased significantly, the use would be allowed to expand as long as the requisite parking could be provided. Ms. Markle noted that the applicant would have to meet all of the code requirements, in addition to the parking requirements. Commissioner Kuboi inquired if staff is concerned about the possibility of expansion. Ms. Markle said staff can see Parker's expanding their use a little bit because they do have opportunities for additional shared parking that would allow them to increase their capacity.

Commissioner Kuboi inquired if staff is aware of other off-track betting establishments that could be used as a basis for size comparison. Ms. Markle answered that Club Broadway is located in Everett.

While it has been years since staff researched the site, they did not indicate any problems with parking, and they usually have between 60 and 100 patrons for off-track wagering.

Rather than just focusing on the parking issue, Commissioner Kuboi inquired how large the use could become before the City would be concerned that they didn't put some upper condition on the permit that would trigger an additional review. Ms. Markle said the City could place an upper condition on the permit, but she explained that, as a jurisdiction, the City is not able to legally regulate the number of card tables. This is regulated by the State Gambling Commission. But it might be possible to place a cap on the number of spaces allowed. Anything beyond that number could trigger the need for a review of the special use permit. She said that while she is not sure it is realistic to place a cap on the number of people allowed in the facility, it would be more realistic to trigger another review if the City starts to receive complaints about parking problems.

Commissioner Kuboi questioned whether Condition 3 would be enforceable. He said it appears that the seats would be regular portable seats. If someone contacts the code enforcement staff with a complaint, by they get to the site to review the situation, the establishment could relocate some of the seats, leaving no proof that the additional seats existed. Commissioner McClelland suggested that the surplus need for parking should be attached to cars rather than the number of people. The parking should only matter when the demand exceeds the supply.

Chair Doennebrink pointed out that street frontage improvements would only be done on the south side of North 170th Street up to the Shorewood High School property. On the south side of North 170th Street the access points would not be changed, but on the Parker's side there would be two access points with curbs, gutters and sidewalks. Since the street improvements would allow for on-street parking, he questioned if the number of parking spaces available would be increased. Ms. Markle said the City does not count on-street parking as part of the required parking, but it would be available for additional parking.

Commissioner MacCully requested that a representative from Parker's describe how the parking area would be redesigned. He said it appears from the plan that by reducing the access points to two, they could end up losing parking spaces. Lisa Mach answered that the parking lot would be redesigned so that the number of spaces would remain the same, but their orientation would change.

Vice Chair Harris said that when the parking lot is redone, Parker's will be required to obtain a permit and a City engineer will have to review the plans. They may have to add some storm drainage, etc.

Commissioner McClelland agreed with Commissioner Piro that it is too complicated to enforce the conditions of the permit. She suggested that an alternative to Condition 3 could be a requirement that a written agreement be provided to validate that shared parking is available to meet the parking needs during special events. Ms. Markle said this would be one way to ensure that there is adequate additional parking.. She suggested that additional wording could be added to Condition 3, to read as follows: "Additional parking may be allowed on site or in an off-site lot or shared parking as approved by the Director of Planning and Development Services." Forty-eight seats were identified in the conditions because that is what the code currently allows, and this sets a base number. The applicant has applied

for 48 seats, and staff has identified that there is parking available to meet the code requirements for 48 seats. This will provide proof on the record that the City only agreed to 48 seats because that was all the code allows. If Parker's cannot provide additional parking to meet the code requirements, they cannot expand the use.

Commissioner McClelland pointed out that the applicant would be providing 210 parking spaces to accommodate the additional activity associated with the new 48 seats that are proposed for off-track wagering. She inquired if the same number of parking spaces would be required in order for Parker's to expand, regardless of the type of use proposed. Ms. Markle answered that the parking requirements for gambling uses are greater to ensure that there are no parking impacts to surrounding neighborhoods.

Commissioner Doering asked if requiring additional parking is one method used by the City Council to discourage gambling in Shoreline. She questioned if it is the City Council's policy to prohibit gambling in the City. If so, she said she feels uncomfortable approving the proposal based on a loophole in the code requirements. Ms. Markle stated that she did not want to presume that she knows the exact intent of Council. Ms. Markle said the City Council does not want gambling establishments to have negative impacts on neighborhoods. One purpose for the moratorium was to study issues such as the increase in traffic and activity associated with gambling. Because it was determined that gambling uses are not the same as restaurants and bars, etc., stricter parking regulations were put in place for gambling establishments to protect neighborhoods.

Commissioner McClelland said that if off-track betting becomes more popular as a recreational activity and there is a demand for significantly more seats, Parker's would have to move their business or buy an adjacent lot. Ms. Markle said that if Parker's wants to expand their use in the future, they must provide the required parking spaces. Commissioner Doering inquired what would happen if the opportunity arises for Parker's to purchase adjacent lots and expand their facility significantly. Ms. Markle said that any physical expansion of the existing facility would require a special use permit, and adding another parking lot would be considered an expansion of the facility.

Chuck Potter, Emerald Downs, 419 South 146th, SeaTac, said there are 21 off-track sites around the State, and Parker's is their largest site because it is in King County. It is really hard to get to Emerald Downs in Auburn on a Thursday or Friday night at 6:00 p.m., so some people like to come to Parker's instead. Some come in and make their bets and then go home and watch the replay show in the morning. Not everyone is there all at once. On the bigger days, a lot of people will make their bets and then go home and watch the race on television. They have not received any complaints from their customers about parking at Parker's, and they typically complain about everything. Parker's has great management, and it is really hard to find a place as large as Parker's that can provide sufficient parking to accommodate an off-site betting operation. Mr. Potter said that a lot of the people that go to the off-track betting establishments are retired. Many of them take the bus so parking is not an issue. They also have some who carpool to the site.

Commissioner McClelland said that in her mind, she imagines the off-track betting activity as a room of people watching the race, jumping up and down and being excited. However, Mr. Potter is describing more of an ATM machine, where people come to place a bet and then leave. Therefore, the activity is

not really a festive event. Mr. Potter said it is definitely not like being at the track because you don't get to see the horses live. But they do a great job of showing the post parade, etc., and people at the off-track betting establishments get just as excited about the race as if they were really there. The difference is the atmosphere, in that it is more like a casino than a racetrack.

Commissioner McClelland asked Mr. Potter if he feels the Commission's concerns about parking are valid. Mr. Potter said he does not anticipate there would be a problem with parking very often. He noted that the off-track wagering activities would not take place at the same time the casino is the busiest. Therefore, the two uses would be compatible.

THE PUBLIC HEARING WAS CLOSED.

7. COMMISSION DELIBERATION

COMMISSIONER MACCULLY MOVED THAT THE COMMISSION FORWARD A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR THE SPECIAL USE PERMIT APPLICATION (Permit Number 201218) WITH THE CONDITIONS PROPOSED BY STAFF AND INCLUDING THE ADDITIONAL LANGUAGE FOR THE THIRD CONDITION. COMMISSIONER HARRIS SECONDED THE MOTION.

Commissioner Piro said that, to him, the issue is not so much related to parking. The whole idea of grandfathering uses that were established under the County era and allowing them to continue bothers him because one of the main reasons the City of Shoreline was formed was because the citizens took issue with the lax nature of the County regulations. He said he is not totally comfortable with approving the application because the City has determined that gambling is now illegal in Shoreline. Part of that determination grew out of public sentiment about what is desirable for the community. At best, he said the whole idea of expanding something that has been determined to be undesirable is a bit disingenuous, and he is leaning towards voting against the application.

Commissioner McClelland inquired if the proposed sidewalk, with the exception of the access points, would go as far west as the existing sidewalk that is up against the high school. Ms. Markle said the sidewalk would extend to the property line of Parker's, so there would be a gap between the two.

Commissioner McClelland said she would vote in favor of the application, but she also understands the concerns expressed by Commissioner Piro. However, she said she has a hard time agreeing that the application complies with the Comprehensive Plan policies related to parks, recreation and open space. She felt the application is more of a business transaction.

Commissioner Kuboi pointed out that a number of months ago the City approved the construction of a large new casino. Compared to that project, the proposal before the Commission for consideration is small. He noted that there would be no physical change to the exterior except the street front improvements identified in one of the conditions. He said that while he agrees with Commissioner Piro's observation, this is an issue that needs to be addressed by the Commission in the future. After

having approved the large new facility, it would appear to be somewhat arbitrary to draw the line with the application before them now.

Vice Chair Harris agreed with Commissioner Kuboi. He said that while he has a problem with expanding the gambling uses in the City, if the City does not allow gambling to expand, they would be allowing monopolies for those operators that are in business now. He said he reviewed the conditions proposed by staff prior to the meeting. He said he finds it a stretch to say that one sidewalk would provide a significant benefit to the public. He said he was hoping the City would receive some additional tax revenue from the use, but that is not going to be the case. He concluded that because the City just approved the Club Hollywood project, he does not see how they can now vote against this smaller request.

Commissioner MacCully said he would vote in favor of the proposal. He reminded the Commission that the City has adopted special use permit criteria. If the application meets the criteria, it is inappropriate for the Commission to arbitrarily recommend denial of the application. If the Commission is opposed to a particular type of activity, they need to work outside of the Commission environment to change the rules. He reminded the Commission that their job is to interpret the code requirements. If an application meets the requirements, they need to recommend approval. Based on the information provided to the Commission, the lack of public comment, and the lack of complaints from the City's law enforcement agency, he said cannot do anything other than support the proposal.

Chair Doennebrink questioned if the Commission would like to include something related to the shared parking lot agreement in the motion. Commissioner MacCully said that while he would not be opposed to including additional language, he is not convinced that it is necessary. Ms. Markle advised that shared parking agreements would be allowed by the Code, but including additional verbiage as one of the conditions of the special use permit would make it cleaner to show more available options.

COMMISSIONER PIRO PROPOSED A FRIENDLY AMENDMENT THAT VERBIAGE RELATED TO SHARED PARKING BE ADDED AS AN ADDITIONAL CONDITION OF THE SPECIAL USE PERMIT. COMMISSIONER MACCULLY AND VICE CHAIR HARRIS BOTH AGREED TO ACCEPT THE FRIENDLY AMENDMENT TO THEIR MOTION.

THE MOTION CARRIED 5-2, WITH COMMISSIONERS DOERING AND PIRO VOTING AGAINST THE MOTION.

Commissioner Piro clarified that he has wrestled with this issue and was very much swayed by a lot of the discussion brought out by the Commission. Therefore, he does not see a need to present a dissenting perspective to the City Council. It is sufficient for the City Council to have the record of the Commission's discussion. Commissioner Doering agreed.

Commissioner MacCully referred to the language that was approved by the City Council for the moratorium on gambling. They indicated that while they did not want to allow any gambling in Shoreline, they would allow it under a special use permit.

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Commissioner McClelland said she had thought that part of the dilemma had to do with gambling being a fabulous revenue generator, but the staff has indicated that approval of the proposed application would not generate significant tax revenue for the City. Because the issue does not seem to be based on a moral dilemma, she questioned what the City Council's issues of concern related to gambling are. She said gambling seems like a relatively benign business, and she does not feel that the use would morally compromise the City. But it seems awkward to prohibit the use, and then allow it with a special use permit if the City gets something in return.

Ms. Markle offered to provide the staff reports related to how the gambling regulations for the City of Shoreline came about. This would allow the Commissioners to review the Council's concerns and thoughts on the issue. The Commission agreed this would be helpful.

Commissioner Piro said he was very impressed with the comments made by Commissioner MacCully, Kuboi and Vice Chair Harris related to fairness. He said that since he was not involved in the decision for the Club Hollywood application, it would be helpful to receive the staff report from that item, as well.

8. REPORTS OF COMMITTEES AND COMMISSIONERS

Chair Doennebrink reported that the City Council considered the Commission's recommendation regarding the 198th Street Vacation. While most of the concerns raised at the City Council's public hearing were similar to those heard at the Commission level, one citizen, who did not attend the public hearing before the Commission, brought up the issue of pass-through traffic. He was concerned about his home's value and the cut-through traffic. Chair Doennebrink announced that the City Council voted in favor of the street vacation application. They will be considering the Commission's recommendation for the Aurora Avenue right-of-way needs at their next meeting.

Commissioner Doering reported that she met with Commissioners Kuboi and MacCully as a task force to come up with some Commission ground rules for the Commission to consider. They have e-mailed their suggestions to Ms. Markle after receiving the draft summary from Mr. Reid. She referred to the bottom of Page 2 of the draft summary report which talks about solutions for the Commission to achieve their goals, interests and principals. She said the task force is recommending that the Commission adopt the first three ground rules now.

Commissioner Doering said that to further their work, the task force has decided to meet again to come up with additional ground rules. Out of these discussions came the realization that there could be two sets of ground rules: one for the personal conduct of both the audience and the Planning Commission, and another to identify the procedures for conducting Commission meetings.

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